

**RESOLUTION TO DISAPPROVE WAIVER OF COUNTER-
VAILING DUTIES ON FISH FROM CANADA**

HEARING
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
NINETY-FIFTH CONGRESS
SECOND SESSION
ON
S. Con. Res. 483
CONCURRENT RESOLUTION TO APPROVE THE COUNTERVAIL-
ING DUTY ON CERTAIN ITEMS OF GOVERNMENT-SUBSIDIZED
FISH IMPORTED FROM CANADA

JULY 18, 1978

Printed for the use of the Committee on Finance



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1978

34-705 O

S361-12

COMMITTEE ON FINANCE

RUSSELL B. LONG, Louisiana, *Chairman*

HERMAN E. TALMADGE, Georgia
ABRAHAM RIBICOFF, Connecticut
HARRY F. BYRD, Jr., Virginia
GAYLORD NELSON, Wisconsin
MIKE GRAVEL, Alaska
LLOYD BENTSEN, Texas
WILLIAM D. HATHAWAY, Maine
FLOYD K. HASKELL, Colorado
SPARK M. MATSUNAGA, Hawaii
DANIEL PATRICK MOYNIHAN, New York

CARL T. CURTIS, Nebraska
CLIFFORD P. HANSEN, Wyoming
ROBERT DOLE, Kansas
BOB PACKWOOD, Oregon
WILLIAM V. ROTH, Jr., Delaware
PAUL LAXALT, Nevada
JOHN C. DANFORTH, Missouri

MICHAEL STERN, *Staff Director*

GEORGE W. PRITTS, Jr., *Minority Counsel*

SUBCOMMITTEE ON INTERNATIONAL TRADE

ABRAHAM RIBICOFF, Connecticut, *Chairman*

HERMAN E. TALMADGE, Georgia
HARRY F. BYRD, Jr., Virginia
GAYLORD NELSON, Wisconsin
DANIEL PATRICK MOYNIHAN, New York

WILLIAM V. ROTH, Jr., Delaware
BOB PACKWOOD, Oregon
CLIFFORD P. HANSEN, Wyoming

CONTENTS

ADMINISTRATION WITNESSES

Mundheim, Hon. Robert, General Counsel, Department of the Treasury, accompanied by Richard Self, Director of the Office of Tariff Affairs, Department of the Treasury.....	Page 7
--	-----------

PUBLIC WITNESSES

American Seafood Distributors Association, Murry P. Berger, president....	70
Dykstra, Jacob, president, Point Judith Fisherman's Cooperative, Inc.....	23
Kennedy, Hon. Edward M., a U.S. Senator from the State of Massachusetts.....	2
Maine Fisherman's Cooperative Association, Inc., Norman H. Olsen, executive director.....	81
National Federation of Fishermen, Richard N. Sharood, counsel.....	64
Olsen, Norman H., executive director, Maine Fisherman's Cooperative Association, Inc.....	81
Point Judith Fisherman's Cooperative, Inc., Jacob Dykstra, president....	23
Schnauck, Dieter W., comptroller, Stinson Canning Co.....	76
Sharood, Richard N., counsel, National Federation of Fishermen.....	64
Stinson Canning Co., Dieter W. Schnauck, comptroller.....	76
Studds, Hon. Gerry E., a Representative in Congress from the State of Massachusetts.....	8

COMMUNICATIONS

Beard, Hon. Edward P., a Representative in Congress from the State of Rhode Island.....	102
Department of Labor, Office of the Secretary.....	103
Muskie, Hon. Edmund S., a U.S. Senator from the State of Maine.....	102

APPENDIX

Material submitted for the record by Senator Hathaway.....	111
--	-----

ADDITIONAL INFORMATION

Committee press release.....	1
Text of the resolution, Senate Resolution 483.....	2
Letter to Senator Hathaway from the Canadian Embassy.....	19

RESOLUTION TO DISAPPROVE WAIVER OF COUNTER- VAILING DUTIES ON FISH FROM CANADA

THURSDAY, JULY 13, 1978

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE
OF THE COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m. in room 2221, Dirksen Senate Office Building, Hon. William D. Hathaway presiding.

Present: Senators Hathaway and Hansen.

[The committee press release announcing this hearing, and the resolution, Senate Resolution 483, follow:]

[Press Release, July 6, 1978]

FINANCE SUBCOMMITTEE ON INTERNATIONAL TRADE TO HOLD HEARINGS ON RESOLUTION TO DISAPPROVE WAIVER OF COUNTERVAILING DUTIES ON FISH FROM CANADA (S. RES. 483)

The Honorable Abraham Ribicoff (D., Conn.), Chairman of the Subcommittee on International Trade of the Committee on Finance, today announced that the Subcommittee will hold public hearings on the resolution to disapprove the waiver by the Secretary of the Treasury of countervailing duties on fish from Canada. Chairman Ribicoff stated that the hearings are being held at the request of Senator William D. Hathaway (D., Me.). The hearings will be held at 10 A.M., Thursday, July 13, 1978, in Room 2221 of the Dirksen Senate Office Building.

Under section 303 of the Tariff Act of 1930, if a foreign government pays a bounty or grant upon the exportation of a product which is imported into the United States, then the Secretary of the Treasury must impose a countervailing duty on the imported product equal to the amount of the subsidy. Under section 303(d), the Secretary may waive imposition of a countervailing duty until January 4, 1979, if certain conditions are satisfied. Section 303(e) permits either House of Congress to disapprove a waiver and requires the imposition of countervailing duties upon adoption under the procedures in section 152 of the Trade Act of 1974 of a simple resolution of disapproval by a majority vote.

On June 13, 1978, the Treasury found that the Canadian Government was subsidizing the manufacture, production, or exportation on certain fish imported into the United States (T. D. 78-181). On that day, Treasury waived imposition of countervailing duties on those fish until January 4, 1979 (T. D. 78-182). Senate Resolution 483, which would disapprove the waiver, was introduced on June 18, 1978.

Senator Hathaway stated that, "While the direct economic impact of waiver may not be great, its symbolic impact for our domestic fishermen is of great importance. We tell our fishermen they cannot fish because we need to conserve the species; we then tell them we will not impose a duty on the Canadian fish which come into our country even though that industry has been Government subsidized for many years. Then we tell them as a matter of trade policy we would prefer not to grant subsidies to our own domestic fishing industry. This is the underlying irony of the situation. As a matter of policy we stand for free trade, for an end to foreign and domestic governmental subsidies to industry.

In the long run, I would agree that this is the ideal. But in the short run we have an industry in this country running up against a conflicting national policy—to 'conserve' and manage the resource from which that industry obtains its lifeblood."

"We must rationalize these policies. It is the fishermen who are the victims of this conflict in national policies. I hope that at this hearing we can open a dialog on how to conserve, not only our national fishery resource, but also our fishermen."

Witnesses.—The Subcommittee will hear testimony from the following witnesses:

Hon. Edward M. Kennedy, U.S. Senator from Massachusetts.

Hon. Robert Mundhelm, General Counsel, U.S. Treasury Department.

A Panel Consisting of: Richard N. Sharood, Counsel for the National Federation of Fishermen; Jacob Dykstra, President, Point Judith Fisherman's Cooperative, Inc.; Murry P. Berger, President, American Seafood Distributors Association; Norman H. Olsen, Jr., Executive Director, Maine Fisherman's Cooperative Association, Inc.; and Dieter W. Schnauk, Comptroller, Stinson Canning Co.

Written statements.—Persons who desire to submit their written testimony to the Subcommittee for inclusion in the printed record of the hearings must submit their statements to Michael Stern, Staff Director, Senate Committee on Finance, Room 2227, Dirksen Senate Office Building, not later than Thursday, July 27, 1978.

[S. Res. 483; 95th Cong., 2d sess.]

RESOLUTION To disapprove the waiver of the countervailing duty on certain items of Government-subsidized fish imported from Canada

Resolved, That the Senate does not approve the determination of the Secretary of the Treasury under section 303(d) of the Tariff Act of 1930, transmitted to the Congress on June 13, 1978.

Senator HATHAWAY. The subcommittee will come to order.

The purpose of this hearing is to take testimony from fishermen, fish processors, and other parties interested in the Treasury Department's decision on June 13 to waive countervailing duties on imported Canadian fish. This comes at a time when the U.S. fisherman finds himself caught between very stiff Canadian competition on one side and new and difficult conservation and management policies on the other.

Thus, the American fishermen see themselves as a group who are supposed to survive, unsubsidized, in a world where other nations provide official support to their fishermen, often at quite generous levels.

Our Government's role in the lives of fishermen has, until recently, been one of neglect. Recently, the concern of the Government has frequently been seen as more involved in the welfare of the fish than of the fishermen.

The question before us this morning is whether or not the Treasury Department correctly and properly waived countervailing duties which our laws provide for foreign products which benefit from the subsidy or bounty. We have a number of witnesses on each side of this issue and without further ado, we shall proceed.

Our first witness is my distinguished colleague, Senator Edward Kennedy of Massachusetts.

Senator Kennedy, I know that you have another commitment, and you may proceed.

STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator KENNEDY. Thank you very much, Mr. Chairman. I first of all want to commend you for the leadership that you are providing for

all fishermen in New England and the rest of this country by being the strong point man in the U.S. Senate in leading the fight for this disapproval resolution.

I just want to express the appreciation of all the fishermen of the State of Massachusetts as well as, I think, the people of my State and other New England areas for your leadership in this area, for commencing this hearing, and for ventilating this subject matter. All of us are very much in your debt for what you have done.

Mr. Chairman, I think it is appropriate to examine where we are in terms of the fishing industry. As you quite correctly pointed out, with the successful passage of the Fishery Conservation and Management Act, it was the clear intention to try and insure the prosperity and strength of the fishing industry in this country. We recognize that some 25 percent of all fishery products that are available in the world are attendant to the coastal areas of the United States and that we have an important responsibility in serving and developing this resource for the people of the United States, as well as the people of the world.

It was really in that spirit that we saw the passage of this act. This was an act that was stimulated by the fishermen themselves who understood this problem and that, I think, was a very important national effort to bring about the restoration of the fish stocks and to revitalize the U.S. fishing industry. And it served all the interests—at least, that is what we hoped.

But what we have seen, Mr. Chairman, is that the factor of the countervailing duties is very basic to the issue and the question of the revitalization of the fishing industry of the United States. Between 80 and 90 percent of the Canadian catch is exported, most of it to the United States. The value of the Canadian groundfish is \$200 million and even though that represents only a percentage of the amount which is actually imported, it has a substantial impact on our domestic market, and results in depressed prices.

And so, it has this exponential effect in terms of the value of the fish itself. And what we have seen is that the Canadian Government's subsidy on fish exported range anywhere from 14 to 20 percent. These high levels of subsidized imports are obstacles to the U.S. industry to gain a large share of the domestic market.

In fact, we have seen the trade deficit on fish actually grow over the period since the passage of the 200-mile limit.

And so this is the dilemma that we are faced with. In examining the materials that have been developed by both the fisherman and the Treasury Department, we know that there are some 16 different types of subsidies, both direct and indirect. The direct subsidies, as is well understood by you, Mr. Chairman, is some 2 cents a pound to the fishermen, and 6 cents per pound to the processors. The Canadians have agreed to phase out these subsidies by October.

But the indirect subsidies, which will not be phased out, account for between 1 and 7 percent of the value. I know you are going to hear excellent testimony from Jake Dykstra and Mr. Sharood later in the hearing on the differences in determining the value of these subsidies, which provide a very illuminating evaluation of how those indirect subsidies work. I know that they have spent a good deal of time and make a very persuasive case.

These indirect subsidies are provided for vessel construction, grants through the provinces, through insurance programs, and through pos-

sible price supports. Even though there has been action on the direct subsidies—the Canadian action to phase out the direct subsidies are useful and important—the fact remains that the indirect subsidies are not being phased out, and they have long-lasting impact in terms of the competitiveness of our domestic industry.

As you know, Mr. Chairman, there are two conditions in terms of granting the waiver under the Trade Act. The first is that the waiver can only be granted when the foreign government acts to eliminate or reduce the effects of the subsidy.

As we pointed out, and as you will hear during the course of the hearings, the effect of that subsidy is longstanding and continuing, particularly the indirect one. And there has not been action by the Canadian Government in reducing the indirect subsidy.

The second requirement is that the waiver can only be granted if imposing the duty were to harm the MTN—the multilateral trade negotiations—in Geneva. I had the opportunity to participate in the MTN discussions in Geneva with members of the Finance Committee 3 weeks ago, and the issue of countervailing duties did arise. From my own direct conversations with the American negotiators, I see no reason to believe that Canada would reverse their position on the subsidy code because of the fish duty.

I think the Canadians deserve great credit for working closely with the United States in the development of a strong subsidy code. We have a strong partnership with them in this area, and I hope it can be realized in terms of this particular issue.

Finally, Mr. Chairman, I would like to relate to you and to the members of the committee, through this testimony, the climate in which we find our Massachusetts fishermen and all of our New England fishermen. They were frustrated by the reservation and opposition of the State Department and the Defense Department with regard to the 200-mile limit.

They felt that in the early days of the 200-mile limit that there was not adequate enforcement being provided and this was working to their very serious disadvantage. They have serious concerns about the progress which has been made in the Canadian boundary negotiations, and in many instances are frustrated by the shape of those negotiations.

And then, they are faced with strict quotas on groundfish off New England, which have resulted in a number of closures. They see truckloads of Canadian frozen fish dumped on their docks, thereby depressing prices. And now the United States ignores the Canadian subsidies as unfair competition.

When you add those factors together, it may very well be that this could be the straw that breaks the camel's back in regards to an industry which is absolutely essential and vital to the people, not only in our part of the country, but in all parts of the Nation. That is the reason why I believe it is essential that we support the resolution of disapproval and why all of us are grateful for your leadership in this matter.

Senator HATHAWAY. You have an extremely important point. Even though Mr. Mundheim is right, that we are eliminating 90 percent, still there are so many other factors involved, so many other depressants on the New England fishermen, that even if he is correct and

it is only 10 percent from being a total elimination of subsidy, it is still enough to hurt the New England fishermen considerably.

I really appreciate your testimony and your leadership and your support for the resolution.

Senator KENNEDY. I know Jake Dykstra and Dick Sharood are going to present some very detailed testimony on that situation, which I think will be of great value to this committee. I find it very persuasive, and I think that they are two of the more knowledgeable people in this area.

I welcome your leadership and look forward to working very closely with you.

Senator HATHAWAY. Thank you very much, Senator Kennedy.

Senator KENNEDY. May my full statement be printed in the record?

Senator HATHAWAY. Yes. Without objection, your full statement will be printed in the record.

[The prepared statement of Senator Kennedy follows:]

STATEMENT OF SENATOR EDWARD M. KENNEDY

Mr. Chairman, I appreciate the opportunity to testify here this morning, and I want to commend you and this Committee for your expeditious action on this important matter.

After a decade and a half of waching foreign fleets declmate one of the world's richest fishing grounds, Congress finally enacted the Fishery Conservation and Management Act in April of 1976. For all those years, the United States remained an importer of fish while our own fishing grounds attracted nearly 1,000 foreign ships each month. In New England, our own fishing industry limped along—under-sized and under-financed—as fish imports from foreign countries grew year after year.

As you well know, Mr. Chairman, this legislation establishing a 200-Mile Zone was designed to both conserve fish stocks seriously depleted by intensive foreign fishing and to revitalize our domestic industry. The issue before this Committee today—Canadian subsidies of fish products exported to the United States—directly relates to our efforts to rebuild the American fishing industry.

The reason is very simple. At present, between 80–90 percent of the Canadian catch is exported, most of which goes to the United States. Canadian groundfish exports alone are worth some \$200 million. These exports are subsidized by the Canadians at anywhere from 14 to 20 percent, depending on whose estimates you believe. Clearly, high levels of heavily subsidized imports of fish to this country has been a major obstacle to our own industry's effort to gain a greater share of the domestic market.

A look at our balance of trade reveals that our deficit in fish products has actually increased since passage of the 200-Mile Zone rather than declined. In 1975, prior to passage of the Act, the deficit was \$1.3 billion. It rose to \$2.1 billion in 1977, and unless we both promote exports and gain a greater share of our own market, this deficit will continue to grow. Permitting the Canadian-subsidized fishing industry to unfairly compete with our own domestic industry only exacerbates this serious problem.

A close examination of the methods used by Canada to subsidize its fishing industry is necessary to understand why I am so strongly opposed to the waiver of countervailing duties. Some sixteen different types of both direct and indirect subsidies are provided including direct payments to fishermen and processors, and grants for 30% of the cost of vessel construction. I would like at this point to include for the record a detailed list of these subsidies. I might add that there is no disagreement that the subsidies exist. The Canadians openly admit it, and the Treasury Department findings have confirmed it.

At issue is whether the Treasury Department was correct in waiving countervailing duties designed to offset these subsidies. As you know, the Trade Act of 1974 clearly mandated that such duties must be imposed if it is determined that foreign government subsidies exist. Treasury may grant a waiver only if the foreign government takes steps to substantially reduce or eliminate the adverse effects of the subsidy, and if imposition of the countervailing duty would disrupt the ongoing Multilateral Trade Negotiations (MTN).

The Canadian Government has agreed to phase out its Groundfish Temporary Assistance Program which provides a 2¢ per pound payment to fishermen and a 6¢ per pound payment to processors. These payments are expected to be completely phased out by October 1, 1978. At first glance, this offer appears generous, but a closer look reveals something quite different. First, the Canadians are only phasing out direct subsidies, not the numerous indirect subsidies ranging from the large vessel construction grants to insurance programs to possible price supports. The Treasury Department claims that these indirect subsidies account for only one percent of the value of the Canadian catch, however, I know that this hearing will bring out significant differences in the computation of the impact of indirect Canadian subsidies. Jake Dykstra and Dick Schroud of the National Federation of Fishermen will testify later in this regard.

The Canadian offer also appears less generous when one recalls that our statutory authority to grant waivers is due to expire in January of 1979. It is clear to me that Canada has only bought more time with their latest offer.

I am further convinced that the imposition of countervailing duties on these products will not have any significant adverse effect on the Multilateral Trade Negotiations. In fact, our refusal to impose duties is inconsistent with the strong U.S. position in favor of a strict international code which discourages government subsidies. I recently returned from Geneva where I had an opportunity to review the progress of the trade negotiations. The subsidies code is central to these trade talks, and, indeed, the Canadian Government has been one of our strongest allies on this issue.

I have not received, however, any hard information that would lead me to believe that by imposing duties on fish products we would encourage the Canadians to be less supportive of a strong subsidy code. To the contrary, refusal to grant a waiver is only consistent with the position of both governments against the use of subsidies. I am convinced, therefore, that the conditions for granting a waiver outlined in the Trade Act have not been met, and that the Senate should move quickly to disapprove the action of the Administration.

An equally important reason for imposing duties is reflected in the mood of the fishermen of New England. Over the years, they have become increasingly frustrated by the lack of support they receive from their own government. The Defense and State Departments vigorously opposed their attempts to secure the 200-Mile Zone. They are dubious, to say the least, about the current boundary negotiations with Canada. They see a government insensitive to their needs when strict quotas are placed on groundfish off New England. They see truck loads of frozen fish from Canada dumped on their docks thereby depressing prices. Now they see a government ready to ignore a subsidized Canadian fishing industry and unfair competition.

They have had enough of this type of insensitive government. And they have a right to be fighting mad about it. We simply cannot write off our New England fishing industry for some nebulous negotiating advantage in Geneva.

Mr. Chairman, Senate action to disapprove the decision to waive countervailing duties in this case would be a signal to our fishermen that their government is ready to provide support. It would be a signal to the international community that we are serious in our attempts to promote a free and fair system of world trade. It would be consistent with both the provisions of the Trade Act and with our negotiating position in Geneva.

For all of these reasons, I strongly support the passage of this resolution.

Senator HATHAWAY. Is Congressman Studds here?

Our next witness is the Honorable Robert Mundheim, General Counsel, U.S. Department of the Treasury.

Mr. Mundheim, glad to see you.

Mr. MUNDHEIM. Thank you, sir.

I would like, if I may, to just introduce Richard Self, the Director of Tariffs at the Treasury.

STATEMENT OF HON. ROBERT MUNDHEIM, GENERAL COUNSEL, U.S. DEPARTMENT OF THE TREASURY, ACCOMPANIED BY RICHARD SEIF, DIRECTOR OF THE OFFICE OF TARIFF AFFAIRS, U.S. DEPARTMENT OF THE TREASURY

Mr. MUNDHEIM. Mr. Chairman, I very much appreciate the opportunity to appear before your committee today to explain Treasury's countervailing duty determination on imported Canadian groundfish and on our decision to waive countervailing duties.

The decision to exercise the temporary waiver authority provided in the act is always extremely difficult. On the one hand, we must, and are, mindful of the potential harm to a U.S. industry which has been forced to compete against subsidized imports.

On the other hand, Congress has also indicated the great desirability of seeking internationally agreed-upon rules and procedures governing the use of subsidies. Thus, we must weigh the effect of imposing countervailing duties in a specific case against the prospect of arriving at such arrangements.

In this case, the discussions we had with a number of Members of Congress, their staffs, and industry representatives, made us acutely aware of some of the severe economic problems faced by the U.S. fishing industry. That industry has apparently had substantial capital shortages, is restricted in its production by quotas within U.S. fishing boundaries for the next few years in order that depleted stocks can be restored, and has had to compete against subsidized Canadian fish.

Although, on the one hand, the U.S. fishing industry receives virtually no assistance from our Government, the Canadian Federal and Provincial Governments had made substantial subsidies which, in our calculations, amount to roughly 17 percent on an ad valorem basis to their fishing industry.

We certainly agree that it is not fair for our fishermen and our fish processors to compete in those circumstances, and indeed, we take the view that no U.S. industry should be forced to compete against subsidized imports.

And it is precisely removing that form of unfair competition that is a primary objective of our efforts in Geneva.

As you know, and as this morning's newspapers indicate, serious negotiations are underway to establish an international code of conduct governing the use of subsidies. And while I am not aware that an agreement has yet been concluded, and some problems still remain to be resolved, I do think that substantial progress has been made as a consequence of the give-and-take in those sessions.

Our decision to waive was motivated by a desire to see the successful completion of those negotiations and by a judgment that countervailing in the circumstances of this case would have seriously jeopardized those negotiations because of Canada's important role in them.

But I hasten to add that we couple that desire to maintain a hospitable atmosphere for negotiations with an insistence that subsidies be substantially eliminated within a very short period of time.

If I may, Mr. Chairman, I would just like to review the case, set out the subsidies we have found, and then indicate—this case began with a petition filed by the Fisherman's Marketing Association in Seattle, Wash., covering a wide variety of groundfish imports from Canada.

The imports covered by the Seattle petition amounted to roughly \$172 million worth in 1977.

Now, we found the following categories of subsidies: First, payments to processors and fishermen under the groundfish temporary assistance program would be, for the processors 6 cents a pound, and for the fishermen, a maximum of 2 cents per pound.

Now, the combination of those payments could result in a subsidy of roughly 16 percent ad valorem. Now, you get to that by figuring roughly that it takes 3 pounds of fish to create a pound of fillet; thus, you have to multiply that 2 cents to the fisherman by 3 and you come to a subsidy of roughly 12 cents per pound, and then you take that as the numerator of a fraction in which 75 cents a pound is the average cost of the fish as it enters the United States. That comes out to roughly 16 percent ad valorem.

The second type of subsidy is vessel construction, which includes payments from the Federal Government of up to 35 percent of the approved capital costs of vessels of a certain length and versatility.

Those subsidies are, of course—and because the life of those vessels is not of a 1-year duration, we have to spread those subsidies, and what we do is we take the average appropriation over the last 12 years and divide it by the total catch in the most recent year available.

Senator HATHAWAY. Mr. Mundheim, excuse me for interrupting you, but Congressman Studds must testify now because he has to get back to the floor of the House. Thank you very much. We appreciate it.

It is a pleasure to have Congressman Studds of Massachusetts who has been a leader with respect to this matter, as well as other fishing matters.

Representative STUDDS. I appreciate your kindness, Senator, and I apologize to Mr. Mundheim and Mr. Self. Given the nature of the business in the House this morning and the need of the Department of the Treasury to go to somewhat lengthy pains to justify their position, it might be wiser to attempt to proceed.

If I am a bit breathless, it is not only the speed with which I tried to get over here, but the Senator will be amused to know that our first vote in the House this morning was on the impeachment of Ambassador Young. The motion was losing when I left.

STATEMENT OF HON. GERRY E. STUDDS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Representative STUDDS. Mr. Chairman, I assume that Senator Kennedy, who, I gather, began the hearing, shared with you the appropriate substance, and the appropriate emotion with which that substance ought to be expressed on this subject, and I know the Senator from Maine is as well aware as anyone of the nature of the problem that we face.

Obviously, I am here to urge this committee and the Senate to act promptly and favorably on Senate Resolution 483 to disapprove the Treasury's almost annual decision to waive the countervailing duties on Canadian fish, once they have found that they are in order under the law.

I would ask unanimous consent that my statement appear in the record in full, and I will attempt to summarize it as briefly as I can.

Senator HATHAWAY. Yes; your entire statement will appear in the record.

Representative STRUDS. May I also say that, institutional pride aside, although I have introduced a similar measure in the House and am urging action in the House Ways and Means Committee, even a Member of the House is prepared to concede the possibility that, on occasion, the Senate might act more promptly. I would urge this committee and this body to proceed as fast as possible, regardless of our success or speed in the House.

Let me just say that the multiplicity of ways in which the Canadian Government has subsidized its fishing industry is a source of great wonder. The Senator knows it has been going on since the early part of this decade. The Canadian Government has been building up its fishing industry with the express purpose of capturing export markets, particularly those in the United States. I notice that Senator Kennedy shared with you some statistics about that. Canada makes no bones about its goal. Its stated goal is to make Canada the No. 1 fish-exporting country in the world, and their strategies to this end are, in the words of their own Minister of Fisheries and the Environment, "too many to number."

These strategies include governmentally encouraged industry cooperation in market research and promotion; Government grants for port development and modernization; Government grants to connect water supply lines to processing plants; Federal fishing vessel insurance at below-market rates; a Federal price support apparatus; grants of up to 50 percent of the cost of new ice-making machinery for fishing vessels and processing plants; and direct per pound payments to fishermen and processors handling groundfish, such as cod, haddock, and flounder.

As the Senator knows, the mouths of American fishermen would water at that list of varieties of Government support, and their anger, I think, would rise enormously.

I am sure the Treasury Department will tell you, if they have not done so already, that many of the items on that list are not technically countervailable under the law. That may be technically correct, but I think the magnitude of the subsidies should be borne in mind as this committee makes its determination.

The Canadians have been eminently successful in their own stated policy of capturing export markets, most particularly in the United States. As I think the committee knows, on April 14 of last year the Department made a determination, under an earlier petition filed by the same petitioner, that the Canadian groundfish temporary assistance program did, indeed, constitute a subsidy under the law; that it was, indeed, subject to countervailing duties; and the Department, of course, waived the collection of those duties.

Only a few weeks after that 1977 determination by the Department, the same petitioner filed a new petition—the one which is the subject of these hearings—covering many more tariff items. Although the Department had just taken an entire year—the entire year allowed under the statute—to determine that the assistance program constituted a subsidy, the Department proceeded characteristically to take yet another full year to make precisely this same determination.

And, in what strikes me as a particular piece of irony, the Department, as I recall, in fact took 2 or 3 days beyond the year because the statutory year terminated on a weekend. They took advantage of the extra 48 hours or so, which short of rubbed it in at the last moment to our fishermen.

By delaying its decision for yet another year, the Department allowed approximately another \$200 million of improperly subsidized fish exports to come into the United States from Canada. Now that the Canadians' program has succeeded in capturing substantial portions of the U.S. market for Canadian fish, the Treasury Department has, once again, come in and waived the countervailing duties called for under the law.

If this Congress allows this waiver to stand, the net effect will be to sanction the Canadian Government's successful accomplishment of the goals of its programs which include, as you know, the use of artificially low prices to capture U.S. markets from our domestic fishermen.

I would like to share with the Committee a decision made by the Department of Labor about a month ago with respect to crewmembers on eight fishing vessels in the town of Provincetown on Cape Cod in Massachusetts, in my district. Lest there be any doubt about the ability of even other agencies of the Government to see what the Canadians are up to, the Department of Labor has certified the crewmembers on eight fishing vessels in my district as eligible to apply for worker adjustment assistance under the Trade Act because of the impact of fish imported from Canada.

And, if I may quote two sentences from the Department of Labor finding:

The wholesalers indicated that decreasing purchases from Provincetown were, in large measure, due to the increased purchases of fresh and frozen Canadian fish by their customers, fish markets, supermarkets and restaurants. The Department's investigation revealed that many fish distributors and wholesalers used the imports of Canadian ground and flat fish as leverage in bidding down the ex-vessel prices paid to domestic fishermen for the same species of ground and flatfish.

Mr. Chairman, I think that it is abundantly clear—and the Treasury Department itself has to concede this to be true—that the Government of Canada has used improper governmental subsidies to enable their fishing industry to capture a substantial proportion of the U.S. market.

And, may I say finally a couple of things, Mr. Chairman? I am sure that you will hear from the Treasury Department that we have to be particularly grateful for the fact that the Government of Canada has agreed gradually to phase out their direct payment program throughout the course of this year. That is true, but I think there are a couple of things which need to be borne in mind.

Most of the multifaceted subsidy program of the Canadian Government is not technically countervailable under the law. Yet, it exists. It is a substantial subsidy.

Furthermore, even if Canada were to phase out all of this subsidy, the fact is that American fishermen, for years and years to come, will be competing against Canadian vessels and Canadian processing facilities which have been subsidized in the past, and this is an extremely unfair disadvantage under which our fishermen have been operating for a long time.

This committee, I suspect, at least as much as any in the Senate, is concerned with the balance-of-payments situation of the United States. I believe Senator Kennedy pointed out that last year our deficit in trade in fish products alone was in excess of \$2 billion. A substantial percentage of that comes from the unfairly subsidized exports from Canada.

Finally, Mr. Chairman, I know that you, of all people, do not need to be reminded about how the United States fishermen feel about their government. In fact, I doubt that in the setting of the Committee, one could accurately articulate precisely how United States fishermen feel about their government.

Our fishermen in Massachusetts, as I am sure yours in Maine, were somewhat bemused by the farmer's strike and the presence of thousands of farmers in Washington earlier this year because the farmers, among other things, as you recall, were arguing that their price supports were inadequate.

That really struck us. Fishermen, of course, do not know anything about price supports.

As you well know, our fishermen not only do not have price supports, but under the 200-mile limit law—the Fishery Conservation and Management Act of 1976—in several instances they have been ordered by their own government, for reasons of conservation and depletion of stocks, not to fish at all. There have been total closures and, at the moment, as you well know, quotas have been reduced to a level where many fishermen feel that there is an economic closure on some species.

While they see their government—quite rightly, perhaps, in terms of the need to conserve the species and ultimately the industry—ordering them to cut down and, in some cases, to suspend their fishing, they do not see their Government, on the other hand, recognizing some kind of a compensatory obligation to their fishermen.

For many years I have tried to convince people in the House that fishermen were farmers—they happen to be farmers of the sea rather than farmers of land, but they are essentially producers of food—and I sometimes tremble to think what would happen if the jurisdiction over fisheries matters were under the Department of Agriculture and the Agriculture Committees of the respective Houses. I suspect our fishermen years ago would have been paid to sit on the dock and not go fishing in some of the earlier programs that we have had. But the kind of legitimate concern that this government has expressed for its traditional, conventional farmers of the land, as you well know, has never been expressed to our own fishermen.

At this point, given a world where people are starving, given the extraordinary depletion of protein resources—most particularly, as you well know, in the Northwest Atlantic—given the sacrifices our own fishermen are being asked to endure, perhaps for a matter of years to the determination of this Congress to conserve those species, to say that the foreigners cannot fish, one can imagine the response

and the reaction of an American fisherman who is being ordered by his own government on grounds of conservation to suspend fishing and who, while he sits on the dock, sees trucks bringing in subsidized Canadian fish.

This is an absolutely intolerable situation. It seems to me that the very least we can do at this point, as a symbolic gesture that there is awareness and concern in this Congress for the fishermen of this country, is to say to the Treasury Department, this time you cannot do it. This time we are going to overturn that waiver. This time we are going to recognize our own fishermen, and what they have been subjected to for the better part of a decade is going to be terminated.

We are not about to accept the usual, conventional arguments of convenient diplomacy from the Department of State which we heard for years in operation to the 200-mile limit, that we cannot afford to somehow offend our friends. Canada clearly is one of the friends of this Nation, and it seems to me that the basic relationship between the United States and Canada will survive whatever determination is made.

I think, for once, it is time for us to make determinations in accordance with our own statutes, in accordance, as I say, with the recognition of the importance of our own fishermen, and I urge the committee to report the resolution as quickly as possible.

Senator HATHAWAY. Congressman, thank you very much. I think that what the fishermen might say about the Government might be about what Vance said about Young. I think it would have to appear that way in the record.

I really appreciate the testimony that you have given, the leadership that you have given with respect to protection of fishermen's rights and I am going to follow your advice and urge—well, I should not say this at the outset of the hearing, until I hear Mr. Mundheim and what defense he has of the waiver.

But, at the present time, I would be inclined to follow your advice and urge the committee to report the resolution out.

However, I reserve judgment until I hear Mr. Mundheim and all of the rest of the witnesses.

Senator Hansen?

Senator HANSEN. Mr. Chairman, I must admit that I know very little about the fishing industry. The coastline in Wyoming is not very extensive.

But I am concerned about this. It seems to me that, for a number of years, we have been leading the world in working towards a reduction in tariffs and nontariff barriers. I am completely convinced that the time has come for the United States to show that in spite of our willingness and our eagerness to show friendship and understanding and increase trade among nations generally, we have to be concerned about jobs in this country.

Wyoming has some interests in trade by virtue of the fact that we produce cattle and meat in Wyoming. I know that when we examine the relationship between this country and the European community, we see that those nations have not demonstrated the same kind of total commitment that has characterized our policies for a long time.

I am disturbed over the fact that we presently have an imbalance of payments. I am concerned about the unemployment that seems to be

directly as a result of a myopic view of what we do as compared with what out countries do. I just want to say to you that I am sympathetic.

Representative STUDDS. May I say, Senator, that I deeply appreciate your interest. It is a very good omen to see a bipartisan coalition of Maine and Wyoming on a question like this. I am beginning to wonder about Wyoming's coastline. Having shared the conference committee meetings on the Outer Continental Shelf with the Senator from Wyoming, I have been carefully studying my maps to find his part of the Outer Continental Shelf.

As you know, we have conferees from the Senate from Idaho and Arkansas and Wyoming and other "coastal" States. It has been an absolutely fascinating experience.

I appreciate deeply the effort the Senator has made to learn of areas other than his own, and I hope someday—well, perhaps the Senator would prefer that I stay out of questions involving ranching and mining.

Senator HANSEN. It is a nice way to go broke, if you want to get in it. We have a lot of mortgaged ranches in Wyoming that you might like—

Representative STUDDS. May I just point out one thing in response to what you said, sir?

The duties which we seek in attempting to overturn the waiver are not, as you know, the imposition of some kind of an arbitrary tariff wall. They are, quite literally, what is meant by the word "countervailing." They are calculated precisely only to offset the amount and the value of the subsidy granted by the Government of Canada, so they are an equalizing, not an attempt to get ahead.

Senator HANSEN. Mr. Chairman, thank you very much. I have to run to a markup, but I did want to come by to let you know that despite the fact that we do not have a very long shoreline, I share your concern in trying to do whatever we can to expand job opportunities in this country and to rectify or address the balance-of-payments problem.

Representative STUDDS. I thank the Senator. I know that he has a busy schedule, and I know he will be relieved to know that the House of Representatives has just spared him the additional burden of having to try Ambassador Young.

Senator HATHAWAY. Thank you very much, Gerry. Good to see you, and thanks for your excellent statement, all of which will be put into the record.

[The prepared statement of Mr. Studds follows:]

STATEMENT OF REPRESENTATIVE GERRY E. STUDDS OF MASSACHUSETTS

Thank you, Mr. Chairman. I appreciate this opportunity to appear before you today to support passage of Senate Resolution 483, which would disapprove the Treasury Department's decision to waive collection of countervailing duty on government-subsidized Canadian fish imported into the United States. I have filed a similar resolution (H. Res. 1260) in the House of Representatives, and am seeking action on it there. However, since the law permits either body to disapprove a decision to waive collection of countervailing duty, I strongly urge your Committee and the full Senate to proceed with passage of S. Res. 483.

At least since the early 1970s, the Canadian government has been building up the Canadian fishing industry to enable it to capture export markets. Their stated goal is to make Canada the #1 fish exporting country in the world and

their strategies to this end are, to use the words of Canada's Minister of Fisheries and the Environment, "too many to number." These strategies include governmentally-encouraged industry cooperation in market research and promotion, government grants for port development and modernization, government grants to connect water supply lines to processing plants, federal fishing vessel insurance at below-market rates, a federal price support apparatus, grants of up to 50% of the cost of new icemaking machinery for fishing vessels and processing plants, and direct per-pound payments to fishermen and processors handling groundfish such as cod, haddock, and flounder.

While many of the things the Canadian government does to assist its fishing industry in capturing export markets in the United States are not—at least in the opinion of the Treasury Department—countervailable, I have mentioned them to try to give you an understanding of the magnitude of the Canadian government's efforts to capture fish markets in the United States. Those efforts have been successful, and a key part of them has been the direct payments to fisherman and processors under the Groundfish Temporary Assistance Program which has existed in several variations since 1974.

On April 13, 1977 the Treasury Department made a final decision, in response to an industry petition filed a year earlier, that the Canadian government's Groundfish Temporary Assistance Program and vessel construction grants were export subsidies, and then waived collection of the countervailing duty. The 1977 decision affected only 3 tariff items covering imports valued at about \$2 million per year.

A few weeks after the 1977 decision was issued by the Treasury Department, the same petitioner filed a new petition covering many more tariff items. Although the Treasury Department had just made one determination that the Groundfish Temporary Assistance Program was an export subsidy, the Department took the full year permitted by statute to make the same decision with respect to the additional tariff items. The Canadian government paid its fishermen and processors the full subsidy (amounting to at least 13% ad valorem) during most of the year for which the Treasury Department delayed its decision on the new petition.

By delaying its decision on the new petition for a year, the Treasury has allowed the Canadian government to improperly subsidize approximately \$200 million of fish exports to the United States. During this year, the Canadian fish exports to U.S. markets continued to underprice U.S.-caught fish, and to displace them from the marketplace. Now that the Canadians' temporary subsidy program has succeeded in capturing new U.S. markets for Canadian fish, the Treasury Department is asking approval once again for its waiver on the collection of countervailing duty. The net effect of the Treasury Department's delay and granting of waivers has been and will be (if the waiver is allowed to stand) to allow the Canadian government to accomplish completely the goals of its Groundfish Temporary Assistance Program, which included the use of artificially low prices to capture U.S. markets from our domestic fishermen.

The Canadian government's direct subsidies to groundfish fishermen and processors have always been viewed as temporary, as the name of the program implies. The Groundfish Temporary Assistance Program was begun after our law was passed permitting the Treasury Department to waive collection of countervailing duties, and it is reasonable to assume that the Canadians planned to phase it out before our law permitting waivers expires next January 4. In my opinion the Canadian government has very skillfully used a section of our trade laws by using export subsidies to enable low-priced Canadian fish to capture U.S. markets. Once those markets have been captured by the use of artificially low prices, U.S. fishermen will have to combat the newly-established lines of supply as they attempt to regain their position in the marketplace. Under these circumstances, I find it impossible to agree to any further waivers of countervailing duty on Canadian fish.

Mr. Chairman, one of the witnesses scheduled to testify later in this hearing may attempt to explain the increasing dominance of Canadian fish in U.S. markets in terms of supply, rather than price. In this regard, I would like to bring to your attention that the Department of Labor has completed an investigation of this situation, and has certified the workers on at least 8 fishing vessels in my district as eligible to apply for Worker Adjustment Assistance because of the impact of fish imported from Canada. I would like to quote one paragraph from these determinations by the Labor Department because of its relevance to your deliberations today.

"The wholesalers also indicated that decreasing purchases from Provincetown were in large measure due to the increased purchases of fresh and frozen Canadian fish by their customers—fishmarkets, supermarkets, and restaurants. The Department's investigation revealed that many fish distributors and wholesalers use the imports of Canadian ground and flatfish as leverage in bidding down the exvessel price paid to domestic fishermen for the same species of ground and flatfish."

Mr. Chairman, the Canadian Government has engaged in a large-scale effort to enlarge its share of wholesale and retail fish markets in the United States. In the process it has used improper governmental subsidies to enable Canadian fish to undercut U.S. fish prices. I believe this situation should be ended at once, and urge your committee to report Senate Resolution 483 for favorable action by the full Senate.

Senator HATHAWAY. Now, Mr. Mundheim, we will resume where we left off. I think you were talking about the vessel subsidy.

STATEMENT OF HON. ROBERT MUNDHEIM—Resumed

Mr. MUNDHEIM. I was just describing, Mr. Chairman, how we calculated that subsidy and said that if we take the average appropriation over the last 12 years and divide it by the total catch in the most recent year available, then that calculation indicates a subsidy of approximately 0.85 percent ad valorem.

Then there is a third, broad category of—

Senator HATHAWAY. The vessel subsidy is what, approximately, 50 percent? The cost of the vessel?

Mr. MUNDHEIM. It is 35 percent.

Senator HATHAWAY. It is 35 percent.

Mr. MUNDHEIM. Not every—

Senator HATHAWAY. And then you take that percentage of what the cost of the vessel would be, the total cost? Is that what you are doing?

Mr. MUNDHEIM. That would be the 35 percent, but the question is—you cannot determine the—

Senator HATHAWAY. No; 35 percent is what the Canadian Government pays. If the vessel costs \$100, they pay \$35.

Mr. MUNDHEIM. They pay \$35.

Senator HATHAWAY. What percentage of all of his costs is the cost of the vessel, amortized over whatever life it would be given?

Mr. MUNDHEIM. There are, then, various other kinds of subsidies for doing this, which go to diminish the costs that the fishermen would have.

If you take just what goes to a particular vessel, on a particular vessel, if it costs \$100, there might be up to \$35 of grant from the Canadian Government.

Now, the problem is that not every vessel benefits from that grant, and we cannot identify the fish imported through a particular vessel. So what we have to do is take the value of that grant and spread it over the entire catch, and that is why we get down to this 0.85 percent ad valorem subsidy. That is how we quantify it if we were to countervail it.

Now, the third type—

Senator HATHAWAY. Wait a minute. I am not sure I understand your conclusion. It is 85 percent of what?

Mr. MUNDHEIM. It is 0.85 percent. In other words, on the fish coming in, that is what it would amount to. That is how we would quantify the subsidy.

Senator HATHAWAY. If we wanted to offset that, we would have an 0.85 percent tariff?

Mr. MUNDHEIM. That is right.

Now, the third broad category are certain Federal Department of Regional Economic Assistance grants to fishing communities, in Newfoundland for water supply and wharf facilities, and various loan programs by several of the Maritime Provinces for vessel construction which, together, result in approximately 0.4 of a percent ad valorem.

Now, as Senator Kennedy and Congressman Studds have indicated, those last two categories of subsidy which are capital intensive, infrastructure, have a greater impact than the amount of the ad valorem duties that we calculated, and their point, and I think we would accept this, the advantage created by working with more up-to-date boat and wharf facilities. And they contrast that kind of help to the Canadian industry with the U.S. industry's difficulty in raising capital.

Nevertheless, the countervailing duty law limits the Secretary to assessing an additional duty equal to the net amount of the bounties, or grant paid.

One other point I ought to make about the subsidy, and that is that none of these programs are specifically limited to export activity, but because a preponderance of the Canadian fish production is exporting, we do conclude that the effect of the subsidies is to bestow a bounty under the countervailing duties law.

So the first part is that there clearly are subsidies. We have found those to exist, and I think I now have to explain to you why we have decided to waive what are clearly subsidies.

Senator HATHAWAY. What did you determine to be the total amount of the subsidy?

Mr. MUNDHEIM. We would say that they amount to roughly 17 percent ad valorem.

Now, there are, as this committee well knows, three conditions that must be satisfied under the statute to waive.

First, adequate steps have got to be taken to eliminate or reduce the subsidy paid. That condition, I believe, has been met, and I want to explain precisely how the Canadian Government has dismantled its subsidy program.

First, there are the outstanding claims of processors of fish. Those have not been honored, as I understand it, since April 1977. The authorization for paying those claims was formerly terminated as of April 1, 1978.

Thus, the effective bounty paid to processors has been reduced by 46 percent since April 1977.

Second, the outstanding claims of fishermen with large vessels, so-called offshore, have been disallowed as of April 1, 1978. That disallowance with the disallowance for the processors means that the total subsidy has been reduced by 71 percent as of April 1, 1978.

The claims of the fishermen with smaller vessels, onshore fishermen, will be disallowed as of October 1, 1978. That disallowance reduces the subsidy by 94 percent.

Now, I should emphasize that the dismantling of the GTAP program covers categories of fish beyond those mentioned in the petition. Thus, the dismantling also applies to fish categories included in the National Federation of Fishermen and the Point Judith Fisherman's

Cooperative. Those are gone, or are committed to be gone, insofar as the onshore fishermen are concerned, as of October 1.

They are also gone, I might say, with respect to fish that are not exported. But I think that aspect of the congressionally mandated criteria has been met, and very substantially met.

The second criteria requires a reasonable prospect that a successful trade agreement will be negotiated with foreign countries providing for the reduction or elimination of barriers to or other distortions to, international trade.

I have already alluded to the ongoing negotiations in Geneva, and we believe that the second criteria is also met.

Now, the third criteria requires a determination that countervailing would seriously jeopardize the satisfactory completion of negotiations.

Canada plays a very active role in the trade negotiations and we concluded that the Canadian reaction to a countervail would be very adverse particularly after they had agreed to eliminate 94 percent of the subsidy by October 1. As you know, waivers have, in the past, been granted where the subsidies found have been reduced to a lesser degree, or over a longer period of time.

We have consulted, at some length, with Ambassador Strauss and his staff and they indicated their serious concern to us that a failure to waive, under the circumstances of this case, would affect, detrimentally, the progress they felt was being achieved in arriving at a subsidy program.

Of course, before we made the determination to waive, we did consult with Members of Congress, their staffs, representatives of U.S. industries, the Department of State, the Department of Commerce and, as I have indicated, the special trade representative.

There is always the contention that a waiver such as this one gives more weight to the interests of foreign policy than to the needs of the domestic industry. I think that this a case where that argument is wide of the mark.

The Canadian actions to dismantle GTAP directly and substantially eliminate an important element of unfair competition to our fishing industry. We insisted to the Canadians that unless all payments under GTAP cease by October 1, we would countervail and we were prepared to do so.

However, with the almost complete elimination of the subsidy—94 percent by October 1—it seemed appropriate to use the waiver authority as a lever for moving forward the effort to resolve the problems of subsidies on a broader, international basis.

Thus, I think the use of the waiver in this case illustrates precisely how Congress intended the authority to be used. It allowed, on the one hand, for preservation of the cooperative spirit during the most critical phase of the trade negotiations and, at the same time, it brought about the substantial termination of one of the largest subsidy programs that Treasury has dealt with.

Senator HATHAWAY. Well, thank you, Mr. Mundheim. I think there may be some dispute as to the way you compute the actual subsidy, and that will be brought out in testimony later on. But assuming that you are right and it is only 17 percent ad valorem and that you are going to wipe out 94 percent by October 1, that means there is only going to be a 1 percent—6 percent of 17 percent would be about 1.02.

Mr. MUNDHEIM. That is correct.

Senator HATHAWAY. Well, why do you not go all the way? It seems that your argument cuts both ways. If it is that negligible, it is that negligible either way.

Certainly, you cannot say that a 1-percent tariff is going to jeopardize our relationship with Canada as far as the trade negotiations are concerned. And even though you can make the argument that that is a substantial reduction—if you are right, if you cut it off to a 94 percent—it seems to me that it is ridiculous not to go all the way.

Mr. MUNDHEIM. The problem is that the Canadian Government—some of these are not at the federal level, but at the provincial level—also has its problems in completely phasing out a program. I think the important point here is that they went as far as they did, and therefore, what we have is a 94-percent elimination.

Senator HATHAWAY. Well, they do not have to phase it out. We will just propose a 1-percent tariff. They are not going to complain about a 1 percent tariff, are they?

Mr. MUNDHEIM. I appreciate that point, but I think part of our mandate under the countervailing duty law is to try to get the Government to reduce, or to eliminate, the subsidies by their own action. It was considered by Congress that that was important. That was one of the things that we were told to do during the period of our countervailing duty negotiations.

I think we have done that in this case, and I think we have come out pretty well.

Senator HATHAWAY. Well, the problem is—I do not know if you are really answering my question. What harm is there going to be having 1 percent on it?

Bearing in mind that what you say may be correct, that the paramount concern, under the countervailing duty provisions, is to get the other countries to do it voluntarily, still, with only a 1-percent tariff to be added on to make it come out to zero, eliminate it altogether, it seems to me that the other country is not going to complain all that much.

Mr. MUNDHEIM. It is our feeling that they would complain and that that would substantially diminish the favorable atmosphere in Geneva for arriving at a subsidy code, and if we get a subsidy code, we are going to have a much broader and better basis for dealing with what is a real problem. I could not agree with you more, Mr. Chairman, but we would be able to deal with it on an international basis and across industry.

We think that is just very good for U.S. industry.

Senator HATHAWAY. Why could we not just propose it until we get that code, which may not come about in the next 10 years? They have been working on that for quite a while, have they not, to determine just what is a subsidy and what is not a subsidy, and coming to some common agreement.

I know we have a lot of problems with respect to our own tax code that they contest, and say, look, a 10 percent investment credit is a subsidy—and it is a subsidy, I suppose—and if we wait until they get all of the loopholes or subsidies in our tax code before coming to some agreement, that will take quite a while.

Mr. MUNDHEIM. Well, you will remember, sir, that the waiver is only good until January 4. If we have not arrived at an international agreed on code and present it to this Congress and accept it, by January 4, our waiver is already stopped. On January 4, we will counter-vail against these grants. It is obligated. We will do it.

So we are not talking about a waiver forever. We are talking about a temporary waiver.

Senator HATHAWAY. From now until January 4.

Mr. MUNDHEIM. From now until January 4. And it was with a small amount of the duty and it was to preserve the kind of atmosphere that we hope would be—

Senator HATHAWAY. It seems to me it is psychological and real. I mean, it is only a 6-month period, and the 1 percent, if you are going to come down on either side, you ought to come down in favor of the American fisherman, because the American fisherman is actually being pressed, as you know.

The Department of Commerce is telling them, look, you cannot fish for groundfish for a certain length of time; you have overfished them, and there is a big debate on that.

They are trying to try to get into a lobster quota, and that is going to be a real problem. As you know, they have had a real tough time.

And I would think that if it is only for a 6-month period that you could say, well, look, there is not that much sense in hurting the American fisherman just for the 6-month period and I don't think there is that much benefit to be gained from it.

But there is without really getting into the merits of whether or not your decision is correct with respect to the first of that three-part statutory condition on the waiver section 303(d)(2)(A) of the Trade Act.

Mr. MUNDHEIM. My response to you, sir, is that these 6 months are critical. These are the 6 months in which we hope to arrive at a code, if we are going to do it. And we relied very heavily on the advice given to us by the administration's representative responsible for negotiating that code, who said, if you countervail in the face of what you have gotten the Canadians to agree to do in terms of voluntary elimination, you will poison the atmosphere. Do not do it.

Senator HATHAWAY. Who is telling you that?

Mr. MUNDHEIM. Our Ambassador, Mr. Strauss, told us.

That is the kind of consultation and advice that we are supposed to get, and weigh, and, as I said, it is a difficult decision.

Senator HATHAWAY. Well, perhaps we should have further hearings and call Ambassador Strauss in, as well as the Canadian Ambassador who has sent me a memo on this.

[The memo referred to follows:]

CANADIAN EMBASSY,
Washington, D.C., June 21, 1978.

HON. WILLIAM D. HATHAWAY,
U.S. Senate,
Russell Senate Office Building, Washington, D.C.

DEAR BILL: I am writing with reference to our conversation on the decision by the Secretary of the Treasury to waive the imposition of countervailing duties on Canadian groundfish imports, and Senate Resolution 483 which would override this decision.

As you are probably aware, the Canadian fishing industry has, over the past four years, gone through its worst crisis during the course of which unusually

high costs (stemming in part from the energy crisis of 1973), scarce fish and poor markets produced heavy losses and forced producers towards bankruptcy.

Faced with this social and economic crisis, the Canadian Government deemed it necessary to authorize emergency aid to the groundfish and other sectors of the fishing industry so as to prevent the collapse of communities and widespread dislocation in a primary industry of an already disadvantaged region of the country, where unemployment rates currently exceed eleven per cent.

The main financial mechanisms used by the Government to address this crisis was the Groundfish Temporary Assistance Program (GTAP) under which payments were made to fishermen and fish processors based on the amount of fish caught or processed. As the name of this program suggests, it was the intention of the Government from its initiation that this form of financial support be only a temporary measure sufficient to allow communities and the fishing industry to deal with a particular crisis situation.

As you noted in remarks made when you introduced the Resolution, the Canadian Government has stated its intention to phase out payments to processors and fishermen under the GTAP. Payments under this program have already been eliminated entirely for processors and substantially for fishermen. Remaining payments to fishermen will be terminated on October 1 of this year.

In your remarks, you also noted the existence of "indirect Canadian subsidies". I would point out that, to the extent you refer to financial assistance provided to communities in Newfoundland by the Federal Department of Regional Economic Expansion (DREE), the facilities in question, which involved the construction of wharves, marine centres and fresh water distribution systems, were essentially in the nature of infrastructure. In most instances, these facilities are available on a user-pay basis to all members of the communities in which they are located and their use is consequently not limited to the fishing industry. As you will appreciate, assistance of this type is normally provided by most governments (including the U.S. through the Economic Development Administration) for the development of community infrastructure, particularly in more disadvantaged regions of the country.

The substantial modifications made by Canada to its fisheries programs and our active participation in the Multilateral Trade Negotiations in Geneva would appear to meet the criteria set out under the Trade Act of 1974 providing the Secretary of the Treasury with authority to exercise a waiver of countervailing duties. In light of the importance of the fishing industry to the Canadian economy in general and more specifically its role as a leading employer in one of the more disadvantaged regions of our country, the Canadian Government welcomed the decision by the Secretary of the Treasury to exercise this authority. We would, of course, regret a Congressional decision to override his action.

Yours sincerely,

PETER M. TOWE, *Ambassador.*

Senator HATHAWAY. How do you reconcile the requirements of (A) of these three conditions that you are supposed to have to meet in order to grant the waiver? It says, "Adequate steps have been taken to reduce, or substantially eliminated during such period, the adverse effect of a bounty or grant."

Now, that, necessarily, takes into consideration the plight of the fishermen, right? And so even though you might be right with respect to your figures, 1 percent could have a substantial effect, and I think from all of the testimony that you have heard Senator Kennedy did and Congressman Studds, without my reviewing it all, that you would recognize that American fishermen, and particularly New England fishermen with which I am more familiar, are having a tough time making a go of it. And even though it's only a 1-percent subsidy, it still hurts. Would you not agree with that?

Mr. MUNDHEIM. We certainly can understand that argument, and we weighed that argument. But still the statute says substantially eliminated, and 94 percent, it seems to me to be a substantial elimination.

Senator HATHAWAY. Yes; but taking into consideration all of the problems that the fishermen have, it seems to me that in this case you can argue that while 94 or 99 percent might be great in most other case, here it should be the full 100 percent because there are some items that cannot even be reached under the countervailing duty provisions of existing law.

Is that not correct?

Mr. MUNDHEIM. Of course that is correct. Part of the problem is that wherever one has a troubled industry, the problem is not a single cause problem. The countervailing duties problem is—even if we countervail, I suspect that that would not solve the problem of the fishing industries. Those problems are much more complex and require a much more diverse approach for their solution.

We have had, however, to weight the problem within the particular confines and framework of countervailing law.

Senator HATHAWAY. So what you are saying, in effect, is that it is a judgment that you have to make.

Mr. MUNDHEIM. Yes, sir.

Senator HATHAWAY. You do recognize that the fisherman is having a tough time making a go of it—

Mr. MUNDHEIM. Absolutely.

Senator HATHAWAY [continuing]. And that that should be considered.

So if you are talking about a prosperous industry, maybe you reduce it only 50 percent. It might be enough to cover subsection (A), is that not correct? But if it does vary with the industries that you are talking about—or if it is a hard-pressed industry, with respect to the fish industry, such as the shoe industry, the textile industry—you consider it differently than you would if it were the oil industry or some other more prosperous industry in the country.

Mr. MUNDHEIM. Well, I would certainly have to agree that the fact that this industry is hard pressed was something that concerned us. We certainly heard a lot about it and we took it into account and in that sense felt that the fact there was such a substantial elimination of the subsidy program by the Canadians made a little easier what is still a very difficult decision.

Senator HATHAWAY. So the 94 percent, I am getting at, that is a relative figure. It depends on the industry we are talking about.

Mr. Mundheim, I am going to ask you if you will stay around for a little while, if you do not mind, because we have some testimony that I think is going to contradict what you have said and I would like you to have an opportunity to answer it. You may stay there and have the other witness come up beside you.

Thank you very much.

[The prepared statement of Mr. Mundheim follows:]

**PREPARED STATEMENT OF HON. ROBERT H. MUNDHEIM, GENERAL COUNSEL OF
THE TREASURY DEPARTMENT**

Mr. Chairman and distinguished members of this subcommittee; I appreciate the opportunity to appear before your committee today to discuss Treasury's countervailing duty determination on imported Canadian groundfish and our decision to waive countervailing duties.

The decision to exercise the temporary waiver authority provided in the Trade Act of 1974 is always difficult. On the one hand, we must be mindful of the potential harm to a U.S. industry which has been forced to compete against subst-

dized imports. On the other hand, Congress has also indicated the great desirability of seeking internationally-agreed rules and procedures governing the use of subsidies. Thus, we must weigh the effect of imposing countervailing duties in a specific case against the prospect of arriving at such arrangements. In this case, our discussions with a number of Members of Congress, their staffs, and industry representatives made us acutely aware of some of the severe economic problems faced by the U.S. fishing industry. This industry has apparently had substantial capital shortages, is restricted in its production by quotas within U.S. fishing boundaries for the next few years in order that depleted stocks can be restored, and has had to compete against subsidized Canadian fish.

Although the U.S. fishing industry receives virtually no special governmental assistance, the Canadian Federal and Provincial Governments paid substantial subsidies of 17 percent ad valorem to their fishing industry. Forcing U.S. fishermen and fish processors to compete under those circumstances is not fair. Nor should any U.S. industry be forced to compete with subsidized imports.

Removing this form of unfair competition is a primary objective of our efforts in Geneva. Serious negotiations are underway to establish an international code of conduct governing the use of subsidies. While no agreement has yet been concluded and many problems remain to be solved, progress has been made in the many meetings as a consequence of the give-and-take from all parties concerned. Our decision to waive was motivated by a desire to see the successful completion of these negotiations and by a judgment that countervailing in the circumstances of this case would have seriously jeopardized these negotiations because of Canada's important role in them. We coupled the desire to maintain a hospitable atmosphere for the negotiations with an insistence that the subsidies be substantially eliminated within a very short period of time.

This case began with a petition filed by the Fisherman's Marketing Association of Seattle, Washington, requesting that countervailing duties be imposed on a wide variety of groundfish imports from Canada. 1977 groundfish imports from that country were \$172 million. Our investigation revealed the following subsidies:

(1) Payments to processors and fishermen under the Groundfish Temporary Assistance Program (GTAP) under which the processors received a 6-cent per pound payment and fishermen received a maximum payment of 2-cent per pound. The combination of these payments could result in a subsidy of up to roughly 16 percent ad valorem.

(2) Vessel construction assistance providing payments from the Federal Government of up to 35 percent of the approved capital cost of vessels of certain length and versatility. Since the benefits from the subsidy are realized over the approximate accounting life of the vessel, the subsidy is calculated by taking the average appropriation over the last 12 years and dividing it by the total catch in the most recent year available. This assistance results in a subsidy of approximately .85 percent ad valorem.

(3) Grants by the Federal Department of Regional Economic Assistance to fishing communities in Newfoundland for water supply and wharf facilities and various loan programs by several of the Maritime Provinces for vessel construction which together result in a subsidy of approximately .1 percent ad valorem.

Representatives of the U.S. fishing industry have stressed that the capital-intensive, infrastructural incentives have a greater impact than the amount of the ad valorem duties we calculated. They point to the pervasive advantage created by working with more up-to-date boats and wharf facilities. They contrast this result with the U.S. industry's difficulty in raising the capital necessary to establish facilities to match those of the Canadians. Although we appreciate this argument, the Countervailing Duty Law limits the Secretary to assessing an additional duty equal to the net amount of any bounty or grant paid.

While none of these programs was specifically limited to export activity, the fact that a preponderance of Canada's fish production is exported, caused us to conclude that the effect of these subsidies was to bestow a bounty under the Countervailing Duty Law.

As this Committee knows, three conditions must be satisfied before Treasury may waive the imposition of countervailing duties:

(1) Adequate steps must have been taken to eliminate or reduce substantially the adverse effect of the subsidy paid. This condition for waiver has been met. The Canadian Government has agreed to dismantle its subsidy program on the following schedule:

Outstanding claims of processors of fish have not been honored since April 1977. Authorization was formally terminated on April 1, 1978. Thus, the effective bounty has been reduced by 46 percent since April 1977.

Outstanding claims of fishermen with large vessels (offshore fishermen) under the GTAP has been disallowed as of April 1, 1978. This disallowance in addition to that for the processors reduces the subsidy by 71 percent.

Claims of fishermen with smaller vessels (onshore fishermen) will be disallowed as of October 1, 1978. This disallowance reduces the subsidy by 94 percent. I should emphasize that the dismantling of the GTAP program covers categories of fish beyond those mentioned in the petition. Thus, the dismantling also applies to the fish categories included in the National Federation of Fishermen and Point Judith Fishermen's Cooperative petition.

(2) The second criterion requires a reasonable prospect that successful trade agreements will be negotiated with foreign countries providing for the reduction or elimination of barriers to or other distortions of international trade. I have already alluded to the ongoing negotiations in Geneva and we believe that the second criterion is also met.

The third criterion requires the determination that a countervailing duty would seriously jeopardize the satisfactory completion of the trade negotiations. The fishing industry is an important Canadian economic sector and serves as the principal economic activity in several of its Maritime Provinces. Canada plays a very active role in the trade negotiations and we concluded that Canadian reaction to a countervail would be very adverse, particularly after they had agreed to eliminate 94 percent of the subsidy by October 1. Waivers had in the past been granted where the subsidies found had been reduced to a lesser degree or over a longer period of time. Ambassador Strauss indicated his concern to us that failure to waive could affect detrimentally the progress in achieving a subsidies code.

Before reaching its determination to waive, the Treasury consulted with a number of Members of Congress and their staffs, representatives of the U.S. fishing industry, the Departments of State and Commerce, and the Special Representative or Trade Negotiations.

After these consultations, Treasury published its final countervailing duty determination and a waiver of countervailing duties on dutiable fish on June 16, 1978. For items which are free of duty, the Law requires that the International Trade Commission make an injury finding before countervailing duties can be assessed. We have stated our intention to waive on the duty-free items if injury is found since the actions by the Canadians to substantially reduce the subsidies affect both dutiable and duty-free fish in the same way.

There is always the contention that a waiver such as this one gives more weight to the interests of foreign policy than to the needs of domestic industry. In this case in particular that argument is wide of the mark. The Canadian actions to dismantle the GTAP directly and substantially eliminates an element of unfair competition to our fishing industry. We insisted to the Canadians that unless all payments under GTAP ceased by October 1, we would countervail—and we were prepared to do so. However, with the almost complete elimination of the subsidy, it seemed appropriate to use the waiver authority as a lever for moving forward the effort to resolve the problem of subsidies on a broader, international basis.

Thus, the use of the waiver in this case illustrates how Congress intended the authority to be used. It allowed for discretion to preserve the cooperative spirit during the most critical phase of the trade negotiations. At the same time it brought about the virtual termination of one of the largest subsidy programs Treasury encountered in its administration of the Countervailing Duty Law.

Senator HATHAWAY. Mr. Dykstra and Mr. Sharood?

Mr. Sharood is counsel for the National Federation of Fishermen, and Mr. Dykstra is the president of the Point Judith Fisherman's Cooperative.

Good morning.

STATEMENT OF JACOB DYKSTRA, PRESIDENT, POINT JUDITH FISHERMAN'S COOPERATIVE, INC.

Mr. DYKSTRA. Good morning, sir.

Thank you, Mr. Chairman, for allowing us the opportunity to speak here this morning. I have a prepared statement which is rather

lengthy. I do not propose to read that statement—I hope it would be made a part of the record—but I would like to emphasize a few things from it.

Senator HATHAWAY. Well, Mr. Dykstra, and also Mr. Sharood, we will put your entire statement into the record and we do appreciate your summarizing and hitting the high points, particularly answering any of the statements that have been made by Mr. Mundheim.

Mr. DYKSTRA. First of all, sir, we urge passage of Senate Resolution 483. We think it necessary and we think that the facts bear out that it should be passed.

As far as presenting a series of specific examples of how the Canadian subsidization is affecting the fishing industry, I think that Mr. Olsen is going to give numerous examples and, if it meets with your approval, I would allow him to emphasize that part.

First, then, sir, I would say that I would emphasize that we are not asking, nor have we ever asked, in the New England fishing industry that Canadian fish be boycotted, banned, or otherwise excluded from the United States. I think that perhaps there will be testimony here today—and it has been emphasized by some of the people who take an opposite view—that we need Canadian fish. And I just say that we agree that we need Canadian fish. The problem that we have is that what we, in New England, need is an equal opportunity to get our product on the shelf in the market and we do not think that we have that equal opportunity.

I would like to speak a little bit about the vessel subsidy, because everytime we come up against this the Canadians say that that is a shipyard subsidy and it really did not help us out, and we could have gone, and we can now, we can build those ships overseas just as cheaply and really it helps the shipyards. It does not help the fishermen at all.

Well, it is true that the vessel subsidy is 35 percent, but there are, and have been, over a period of years, other methods of assisting the Canadian fishermen in building a vessel. Now there are Federal loan programs and Provincial loan programs that also help him out. There are all kinds of rapid depreciation provisions and when we had a small loan program, which we do not anymore in the United States, we had to have a very substantial downpayment and we had to prove, beyond doubt, that that downpayment was assets of the individual who was attempting to get the loan.

This has not been true in Canada. If you could scrape up about 15 or 20 percent of the total cost of a vessel, you were off and running. So it is inconceivable to me that anyone would say that, well, this did not assist the Canadians to build vessels and overwhelm the United States because it absolutely did, and it flabbergasted me that anyone would say that, look, it is only this 35 percent subsidy and that really is a shipyard subsidy.

So we have, on page 15 of my testimony, we have gone into what we think should be—how the subsidy on vessels should be treated in countervailing duty and we would hope that Treasury could be convinced that this subsidy is an ongoing thing which is going to be affecting the Canadian fishermen for years to come, as long as his vessel is being amortized.

Now, the next thing is that, you know, it has been said that while the direct subsidies will be eliminated, and we want to emphasize that we do not think that it was the intent of Congress that countervailing duties be waived on a promise, and we have not been too happy with the way some of those promises have been carried out in the past, as well.

So we just cannot agree that if the Canadians promise to do this and that, that that is fine and the duties should be waived.

But beyond that, we have some real problems with the indirect subsidies and the way they are being treated. It has been said that while they are hard to identify and they do not have much effect, and so on, but what we look at, and what I think you have to look at, is when a package of fish arrives on the shelf in the market in the United States, how much help did the Canadian get in getting that there, and everything that helped him get that there is done so that his product will be there, and more competitive, than the product produced by the U.S. fisherman.

So I think that it is necessary to look at all of the subsidy and attempt to identify all of it, and this has been done.

Dr. Norton, who is sitting in the audience, has done an exhaustive study on this along with Mr. Joel Duram. Dr. Wilson from the University of Maine has done a great deal of work on this and Mr. Sharrow has done a great deal of work—and others have, too—and their conclusions are not at all the same as those of Treasury as to what indirect subsidies are.

So I would use an example. They say well, you know, we are going to get rid of the direct subsidies—at least we have a promise—so we really find it very difficult to identify the indirect subsidies as being those which assist imports and so on.

Well, I would say if a citizen appeared before this committee continually and some other citizens came and complained and said, look, you know, an agency of the Government is helping here with his plane fare. That is the way he gets there. You say, all right, we will instruct that agency of the Government to stop assisting him with his plane fare, and they do, but he keeps appearing.

And they say, well, how can they keep appearing? And they say, you know, the Government is also helping him to buy his car, they are also helping him to buy his house and they are also helping to get insurance and they are helping him to buy food and the necessities of life, so he really does not have very big expenses so he can still pay his plane fare and get down here.

You say well, it is very difficult for us to identify that and so we just cannot do anything about it.

This does not make a great deal of sense to me and I think, as I say, that these things have been identified very carefully and very thoroughly and that they can be taken into account.

So I would think that we would deeply appreciate it if this committee would urge the Treasury to take another look at this with the experts who have been gone into it in great depth, because it seems strange to me that everyone else who goes into it comes to a completely different conclusion from what Treasury does.

And, finally, I would like to point out that as with the vessel subsidies, all the rest of these subsidies, if they were completely elimi-

nated, direct and indirect today, they have so strengthened the Canadian industry over the years that the Canadian industry is very strong and it is really a going concern and that this would constitute very tough competition for the U.S. fishermen for years to come, even if every subsidy were knocked off today.

So, again, we would urge passage of this resolution and we would urge, if the committee found it agreeable to, that this committee ask Treasury to take another look at this thing.

Thank you, sir.

Senator HATHAWAY. What conclusion do you come to? I mean, the Treasury said that the subsidy amounted to 17 percent ad valorem, and that they have taken action to reduce that by 94 percent.

Mr. DYKSTRA. Mr. Sharood has been doing the details on that, and I would ask him to answer.

[The prepared statement of Mr. Dykstra follows. Oral testimony continues on p. 64.]

PREPARED STATEMENT OF JACOB J. DYKSTRA, PRESIDENT, POINT JUDITH FISHERMEN'S COOPERATIVE ASSOCIATION, INC., POINT JUDITH, R.I.

Mr. Chairman, members of the committee, I appreciate the opportunity to appear here today to testify in support of S. Res. 483, a resolution to disapprove Treasury Decision 78-182, which waived the imposition of countervailing duties on certain fish imports from Canada. I am appearing here today on behalf of the Point Judith Fishermen's Cooperative and on behalf of the National Federation of Fishermen. I am accompanied by Richard N. Sharood, counsel for the National Federation of Fishermen.

The Point Judith Coop represents 60 fishing vessels, engaged primarily in groundfish harvesting. Approximately 450 fishermen are employed on these vessels, including the Coop members. The collective investment in members' vessels exceeds four million dollars. The Coop provides supplies for the member vessels and markets the catch. It employs 60 people and has extensive facilities, including fish unloading, storage and processing facilities. I have been the president of the Coop for the past 25 years.

I am also appearing here today as President of the Eastern Region of the National Federation of Fishermen. The NFF is the only national fishermen's organization, and I have attached to my statement a list of the member organizations represented by the NFF. The members of the NFF are engaged in all major fisheries of the Atlantic and Pacific Coasts, which compete against Canadian imports in the U.S. market.

On April 18, 1977, the Treasury Department issued TD 77-107. This decision found that the Canadian government was paying subsidies within the meaning of the countervailing duty statute with respect to three categories of fish imports. These were fresh whole flounders, frozen whole flounders, and fresh cod fillets. At that time, the Treasury Department found that the principal form of subsidy being paid by the Canadian government consisted of the "Groundfish Temporary Assistance Program" whereby fishermen are paid two cents per pound for groundfish landed in Canada and processors are paid varying rates, now six cents per pound for frozen groundfish fillets exported to the United States. In a companion decision TD77-108, Treasury waived the imposition of countervailing duties on these three categories of fish imports on the basis that the Canadian government had terminated these payments to fishermen and processors. Treasury ruled that the direct poundage payments constituted 97 percent of the total subsidy program and that all other forms of assistance, including subsidies for the construction of fishing vessels, constituted only three percent of the subsidy package available to the Canadian fishing industry.

In June 1977, a follow-up petition was filed with Treasury on behalf of the Fishermen's Marketing Association of Seattle, Washington, seeking the imposition of countervailing duties on a much broader range of fish imports from Canada. That petition resulted in the issuance of Treasury Decision 78-181, the subject of Senate Resolution 483 and this hearing. Treasury Decision 78-181 reached substantially the same conclusions found in the earlier decision with the minor exception that the direct poundage payments were found to constitute 92 percent of the total subsidy package rather than 97 percent. As in the case of

the 1977 decision, this latest ruling was followed immediately by a waiver of countervailing duties, TD 78-182.

On December 28, 1977, the National Federation of Fishermen and the Point Judith's Fishermen Cooperative filed a further countervailing duty petition encompassing all of the fish imports listed on the June petition from the Fishermen's Marketing Association and picking up an additional 14 categories of imports not previously covered, including for the first time, lobsters and scallops. On July 10, 1978, a notice of preliminary determination with respect to this petition was published in the Federal Register. A final determination must be made not later than December 30, 1978. A copy of the National Federation of Fishermen petition together with the preliminary determination that appeared in the July 10 Federal Register is attached to my statement, and we ask that they be made part of the hearing record.

The various petitions that I have just described reflect a growing concern on the part of the American fishing industry over the impact of subsidized Canadian fish products upon the ability of American fishermen to compete in their own traditional markets. The Canadian subsidy program began in the early 1980s with a determined effort on the part of the Canadian government to expand the scallop fishery of Nova Scotia. In 1962, Canada exported 11.3 million pounds of scallops to the United States, or 81 percent of the Canadian landings. That same year, over 19 million pounds were landed in New Bedford by American fishermen. By 1975, Canada was exporting 15 million pounds to the United States, while the total domestic landings had dropped to less than 10 million pounds. In 1976, the United States fishermen enjoyed an exceptionally good year, landing over 19 million pounds, still substantially below the 1961 record of 25 million pounds. Again, however, in 1976, imports from Canada exceeded 20 million pounds. At the present time, over 90 percent of the Canadian scallop production is exported to the United States. The Canadian Fishing Vessel Assistance Program under the Fisheries Development Act has fostered the construction of approximately 60 large offshore scallop boats. The subsidy consists of a 30 percent grant of the cost of building a new vessel. There is absolutely no doubt that this fleet would not exist but for the subsidy program. The Canadian government describes this subsidy as a shipyard subsidy. The fact remains, however, that this program places a vessel in the hands of a Canadian fishermen at 70 percent of cost, regardless of the method of payment. The program which began in the Canadian scallop fleet quickly spread to all other segments of the Canadian fishing industry. The limitations on the vessel construction subsidies are minimal.

Following adoption of the vessel construction subsidy program, the Canadian government adopted a series of direct supports for fishermen and fish processors in the groundfish industry. Under the initial "Bridging Program" and the "Groundfish Temporary Assistance Program", fishermen have been paid two cents per pound. Although this subsidy has not been paid directly on exports and is nominally limited to fish landed for consumption in Canada, for all practical purposes, the payment is made for all fish whether consumed in Canada or exported. Processors in Canada have been paid supports ranging from two and a half cents to eight cents on frozen groundfish fillets and blocks for export as well as domestic consumption and on fresh fillets for domestic consumption only. According to the Canadian government, total poundage payments to fishermen and processors through July 31, 1976 amounted to almost 40 million dollars. During the period 1973-1976 only, over 15 million dollars was paid or obligated under the Fisheries Development Act for construction, modification or conversion of fishing vessels. We do not have accurate cost estimates for these programs during the last two years. We believe it is fair to state, however, that equivalent sums have been spent during the past two years both in the area of vessels construction subsidies and direct poundage payments.

The decline of the U.S. scallop fleet has its counterpart in the groundfish industry. In the case of fresh groundfish, importers are able to truck the subsidized Canadian fish into the major American distribution points, for example, Boston, and thereby depress the price of fish that might otherwise be paid to American fishermen landing or delivering their product to Boston. The Department of Labor in a series of recent rulings granting adjustment assistance to fishermen in the Cape Cod area found that fish imports from Canada are being used to depress the price of American harvested fish in the commercial markets. Massive quantities of groundfish can be brought in to the New England area on almost a moment's notice by truck from the Maritime Provinces of Canada.

Similarly, in Oregon and Washington, groundfish from British Columbia can be trucked over the border to displace American harvested fish. We have talked with a number of fishermen from the West Coast who have had the experience of tying their boat up at a local processing plant, ready to offload their harvest, only to be told that the plant cannot accommodate because they are full of fish, trucked in from British Columbia.

For many years the Point Judith Coop operated a freezer facility which enabled the Coop to store a substantial quantity of groundfish fillets for release to the market at the best possible price. In 1971, the Coop was compelled to give up the freezer plant since it could not compete with frozen groundfish from Canada. As a result of this, the Coop and virtually the entire domestic groundfish industry is compelled to sell to the fresh fish market only. We have no capability to build up an inventory and to market our product in the most orderly manner possible. We are totally at the whim of the fresh fish market where price fluctuations occur daily and can be extremely volatile. Under these circumstances, an American fisherman has no alternative but to sell his catch for whatever it will bring the day he enters port. The alternative is to throw the fish overboard. If Canadian groundfish was entering the United States at a realistic price based upon the actual cost of production, Point Judith and other fishing organizations could reenter the frozen groundfish market. Our competitive position would be substantially enhanced and needless to say, we would no longer be at the mercy of the daily price quotations in the fresh fish markets.

Imposing a reasonable market price on imports of fish from Canada will not, and I want to emphasize, will not close off the American market to Canadian fish. It is unfortunately true that the American fishing industry, for a variety of reasons, largely beyond the control of the fishermen, cannot supply the tremendous demand for fish which exists today in the United States. It is, however, a growing market. All we ask is that American fishermen have the opportunity to share in this growth. If imports from whatever source are allowed to enter at governmentally subsidized prices, American fishermen will never be able to participate meaningfully in the growth of this market.

We take strong exception to the Treasury Department's waiver of countervailing duties as announced on June 13. In the first place, it was based upon a promise by the Canadian government to phase out direct supports over a period of time, ostensibly ending in October. We find nothing in the Trade Act of 1974 or its legislative history that indicates Congress intended the Treasury Department to grant waivers based upon prospective steps to eliminate subsidies. The Federal Register notice which appeared on June 16, 1978 announcing this waiver states in part that adequate steps have been taken to reduce substantially or eliminate "during such period" the adverse effect of the Canadian subsidies. The notice points out that Section 303(d) of the 1930 Tariff Act as amended authorizes the Secretary of the Treasury to waive countervailing duties during a four-year period, beginning with the date of enactment of the Trade Act of 1974. The phrase "during such period" in the notice refers to that four-year period. If this were a correct interpretation of the Trade Act of 1974, then Treasury could have granted a waiver with respect to a given commodity the day after enactment of that Act, based on a promise to eliminate the subsidy almost four years hence. Clearly this is not what Congress intended. We believe that Congress intended that the waiver be based upon actual reduction or elimination of the subsidy prior to or contemporaneous with the granting of the waiver.

In this regard, the Finance Committee report on H.R. 10710, the 1974 Trade Act legislation, stated in discussing the waiver authority, "It should be emphasized that, under the Committee amendment, either the bounty or grant or its adverse effect must be eliminated (or substantially reduced) before the Secretary would have authority to waive the imposition of a countervailing duty order during trade negotiations."

In this same vein, the House report on H.R. 10710 stated, "If the bounty or grant, or any portion thereof, remains in effect, the Secretary of the Treasury is required to issue a final countervailing duty order * * *."

We do not believe that there has been such a substantial reduction in the Canadian fishing industry subsidy to warrant the waiver that has been granted. This is particularly true in light of the fact that the Canadian government knew its subsidy program was subject to a countervailing duty in April 1977, at the time of the first Treasury decision. The June 1977 petition put the Canadian government on notice that within one year the majority of fish imports from Canada would be subject to countervailing duties. Yet the Canadian government continued its program unabated up to the deadline for the issuance of the second

final determination on June 13, 1978. Under these circumstances we are appalled that the Treasury Department would issue a further waiver.

Three conditions must be met in order for the Secretary to waive the imposition of countervailing duties. In addition to a substantial reduction or elimination of the foreign subsidies, the Secretary of the Treasury must also find that there is a reasonable prospect that successful trade agreements will be entered into with foreign countries providing for the reduction or elimination of non-tariff barriers and that the imposition of countervailing duties would be likely to seriously jeopardize the satisfactory completion of such negotiations.

We are not privy to the consultations which took place between the Departments of State and Commerce and the Office of the Special Representative for Trade Negotiations which led to the decision to waive countervailing duties in this case. However, based upon the published statements of the Special Representative during the past several weeks, we find it extremely difficult to believe that the imposition of countervailing duties on Canadian fish could in any significant way have further jeopardized the apparently already tenuous state of the negotiations now going on in Geneva. Informally we have been advised by representatives of the Administration that Canada is considered our ally and partner in the Geneva negotiations and that it was felt that a failure to waive countervailing duties would jeopardize the Canadian support for our position. While these statements may well be true, it does not appear that the Canadian support of the United States is bearing much fruit. It seems to us that the fishing industry of the United States is being asked to bear a very large burden in return for Canada's support in Geneva.

In commenting upon these various grounds for waiver, the Finance Committee report on H.R. 10710 stated, "Under the Committee bill, all three conditions must be met before the Secretary could waive the application of the countervailing duty. Under the Committee amendment, this temporary discretion in the application of the countervailing duty law could not be abused during the negotiations, since all three conditions would have to be met before such discretion could be exercised. The Committee believes this provision would be used sparingly since foreign countries should be encouraged to eliminate the bounty or grant during the six month period following a positive preliminary determination and before the twelve month period or a final determination."

It is our position that the waiver authority has indeed been abused. In this instance the three conditions have not been met. The findings by the Secretary of the Treasury with respect to elimination of the subsidies allow footdragging in the extreme on the part of Canada, and in so far as the multilateral trade negotiations are concerned, the impact of the imposition of countervailing duties is highly questionable.

Beyond the question of whether a waiver should have been granted in this case, we are seriously concerned over the manner which the Treasury Department has computed the extent of the Canadian subsidies. As indicated previously, Treasury first ruled that direct subsidies in the form of poundage payments to fishermen and processors constituted 97 percent of the total subsidy package. On June 13, 1978, Treasury ruled that direct subsidies constituted 92 percent of the total subsidy package. In terms of duties, the direct subsidies were translated into nine percent ad valorem, consisting of five percent for the grants to processors and four percent for the grants to fishermen. It is the position of the National Federation of Fishermen that indirect subsidies to the Canadian fishing industry at least equal the direct support payments in terms of their impact upon the competitive position of the Canadian fishery products entering the United States market, and not the three to eight percent found by Treasury. At least fifteen different categories of indirect supports are available to the Canadian fishing industry funded by the federal Government or by the provinces. The principal form of support in this area is the vessel construction and conversion subsidy equal to 30 percent of cost. Treasury has minimized the impact of these construction and conversion subsidies by prorating them over the useful life of the fishing vessel in equal annual increments.

Thus if a fishing vessel has a depreciable life of 15 years, Treasury takes one-fifteenth of the construction and conversion subsidies as a countervailable amount in any given year. This totally ignores the fact that but for the subsidy, the fishing vessel would not exist. The treatment of subsidized capital assets by Treasury is highly questionable. It renders the countervailing duty statute meaningless unless the foreign government is paying direct bounties on exported commodities such as the poundage payments to fishermen and processors. The amortization of a subsidized capital asset over the useful life of the asset in the

manner Treasury has adopted means that massive subsidies for plant and equipment directly related to the export business can only be translated into countervailing duties that amount to a fraction of a percent ad valorem. We do not think this is what Congress intended when it strengthened the countervailing duty statute in 1974.

The relative importance of indirect subsidies to the Canadian fishing industry cannot be underestimated. In addition to the 30 percent grants for vessel construction, the Canadian Government also provides low cost fishing vessel insurance, one of the most expensive items in the operation of a fishing vessel in the United States; 50 percent grants for the installation of ice making and improved offloading facilities; incentives for exploratory fishing operations; direct purchase of fish to sustain price levels if necessary; deficiency payments in cases where substantial declines occur in market prices; grants for the construction, expansion or upgrading of processing and storage facilities; cost sharing in fishery development projects with the provincial governments; forgivable loans for technically innovative investments, loan guarantees of up to 50-thousand dollars for equipment and gear, rebate on the federal excise tax on diesel fuel for fishing vessels, and supplemental income for self-employed fishermen under the unemployment insurance program. In addition, various provinces provide loans, grants and various other forms of subsidy. We do not believe that the Treasury Department has made a thorough analysis of the indirect supports available to the Canadian fishing industry. They have simply been written off as de minimus.

These supports are so inconsequential that they enabled the Canadian fishing industry to supplant the American fishing industry in the Georges Bank Scallop Fishery, which I have previously cited. The Canadian Government has never paid direct supports to fishermen or processors in the scallop industry and yet with only the 30 percent construction grants for the vessels and the various other forms of indirect support, the Canadian fishing industry was able to become the dominant supplier of scallops to the American market in a period of about 10 years. To a lesser but very significant degree, these same indirect supports have made it possible for the Canadian fishing industry to become the dominant supplier of groundfish in the American market. The significance of indirect subsidies takes on even greater meaning when one considers the fact that on January 4, 1979, the waiver authority will terminate. After that date, Treasury will be compelled to impose a countervailing duty with respect to the indirect subsidies that it has already found to be bounties or grants within the meaning of the countervailing duty statute. Under the theory now espoused by the Treasury Department, however, that countervailing duty will amount to less than one percent ad valorem.

We respectfully urge the Committee to instruct the Treasury Department to conduct a thorough review of the indirect subsidies to the Canadian fishing industry, with a view toward imposing meaningful countervailing duties. We believe, for example, that in the case of a subsidized capital asset, such as the 30 percent grants for fishing vessel construction or conversion, the full amount of that subsidy should be taken into account in the year in which those grants are made. The countervailing duty should then be reduced year by year to reflect the depreciation of the asset. In the case of a fishing vessel with a depreciable life of 15 years, the countervailing duty would then be reduced one-fifteenth the second year, two-fifteenths the third year, and so on. In no other manner can the impact of a subsidized capital asset be effectively countered. The method now employed by Treasury spreads the countervailable subsidy over the useful life of the asset in equal increments as though, in the case of a fishing boat, only one-fifteenth of the subsidy were given in any year. This flies in the face of reality and grossly distorts the effect of these subsidies.

In conclusion, Mr. Chairman, we urge the Committee to report favorably Senate Resolution 483, disapproving the waiver of countervailing duties on fish imports from Canada. We hope that this Resolution will be acted upon favorably by the Senate. Further we urge the Committee in its report on Senate Resolution 483 to make it abundantly clear to the Treasury Department that it does not agree with Treasury's estimate of the impact of indirect subsidies, particularly with respect to grants for the purchase of capital assets below cost. We hope that the Committee will direct the Treasury Department to adopt a method of computing this form of subsidy that will be meaningful and will give effect to the countervailing duty statute.

We greatly appreciate the attention which you and your colleagues have given to this matter.

THOMAS D. WILCOX, P. C.
ATTORNEYS AT LAW

THOMAS D. WILCOX
RICHARD N. SHARROD

919 EIGHTEENTH STREET, N. W. - WASHINGTON, D. C. 20006
202 296-2810, 2811

December 28, 1977

Duty Assessment Division
U.S. Customs Service
Treasury Department
Washington, D. C. 20229

Re: Petition for Imposition of
Countervailing Duties on Fish
Imports from Canada

Gentlemen:

Pursuant to Sec. 303, Tariff Act of 1930, as amended, 19 U.S.C. 1303, the National Federation of Fishermen and the Point Judith Fishermen's Cooperative Ass'n Inc., Narragansett, Rhode Island, which represent U.S. citizens engaged in the harvesting of fish from the territorial sea and fishery conservation zone of the United States hereby petition for the imposition of countervailing duties on certain fish and fish products imported from Canada.

Petitioner, National Federation of Fishermen, is a trade association incorporated in the District of Columbia whose regular membership consists of local fishermen's cooperatives and fishing vessel owner associations, regional fishing vessel owner associations, with individual fishing vessel owners as associate members. Member organizations and associated fishermen are engaged in all major fisheries of the Atlantic and Pacific coasts which compete against Canadian imports for the U.S. market.

Petitioner, Point Judith Fishermen's Cooperative represents 150 member fishermen who own 56 vessels engaged in groundfish harvesting and 6 vessels engaged in lobstering. Approximately 450 fishermen are employed on these vessels including the coop members. The collective investment in members' vessels exceeds \$4 million. The assets of the coop are currently valued at \$1,280,000. The petitioner is a regular member of the National Federation of Fishermen.

Petitioners believe that the Government of Canada is granting benefits to Canadian fishermen and fish processors which are export bounties or grants on the production and export of certain fish and fish products to the United States within the meaning of Sec. 303 and that appropriate countervailing duties should be imposed to protect domestic fishermen.

Fish and fish products with respect to which countervailing duties should be imposed pursuant to this petition are classified under the following items of the Tariff Schedules of the United States, annotated.

Dutiable Items - Fin Fish

<u>TSUS</u>	<u>Product Description</u>
110.35-50	Atlantic Ocean Perch, whole, fresh or chilled
110.35-55	Atlantic Ocean Perch, whole, frozen
110.35-60 ✓	Flounders, whole, fresh or chilled
110.35-65 ✓	Flounders, whole, frozen
110.35-70	Fish other, whole, fresh or chilled
110.35-75	Fish other, whole, frozen
110.50-25	Atlantic Ocean Perch, Fillets, fresh or chilled
110.50-30	Atlantic Ocean Perch, Fillets, frozen
110.50-45	Cod Fillets, fresh or chilled
110.50-50	Cod Fillets, frozen
110.50-65	Cusk, Haddock, Hake & Pollock Fillets, fresh or chilled
110.50-70	Cusk, Haddock, Hake & Pollock Fillets, frozen
110.55-20	Atlantic Ocean Perch, fresh, chilled or frozen
110.55-45 ✓	Cod Fillets, fresh or chilled
110.55-50	Cod Fillets, frozen
110.55-65	Cusk, Haddock, Pollock Fillets, fresh or chilled
110.55-70	Cusk, Haddock, Pollock Fillets, frozen

Nondutiable Items - Fin Fish

110.15-85	Cod, whole, fresh or chilled
110.15-89	Cod, whole, frozen
110.15-93	Cusk, Haddock, Hake & Pollock, whole, fresh or chilled
110.15-97	Cusk, Haddock, Hake & Pollock, frozen
110.47-10	Cod, blocks
110.47-26	Flat fish, blocks
110.47-30	Haddock, blocks
110.47-55	Whiting, blocks
110.47-60	Atlantic Ocean Perch, blocks
110.47-65	Other fish, blocks
110.70-33	Flat fish, filleted, fresh or chilled
110.70-39	Flat fish, filleted, frozen

Nondutiable Items - Shellfish

114.45-20 American Lobster, Live
 114.45-37 Scallops

The above tariff items represent fish and fish products harvested, processed and sold in the United States by fishermen, members of the petitioner organizations.

In order to impose countervailing duties pursuant to Sec. 303, the Treasury Department must first determine that Canada and/or its provinces or other political subdivisions of government are paying or bestowing "directly or indirectly, any bounty or grant upon the manufacture or production or export of any article." [Sec. 303(a)(1)]

This investigation must, therefore, look beyond federal programs in support of the Canadian fishing industry and beyond the most obvious support, namely direct poundage payments. The countervailing duties must equal the net amount of such bounty or grant "however the same be paid or bestowed."

In the case of nondutiable items only, there must be a further finding by the International Trade Commission pursuant to Sec. 303(b) that a domestic industry is being or is likely to be injured, or is prevented from being established by reason of the importation of the item.

This petition will, therefore, address the question of Canadian bounties on dutiable and nondutiable fish as well as the question of damage to the American fishing industry preliminary to the International Trade Commission investigation.

However, this petition will first address the question of temporary suspension of countervailing duties pursuant to Sec. 303(d) with particular reference to T.D. 77-108 published April 13, 1977, since the Treasury has already found that Canada bestows both direct and indirect bounties on certain fish exported to the United States.

The findings of T.D. 77-107 also published April 13, 1977 apply equally to all items listed in this petition; however, the basis upon which countervailing duties were suspended pursuant to T.D. 77-108 indicates certain fundamental

misconceptions regarding the nature of the Canadian subsidy program which must be clarified before discussing the current subsidies and the damage issue.

ANALYSIS OF T.D. 77-108 - WAIVER OF COUNTERVAILING DUTIES - CERTAIN FISH FROM CANADA

In T.D. 77-107, Countervailing Duties - Certain Fish From Canada, the Treasury Department determined that the Canadian bounty or grant consisted of the "Groundfish Temporary Assistance Program" and financial assistance programs for the construction of fishing vessels built and registered in Canada. This investigation covered tariff items 110.35-60, 110.35-65 and 110.55-45.

Imposition of countervailing duties was waived by T.D. 77-108 on the grounds that the Canadian Government had suspended the "Groundfish Temporary Assistance Program" with respect to the fish under investigation effective January 1, 1977. There has in fact been no such suspension of assistance to Canadian fishermen or processor-exporters.

With respect to fresh and frozen whole flounders, items 110.35-60 and 110.35-65, the Groundfish Temporary Assistance Program payments to fishermen were never based upon the export of such fish, but rather upon the landing thereof in Canada. Whether the fish is consumed in Canada or ultimately exported to the United States is not relevant to payment under the program since it cannot be determined whether the fish on which the payment is made is consumed domestically or exported. If the Canadian Government has discontinued such payments to fishermen with respect to exports it has apparently devised some means of tracing specific fish through the chain of ownership from fisherman to exporter. Title to the fish may change three or more times before export and, of course, the fish are for all practical purposes fungible commodities within a given species.

With respect to bounties paid to processors on fresh cod fillets, tariff item 110.55-45, the program has never paid a direct subsidy on exports. Nevertheless, subsidies are paid on frozen fillets and blocks exported to the United States and on fresh fillets sold in Canada. Since the same processors-dealers sell in Canada and to the United States, either directly or through subsidiary or affiliated companies, the domestic subsidy is in effect a subsidy to the processors-dealers' entire operation. For example, if 80% of a dealer's business is in

export to the United States, 80% by dollar value of the domestic subsidy should be construed as being an export bounty. Similarly, the export bounty paid on frozen fillets and blocks to the same exporters of fresh cod fillets subsidizes their entire export operation.

It is sheer sophistry to argue that a domestic subsidy to an industry primarily engaged in exporting does not constitute an export bounty within the meaning of the Tariff Act. Further, an export bounty on the frozen or filleted product enables the exporter to sell its entire range of products in the United States at an overall lower price, or to selectively lower prices to meet prevailing U.S. market conditions.

Therefore, with respect to the question of what export bounties within the meaning of Sec. 303, if any, the Canadian Government terminated on January 1, 1977, petitioners believe that the Treasury Department was deliberately misinformed and thereby misled by the Government of Canada. Petitioners believe that the basis for waiver action as set forth in T.D. 77-108 did not in fact exist and that the Secretary must therefore impose countervailing duties with respect to tariff items 110.35-60, 110.35-65 and 110.55-45, pursuant to Sec. 303 (d)(3) which states in part "...any determination made...shall be revoked whenever the basis supporting such determination no longer exists."

The Treasury Department also misconstrued the relative importance of the Groundfish Temporary Assistance Program payments to fishermen and processors in relation to indirect subsidies in the form of vessel construction and conversion assistance grants and loans as well as assistance for the construction and operation of freezer plants and fish handling facilities. These indirect supports to the price of fish exported to the United States are long standing and pervasive at the federal and provincial level.

Petitioners strongly disagree with the conclusion stated in T.D. 77-108 that the Groundfish Temporary Assistance Program constituted 97% of the bounties or grants on those fish exports under inquiry. It was at the time of the investigation at most one half to two thirds of the total subsidy package to fishermen and processors.

In support of this position, petitioners submit herewith University of Rhode Island Agricultural Experiment Station

Contribution No. 1738, issued by the Department of Resource Economics, U.R.I., Kingston, Rhode Island 02881. We ask that this document be made a part hereof.

The final implication of T.D. 77-108 with respect to this petition concerns the extent of relief to be granted domestic fishermen in terms of the period in which a countervailing duty will be imposed to offset the impact of indirect subsidies.

Construction-conversion loans and grants to fishermen and similar assistance for processors' handling and freezing facilities has given Canadian fishermen and processors a long term competitive advantage over American fishermen in the U.S. market. This persistent form of bounty has led to the virtual disappearance of several segments of the U.S. fishing industry as will be shown below.

The conclusions embodied in T.D. 77-108 appear to ignore totally this persistent impact, on the erroneous deduction that direct poundage bounties constituted 97% of the total bounty.

Sec. 303(a) requires that countervailing duties equal the net amount of any bounty "however the same be paid or bestowed."

In order to suspend the imposition of countervailing duties pursuant to Sec. 303(d) the Secretary must find that adequate steps have been taken to reduce substantially or eliminate the adverse effect of a bounty.

As the U.R.I. paper clearly indicated direct poundage payments, while easily quantifiable, are only the tip of the iceberg. The Temporary Groundfish Assistance Program accounted for two thirds of the total federal subsidy based upon the payment levels prevailing at the time of this study which corresponds to the time frame of the investigation leading to T.D. 77-107. The U.R.I. researchers did not attempt to quantify the impact of provincial support programs which we believe, if included, would have reduced the rates of direct vs. indirect supports to 50-50. Even if direct supports are totally eliminated for both domestic and export production of groundfish, indirect subsidies as described above must be dealt with.

It is the view of petitioners that the level and duration of countervailing duties to be imposed pursuant to T.D. 77-107, and pursuant to this petition with respect to items not covered

by T.D. 77-107, must be sufficient to reflect the long term impact of such subsidized capital investments.

Petitioners have taken exception to and discussed at such length the implications of T.D. 77-108 in anticipation of future Canadian assurances that poundage subsidies have been terminated or severely cut back. As will be shown below, indirect subsidies are rising and have now assumed even greater significance - ominous significance for the U.S. fishing industry.

THE CANADIAN SUBSIDY PROGRAM SINCE APRIL 1977

One week following the decision in T.D. 77-108 on April 20, 1977, the Canadian Government announced its 1977-78 fisheries support program. A copy of the government announcement is attached hereto and we ask that it be considered a part hereof.

This \$41 million program is directed primarily toward the Atlantic Groundfish industry and supplements over \$130 million of emergency aid granted since 1974.

The 1977-78 program covers four aspects of the fishing industry: fish quality (handling, packing, icing, freezing), fishing grounds (transfer of effort outside Gulf of St. Lawrence, research), vessels (conversion subsidies), and marketing (underutilized species, conditional grants to processors, direct supports to groundfishermen).

This policy, while continuing the Groundfish Temporary Assistance Program to processors and harvesters, stresses long term rebuilding and enhancement of the industry through increased emphasis on product quality, new fisheries and vessel financing.

Perhaps conscious of the publication of T.D. 77-108, the release states with respect to groundfish payments - "As before, there will be no such payments on fresh fish for export." On the one hand, Canada assures our government that such payments were terminated, and on the other acknowledges there never were any payments on exports per se. Again we ask how the Canadian Government traces a fresh fish from ship's hold to market. The fisherman does not know whether he is landing fish for consumption in Canada or for ultimate export.

A Toronto Globe article of April 21, 1977, attached hereto, amplifies upon the official release indicating that large trawlers

will receive 2 ¢ per pound direct payments for fish harvested outside the Gulf of St. Lawrence. With respect to processors, conditional grants for exported frozen groundfish fillets and blocks will continue.

Each form of assistance described in this release constitutes an export bounty within the meaning of the Tariff Act of 1930, whether or not a direct payment for fish landed or exported and without regard to any alleged restriction with respect to exports.

More recently, on November 28, 1977, the Honorable Romeo Leblanc, Minister of Fisheries and the Environment delivered a comprehensive speech in Yarmouth, Nova Scotia describing in great detail the underlying philosophy and methodology of the Canadian fisheries program. A copy of the official text of this speech is attached hereto and we ask that it be considered a part hereof.

The following direct quotations from Mr. Leblanc's statement are particularly relevant to this petition:

" We are still paying most fishermen 2 ¢ a pound extra in groundfish they bring in, so they can afford to go fishing." (Page 2.)

" But in Atlantic fisheries, Canadians have never built a stable industry. The reasons are many: the dependence on one main market, the American" (Page 3.)

" Other strategies are too many to number. They represent a large-scale effort to coordinate the operations of what had been a disconnected, laissez-faire industry." (Page 7.)

" We reinstated a national program that gives industry up to 50 percent of the cost of ice-making equipment;" (Page 8.)

" In the Maritimes and Quebec, we are equipping nine communities with demonstration systems including boat gear and new buildings. . . ." (Page 8.)

" This year we introduced a fishing plan for the Atlantic groundfish fleet We provided incentives for the trawlers to open up cod and other fisheries.." (Pages 8-9.)

" With federal government encouragement, major producers in the groundfish industry have now come forward with a plan for a new degree of cooperative effort: not yet one-desk selling, but more mutual aid in market intelligence, promotion and in some overseas markets, the selling itself" (Page 10.)

" We do not intend to let our competitors enjoy alone the advantages of market coordination. If industry does not coordinate itself effectively, we will intervene" (Page 10)

" But we stand to become the Number 1 fish exporting nation in the future - " (Page 11.)

" ...we provided cash, and the government of Nova Scotia provided good credit terms, to help fishermen buy nine vessels owned by fish-meal processors. This purchase assisted the conversion of the fleet from low-value fish meal to higher value food production..." (Page 12.)

" This evaluation introduces what I might call Phase II of our rebuilding of the Atlantic fisheries, as we move from recovery to development." (Page 15.)

" The biggest growth will be in the yield of groundfish, such as cod and flatfishes" (Page 16.)

The Canadian fisheries program, with particular emphasis on the Atlantic groundfish, herring and scallop fisheries over a period of several decades shows not sign of reaching a conclusion. Indeed, as demonstrated by the 1977-78 program and Mr. Leblanc's remarks, the program is continually gaining momentum and sophistication. Canada clearly intends to become the dominant supplier to the United States market and will impose federal marketing controls to achieve such dominance if commercial efforts fail to achieve the desired rate of growth.

The U.S. fishing industry is confronted by a concerted government sponsored effort to drive it off the sea in order to enhance the economy of the Maritimes. This is a classic example of exporting a chronic domestic economic problem.

In this respect the submission to the United States Embassy, Ottawa, by the Department of External Affairs dated September 15, 1976 in the T.D. 77-107 investigation describes in great detail the economic conditions of the Maritimes which are the

root cause of the fishery export-subsidy program. We request that this letter and its attachments be made a part of the record in this proceeding.

As indicated previously, the emphasis of the Canadian subsidy program is shifting away from the direct emergency payments toward building up the fishing industry infrastructure to the point where it will be able, with government coordinated marketing, to sell in the United States without direct support: subsidizing the capital cost of vessels, new fisheries, handling, icing, freezing and marketing.

This investigation must quantify such subsidies and lead to the imposition of countervailing duties of sufficient magnitude and duration to neutralize their impact on the American fisherman.

DUTIABLE ITEMS NOT COVERED BY T.D. 77-107 AND T.D. 77-108

In this category we are concerned primarily with fresh or frozen whole (bled and gutted) Atlantic Ocean perch and flounders and fresh or frozen filleted groundfish including cod but excluding flounders.

The complete lack of rhyme or reason to the tariff schedules becomes immediately apparent and complicates the process of analyzing the Canadian subsidy program, since the Canadian government has not chosen to pay its subsidies along the same illogical lines.

While the basic conclusions of T.D. 77-107 apply equally to all categories of dutiable fish imports from Canada, it is essential that the Treasury Department clearly understand how the Canadian subsidies relate to specific tariff items.

Classification 110.35 (sub 50 + 55 - 60 + 65 - 70 + 75):
Whole Perch, Flounder, Other, Fresh and Frozen

Fishermen receive poundage payments, under the Groundfish Temporary Assistance Program, currently 2¢, ostensibly not paid on exports, but there are 10,000 Atlantic groundfish vessels independently owned and it is impossible to determine whether any specific catch is landed for domestic consumption or export. Presumably, if the product is gutted and bled, payment is made up to 1975 landing level by species.

Processors - not applicable.

According to Department of External Affairs letter of September 15, 1976 to U.S. Embassy Ottawa, payments to fishermen from May 1, 1975 through July 31, 1976 under the earlier Bridging Program and the Groundfish Temporary Assistance Program totaled \$22,689,335. Total payments for 1977-78 appropriation through March 1978 cannot be anticipated but should equal or exceed 1976-77 payments, since 1976-77 production levels are not likely to be met. Therefore, support payments will not cut off as early as last year.

Classification 110.50 (sub 25 + 30, 45 + 50, 65 + 70) and 110.55 (sub 20, 45 + 50, 65 + 70): Parch, Cod, Cusk, Haddock, Hake, Pollock, Fillets, Fresh and Frozen

Fishermen - not applicable.

Processors, both under the Bridging Program and the Groundfish Temporary Assistance Program, receive poundage payments on frozen fillets for export as well as domestic consumption, and fresh fillet for domestic consumption. Rates of payment have varied from 2 1/2 ¢ to 8 ¢ and now 6 ¢ per pound. Total payments as reported by the Canadian government include blocks and it is therefore not possible to break out the amount attributable to fillets. Total payments on fillets and blocks amounted to \$17,601,918 through July 1976.

Since the same exporters of frozen fillets market frozen and fresh fillets for consumption in Canada, petitioners believe the entire subsidy to be an export bounty within the provisions of the Tariff Act, 1930 as discussed in detail with respect to T.D. 77-108.

Indirect subsidies including federal and provincial vessel construction and conversion grants, loans and guarantees as well as similar assistance for shore based processing, freezing and marketing facilities account for a large share of the total subsidy package available to Canadian fishermen and processors.

The federal programs are described in detail in the various attachments hereto and in the supporting attachments to the Canadian government letter of September 15, 1976 to the U.S. Embassy Ottawa, a part of the record in T.D. 77-107.

Very little analysis of the provincial subsidies has been performed to date. Clearly, the Treasury Department failed to take them into account in T.D. 77-107 and T.D. 77-108, as well as

underestimating the relative and growing importance of federal assistance in this area. Petitioners believe that federal and provincial indirect subsidies account for at least 50 percent of the total package at this time and will grow rapidly in relation to direct poundage payments in the future.

The level of dutiable imports of 110.35 category groundfish has risen by 50 percent in 10 years from 2,498,000 lbs. in 1968 to 3,766,000 lbs. in 1976. The level of 110.50 and 110.55 category groundfish imports from Canada has remained relatively constant over this ten year period at around 92 million pounds per year. As of June 30, 1977 fillet imports from Canada were running at an annual rate of over 100 million pounds. Canada is the largest single exporter of groundfish fillets to the United States supplying between 35 and 40 percent of the 228 million pounds in 1976. By contrast, U.S. production of groundfish in the 110.50 and 110.55 categories was about 45,300,000 lbs. in 1976. Domestic production in these categories has declined from 43% of U.S. supply to 16.6% between 1967 and 1976. In absolute terms U.S. production has declined from 71 to 45 million pounds during this period. By contrast U.S. production in 1951 was 205 million pounds.

It should be noted that Canadian fishermen were confronted during this same ten year period with massive foreign overfishing of the groundfish stocks leading to severe restrictions on harvesting. These conditions lead to the drastic loss in U.S. harvest and yet the Canadians were able to maintain and in some respects even increase exports to the United States. Clearly, the Canadian subsidy program is responsible for this anomaly.

Under these circumstances it is obvious that the Canadian groundfish industry subsidies have enabled the Canadian industry to achieve a dominant position in the American market which will not be altered merely by the elimination of direct poundage payments so long as the Canadian government is engaged in a massive program of indirect support which has the effect of substantially reducing capital costs in the industry.

Petitioners believe the foregoing description of Canadian subsidies together with detailed supporting attachments provide a clear-cut case for the imposition of countervailing duties on all 110.35, 110.50 and 110.55 category imports.

NONDUTTABLE IMPORTS - FINFISH

Three tariff classifications 110.15, 110.47 and 110.70 fall within this category.

Item 110.15 (sub 85 + 89, 93 + 97) fresh and frozen whole cod, cusk, haddock, hake and pollock and Item 110.70 (sub 33, 39, 40, 60) fresh and frozen flatfish fillets are identical for all purposes to the corresponding dutiable classifications, 110.35 and 110.50 + 110.55 respectively, from the standpoint of the Canadian subsidy programs discussed above. The various Canadian subsidies do not, of course, distinguish between various species along the lines of our tariff classifications.

Specifically, the Groundfish Bridging Program, the Groundfish Temporary Assistance Program, the Fishing Vessel Assistance Program, and all applicable new forms of assistance as described in the 1977-78 programs (April 20, 1977 release and Lablanc speech, attached hereto) and provincial assistance (URI paper attached hereto) have been or are now available to fishermen and processors of 110.15 and 110.70 category products.

As indicated above, petitioners believe that direct subsidies paid to fishermen and processors for domestically consumed fish are in reality export subsidies when spread over their entire catch and production. Further, petitioners believe that direct supports to fishermen are paid on all landings although not officially available for exports.

Similarly, groundfish blocks, tariff classification 110.47 (sub 10, 26, 30, 40, 55, 60 and 63) produced from gutted and bled (all) fish of the varieties described in 110.47 benefit from the same assistance program to fishermen and processors. Processor payments under the Groundfish Temporary Assistance Program are specifically for exported blocks as is the case with frozen fillets previously discussed.

Petitioners therefore conclude that the Treasury Department must find that the Canadian government is paying export bounties within the meaning of Sec. 303, Tariff Act of 1930, as amended with respect to 110.15, 110.47 and 110.70 category products.

INJURY TO DOMESTIC INDUSTRY - NONDUTTABLE IMPORTS OF FINFISH

While Sec. 303(b) does not require the Secretary of the Treasury to make any preliminary finding of injury to domestic producers in conjunction with a final determination under Sec. 303(a) petitioners believe it will be helpful to the Treasury Department to set forth certain facts which clearly establish injury as defined in Sec. 303(b)(A).

Imports of Canadian groundfish in the 110.15 classification rose from 4.2 million pounds in 1958 to 11.6 million pounds in 1976 and are primarily fresh cod (110.15-85) and haddock (110.15-93). Cod and haddock are two of the three (the third, Yellowtail Flounder) primary stocks fished by the members of petitioner, Point Judith Fishermen's Cooperative. In addition to fresh whole cod and haddock, Canada exported 38 million pounds of fresh and frozen cod and haddock fillets to the United States in 1976 under tariff classification 110.55.

Pursuant to the Fishery Conservation and Management Act of 1976, Public Law 94-265, the New England Regional Fishery Management Council has adopted a Management Plan for the Northeast Atlantic groundfish fisheries published at 42 F.R. 13998 together with implementing regulations for cod, haddock and yellowtail flounder. This plan governs the taking of cod and haddock within the United States Fishery Conservation Zone where the entire harvest of these stocks by petitioners' members is conducted.

The plan allows a directed cod fishery for 55.1 million pounds and a harvest of 13.7 million pounds of haddock as a non-direct by-catch only. The regulations impose severe restrictions on the amount of these stocks which can be landed in any single trip.

Subsequent emergency regulations for the closing period of the 1977 fishing season altered the above catch quotas and landing restrictions but not their fundamental impact on the U.S. fishing industry.

Accordingly, U.S. fishermen are limited by federal regulation to a total catch of Atlantic cod and haddock of approximately 68 million pounds which will in all likelihood be reduced in 1978. Canadian imports of whole and filleted cod and haddock, as indicated above, amounted to 49.6 million pounds in 1976, equal to 74 percent of domestic landings under the federal quotas. Through September 1977 Canadian imports were at an annual rate of over 55 million pounds or 80% of allowable domestic landings.

While Canadian haddock stocks are depleted and imports are not likely to increase dramatically beyond current levels, the Canadian government is actively supporting the cod fleet and encouraging the opening of new fishing grounds (page 4, April 20, 1977 release, also Leblanc speech pages 7-8).

Point Judith fishermen are confronted on the one hand by severe U.S. quotas and landing restrictions and on the other hand by Canadian imports equal to 80 percent of U.S. landings which are entering the United States at wholesale prices as low as the U.S. industry cost of production. These Canadian imports have completely displaced fresh cod from Point Judith in the Boston market, forcing Point Judith to sell entirely to the New York market and beyond.

Point Judith fishermen have no opportunity to increase production given quotas and landing restrictions. To the contrary, U.S. fishermen are under severe pressure to reduce their catch. Canadian fishermen are being encouraged by every possible incentive to maximize cod production and exports to the United States.

For the purpose of this discussion, it is not possible to distinguish whole and filleted cod and haddock as the tariff classifications attempt to do. Whole, filleted, fresh or frozen products are produced and marketed in response to a complex mesh of supply, demand and price factors. At any given time one may displace another in the market and in turn be displaced as the dominant element.

It is petitioners' belief that the foregoing considerations present a prima facie case of injury as defined in Sec. 303(b)(A). Specifically, the Point Judith Fishermen's Cooperative has suffered injury-loss of market in Boston and is likely to suffer further injury - total loss of markets in the northeastern states to subsidized Canadian imports.

With respect to tariff classification 110.70 and in particular 110.70-33 + 39 fresh and and frozen flatfish fillets, the injury situation is similar. Yellowtail flounder is the principal domestic stock fished by the Point Judith Coop boats. The Atlantic Groundfish Management Plan has established a total allowable catch of 22 million pounds east of 69° west longitude and a by-catch quota only of 4 million pounds west of 69°. Equally, severe landing restrictions have been applied by regulation.

Total U.S. production of flatfish fillets in the 110.70 classification was 47.6 million pounds in 1976 while imports from Canada were 44.6 million pounds, of which 41.3 million pounds were frozen, 110.70-39 classification. Total imports of frozen flatfish fillets in the 110.70-39 classification were 53.4 million pounds. Canada clearly dominates the import market in this commodity as a result of its subsidy program.

The Point Judith Fishermen's Coop had for many years operated a freezer plant with a capital investment of approximately \$85,000. Imports of frozen flounder fillets from Canada so depressed the market, however, that in 1971 the freezer plant was closed. The circumstances which forced Point Judith out of the frozen fillet market have only worsened since 1971.

Attached hereto is a chart prepared by the General Manager, Point Judith Fishermen's Cooperative, setting forth the Coop's frozen flounder fillet production between 1951 and 1971, the period during which the freezer facility was operated.

This chart clearly demonstrated the steady growth up to 1963 and precipitous decline in frozen fillet sales to 1971. Loss of the frozen market places the Point Judith Fishermen's Coop at a disadvantage in competing with Canadian fresh fillet imports as well, since the Coop is unable to adopt a flexible marketing posture. Fresh fish must be sold regardless of the price offered. Frozen fish may be withheld and released as supply, demand and price at any given time favor sale of either the fresh or frozen product.

The Point Judith Fishermen's Cooperative has been totally displaced in the frozen flounder fillet market, tariff classification 110.70-39, by Canadian imports and has, therefore, suffered injury within the meaning of Sec. 303(b)(A) of the Tariff Act of 1930.

These examples of injury are illustrative of the problems confronting the entire New England groundfish industry with respect to Canadian imports of whole cod and haddock and flounder fillets.

With respect to imports of groundfish blocks, tariff classification 110.47, Canadian imports totaled 50.9 million pounds in 1976 and 42.3 million pounds in 1975. Domestic production in 1976 amounted to only 2.4 million pounds from all stocks. Domestic production has declined from 9 million pounds in 1967. Total imports in 1976 reached a record high of 378 million pounds, 99.4% of the total U.S. supply. Canada is the third-ranking supplier of blocks to the U.S. with 16% of the market.

There are two aspects of the injury question which will be developed through the ITC investigation of block imports. These are displacement of fresh and frozen fillets in the market and development of a U.S. block production and marketing capability.

Petitioners are not prepared to develop this issue in detail at this time. They will demonstrate specifically, however, that importation of subsidized blocks from Canada has displaced fresh and frozen fillets in the U.S. market which has traditionally utilized fillet production.

While Canada does not dominate the block import market nationwide, the cost of production in Canada approximates U.S. production costs and but for the Canadian subsidies, there is no reason the U.S. industry could not have achieved a market share of comparable magnitude in the northeast states. Canadian subsidies have effectively frustrated development of U.S. fish block production.

NONDUTTABLE IMPORTS - SHELLFISH

110.45-20 - Live American Lobster

The American lobster is monarch of United States fishery resources and the foundation of the Maine seafood industry. In 1976 U.S. Fishermen landed 31.7 million pounds of lobster. The State of Maine produced 19 million of this total. 26.3 million pounds were harvested within 12 miles of shore by small, mostly undocumented motorboats. In this respect it should be noted that undocumented boats (those of less than 5 net tons) constitute 80 percent of the estimated 90,000 fishing vessels in the United States commercial fisheries. Such vessels are not eligible for construction assistance under the Fishing Vessel Obligation Guarantee and Fishing Vessel Capital Construction Fund programs administered by the National Oceanic and Atmospheric Administration.

In contrast, Canadian fishermen engaged in lobstering and Canadian dealers receive a variety of benefits to insure that their production will enter the U.S. market at competitive prices in restaurants literally a stone's throw from piers where American lobstermen unload their catch.

These benefits include a direct subsidy of 35 percent of the construction cost of the vessel pursuant to the Fisheries Development Act (see attachments to Letter of September 15, 1976 Department of External Affairs to U.S. Embassy Ottawa) provided the vessel have a minimum length of 35 feet and not be operated in

the lobster fishery only. This subsidy alone far outweighs any benefit which U.S. fishermen derive from the obligation guarantee or capital construction fund programs in the United States.

Pending (perhaps now final) amendments will reduce the minimum length to 30 feet making such subsidies available to vessels equivalent to undocumented U.S. boats, the backbone of the U.S. lobster fleet.

Since 1973 \$15.2 million has been paid or obligated under the Fisheries Development Act for construction, modification and conversion. The program dates from 1942.

Direct construction subsidies as in the case of poundage payments are not the whole picture. In addition, both the federal government and the provincial governments offer low interest loans and guarantees to cover the balance of the fisherman's investment in a new, converted or modernized boat (see URI publication, April 20, 1977 release and Leblanc statement).

Finally, lobster fishermen in Canada benefit from the multiplicity of programs to upgrade product quality in terms of docking and storage facilities and marketing (see page 3, items (b) and (c) of April 20, 1977 release).

Imports of live American lobster from Canada were 14.9 million pounds in 1976 or approximately 50 percent domestic production and 75 percent of Maine production. During the first nine months of 1977 imports from Canada had already reached 13 million pounds.

Lobstermen, members of National Federation of Fishermen affiliated associations in Maine, Rhode Island, Massachusetts are, therefore, competing against lobster imports which enter the American market at a substantial price advantage to the Canadian fishermen and exporters. This price advantage enables the Canadian fishermen and exporters to achieve substantially higher profit margins and the ability to undercut American fishermen in their backyard. At any given time Canadian imports may sell at the U.S. dockside price or may be sold below the U.S. price depending on prevailing U.S. landings. In either case, the U.S. price has been artificially depressed by the price flexibility enjoyed by Canadian exporters as a result of subsidies. The U.S. ex-vessel price index for lobster using 1967 base 100 was 216.3 in 1976 and 126.8 in 1971, a rise of 89.5 points. By contrast the 1976 and 1971 indices for New England finfish were 312.5 and 153.3, a rise of 159.2 points. The average rise for all edible

fish and shellfish was 158.2. The ex-vessel price of lobster to the American fisherman has risen at a rate only 50 percent of the rate for all edible fish products. Costs of production in terms of vessel construction costs and particularly fuel have risen at a rate at least double the 89.5 point rise in ex-vessel prices received by U.S. lobster fishermen.

There is no doubt that Canada is engaging in the payment of bounties on the export of lobster to the United States within the meaning of Sec. 303 of the Tariff Act. These subsidies have effectively held down the price of lobster to American fishermen placing them in a untenable cost-price squeeze that threatens to destroy the largest segment of our lobster fleet which receives no comparable assistance from the United States government.

Injury to the American lobster industry within the meaning of Sec. 303 is obvious.

114-45-37 Sea Scallops

The decline of the New England scallop fleet is the clearest example of the pressure confronting the entire U.S. fishing industry as a result of subsidized Canadian imports.

Traditionally, the Canadian scallop fishery was concentrated around Digby, Nova Scotia and the Bay of Fundy, the beds lying between three and twelve miles offshore. Prior to 1956 offshore fishing for scallops was rare. Beginning in 1956, however, the Georges Bank scallop fishery began to develop to the point where the offshore harvest quickly overshadowed the traditional Digby fishery.

The development of the Canadian offshore scallop fishery through the initial upsurge is documented in the Commercial Fisheries Review, July 1963 article entitled "Sea Scallop Industry of Canada" by Doherty et al. A copy of this article is attached hereto and we ask that it be made a part of this petition.

The grim conclusions of the Doherty article have proven to be correct - even an underestimate of the situation.

In 1962 Canada exported 11.3 million pounds of scallops to the United States, 81% of landings. The same year 19.3 million pounds were landed at New Bedford from Georges Bank.

In 1975 Canada exported 15 million pounds to the United States while total domestic landings were 9.7 million pounds. In 1976, an excellent year class of Georges Bank scallops pushed American production to 19.3 million pounds, still well below the 1961 record of 25 million pounds, and Canadian imports reached 20.5 million,

a record. The upsurge in U.S. production in 1976 is not likely to be maintained more than several years and in any event Canadian imports will grow at a corresponding rate. The 1971-76 average annual U.S. harvest was 7.2 million pounds.

The growth of the Canadian offshore scallop fishery had its mirror in the decline of the U.S. industry harvest from the same grounds. This decline is documented in University of Massachusetts Research Bulletin No. 643 published in January 1977 by the College of Food and Natural Resources, Agricultural Experiment Station. A copy of this publication is attached hereto and we ask that it be made part of this petition.

The Georges Bank scallop fishery was developed by New Bedford fishermen in the 1930's. The U.S. record of 25 million pounds in 1961 came just as the Canadian subsidy program began to take hold. While the total U.S./Canadian harvest declined substantially after 1961 until the recent upsurge, the relative share of the catch has shifted dramatically in favor of the Canadians. The number of U.S. vessels engaged in this fishery declined from 150 in 1952 to 43 in 1971. By 1973 the New Bedford fleet had declined to 21 vessels. Similarly, imports, predominantly Canadian, rose from 5 percent of U.S. consumption in 1952 to 75 percent in 1972. As much as 90 percent of Canadian production is exported to the U.S.

The Canadian Fishing Vessel Assistance Program under the Fisheries Development Act has fostered the construction of approximately 60 large offshore scallop boats. The subsidies available are as described above with respect to lobster boats. Development of the scallop fleet shows no sign of abating. Four groundfish trawlers will be converted to scallopers under the 1977-78 program of federal assistance. A two year program has been initiated to subsidize conversion of the redfish (Atlantic Ocean Perch) fleet to multi-species fishing. Some of these vessels will enter the scallop fishery (page 5, April 20, 1977 release).

Again, as with lobster, ex-vessel prices for sea scallops have not kept pace with overall food fish indices. In the case of scallops, the 1971-76 rise was 63 points, substantially less than the lobster increase and barely 40% of the overall food fish rise.

The dampening impact of subsidized Canadian imports on the domestic price structure has reduced the New England scallop fleet to a shell, hopefully a hard core of vessels which will continue to fish Georges Bank notwithstanding the overwhelming dominance of the Canadian fleet. Tradition dies hard in New England.

As in the case of lobster the Canadian subsidy program clearly constitutes an export bounty within the meaning of Sec. 303 of the Tariff Act.

Injury to the U.S. scallop industry is even more obvious given the drastic decline in vessels and fishermen employed in this fishery which the United States dominated for so many years. Only by means of their subsidies have the Canadians displaced the United States fleet.

Current subsidy programs indicate that the Canadian government is prepared to support further expansion of the Georges Bank scallop fleet in order to give employment to vessels displaced by the decline of other fisheries. Further decline of the U.S. scallop fleet appears to be inevitable under these circumstances.


In conclusion, petitioners believe the Secretary of the Treasury (as delegated) must revoke T.D. 77-108 since all statutory grounds supporting that decision do not exist (and never did) and must impose countervailing duties upon all imports listed in T.D. 77-107 as well as the dutiable imports listed in this petition. Such countervailing duties must be of sufficient amount and duration to offset the impact of both direct poundage payments as well as indirect federal and provincial construction, handling, storage and marketing supports.

With respect to nondutiable imports, equally applicable and compelling evidence of subsidies amounting to bounties within the meaning of Sec. 303 of the Tariff Act is demonstrated by this petition. A clear showing of injury to the American fishing industry has been put forward which petitioners believe will be concurred in by the International Trade Commission. Countervailing duties, upon an affirmative finding by the Commission, must again offset the persistent impact of indirect supports as well as direct payments on exports.

All statistical references in this petition to U.S. landings, production, price indices, and fleet characteristics are drawn from appropriate tables in Fisheries of the United States, 1976, Current Fishery Statistics No. 7200, April 1977 published by the Department of Commerce.

Statistical references in this petition to Canadian imports were provided by the National Marine Fisheries Service, NOAA, Department of Commerce, as compiled from Bureau of Customs records.

National Federation of Fishermen
Point Judith Fishermen's Cooperative
Association, Inc.

By 
Richard N. Sharood
Counsel for Petitioners

Attachments:

- No. 1 - U.R.I. Agricultural Experiment Station Contribution No. 1738
- No. 2 - Dept. of Fisheries & Environment, Canada, Release April 20, 1977
- No. 3 - Toronto Globe Article, April 20, 1977
- No. 4 - Speech of Hon. Romeo Leblanc, Minister of Fisheries, Canada,
November 28, 1977
- No. 5 - 1951-71 Point Judith Fishermen's Coop Frozen Fillet Production
- No. 6 - Commercial Fisheries Review, July 1963 article
- No. 7 - Research Bulletin No. 643, January 1977. University of
Mass., Amherst.

NOTICES

29637

mulative impacts of both projects are considered in the Crownpoint draft environmental statement.

The public is invited to attend and comment on TVA's plans. A record will be made of the hearing and comments made will be responded to in the final environmental statement. All written statements submitted to the following address on or before August 7, 1978, will be included in the record: Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tenn. 37902.

H. N. STROUD, Jr.,
Acting General Manager.
(FR Doc. 78-18891 Filed 7-7-78; 8:43 am)

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[COG 78-049]

MARINE SANITATION DEVICES

Waiver of Certain Requirements for Vessels of 65 Feet in Length or Less

Discussions have been held between the Coast Guard and the Environmental Protection Agency (EPA) concerning the problems of marine sanitation devices (MSD's) on small vessels with installed toilet facilities. The technology for Type II MSD's has not developed so that acceptable MSD's are available for vessels 65 feet in length or less. Only one Type II device for these vessels is currently certified and this device is not suitable for many small vessels because of space limitations. Type III devices require pump-out facilities, the number of which is main inadequate.

As a result of the discussions the two agencies agreed to take the following steps:

(a) The Coast Guard will undertake research to promote the continued development of Type II MSD's for small vessels.

(b) The EPA will review and consider revision of the Standards of Performance for Marine Sanitation Devices, 40 CFR part 140, as they pertain to vessels of 65 feet in length or less.

(c) The Coast Guard will waive the applicability of certain requirements in 40 CFR part 140 and 33 CFR part 159 for vessels of 65 feet in length or less. These vessels may continue to install Type I MSD's.

Although small vessels are not the major source of sewage pollution of U.S. navigable waters, their sheer numbers necessitate some control over that source of sewage pollution. A reasonable regulatory program for control of vessel sewage pollution must take account of the realities of available control technology, as well as the

continuing lack of an adequate number of pumpout facilities.

Therefore, the Commandant of the Coast Guard, after consultation with the Administrator of EPA, is granting a waiver allowing continued installation of Type I MSD's on new and existing vessels 65 feet in length or less with installed toilet facilities. This waiver is authorized by section 312(c)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1322(c)(2)). When the Commandant determines that adequate Type II devices are available for use by small vessels, and after reasonable advance notice, this waiver will be terminated. A vessel which has installed a Type I device prior to the termination date will be permitted to use it for the operable life of the device.

MSD regulations for vessels with installed toilet facilities are contained in 33 CFR 159.5 and 159.7. The performance standards for these devices are contained in 40 CFR 140.3.

Vessels on which construction was started on or after January 30, 1975 (new vessels), must have a certified MSD. This requirement is not affected by the waiver.

The regulations would have required vessels manufactured after January 30, 1980, to have a Type II or III MSD. New vessels manufactured prior to this date would have been permitted to use a Type I MSD only if the MSD was installed before January 31, 1980. The Commandant is waiving these requirements.

Vessels on which construction was started prior to January 30, 1975 (existing vessels), must have a certified MSD by January 31, 1980. This requirement is not affected by this waiver.

For existing vessels, present regulations would have required installation of either a Type II or III MSD to meet the January 31, 1980, deadline. A Type I MSD would have been accepted on an existing vessel only if it had been installed before January 31, 1978 (extended by a previous Coast Guard waiver, (November 28, 1977, 42 FR 80418)). The Commandant waives these requirements.

The MSD requirements for vessels of 65 feet in length or less with installed toilet facilities which remain in effect under the waiver are as follows:

All vessels of 65 feet in length or less with installed toilet facilities must install a certified Type I, II, or III MSD. This requirement is effective now for new vessels. This requirement is effective on January 31, 1980, for existing vessels (vessel length is determined by 45 CFR 24.10-17(b)).

The Commandant is waiving the applicability of 33 CFR 159.5(b) and 159.7(b) to new vessels of 65 feet in length or less. The Commandant is also waiving the applicability of the

dates in 159.5(c)(2) and 159.7(c)(2) to existing vessels. Finally, the applicability of 40 CFR 140.3(d) to vessels of 65 feet in length or less is also waived.

The waiver is as follows: This waiver applies only to vessels 65 feet in length or less, that have installed toilet facilities. (Vessel length is determined by 45 CFR 24.10-17(b)). Type I MSD's may be installed in new or existing vessels. New or replacement MSD installations after January 30, 1980 may be Type I, II, or III.

NOTE.—This waiver is not applicable to vessels over 65 feet in length. All MSD standards and regulations in 40 CFR 140 and 33 CFR 159 still apply to these vessels. All new or replacement MSD installations on these vessels after January 30, 1980 must be Type II or III.

Dated: July 5, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

(FR Doc. 78-18888 Filed 7-7-78; 8:45 am)

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN FISH FROM CANADA

Initiation of Countervailing Duty Investigation and Preliminary Determination

AGENCY: United States Treasury Department, Customs Service.

ACTION: Initiation of countervailing duty investigation and preliminary determination.

SUMMARY: This notice is to inform the public that a petition has been received and an investigation has been started for the purpose of determining whether or not benefits are granted by the Government of Canada to fishermen and processors which constitute a bounty or grant within the meaning of the countervailing duty statute. A preliminary determination that the Government of Canada has given benefits on the production or exportation of certain fish is being issued simultaneously. A final determination must be made not later than December 30, 1978.

EFFECTIVE DATE: July 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1501 Constitution Avenue NW Washington, D.C. 20229, 202-564-5482.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on December 30, 1977, alleging that payments or bestowals conferred by the Government of Canada upon production or exportation of certain

29638

NOTICES

fish from Canada constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Several of the items named in this petition were covered in previous countervailing duty investigations.

The dutiable fish imports classifiable under item numbers 110.3560, 110.3565 and 110.5545 Tariff Schedules of the United States, Annotated (TSUSA), were the subject of investigation that resulted in a final affirmative determination and a waiver of countervailing duties which were published concurrently in the *Federal Register* of April 17, 1977 (42 FR 19327).

The dutiable fish imports classifiable under item numbers 110.3570, 110.3575, 110.5025, 110.5030, 110.5045, 110.5060, 110.5065, 110.5520, 110.5550, 110.5565 and 110.5570 TSUSA were the subject of an investigation that also resulted in a final affirmative determination and a waiver of countervailing duties which were published concurrently in the *Federal Register* of June 16, 1978 (43 FR 25995).

The non-dutiable fish imports classifiable under item numbers 110.1583, 110.1589, 110.4710, 110.4726, 110.7033 and 110.7039 were included in the latter investigation and are currently the subject of an injury investigation at the International Trade Commission.

The fish imports not involved in the above-mentioned investigations and therefore covered in this investigation are groundfish classifiable under item numbers 110.3552, 110.5000, 110.1592, 110.1597, 110.4720, 110.4755, 110.4760 and 110.4765 and shellfish classifiable under item numbers 114.4520 and 114.4537 TSUSA.

The fish imports classifiable under item numbers 110.1592, 110.1597, 110.4730, 110.4755, 110.4760, 110.4765, 114.4520 and 114.4537 TSUSA are free of duty. In the event that it becomes necessary to refer this case to the United States International Trade Commission pursuant to section 303(a)(3), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), there is evidence on record concerning injury, or likelihood of injury, to or prevention of the establishment of an industry in the United States with regard to these duty-free imports.

In view of the information developed recently in connection with the countervailing duty investigations on other Canadian fish, it is deemed appropriate to issue a preliminary determination pursuant to section 303(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), that bounties or grants are being paid or bestowed on the items subject to this investigation. Based on the information currently available, programs preliminarily de-

termined to constitute a bounty or grant include:

(1) Direct payments to fishermen by the Federal Government under the Groundfish Temporary Assistance Program (GTAP) which remains in effect for groundfish harvested by inshore fishermen, but does not include the shellfish which are a part of this investigation. Because a preponderance of all Canadian fish benefitting from the GTAP is exported, the program preliminarily is deemed a bounty or grant within the meaning of the countervailing duty law.

(2) Cash assistance to fishermen for the construction or modification of vessels. This type of aid is also preliminarily treated as a bounty or grant, since most of Canada's fish production is exported.

(3) Grants provided by the Department of Regional Economic Expansion (DREE) to the province of Newfoundland, whereby DREE and the Provincial Authorities share the capital cost for: (a) The augmentation of water supply systems to several coastal communities in Newfoundland, and (b) the construction of wharfs, service center buildings, storage areas, supply and installation of travelift and synchrolift equipment at Marine Service Centers. Due to the fact that the benefits of these forms of capital improvements are enjoyed almost exclusively by fishermen and fish processors and, as previously noted, a preponderance of the fish produced in Canada is exported, the regional aids described above are preliminarily considered bounties or grants.

(4) Other forms of assistance, including: (a) Vessel construction assistance under the Fishermen's Loan Act provided by lending authorities in New Brunswick, Nova Scotia, and Prince Edward Island; (b) loans for the processing facilities under the New Brunswick Development Corp.; and (c) plant expansion loans provided by Nova Scotia Industrial Estates, Ltd.

A final decision in this case is required on or before December 30, 1978. Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW, Washington, D.C. 20229, in time to be received by his office on or before July 25, 1978.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order 185, Revised, November 2, 1954, and section 159.47 of the

Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation and the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

Dated: June 30, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.
(FR Doc. 78-18666 Filed 7-7-78; 8:45 am)

[4830-01]

Internal Revenue Service

(Delegation Order No. 39 (Rev. 7))

ASSISTANT COMMISSIONER ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The title "Assistant Commissioner (Administration)" is changed to "Assistant Commissioner (Resources Management)"; "Assistant Commissioner (Data Processing)" is changed to "Assistant Commissioner (Data Services)", and reference to Alcohol, Tobacco and Firearms offices is deleted.

EFFECTIVE DATE: July 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Philip P. Russo, 1111 Constitution Avenue NW, Room 3318, Washington, D.C. 20224, 202-566-3161 (a toll free).

This document does not meet criteria for significant regulations: forth in paragraph 8 of the proposed Treasury Directive appearing in the *Federal Register* for Wednesday, May 24, 1978.

JACK G. PETRIE,
Director, Internal Management
Document Division.

TOURS OF DUTY AND OVERTIME

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Chapter 810 of the Treasury Personnel Manual, the following officials are hereby authorized to prescribe for personnel listed below, the official hours of duty and, when necessitated by operating requirements, to establish an administrative workweek of 8-hour days other than Monday through Friday for individual employees or groups of employees whose services are required on Saturday or Sunday or both, and flexible tours of duty for criminal investigators consisting of 5 8-hour days, Monday through Friday.

GERRY E. STUDDS
12TH DISTRICT, MASSACHUSETTS

WASHINGTON OFFICE
1811 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
802-225-3111

COMMITTEES:
INTERNATIONAL RELATIONS
MERCHANT MARINE AND
FISHERIES

CHAIRMAN:
AD HOC SELECT SUBCOMMITTEE ON
MARITIME EDUCATION

Congress of the United States
House of Representatives
Washington, D.C. 20515

June 1, 1978

DISTRICT OFFICES
GREATER NEW BEDFORD
POST OFFICE BUILDING
NEW BEDFORD, MASSACHUSETTS 02740
617-559-1281

SOUTH SHORE
1143 WASHINGTON STREET
(BY 50-Y MILE SOUTH OF RT. 1)
HAMMERS, MASSACHUSETTS 02339
617-826-3666

CAPE AND ISLANDS
FEDERAL BUILDING
78 NORTH STREET
HYANNIS, MASSACHUSETTS 02601
617-771-0666

Honorable Michael Blumenthal
Secretary of the Treasury
Washington, D.C. 20220

Dear Mr. Secretary:

By June 10, 1978, your Department must make a final determination on whether a bounty or grant is being paid on Canadian fish which are exported to the United States. If the determination is affirmative, as we believe it must be from the facts, then your Department must decide whether or not to grant a waiver of the countervailing duty on Canadian fish imported into the United States.

For several years the Canadian government has made substantial direct payments to both processors and fishermen on fish which are exported to the United States. These payments were determined to be bounties or grants in an April, 1977 determination by your Department (TD 77-107). Unfortunately, the petition on which that determination was based included only a few of the tariff items covered by the Canadian assistance program, and the official determination was similarly limited.

A new countervailing duty petition -- covering many more tariff items -- was filed a few weeks after the 1977 determination was published. Notwithstanding the fact that your Department had already determined in TD 77-107 that payments under the Canadian government's Groundfish Temporary Assistance Program and fishing vessel construction assistance program constituted bounties or grants, your Department has taken the full year permitted by statute to make the same determination for the additional tariff items covered by the new petition.

The Canadian government certainly knew in April of 1977 that its Groundfish Temporary Assistance Program and fishing vessel construction assistance programs were bounties or grants, and could subject Canadian fish exports to United States countervailing duties. Instead of repealing those subsidy programs, the Canadian government has deliberately waited until your Department was forced by law to make a countervailing duty decision on the additional tariff items. In the interim, the actions of the two governments have permitted the influx of heavily-subsidized Canadian fish into U.S. markets, and the resulting economic difficulties for U.S. fishermen, to continue. The

severity of the economic pressures on U.S. fishermen has been documented by the Department of Labor, which in finding employees of several vessels eligible for Trade Adjustment Assistance, found "that many fish distributors and wholesalers use the imports of Canadian groundfish, flatfish, and scallops as leverage in bidding down the exvessel prices paid to domestic fishermen for the same species of groundfish, flatfish, and scallops."

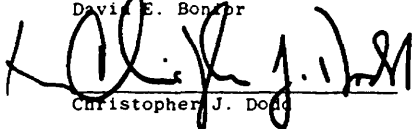
Under these circumstances, we believe that it is incumbent upon the United States to act to protect its fishing industry from unfair Canadian competition. Consequently, we strongly oppose any waiver of countervailing duties on Canadian fish.

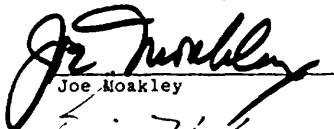
Sincerely,


Gerry E. Studds


David E. Bonior

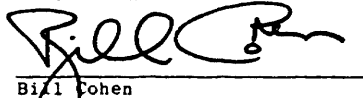

Michael Harrington

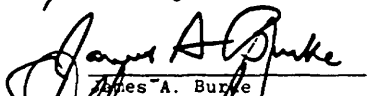

Christopher J. Dodd

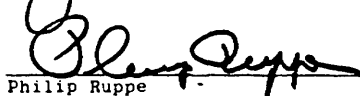

Joe Moakley


Bob Bauman

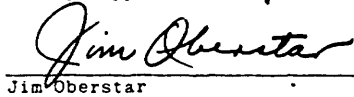

Bill Hughes

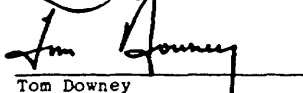

Bill Cohen


James A. Burke


Philip Ruppe


Mario Biaggi


Jim Oberstar


Tom Downey


Barbara A. Mikulski

Norman D'Amours
Norman D'Amours

Tom Evans
Tom Evans

Bo Ginn
Bo Ginn

Herland St. Germain
Herland St. Germain

Don H. Clarsen
Don H. Clarsen

Edwin B. Forsythe
Edwin B. Forsythe

Les AuCoin
Les AuCoin

Jim Jeffords
Jim Jeffords

Paul E. Tsopgas
Paul E. Tsopgas

Margaret M. Beckler
Margaret M. Beckler

Edward J. Markey
Edward J. Markey

Robert N. Glaimo
Robert N. Glaimo

David F. Emery
David F. Emery

Don Young
Don Young

Robert L. Leggett
Robert L. Leggett

Stewart B. McKinney
Stewart B. McKinney

Thomas P. O'Neill, Jr.
Thomas P. O'Neill, Jr.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Baltimore, Md. 20182 (202) 377-1154
THE ADMINISTRATOR

June 5, 1978

Mr. Richard Self
Director, Office of Tariff Affairs
Office of the Secretary
U.S. Treasury Department
1500 Pennsylvania Avenue, N. W.
Washington, D.C. 20220

Dear Mr. Self:

The Treasury Department is currently studying the advisability of imposing countervailing duties on imports of certain fish products from Canada pursuant to the petitions of the Point Judith Fisheries Cooperative and the Fisheries Marketing Association of Seattle, Washington. The purpose of this letter is to indicate the Department of Commerce's strong support for the imposition of countervailing duties on such products.

U.S. trade law clearly requires the imposition of countervailing duties on imported fishery products when the evidence indicates that artificially low prices for imports are made possible by foreign government subsidies. The evidence is overwhelming that the Canadian fish imports in question are so subsidized. The Canadian government has instituted an extensive network of programs that assist the Canadian fishing industry in catching, processing, and freezing fish, and in transporting it to the United States, at prices that are more than low enough to compete effectively in the U.S. market.

Under special circumstances, these countervailing duties may be waived. However, we believe strongly that a waiver cannot be justified for these fishery products, for the following reasons:

- 1) Canada has not indicated that it will terminate all of its subsidy programs for the fishery products in question.

2) Canada has apparently indicated a willingness to terminate some of its subsidies. Our experience in connection with Canadian commitments to reduce subsidies in 1977 casts significant doubt on Canada's willingness or ability to comply with such commitments. This suggests that a far better course of action would be to delay any waivers until commitments made by the Canadian government for the removal of subsidies have in fact been carried out.

3) The adverse impacts of allowing subsidized products to be imported into U.S. markets will persist long after the subsidies are terminated. Subsidized vessels constructed prior to termination of subsidies will continue to compete with non-subsidized U.S. vessels long after such termination. Markets such as the mid-western market captured by Canadian industry through anticompetitive subsidies cannot easily be recaptured by U.S. industry at a later date.

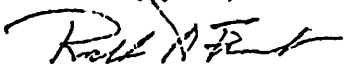
4) The purposes of the Fishery Conservation and Management Act of 1976 are significantly undermined by such subsidies. The Act was aimed at both conserving U.S. fishery resources and developing a strong U.S. fishing fleet. In order to protect fishery resources, the U.S. fleet is required to adhere to rigorous quotas to restrict the amount of fish that can be caught. Without heavy competing supplies of low-priced Canadian imports, the price for fish harvested by the U.S. fishing industry would tend to rise during the period that U.S. fishermen are forced to restrict their catches. Such a price rise would assist the harvesting sector of the U.S. groundfish industry to survive the period of quotas needed to restore our groundfish stocks. And because the price of raw material is only a part of the price of fish products, the impact of countervailing duties on U.S. consumers will be minimal.

The question of whether special circumstances exist that justify a countervailing duties waiver must be considered in light of the significant United States balance of trade problem. The United States balance of trade deficit in fishery products was \$2.1 billion in 1977. The waiver of duties on these Canadian imports will further exacerbate this problem.

Even when and if Canada meets the requirements for a waiver of these duties, we believe that a waiver should be withdrawn should it become evident that a subsidy code cannot be achieved in the Multilateral Trade Negotiations.

We would be pleased to provide you with any additional information you may need in connection with this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Richard A. Frank". The signature is written in a cursive style with a large initial "R" and "F".

Richard A. Frank



DEPARTMENT OF EXTERNAL AFFAIRS
 MINISTÈRE DES AFFAIRES EXTÉRIEURES

communiqué

No: 56
 No.:

DIFFUSION: FOR IMMEDIATE RELEASE
 RELEASE: JUNE 13, 1978

IN-SHORE GROUND FISH ASSISTANCE
 PROGRAMME CONTINUES UNTIL OCTOBER 1, 1978

In-shore fishermen in the Atlantic groundfish industry will continue to receive Special Assistance Payments until October 1, 1978, with no application of countervailing duties by the U.S., Secretary of State for External Affairs Don Jamieson and Fisheries Minister Roméo LeBlanc announced today. Because of improvements in resources, market returns and prices to fishermen, all Special Assistance Payments for the groundfish fishery will then come to an end.

Referring to the phasing out of special assistance payments, Mr. LeBlanc said "During the last four years, the fishing industry has gone through its worst crisis to the best prospects ever. The value of Canadian fishery products in 1977 reached the highest level ever. We have successfully set new directions for the industry, and the road is leading upwards."

The Temporary Assistance Program for the Canadian fishing industry gave most of its aid to the Atlantic groundfish industry, the biggest employer in all Canadian fisheries. Firms which four years ago faced bankruptcy, by last year had recovered enough to require no assistance payments. The across-the-board conditional grants program for processors officially ended

March 31, 1978.

Fishermen catching groundfish (except fresh fish for export) have been receiving deficiency payments of two cents per pound for first quality fish. Now, large trawlers over 90 feet will receive no more payments for any trip begun after March 31, 1978.

Payments also stop entirely for all groundfish vessels in British Columbia, where incomes for groundfish fishermen are higher than average. For the remaining groundfish fishermen in Canada, the two cent payments continue until October 1st, 1978.

When the Special Assistance Program began in 1974, the Canadian fishing industry faced the worst crisis it has known. In the Atlantic groundfish industry, unusually high costs (stemming partly from the energy crisis of 1973), scarce fish, and poor markets had produced heavy losses and forced producers toward bankruptcy. Other sectors of the fishing industry also faced grave problems.

To prevent collapse of communities and wide-spread dislocation, the federal government authorized emergency aid to the groundfish and other sectors of the fishing industry. After a thorough inquiry into the Canadian fishing industry, the government approved in 1975 a new and activist fisheries policy, outlined in the public document "Policy for Canada's Commercial Fisheries". The aim was to build a stronger, more stable industry and provide better, more responsive management, with the needs of society and especially of fishermen uppermost.

Foremost among actions undertaken was the achievement of the 200-mile limit. The number of foreign vessels fishing here shrank from more than 1,500 in 1974 to about 500 in 1977. Foreign ships now pay to fish only according to Canadian rules, for fish the Canadian industry doesn't use.

Other key actions under the new fisheries policy include application of strict licence control to almost every major fishery, because limiting the entry into the fisheries is the best way to conserve fish stocks and to raise the fishermen's income.

"Processors and fishing enterprises should continue submitting costs and earnings data in order that my Department can continue to monitor the economic performance for the best management of Canada's fishery," Mr. LeBlanc said.

"With good judgment over the next few years, we can build a better fishery than this country has ever known," Mr. LeBlanc said.

Senator HATHAWAY. All right. Fine.
Do you agree it is 17 percent?

**STATEMENT OF RICHARD N. SHAROOD, COUNSEL FOR THE
NATIONAL FEDERATION OF FISHERMEN**

Mr. SHAROOD. Well, that was a rather startling figure when I heard it this morning from Mr. Mundheim.

When the Treasury Department published their final determination on April 16 in the Federal Register, they came up with a figure of 5 percent ad valorem on the payments to the processors and 4 percent ad valorem on payments to the fishermen.

I perhaps may have misread their notice, because they repeated the 4 percent ad valorem with regards to offshore, as well as onshore fishing vessels. I was assuming it was 4 percent total. Apparently, it must be 8 percent total.

But even so, 8 and 5 does not add up to 17.

Apparently there must have been a recomputation of the amount of the subsidy between the time that this notice was published in June and the hearing today. However, they have maintained a consistent position in regard to the value of what we refer to as the indirect subsidies of roughly 1.2 percent.

That, of course, we take very strong exception to.

Senator HATHAWAY. What do you think it should be?

Mr. SHAROOD. We believe that the relative level of the indirect supports has risen in relation to the direct poundage payments to the point where indirect supports are now of equal value to the Canadian fishermen.

It is very obvious that the Canadian Government, for a number of years has been in the process of, or with the intent to phase out the direct poundage payments and to put the bulk, if not all of their support to the Canadian fishing industry into the various other forms of subsidy, such as the construction grants, free freezer plants, and so forth.

In fact, you will notice, Senator, at the end of our statement is a copy of the communique from the Canadian Government, a press release, announcing the fact that the U.S. Government is not going to impose countervailing duties. It is a 3-page statements which basically take 2½ pages telling the fishermen of Canada that the direct payments have served their purpose anyway and, in effect, we were going to get rid of them.

Further, I noticed in the Canadian newspapers, Mr. LeBlanc, for example, is quoted in Parliament saying: "Continuation of the assistance over the summer should come as good news to fishermen"—the fact that they are going to obtain the subsidy on the small boats through this summer.

In reply to questions in Parliament from other Members, particularly a Mr. Crosby from Newfoundland, Mr. Jameson assured that the U.S. Government was not looking at the indirect subsidies, that the only issue to the U.S. Government was the direct subsidy.

There was great concern in Parliament that the countervailing duty investigation would inquire into the various indirect supports. So they take it very seriously in Canada. Obviously they, I think, understand

that there is more than a 1.2 percent ad valorem value to the Canadian fishing industry involved in the indirect subsidies.

As Jake indicated, a number of people in various universities have done some pretty thorough studies of the Canadian subsidy program. I have attempted to analyze it to the extent that, as an attorney, I have any ability in that area—which, I must admit, is not too great.

We think, as we said, the level of the indirect supports is rising and could have risen, to be the preponderant form of support. The idea that this is a 1.2 percent ad valorem subsidy is ludicrous to me.

Senator HATHAWAY. What do you think it is?

Mr. SHAROOD. I think it is more on the order of half of the total, at least say 8 percent, 8 or 9 percent ad valorem value. The problem, Senator, is that when you look at a 35-percent grant on a fishing boat, Treasury says it must depreciate this vessel as though for tax purposes over 12 or 15 years, so it will only take one-twelfth or one-fifteenth of the grant and consider that as the countervailable amount in any year.

Now, that flies in the face of reality. But for that grant that fishing boat would not exist. It would not be catching those fish. Those fish would not be coming into the United States.

So when you only countervail one-twelfth or one-fifteenth you are deliberately underestimating the subsidy.

We point out in our testimony that we think the full value of that subsidy should be countervailed in the first year. Then the amount to be countervailed would be reduced year by year. Because that vessel is an asset out there fishing year after year, it does not disappear after that first year.

Really, this gets to the treatment of capital assets generally. How do you countervail against a free asset given by a government to industry? I think Treasury ought to reexamine that issue, not only in regards to fish, but across the board, but we are, of course, concerned here with a capital asset involved in fishing.

Senator HATHAWAY. You mean we should take the total the first year, regardless of whether the ship might be 5 years old?

Mr. SHAROOD. No; it is a brand new ship. Now it has been given a 35-percent subsidy. That 35 percent, we feel, ought to be fully countervailed in the first year. In the second year, then, reduce the countervailable amount by one-twelfth or one-fifteenth, reflecting depreciation of the vessel.

Senator HATHAWAY. Well, if you are going to do it all the first year, then you would not do it after that, would you? If you are going to take the full 35 percent, you would only take it once.

Mr. SHAROOD. I guess it is a philosophic problem in the fact that you are talking about a direct subsidy, giving a man money. But we are talking about an asset that is going to be used over a period of years.

The treatment of that asset, we think, should be substantially different than the treatment of a cash grant.

Senator HATHAWAY. Is that the basis upon which you are saying that the indirects would be 9 percent rather than 1 percent?

Mr. SHAROOD. Not entirely. We do not think they actually quantified all of the other forms of assistance. We have not seen their figures, are not privy to them—but we do not believe that Treasury has quantified all of the other subsidies. There are about 14 or 15 different

categories of indirect support available to the Canadian fishing industries. We do not believe that they seriously examined all of them and came up with an accurate computation of all of these forms of subsidy.

Senator HATHAWAY. Well, do you think it would be possible for you and Treasury to sit down and go through item by item? I do not know that we have time to do that this morning during the hearing, because we have other witnesses.

Mr. SHAROOD. We would be happy to do that.

Senator HATHAWAY. I would like to see that done, so that it is done point for point. I am not sure that, you know, about your rationale for taking the entire 35 percent the first year on the grounds that he never would have been able to have a vessel if he didn't have it. I suppose that some probability factor is in there, if you were going to go on that basis at all.

Mr. SHAROOD. This is borne out, I think, by the scallops fishery.

The rulings to date have dealt only with groundfish, where the direct support payments obviously are a significant factor. However, in the scallop and lobster fisheries, there have never been any direct poundage payments to the processors or the fishermen.

Now, in the Point Judith petition which is now pending and in which Treasury will have to make a final ruling by the end of the year, for example, with regard to scallops, they are going to have to figure out how the Canadian Government come up with a subsidy that they say is only about 1 percent ad valorem and yet resulted in the construction of 60 modern offshore scallop boats that, in a period of 10 years, doubled the production and the export of scallops to the United States to the point where the Canadians became the dominant scallop fishing country.

That was accomplished with the aid of only 1.2 percent ad valorem subsidy and they are going to have to really do some tremendous reasoning to figure out how with a 1-percent ad valorem subsidy, the Canadians could double scallop production and exports to the United States and become the dominant element in this fishery.

Senator HATHAWAY. I see your point. It is kind of difficult to figure, that is all.

You mean, by having a subsidy they can build a big fleet, they can take the business away from you, and they can start sending it all over the country and taking a sizable chunk of your market. That is true. I do not know what kind of a mathematical formula you would place on that to determine what the ad valorem ought to be.

I suppose one could figure it out, though, on the basis of—on a historical basis, could he not?

Mr. SHAROOD. I would certainly think that one could develop a logical, reasonable basis.

Senator HATHAWAY. I mean what percentage of the market would you have had if they had not had that done.

Mr. SHAROOD. You can plot it on a graph. In the scallop fishery, it is almost an an "X" showing the increase in the Canadian and the decline in the U.S. catch. Canadian vessels have displaced our boats in that area. The U.S. landings went right down as the Canadian went up.

Canadian exports to the United States exceed our own domestic production. It is all tied to these so-called indirect subsidies that Treasury claims are worth only 1.2 percent ad valorem.

Senator HATHAWAY. Mr. Mundheim, do you have any answer to this? It seems like he has raised a pretty good point, you know, that you do not have to give them a lot to give them a heck of an advantage and once they build up their fleet, then they just take away your whole market, and maybe if you are going to do it on a mathematical basis like you are, you would only come out with a 1 percent, or a fairly low percentage as far as what the ad valorem effect is going to be, but if you considered other factors, it might be significantly higher.

Mr. MUNDHEIM. Of course, Mr. Chairman, let me say that I would be delighted to have our staff, particularly our expert in this area, meet with their experts to review our calculations of indirect subsidies, and I do not think that is a fruitless exercise either, because, one, as I indicated to you, the waiver is for a short period of time, and if we come to January 4 and we do not have a subsidies code, we will be countervailing against these indirect subsidies; and second, we have presently under consideration another petition and that is really where those scallops come in. The scallops problem that was alluded to is not one that this override resolution is directed to, and we will be making a determination in that case shortly and we, as I say, would welcome sitting down with the experts and trying, once again, to understand what their point is. I think we understand what it is.

Now, on the vessel—

Senator HATHAWAY. How do you get this January 4 deadline? Is it not a 4-year period that you can waive?

Mr. MUNDHEIM. No; it is 4 years from the time the act was in effect, and that period ends on January 4, 1979.

Senator HATHAWAY. The time that the act was in effect?

Mr. MUNDHEIM. The 1974 Trade Act.

So, as I say, we have—

Senator HATHAWAY. But, now, why would the subsidy code's being enacted—would that have to be enacted by our Government?

Mr. MUNDHEIM. We would have to negotiate it and then we would have to bring it, to the extent it would change our law, we have to bring it to the Congress.

Senator HATHAWAY. And have it enacted, and that would automatically allow you to go ahead after January 4 with the waiver?

Mr. MUNDHEIM. No. It would depend. Nobody has seen what the final code looks like, but the final code may mean that everybody would agree to take all these indirect subsidies and eliminate them.

Senator HATHAWAY. It depends on what it says.

Mr. MUNDHEIM. Exactly. But if it does not eliminate—

Senator HATHAWAY. That would specifically have to cover this case, the subsidies code?

Mr. MUNDHEIM. It would have to result in an elimination of these particular subsidies. If they are not eliminated on January 4, we are obligated to countervail against them.

Senator HATHAWAY. Again, this is not on the point of the questions you are answering, it just seems kind of useless to go for this short period of time, especially when—did you not say that the Canadians

agreed that by October 1 they are going to have these down, so in effect you are saying October, November, December—3 months?

Mr. MUNDHEIM. That is right.

Senator HATHAWAY. As we said before, you know, if you are going to—if the Secretary decides, let's benefit the American fishermen, then that—

Mr. MUNDHEIM. Well, as I indicated, the trade-off in that, Mr. Chairman, and that is, as you said, it is a judgment question, is that by trading off and not countervailing for that short period of time we would have a more supportive person at the Geneva bargaining table to arrive at an internationally agreed code. That we thought was a useful trade-off, and one that the Congress would support.

But that is a judgment call, sir.

Senator HATHAWAY. Well, it seems to me that that is not a very good judgment, if you are saying that Canada is going to drop us because of a 1-percent tariff and not support us. I could see it if it were 10 percent, or something like that.

Mr. MUNDHEIM. But it is psychology, and those—

Senator HATHAWAY. But 1 percent. That does not seem to me to be realistic.

Mr. MUNDHEIM. But it is psychology. It is a delicate, tough negotiation out there, and it is a lot easier if you have somebody who said, I have gone 94 percent of the road with you, do not kick me in the shins now, than if you said, well, you went 94 percent. That is lovely, and here is a kick in the shins.

He may say, I will not be your enemy for life, but—

Senator HATHAWAY. I think probably the fishing industry would agree with you if you had actually done 94 percent, but their contention is that it really is not 94 percent when you figure it the way they are talking about. Let's get back to that question.

Mr. MUNDHEIM. Let me address that in so far as vessel construction is concerned.

Senator HATHAWAY. Fine.

Mr. MUNDHEIM. It is my understanding that during the period 1976-1977 the total amount of grants for fishing vessel construction was \$6.4 million. That would have an ad valorem effect of 0.64.

We calculated, under our method, that the vessel construction assistance was 0.85 and that was done because what we take on our averaging system is a total of the last 12 years assistance, divide it by 12 to take the average for what it would be in 1 year, and then do that over the whole catch.

Our figure come out higher, actually, than the other witness because in the last year assistance to vessels has declined. For example, over the previous 3 years, so that actually, I think, our method, which I think is correct anyway, also, in this case, happens to be an advantage to fishermen.

But, as I said, I would be very willing—and I realize it is a long list of indirect subsidies, and I think the proper thing to do is for them to come and make an appointment with Mr. Self and his staff to go over those.

Senator HATHAWAY. Could this be done fairly quickly, because the committee is pretty anxious to move.

Mr. MUNDHEIM. Absolutely.

Senator HATHAWAY. Good.

What about the argument they raised that if it were not for this subsidy, the Canadians would not have been able to build up the fleet and, therefore, they would not be able to get this big catch and dominate our markets?

Mr. MUNDHEIM. Well, that is a more difficult—

Senator HATHAWAY. Was that considered at all? Is that in any way calculable?

Mr. MUNDHEIM. Well, I think the problem is that we can only countervail against subsidies paid, so that when we come down to it, if we were not waiving and we were countervailing, or if this were January 5, we would still have to put a number on it and our number on the fishing vessel construction would be a countervailing duty of 0.85.

Senator HATHAWAY. Well, you could still take amount paid. It depends on the total amount of subsidy of the 12-year period and put it into 1 year, that would make a difference.

Mr. MUNDHEIM. You mean a 12-year subsidy in 1 year?

Senator HATHAWAY. Well, it depends. I am not saying you should do that, but I am saying, that if the total subsidy for one vessel, for example, is going to be 35 percent—or take our easy figure of before, \$35—and we will say it lasts 7 years, so it would be \$5 a year.

You could take the whole \$35 in 1 year, even though it was not actually paid out by the Government.

Mr. MUNDHEIM. Well, I understand that, but if we look at what, in fact, the Government appropriated in 1976–1977, as I said, it is only \$6.4 million. I do not really see that we can—I think that is where we are stuck under the law.

Senator HATHAWAY. What provision? Do you have it right there?

Mr. SHAROOD. May I say something, Mr. Chairman?

The act talks in terms of eliminating the net effect of the bounty or grant, and I think it is this provision of the act that they are referring to; the concept of the net amount of the bounty or grant. And that is the crux of it. How do you compute the net amount or effect? They are saying it is simply the amount of money the Canadian Government appropriated in the last year for this particular type of subsidy.

Of course, this program has been going on for quite a long time. It began, in terms of the vessel construction grants, in the 1950's, as a matter of fact, and in the case of the scallop fisheries on Georges Bank, the principal impact was in the early 1960's.

What we are dealing with is the long-term effort of the Canadian Government to subsidize its fishing industry, the impact of which has grown each year to the point where it became obvious to the American fishing industry that this was one of the critical issues confronting it.

Now, when we come to the question of countervailing duties, we are told the only thing that it can be applied is, in effect, what the Canadians appropriated last year, which is merely the top of the iceberg—or the average of what they appropriated over some period of years that Treasury deems an appropriate period.

There is nothing, unfortunately, in the act that addresses this issue directly.

Mr. MUNDHEIM. I think the statute talks about payment or bestowing of bounties or grants. Then it talks about estimating the net amount of each such bounty or grant. That relates to payment.

I do not think that this statute allows us to look at the effect. It draws us to the payment, the net amount paid.

You know, here are other remedies—an escape clause, for example, which might allow the construction of remedial solutions of a very extremely high tariff for a period of time to counteract events of the past.

Senator HATHAWAY. OK. You are reading section 305(a) of the statute. I do not know. I would not want to make an offhand opinion as to how much can be computed into that.

But, of course, you can, as we mentioned to your earlier, you can look at the effect in terms of the waiver. There do not have to be any necessary numbers in that. That is just a plain judgment call.

Mr. MUNDHEIM. That is correct.

Senator HATHAWAY. Well, I think that whether or not the fishing industry is going to prevail on this particular argument depends on how we do interpret section 305, and I do not think we have time today to argue the case in what the law actually meant in that regard. It is just tough to make an opinion on that.

But I would hope that the two of you would get together in the very near future so that the committee could have the benefit of your just going over item for item and comparing. Then see just where you can agree, and for what reason. Would you do that fairly soon?

Fine. Thank you very much.

Is there anything else that any of you want to say, before I go on to the next witnesses?

Thank you. I appreciate your testimony very much.

Our next witness is Mr. Murry Berger, president of the American Seafood Distributors Association.

STATEMENT OF MURRY P. BERGER, PRESIDENT, AMERICAN SEAFOOD DISTRIBUTORS ASSOCIATION

Mr. BERGER. Thank you, Senator Hathaway, for giving me the opportunity to speak before your committee. Before I go into my statement, I would like to, just off the record, mention that my company is involved in the processing, importing, exporting, and marketing of seafoods in the United States. It may be of other interest, a side issue, that one of our other companies is in the processing, exporting and importing of textiles, and one of our big problems is the importation of textiles. Yet here I am talking about being against countervailing duties, because, actually, they are two different subjects.

In the case of seafoods, I have just come back from an international frozen-food conference in London, and one of the major questions at this conference was the availability of fish and seafoods for the future. Right now, production is very poor throughout the world.

It was very interesting that the Ministry of Fisheries from Newfoundland was there as one of the guest speakers, and his greatest concern was getting other markets, other than the United States. He was thinking about ways to develop sales and exports in Europe and other places.

Why was this? Because he felt that the United States very shortly would be able to produce a great deal of their own seafoods—and I am talking fish products.

The major concern that we have here as importers and exporters and processors is the consumer. How much will she pay before she changes her eating habits?

In Great Britain today with the shortage of seafoods, fish particularly, the consumption has gone down 10 percent. They are concerned, not only about a source of supply, but about a customer.

Now, I believe that it is very important to be concerned about our fishermen. They are most important, and we have a great concern for them. But the fisherman's concern should be if the price of the product is out of the reach of the consumer.

So, therefore, I would like to go into my written statement and then you can ask me some additional questions.

As president of the American Seafood Distributor's Association, we are more than 120 companies which are directly involved in the importation of seafood in the United States. We also are purchasers of quantities of seafood from our domestic producers.

We are called ASDA and we have been seriously concerned with the discussions and agency actions involving the possibilities of countervailing duties on certain fish products imported from Canada. Our association filed a brief with the U.S. Treasury Department during the course of its recent investigation.

At that time, we argued that the various assistance programs provided to the fish industry in Canada do not constitute bounties or grants as defined by the Trade Act. We further argued that the role of Canadian groundfish is crucial in the American market.

Although the Treasury Department did finally rule that the Canadian assistance programs were bounties and grants, and countervailable, it did determine that a waiver of the duties would be in order.

ASDA supports this decision and therefore opposes the resolution introduced in the Senate to override the administration act.

Very briefly, ASDA maintains that the act provides that Treasury waive the countervail when the foreign nation involved has taken steps to reduce or eliminate the bounty or grant; if there is reasonable prospect, successful trade agreements will be entered into with foreign countries for the reduction or elimination of barriers or other distortions of international trade; and if the imposition of countervail would jeopardize completion of such negotiations.

We believe the conditions for waiver envisioned in the act have been met and therefore, override is not in order.

We would like to comment on several aspects of this case. First, the Canadian Government has indicated it will suspend all payments under the groundfish temporary assistance programs. This eliminates the major portion of the assistance program and should make these discussions meaningless.

As to the fishing vessel assistance program, the FVAP was designed to provide assistance for the construction, conversion, and modification of fishing vessels from 35 to 75 feet in length operating in all sectors of the Canadian fishing industry.

The Canadian Government's submission to the Treasury Department in terms of the amount of aid, 10-year amortization, and landings,

shows that the value of FVAP in the fiscal year just ended was approximately 0.4 of 1 cent per pound product weight, U.S. currency. This amount is less than one-half of 1 cent a pound and less than one-half of 1 percent of the price of the groundfish products entering the United States on an ad valorem basis.

Such an amount is negligible and should not be subject to countervail.

Moreover, the FVAP program is akin to a host of other vessel assistance programs, several of which are in force in the United States. None of such programs has been, or should be, considered as an export subsidy.

In the United States, there are two national marine fisheries service programs available for financing the construction and refurbishing of fishing vessels. The first, the fishing vessel obligation guarantee program, permits U.S. fishermen to use the long-term debt capital markets at relatively low interest rates to finance up to 75 percent of the cost of constructing and reconditioning vessels.

The second program, the fishing vessel capital and construction fund program, allows fishing vessel owners to defer payments of Federal tax on income earned through the operation of qualified vessels so long as the income is used to pay the cost of vessel construction or reconstruction.

In effect, the capital construction fund program is an interest-free loan in the U.S. Government equal to the Federal taxes otherwise payable by the vessel owner. In addition, in previous years, this Congress has provided a vessel loan program and a direct vessel subsidy program that amounted to tens of millions of dollars.

The provision of government aid to the owners of fishing vessels is not unique to Canada, and has nothing to do with exportation of fishery products.

In light of that fact, Treasury should not have considered the FVAP as a bounty or grant subject to countervail.

Even if the program is countervailable, however, the small amount of aid granted should be considered as too negligible to justify countervailing duties.

The Canadian Federal Department of Regional Economic Expansion has provided assistance in two Federal provincial cooperation cost-sharing arrangements, on which the U.S. Treasury Department has received information: the fisheries marine service center program and the program for fish plant water supply systems.

ASDA believes that neither of these programs are countervailable. It is clear that the fish plant water supply program and the marine service center program are simply Federal aid to the Province of Newfoundland to build interfractural structure to support industry and communities in traditional fishing areas.

Like the assistance given by the U.S. Army Corps of Engineers in dredging rivers and building bridges, we do not believe such aid constitutes such export subsidy.

There could be no limit countervailing duties if the type of development assistance represented by the foregoing programs is regarded as countervailable. Government aid to provide interfractural structure has not been countervailed in the past and should not be subject to countervail in this case.

It should be noted that if projects like the Canadian water supply program and the service center program are countervailable, practically all the assistance the U.S. aid agencies, the World Bank and other agencies have given all over the world would be countervailable. Such projects are clearly too remote from export products to be regarded as bounties from exportation.

Senator HATHAWAY. Mr. Berger, can you summarize the rest, because I have just been informed from the floor that they are going to have a vote fairly soon, and when the vote occurs, the committee will not be able to legally meet again today. That will be in the near future, and we have some other witnesses.

Mr. BERGER. In summarizing, I would like to state—

Senator HATHAWAY. Your entire statement will be put in the record.

Mr. BERGER. Thank you and some of my figures then may not be as accurate as if I take them off here.

Senator HATHAWAY. Right. I understand.

Mr. BERGER. So, you will excuse the—

Senator HATHAWAY. But your point is that—

Mr. BERGER. My point is that—

Senator HATHAWAY [continuing]. That there is so little to counter-vail that we might as well forget about it.

Mr. BERGER. That is right. We are also dependent on imports for 80 percent of our fish today. There are 20 to 25 percent produced here in the United States. The prices, as of yesterday, in New Bedford and Gloucester are frightening. For whole flounder, \$1; you are coming up to a \$3.20 price for fillet. I think we would consider this in league with fillet mignon or maybe Maine lobster.

Yellowtail is 90 cents for a whole fish. Cod is up to 65 cents. Haddock is 65 cents.

I went to one of our suppliers who supply us with frozen fillet. He said, I cannot do it this year. We are getting too much on the fresh market.

Now, here we are going to discuss a countervailable duty with our friendliest nation and neighbor, Canada. Now, this is my point, sir. It should be considered in the light of what will it cost the consumer, what will it cost us as a Nation in regard to friendship with Canada.

Senator HATHAWAY. Very good. Thank you very much. I appreciate your testimony and it is very kind of you to summarize it.

[The prepared statement of Mr. Berger follows:]

PREPARED STATEMENT OF THE AMERICAN SEAFOOD DISTRIBUTORS ASSOCIATION

Mr. Chairman, I am Murry P. Berger, president of the American Seafood Distributors Association. ASDA is a trade association consisting of more than 120 companies directly involved in the importation of seafood into the United States.

ASDA has been seriously concerned with the discussions and agency action involving the possibility of countervailing duties on certain fish products imported from Canada. Our association filed a brief with the U.S. Treasury Department during the course of its recent investigation. At that time we argued that the various assistance programs provided to the fish industry in Canada do not constitute bounties or grants as defined by the trade act.

We further argued that the role of Canadian groundfish is crucial in the American market.

Although the Treasury Department did finally rule that the Canadian assistance programs were bounties and grants and countervailable, it did determine that a waiver of the duties would be in order. ASDA supports this decision and

therefore opposes the resolution introduced in the Senate to override the administration action.

Very briefly, ASDA maintains that the act provides that Treasury can waive countervail when the foreign nation involved has taken adequate steps to reduce or eliminate the bounty or grant, if there is reasonable prospect successful trade agreements will be entered into with foreign countries for the reduction on elimination of barriers to or other distortions of international trade and if the imposition of countervail would jeopardize completion of such negotiations.

We believe the conditions for waiver envisioned in the act have been met, and therefore, override is not in order.

We would like to comment on several aspects of this case.

First, the Canadian Government has indicated it will suspend all payments under the groundfish temporary assistance program. This eliminates the major portion of the assistance program and should make these discussions meaningless.

As for the fishing vessel assistance program, the FVAP was designed to provide assistance in the construction, conversion and modification of fishing vessels from 35 to 75 feet in length operating in all sectors of the Canadian fishing industry.

The Canadian Government submission to the Treasury Department, in terms of amount of aid, 10 year amortization and landings of all species, shows that the value of FVAP in the fiscal year just ended was approximately 0.4 cents per pound product weight (U.S. currency). This amount is less than one-half of a cent a pound and less than one-half of one percent of the price of the groundfish products entering the U.S. on an ad valorem basis. Such an amount is negligible and should not be subject to countervail.

Moreover, the FVAP program is akin to a host of other vessel assistance programs, several of which are in force in the United States. None of such programs has been or should be considered as an export subsidy. In the United States, there are two national marine fisheries service programs available for financing the construction and refurbishing of fishing vessels. The first, the fishing vessel obligation guarantee program, permits U.S. fishermen to use the long-term debt capital market at relatively low interest rates to finance up to 75% of the cost of constructing and reconditioning vessels. The second program, the fishing vessel capital construction fund program, allows fishing vessel owners to defer payments of Federal tax on income earned from the operation of qualified vessels so long as the income is used to pay the cost of vessel construction or reconstruction. In effect, the capital construction fund program is an interest-free loan from the U.S. Government equal to the Federal taxes otherwise payable by the vessel owner. In addition, in previous years this Congress has provided a vessel loan program and a direct vessel subsidy program that amounted to tens of millions of dollars.

The provision of Government aid to the owners of fishing vessels is not unique to Canada and has nothing to do with exportation of fisheries products. In light of that fact, Treasury should not have considered the FVAP as a bounty or grant subject to countervail. Even if the program is countervailable, however, the small amount of aid granted should be considered as too negligible to justify countervailing duties.

The Canadian Federal Department of Regional Economic Expansion (DREE) has provided assistance in two Federal-Provincial cooperation cost-sharing arrangements on which the U.S. Treasury Department has received information, the fisheries marine service centre program and the program for fish plant water supply systems. ASDA believes that neither of those programs is countervailable.

It is clear that the fish plant water supply program and the marine service centre program are simply Federal aid to the Province of Newfoundland to build infrastructure to support industry and communities in traditional fishing areas. Like the assistance given by the U.S. Army Corps of Engineers in dredging rivers and building bridges, we do not believe such aid constitutes export subsidies. There could be no limit to countervailing duties if the type of development assistance represented by the foregoing programs is regarded as countervailable. Government aid to provide infrastructure has not been countervailed in the past and should not be subject to countervail in this case.

It should be noted that if projects like the Canadian water supply program and the service centre program are countervailable, practically all of the assistance the U.S. aid agencies, the World Bank and other aid agencies have given all over the world could be countervailable. Such projects are clearly too remote from exported products to be regarded as bounties upon exportation.

The most important point we have to make, however, is that the imposition of a countervailing duty on Canadian groundfish imports would not benefit the U.S.

fishing industry. Since U.S. groundfish production is limited by quota, U.S. fishermen would benefit little, if at all, from the higher cost of Canadian fish.

If countervailing duties are imposed upon Canadian groundfish and groundfish products, we believe the American fisherman will benefit little, if at all, since he is restricted by quota to producing less groundfish than his historic levels of catch.

The New England Fishery Management Council has established quotas for U.S. vessels fishing in the Atlantic conservation zone for haddock, yellowtail flounder and cod, three of the most important groundfish species. For this calendar year, no directed fishery for haddock is allowed and commercial and recreational catch is limited to 17,600,000 pounds. The total U.S. catch of haddock in 1977 equalled approximately 28,500,000 pounds.

The U.S. quota on yellowtail flounder for commercial and recreation boats for 1978 equals only 17,820,000 pounds. U.S. landings of yellowtail flounder in 1977 equalled 36,457,000 pounds.

For cod, the 1978 quota equals 61,600,000 pounds while the 1977 cod catch by U.S. fishermen exceeded 75,500,000 pounds in the Atlantic region. By an emergency amendment to the fishery management council quota limitations published on April 10, 1978, the directed fishery for cod in the conservation zone of the northwest Atlantic was changed from an open fishery to a limited one.

In light of the foregoing, it is evident that the United States cannot supply an appreciable portion of U.S. demand at present time. Until such time as the U.S. fishing industry can supply more groundfish to the U.S. consumer, it cannot hope to displace Canadian imports regardless of the price.

Speaking of price, it appears as if U.S. ex-vessel prices for the species in question are at or near record level. According to the National Marine Fisheries Service, yellowtail flounder prices for the period January to May 1978 are running as much as 13 cents, or 25% higher than comparable prices a year ago. Prices for flounder are more than double what they were as recently as five years ago.

As for haddock and codfish, the gains are not as significant, but again the information shows that this year's prices are generally higher than a year ago. The committee, of course, has heard of very low prices being paid during the months of May and early June. Our information is that a strike by production plant workers caused a shut down of many plants so that there was no opportunity to handle the product. Now that the strike is over, the prices are back at high levels—haddock in Boston on July 5 was 55 cents, cod 35 cents.

Granted the strike caused economic hardship, but such a situation is hardly grounds to override the Treasury decision.

ASDA members are concerned about the ability to supply the demand for groundfish products. We submit the U.S. production industry cannot meet the needs and imposition of countervail, no matter how small, would have the effect of raising prices to the consumer. With food prices already soaring out of sight, any unnecessary upward pressure is definitely against the public interest.

Since U.S. production of many groundfish products is low or non-existent, it is difficult to determine how the imposition of countervailing duties on imports of such products from Canada will have any positive effect. Nearly three-quarters of the groundfish products imported from Canada do not face substantial U.S. competition at present time. Therefore, even if the price of all products covered by the investigation (domestic and foreign produced) were to rise in the marketplace uniformly, the U.S. fishing industry would benefit little from the up-turn in price.

Canadian groundfish imports are very important to the United States. In 1977, imports from Canada of fish and fish products covered by the investigation totalled 205,352,199 pounds. Thus, imports of the covered fish constituted approximately 35% of all U.S. imports of groundfish last year.

From 1974-1976, imports of Canadian groundfish and groundfish products were similarly important. In 1974, imports of Canadian groundfish constituted 33% of the total U.S. supply. In 1975, the total supplied by Canada was 24% while in 1976, the Canadian portion of U.S. supply was 26%. For the years 1974-1977, imports of groundfish to the United States averaged approximately 70% of the entire U.S. groundfish supply. Without a steady flow of Canadian groundfish and groundfish products into the United States during those years, there would have been no possibility of meeting U.S. demand.

To certain sectors of the American economy, Canadian groundfish is especially important. Several members of the ASDA, for example, purchase between 70% and 100% of the groundfish which they market from Canadian sources. In their study of the New England fishing industry, Smith and Person estimated that the

fish processors in Boston derive a year-round average of 25% of the fish which they process from Canada. Several of the Boston processors stated that they would have gone out of business had it not been for the steady supply of Canadian fish which came into the United States during the decline of the New England fishing industry.

Neither the United States nor any foreign country could supply an appreciable portion of the groundfish imported from Canada at the present time. As stated earlier, U.S. production of the fish covered by the investigation has not been great and the U.S. industry is burdened by severe legal and practical limitations on its catch. Foreign sources of supply are also limited and are unlikely to increase markedly in the next several years.

For the above reasons, ASDA urges no action on the resolution to override the Treasury decision. Yet we do recognize that the domestic producer experiences severe problems due to market fluctuation. Certainly the system of quotas imposed for conservation reasons is creating a situation almost impossible to live with. We urge the administration to work more closely with the region council to develop a better means of conservation without complete stifling the ability of fishermen to earn a living.

On a broader scale, we believe there is room for cooperative activity on a joint industry-Government basis between the United States and Canada in the marketing area. Some way must exist to avoid the periodic gluts in the fresh market. Like wise cooperation in mutually developing the European and African markets for presently underutilized species should be possible. We would suggest that Government address this matter since industry cannot do it alone.

There is a need for additional processing facilities in New England. We understand that on certain days capacity to handle the fish may not be present. We have been told that environmental considerations have stalled efforts to construct new plants in Gloucester, but that now this hurdle seems to have been overcome and that as many as four new operations may be ready within a year.

Finally, we wish to point out the need for continuous consumer education to maintain a strong demand for fish. Currently, the only major continuous consumer education for groundfish is that which is sponsored and paid for by the nations who sell fish into the United States.

This program benefits the domestic as well as the overseas producers.

In summary, Mr. Chairman, ASDA believes that Treasury decision to waive countervail was the correct one and should be upheld. We ask the committee to drop its consideration of the subject resolution.

Senator HATHAWAY. Our final witnesses this morning are Mr. Norman Olsen, executive director of the Maine Fisherman's Cooperative, and Mr. Dieter W. Schnauck, comptroller of Stinson Canning Co.

Mr. SCHNAUCK. Mr. Chairman, Mr. Olsen granted me the right to start first.

Senator HATHAWAY. All right.

STATEMENT OF DIETER W. SCHNAUCK, COMPTROLLER, STINSON CANNING CO.

Mr. SCHNAUCK. I appreciate very much that we as a processor in the State of Maine have an opportunity to address you. I have prepared a statement which you have for the record.

Senator HATHAWAY. Your entire statement will be placed in the record, and if you can summarize, it would be helpful.

Mr. SCHNAUCK. There are a few points I think I would just like to bring up. Mr. Berger just made a point that I have heard many times before. I think that we want to look at something that addresses itself to the consumer prices. To talk about Mrs. Housewife, how far is she going to go and how much is she willing to pay for fish, it is not the imported prices that are regulating in the marketplace, it is the domestic prices that regulates the price.

And if the imported goods coming into the United States are, in fact, smaller, Mrs. Housewife is not going to benefit, and that is just a matter of fact.

The other thing about the vessel subsidy program, we have looked at it recently in a statement that I previously made, and also in this statement I am outlining, that our firm has committed itself to building a large offshore vessel which will be somewhat available in 1979, probably the latter part of 1979, and it turned out that to go into the capital market directly rather than through a Federal subsidy program turned out cheaper for us.

For us—that may not be true for everyone.

So, I think as far as grants and subsidies are concerned, that the Canadians give, and then we will try to measure it against that program under which the vessel construction can take place, they do not even measure up in any form at all, as far as I understand it.

A couple of other points that I have made in my outline is that I am also concerned about the indirect subsidies. It is not the direct subsidies that concern me a great deal, because when we look as a company into going and establishing ourselves in Canada, one for the resources that were more available than in the State of Maine—although we never did ultimately do that—we discovered that the indirect subsidy provides a substantial amount of money for us and I have outlined in my statement that you have that this subsidy is substantial. It lasts for a long time, and it is quite beneficial and it gives you the edge on the marketplace.

I know how to compete in the marketplace, because I am not afraid of it, but I do like to have an even fight. That is really what I am saying, because we are probably the single largest fish-producing company now in the State of Maine, the second largest in the North American area in so far as herring is concerned, and I think we are very much concerned about maintaining those jobs and employment and we are very much in favor of Senate Resolution 483 and support it wholeheartedly.

Senator HATHAWAY. AS I understand it from reading your entire testimony, you have some arguments to the effect that the Treasury's calculations of the subsidy, and I would suggest that you, along with the other witnesses, as I suggested earlier, meet with the Treasury and go over these item for item in the near future. I do not know whether you can stay down here today and do it, or whether you have a Washington representative who can do it for you, or we would be glad to have somebody from our staff do it for you if you have to go back to Maine, and if this is all the data you have, that would be fine; if you have additional data, I would be glad to get it, because I think it is important to resolve these differences because there are obviously quite a few.

Mr. SCHNAUCK. I would be perfectly willing to do whatever is best, most suitable.

Senator HATHAWAY. Thank you very much.

Could you just point out to us some of the other problems that the fishermen have?

Mr. SCHNAUCK. Some of the problems that we have run into—now, primarily we are in the canning industry and the groundfish industry

is sort of an outgrowth of the small availability of herring, and it seems to be more and more so, because we have not had basically any processing going on for a period between March 15 and June 15 because of a lack of suitable weather and suitable resource, and it starts again now that we have it, so we went into the ground fisheries, and there are substantial quotas. These quotas have been filled and are now being exceeded by a grant of the National Marine and Fisheries Service granting fishermen an opportunity to go and fish beyond, so we have a zero, or even a worse rebuild situation, so I do not know what will happen.

But, in any event, the fisherman should have the opportunity in this country to compete evenly in the marketplace and not have to then on top of it have to worry about having to fight an uneven price that the Canadians—that appear to show—this is not maybe in direct response to Mr. Mundheim's statement, but when you look at the statements that were made in respect to the Canadian boundary negotiations, I mean, it does appear to a person on the outside that all of that importance that is measured to the 1 cent does not seem to be all that great.

So whether or not we have that countervailing duty in fact right now is not going to make us any worse a friend than we are at this point.

Senator HATHAWAY. You mean we hate each other already and we cannot hate each other—

Mr. SCHNAUCK. No, I did not say that, Mr. Chairman.

Senator HATHAWAY. I know you did not. I am being facetious. I know the tensions are kind of great at the present time, but we are certainly still friends.

[The prepared statement of Mr. Schnauck follows:]

PREPARED STATEMENT OF DIETER W. SCHNAUCK, STINSON CANNING CO.

Mr. Chairman, my name is Dieter W. Schnauck, an officer of Stinson Canning Company of Prospect Harbor, Maine.

Before I address myself to the subject of countervailing duties and their effect on the U.S. Processor, I would like to take a minute to inform the Committee who Stinson Canning Company is. We are in the 51st year of operation. We have five factories along the North Atlantic Maine Coast in Bath, Belfast, Prospect Harbor, Rockland and Southwest Harbor, with a total employment of 850, representing North America's second largest Herring producing company with revenues of approximately 20 million annually. The Company cans Sardines and Fish Steaks, Frozen Herring Fillets for the export market, and since 1978, processes a large variety of Groundfish.

Stinson Canning Company is vertically integrated. It has the capacity to harvest its raw material with its two steel and seven wood-hulled vessels, to process the Herring and Groundfish. Stinson Canning Company produces its own cans and covers and transports its products to its own strategic warehouses from which common carriers distribute goods around the 50 states or exports its products in refrigerated ocean vessels in bulk to Western Europe.

Presently, the Company has a multi-purpose 120-foot steel-hulled vessel on the drawing board for completion by the summer of 1979, with a harvesting capacity of approximately 450,000 pounds per trip.

The total investment into the Company by its stockholders is approximately 10 million in 1977, enough to be concerned about its investment as well as the employment provided in communities where Stinson is one of the major employers.

We oppose the action taken by the Treasury permitting Canadian goods to be imported into the United States without the consideration of countervailing duties and support Senate Resolution 483, June 13, 1978, a resolution to disap-

prove waiver of the countervailing duty on certain items of Government subsidized fish imported from Canada.

Our Company, Mr. Chairman, has been since 1927, in the herring business and only in 1978, entered the field of groundfish and only in the last two months has really become involved in the marketing of product throughout the United States. We have encountered situations where not competition, but uneven price difference between our and the Canadian products, could not be overcome by increased efficiency or reduction of cost on our part, but only if we were to be subsidized by someone else, namely the U.S. Government or any one of its subdivisions or agencies.

In 1975, Stinson Canning Company, through my initiative, went to Canada, communicated with legal and accounting people to determine whether or not it was feasible for us to establish a subsidiary, that could manufacture herring or other fish products and determine the extent of grants available from the Canadian Federal, as well as the Provincial Government.

At that time, we were told that a primary development incentive of up to 20% of approved capital costs were offered to applicants establishing in a designated area through the Department of Regional Economic Expansion (DREE).

In our case, this designated area was Nova Scotia.

A secondary development incentive was offered with a maximum of (A) 5% of approved capital cost plus \$5,000 for each job determined by the Minister to be created directly in the operation.

The maximum primary development incentive available for any one project was \$6,000,000. In our case, the combined total incentive grant was not to exceed the lesser of \$30,000 for each job created or 1/2 the capital employed in the operation.

Aside from these specifically mentioned, there are numerous programs that would come into play to help to provide the support that makes it possible for a Canadian manufacturer to be more advantageous in the program for the Advancement of Industrial Technology. The Enterprise Development Program will assume up to 50% of expenditures on approved development projects.

In our case, it would have been for the development of dry-cooking Sardines before retorting.

Secondly, under the Canadian Employee Training-On-The-Job Program, there are two existing possibilities of reimbursement.

- (1) 75% of eligible wages of trainees or :
- (2) 100% of approved wage costs for tax purposes

These and other programs help to increase benefits provided by the Canadian Government and tip the scales toward unequal competition.

Beyond the ones that I have addressed myself to, which specifically refer to Federal Grants and Programs, there are Provincial and Communal programs—in our case, providing Real Estate, logistic support, road access to the facilities to be built and deferment of taxes for some 10 years.

This requires personal negotiations as the Provinces are currently Tax Collector.

Specifically—Mr. Chairman—We are looking at an area that has had high unemployment and it is only fair that these areas are supporting the industry ; however, that makes for an uneven fight in the market. We are not advocating fear of competition, but equal opportunity to sell our goods in the market under equal conditions.

I refer to a recent promise that appeared in the news that the Canadians have stopped, and will further stop, subsidizing of fishing boats by October, 1978, which really amounts only to a drop in a bucket because, by the Treasury's own statement, we are looking only at an impact of 1% or so.

If we built our factory in 1976, which would have have been completed in 1977, and let me state of my own knowledge, that there have been factories established since then by U.S. owned, as well as Canadian owned interests in that Provincial area of New Brunswick, Nova Scotia. The benefits derived through not having to write off plant and equipment over long periods of time because of capital grants and favorable loans presents in itself a single largest benefit to any Corporation.

To illustrate briefly how these figures impact a product price, I submit the following detail :

(A) Factory for the production of Herring products as well as the processing of Groundfish with an overall construction cost of \$4,000,000, compromises, in

this case, 96% of capital investment in buildings, machinery and equipment and 4% in land improvements and certain other start-up expenses:

Building	\$450,000
Machinery and equipment.....	3,410,000
Total	3,860,000
Land improvement and other.....	140,000
Total investment.....	<u>4,000,000</u>
Writeoff period:	
Building—25 years.....	450,000
Machinery and equipment—10 years.....	3,410,000
Depreciation writeoff:	
Building	18,000
Machinery and equipment.....	341,000
Total depreciation.....	<u>359,000</u>

Following the example, and assuming a total grant value not to exceed 70%, which is conservative, we would have been ahead by \$251,300 per year. This does not consider any faster method of depreciation permitted under any of the classes according to the Income Tax Act of Canada.

Taking the example one step further, we will find that an average capacity of 200,000 pounds of Groundfish per week for 30 weeks per year, aside from Herring, amounts to 6,000,000 pounds in the round, of which again an average of 1,830,000 pounds finished products would be produced. The subsidy then amounts to 13.7 cents per pound.

It would, however, be totally incorrect to credit the whole amount against Groundfish, and I, therefore, submit, in fairness, that 10 cents represents at least an indirect subsidy. Again to only use the example, we are talking about a 10% subsidy.

That, Mr. Chairman, is the point. We really are looking at an original subsidy situation, however, in the magnitude of a 13% rather than the 1% as suggested by the Treasury Department because other additional subsidies not specifically mentioned (transportation, etc.) will raise the percentage.

A promise, then, to end subsidies at any point during 1978, still is generating benefits as outlined above, for many years to come.

I submit copy of the Fisheries Council of Canada Bulletin dated June, 1978, which speaks for itself on the same matter.

In conclusion then, Mr. Chairman, I hope that these comments will help your decision to recommend to the full senate reinstatement of the countervailing duty in the better interest of the United States economy and to create a better socio-economic environment for the fishermen and processors that provide the labor dollars and taxes that keep our people employed in an industry historically second rated over agriculture and other factions of the economic cycle.

THE STRANGE CASE OF THE U.S. COUNTERVAILING DUTY ON CANADIAN FISH PRODUCTS

No one really thought the United States countervail legislation was meant to apply to Canadian fishery products. After all Canada is and has been for generations one of the chief suppliers of frozen fish products to the huge U.S. market. But not the only one by any means—our products compete with those from the Scandinavian countries, Europe, South America, Japan, Korea and many others.

Canada is also one of the biggest, if not the biggest, market for U.S. fishery exports—last year \$101 million—shrimp, tuna, lobster but also ground fish—the subject of the countervail. Our tariffs are generally lower than U.S. ones on fish products.

How could it happen? The U.S. has maintained legislation which permits anyone to file a petition to U.S. Treasury if they believe a bounty or grant (subsidy) is being paid to producers of a product which is exported to the U.S. In the case of products which have an important tariff (like groundfish fillets) it

isn't even necessary to show that the subsidy has an adverse effect on anyone in the U.S.—only that there is a subsidy.

This strange situation is a bone of contention with the U.S.'s other major trading partners at the GATT negotiations now taking place in Geneva. Hopefully U.S. will agree to change it and come into line with the rest of the GATT members.

There was no secret that the Canadian groundfish industry has been receiving subsidies over the past few years. They were instituted as a rescue option for an industry which is of vital economic importance to Atlantic Canada—an industry which was beset by a combination of extraordinary problems—declining catches and rising unit costs as a result of excessive foreign fishing off our coasts; declining prices and consumption as a result of the 1974-76 food recession; escalating costs of fishing and processing as a result of the spectacular inflation of petroleum prices. But that program had been much reduced and in fact will end altogether this year.

So, of course, the United States Treasury Department, having received a petition had to conclude that the subsidy had been being paid. They estimated it at 5% on frozen groundfish products. They also used the discretion available in the U.S. legislation—to waive the imposition of the duty on the basis that the subsidy has been reduced substantially or is to be eliminated and that the imposition of the duty could jeopardize the present international trade negotiations.

Now we have the ludicrous situation of some U.S. congressmen petitioning to have the waiver revoked. It is puzzling to Canadians to hear U.S. politicians express concern about the possible separation of Quebec because they feel an economically or politically weakened Canada is not in the U.S. interest and then to have other U.S. politicians—or perhaps the same ones—attack programs which are designed to maintain or provide strength to the Atlantic Provinces which lack some of the economic advantages of other parts of Canada.

Let's hope that the American usual good sense and concern for fair play will prevail.

Senator HATHAWAY. Mr. Olsen?

Mr. OLSEN. Thank you, Mr. Chairman.

**STATEMENT OF NORMAN H. OLSEN, JR., EXECUTIVE DIRECTOR
MAINE FISHERMAN'S COOPERATIVE ASSOCIATION, INC.**

Mr. OLSEN. My name is Norman Olsen and I am executive director of the Maine Fishermen's Cooperative Association. We represent 258 fishermen and processors operating 118 boats all over the Gulf of Maine and Georges Bank. They used to operate in Canada, but they cannot do that anymore.

As usual, being the last speaker, a lot of people have taken what I was going to say, but I will just jump around some.

I notice that Mr. Berger had talked to Walter Carter, the Minister of Fisheries in Newfoundland. I was up in Newfoundland last week and Mr. Carter did not seem to express any fears of losing any share of the American block market, or anything. He was more worried about expanding their share of the European market and expanding the Canadian consumption of fish, because he did not figure that that was anywhere near what it should be.

He did not express any fear to me that they were going to get kicked out of the American market and I think that in view of the drastically reduced quotas and allocations we have got it would be ludicrous to think that the American fisherman is going to supply all the needs for the American markets within the next decade.

We also went on to the—about the vessel subsidies. I have to agree with Mr. Schnauck that we do not have any fishermen in Maine that are even considering going into the Federal programs because the terms

in the commercial market are much better and far less stringent, as far as we can operate the vessel, and that sort of thing.

But what I came down to say, essentially, was that we have fish dealers in Maine who laugh at us when we talk about selling them domestic fish. They will out and out, laugh and roll on the floor, and that sort of thing, and we ask them why, and they say, well, you want \$2 a pound for your scallops and we can get them packaged, fresh frozen, fresh, anyway you want them, in 5-, 10-, 20-pound containers out of Newfoundland and Nova Scotia for \$1.65 a pound.

Now, there is a serious problem there, because the boats are getting paid plenty in Newfoundland, and somewhere in there that margin is being added on by the Federal Government.

As far as the indirect subsidies go, we see an awful lot different situation in Maine than some of these other people because we are right in the southern terminus of the Portland-Yarmouth-Nova Scotia ferry. For 5 years, the Lion Ferry Co. did everything it could to keep the trucks off that ferry, because truck drivers do not gamble quite as much as the rest do and they do not bring as much revenue as buses.

This year—and this is well documented—the Canadian National Marine, the seagoing arm of the Canadian National Railroad, put in a second ferry service to Portland, Maine, for the express purpose of bringing fish trucks across, and they worked so strong to bring that across that they agreed to give Lion Ferry, a private firm, half of their passenger revenues, simply so that they could put a second service, and it is expressly for trucks. The carrier is designed for trucks, and that is all it carries.

So there are an awful lot of things going on here.

Recently, as I say, I was up in Newfoundland. I talked to Len Cowley, who is the Federal regional representative in Newfoundland, and I talked to Walter Carter, the Newfoundland fisheries head. Now, from the figures I have heard here, obviously 1 percent does not amount to much. Well, Mr. Carter and Mr. Cowley both told me that the Federal Government in Ottawa feels that the Federal Government gives Newfoundland a loan, specifically for its fishing industry, \$300 million a year, and the provincial people agreed with that. The reason I was at the conference was to find out how that money should be allocated and who should be doing it. There is a bitter, nationalistic controversy up in Newfoundland.

But they both agreed, they are getting \$300 million a year for Newfoundland alone, and that supports a fishing industry that effectively runs 3 months.

At the same time I was there I was able to go talk to fishermen and talk to a small, medium-sized processor. That small processor handles 200,000 pounds of codfish a day and can turn out 50,000 pounds of frozen blocks of codfish every day for the market. He can load a 40-foot reefer every day. Every reefer goes to New England. They drive 12 hours to the ferry, they are 7 hours on the ferry, they drive the entire length of Nova Scotia, they get on the other ferry and they can drive to Boston, New York, and Baltimore and undercut our price.

Now, under what we have always been told about price, that would seem reasonable, because we are always told that Newfoundlanders get 1, or 2, or 3 cents a pound for their codfish. Well, they are getting 13

cents, which is a substantial amount when a 26-foot boat can land 2,000 pounds of cod twice a day.

One of the fishermen just before we got there landed 100,000 pound of codfish in a single day at 13 cents. So the people of the Maritimes are not exactly going broke—at least not during the fishing season. As soon as the fishing season is over they all go on the dole, on the public welfare—a situation which Mr. Carter and Mr. Cowley both agreed was great and direct support of the Newfoundland fishing industry, and it was there for no other reason.

So the situation there is not quite what we have been led to believe.

Senator HATHAWAY. Are you contending that there are some subsidy items that are not taken into consideration?

Mr. OLSEN. That is right. Their welfare system in Newfoundland is a direct result of the seasonal nature of their fishing industry. That is all there is in Newfoundland. Anybody who has been there knows it. There is no processing, that is manufacturing. There are a couple of shipyards, but that is it, and that is a direct subsidy to keep that fishing industry going.

The plant I was telling you about employs about 110 people per shift, and they run 24 hours a day in the summer, and the rest of the time they live on welfare. They operate only 3 months and yet they are able to turn out 50,000 pounds a day.

In addition, this same processor grinds up the bones, fish skins, and other things that we would normally throw away or use for lobster bait, grinds them into a muddy pulp and then ships it to Puerto Rican for human consumption. They just developed a huge market and just built a 100- by 50-foot building just to house that operation.

So they have quite a lot going within the United States and its other territories.

I have brought along three documents here that I would like to point out, too. We got these in Canada—sources of financial assistance for the commercial fisheries in Canada. As you can see, it is three pages long, and under a couple of them, like the vessel subsidy, that sort of thing, are these little asterisks and they say, it goes along and it says they are inactive at present. It does not say they have been canceled—they are just inactive at present. I think that is quite a lot different than eliminating a subsidy program.

Because of the existence of excess capacity in the industry at this time, it is inactive at present as far as the fisheries are concerned. The other one is in abeyance at the present. That one in abeyance is for the construction of plants and upgrading of processing and storage facilities, icemakers and everything.

We have one icemaker on the entire southern coast of Maine, and that is not even on the waterfront. We have to truck our ice around the coast. There is a serious situation there.

I also have a copy of what they call the Salt-Fish Act, a public corporation set up by the Canadian Government, and just to excerpt a couple of quick paragraphs: "The Corporation is established for the purpose of improving the earnings of primary producers of cured salt fish by curing fish and trading in and marketing cured fish and the byproducts of fish, and in addition to the powers", et cetera, et cetera.

Then it goes on: "The President and the officers and employees of the corporation shall be deemed to be employed in the public trust," et cetera, et cetera, and they are authorized to establish branches or employ agents in Canada or elsewhere to carry out this act.

Then they go on—what they have done is they have given a monopoly to a government corporation:

Except in accordance with the terms and conditions set forth in any license that may be issued by the corporation on their behalf, no person other than the corporation or an agent of the corporation shall export from Canada any cured fish or the byproducts of fish curing.

And under here, duties and powers of the corporation—

The corporation has the exclusive right to trade in and to market cured fish and byproducts of fish in inter-provincial and export trade and so exercise that right, either by itself or by its agents, with the objects of (a) marketing cured fish and the byproducts of fish curing in an orderly manner;

which would certainly help the market situation—

(b) Increasing returns to fishermen; and (c) promoting international markets for, and increasing interprovincial and export trade in cured fish and the by-products of fish curing.

Now, to me, that is a pretty darned direct subsidy. There is also allocation for financing—

Senator HATHAWAY. This one was not taken into consideration by the Treasury?

Mr. OLSEN. I am not sure. It has been so long—

Senator HATHAWAY. But you, too, are going to go over, with Treasury, and compare which ones they did take into consideration?

Mr. OLSEN. I have been over to see Mr. Self before, and he wasn't very enthusiastic about what we were talking about.

Senator HATHAWAY. Well, the committee would like to see the list of comparison of items when you get through discussing them with them, which ones you agree and which ones you do not agree on.

Mr. OLSEN. There is just one more thing here that I would like to show, that we have been promised the world, so to speak, by the Canadians, that they are going to eliminate all of these subsidies and everything. Here is a document that just came out in November 1977. It was called the "Joint Provincial Fisheries Development."

Now, I already said that Newfoundland, alone, is getting \$300 million each year, by their own testimony, and they also say that it is directly for the fishing industry. This is a document by the Provinces calling for the Federal Government to invest another \$900 million in upgrading and replacing the fleet during the next 10 years.

Now, somewhere the promises are not coming out, because the Federal Government is still pumping that \$300 million in. According to Mr. Carter and Mr. Cowley, they are not considering cutting it. Now the Provinces are calling for \$900 million more.

I honestly do not see the Ottawa government absolutely shutting off everything, the way they are talking.

The other thing I would like to point out is like Mr. Schnauck has said, and others. The injury to the American fishermen does not stop when the subsidy stops. If you consider that a normal boat mortgage is 10 years and that the Canadian fisherman, because of the subsidy, can pay it off in 3 years, then that injury is going to continue to an American fisherman for 7 years. And the way boat prices are going, it

is hurting. Some of our fishermen are paying \$5,000 and \$6,000 a month on boat payments. But they are trying to get into the offshore fishery where the regional councils, and everybody, would like to see them go—you know, the offshore herring fishery which has some surplus demand.

So we are working. We are trying to get along with regulation where we are being drastically cut back. We are at a point now of 1,000 pounds of codfish per week. At 20 cents, that is not much money for a 60- or 70-foot boat.

And yet we are constantly being told the Canadians are going to do this and going to do that. And it strikes me as really ridiculous in that they can promise the world like that and then we are just going to back down and let them have it.

Thank you.

Senator HATHAWAY. Thank you very much, Mr. Olsen. Can we have those documents for the record?

Mr. OLSEN. Yes.

Senator HATHAWAY. Thank you I would appreciate it.

[The following was subsequently supplied for the record. Oral testimony continues on p. 102.]

*... to
Washington*

...



Environment Canada Environnement Canada

SALTFISH ACT

LOI SUR LE POISSON SALÉ

R.S.C. 1970, c. 37 (1st Supp.)

S.R.C. 1970, chap 37 (1^{re} Supp.)

CHAPTER 37 (1st Supp.)

An Act to establish the Canadian Saltfish Corporation and regulate interprovincial and export trade in salt fish in order to improve the earnings of primary producers of cured cod fish

(1969-70, c. 32)

SHORT TITLE

1 This Act may be cited as the Saltfish Act.

INTERPRETATION

2 In this Act

"Board" means the Board of Directors of the Corporation,

"Chairman" means the Chairman of the Board,

"container" includes any type of receptacle, package, wrapper or covering band, used in packing or marketing fish,

"Corporation" means the Canadian Saltfish Corporation established by this Act,

"cured fish" means fish that has received curing,

"curing" means processing with salt or with salt and drying,

"fish" means fish of the cod family (Gadidae),

"fisherman" means a person engaged in commercial fishing,

"Minister" means such member of the Queen's Privy Council for Canada as is designated by the Governor in Council to act as the Minister for the purposes of this Act,

"participating province" means a province in respect of which there is in force an agreement entered into under section 23 with the government of that province;

"President" means the President of the Corporation,

"producer" means a person engaged in the curing of fish for sale.

CHAPITRE 37 (1^{er} Supp.)

Loi concernant la création de l'Office canadien du poisson salé et la réglementation du commerce interprovincial et du commerce d'exportation de poisson salé pour augmenter les gains des producteurs primaires de morue préparée

(1969-70, c. 32)

TITRE ABRÉGÉ

1 La présente loi peut être citée sous le titre Loi sur le poisson salé.

INTERPRÉTATION

2 Dans la présente loi

"Conseil" désigne le conseil d'administration de l'Office,

"conteneur" comprend tout genre de récipient, d'emballage, d'enveloppe ou de bande servant à l'emballage ou à la commercialisation de poisson,

"Ministre" désigne celui des membres du Conseil privé de la Reine au Canada que le gouverneur en conseil désigne pour agir à titre de Ministre aux fins de la présente loi,

"Office" désigne l'Office canadien du poisson salé créé par la présente loi,

"pêcheur" désigne une personne se livrant à la pêche commerciale,

"poisson" désigne les poissons de la famille de la morue (Gadidae),

"poisson préparé" désigne le poisson qui a subi une préparation,

"préparation" désigne le traitement au sel ou le traitement au sel et séchage,

"Président de l'Office" désigne le président de l'Office canadien du poisson salé,

"président du Conseil" désigne le président du conseil d'administration,

"producteur" désigne une personne se livrant à la préparation de poisson pour la commercialisation,

"province participante" désigne une province relativement à laquelle on en vigueur une entente conclue en vertu de l'article 23 avec le gouvernement de cette province.

Short title

Definitions

"Board"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

"Chairman"

Définitions

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

"Conseil"

PART I
CANADIAN SALTPHISH CORPORATION

PARTIE I
OFFICE CANADIEN DU POISSON SALÉ

Corporation Established

Création de l'Office

Corporation established 3(1) A corporation is hereby established to be known as the Canadian Saltpish Corporation, consisting of a Board of Directors composed of a Chairman and a President, one director for each participating province and not more than five other directors, each of whom shall be appointed by the Governor in Council to hold office for a term not exceeding five years.

Appointments (2) A director of the Corporation for a participating province shall be appointed on the recommendation of the lieutenant governor in council of the participating province.

Eligibility (3) A person who has reached the age of seventy years is not eligible to be appointed a director of the Corporation and a director of the Corporation ceases to hold office upon reaching the age of seventy years.

By appointment (4) A director of the Corporation on the expiration of his term of office is, if not disqualified by age, eligible for re-appointment.

Vacancies (5) A vacancy on the Board does not impair the right of the remaining directors of the Corporation to act, but where the vacancy relates to the office of a director for a participating province, it shall be filled as soon as practicable in the manner provided in this section.

Temporary appointments (6) If any director of the Corporation other than the Chairman or the president is absent or unable to act, the Governor in Council may appoint a temporary substitute director upon such conditions as the Governor in Council prescribes.

Chairman to preside at meetings 4 The Chairman shall preside at meetings of the Board, but in the event of the absence or incapacity of the Chairman, or if the office of Chairman is vacant, the President shall preside at such meetings.

Management reserved to President 5(1) The President is the chief executive officer of the Corporation and the general manager of its undertakings and has on behalf of the Board the direction and control of the business of the Corporation with authority to act in the conduct of the business of the Corporation in all matters that are not by this Act or by the by-laws of the Board specifically reserved to be done by the Board.

Absence or incapacity of President (2) In the event of the absence or incapacity of the President, or if the office of President is vacant, the Board shall authorize an officer or director of the Corporation to act as President for the time being, but no person so authorized by the Board has authority to act as President for a period exceeding sixty days without the approval of the Governor in Council.

3(1) Est par les présentes créé une corporation appelée l'Office canadien du poisson salé, formée d'un conseil d'administration comprenant le président du Conseil, le Président de l'Office et administrateur pour chacune des provinces participantes et au plus cinq autres administrateurs, chacun d'eux devant être nommé par le gouverneur en conseil pour une durée de cinq ans au plus.

(2) Un administrateur de l'Office pour une province participante est nommé sur la recommandation du lieutenant-gouverneur en conseil de cette province.

(3) Une personne qui a atteint l'âge de soixante-dix ans ne peut être nommée administrateur de l'Office et un administrateur de l'Office cesse d'être en fonctions dès qu'il atteint l'âge de soixante-dix ans.

(4) Un administrateur de l'Office peut être nommé de nouveau à la fin de son mandat s'il n'a pas atteint la limite d'âge.

(5) Une vacance au Conseil n'affecte pas le droit d'agir des autres administrateurs de l'Office mais, lorsque l'âge de la vacance du poste d'administrateur pour une province participante, elle doit être pourvue aussitôt que les conditions le permettent, de la façon prévue au présent article.

(6) Si un administrateur de l'Office, autre que le président du Conseil ou le Président de l'Office, est absent ou incapable d'exercer ses fonctions, le gouverneur en conseil peut, selon les modalités qu'il prescrit, nommer un administrateur suppléant intérimaire.

4 Le président du Conseil ou, en son absence ou incapacité ou si son poste est vacant, le Président de l'Office préside les réunions du Conseil.

5(1) Le Président de l'Office est le fonctionnaire administratif en chef de l'Office et le directeur général de ses entreprises, au nom du Conseil, il dirige et contrôle les affaires de l'Office, avec le pouvoir d'intervenir dans la conduite de ses affaires à l'égard de tout ce que la présente loi ou les règlements administratifs du Conseil n'attribuent pas expressément à ce dernier.

(2) En cas d'absence ou d'incapacité du Président de l'Office ou si son poste est vacant, le Conseil doit autoriser un fonctionnaire ou un administrateur de l'Office à faire temporairement fonction de Président de l'Office. Aucune personne ainsi autorisée par le Conseil n'a pouvoir, sans l'approbation du gouverneur en conseil, de faire fonction de Président de l'Office pendant une période de plus de soixante jours.

Salaries and fees 6(1) The President shall be paid by the Corporation a salary to be fixed by the Governor in Council and the Chairman and the other directors of the Corporation other than the President shall be paid by the Corporation such fees for attendances at meetings of the Board or any committee thereof as are fixed by by-law of the Board.

Expenses (2) Each director of the Corporation is entitled to be paid by the Corporation such travelling and living expenses incurred by him as the performance of his duties as are fixed by by-law of the Board.

6(1) Le Président de l'Office reçoit de ce dernier un traitement que fixe le gouverneur en conseil. Le président du Conseil et les autres administrateurs de l'Office, à l'exception du Président de l'Office, reçoivent de ce dernier, pour leur présence aux réunions du Conseil ou de tout comité de tels-les honoraires fixés par règlement administratif du Conseil.

(2) Tout administrateur de l'Office a le droit de recouvrer de l'Office les frais de déplacement et de subsistance, fixés par règlement administratif du Conseil, qui ont été encourus par les dans l'exercice de ses fonctions.

Purpose and Powers

Objet et pouvoirs

Purpose and powers 7 The Corporation is established for the purpose of managing the catches of primary producers of wild saltfish by curing and packing and marketing cured fish and the processing of fish skins and, in addition to the powers conferred by other provisions of this Act and by any other Act has for that purpose power to

7 L'Office est établi aux fins d'augmenter les gains des producteurs primaires de poisson salé préparé et emballé le poisson en achetés et vendant et en commercialisant le poisson préparé et les sous-produits de la préparation de poisson et, en sus des pouvoirs que lui sont conférés par d'autres dispositions de la présente loi et par toute autre loi, il a à ces fins le pouvoir

- (a) buy fish and dress, salt, dry or package it, or otherwise prepare cured fish and the by-products of fish curing for market;
- (b) buy cured fish and the by-products of fish curing and package or otherwise prepare such fish and by-products for market;
- (c) assemble, sort, grade, store and insure the fish and cured fish bought or prepared by it and sell, market, export or import or otherwise deal with cured fish and the by-products of fish curing;
- (d) purchase, lease or otherwise acquire and hold, pledge, mortgage, hypothecate, sell or otherwise deal with any real or immovable property;
- (e) establish branches or employ agents in Canada or elsewhere;
- (f) invest any money in its possession or under its control that in its opinion is not immediately required for the purposes of its operations, in securities or guaranteed by the Government of Canada and sell any securities so acquired by it and re-invest the proceeds or any part thereof in like manner;
- (g) borrow money from any bank upon the credit of the Corporation;
- (h) acquire and sell to fishermen and to the producers salt, containers and other materials used or required in the curing and handling of cured fish;
- (i) make loans of working capital on a seasonal basis to fishermen and producers in a participating province; and
- (j) do all such other things as are necessary or incidental to the exercise of any of its powers or the carrying out of any of its functions under this Act.

1 The Corporation may enter into and carry out arrangements with any government or person that the Corporation deems necessary or desirable in furtherance of the purpose for which it is established, and may receive and exercise any grants, rights, franchises, privileges and concessions that may be granted to or conferred upon it by any government or person.

Acceptance and exercise of additional powers

Organization and Staff

Employment of staff

- 9(1) The Corporation may employ such officers and employees as it considers necessary for the proper conduct of its activities
- (2) The Board may by by-law prescribe the duties of the officers and employees of the Corporation and the terms and conditions of their employment;
- (3) The persons so employed pursuant to subsection (1) shall be paid by the Corporation such remuneration as is fixed by by-law of the Board.

10(1) The President and the officers and employees of the Corporation shall be deemed to be employed in the Public Service for the purposes of the Public Service Superannuation Act and the Corporation shall be deemed to be a Public Service corporation for the purposes of section 23 of that Act.

(2) For the purposes of the Government Employees Compensation Act and any regulation made pursuant to section 7 of the Aeronautics Act, the President and the officers and employees of the Corporation shall be deemed to be employed in the public service of Canada.

11 Except as provided in section 10, a director or an officer or employee of the Corporation is not in that capacity part of the public service of Canada

Terms and conditions of employment

Remuneration

Application of certain Acts and regulations

None

Is employee in part of public service

- a) d'acheter du poisson et de l'appêter, le saler, le sécher, l'emballer ou d'autriment traiter pour le marché le poisson préparé et les sous-produits de la préparation du poisson;
- b) d'acheter du poisson préparé et des sous-produits de la préparation du poisson et d'emballer ou autrement traiter pour le marché ce poisson préparé et ces sous-produits;
- c) d'assembler, trier, classer, emmagasiner, assurer le poisson et le poisson préparé acheté ou traité par lui et vendre, commercialiser, exporter ou importer du poisson préparé et des sous-produits de la préparation du poisson ou autrement en disposer;
- d) d'acheter, prendre à bail ou autrement acquies et détenir, grever d'un assautement, d'une mortgage ou d'une hypothèque, vendre tout bien immobilier ou autrement en disposer;
- e) d'établir des succursales ou employer des mandataires au Canada ou ailleurs;
- f) d'investir dans des valeurs émisses ou garanties par le gouvernement du Canada toute somme d'argent qu'il trouve en sa possession ou en son contrôle et qui, à son avis, n'est pas immédiatement requise aux fins de ses opérations, et de vendre toutes valeurs ainsi acquises par lui et de réinvestir de la même manière tout ou partie de leur produit;
- g) d'emprunter de l'argent de toute banque sur le crédit de l'Office;
- h) d'acquies et de vendre aux pêcheurs et aux producteurs de sel, des contenants et autres articles utilisés ou requis pour la préparation et la manipulation de poissons préparés;
- i) de consentir des prêts de fonds de roulement sur une base saisonnière à des pêcheurs et producteurs dans une province participante; et
- j) de faire toutes autres choses que peut être nécessaire au succès à l'exercice de l'un de ses pouvoirs ou de l'une de ses fonctions en vertu de la présente loi.

1 L'Office peut conclure et appliquer avec tout gouvernement ou toute personne les ententes que l'Office estime nécessaires ou souhaitables, dans le pourvu de l'objet pour lequel il est créé. L'Office peut recevoir et utiliser les subventions, droits, privilèges et concessions qui peuvent lui être accordés par tout gouvernement ou par toute personne.

Acceptation et exercice de pouvoirs supplémentaires

Organization and personnel

- 9(1) L'Office peut employer les fonctionnaires et les employés qu'il estime nécessaires à son bon fonctionnement.
- (2) Le Conseil peut, par règlement administratif, prescrire les devoirs des fonctionnaires et employés de l'Office et les modalités de leur emploi.
- (3) Les personnes employées en conformité du paragraphe (1) recevront de l'Office la rémunération que ce laste par règlement administratif du Conseil.

10(1) Le Président de l'Office, les fonctionnaires et les employés de l'Office sont censés être des employés de la Fonction publique aux fins de la Loi sur la pension de la Fonction publique et pour les objets de l'article 23 de cette loi, l'Office est considéré comme une corporation de service public.

(2) Aux fins de la Loi sur l'indemnisation des employés de l'État et de tout règlement établi en conformité de l'article 7 de la Loi sur l'aéronautique, le Président de l'Office, les fonctionnaires et les employés de l'Office sont censés être des employés de la Fonction publique du Canada.

11 A l'exception de ce que prévoit l'article 10, un administrateur, un fonctionnaire ou un employé de l'Office n'appartient pas, en cette qualité à la Fonction publique du Canada.

Emploi de personnel

Modalités d'emploi

Rémunération

Application de certaines lois et règlements

None

Les employés de l'Office ne font pas partie de la Fonction publique

General

Dispositions generales

Board
may make
by-laws

12 The Board may make by-laws

12 Le Conseil peut établir des règlements administratifs

Le conseil
peut
établir
des règlements
administratifs

- (a) respecting the calling of meetings of the Board,
- (b) respecting the conduct of business at meetings of the Board and the establishment of committees thereof, the delegation of duties to such committees and the fixing of quorums for meetings of the Board and committees thereof,
- (c) subject to the approval of the Treasury Board, fixing the fees to be paid to the Chairman and the other directors of the Corporation, other than the President, for attendance at meetings of the Board or any committees thereof, and the travelling and living expenses to be paid to the directors of the Corporation;
- (d) respecting the duties and conduct of the directors of the Corporation, and
- (e) generally for the conduct and management of the affairs of the Corporation.

- a) concernant la convocation des réunions du Conseil,
- b) concernant la procédure aux réunions du Conseil, la création de comités du Conseil, la délégation de fonctions à ces comités et la fixation du quorum aux réunions du Conseil et de ses comités,
- c) sous réserve de l'approbation du conseil de Trésor, fixant les honoraires à payer au président du Conseil et aux autres administrateurs de l'Office, sauf le Président de l'Office, pour leur présence aux réunions du Conseil ou de l'un quelconque de ses comités, ainsi que les frais de déplacement et de subsistance remboursables aux administrateurs de l'Office,
- d) concernant les devoirs et la conduite des administrateurs de l'Office, et
- e) concernant de façon générale la direction et la gestion des affaires de l'Office.

Head
office

13 The head office of the corporation shall be at the city of St. John's, or in the immediate vicinity thereof in the Province of Newfoundland, but meetings of the Board may be held at such other places in Canada as the Board may determine

13 Le siège social de l'Office est établi à St-Jean de Terre-Neuve ou aux abords de cette ville, toutefois, les réunions du Conseil peuvent être tenues en d'autres lieux du Canada que peut déterminer le Conseil

siège
social

Agents
of Her
Majesty

14 (1) The Corporation is for all purposes of this Act an Agent of Her Majesty and its powers under this Act may be exercised only as an agent of Her Majesty

14 (1) L'Office est pour tous les objets de la présente loi mandataire de Sa Majesté et il n'exerce qu'à ce titre les pouvoirs que lui confère la présente loi.

mandataire
de Sa
Majesté

Contracts

(2) The Corporation may on behalf of Her Majesty enter into contracts in the name of Her Majesty or in the name of the Corporation.

(2) L'Office peut, pour le compte de Sa Majesté, conclure des contrats au nom de Sa Majesté ou en son propre nom

Contracts

Property

(3) Property acquired by the Corporation is the property of Her Majesty and title thereto may be vested in the name of Her Majesty or in the name of the Corporation

(3) Les biens acquis par l'Office appartiennent à Sa Majesté et le titre peut en être dévolu soit au nom de Sa Majesté soit au nom de l'Office

Propriété

Proceedings

(4) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Corporation on behalf of Her Majesty, whether in its name or in the name of Her Majesty, may be brought or taken by or against the Corporation in the name of the Corporation in any court that would have jurisdiction if the Corporation were not an agent of Her Majesty

(4) Les actions, poursuites ou autres procédures judiciaires concernant un droit acquis ou une obligation contractée par l'Office pour le compte de Sa Majesté, que ce soit en son nom ou au nom de Sa Majesté, peuvent être intentées ou prises par ou contre l'Office au nom de ce dernier devant toute cour qui aurait juridiction si l'Office n'était pas mandataire de Sa Majesté

Proceedings

Conduct of
municipal
operations

15 (1) The Corporation shall conduct its operations on a self-sustaining financial basis without appropriations therefor by Parliament.

15 (1) L'Office est financièrement autonome et ne reçoit pas pour les opérations de crédits affectés par le Parlement

Opérations
municipales

Grant to
agent
corporation

(2) The Corporation shall be deemed for the purposes of the Financial Administration Act, to be a corporation specified in Schedule C to that Act

(2) L'Office est censé, aux fins de la Loi sur l'administration financière, être une corporation visée à l'annexe C de cette loi

Statut
d'une corporation
visée à l'annexe C
de la Loi

Provision
in lieu of
land taxes

(3) The Corporation may make grants in lieu of taxes in any municipality in Canada not exceeding the taxes that might be levied by the municipality in respect of any lands of the Corporation if the Corporation were not an agent of Her Majesty

(3) L'Office peut accorder, pour tenir lieu d'impôts, à toute municipalité au Canada des subventions n'excédant pas les impôts qui pourraient être perçus par la municipalité respectivement à l'égard de terres de l'Office si celui-ci n'était pas mandataire de Sa Majesté

Provision
tenue lieu
d'impôts

Crown
Corporations
(Provincial
Taxes and
Fees) Act
to apply

(4) The Corporation shall be deemed for the purposes of the Crown Corporations (Provincial Taxes and Fees) Act, to be listed in the schedule to that Act

(4) Aux fins de la Loi sur les corporations de la Couronne (Taxes et droits provinciaux), l'Office est censé être mentionné à l'annexe de ladite loi.

La Loi sur
les corporations
de la
Couronne
(Taxes et
droits provin-
ciaux) s'applique
à l'Office

Surplus
Crown
Assets Act
not to apply

(5) The Surplus Crown Assets Act does not apply to the Corporation or to the property of the Corporation

(5) La Loi sur les biens de surplus de la Couronne ne s'applique ni à l'Office ni à ses biens

La Loi sur
les biens
de surplus
de la
Couronne
ne s'applique
pas à l'Office

Financial

Dispositions financières

Par le
Ministre
des
Finances

16. The Minister of Finance may, out of the Consolidated Revenue Fund on the requisition of the Minister, make grants to the Corporation not exceeding in the aggregate one hundred thousand dollars to enable the Corporation to meet initial operating and establishment expenses.

16. Le ministre des Finances peut, par prélèvement sur le Fonds du revenu consolidé, à la demande du Ministre, accorder à l'Office des subventions ne dépassant pas dans l'ensemble cent mille dollars pour permettre à l'Office de faire face à ses dépenses initiales d'exploitation et à ses frais de premier établissement.

Par le
Ministre
des
Finances

Loans

17(1) For the purpose of enabling the Corporation to carry on its operations under this Act, the Governor in Council may authorize the Minister of Finance on such terms and conditions as the Governor in Council may prescribe,

17(1) Aux fins de permettre à l'Office de poursuivre ses opérations en vertu de la présente loi, le gouverneur en conseil peut selon les modalités qu'il peut prescrire, autoriser le ministre des Finances,

Prés

Liaisons

- (a) to guarantee repayment of loans, and interest thereon, made by any bank to the Corporation, and
 - (b) to make loans to the Corporation.
- (2) The aggregate outstanding at any time of
- (a) the amounts borrowed by the Corporation pursuant to paragraph 7(g), and
 - (b) the amounts loaned by the Minister of Finance under this section,
- shall not exceed ten million dollars.

- a) à garantir le remboursement de prêts consentis à l'Office par une banque et le paiement de l'intérêt sur ces prêts; et
 - b) à consentir des prêts à l'Office.
- (2) L'ensemble des montants, non remboursés à un moment quelconque,
- a) empruntés par l'Office en conformité de l'alinéa 7g), et
 - b) prêtés par le ministre des Finances en vertu du présent article
- ne doit pas dépasser dix millions de dollars.

Recevoir

PART II

PARTIE II

ADVISORY COMMITTEE

COMITÉ CONSULTATIF

Appointement
de
l'Advisory
Committee

18 (1) The Governor in Council shall appoint an Advisory Committee consisting of not more than fifteen members, one of whom shall be designated by the Governor in Council to be the Chairman of the Advisory Committee, and at least half of whom shall be fishermen or representatives of fishermen.

18(1) Le gouverneur en conseil doit nommer un Comité consultatif se composant d'un plus quinzaine membres, dont l'un est désigné par le gouverneur en conseil pour être président du Comité consultatif et dont la moitié au moins doit être ou doit représenter des pêcheurs.

nommer
un
Comité
consultatif

Term of
appointment

(2) Each of the members of the Advisory Committee shall be appointed for a term not exceeding five years, except that of those members first appointed five shall be appointed for a term of two years and five shall be appointed for a term of four years.

(2) Chacun des membres du Comité consultatif est nommé pour une période ne dépassant pas cinq ans, toutefois, parmi les membres nommés à l'origine, cinq doivent être nommés pour deux ans et cinq doivent être nommés pour quatre ans.

Durée de
mandat

Re-
appointment

(3) A member of the Advisory Committee is, upon the expiration of his term of office, eligible for re-appointment.

(3) Un membre du Comité consultatif est, à l'expiration de son mandat, susceptible d'être nommé de nouveau.

Re-nomination

Committee
to advise
Corporation

19 (1) The Advisory Committee shall meet at least once a year and at such other times as are fixed by the Chairman of the Board and at such other times as are fixed by the Board and shall advise the Corporation on such matters relating to trading and dealing in cured fish or the by-products of fish curing as are referred to by the Board or as are raised by the Advisory Committee.

19(1) Le Comité consultatif doit se réunir au moins une fois par an, à une époque fixée par le président du Conseil et à d'autres époques fixées par le Conseil et conseiller l'Office sur les questions relatives au commerce de poisson préparé ou des sous-produits de la préparation de poisson, qui lui sont déferées par le Conseil ou qui sont soulevées par le Comité consultatif.

Le Comité
doit servir
l'Office

Remunera-
tion and
expenses

(2) The members of the Advisory Committee may be paid by the Corporation for their services such remuneration and expenses as are fixed by the Governor in Council.

(2) Les membres du Comité consultatif peuvent recevoir de l'Office pour leurs services la rémunération et les frais que fixe le gouverneur en conseil.

Rémuné-
ration et
frais

PART III

PARTIE III

REGULATION OF INTERPROVINCIAL AND EXPORT TRADE

RÉGLEMENTATION DU COMMERCE INTERPROVINCIAL ET DU COMMERCE D'EXPORTATION

Definition

20 In this Part "by-products of fish curing" means such by-products produced in a participating province, "cured fish" means fish that has received curing in a participating province.

20 A la présente Partie « Poisson préparé » désigne le poisson qui a reçu une préparation dans une province participante; « sous-produits de la préparation du poisson » désigne tous sous-produits qui sont produits dans une province participante.

Définition

Inter-
provincial
and export
trade in fish

21(1) Except in accordance with the terms and conditions set forth in any licence that may be issued by the Corporation in that behalf, no person, other than the Corporation or an agent of the Corporation, shall

21(1) Sauf en conformité des modalités indiquées dans toute licence qui peut être délivrée par l'Office à cette fin, aucune personne autre que l'Office ou un mandataire de l'Office ne doit

Commerce
interpro-
vincial et
commerce
d'exporta-
tion de
poisson

(2) export from Canada any cured fish or the by-products of fish curing,

a) exporter hors du Canada du poisson préparé ou des sous-produits de la préparation du poisson.

Handwritten notes and signatures in the bottom left corner, including a date '1973' and a signature.

(b) send convey or carry from a participating province to another participating province or to any other province, any cured fish or its by-products of fish curing;

(c) in a participating province receive for conveyance or carriage to a destination outside the province, any cured fish or the by-products of fish curing; or

(d) sell or buy, or agree to sell or buy cured fish or the by-products of fish curing situated in a participating province, for delivery in another participating province or any other province, or outside Canada.

By-law respecting human

(2) The Board may, for the purposes of this section, make by-laws providing for the issue of licences by the Corporation and prescribing the form of and the terms and conditions to be set forth in such licences.

Regulations

22. The Governor in Council may, by regulations, exempt from the application of all or any of the provisions of this Part, either conditionally or unconditionally and either in general terms or for a specified period, any area or region in a participating province or any class of cured fish or any by-product of fish curing.

Duties and Powers of Corporation

Inter-provincial and export marketing of cured fish

23(1) Subject to section 21, the Corporation has the exclusive right to trade in and to market cured fish and the by-products of fish curing in interprovincial and export trade and shall exercise that right, either by itself or by its agents, with the object of

(a) marketing cured fish and the by-products of fish curing in an orderly manner,

(b) increasing returns to fishermen, and

(c) promoting international markets for, and increasing interprovincial and export trade in, cured fish and the by-products of fish curing.

Corporation to buy cured fish offered

(2) All cured fish and the by-products of fish curing produced by a fisherman or a producer in a participating province that are of a standard of quality to be specified in the agreement under section 25 with the participating province and that are offered by the fisherman or the producer for sale to the Corporation for disposal in interprovincial or export trade shall be bought by the Corporation from the fisherman or the producer upon such terms and conditions and for such price as may be agreed upon by the Corporation and the fisherman or the producer subject to any applicable scheme for payment established and operated by the Corporation pursuant to section 24.

Marketing of fish

(3) The Corporation shall determine the form in which cured fish and the by-products of fish curing bought by it pursuant to this section shall be marketed and shall carry out or cause to be carried out any processing or preparation for market that it deems necessary, and the Corporation shall market its products at such times and places and in such manner as in its opinion will best achieve the attainment of the objects mentioned in subsection (1).

Price systems and payments authorized

24. The Corporation may develop, establish and operate schemes of payment for fish used in curing and for cured fish and the by-products of fish curing bought by it pursuant to this Part that provide for either or both

(a) a system of initial and final prices or payments, and

(b) envoyer, transporter d'une province participante à une autre province participante ou à toute autre province, du poisson préparé ou des sous-produits de la préparation du poisson;

(c) dans une province participante, recevoir pour le transporter hors de la province du poisson préparé ou des sous-produits de la préparation du poisson, ou

(d) vendre ou acheter, ou s'engager à vendre ou à acheter du poisson préparé ou des sous-produits de la préparation du poisson se trouvant dans une province participante pour les livrer dans une autre province participante ou non, ou hors du Canada.

Règlements relatifs aux licences

(2) Le Conseil peut, aux fins de permettre aux pêcheurs de bénéficier de la délivrance de licences, établir des règlements administratifs prévoyant la délivrance de licences par l'Office et prescrivant la forme de ces licences et les modalités devant y figurer.

Règlements

22. Le gouverneur en conseil peut, par règlement, exempter de l'application de tout ou partie des dispositions de la présente Partie, conditionnellement ou non, et d'une façon générale ou pour un certain temps, toute zone ou région dans une province participante ou toute catégorie de poisson préparé ou tout sous-produit de la préparation du poisson.

Droits et pouvoirs de l'Office

23(1) Sous réserve de l'article 21, l'Office a le droit exclusif de procéder à la commercialisation, à l'achat et à la vente du poisson préparé et des sous-produits de la préparation du poisson dans le commerce interprovincial et le commerce d'exportation; il exerce ce droit, soit par lui-même, soit par ses mandataires, en vue

Commerce international et exportation du poisson préparé

(a) de commercialiser le poisson préparé et les sous-produits de la préparation du poisson d'une façon ordonnée;

(b) d'augmenter le revenu pour les pêcheurs; et

(c) d'ouvrir les marchés internationaux au poisson préparé et aux sous-produits de la préparation du poisson et d'en accroître le commerce interprovincial et le commerce d'exportation.

(2) Tout le poisson préparé et tous les sous-produits de la préparation du poisson produits par un pêcheur ou un producteur dans une province participante dont la norme de qualité est conforme à celle qui doit être spécifiée dans l'accord conclu en vertu de l'article 25 avec la province participante et qui sont offerts en vente par le pêcheur ou le producteur à l'Office pour en être disposé dans le commerce interprovincial ou le commerce d'exportation, doivent être achetés de pêcheur ou de producteur par l'Office selon les modalités et pour le prix dont conviennent l'Office et le pêcheur ou le producteur, sous réserve de tout plan de paiement applicable, établi et mis en oeuvre par l'Office en conformité de l'article 24.

L'Office doit acheter le poisson préparé selon

(3) L'Office détermine la forme dans laquelle le poisson préparé et les sous-produits de la préparation du poisson achetés par lui, en conformité de l'article 24, sont commercialisés et il met en oeuvre ou fait mettre en oeuvre tout procédé ou tout traitement pour le marché qu'il estime nécessaires et l'Office doit commercialiser ses produits aux temps et lieux et de la manière qui, à son avis, réaliseront au mieux les objets visés au paragraphe (1).

Commerce interne du poisson

24. L'Office peut mettre au point, établir et mettre en oeuvre des plans de paiement du poisson utilisé pour la préparation du poisson et du poisson préparé et des sous-produits de la préparation du poisson achetés par lui conformément à la présente Partie, prévoyant soit l'un, soit l'autre, soit les deux systèmes suivants:

Système de prix et de paiements autorisés

(a) un système de prix ou de paiements initiaux et finaux, et

(d) the pooling of receipts for cured fish and the by-products of fish curing including the operation of pool accounts, either generally or in relation to the area or region where the fish underwent curing or the by-products of fish curing were produced or in relation to the quality of the cured fish or by-products of fish curing or on such other basis as the Corporation deems appropriate

b) la mise en commun des recettes de la vente du poisson préparé et des sous-produits de la préparation du poisson, notamment la gestion de comptes communs, soit en général, soit relativement à la zone ou à la région dans laquelle le poisson a subi la préparation ou dans laquelle les sous-produits de la préparation du poisson ont été produits, soit relativement à la qualité du poisson préparé ou des sous-produits de la préparation du poisson, soit sur toute autre base que l'Office estime appropriée.

Agreements respecting Participation

"Provinces to which the section applies"
Participer aux accords

23 (1) In this section, "provinces to which this section applies" means any of the following provinces namely, Newfoundland, Nova Scotia, New Brunswick, Prince Edward Island and Quebec.

(2) With the approval of the Governor in Council, the Minister may, on behalf of the Government of Canada, enter into an agreement with the government of any province to which this section applies, providing for

(a) the sharing by the province with the Government of Canada of initial operating and establishment expenses of the Corporation and of any losses incurred by the Government of Canada as a result of the operations of the Corporation,

(b) the performance by the Corporation, on behalf of the province, of functions relating to the commercial trade in cured fish and the by-products of fish curing,

(c) the undertaking by the province of arrangements for the payment, to the owner of any plant or equipment used in curing, processing or other wise preparing cured fish and the by-products of fish curing for market, of compensation for any such plant or equipment that will or may be rendered redundant by reason of any operations authorized to be carried out by the Corporation under this Part, and

(d) such other matters as may be agreed upon by the Minister and the government of the province.

Administration

Inspecteur

24 (1) The Governor in Council may designate any qualified person as an inspector for the purposes of this Part.

(2) An inspector may at any reasonable time

(a) enter any place or premises that he reasonably believes is being used to store, pack, process or prepare cured fish or the by-products of fish curing for market or shipment or any vehicle, trailer, vessel, railway car or aircraft that he reasonably believes is being used to ship or convey cured fish or the by-products of fish curing for market;

(b) open any container found therein or examine anything found therein that he reasonably believes contains any cured fish or the by-products of fish curing, and take samples thereof; and

(c) examine any books, shipping bills, bills of lading, invoices or other documents or papers that on reasonable grounds he believes contain any information relevant to the enforcement of this Part and make copies thereof or extracts therefrom.

Person of Inspector

Accords de participation

23 (1) Au présent article, «provinces à laquelle le présent article s'applique» désigne l'une des provinces suivantes, savoir, Terre-Neuve, la Nouvelle-Écosse, le Nouveau-Brunswick, l'Île-de-France-Édouard et le Québec.

(2) Le Ministre peut, pour le compte du gouvernement du Canada, avec l'approbation du gouverneur en conseil, conclure avec le gouvernement d'une province à laquelle le présent article s'applique, un accord prévoyant

a) le partage, entre la province et le gouvernement du Canada, des dépenses initiales d'exploitation et d'établissement de l'Office et de toutes parties subies par le gouvernement du Canada par suite des activités de l'Office;

b) l'exercice par l'Office, pour le compte de la province, de fonctions relatives au commerce, à l'expédition, à la transformation ou au traitement du poisson préparé et des sous-produits de la préparation du poisson;

c) la conclusion d'ententes par la province en vue de paiement d'une indemnité au propriétaire de tout local, soit usiné ou tout matériel servant à l'emmagasinement, à la transformation ou au traitement du poisson préparé et des sous-produits de la préparation du poisson pour le marché, lorsqu'un tel local, une telle usine ou un tel matériel deviennent ou peuvent devenir inutiles du fait d'activités que la présente Partie autorise l'Office à exercer; et

d) les autres questions dont le Ministre et le gouvernement de la province peuvent convenir.

"Provinces à laquelle le présent article s'applique"
Accords de participation

Appréciation

26 (1) Le gouverneur en conseil peut désigner toute personne qualifiée à titre d'inspecteur aux fins de la présente Partie.

(2) Un inspecteur peut, à tout moment raisonnable,

a) entrer dans tout lieu ou local lorsqu'il a des raisons de croire qu'il sert à l'emmagasinement, l'emballage, la transformation ou au traitement du poisson préparé ou de sous-produits de la préparation du poisson pour le marché ou pour l'expédition ou entrer dans tout véhicule, tout remorque, tout navire, wagon de chemin de fer ou aéroport, lorsqu'il a des raisons de croire qu'ils servent à l'expédition ou au transport de poisson préparé ou de sous-produits de la préparation du poisson pour le marché;

b) ouvrir tout contenant qu'il y trouve ou examiner toute chose qu'il y trouve, lorsqu'il a des raisons de croire qu'il contient du poisson préparé ou des sous-produits de la préparation du poisson, et il peut en prélever des échantillons; et

c) examiner tous livres, connaissances, feuilles d'expédition, factures ou autres documents ou pièces qui, d'après ce qu'il croit raisonnablement, contiennent des renseignements pertinents pour l'exécution de la présente Partie et en prendre des copies ou des extraits.

Inspecteur

Personne de l'inspecteur

Certificate of designation	(3) An inspector shall be furnished with a certificate of his designation as an inspector and on entering any place, premises or conveyance referred to in subsection (2) shall, if so required, produce the certificate to the person in charge thereof.	(3) Un inspecteur doit être pourvu d'un certificat de nomination à titre d'inspecteur et, en entrant dans un local ou véhicule mentionnés au paragraphe (2), il doit, s'il en est requis, produire le certificat à la personne responsable de celui-ci, local ou véhicule.	Certificat de nomination
Assistant to inspector	(4) The owner or person in charge of any place, premises or conveyance referred to in subsection (2) and every person found therein shall give an inspector all reasonable assistance in his power to enable the inspector to carry out his duties and functions under this Part and shall furnish him with such information with respect to the administration of this Part as he may reasonably require.	(4) Le propriétaire ou la personne responsable d'un local, local ou véhicule mentionnés au paragraphe (2), et toute personne qui s'y trouve, doivent fournir toute l'aide raisonnable en leur pouvoir à l'inspecteur pour lui permettre d'exercer ses devoirs et fonctions en vertu de la présente Partie et lui fournir, en ce qui concerne l'application de la présente Partie, les renseignements qu'il peut raisonnablement exiger.	Aide à donner à l'inspecteur
Seizure	27(1) Whenever an inspector believes on reasonable grounds that any provision of this Part has been violated he may seize and detain the cured fish and the by-products of fish curing by means of or in relation to which he reasonably believes the violation was committed.	27(1) Chaque fois qu'un inspecteur a de justes motifs de croire qu'il y a eu contrevention à une disposition de la présente Partie, il peut saisir et retenir le poisson préparé et les sous-produits de la préparation du poisson qui, d'après ce qu'il croit raisonnablement, ont, directement ou indirectement, été l'instrument de cette contrevention.	Saisie
Detention	(2) Any cured fish or the by-products of fish curing seized and detained pursuant to subsection (1) shall not be detained after (a) in the opinion of an inspector, the provisions of this Part have been complied with, or (b) the expiration of ninety days from the date of seizure, unless before that time proceedings have been instituted in respect of the violation, in which event the goods may be detained until the proceedings are finally concluded.	(2) Tout poisson préparé et tous sous-produits de la préparation du poisson saisis et retenus en conformité du paragraphe (1) ne doivent plus être retenus a) dès que, de l'avis d'un inspecteur, les dispositions de la présente Partie ont été observées, ou b) dès l'expiration d'un délai de quatre-vingt-dix jours à compter de la date de la saisie,	Retenue
Forfeiture	(3) Where a person has been convicted of a violation of any provision of this Part, any cured fish or the by-products of fish curing by means of or in relation to which the offence was committed are, upon the conviction, in addition to any penalty imposed, forfeited to Her Majesty if such forfeiture is directed by the court.	(3) Lorsque une personne a été déclarée coupable de contrevention à une disposition de la présente Partie, tout poisson préparé ou tous sous-produits de la préparation de poisson à moyen desquels ou accessoirement auxquels l'infraction a été commise sont, sur déclaration de culpabilité, et en sus de toute peine imposée, confisqués au profit de Sa Majesté si cette confiscation est ordonnée par le tribunal.	Confiscation
Regulations	(4) The Governor in Council may make regulations (a) respecting the detention of cured fish and the by-products of fish curing seized under this section and for preserving or safeguarding the cured fish and the by-products so detained, and (b) respecting the disposition of cured fish and the by-products of fish curing forfeited under this section.	(4) Le gouverneur en conseil peut établir des règlements a) concernant la rétention du poisson préparé et des sous-produits de la préparation de poisson saisis en vertu du présent article et la conservation ou la préservation du poisson préparé et des sous-produits ainsi retenus; et b) concernant la disposition du poisson préparé et des sous-produits de la préparation de poisson confisqués en vertu du présent article.	Règlements
Obstruction of inspector	28 (1) No person shall obstruct or hinder an inspector in the carrying out of his duties or functions under this Part.	28 (1) Nul ne doit faire obstacle à un inspecteur dans l'exercice des devoirs ou fonctions que lui confère la présente Partie.	Obstruction faite à l'inspecteur
False statements	(2) No person shall make a false or misleading statement either orally or in writing to an inspector engaged in carrying out his duties or functions under this Part.	(2) Nul ne doit faire, oralement ou par écrit, de déclaration fautive ou trompeuse à un inspecteur dans l'exercice des devoirs ou fonctions que lui confère la présente Partie.	Fausse déclaration
Penalties	<p style="text-align: center;">Offences and Penalties</p> 29(1) Every person who, or whose employee or agent, violates any provision of this Part is guilty of (a) an indictable offence and is liable to imprisonment for two years, or (b) an offence punishable on summary conviction.	<p style="text-align: center;">Infractions et peines</p> 29(1) Toute personne qui contrevient ou dont l'employé ou le mandataire contrevient à une disposition de la présente Partie est coupable a) d'un acte criminel et passible d'un emprisonnement de deux ans, ou b) d'une infraction punissable sur déclaration sommaire de culpabilité.	Peines

Offense by agent or by employee

(2) In any prosecution for an offence under this Part, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without his knowledge or consent and that he exercised all due diligence to prevent its commission.

(2) Dans toute poursuite d'une infraction prévue par la présente Partie, il suffit, pour établir l'infraction, de démontrer qu'elle a été commise par un employé ou un mandataire de l'accusé, que cet employé ou mandataire soit identifié ou non ou qu'il ait été poursuivi ou non pour cette infraction, à moins que cette personne n'établisse d'une part que l'infraction a été commise sans qu'elle le sache ou y consente et d'autre part qu'elle s'est diligentement appliquée à en prévenir la commission.

Infraction par un employé ou un mandataire

Time limit

(3) Any proceedings by way of summary conviction in respect of an offence under this Part may be instituted at any time within one year after the time when the subject-matter of the proceedings arose.

(3) Toutes poursuites sur déclaration sommaire de culpabilité, en ce qui concerne une infraction prévue par la présente Partie, peuvent être intentées à tout moment dans un délai d'un an après la date où s'est produit le fait pouvant donner lieu aux poursuites.

Evidence as to geographical area

30. In any prosecution for an offence under this Part, evidence that a container was marked in such a manner as to indicate or give rise to a reasonable belief that the cured fish or the by-products of fish curing contained therein were the product of a particular participating province or a particular area or region therein is, in the absence of evidence to the contrary, proof that the cured fish or the by-products of fish curing contained therein were produced in that province.

30. Dans toute poursuite d'une infraction prévue par la présente Partie, une preuve qu'un contenant a été marqué de façon à indiquer ou à donner des raisons de croire que le poisson préparé ou les sous-produits de la préparation du poisson qui y sont contenus étaient le produit de l'une des provinces participantes ou d'une zone ou région située dans cette province concernée, en l'absence de preuve contraire, la preuve que le poisson préparé ou les sous-produits de la préparation de poisson qui y sont contenus ont été produits dans cette province.

Preuve relative au lieu de provenance

Trial of offences

31. A complaint or information in respect of an offence under this Part may be heard, tried or determined by a magistrate if the accused is resident or carrying on business within his territorial jurisdiction, although the matter of the complaint or information did not arise in that territorial jurisdiction.

31. Une plainte ou une dénonciation relative à une infraction à la présente Partie peut être entendue, instruite ou jugée par un magistrat ou un juge de paix si l'accusé réside ou fait des affaires dans le ressort judiciaire dudit magistrat ou juge, même si l'objet de la plainte ou de la dénonciation n'y a pris naissance.

Jugement des infractions

PART IV

ANNUAL REPORT

Report to Parliament

32. In addition to any reports required to be made under the Financial Administration Act, the Corporation shall, within three months after the end of each financial year of the Corporation, prepare and submit to the Minister and the Lieutenant Governor in Council of each participating province a report of the activities of the Corporation for that year, and the Minister shall cause such report to be laid before Parliament within 60 days after receipt thereof or, if Parliament is not then sitting, on any of the first 60 days next thereafter that Parliament is sitting.

PARTIE IV

RAPPORT ANNUEL

32. En plus de tous rapports requis par la Loi sur l'administration financière, l'Office doit, dans les trois mois qui suivent la fin de chaque année financière de l'Office, rédiger et présenter au Ministre et au lieutenant-gouverneur en conseil de chaque province participante un rapport relatif à l'activité de l'Office pour cette année financière, et le Ministre doit faire présenter ce rapport au Parlement dans les quinze jours de sa réception ou, si le Parlement ne siège pas à ce moment-là, l'un quelconque des quinze premiers jours où il siège par la suite.

Rapport au Parlement

SOURCES OF FINANCIAL ASSISTANCE FOR THE COMMERCIAL FISHERIES IN CANADA

A. FEDERAL AGENCIES

1. Department of Fisheries and the Environment:

(a) Fishing Vessel Insurance Program provides low-cost coverage for smaller fishing craft.

(b) Temporary Assistance Program provides subsidy (currently 1½ per lb. for prime quality) to primary fishing enterprises on sales of groundfish species.¹

(c) Rehabilitation Program provides assistance (e.g., 50 percent of cost) for installation of ice-making and improved off-loading facilities at landing points where these still are lacking; also provides some incentives for exploratory fishing operations.

2. Fisheries Prices Support Board:

(a) May provide deficiency payments in cases where substantial declines occur in port-market prices, or

(b) May purchase fish and fishery products to sustain price level.

(c) Procures fishery products for food-aid purposes.

3. Department of Regional Economic Expansion:

(a) Regional Development Incentives Program (RDIA) provides grants, at varying proportions of total cost, for construction, expansion or up-grading of processing and storage facilities.²

(b) Special agreements with provincial governments, under General Development Agreement (GDA) Program, for cost sharing in fishery-development projects.

4. Department of Industry, Trade and Commerce:

(a) Industrial Research & Development Incentives Program (IRDIA).

(b) Program for the Advancement of Industrial Technology (PAIT) provide assistance ("forgivable" loans, etc.) for technically innovative investments and the like—service available to all industries.

5. Department of Finance: (a) Fishery Improvement Loans Program guarantees loans (up to \$50,000 at present) through private banking system, for acquisition of equipment and gear.

6. Federal Business Development Bank: (a) special banking service for small business and industrial enterprise.

7. Revenue Canada: Taxation, Customs and Excise:

(a) provides rebate of excise tax on diesel fuel used by fishing craft.

(b) provides exemption of import duty on certain items of fishing equipment.

8. Department of Manpower and Immigration: (a) Unemployment Insurance Program provides coverage for commercial fishermen, either as employees or (under special regulations) as self-employed—for fishermen and others engaged in seasonal employment, this program becomes a form of income supplementation.

B. PROVINCIAL AGENCIES

1. Lending Agencies:

(a) Fishermen's Loan Programs provide loans, of various degrees of "softness", for the construction of vessels and acquisition of certain kinds of equipment, e.g. engines, winches and navigation and fish-finding apparatus.

(b) Subsidy Programs occasionally provision is made for grants or "bounties" to encourage purchase of specific items of gear.

2. Industrial Development Agencies: (a) Guaranteed-Loan Programs provide from time to time guarantees for bank loans for plant construction or expansion.

JOINT PROVINCIAL FISHERIES DEVELOPMENT PROPOSAL, NOVEMBER 1977

PURPOSE

This is a proposal for cooperatively utilizing and developing the fishing industry of Atlantic Canada to the maximum benefit of Canadians and, in particular, the people of Provinces directly involved.

¹ This program, introduced in 1975, was designed to support the industry through the crisis, affecting especially the trade in groundfish products, into which it fell in 1974. Originally it included conditional grants for the processing sector as well but these are in abeyance at present.

² Because of the existence of excess capacity in the industry, this program is inactive at present as far as the fisheries are concerned.

INTRODUCTION

The achievements of the Canadian Government in having the 200 mile fisheries jurisdiction accepted by the world community has earned the admiration of all. The Federal Department of Fisheries has followed on this by developing an effective surveillance and control system for the zone, and by expanding fisheries research to provide the information for the required resource management.

Given that we now have a good start towards the proper management of the fisheries resource off our coast, we must now begin to develop the fishing industry itself, in preparation for the forthcoming opportunities.

As a result of this 200 mile fisheries jurisdiction, Atlantic Canada will have the opportunity to more than double its current fisheries production within the next decade. This document is intended to convey the common belief of Provincial Governments, fishermen and the industry that unless positive action is taken, our fishing industry will not be able to realize this opportunity. Unless our fishing industry is rapidly developed, a large part of the potential economic benefits from our 200 mile zone will be unnecessarily deferred and possibly lost to Canada, and foreign nations will continue to reap significant benefits from our fisheries resources.

It is also our collective belief that the required development of the fishing industry can best be done by the private sector, with strategic assistance from Government. The past depletion of our resource base has placed the Canadian fishing industry in such a financial state that it cannot adequately prepare for these future opportunities by itself. Therefore, specific action by the Government of Canada and the Provincial Governments of the Atlantic Provinces is required, especially in this transition period during which our stocks are being regenerated. This proposal will focus on the three areas where this requirement for action is considered to be most urgent; fleet development, markets, and foreign arrangements.

The fishing industry is extremely important to the economy of the Eastern Provinces, however, what is even more relevant to this presentation is that in some of the Provinces, it is the industry sector with by far the greatest potential for growth. In these Provinces, none of the other existing industries shows anything close to the potential for more than doubling their production volume during the next decade. Such an economic base for growth is crucial to support the fight against the current unemployment crisis in this area. Since most of the potential increase in fisheries production would be exported, such growth in this industry would also provide sorely needed relief for Canada's growing trade deficit.

Since the fishing industry is so very important to the present and future economies of the Atlantic Provinces, it is the duty and obligation of these Provinces to ensure that this industry is developed to its full potential. Although both levels of Government have a role to play in the fisheries, the Provincial Governments have the primary responsibility to take a position on these matters of common concern and importance to the economic development in this part of Canada. This position as set forth herein is also supported by the industry, the fishermen and shore workers, together with those in related industries and the general public. It is therefore, our feeling that it will be helpful to the Government of Canada to have a statement of views on these concerns from the Atlantic Provinces.

THE RESOURCE

We will briefly review current groundfish resource forecasts since this is the basis for all other fishing industry projections. However, before proceeding, we should state our view that a fundamental policy must be that Canadians should catch and process as much of the future stock quotas as is economically feasible.

The expanding resource potential will come from stock regeneration and through displacement of foreign effort. In 1977, total groundfish quotas off our Atlantic Coast amount to 815,500 metric tons, of which Canada's allocation is 425,000 tons or 52 percent of the total. Scientific projections indicate that the total groundfish catch will exceed one million tons by 1987. Even if foreign vessels continue to catch 25% of the total quotas, this still implies that we have the potential to more than double our groundfish catch within the next five to ten years.

It must be emphasized that the above projections are for groundfish only. To this can be added the pelagic and estuarial finfish stocks such as herring, mackerel and capelin, and also invertebrates such as squid and shrimp.

In the shorter term, there is the potential for utilizing some stocks for which we do not have the vessels to harvest, but for which we have spare processing

plant capacity. Such stocks could be harvested by foreign owned freezer vessels and landed for processing in Canada under mutually advantageous co-operative arrangements. We estimate that a significant quantity of fish could be available for such arrangements in 1978.

The basic decision-making on Fisheries resource management establishes the pattern for development of the entire industry. It is the strong feeling of the Atlantic Provinces that there should be a joint Federal-Provincial consultative mechanism developed to enable the Provinces to have an effective input in the resource management process. It is not the intention of this paper to delve into specific problems in resource management. However, as an illustration of the type of problems being encountered; attached are two examples (one from P.E.I. and one from Newfoundland) which demonstrates the need for greater consultation.

FLEET DEVELOPMENT

The development of our fishing fleet is considered to be one of the most critical factors in our attaining the potential benefits from the 200 mile zone. These fleet development needs will be considered in three parts.

The first two parts will deal with just the replacement and modernization of our inshore and offshore fleets. It is essential to consider both of these components of our fleet, since each is an integral part of our fisheries and community structures.

The priority within this fleet development program must be the replacement of existing, aging vessels. However, if we do not increase the overall size of the Canadian fishing fleet, then a significant shortfall will exist between our catching capacity and the available stocks. The third part of this section will therefore deal with the fleet development implications of replacing the foreign fishing effort off our coast.

The separation of the fleet development proposal into these three parts is not to imply that the actual development should follow in this order or time sequence, but rather to better describe the current situation and to identify the policy decisions which are required.

(1) Replacement of the Canadian inshore fleet

The development of our inshore fleet is a key component of this proposal, for the following reasons.

Essentially all of these smaller vessels are owned by fishermen or small companies, and it is the policy of the Government of Canada, and of the Provincial Governments, to encourage and assist small business. In addition, such inshore vessels require relatively small capital investment and provide energy efficient means of fishing. Furthermore, the inshore fishery must be strengthened since it is the primary economic base for the continued existence and future prospects of most small coastal communities in the Atlantic Provinces.

Inshore vessels will be defined as those under 70 ft. in length. Statistics on the number of such vessels in the Atlantic Provinces are published by Fisheries and Environment Canada, and are included in the table below.

Since essentially all of these vessels are of wood construction, it is considered that at least half of this fleet will have to be replaced within the next decade. The investment required for such a replacement program is difficult to estimate because of the variability in the type, size and equipment content of such vessels. However, average unit replacement costs, and the total replacement costs by category of vessel, have been projected as displayed in the following table

Size of vessel	Current number	Number to be replaced	Average unit cost (thousands)	Approx. total investment (millions)
Under 10 tons.....	16,406	8,203	\$10	\$80
Over 10 tons:				
Under 50 ft.....	2,345	1,176	50	60
50 to 70 ft.....	599	300	400	120
Total.....	19,350	9,673		260

Many of the new vessels will most likely vary to some extent in size and type from the vessels they replace, however, the above estimate of \$260 million is still considered to be in the order of magnitude of total investment required.

(2) Replacement of the Canadian offshore fleet

Complementary to the inshore part of our fleet, the offshore vessels are required to harvest those stocks that are not accessible to the inshore fleet. The offshore fleet is also necessary to maintain the continuous operation of many fish processing plants, since the vessels in this fleet can fish year-around and can provide the volume of fish needed to keep these plants operating at capacity.

The offshore fleet will be defined as consisting of vessels over 70 ft. in length. Furthermore, in this proposal we will focus on the groundfish vessels only within this fleet, since they are of priority concern. However, the same problems of aging can be foreseen with our other large fishing vessels, such as scallop dragners.

The Atlantic offshore groundfish fleet consists of 203 vessels, of which 101 are side trawlers and 102 are steel stern trawlers. The average age of the side trawlers is 14 years, and many of the older vessels are rapidly approaching the end of their competitively serviceable life. Even the newer steel side trawlers built in the early 1960's are now technically obsolete and considered to be past their economic life. Adding to this, is that our so-called modern stern trawler fleet is now approaching an average age of 9 years. What this means is that unless a fleet replacement program is begun immediately, a large proportion of our offshore groundfish fleet will be obsolete or unserviceable within 10 years.

As a minimum requirement, the potential of the Eastern Canadian fishing industry appears to warrant replacement of half of the offshore groundfish fleet during the next 10 years (i.e., 100 vessels out of the total 203). Replacement wetfish stern trawlers in the 130 to 170 ft. size range will cost in the average order of \$5 million each, based on construction costs in Canadian yards. The total investment required for this proposed wetfish trawler replacement and upgrading program will therefore amount to about \$500 million over the next decade.

(3) Replacement of the foreign fishing effort

In 1976, the Atlantic Canada groundfish catch amounted to 469,616 tons. With the recovery of our fisheries stocks, it is considered that a modernized Canadian inshore and offshore wetfish fleet of the same general size and composition as the current fleet could harvest about twice this catch or about one million tons per year.

However, there would still be groundfish stocks which would not be harvested by such a fleet. These would include stocks in Northern waters and non-traditional species such as silver hake. Specific types of vessels, such as freezer trawlers, are required to harvest such stocks; however, we do not have any such vessels at the present time and unless we acquire them, this resource will continue to be allocated to the foreign fleets.

In addition to the above described ground-fish stocks, there are also substantial pelagic and invertebrate species (e.g., capelin and squid) which are under-utilized by Canada. For example, the 1977 quota for capelin is 500,000 tons, of which only 55,000 tons or 11% has been allocated to Canada. It is projected that over 800,000 tons of pelagic species, including capelin will be available within ten years.

If all the stocks which cannot be harvested by our traditional wetfish fleet are added together, the total would be in the order of three-quarters to one million tons per year. This projected quota consists for the most part of capelin, mackerel, squid and silver hake. In other words, if we merely replace our current fleet as described above, we will only be able to catch about half the total amount of fisheries resources being harvested off our Atlantic Coast.

The magnitude of the present foreign fishing effort off our coast is illustrated by the fact that 80 to 150 foreign vessels are now fishing in our zone, at any given time. Practically all of these vessels are large factory trawlers and their combined tonnage would be several orders of magnitude larger than the combined tonnage of the whole Canadian Atlantic fishing fleet.

We are not proposing that Canada should acquire an equivalent number of freezer vessels or that our freezer vessels should be of the same size and type as those in the foreign fleets. However, we should be starting to develop some capability in this area. As described in more detail in the subsequent section on foreign ventures, we are proposing a gradual transition into new types of fishing

operations which would minimize possible financial risks. The proposed approach is to begin by chartering foreign owned vessels to gain operating and technical expertise, and to determine optimal designs for Canadian operations. Once this expertise and experience has been gained, and the economic viability of such vessels has been proven, then we could gradually begin to acquire such new types of fishing vessels.

It is considered that investment on such new types of vessels in the order of \$150 million over the next decade would provide for a conservative start to the development of these new fisheries.

(4) Summary

The total investment required to implement the proposed fleet replacement and expansion program over the next ten years is therefore as follows:

	<i>Million</i>
Replacement of half the inshore fleet.....	\$260
Replacement of half the offshore wetfish trawler fleet.....	500
New vessels to start replacing foreign fishing effort.....	150
10-year total.....	910

¹ These cost estimates are based on the assumption that all of the vessels would be built in Canadian yards.

In other words, the proposed fleet development program will require investments averaging in the order of \$90 million per year over the next decade.

MARKETS

In the light of projected increases in Canadian landings, it is essential that new markets be found. The declaration of 200 mile fisheries jurisdictions by most coastal states has caused dramatic changes in the world fish trading patterns, some of which are creating opportunities for us while others represent potential problems.

Our concern relates primarily to our current dependence on the American market. This market can absorb only a limited increase in Canadian groundfish production. Further to this, there is concern that the American fishing industry may be expanding so as to make the U.S. fish market more self-sufficient in fisheries products.

Our optimism in relation to market opportunities is based on the fact that overall world fisheries production will most likely decrease as a result of 200 mile jurisdictions, and that specific opportunities exist within those fishing nations which are being displaced from major fishing grounds. However, access to many of these new markets will require aggressive and innovative approaches. We commend the Canadian fishing industry for their progress in developing coordinated marketing approaches, specifically through their commitment to the establishment of the Canadian Association of Fish Exporters. However, government action is also required to assist industry to develop these new markets.

We submit that aggressive efforts should be taken by Canada to reduce tariff and other such barriers to our products. In particular, we feel that the tariff on fishery products entering into countries in Western Europe should be the subject of intense negotiation.

Access to many other potentially large markets will require innovative approaches by both industry and government. For example, the Eastern European Countries offer large export opportunities, however, they are faced with shortages of "hard" currency, and in some cases, a surplus of fishing vessels. Co-operative ventures with such countries would benefit both of us, and would provide unique means of market penetration. Other types of joint ventures would be useful for gaining access to complex and unfamiliar markets such as Japan. We feel that the Federal Government must give due consideration to such innovative marketing approaches.

FOREIGN ARRANGEMENTS

It is our view that the Government of Canada should adopt a receptive attitude towards foreign arrangements where it is clear that these are mutually advantageous to Canada and to the foreign participants.

There are now many fisheries stocks within our jurisdiction which we cannot harvest because we lack the necessary technology and markets. Such stocks must now be allocated to foreign countries, and thereby provide no benefits at all to us.

The cooperative ventures of most benefit to us now would be interim arrange-

ments to provide Canada with immediate access to these non-traditional species and areas, through the use of such foreign vessels. When suitable Canadian vessels are acquired, they could then take over the harvesting of these stocks. These arrangements could take many different forms such as chartering or a simple contract for landing fish at an agreed price. In any chartering of vessels, the portion of crew which is Canadian should be rapidly increased each year, commensurate with the experience gained in the operation of such vessels. It is expected that fully Canadian crewing could be achieved in several years. Irrespective of the type of arrangement a "schedule of Canadianization" must be established for the fishery of these stocks.

In simple terms, although these arrangements may not provide us with all the potential benefits from these stocks, the alternative is to have no benefits at all, until we acquire the necessary vessels. There are four key benefits to such arrangements.

1. They will provide immediate increase in the volume through our processing plants. The additional employment this will create is especially needed now. The increase in volume will also improve the financial state of our companies, allowing them to upgrade their fleets and other facilities.

2. They will be very useful in opening up new markets.

3. They will provide us with additional control over our stocks, especially in the control of by-catches which are considered to be a major obstacle to the quick regeneration of our traditional stocks.

4. They will allow us to gain experience and technical knowhow in the operation of such freezer vessels, at no financial risk. They will also allow us to evaluate alternative vessel designs, and thereby assist us to determine the best designs for future Canadian vessels of this type.

It must be emphasized that the proposed foreign arrangements are relatively short term or interim measures. The long term strategy must be to increase Canadian investment in our industry, so that it can develop to its full potential. It is considered that with Government encouragement in forms such as tax incentives, sufficient Canadian capital could be made available for this purpose.

In some cases, controlled foreign investment may be advantageous to Canada for specific reasons which could include gaining access to markets and technology transfer. Foreign investment under such conditions should be given due consideration.

CONCLUSION

The foregoing refers in some detail to matters of vital concern to the fishing industry, to the overall economy and to the Provincial Governments of Eastern Canada.

For consideration purposes, this proposal has focused attention upon the following aspects of the industry: (1) The resource, (2) fleet development, (3) markets, and (4) foreign arrangements.

It is intended that the proposal will form the basis for the most serious and conscientious discussions and negotiations, which will allow and encourage meaningful cooperation between the appropriate industry sector, the Government of Canada and the Governments of the Atlantic Provinces, and thereby lead to positive action. With the endorsement resulting from this current initiative, such cooperative action will allow development of the fishing industry for the benefit of Canadians and on a scale which became potential as a result of the new 200 mile zone.

It is believed that this proposal sets forth information basic to preparing a comprehensive development action plan for the Atlantic fishing industry. It is also recognized that much work remains to be done on a cooperative basis; however, there does not appear to be any legitimate reason for delaying immediate undertakings in several key directions. We would ask that this submission be considered in a positive way and, at the very earliest convenient time a response be given which we would expect to include (a) endorsement of the matters in this proposal and (b) your suggestions for actioning matters as appropriate.

Senator HATHAWAY. I want to thank both of you for your testimony, as well as other witnesses here, and I want to extend my appreciation to Senator Ribicoff, who allowed me to chair these hearings on this matter and the hearings will recess now, subject to the call of the Chair.

Thank you.

[Thereupon, at 12:05 p.m., the hearings in the above-entitled matter recessed, to reconvene at the call of the Chair.]

[By direction of the chairman, the following communications were made a part of the record:]

PREPARED STATEMENT OF SENATOR EDMUND S. MUSKIE

Mr. Chairman, the waiver of countervailing duties on Canadian fish products is a demoralizing blow to our domestic fishing industry. This unwelcome action by the Department of the Treasury ignores the fact that Canadian exporters have successfully penetrated important domestic markets with the aid of critical subsidies from the Canadian government; and it ignores the fact that Canadian fishermen will continue to receive many of these subsidies, such as government supported piers, transportation facilities, and vessel construction programs.

Mr. Chairman, this waiver quite simply strengthens Canada's competitive position in our domestic markets and discourages the much needed expansion and modernization of our domestic fishing industry. A recent petition for relief by the National Fishermen Association and the Point Judith Fishermen's Cooperative, which is currently pending before the Treasury, bears witness to the continued effectiveness of the Canadian subsidies.

The decision to waive countervailing duties ironically comes at a time when New England fishermen and processors are being told by the Department of Commerce to develop new markets, especially for underutilized species. Maine fishermen tell me that they are ready to compete, but until their government fosters a fair marketplace for their product, they are destined to failure. They are justifiably angered by the contradictory policies of their federal government. They demand, and they are entitled to legitimate relief.

If we are to achieve the goals set forth in the Fisheries Conservation and Management Act and if we are to realize the economic benefits of the two-hundred mile limit, we must see that the domestic fishing industry is given a chance to complete fairly in our own markets.

Thank you for the opportunity to testify.

STATEMENT OF CONGRESSMAN EDWARD P. BEARD OF RHODE ISLAND

Mr. Chairman, I want to thank you for this opportunity to enter into the record my views on this most important Resolution.

I represent Rhode Island's second congressional district, a district in which the commercial fishing industry has been a vital industry for many years. Yet, in the past decades, Rhode Island fishermen and their New England colleagues have faced enormous competition from State supported fleets from other nations. These foreign fleets vastly depleted the rich fishing grounds off the New England coast.

The extension of the United States territorial waters to 200 miles started to alleviate this problem. However, the New England fisherman continues to face a very serious problem. Namely, the need to compete for United States markets with Canadian fishermen who receive direct and indirect subsidies from the Canadian government and certain Provincial governments.

The Canadian subsidy program has not been kept a deep dark secret. Americans have known that the program has been going on for years. The program's goal has apparently been to make Canada the major fishing nation in the area.

Within the past year, the Treasury Department officially recognized that the subsidy program did indeed exist and that Canadian fish products imported into the United States were subject to countervailing duties equal to the amount of the subsidies. In true bureaucratic fashion, little action was taken by the Department until July 10, 1978, when the Department announced that it would waive the collection of the legally collectable countervailing duties.

On what was this decision based? Basically on the Canadian promise to eliminate most of the direct subsidies and on the Treasury Department's fear of offending Canadian trade negotiations at the Multilateral Trade Negotiation in Geneva. Would it not be more prudent, Mr. Chairman, to base our policy on action

rather than promises? Might it not be wise to note that the Canadians have said very little about the indirect subsidies? Shouldn't the Treasury Department fear offending United States fishermen at least as much as they fear offending some Canadian negotiations?

I am not advocating full fledged protectionism. Senate Resolution 483 does not advocate such protectionism. The resolution merely calls for a countervailing duty to offset the unfair competitive advantage brought about by the Canadian subsidy program.

In short, the New England fishermen are simply asking for an equal opportunity to get their products to the marketplace. I can see no reason why our own government should willfully deny them that opportunity.

Thus, Mr. Chairman, I fully support Senate Resolution 483 and urge its speedy consideration.

**DEPARTMENT OF LABOR, OFFICE OF THE SECRETARY, TA-W-2324; LIBERTY
BELLE FISHING CORP., PROVINCETOWN, MASS.**

CERTIFICATION REGARDING ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2324: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 8, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers engaged in the catching and landing of various types of commercial fish at Liberty Belle Fishing Corporation of Provincetown, Massachusetts. The investigation revealed that Liberty Belle Fishing Corporation owns and operates the fishing vessel F/V Liberty Belle which is engaged in the catching and landing of ground and flatfish.

The notice of investigation was published in the Federal Register on October 4, 1977 (42 FR 54031). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Liberty Belle Fishing Corporation and its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Marine Fisheries Service, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

During the 1973 to 1976 period the average annual level of imports of fresh and frozen groundfish and flatfish: whole; blocks and slabs; and fillets was 654,706 pounds. Imports in 1977 were 696,261 pounds. Imports as a percentage of production increased from 173.4 percent in 1975 to 197.8 percent in 1976 and declined to 187.8 percent in 1977.

Cod represented the largest percentage of total Provincetown landings in 1977. Imports of fresh and frozen cod increased from 256,962 pounds in 1975 to 331,044 pounds in 1977. Imports as a percentage of production increased from 379.4 percent in 1975 to 446.5 percent in 1976 and increased to 463.9 percent in 1977.

Imports of edible fish products from Canada increased from 438,206 pounds in 1975 to 474,015 pounds in 1976 to 478,470 pounds in 1977.

A survey of fish wholesalers served by the Provincetown area indicated that many had decreased purchases of fish from Provincetown. A number of these wholesalers purchased imported Canadian ground and flatfish either directly or indirectly in 1977.

The wholesalers also indicated that decreasing purchases from Provincetown were in large measure due to the increased purchases of fresh and frozen Canadian fish by their customers—fishmarkets, supermarkets, and restaurants. The Department's investigation revealed that many fish distributors and wholesalers use the imports of Canadian ground and flatfish leverage in bidding down the exvessel prices paid to domestic fishermen for the same species of ground and flatfish.

CONCLUSIONS

After careful review of the facts obtained in the investigation, it is concluded that increases of imports like or directly competitive with the ground and flatfish

caught and landed by the F/V Liberty Belle owned by Liberty Belle Fishing Corporation of Provincetown, Massachusetts contributed importantly to the decrease in production and to the separation of workers from that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Liberty Belle Fishing Corporation of Provincetown, Massachusetts who became totally or partially separated from employment on or after August 27, 1976 are eligible to apply for adjustment assistance under Title II Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 2d day of June 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration, and Planning.*

DEPARTMENT OF LABOR, OFFICE OF THE SECRETARY, TA-W-2395; F/V SHIRLEY AND ROLAND, PROVINCETOWN, MASS.

CERTIFICATION REGARDING ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2395: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 23, 1977 in response to a worker petition received on September 23, 1977, which was filed on behalf of workers and former workers engaged in the catching and landing of ground and flatfish aboard the F/V Shirley and Roland of Provincetown, Massachusetts.

The notice of investigation was published in the Federal Register on October 14, 1977 (42 FR 55316). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the F/V Shirley and Roland, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Marine Fisheries Service, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

During the 1973 to 1976 period the average annual level of imports of fresh and frozen groundfish and flatfish: whole; blocks and slabs; and fillets was 654,706 pounds. Imports in 1977 were 696,261 pounds. Imports as a percentage of production increased from 173.4 percent in 1975 to 197.8 percent in 1976 and declined to 187.8 percent in 1977.

Cod represented the largest percentage of total Provincetown landings in 1977. Imports of fresh and frozen cod increased from 256,962 pounds in 1975 to 331,044 pounds in 1977. Imports as a percentage of production increased from 379.4 percent in 1975 to 446.5 percent in 1976 and increased to 463.9 percent in 1977.

Imports of edible fish products from Canada increased from 433,206 pounds in 1975 to 474,015 pounds in 1976 to 478,470 pounds in 1977.

A survey of fish wholesalers served by the Provincetown area indicated that many had decreased purchases of fish from Provincetown. A number of these wholesalers purchased imported Canadian ground and flatfish either directly or indirectly in 1977.

The wholesalers also indicated that decreasing purchases from Provincetown were in large measure due to the increased purchases of fresh and frozen Canadian fish by their customers—fishmarkets, supermarkets, and restaurants. The Department's investigation revealed that many fish distributors and wholesalers use the imports of Canadian ground and flatfish as leverage in bidding down the exvessel prices paid to domestic fishermen for the same species of ground and flatfish.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that increases of imports like or directly competitive with the ground and flatfish caught and landed by the F/V Shirley and Roland of Provincetown, Massachusetts contributed importantly to the decrease in sales and production

and to the separation of workers from that vessel. In accordance with the provisions of the Act, I make the following certification:

"All workers of the F/V Shirley and Roland of Provincetown, Massachusetts who became totally or partially separated from employment on or after September 13, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 31st day of May 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration, and Planning.*

DEPARTMENT OF LABOR, OFFICE OF THE SECRETARY, TA-W-2430; F/V JOHNNY O.,
PROVINCETOWN, MASS.

CERTIFICATION REGARDING ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2430: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 6, 1977 in response to a worker petition received on September 30, 1977 which was filed on behalf of fishermen and former fishermen catching fish for the F/V Johnny O., Provincetown, Massachusetts.

The Notice of Investigation was published in the Federal Register on October 25, 1977 (42 FR 56375). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the owner of the F/V Johnny O., his customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

During the 1973 to 1976 period the average annual level of imports of fresh and frozen groundfish and flatfish: whole; blocks and slabs; and fillets was 654,706 pounds. Imports in 1977 were 696,261 pounds. Imports as a percentage of production increased from 173.4 percent in 1975 to 197.8 percent in 1976 and declined to 187.8 percent in 1977.

Cod represented the largest percentage of total Provincetown landings in 1977. Imports of fresh and frozen cod increased from 256,962 pounds in 1975 to 331,044 pounds in 1977. Imports as a percentage of production increased from 379.4 percent in 1975 to 446.5 percent in 1976 and increased to 463.9 percent in 1977.

Imports of edible fish products from Canada increased from 438,206 pounds in 1975 to 474,015 pounds in 1976 to 478,470 pounds in 1977.

A survey of fish wholesalers served by the Provincetown area indicated that many had decreased purchases of fish from Provincetown. A number of these wholesalers purchased imported Canadian ground and flatfish either directly or indirectly in 1977.

The wholesalers also indicated that decreasing purchases from Provincetown were in large measure due to the increased purchases of fresh and frozen Canadian fish by their customers—fishmarkets, supermarkets, and restaurants. The Department's investigation revealed that many fish distributors and wholesalers use the imports of Canadian ground and flatfish as leverage in bidding down the exvessel prices paid to domestic fishermen for the same species of ground and flatfish.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with groundfish and flatfish caught by the F/V Johnny O., Provincetown, Massachusetts contributed importantly to the decline in sales and employment related to the catching of fish aboard that vessel. In accordance with the provisions of the Act, I make the following certification:

"All workers of the F/V Johnny O., Provincetown, Massachusetts who became totally or partially separated from employment on or after September 20, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 23rd day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

DEPARTMENT OF LABOR, OFFICE OF THE SECRETARY, TA-W-2431; F/V MEMCO,
PROVINCETOWN, MASS.

CERTIFICATION REGARDING ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2431: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 6, 1977 in response to a worker petition received on September 30, 1977 which was filed on behalf of fishermen and former fishermen catching scallops and fish for the F/V Memco, Provincetown, Massachusetts.

The Notice of Investigation was published in the Federal Register on October 25, 1977 (42 FR 56375). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the owner of the F/V Memco, his customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

During the 1973 to 1976 period the average annual level of imports of fresh and frozen groundfish and flatfish: whole; blocks and slabs; and fillets was 654,706 pounds. Imports in 1977 were 696,261 pounds. Imports as a percentage of production increased from 173.4 percent in 1975 to 197.8 percent in 1976 and declined to 187.8 percent in 1977.

Imports of scallop meat increased from 19,737 pounds in 1975 to 25,253 pounds in 1976. Imports increased from 19,812 pounds in the first nine months of 1976 to 23,001 pounds in the first nine months of 1977. Imports of scallop meat as a percentage of production decreased from 150.9 percent in 1975 to 104.2 percent in 1976.

Cod represented the largest percentage of total Provincetown landings in 1977. Imports of fresh and frozen cod increased from 256,962 pounds in 1975 to 331,044 pounds in 1977. Imports as a percentage of production increased from 379.4 percent in 1975 to 446.5 percent in 1976 and increased to 463.9 percent in 1977.

Imports of edible fish products from Canada increased from 438,206 pounds in 1975 to 474,015 pounds in 1976 to 478,470 pounds in 1977.

A survey of fish wholesalers served by the Provincetown area indicated that many had decreased purchases of fish from Provincetown. A number of these wholesalers purchased imported Canadian groundfish, flatfish, and scallops either directly or indirectly in 1977.

The wholesalers also indicated that decreasing purchases from Provincetown were in large measure due to the increased purchases of fresh and frozen Canadian fish and scallops by their customers—fishmarkets, supermarkets, and restaurants. The Department's investigation revealed that many fish distributors and wholesalers use the imports of Canadian groundfish, flatfish, and scallops as leverage in bidding down the exvessel prices paid to domestic fishermen for the same species of groundfish, flatfish, and scallops.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with scallops, groundfish, and flatfish caught by the F/V Memco, Provincetown, Massachusetts contributed importantly to the decline in sales and employment related to the catch-

ing of fish aboard that vessel. In accordance with the provisions of the Act, I make the following certification:

"All workers of the F/V Memco, Provincetown, Massachusetts who became totally or partially separated from employment on or after September 20, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 25th day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

DEPARTMENT OF LABOR, OFFICE OF THE SECRETARY, TA-W-2475; F/V LEONA LOUISE, PROVINCETOWN, MASS.

CERTIFICATION REGARDING ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2475: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 17, 1977 in response to a worker petition received on October 4, 1977 which was filed on behalf of fishermen and former fishermen catching fish for the F/V Leona Louise, Provincetown, Massachusetts.

The Notice of Investigation was published in the Federal Register on November 8, 1977 (42 FR 52810). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the owner of the F/V Leona Louise, his customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

During the 1973 to 1976 period the average annual level of imports of fresh and frozen groundfish and flatfish: whole; blocks and slabs; and fillets was 654,706 pounds. Imports in 1977 were 696,261 pounds. Imports as a percentage of production increased from 173.4 percent in 1975 to 197.8 percent in 1976 and declined to 187.8 percent in 1977.

Cod represented the largest percentage of total Provincetown landings in 1977. Imports of fresh and frozen cod increased from 256,962 pounds in 1975 to 331,044 pounds in 1977. Imports as a percentage of production increased from 379.4 percent in 1975 to 446.5 percent in 1976 and increased to 463.9 percent in 1977.

Imports of edible fish products from Canada increased from 438,206 pounds in 1975 to 474,015 pounds in 1976 to 478,470 pounds in 1977.

A survey of fish wholesalers served by the Provincetown area indicated that many had decreased purchases of fish from Provincetown. A number of these wholesalers purchased imported Canadian ground and flatfish either directly or indirectly in 1977.

The wholesalers also indicated that decreasing purchases from Provincetown were in large measure due to the increased purchases of fresh and frozen Canadian fish by their customers—fishmarkets, supermarkets, and restaurants. The Department's investigation revealed that many fish distributors and wholesalers use the imports of Canadian ground and flatfish as leverage in bidding down the exvessel prices paid to domestic fishermen for the same species of ground and flatfish.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with groundfish and flatfish caught by the F/V Leona Louise, Provincetown, Massachusetts contributed importantly to the decline in sales and employment related to the catching of fish aboard that vessel. In accordance with the provisions of the Act, I make the following certification:

"All workers of the F/V Leona Louise, Provincetown, Massachusetts who became totally or partially separated from employment on or after September 20,

1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 31st day of May 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration, and Planning.*

DEPARTMENT OF LABOR, OFFICE OF THE SECRETARY, TA-W-2534; F/V JENNIFER AND AARON, PROVINCETOWN, MASS.

CERTIFICATION REGARDING ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2534: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 31, 1977 in response to a worker petition received on October 25, 1977 which was filed on behalf of fishermen and former fishermen catching fish for the F/V Jennifer and Aaron, Provincetown, Massachusetts.

The Notice of Investigation was published in the Federal Register on November 15, 1977 (42 FR 59131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the owner of the F/V Jennifer and Aaron, his customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

During the 1973 to 1976 period the average annual level of imports of fresh and frozen groundfish and flatfish: whole; blocks and slabs; and fillets was 654,706 pounds. Imports in 1977 were 696,261 pounds. Imports as a percentage of production increased from 173.4 percent in 1975 to 197.8 percent in 1976 and declined to 187.8 percent in 1977.

Cod represented the largest percentage of total Provincetown landings in 1977. Imports of fresh and frozen cod increased from 256,962 pounds in 1975 to 331,044 pounds in 1977. Imports as a percentage of production increased from 379.4 percent in 1975 to 446.5 percent in 1976 and increased to 463.9 percent in 1977.

Imports of edible fish products from Canada increased from 438,206 pounds in 1975 to 474,015 pounds in 1976 to 478,470 pounds in 1977.

A survey of fish wholesalers served by the Provincetown area indicated that many had decreased purchases of fish from Provincetown. A number of these wholesalers purchased imported Canadian ground and flatfish either directly or indirectly in 1977.

The wholesalers also indicated that decreasing purchases from Provincetown were in large measure due to the increased purchases of fresh and frozen Canadian fish by their customers—fishmarkets, supermarkets, and restaurants. The Department's investigation revealed that many fish distributors and wholesalers use the imports of Canadian ground and flatfish as leverage in bidding down the exvessel prices paid to domestic fishermen for the same species of ground and flatfish.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with groundfish and flatfish caught by the F/V Jennifer and Aaron, Provincetown, Massachusetts contributed importantly to the decline in sales and employment related to the catching of fish aboard that vessel. In accordance with the provisions of the Act, I make the following certification:

"All workers of the F/V Jennifer and Aaron, Provincetown, Massachusetts who became totally or partially separated from employment on or after October 20, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 23rd day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

DEPARTMENT OF LABOR, OFFICE OF THE SECRETARY, TA-W-2536; F/V MICHAEL ANN, PROVINCETOWN, MASS.

CERTIFICATION REGARDING ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2536: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 31, 1977 in response to a worker petition received on October 25, 1977 which was filed on behalf of fishermen and former fishermen catching fish for the F/V Michael Ann, Provincetown, Massachusetts.

The Notice of Investigation was published in the Federal Register on November 15, 1977 (42 FR 59131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the owner of the F/V Michael Ann, his customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

During the 1973 to 1976 period the average annual level of imports of fresh and frozen groundfish and flatfish: whole; blocks and slabs; and filets was 654,706 pounds. Imports in 1977 were 696,261 pounds. Imports as a percentage of production increased from 173.4 percent in 1975 to 197.8 percent in 1976 and declined to 187.8 percent in 1977.

Cod represented the largest percentage of total Provincetown landings in 1977. Imports of fresh and frozen cod increased from 256,962 pounds in 1975 to 331,044 pounds in 1977. Imports as a percentage of production increased from 379.4 percent in 1975 to 448.5 percent in 1976 and increased to 463.9 percent in 1977.

Imports of edible fish products from Canada increased from 438,206 pounds in 1975 to 474,015 pounds in 1976 to 478,470 pounds in 1977.

A survey of fish wholesalers served by the Provincetown area indicated that many had decreased purchases of fish from Provincetown. A number of these wholesalers purchased imported Canadian ground and flatfish either directly or indirectly in 1977.

The wholesalers also indicated that decreasing purchases from Provincetown were in large measure due to the increased purchases of fresh and frozen Canadian fish by their customers—fishmarkets, supermarkets, and restaurants. The Department's investigation revealed that many fish distributors and wholesalers use the imports of Canadian ground and flatfish as leverage in bidding down the exvessel prices paid to domestic fishermen for the same species of ground and flatfish.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with groundfish and flatfish caught by the F/V Michael Ann, Provincetown, Massachusetts contributed importantly to the decline in sales and employment related to the catching of fish aboard that vessel. In accordance with the provisions of the Act, I make the following certification:

"All workers of the F/V Michael Ann, Provincetown, Massachusetts who became totally or partially separated from employment on or after October 19, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 23rd day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

DEPARTMENT OF LABOR, OFFICE OF THE SECRETARY, TA-W-2851; F/V ZERDA,
PROVINCETOWN, MASS.

CERTIFICATION REGARDING ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT
ASSISTANCE

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2851: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 4, 1978 in response to a worker petition received on December 14, 1977 which was filed on behalf of fishermen and former fishermen catching scallops for the F/V Zerda, Provincetown, Massachusetts.

The Notice of Investigation was published in the Federal Register on January 27, 1978 (43 FR 3777). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the owner of the F/V Zerda, his customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. The investigation has revealed that all of the requirements have been met.

Imports of scallop meat increased from 19,737 pounds in 1975 to 25,253 pounds in 1976. Imports increased from 19,812 pounds in the first three quarters of 1976 to 23,001 pounds in the first three quarters of 1977. Imports of scallop meat as a percentage of production decreased from 150.9 percent in 1975 to 104.2 percent in 1976.

Imports of edible fish products from Canada increased from 438,206 pounds in 1975 to 474,015 pounds in 1976 to 478,470 pounds in 1977.

A survey of fish wholesalers served by the Provincetown area indicated that many had decreased purchases of scallops from Provincetown. A number of these wholesalers purchased imported Canadian scallops either directly or indirectly in 1977.

The wholesalers also indicated that decreasing purchases from Provincetown were in large measure due to the increased purchases of fresh and frozen Canadian scallops by their customers—fishmarkets, supermarkets, and restaurants. The Department's investigation revealed that many fish distributors and wholesalers use the imports of Canadian scallops as leverage in bidding down the exvessel prices paid to domestic fishermen for the same species of scallops.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with scallops caught by the F/V Zerda, Provincetown, Massachusetts contributed importantly to the decline in sales and employment related to the catching of scallops aboard that vessel. In accordance with the provisions of the Act, I make the following certification:

"All workers of the F/V Zerda, Provincetown, Massachusetts who became totally or partially separated from employment on or after December 13, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 9th day of June 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

APPENDIX

MATERIAL SUBMITTED FOR THE RECORD BY SENATOR HATHAWAY

CHAPTER 3—COUNTERVAILING DUTIES

SEC. 331. AMENDMENTS TO SECTIONS 303 AND 516 OF THE TARIFF ACT OF 1930.

(a) Section 303 of the Tariff Act of 1930 (19 U.S.C. sec. 1303) is amended to read as follows:

“SEC. 303. COUNTERVAILING DUTIES.

“(a) LEVY OF COUNTERVAILING DUTIES.—(1) Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation, shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, then upon the importation of such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed, a duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

“(2) In the case of any imported article or merchandise which is free of duty, duties may be imposed under this section only if there is an affirmative determination by the Commission under subsection (b) (1); except that such a determination shall not be required unless a determination of injury is required by the international obligations of the United States.

“(3) In the case of any imported article or merchandise as to which the Secretary of the Treasury (hereafter in this section referred to as the ‘Secretary’) has not determined whether or not any bounty or grant is being paid or bestowed—

“(A) upon the filing of a petition by any person setting forth his belief that a bounty or grant is being paid or bestowed, and the reasons therefor, or

“(B) whenever the Secretary concludes, from information presented to him or to any person to whom authority under this section has been delegated, that a formal investigation is warranted into the question of whether a bounty or grant is being paid or bestowed,

the Secretary shall initiate a formal investigation to determine whether or not any bounty or grant is being paid or bestowed and shall publish in the Federal Register notice of the initiation of such investigation.

“(4) Within six months from the date on which a petition is filed under paragraph (3) (A) or on which notice is published of an investigation initiated under paragraph (3) (B), the Secretary shall make a preliminary determination, and within twelve months from such date shall make a final determination, as to whether or not any bounty or grant is being paid or bestowed.

“(5) The Secretary shall from time to time ascertain and determine, or estimate, the net amount of each such bounty or grant, and shall declare the net amount so determined or estimated.

“(6) The Secretary shall make all regulations he deems necessary for the identification of articles and merchandise subject to duties under this section and for the assessment and collection of such duties. All determinations by the Secretary under this section, and all determinations by the Commission under

subsection (b) (1), (whether affirmative or negative) shall be published in the Federal Register.

"(b) INJURY DETERMINATIONS WITH RESPECT TO DUTY-FREE MERCHANDISE; SUSPENSION OF LIQUIDATION.—(1) Whenever the Secretary makes a final determination under subsection (a) that a bounty or grant is being paid or bestowed with respect to any article or merchandise which is free of duty and a determination by the Commission is required under subsection (a) (2), he shall—

"(A) so advise the Commission, and the Commission shall determine within three months thereafter, and after such investigation as it deems necessary, whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States; and the Commission shall notify the Secretary of its determination; and

"(B) require, under such regulations as he may prescribe, the suspension of liquidation as to such article or merchandise entered, or withdrawn from warehouse, for consumption on or after the date of the publication in the Federal Register of his final determination under subsection (a), and such suspension of liquidation shall continue until the further order of the Secretary or until he has made public an order as provided for in paragraph (3).

"(2) For the purposes of this subsection, the Commission shall be deemed to have made an affirmative determination if the commissioners voting are evenly divided as to whether its determination should be in the affirmative or in the negative.

"(3) If the determination of the Commission under paragraph (1) (A) is in the affirmative, the Secretary shall make public an order directing the assessment and collection of duties in the amount of such bounty or grant as is from time to time ascertained and determined, or estimated, under subsection (a).

"(c) APPLICATION OF AFFIRMATIVE DETERMINATION.—An affirmative final determination by the Secretary under subsection (a) with respect to any imported article or merchandise shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the publication in the Federal Register of such determination. In the case of any imported article or merchandise which is free of duty, so long as a finding of injury is required by the international obligations of the United States, the preceding sentence shall apply only if the Commission makes an affirmative determination of injury under subsection (b) (1).

"(d) TEMPORARY PROVISION WHILE NEGOTIATIONS ARE IN PROCESS.—(1) It is the sense of the Congress that the President, to the extent practicable and consistent with United States interest, seek through negotiations the establishment of internationally agreed rules and procedures governing the use of subsidies (and other export incentives) and the application of countervailing duties.

"(2) If, after seeking information and advice from such agencies as he may deem appropriate, the Secretary of the Treasury determines, at any time during the four-year period beginning on the date of the enactment of the Trade Act of 1974, that—

"(A) adequate steps have been taken to reduce substantially or eliminate during such period the adverse effect of a bounty or grant which he has determined is being paid or bestowed with respect to any article or merchandise;

"(B) there is a reasonable prospect that, under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to or other distortions of international trade; and

"(C) the imposition of the additional duty under this section with respect to such article or merchandise would be likely to seriously jeopardize the satisfactory completion of such negotiations;

the imposition of the additional duty under this section with respect to such article or merchandise shall not be required during the remainder of such four-year period. This paragraph shall not apply with respect to any case involving non-rubber footwear pending on the date of the enactment of the Trade Act of 1974 until and unless agreements which temporize imports of non-rubber footwear become effective.

"(3) The determination of the Secretary under paragraph (2) may be revoked by him, in his discretion, at any time, and any determination made under such paragraph shall be revoked whenever the basis supporting such determination no

longer exists. The additional duty provided under this section shall apply with respect to any affected articles or merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of any revocation under this subsection in the Federal Register.

"(e) REPORTS TO CONGRESS.—(1) Whenever the Secretary makes a determination under subsection (d) (2) with respect to any article or merchandise, he shall promptly transmit to the House of Representatives and the Senate a document setting forth the determination, together with his reasons therefor.

"(2) If, at any time after the document referred to in paragraph (1) is delivered to the House of Representatives and the Senate, either the House or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval under the procedures set forth in section 152, then such determination under subsection (d) (2) with respect to such article or merchandise shall have no force or effect beginning with the day after the date of the adoption of such resolution of disapproval, and the additional duty provided under this section with respect to such article or merchandise shall apply with respect to articles or merchandise entered, or withdrawn from warehouse, for consumption on or after such day."

SENATE RESOLUTION 483—A RESOLUTION TO DISAPPROVE WAIVER OF THE COUNTERVAILING DUTY ON CERTAIN ITEMS OF GOVERNMENT SUBSIDIZED FISH IMPORTED FROM CANADA

Mr. HATHAWAY (for himself, Mr. Muskie, Mr. McIntyre, Mr. Brooke, Mr. Durkin, Mr. Kennedy, and Mr. Pell) submitted the following resolution, which was referred to the Committee on Finance:

"S. RES. 483

"Resolved, that the Senate does not approve the determination of the Secretary of the Treasury under Section 303(d) of the Tariff Act of 1930, transmitted to the Congress on June 13, 1978."

Mr. HATHAWAY. Mr. President, I am submitting a resolution to disapprove the decision to waive the imposition of countervailing duties on Canadian fish. A petition for such duties was filed last year by the National Federation of Fisherman and the Point Judith, R.I., Fishermen's Cooperative.

I am offering this resolution in part to raise the issue with my colleagues of the need for close scrutiny of our national policies in regard to fisheries. The Canadians have agreed to phase out their direct landing subsidies and processing subsidies to the ground fishery. Much of this subsidy will be wiped out retroactively, with the remainder due to end October 1. This, according to Treasury, will leave only a small subsidy which will become countervailable in January unless Canada ends that as well.

I am glad that Canada has agreed to this step. I would hope that this cooperative attitude might also prevail in ongoing United States/Canada boundary negotiations, and in a resolution of the recent fisheries jurisdictional conflict.

Despite these considerations, I cannot simply acquiesce to the Treasury Department's grant of this waiver. This situation points up the conflicting national policies which we are now pursuing which threaten the economic death of the New England fishing industry.

First, while Canada is phasing out these more blatant subsidies to its fishermen, there is no doubt that indirect Canadian subsidies will continue, from insurance programs to possible price supports. Canada, in short, has been far better to its fishing industry than the United States has to its own. As a result, we had a \$2.1 billion trade deficit in the fisheries in 1977. And all indications are that deficit may well grow rather than diminish.

In terms of subsidizing its industry, there is little doubt that the past years of assistance which Canada has given its fisheries will be felt for years to come. The assistance given the industry in the past decade, both directly and indirectly, has the overall effect of lowering the operating costs of the fishermen, and of enabling them to capture U.S. markets.

At present between 80 and 90 percent of Canadian catch is exported and the Canadian groundfish exports alone are worth \$200 million annually. These fish come into our New England markets at times when our own fishermen may be tied up at port, unable to fish at all as a result of our national policy of "conser-

vation" of the fisheries. In the past Maine fishermen have been placed in the absurd position of throwing dead cod and haddock overboard because they could not land them, yet they could not prevent them from coming up in their nets. The choice presented was to return to shore and find another way to make a living for 2 weeks or a month, or throw the dead fish back, all in the name of fisheries conservation.

As a result of situations such as this, the Department of Commerce has at last begun to take into account the growing complaints of Maine and New England fishermen. For the record, I would note that they were against the granting of this waiver.

While the direct economic impact of this waiver may not be great, its symbolic impact for our domestic fishermen is, I think, of great importance. We tell our fishermen they cannot fish because we need to conserve the species; we then tell them we will not impose a duty on the Canadian fish which come into our country even though that industry has been Government subsidized for many years. Then we tell them as a matter of trade policy we would prefer not to grant subsidies to our own domestic fishing industry. This is the underlying irony of the situation. As a matter of policy we stand for free trade, for an end to foreign and domestic governmental subsidies to industry. In the long run, I would agree that this is the ideal. But in the short run we have an industry in this country running up against a conflicting national policy—to "conserve" and manage the resource from which that industry obtains its livelihood.

We must rationalize these policies. It is the fisherman who are the victims of this conflict in national policies. I hope that we can open a dialog on how to conserve, not only our natural fishery resource, but also our fishermen. As Chairman of the United States-Canada Interparliamentary Conference, I intend to put fisheries at the top of the agenda for next year's conference.

At this time, I ask unanimous consent that correspondence from the Department of Commerce and to the Treasury Department be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

[The material follows:]

U.S. SENATE,
Washington, D.C., June 1, 1978.

HON. MICHAEL BLUMENTHAL,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: It is our understanding that the Treasury Department is scheduled to make a final determination regarding Canadian subsidies on fish products by June 10, 1978. An affirmative preliminary determination was made last January, and we believe the facts warrant a similar final decision. Your Department must then decide whether or not to grant a waiver of the countervailing duty on fish imports from Canada.

As you may know, the Canadian government has made substantial direct payments to both fishermen and processors on fish exported to the United States. In April, 1977, your Department determined that these payments were bounties or grants (TD 77-107). This decision, however, was limited to only a few of the tariff items covered by the Canadian assistance program. Therefore, a new countervailing duty petition covering a number of other tariff items was filed shortly after the Department's 1977 determination. Your Department has taken the full year permitted by statute to make a determination on the additional tariff items covered by this new petition.

Since April of last year, the Canadian government has been well aware that its Groundfish Temporary Assistance Program and vessel construction assistance programs subjected Canadian fish exports to the United States to countervailing duties. No attempt, however, was made to repeal these subsidy programs. In the interim, we have permitted heavily-subsidized Canadian fish to be sold in U.S. markets.

This situation has created severe economic hardship for New England fishermen. The Department of Labor recently documented the impact of these subsidized imports when it certified employees of several U.S. vessels for Trade Adjustment Assistance.

We recognize that the Multilateral Trade Negotiations (MTN) have entered a sensitive stage in Geneva, and understand that the progress of these discussions will be taken into consideration by your Department when making a final determination on countervailing duties. It is our firm belief, however that the immediate economic pressures on U.S. fishermen must be given priority considera-

tion. We therefore strongly oppose any waiver of countervailing duties on Canadian fish.

Sincerely,

EDMUND S. MUSKIE, EDWARD M. KENNEDY, WILLIAM D. HATHAWAY,
EDWARD W. BROOKE, CLAIBORNE PELL, JOHN H. CHAFEE, THOMAS
J. MCINTYRE, and JOHN A. DURKIN.

U.S. DEPARTMENT OF COMMERCE,
Rockville, Md., June 5, 1978.

Mr. RICHARD SELF,
Director, Office of Tariff Affairs, Office of the Secretary, U. S. Treasury Department, Washington, D.C.

DEAR MR. SELF: The Treasury Department is currently studying the advisability of imposing countervailing duties on imports of certain fish products from Canada pursuant to the petitions of the Point Judith Fisheries Cooperative and the Fisheries Marketing Association of Seattle, Washington. The purpose of this letter is to indicate the Department of Commerce's strong support for the imposition of countervailing duties on such products.

U.S. trade law clearly requires the imposition of countervailing duties on imported fishery products when the evidence indicates that artificially low prices for imports are made possible by foreign government subsidies. The evidence is overwhelming that the Canadian fish imports in question are so subsidized. The Canadian government has instituted an extensive network of programs that assist the Canadian fishing industry in catching, processing, and freezing fish, and in transporting it to the United States, at prices that are more than low enough to compete effectively in the U.S. market.

Under special circumstances, these countervailing duties may be waived. However, we believe strongly that a waiver cannot be justified for this fishery products, for the following reasons:

(1) Canada has not indicated that it will terminate all of its subsidy programs for the fishery products in question.

(2) Canada has apparently indicated a willingness to terminate some of its subsidies. Our experience in connection with Canadian commitments to reduce subsidies in 1977 casts significant doubt on Canada's willingness or ability to comply with such commitments. This suggests that a far better course of action would be to delay any waivers until commitments made by the Canadian government for the removal of subsidies have in fact been carried out.

(3) The adverse impacts of allowing subsidized products to be imported into U.S. markets will persist long after the subsidies are terminated. Subsidized vessels constructed prior to termination of subsidies will continue to compete with non-subsidized U.S. vessels long after such termination. Markets such as the mid-western market captured by Canadian industry through anticompetitive subsidies cannot easily be recaptured by U.S. industry at a later date.

(4) The purposes of the Fishery Conservation and Management Act of 1976 are significantly undermined by such subsidies. The Act was aimed at both conserving U.S. fishery resources and developing a strong U.S. fishing fleet. In order to protect fishery resources, the U.S. fleet is required to adhere to rigorous quotas to restrict the amount of fish that can be caught. Without heavy competing supplies of low-priced Canadian imports, the price for fish harvested by the U.S. fishing industry would tend to rise during the period that U.S. fishermen are forced to restrict their catches. Such a price rise would assist the harvesting sector of the U.S. groundfish industry to survive the period of quotas needed to restore our groundfish stocks. And because the price of raw material is only a part of the price of fish products, the impact of countervailing duties on U.S. consumers will be minimal.

The question of whether special circumstances exist that justify a countervailing duties waiver must be considered in light of the significant United States balance of trade deficit in fishery products was \$2.1 billion in 1977. The waiver of duties on these Canadian imports will further exacerbate this problem.

Even when and if Canada meets the requirements for a waiver of these duties, we believe that a waiver should be withdrawn should it become evident that a subsidy code cannot be achieved in the Multilateral Trade Negotiations.

We would be pleased to provide you with any additional information you may need in connection with this matter.

Sincerely yours,

RICHARD A. FRANK.

[This concludes the material.]

Mr. MUSKIE. Mr. President, I join my colleague Senator Hathaway in offering a resolution to disapprove the Treasury Secretary's decision to waive countervailing duties on imports of fish from Canada.

Mr. Blumenthal's decision was disappointing to our fishermen and has no sound basis in fact.

The countervailing duty system was designed to guarantee the right of Americans to compete on an equal basis with other nations in the American marketplace. The Canadians provide subsidies to their fishermen. As a result, Canadians can catch fish in American waters, and undersell our own fishermen in our own markets. The countervailing duty system was put in place to stop these kinds of practices.

The harm to our fishermen has been documented. The Canadian Government has been on notice for more than a year that action might be taken to protect our own industry.

Yet at the 11th hour, the Canadian Government petitioned for relief from countervailing duties in America. Apparently the importance of Canadian support for other American trade interests prompted the Treasury Secretary to grant their request.

And the interests of our domestic industry were once again brushed aside.

American fishermen are faced not only with financial hardship as a result of competition from Canada. In many cases they are denied markets outright; in other cases they are prevented from developing market strategies to avoid the boom-bust cycle of fish prices; in still other cases unfair Canadian competition blocks Americans from developing onshore processing facilities to take advantage of available markets.

The Trade Act was designed to correct just such problems. And the Trade Act was designed to allow Congress to be the final arbiter in extreme cases through resolutions like the one we introduced today. The case of Canadian fish imports is just such an extreme and obvious case of unfairness. I urge the Congress to act quickly to impose countervailing duties and give the beleaguered American industry the support it merits.

SECRETARY OF THE TREASURY,
Washington, D.C., July 11, 1978.

Hon. WILLIAM D. HATHAWAY,
U.S. Senate, Washington, D.C.

DEAR BILL: Thank you for your letter of June 1, 1978, signed by 7 of your colleagues urging that the Treasury Department not waive countervailing duties against fish imports from Canada.

As I am sure you are aware, we determined to waive countervailing duties on June 12, 1978. *Federal Register* Notices to that effect are enclosed. The decision was based upon two factors: (1) the Canadian Government's prompt decision to dismantle its direct subsidy program to fishermen and processors, and (2) the detrimental effect the imposition of countervailing duties would have on our efforts to reach an international accord on subsidies and countervailing duties in the Geneva trade talks.

Based on Treasury's investigation, every identified subsidy program provided by the Canadian Federal and Provincial Governments to its fishing industry was held to be a "bounty or grant" under our Countervailing Duty Law, because a preponderance of all Canadian fish production is exported. Most of the subsidies, measured by the *ad valorem* impact, fall under the Ground fish Temporary Assistance Program, which provided direct benefits to fishermen and processors. The subsidy was approximately 13 percent of the value. Other subsidies, including regional assistance grants and vessel construction assistance, when allocated over the useful life of the item subsidized and spread over the entire catch, was approximately 1 percent of the value.

The Canadian Government acted last week to dismantle the Groundfish Temporary Assistance Program, whose annual appropriation in the past was \$50 million. Any claims from processors and fishermen with large vessels will not be honored retroactive to March 31, 1978. This effectively reduced the net effect of the bounty or grant on fish exports to this country by approximately 65 percent. The subsidy to fishermen with small vessels, which account for about 50 percent of the catch, will be eliminated October 1, 1978. By that date 92 percent of the bounty or grant will have been eliminated, leaving in place only the indirect subsidies referred to above. Thus, fish imports benefiting from these

subsidies will be subject to countervailing duties on January 4, 1979, the date of expiration of the waiver.

Based on these actions, we concluded that the Canadians had significantly reduced the adverse effects of the bounties, thus satisfying the first criterion for granting a waiver. We also considered Canada's role in the Multilateral Trade Negotiations in Geneva and particularly its active participation in negotiations to reach an international accord on subsidies and countervailing duties. As these negotiations reach their final stage, it is a fair conclusion, as urged by Ambassador Strauss, our Special Trade Representative, that a countervail against an important Canadian product could have seriously jeopardized these negotiations, especially on the heels of the almost complete dismantling of a large subsidy program.

We had your interest and concern very much in mind as we resolved this difficult issue.

Sincerely,

W. MICHAEL BLUMENTHAL.

○