CERTAIN FRESH ATLANTIC GROUNDFISH FROM CANADA

Determination of the Commission in Investigation No. 701-TA-257 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation

USITC PUBLICATION 1844

MAY 1986

United States International Trade Commission / Washington, DC 20436

UNITED STATES INTERNATIONAL TRADE COMMISSION

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David Coombs, Office of Investigations
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Holly Glenn, Office of Economics
Randi Field, Office of the General Counsel
Richard Laulor, Office of Investigations

Lynn Featherstone, Supervisory Investigator

Address all communications to
Kenneth R. Mason, Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

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Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report. These deletions are marked by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 701-TA-257 (Final)

CERTAIN FRESH ATLANTIC GROUNDFISH FROM CANADA

Determinations

On the basis of the record 1/ developed in the subject investigation, the Commission determines, 2/ pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)), that an industry in the United States is materially injured by reason of imports from Canada of fresh and chilled (whole) cod, haddock, pollock, hake, and flounders and other flatfish (except halibut), whether whole or processed by removal of heads, viscera, fins, or any combination thereof, but not otherwise processed, provided for in items 110.15 and 110.35 of the Tariff Schedules of the United States (TSUS), which have been found by the Department of Commerce to be subsidized by the Government of Canada. Further, the Commission unanimously determines that an industry in the United States is not materially injured or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports from Canada of otherwise processed (fillets and steaks) fresh and chilled cod, haddock, pollock, hake, and flounders and other flatfish (except halibut), provided for in items 110.50, 110.55, and 110.70 of the TSUS, which have been found by the Department of Commerce to be subsidized by the Government of Canada.

1/ The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).

2/ Commissioners Eckes, Lodwick, and Rohr made affirmative determinations. Chairwoman Stern, Vice Chairman Liebeler, and Commissioner Brunsdale made negative determinations. Pursuant to 19 U.S.C. sec. 1677(11) (1980), when the Commissioners voting on a determination by the Commission are evenly divided as to whether the determination should be affirmative or negative, the Commission shall be deemed to have made an affirmative determination.

Background

The Commission instituted this investigation effective January 9, 1986, following a preliminary determination by the Department of Commerce that imports of certain fresh Atlantic groundfish from Canada were being subsidized within the meaning of section 701 of the Act (19 U.S.C. § 1671). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of January 24, 1986 (51 F.R. 3268). The hearing was held in Washington, DC, on April 1, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

The Commission determines [1/] that an industry in the United States is materially injured by reason of subsidized imports of fresh whole Atlantic groundfish from Canada. Our affirmative determination is based primarily on the declining financial performance of the domestic harvesting industry during a period when the subject imports were increasing in volume and market penetration.

The Commission determines that an industry in the United States is not materially injured or threatened with material injury by reason of subsidized imports of fresh Atlantic groundfish fillets from Canada. [2/] This negative determination is based largely upon insufficient evidence of injury and the domestic processing industry's opposition to the petition.

Definition of like product/domestic industry

As a threshold matter, we are required to define the scope of the domestic industry to be examined in this countervailing duty investigation. The term "industry' is statutorily defined in section 771(4)(A) as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." [3/] In turn, "like product" is

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1/ Although Chairwoman Stern, Vice Chairman Liebeler, and Commissioner Brunsdale find in the negative with respect to the domestic industry producing fresh whole Atlantic groundfish, they join in the discussion of the like product/domestic industry and the condition of the domestic industries. See Views of Chairwoman Stern, Vice Chairman Liebeler, and Commissioner Brunsdale.

2/ "Material retardation" was not an issue in this investigation and will not be discussed further.

3/ 19 U.S.C. § 1677(4)(A).

defined as a "product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation. . . ." [4/]

Like product

The term groundfish applies to several species living on or near the seabed. In the preliminary investigation, the Commission made a number of determinations regarding the definition of the "like product." First, we found no significant difference between the domestic and imported fresh Atlantic groundfish, [5/] [6/] but we did exclude frozen groundfish and Pacific groundfish from the definition of like product. [7/] The Commission also found that, with respect to form, there were two like products: fresh whole Atlantic groundfish and fresh Atlantic groundfish fillets. [8/] In this final investigation, no party has raised any arguments in favor of different findings on these questions and the information in the record does not suggest a different conclusion.

One issue that remains unresolved is whether the Commission should include within the like product definition a variety of groundfish species that are not named in the petition and not subject to investigation--namely,

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4/ 19 U.S.C. § 1677(10). The imported products in this investigation are fresh whole and fresh fillets of Atlantic groundfish including cod, haddock, pollock, hake, and flatfish (including flounder and sole).

5/ Certain Fresh Atlantic Groundfish from Canada, Inv. No. 701-TA-257 (Preliminary), USITC Pub. 1750 at 3-4 and n.4 (1985) (hereinafter Preliminary Determination).

6/ Commissioner Brunsdale agrees with her colleagues regarding the definition of like product but observes that while domestic and imported fresh groundfish are very similar (i.e., close substitutes), they are not perfect substitutes. For example, see Memorandum from the Office of Economics, EC-J-183.

7/ Preliminary Determination at 5 nn.8 & 9.

8/ Preliminary Determination at 5.

cusk, redfish, and catfish. 9/ The species subject to investigation are distinguishable from the nonsubject groundfish species, such as cusk, because the subject species are significantly more marketable for human consumption and are generally the highest value species. Thus, we determine that the other groundfish species are not like the subject species and, therefore, exclude them from the definition of the like product. In all other respects, we adopt the definition of like product reached in our preliminary investigation.

Domestic industry

In this final investigation, we determine that there are two domestic industries: (1) the harvesting industry, consisting of the fishing enterprises that catch Atlantic groundfish, and (2) the processing industry, consisting of the firms that produce Atlantic groundfish fillets from whole fish. 10/ 11/

9/ Although not named in the petition, Atlantic whiting, also known as silver hake, is subject to investigation.

10/ Vice Chairman Liebeler expressed her views on the harvester-processor issue in Live Swine and Pork from Canada, Inv. No. 701-TA-224 (Final), USITC Pub. 1733 (1985) (Additional Views of Vice Chairman Liebeler). In Live Swine, she explained her reservations concerning the legality as well as the economic rationale of the two-part test for determining when growers are part of the downstream industry. These same reservations apply to the test as applied to the fillet industry. She notes, however, that her negative determination in this case is not dependent on whether the harvesters are included in the fillet industry.

11/ Commissioner Brunsdale reserves judgment about the analysis and conclusion of her colleagues regarding the definition of the industry for fresh groundfish fillets. She also notes that if this industry were defined to include harvesters as well as processors it would not have affected her decision in this case.

The definition of the domestic industry which produces fresh whole Atlantic groundfish is the same as our determination in the preliminary investigation. However, in the preliminary investigation, the Commission also determined that the domestic industry which produces fresh Atlantic groundfish fillets consisted of both the harvesters and the processors of the fillets. 12/ That determination was based primarily upon the fact that there is a single, continuous line of production. 13/

We noted at that time, that in prior agricultural investigations, the Commission has assessed whether there was a direct economic tie between the growers and the processors. The Commission focused on the relationship between the growers and the processors either in the form of economic integration, interlocking ownership, or profit participation by both groups. 14/ This factor has been used to distinguish those situations in which an industry producing a processed agricultural product consists of growers and processors from those in which the growers were merely suppliers of the raw material with divergent economic interests from the processors.

12/ Chairwoman Stern and Commissioner Rohr determined that the domestic industry producing groundfish fillets consisted solely of the processors of fillets. Preliminary Determination at 7 n.13.

13/ Approximately 90 percent of the raw product, fresh whole groundfish, is sold in the fresh fillet market and the primary purpose of harvesting fresh whole groundfish is to produce fresh groundfish fillets.

14/ See, e.g., Live Swine and Pork from Canada, Inv. No. 701-TA-224 (Final), USITC Pub. 1733 at 6-7 (1985); Certain Tomato Products from Greece, Inv. No. 104-TAA-23, USITC Pub. 1594 at 7 (1984); Certain Red Raspberries from Canada, Inv. No. 731-TA-196 (Preliminary), USITC Pub. 1565 at 7-8 (1984); Certain Table Wine from France and Italy, Invs. Nos. 701-TA-210 and 211 (Preliminary), USITC Pub. 1502 at 9-19 (1984); Frozen Concentrated Orange Juice from Brazil, Inv. No. 701-TA-184 (Preliminary), USITC Pub. 1283 at 7 (1982); Sugar from the European Community, Inv. No. 104-TAA-7, USITC Pub. 1247 at 4 (1982); and Lamb Meat from New Zealand, Inv. No. 701-TA-80 (Preliminary), USITC Pub. 1191 at 8-10 (1981)

During the preliminary investigation, the Commission recognized the existence of economic integration at the Point Judith Fishermen's Cooperative in Rhode Island. Since the preliminary investigation, however, the Commission received new information that the Cooperative now acts solely as a broker for the fish landed by its member fishermen rather than as a processor. 15/

In the preliminary investigation, the Commission also focused on the apparent existence of some informal economic integration as evidence of a commonality of economic interest. We noted that testimony had been introduced at the preliminary conference that approximately 90 percent of New England fish is sold through "reciprocal arrangements." 16/ We stated that we would seek additional information on these reciprocal arrangements or other indicia of an integrated relationship in any final investigation.

Counsel for the petitioner asserted in this final investigation that the fishermen frequently have informal supply contracts with processors whereby the processor will agree with one or more harvesters that he will buy their catch and the harvesters will, in turn, agree to supply fish to that processor. These are commitments to supply and to purchase, but not at a predetermined price. 17/ There is no evidence in the record that these informal arrangements are widespread.

We find that the harvesters should not be considered members of the processing industry because the requisite commonality of economic interest does not exist. But our decision to exclude harvesters from the definition of

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15/ See GC-J-069 at 10.

16/ These were explained as guaranteed, informal arrangements of trust whereby both parties do favors for one another and "form . . . prices hands on, day-by-day." Transcript of the conference at 175-78.

17/ Petitioners' Post-Hearing Brief, Annex A at 11-15. It is alleged that the price received by harvesters under such an arrangement will reflect the daily demand for the final product, fresh fillets.

the processing industry is based upon other considerations in addition to those discussed above.

While we do not believe that any specific type of evidence on integration is required to include growers (or harvesters) in the definition of the domestic industry, we continue to interpret the law to require more than just a supplier relationship. It is only appropriate to include harvesters or growers in a processing industry if both groups function as a single industry. In the instant investigation, strong opposition was expressed by the processors to the petition. That opposition, in addition to those indicia discussed above, indicates to us that the harvesters and processors have differing interests and do not function as a single industry.

Related parties--The petitioner requested that the Commission exclude from the definition of the domestic industry those processors who are importing fresh Atlantic groundfish fillets from Canada. 18/ One basis for the related parties provision is the concern that including those domestic producers may distort the data regarding injury. The questionnaires specifically requested processors to provide data concerning their level of imports of both whole fish and fillets. The processors failed to respond. 19/

Although we know that most fillet producers are importing significant amounts of whole fish, we do not have sufficient information regarding their

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18/ Petitioners' Post-Hearing Brief, Annex A at 22-23. Under section 771(4)(B) of the Act, 19 U.S.C. § 1677(4)(B), the Commission, in appropriate circumstances," may exclude from its definition of the domestic industry those producers which are related to exporters or importers, or are themselves importers of the subsidized goods.

19/ Whether processors import whole fish is irrelevant to a finding that they are related to importers, or are themselves importers, of subsidized fillets. A related party must, of course, be "related" to the product which he imports.

imports of fillets to exclude any of them under the related party provision. We, therefore, determine that circumstances are not appropriate for excluding any processors from the definition of the domestic industry on the basis of the related parties provision.

Regional industry

The petition alleges that there are two regional industries: one consisting of the fishermen producing fresh Atlantic groundfish in the Atlantic coastal states from Maine to Virginia and the other consisting of the processors in that region. 20/

In this final investigation, the petitioner abandoned its regional industry analysis with respect to the processing industry based upon

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20/ Section 771(4)(C) states that "in appropriate circumstances, the United States, for a particular product market, may be divided into two or more markets and the producers within each market may be treated as if they were a separate industry . . . ." 19 U.S.C. § 1677(4)(C). In making a regional industry determination, the Commission must decide if:

> (i) the producers within such market sell all or almost all of their production of the like product in question in that market, and
>
> (ii) the demand in the regional market is supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States.

In such appropriate circumstances, material injury, the threat of material injury, or material retardation of the establishment of an industry may be found to exist with respect to an industry even if the domestic industry as a whole, or those producers whose collective output of a like product constitutes a major proportion of the total domestic production of that product, is not injured, if there is a concentration of subsidized or dumped imports into such an isolated market and if the producers of all, or almost all, of the production within that market are being materially injured or threatened by material injury, or if the establishment of an industry is being materially retarded, by reason of the subsidized or dumped imports.

the substantial amount of fillets that are shipped to areas outside the proposed region. 21/

Regarding the fresh whole Atlantic groundfish industry, we find that a regional industry analysis is inappropriate in this investigation. As stated above, the Commission has determined that fresh Pacific groundfish is not like fresh Atlantic groundfish and, therefore, should not be included within the definition of the like product. It, therefore, logically follows that the domestic producers of fresh Pacific groundfish are not included within the definition of the domestic industry. Inasmuch as the domestic industry is composed solely of the harvesters of fresh Atlantic groundfish, the national industry corresponds to any regional industry.

Condition of the domestic industry producing fresh whole Atlantic groundfish

In assessing the condition of the domestic industry, the Commission considers, among other factors, the trends in production, employment, wages, and profitability. 22/ In this investigation, the Commission considered such information for the period covering January 1982 through December 1985.

U.S. commercial landings of the groundfish covered by this investigation stood at roughly 411 million pounds in 1982, rose by about 1 percent in 1983, and then declined in 1984 to 382.3 million pounds, a decrease of 7 percent from 1982. Landings again declined in 1985 by 13 percent from the previous year to 331.5 million pounds, representing a decrease of 19 percent from the figures cited in 1982. 23/

21/ Petitioners' Pre-Hearing Brief at 18-19; Tr. at 65, 68.
22/ 19 U.S.C. § 1677(7)(C)(iii).
23/ Report at A-20-21. Data on commercial landings and number of vessels were available from the National Marine Fisheries Service.

Data collected by the Commission on the number of fishing vessels having their principal port in New England and landing any species of groundfish in New England at any time during the year indicate that there are three primary types of vessels under consideration: otter trawler, longliners, and gillnetters. 24/ The total number of vessels having their principal port in New England and landing groundfish in New England increased slightly during the course of the investigation. 25/ Further, we note that there has been a shift from smaller vessels to larger vessels. 26/

Data collected by the Commission from questionnaires submitted by vessel owners indicates that employment has declined by ten percent during 1983-1985. 27/ This trend has been corroborated by both testimony 28/ and staff interviews.

Of the 114 vessel owners who received a Commission questionnaire, 28 who reported that at least 50 percent of their catch consisted of groundfish

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24/ Id. at A-20, A-22. The primary differences between the types of vessels under consideration are their size and the method they employ to catch fish.
25/ Otter trawlers increased from 835 vessels in 1983 to 846 vessels in 1985; however, vessels over 150 tons increased from 79 to 104 vessels. Id. at A-22. The number of longliners remained steady from 1983 to 1984, and then increased to 55 vessels in 1985. The number of gillnetters decreased from 145 vessels in 1983 to 137 vessels in 1985. The decline in the number of gillnetters may be related to the shift in otter trawlers, as some former gillnetters may have opted for larger vessels. Id. at A-23.
26/ Id. at A-22-23. There are several causes that contribute to this apparent shift from small to larger vessel: (1) larger vessels enhance the ability to both make longer trips and fish a greater number of days; (2) they also enhance the ability to harvest a greater volume of a wider variety of species (partially alleviating the adverse effects of price fluctuations), and (3) there was a general increase in the number of fishing vessels on the market after 1981, available from other U.S. ports such as the South Atlantic and the Gulf ports, that brought down the price of used vessels and allowed a fisherman to sell a smaller vessel and buy a larger used vessel economically. Id. at 23.
27/ Id. at A-23.
28/ Tr. at 17, 116-117.

landings furnished usable income-and-loss data for the three-year period 1983-85. [29/] The aggregate gross revenue of these 28 individual vessel owners remained virtually unchanged at $9.6 million in 1983 and 1984 and then declined 6.6 percent to roughly $9.0 million in 1985. [30/] Expenses exceeded gross revenue in all three reporting years, increasing from 101.5 percent of gross revenue in 1983 to 106.6 percent in 1985. Cash flow (net loss before taxes plus depreciation expense) declined from $0.95 million in 1983 to $0.55 million in 1985. Net losses before taxes as a percent of gross revenue rose from 1.9 percent in 1983 to 7.1 percent in 1985. [31/] Of the 28 vessel owners that responded to the Commission's questionnaire, 20 reported losses in all three years. [32/]

On the basis of the available information, therefore, we determine that the domestic industry harvesting whole Atlantic groundfish is experiencing material injury. [33/] [34/]

29/ Report at A-24. Approximately 78 vessel owners responded to the Commission's questionnaire. In light of the nature of this industry, the Commission considers this response rate to be particularly good. Most of the questionnaire data were not usable, however, because less than 50 percent of the catch of the vessel owners supplying the data consisted of groundfish landings.

30/ Report at A-25.

31/ Id. at A-13.

32/ Id.

33/ Chairwoman Stern does not believe it necessary or desirable to make a determination on the question of material injury separate from the consideration of causality.

34/ Commissioner Eckes believes that the Commission is to make a finding regarding the question of a reasonable indication of material injury or threat thereof in each investigation. See Cellular Mobile Telephones and Subassemblies Thereof from Japan, Inv. No. 731-TA-207 (Final), USITC Pub. 1786 at 20-21 (1985).

Material injury of the domestic industry producing fresh whole Atlantic groundfish by reason of the subsidized imports from Canada

In determining whether material injury exists by reason of the subject imports, the Commission is required to consider a number of factors. These factors include the volume of imports of the merchandise under investigation, the effect of such imports on domestic prices, and the impact of such imports on the domestic industry. 35/ Evaluation of these factors involves a consideration of (1) whether the volume of imports or increase in volume is significant, (2) whether there has been significant price undercutting by the imported products, and (3) whether imports have otherwise depressed prices to a significant degree or prevented price increases. 36/ Our consideration of the factors and conditions of trade in the whole groundfish industry leads us to the determination that the subsidized imports of whole groundfish from Canada have caused material injury to the domestic industry.

Import levels--The bulk of U.S. imports of fresh whole Atlantic groundfish are Canadian in origin. 37/ The quantity of Canadian imports of the fresh whole Atlantic groundfish increased from almost 36 million pounds in 1982 to 46.3 million pounds in 1983. In 1984, the imported Canadian product was 76.1 million pounds, more than double the amount in 1982, and these imports rose again in 1985 to 94 million pounds. 38/

35/ 19 U.S.C. § 1677(7)(B).
36/ 19 U.S.C. § 1677(7)(C).
37/ Import statistics compiled by the U.S. Department of Commerce on whole Canadian groundfish include imports of Pacific species which are believed to account for less than 20 percent of the total. Even without the data concerning imports of Pacific groundfish, however, the import trends remain the same.
38/ Report at A-39.

Market penetration of fresh whole Atlantic groundfish from Canada increased throughout the course of the investigation. Canadian imports accounted for eight percent of apparent U.S. consumption in 1982, which rose in 1983 to ten percent, 16.5 percent in 1984, and in 1985 Canadian imports accounted for 22 percent of U.S. consumption. 39/

Groundfish resources--Much information was collected during the course of this investigation concerning groundfish resource availability. 40/ Certain historical events have contributed to the decline in groundfish resources. 41/ As a result of the resource problem, the Northeast Fisheries Center (NEFC) of the National Marine Fisheries Services conducts annual assessments of the availability of various species off the Northeastern United States. 42/ These surveys indicate that haddock and yellowtail flounder stocks have generally declined during the period of investigation. 43/ Cod increased from 1983 to 1984 but then declined thereafter.

The decline in groundfish resources combined with a decrease in commercial landings certainly contributed to the economic difficulties experienced by the vessel owners. However, the Commission is required by statute 44/ to determine only if the subsidized imports of fresh whole Atlantic groundfish

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39/ Report at A-41.
40/ Report at A-27-35.
41/ Report at A-27, A-30. A major event affecting the harvesting and management of the groundfish resources off the Northeast coast was the October 12, 1984, decision of the International Court of Justice delimiting the Atlantic maritime boundary between the United States and Canada. Report at A-30-31. The area in dispute was comprised primarily of Georges Bank, which contains some of the world's most productive and valuable fish resources and is a major source of the subject groundfish. Report at A-31. The World Court decision awarded about 80 percent of Georges Bank to the United States. The Court awarded Canada a portion of Georges Bank called the Northeast peak, which is viewed by many to be the most productive section of the Bank.
42/ Report at A-31.
43/ Report at A-31-33, Figures 1 and 2.
44/ 19 U.S.C. § 1671d.

from Canada constitute one of the possibly many causes of the condition of the domestic industry. 45/ In our view, the difficulties experienced by the domestic industry as a result of a decline in groundfish resources make the domestic industry more vulnerable to injury from the significant levels of subsidized imports.

Pricing--Processors were asked to report prices paid for their largest purchase of whole domestic and Canadian market cod and haddock on the second Monday of each month from January 1984 through December 1985. 46/ These prices varied widely from month to month. Responses collected and tabulated revealed an upward trend in the prices paid for both domestic whole haddock and whole market cod. Vessel owners also were asked to report prices received for their catches of market cod and haddock on the second Monday of each month from January 1984 through December 1985. 47/ The prices received by vessel owners show the same month to month variability and upward trend as the prices paid by processors.

45/ In interpreting this causation standard, the legislative history to the Trade Agreements Act of 1979 states that:

> Current law does not, nor will section 705, [19 U.S.C. § 1671d] contemplate that the effects from the subsidized imports be weighed against the effects associated with other factors (e.g., the volume and prices of non-subsidized imports, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between foreign and domestic producers, . . .) which may be contributing to overall injury to an industry. Nor is the issue whether the subsidized imports are the principal, a substantial, or a significant cause of material injury. Any such requirement has the undesirable result of making relief more difficult to obtain for industries facing difficulties from a variety of sources; such industries are often the most vulnerable to subsidized imports. S. Rep. No. 249, 96th Cong., 1st Sess. 57 (1979).

46/ Report at A-51.

47/ Id. at A-56.

Canadian prices also showed an upward trend but were somewhat less variable than U.S. prices. 48/ The weighted-average prices for Canadian whole fish do not reveal a constant differential from the corresponding U.S. price, but were more often less than the U.S. price than they were above it.

The data show some evidence of underselling by Canadian imports during the end of 1984 and throughout 1985. 49/ Any evidence of price leadership by imports is particularly significant in a commodity market in which the products involved are essentially fungible and competition is based largely on price. 50/

The reduced supply of whole groundfish available for processing would be expected to result in an increase in prices. Thus, it is not surprising to see an increase in the average value of U.S. landings per pound from $0.40 in 1982 to $0.53 in 1985. When imports increase, however, U.S. processors face an additional source of supply and are less willing to pay higher prices for domestic fish. This acts to suppress to some degree the price increases that would occur due to the decline in landings. 51/ Thus, domestic prices for whole groundfish are lower than they would have been without the increase in subsidized imports from Canada.

48/ Id. at A-56.
49/ Id. at A-53-54, Figures 11 and 12.
50/ Although arguments were made regarding the quality and yield distinctions between Canadian and domestic whole fish, we were unable to specifically quantify those differences. Because the price for every transaction is negotiated, a wide variety of factors are considered in that negotiation. Therefore, transaction prices only show the result of the negotiation and do not reflect the weight given to each of these factors.
51/ Petitioners' Prehearing Brief at 45; EC-J-183 at 8.

The harvesters of Atlantic groundfish have been unable to recover the costs of harvesting operations in part because of this price suppression. Therefore, we find that the harvesting industry is materially injured by reason of the subsidized imports from Canada.

Condition of the domestic industry producing fresh Atlantic groundfish fillets

Before we discuss the condition of the processing industry, elaboration regarding the participation of the processors in this investigation is warranted. During this final investigation, the Commission's staff sent questionnaires to 97 firms believed to be significant processors of fresh Atlantic groundfish fillets in an attempt to gather information on their operations. 52/ Numerous efforts were made to obtain the requisite information from the processors so that the Commission would be in a position to make an informed decision regarding their condition. 53/ Even more significant than the difficulties the Commission encountered in attempting to

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52/ Report at A-36. These firms are estimated to account for over 80 percent of U.S. production of the fillets covered by this investigation.

53/ Only a handful of usable responses to the original questionnaire were received by the return date specified therein. A majority of the original 97 processors then were sent a shortened version of the questionnaire with an accompanying letter from the Commission's General Counsel explaining why the information sought was necessary. See Action Request submitted to the Commission by the Office of the General Counsel requesting Commission authorization for the issuance of orders requiring certain processors to complete the Commission's questionnaire and requesting Commission authorization to seek judicial enforcement of the orders in the event of noncompliance. Additionally, the Commission sent one of its Assistant General Counsels and one of its Supervisory Investigators to a fish show in Boston to explain the need for the information. Finally, the Commission sent out subpoenas to certain processors who were believed to be among the largest processors in the industry.

collect the relevant data to conduct its investigation is the strong opposition of the processing industry to the petition. 54/

The failure of the majority of the processing industry to respond to the Commission's questionnaire, the fact that the Commission was required to subpoena companies that were members of the co-petitioner, and the overwhelming, unconditional opposition of the processing industry to the petition compels us to draw the adverse inference that this industry does not seek the Commission's assistance in combatting unfairly traded imports.

We stress, however, that even if the Commission had not drawn an adverse inference against the processors, we still would have concluded, on the basis of the best information available, that the processing industry is not experiencing material injury by reason of the subsidized imports.

We note that U.S. production of fresh groundfish fillets increased from 95.6 million pounds in 1982 to 98.3 million pounds in 1983, and rose again in 1984 to 102.3 million pounds. In 1985, production reached 105.2 million pounds. 55/

Fourteen processors furnished usable income-and-loss data on their overall establishment operations and 10 of the 14 provided usable data on their

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54/ The petition in this investigation was filed on August 5, 1985, by the North Atlantic Fisheries Task Force (NAFTF), an ad hoc group representing fishermen, fishermen's cooperatives, and processors located in the northeastern United States. On August 23, 1986, the Boston Fisheries Association, a member of the NAFTF submitted a statement to the Department of Commerce establishing itself as co-petitioner. During the course of this investigation, we have received statements from the Boston Fisheries Association as a whole and from the Association's members individually stating their unconditional opposition to the petition. We also have received statements from a significant number of other processors expressing their unconditional opposition to the petition.

55/ Report at A-34.

operations processing fresh and chilled whole groundfish and fillets. 56/ The financial data furnished by the fillet industry indicates increased sales, profits, and cash flow. Net sales increased from $92.8 million in 1983 to $99.3 million in 1984, and rose to $109.3 million in 1985. 57/ Operating income was $1.63 million in 1983, or 1.8 percent of net sales. In 1984, operating income declined to $1.58 million, or 1.6 percent of net sales; however, in 1985, operating income shot up to $2.9 million and represented 2.7 percent of net sales. 58/ Cash flow rose steadily from $2.3 million in 1983 to almost $3.9 million in 1985. 59/ In 1984 and 1985 only one firm reported an operating loss.

The fact that the processors performed better financially at a time when imports of fillets were continually rising also precludes a determination that the processing industry is threatened with material injury by possible future increases in imports. The Commission, therefore, finds that the processing industry is not materially injured or threatened with material injury. 60/

56/ Report at A-36.
57/ Id. at A-37.
58/ Due to the nature of this industry, we conclude that these relatively low operating margins are not indicative of injury. Significantly, there is an upward trend in operating income during the period of investigation.
59/ Id. at A-37.
60/ Vice Chairman Liebeler and Commissioner Brunsdale note that even if the processing industry were to include harvesters, any material injury to this industry is not "by reason of" fillet imports. See their views which follow.

VIEWS OF CHAIRWOMAN STERN, VICE CHAIRMAN LIEBELER, AND COMMISSIONER BRUNSDALE

Based on the record in this investigation, we determine that no domestic industry in the United States is materially injured, or threatened with material injury, by reason of subsidized imports of fresh whole Atlantic groundfish from Canada that have been the subject of affirmative countervailing duty determinations by the Department of Commerce. 1/

As previously stated, we concur with the majority in this case that there are two like products: (1) fresh whole Atlantic groundfish ("whole groundfish") and (2) fresh Atlantic groundfish fillets ("groundfish fillets"). For purposes of our analysis we also agree that there are two domestic industries and that one of them, the whole groundfish industry, is comprised of those firms that catch the fish ("harvesters"). 2/

Our reasons for concluding that processors are not materially injured, or threatened with material injury, by subsidized imports of fillets are given in the majority decision. However, our evaluation of the effect on harvesters from subsidized imports of whole groundfish is given below. 3/

No material injury by reason of subsidized imports from Canada

The record in this investigation demonstates that the threefold increase in imports between 1982 and 1985 4/ is a response to the serious decline in

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1/ Material retardation of the establishment of an industry in the United States is not an issue in these investigations and will not be discussed.
2/ But see nn. 10, and 11 supra.
3/ Vice Chairman Liebeler and Commissioner Brunsdale note that the following discussion applies equally to the effect on harvesters from subsidized fillet imports. This issue is important because we have earlier suggested that the fillet industry could include harvesters as well as processors.
4/ Report at A-40.

the resource base of groundfish in U.S. territorial waters. This is reflected in the steady drop in average catch per day by U.S. fishing vessels despite increased fishing activity. Between 1983 and 1985, the average catch fell from 5,464 to 4,675 pounds per day, or by 14 percent, while the number of fishing days recorded by these vessels increased from 3,117 to 3,430. 5/ The decline in catch was clearly not due to lack of effort by domestic fishermen. Rather, the decline is attributable to a fall in the availability of the major types of groundfish, e.g., haddock, yellowtail flounder, and cod. 6/ Thus, the reason for the substantial increase in imports is the contraction in domestic supply 7/ 8/ that contributed significantly to the 32 percent increase in the average price of U.S. groundfish between 1982 and 1985, 9/ which in turn encouraged processors to import more whole groundfish from Canada.

5/ Id. at A-29.
6/ Id. at A-27-35.
7/ The contraction in domestic supply is confirmed by Dr. Merrill J. Bateman, economist for the petitioners, Transcript of the proceedings before the Commission at 59.
8/ Chairwoman Stern notes that although imports have shown a substantial increase, even the influx of whole fish from Canada has not been enough to stop a downward trend in available supply. Report at A-7.

Additionally the prices paid to U.S. fishermen have increased throughout the period under study, despite the increase in imports. This is not unexpected, since testimony has confirmed that U.S. fish is fresher and yields more than Canadian fish. This increase in price is what one would expect to occur when the supply of a product in demand declines. With the increase in price, it appears that any problem experienced by fishermen in not meeting costs again points to inadequate landings, and thus the decline in the resource.

The Canadian product has been alleged to suppress the returns to U.S. fishermen. No conclusive evidence has been presented to support, or conversely to disprove, this theory. Rather, an equally possible result of imports is that they have kept the average U.S. price affordable at the retail level for most consumers, thus protecting the market share won by fish in recent years. This result is not injurious, but rather desirable.
9/ Id. at A-21.

Furthermore, we note that in prior title VII cases the Commission has considered, as one factor among many, the subsidy or dumping margins. 10/ The higher the subsidy, the more likely there is material injury by reason of subsidized imports. In the present case, Commerce has determined that the subsidy is 5.82 percent ad valorem. 11/ Apart from the declining resource base, we find that this subsidy margin is too low to be a cause of material injury in this case. 12/ 13/

No threat of material injury by reason of subsidized imports from Canada

A finding of threat of material injury must be based on evidence that the threat is real and the actual injury is imminent and must not be based on mere

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10/ See Heavy-Walled Rectangular Welded Carbon Steel Pipes and Tubes from Canada, Inv. No. 731-TA-254 (Final), USITC Pub. 1808 (1986).

11/ 51 Fed. Reg. 10041 (Mar. 24, 1986).

12/ Chairwoman Stern notes that qualifying a subsidy level as large or small depends on the market that it is impacting and the pricing structure of that market. For another industry this level of subsidy could be large.

The data for Canadian and domestic whole cod and haddock show weighted-average prices to be highly variable from month to month. Canadian prices fluctuated between exceeding and undercutting domestic prices throughout the period of investigation. Report at A-51-56, tables 19 and 20 and Figures 11 and 12. Not only is there no evidence of a constant price differential, or "discount," for Canadian whole fish due to quality differences, but there is no evidence that the 5.82% subsidy has caused Canadian prices to be lower than they would have been without the subsidy. Because of the high degree of volatility in Canadian prices, where prices rise and fall by more than 20% from one period to the next, the effect of a 5.82% subsidy in Canadian whole groundfish prices is undetectable.

13/ Vice Chairman Liebeler notes that the higher the subsidy margin, ceteris paribus, the more likely that the product is being sold at a price "lower than that needed to make the product competitive in the U.S. market," and the more likely it is that the domestic producers will be adversely affected by the subsidy. See Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179. She notes that her decision would have been the same under the causation analysis enunciated in Certain Red Raspberries from Canada, 731-TA-196, USITC Pub. 1680 at 11-19 (1985).

conjecture or supposition. [14/] In making a threat-of-material-injury determination, the Commission considers a number of factors. [15/] In this case, the following factors were relevant to our determination.

As we discussed above, the final countervailing duty determination by Commerce was that the total net subsidy for fresh Canadian groundfish was 5.82 percent. [16/]

14/ 19 U.S.C. § 1677(7)(F)(ii); see also H. R. Conf. Rep. 1156, 98th Cong., 2d Sess. 174 (1984).

15/ (I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),
(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,
(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,
(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,
(V) any substantial increase in inventories of the merchandise in the United States,
(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,
(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury, and
(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) . . ., are also used to produce the merchandise under investigation.
19 U.S.C. § 1677(7)(F)(i).

16/ 19 U.S.C. § 1677(7)(F)(i)(I).

Canadian market share of fresh whole groundfish increased during the period of investigation. As stated above, however, there is no evidence in the record which suggests that subsidized imports have displaced domestic production. 17/ 18/

There are virtually no inventories in the United States because of fresh fish's extreme perishability. 19/

Canada regulates the amount of fishing effort in its waters by requiring each commercial fishing vessel and each commercial fisherman to have the required commercial fishing license. 20/ 21/ No new licenses are issued. Canada's Department of Fisheries and Oceans first determines how many fish will be harvested each year, and then sets a quota (total allowable catch) for each species in each fishing zone. Because of this system, an increase in production capacity is not likely to occur. In fact, total Canadian landings of the subject species of groundfish declined from 1.6 billion pounds in 1982 to 1.5 billion in 1983 and 1.4 billion in 1984, for a net decline of 11 percent during 1982-1984, 22/ and remained at the 1984 level in 1985. 23/

17/ See 19 U.S.C. § 1677(7)(F)(i)(III).
18/ Chairwoman Stern notes that these indications are buttressed by the substantial amount of information in the record regarding the depressed condition of the groundfish resources as well as evidence that the domestic product is preferred. She also notes that the record shows that domestic harvesters are unable to meet domestic demand.
19/ See 19 U.S.C. § 1677(7)(F)(i)(V).
20/ Report at A-17.
21/ See 19 U.S.C. § 1677(7)(F)(i)(II).
22/ Report at A-14.
23/ Chairwoman Stern notes that theoretically, it may be possible to shift production to fresh whole Atlantic groundfish from the frozen and salted whole groundfish markets or the market for fillets. See 19 U.S.C. § 1677(7)(F)(i)(VIII). She notes, however, that production of fresh whole Atlantic groundfish as a share of total groundfish catch was 3 percent in
(Footnote continued)

We therefore find that the whole Atlantic groundfish industry is not materially injured and is not threatened with material injury by reason of the subsidized imports.

(Footnote continued)
1982, 3 percent in 1983, and 5 percent in 1985. Report at A-19. She does not find the small increase in production from 1984 to 1985 to be indicative of a real and imminent potential for significant product-shifting.

Chairwoman Stern further notes that the weighted-average prices for whole Canadian groundfish do not reveal any consistent pattern of underselling when compared to the domestic prices. About the only conclusion that can be drawn is that more often than not the Canadian price was less than the U.S. price. Any perceived pricing differentials are amply accounted for, however, based upon the voluminous evidence in the record regarding the poorer quality and lower yield of the Canadian product as compared to the domestic product, and there is no indication that this relationship is likely to change in the immediate future. See, e.g., Tr. at 25, 109-111, 121-25, 137-39, 141-150, 158, 169-170, 178-79, 190-93, 201-04, 210, 212-15, 223-25, 248.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On August 5, 1985, the U.S. International Trade Commission and the U.S. Department of Commerce (Commerce) received a petition from counsel on behalf of the North Atlantic Fisheries Task Force, an association representing fishermen, fishermen's cooperatives, and fish processors 1/ located in the Northeastern United States, alleging that subsidies are being paid on imports from Canada of fresh and chilled cod, haddock, pollock, hake, and flatfish, whether whole or processed (i.e., in fillet form), provided for in items 110.15, 110.35, 110.50, 110.55, and 110.70 of the Tariff Schedules of the United States (TSUS), and that a regional industry in the United States 2/ is materially injured or threatened with material injury by reason of such imports. The Commission therefore instituted a preliminary countervailing duty investigation under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports.

On September 11, 1985, the Commission unanimously determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports from Canada of the subject whole groundfish and that there was a reasonable indication that an industry in the United States was threatened with material injury by reason of imports of the subject groundfish fillets (50 F.R. 38904, Sept. 19, 1985).

On January 9, 1986, Commerce published its preliminary determination that there is reason to believe or suspect that certain benefits that constitute subsidies within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) are being provided to producers or exporters in Canada of certain fresh Atlantic groundfish (51 F.R. 1010). Accordingly, effective January 9, 1986, the Commission instituted investigation No. 701-TA-257 (Final) pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise into the United States. The Commission must render its final determination concerning injury in this case before the 120th day after the day on which it received notification from Commerce of its affirmative preliminary

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1/ On Aug. 23, 1985, the Boston Fisheries Association, an association of seafood processors and dealers, submitted a statement establishing itself as a copetitioner.

2/ The alleged regional industry consists of firms located in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, the District of Columbia, and Virginia. This region is hereafter referred to as the "Northeastern United States" in this report.

determination, or by May 8, 1986. Commerce made its final affirmative countervailing duty determination on March 24, 1986 (51 F.R. 10041). 1/

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register on January 24, 1986 (51 F.R. 3268). 2/ The public hearing was held in Washington, DC, on April 1, 1986. 3/ The briefing and vote in this investigation was held on April 29, 1986.

Previous Commission Investigations

In addition to the present investigation, the Commission conducted three countervailing duty investigations and one escape-clause investigation concerning various types and forms of groundfish during 1978-80. 4/ In all four instances, the Commission made unanimous negative determinations. In addition, during 1984, the Commission conducted a section 332 investigation regarding the conditions of competition affecting the Northeastern United States groundfish and scallop industries. 5/

Nature and Extent of Subsidies

As stated, Commerce published its final affirmative countervailing duty determination on March 24, 1986. The full text of this determination, which is 29 pages long, has been placed on the public record of the investigation, and excerpts are presented in appendix A of this report.

Briefly, Commerce found that a total of 55 Federal and Provincial programs confer subsidies to producers and exporters in Canada of certain fresh Atlantic groundfish. The estimated net subsidy provided by these programs of 5.82 percent ad valorem applies to both fresh whole groundfish and fresh groundfish fillets. Commerce found that an additional 18 programs alleged by petitioner to confer subsidies do not do so, 12 more programs are not used, and 6 alleged programs do not exist.

The Products

Description and uses

The products covered by this investigation are fresh and chilled Atlantic cod, haddock, pollock, hake, and flatfish (flounders and sole), in whole and

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1/ Excerpts from Commerce's final determination are presented in app. A.

2/ A copy of the Commission's notice of institution and scheduling of a hearing is presented in app. B.

3/ A list of witnesses appearing at the hearing is presented in app. C.

4/ A summary of these investigations is presented in app. D.

5/ Conditions of Competition Affecting the Northeastern U.S. Groundfish and Scallop Industries in Selected Markets: Report to the President on Investigation No. 332-173 . . ., USITC Publication 1622, December 1984.

fillet forms. These fish are among those types commonly known as "groundfish," a category that includes many types of fish that are generally found and caught on or near the sea bottom in cold or temperate waters.

Atlantic cod (Gadus morhua), haddock (Melanogrammus aegle finus), Atlantic pollock (Pollachius virens), 1/ red hake (Urophycis chuss), white hake (U. tenuis), and silver hake (commonly known as whiting) (Merluccius bilinearis) are all members of the codfish (Gadidae) family. Flatfish, including winter flounder (Pseudopleuronectes americanus), yellowtail flounder (Limanda ferruginea), summer flounder (Paralichthys dentatus), witch flounder (also known as gray sole) (Glyptocephalus cynoglossus), and others 2/ are members of the Bothidae (lefteye) and Pleuronectidae (righteye) families of flatfishes. Haddock and the mentioned species of cod, pollock, hake, and flatfishes are found primarily in the Northwest Atlantic from Newfoundland to the Mid-Atlantic States, although various species of flatfish are found in limited quantities as far south as the Gulf of Mexico. 3/ Those species of cod, pollock, hake, and flatfish that are found in the North Pacific are not included in the scope of this investigation.

A freshly caught fish is usually chilled (with ice or refrigeration but not to the freezing point), frozen, or preserved in some manner if it is not going to be landed within a few hours of being caught. Since most of the subject groundfish harvested by U.S. and Canadian fishermen are chilled until landed at shoreside processing facilities, the U.S. seafood trade distinguishes only between fresh and frozen fish. The word fresh in this report hereafter refers to both chilled and unchilled fish, as distinct from frozen.

With some exceptions, the types of fish covered by this investigation are bled and eviscerated (gutted) soon after being caught. This process enables the fish to retain its quality for a longer period of time. Exceptions include flatfish, which have small internal areas and thus spoil less quickly than the other types. Additionally, some boats that fish close to shore and land fish daily may not perform this procedure. Fish that are uncut, or that are processed only by bleeding or by the removal of heads, viscera, and/or fins, are commonly known as whole fish.

Within species, multiple identifiable products can exist, depending on the size of the fish. For example, whole cod (head on and gutted) is sold at the ex-vessel level in major New England ports in four size categories: scrod

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1/ A variation of this name, pollack, usually refers to another species of pollock, P. pollachius, found in the Northeast Atlantic and not harvested by the U.S. industry covered in this investigation.

2/ Two less popular types of flatfish included in this investigation are sea dab and sand dab, also known as "American plaice".

3/ Atlantic groundfish species not included by petitioner include Atlantic wolffish (ocean catfish), cusk, halibut, ocean pout, redfish (ocean perch), scup (porgy), and tilefish. If these species were included, landings data presented later in this report would increase by about 10 percent.

(1.5 to 3 pounds), 1/ market (3 to 10 pounds), large (10 to 25 pounds), and whale (over 25 pounds). 2/

The second product form covered by this investigation is fillets. Fillets are a processed form of fish commonly sold to retail customers. A fillet is produced by heading the whole fish and then cutting away the flesh on either side of the spine. Fillets may be either skinned or not skinned and may or may not include bones. A small quantity of cod is cut perpendicular to the backbone into steaks, with the bone left in. These steaks are included in the term "fillets" throughout this report.

Harvesting methods

Groundfish are harvested by U.S. fishermen over a considerable expanse of sea bottom, ranging from coastal areas to rich fishing grounds over 100 miles offshore. The most common vessels are stern otter trawlers. These vessels harvest fish by trailing a long, bag-shaped net called an otter trawl from the stern and are considered the most efficient for capturing groundfish. Additionally, some side trawlers still operate, although they are considered to be less efficient and more dangerous for the crew.

A third type of vessel in operation is the longliner. These vessels trail a long line with baited hooks from the stern. Since the catch is not bruised in the net, the quality of "hooker" fish is considered to be the best possible. However, problems with longliners, such as the high cost of bait and the fact that fish captured in this manner do not necessarily bring a higher market price, limit the popularity of these vessels.

Finally, a common gear type used in "inshore" 3/ harvesting is the gill net. This consists of a long, rectangular net a few feet high and frequently several hundred feet in length that is suspended in water by a system of buoys and anchors. Fish swimming into the net are caught by their gills and trapped; the fisherman travels the length of the net daily and removes the catch.

The use of electronics in groundfish harvesting operations is widespread. For navigation, radar and loran-C are both used widely and employed on all but very small, inshore vessels. Citizen band radios and radio telephones are common as well. "Fish-finders" (sonar systems) are only slightly less common and are considered valuable if affordable, since in addition to locating schools of fish, sonar helps locate potential obstructions to gear.

1/ "Scrod" may also refer to similar-sized haddock, pollock, and cusk, although such usage is rarer than for cod.

2/ Canadian cod is categorized according to the international cull system, which specifies cod sizes as follows: scrod (1 to 2.5 pounds), market (2.5 to 10 pounds), and steak (over 10 pounds).

3/ "Inshore" fishermen harvest fish in coastal areas and return to port frequently. The length of "inshore" trips varies from 1 day for dayboats to no more than several days. "Offshore" fishermen, by comparison, stay at sea for periods ranging from several days to 2 weeks.

Processing methods

Although there have been a few attempts in recent years to operate fish-processing or freezing vessels, virtually all groundfish processing in the Northeastern United States is carried out on shore. This is because the typical offshore fishing vessel makes trips of no more than 1 week (2 weeks at the most) before landing, which is usually a short enough period of time to avoid significant deterioration in fish quality if the catch is well iced.

The substantial majority of fresh whole groundfish in the Northeastern United States market is destined for fillet production. Traditionally, fillets have been cut by hand, although many processors have now added automated fillet machines. Fillets are generally packed according to the market: fillets destined for retailers are usually individually tray-packed, and those shipped to wholesalers, restaurants, or institutions are generally packed in plastic, paper, or metal containers in 5- to 20-pound units. There is some production of domestic frozen fillets, usually during periods of heavy landings, when ex-vessel prices fall low enough to justify the added processing costs (and reduced wholesale prices for frozen fillets) and to fill U.S. Department of Defense orders for frozen fish, which are required to be of domestic origin. The latter market is of very limited volume.

New fish-processing and packaging techniques have been developed and implemented on a limited basis in recent years. Experiments have been conducted with irradiation, a process that kills bacteria without danger of radiation, but this process has not yet been approved by the U.S. Government for commercial fish processing. Packing in styrofoam "tray-packs" (a common retail package) with carbon dioxide helps to lengthen shelf life, as does the practice of freezing and rethawing prior to sale. These and other developments are of increasing interest to fish marketers in light of consumer concern about product quality, as well as the push to expand markets in regions of the country outside the Northeast.

U.S. tariff treatment

U.S. imports of the fresh or chilled whole groundfish covered by this investigation are classified in items 110.15 or 110.35 of the TSUS. 1/ Imports of cod, haddock, hake, and pollock from Canada and all other countries receiving the column 1 rate of duty 2/ enter free of duty; imports receiving the column 2 rate of duty are dutiable at 1 cent per pound. Imports of flatfish from Canada and other countries receiving the column 1 rate of duty are dutiable at 0.5 cent per pound (an ad valorem equivalent rate of about 1 percent in 1985), and those from countries receiving the column 2 rate of duty are dutiable at 1 cent per pound.

1/ A copy of the pertinent parts of the Tariff Schedules of the United States Annotated (TSUSA) is presented in app. E.

2/ The rates of duty in col. 1 are most-favored-nation rates applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(d) of the TSUSA, other than as provided in the Special rates of duty column. The latter are designated with the symbols "A" (Generalized System of Preferences (GSP)), "E" (Caribbean Basin Economic Recovery Act (CBERA)), and "I" (Israel).

Imports of fresh, chilled, or frozen cod, cusk, haddock, hake, pollock, and Atlantic ocean perch fillets have been subject to a tariff-rate quota since January 1, 1939. Annual within-quota imports--to receive the lower duty rate--are limited to 15 million pounds or 15 percent of the average annual U.S. consumption of groundfish fillets during the 3 preceding calendar years, whichever is greater. Of the total quantity of within-quota groundfish fillets entitled to enter in any calendar year, not more than one-fourth can be entered during the first 3 months, not more than one-half during the first 6 months, and not more than three-fourths during the first 9 months of that year.

TSUS item 110.50 covers the within-quota imports of groundfish fillets, 1/ and item 110.55 covers the over-quota imports. As a general practice, however, the U.S. Customs Service classifies both the within-quota imports and over-quota imports as over-quota at the time the product enters. Customs later determines which imports qualify under TSUS item 110.50--on the basis of the time of entry--and then rebates to the importer the overpayments of duty. The following tabulation shows the annual quotas for groundfish fillet imports during 1982-85 (as provided by Customs):

Year	Quota (1,000 pounds)
1982----------	48,098
1983----------	49,489
1984----------	56,098
1985----------	56,822

Column 1 imports of cod, haddock, hake, and pollock entered under item 110.50 are dutiable at 1.875 cents per pound, and the duty on imports receiving the column 2 rate is 2.5 cents per pound. Over-quota imports of these species under TSUS item 110.55 are dutiable at 1.96 cents per pound under column 1 (1.6 percent ad valorem equivalent in 1985) and 2.5 cents per pound under column 2. The column 1 duty rate for TSUS item 110.55 is being reduced, in stages, to 1.875 cents per pound (the current least-developed-developing-country rate) on January 1, 1987, thus ending the column 1 duty rate difference. Imports of fresh flatfish fillets, classified under item 110.70, are free of duty under column 1 and dutiable at 2.5 cents per pound under column 2.

U.S. imports of fresh or chilled groundfish are subject to inspection by the Food and Drug Administration (FDA) to ensure wholesomeness and compliance with the standards of identity and labeling requirements that apply to domestic groundfish. Fish is not subject to mandatory FDA inspection during processing; however, Commerce does carry out a voluntary inspection program, at industry expense, of processed fish production.

The Magnuson Fishery Conservation and Management Act of 1976 (MFCMA) (Public Law 94-265) established a 200-mile fishery conservation zone (FCZ) within which the United States exercises exclusive management of fishery resources. The MFCMA is administered by the National Marine Fisheries Service

1/ Not including flatfish.

(NMFS) of Commerce. Under the MFCMA, U.S. imports of any fishery product must be embargoed if from a country with which the United States cannot conclude an international fishery agreement allowing U.S. fishing vessels equitable access to fisheries over which that country asserts exclusive fishery management authority, as recognized by the United States. No embargoes on U.S. imports of groundfish have been imposed under the MFCMA.

U.S. imports of whole cod, haddock, and yellowtail flounder are subject to minimum-size restrictions of 17, 17, and 11 inches, respectively. These restrictions are consistent with U.S. fishery management restrictions that apply to domestic fishermen.

U.S. Market and Channels of Distribution

Apparent U.S. consumption

Fresh whole groundfish.--Apparent U.S. consumption of the fresh whole groundfish covered by this investigation rose from 448 million pounds in 1982 to 464 million pounds in 1983, or by 3.6 percent (table 1). Consumption then declined slightly to 460 million pounds in 1984 and fell further to 427 million pounds in 1985. The 1985 consumption level represents a decline of 8 percent from the period high 1983 level and 5 percent from 1982. The decline in consumption reflects an 85-million-pound decline in U.S. landings during 1983-85, which was only partially offset by a 48-million-pound increase in imports during the same period.

Table 1.--Certain fresh whole groundfish: U.S. commercial landings, imports for consumption, and apparent consumption, 1982-85

(In millions of pounds)

Year	U.S. commercial landings	U.S. imports 1/	Apparent consumption
1982	411.1	36.6	447.7
1983	416.4	47.3	463.7
1984	382.3	77.8	460.1
1985	2/ 331.5	95.7	427.2

1/ Includes imports of Pacific species, which are believed to account for less than 20 percent of the total.
2/ Preliminary.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Fresh groundfish fillets.-- Apparent U.S. consumption of the fresh groundfish fillets covered by this investigation increased steadily from 113 million pounds in 1982 to 135 million pounds in 1985, or by 19 percent (table 2). The increase in consumption of fillets is due in part to the increased demand for

Table 2.--Certain fresh groundfish fillets: U.S. production, imports for consumption, and apparent consumption, 1982-85

(In millions of pounds)

Year	U.S. production	U.S. imports	Apparent U.S. consumption
1982	95.6	17.2	112.8
1983	98.3	19.7	118.0
1984	102.3	23.9	126.1
1985	1/ 105.2	29.5	134.7

1/ Preliminary

Source: Compiled from official statistics of the U.S. Department of Commerce.

fish by health-conscious consumers. According to Commerce, per capita consumption of fresh and frozen fish fillets and steaks rose from 2.68 pounds in 1982 to 3.13 pounds in 1984, the last year for which such data are currently available.

Channels of distribution

Fresh whole groundfish landed by U.S. boats is generally sold to either a primary processor or to a wholesale fish dealer. Wholesale fish dealers sell whole fish to processors that choose not to buy directly from fishermen or that are unable to obtain adequate supplies of whole fish themselves. After moving the fish to the processor's facility, the processor cuts fillets from the whole fish and sells these either directly or through brokers to food distributors, restaurants, retail food chains and other end users of the product.

Imported fresh groundfish enters the United States in both whole and fillet forms. Whole fish from Canada is shipped by truck from Nova Scotia, New Brunswick, and Quebec to major processing centers such as Boston, Gloucester, and New Bedford. Whole fish is also shipped in smaller quantities to processors located in other Northeastern cities. As with U.S.-landed fish, the imported whole fish may be purchased directly by processors, may be purchased by dealers for resale to processors, or may be sold by brokers to processors for a commission. After being cut into fillets, the imported fish is distributed through the same market distribution system as U.S.-landed fish. Imported fresh groundfish fillets from Canada may be trucked or shipped by air directly to customers such as wholesalers or supermarket chains in cities outside the Northeast. However, a large share of such imports is trucked into the Northeast for sale by brokers or for purchase directly by processors or dealers.

Small amounts of fresh whole groundfish and fillets are imported from a number of other countries, with European sources being the most common. For example, fresh whole flatfish and flatfish fillets are imported from the

Netherlands, and fresh haddock, hake, and pollock fillets are imported from Iceland. As air shipment of fresh fish becomes more common and as demand increases, industry sources expect an increasing supply of fresh groundfish from these other groundfish-producing nations.

In most instances, fresh groundfish products in the U.S. market lose their national identity very early in the distribution system. Although some customers may insist on fish from a specific origin, emphasis is more often placed on the quality and shelf life of the product. Also, most processors indicate that they need to supplement their purchases of domestic whole fish with imported whole fish or fillets when there are shortfalls in U.S. landings. Once the fish is cut into fillets, a customer may receive shipments of U.S. fish, imported fish, or a mixture of both.

U.S. producers

Harvesters.--Most fishing vessels which harvest the groundfish covered in this investigation are based in Atlantic ports ranging from Maine to Virginia, with a small number of vessels from North Carolina and other South Atlantic States occasionally landing the subject species. The bulk of the U.S. landings of the subject groundfish species are made in the major Northeastern ports of Gloucester, MA; New Bedford, MA; Boston, MA; Point Judith, RI; Rockland, ME; and Portland, ME. The proportion of the total 1985 harvest of the subject groundfish species accounted for by each Atlantic coast state, as reported by NMFS, is shown in the following tabulation:

State	Landings (1,000 pounds)	Percent of total 1/
Massachusetts	185,096	55.8
Maine	55,716	16.8
Rhode Island	39,916	12.0
New Jersey	15,903	4.8
North Carolina	11,043	3.3
New York	10,059	3.0
Virginia	5,180	1.6
New Hampshire	5,452	1.6
Connecticut	2,215	.7
Maryland	504	.2
Florida	320	.1
Georgia	86	2/
South Carolina	31	2/
Delaware	21	2/
Total	331,542	100.0

1/ Because of rounding, figures may not add to the totals shown.
2/ Less than 0.05 percent.

The five coastal New England States accounted for 288 million pounds, or 87 percent, of the total weight of the subject species of groundfish landed in

the United States in 1985, and landings in the Northeastern region accounted for 97 percent of total U.S. landings.

Northeastern U.S. groundfish harvesters concentrate their fishing effort for most of the subject species in the waters off the New England coast, particularly the Gulf of Maine. 1/ This region includes Georges Bank, often said to contain the most productive and valuable fishing grounds in the world. These grounds have been fished by coastal residents since before the Revolutionary war, and have always been a principal source of the U.S. domestic groundfish supply.

Processors.--Although most species of groundfish are "processed" by fishermen (who bleed and gut the fish before bringing them to port), for practical purposes, groundfish "processing" in the Northeastern United States includes only those activities carried out by onshore operations: washing, filleting, freezing, breading, packaging, and so forth.

Some processors of the groundfish covered by this investigation produce both fresh and frozen products, and a few also produce breaded and canned products as well. However, this investigation covers only the production of fresh groundfish fillets (and steaks). The number of firms processing the subject species of groundfish into fresh fillets in the United States in 1985 is shown in the following tabulation:

State	Number of plants	Fresh fillet production	
		Quantity (1,000 pounds)	Value (1,000 dollars)
Massachusetts	53	87,541	$184,092
Maine	23	4,783	9,244
New York	19	3,236	12,784
Rhode Island	11	2,151	4,738
North Carolina	***	***	***
All other 1/	***	***	***
Total	125	105,170	222,784

1/ Includes Connecticut, New Hampshire, New Jersey, Virginia, South Carolina, and Florida.

Source: Compiled from official statistics of the National Marine Fisheries Service.

Of the 125 firms engaged in processing the subject species, 76, or more than one-half, were located in Massachusetts and Maine. Only 10 firms, accounting for about 4 percent of U.S. production, were located outside the Northeast region. There is little vertical integration in the Northeastern U.S. groundfish business. However, a few processors own, or have interests in, fishing craft, and some processing firms operate retail outlets.

1/ The exception to this is flatfish, which are also harvested in waters south of New England and east of the mid-Atlantic States.

U.S. importers

Most fresh or chilled groundfish imported into the United States from Canada is either imported by New England brokers that, without actually taking title to the product, find buyers for the fish, or is directly imported by processors, wholesalers, restaurant and supermarket chains, and other marketers of fish. There are no official statistics on the quantity of fresh groundfish imported by any of these groups of buyers.

The substantial majority of fresh groundfish imports enter the United States through Northeast U.S. customs districts, primarily Portland, ME, where fresh groundfish is entered after being brought from Canada by ferry or over the road.

Canadian producers

Imports of fresh whole or fillet groundfish come primarily from Canada, which supplied 96 percent of total U.S. imports during 1985, or about 120 million pounds valued at $68 million.

The Canadian fresh groundfish industry is concentrated in the Atlantic region, which consists of five Provinces: the three Maritime Provinces of Nova Scotia, New Brunswick, and Prince Edward Island; Quebec; and Newfoundland and Labrador (Newfoundland). The fishing industry in this region (excluding Quebec) accounted for 11 percent of total regional employment in 1984. Nova Scotia and New Brunswick account for the majority of fresh groundfish production, since transportation costs prevent the export of a substantial quantity of fresh fish from the northern Provinces.

Fresh and frozen groundfish are major products of the region, having accounted for Can. $440 million in 1982, or 31 percent of total Atlantic Canada production of fish and shellfish products. Of primary importance to the industry are frozen products--groundfish fillets and blocks--which account for most of the value of groundfish output. Because of transportation considerations and supply fluctuations, little emphasis has historically been placed on production of fresh groundfish products, except by small- and medium-scale Nova Scotia processors with the flexibility and proximity to U.S. markets that allow them to adjust to demand and supply fluctuations and some Newfoundland processors that have developed market channels for air shipment of fresh groundfish to Boston, Los Angeles, and other cities. The larger plants focus on frozen fillet and block production, as well as the marketing of much of the output of smaller plants. Throughout the industry, emphasis is placed on export markets--primarily the United States, which has traditionally accounted for most of the consumption of the region's fresh and frozen groundfish production.

The degree of vertical and horizontal integration in fish processing and harvesting is very high. At present, two firms together account for at least 75 percent of frozen groundfish production and own and operate numerous large and small processing plants throughout the region; in addition, these firms own and operate almost all the large, offshore fishing vessels, which account for as much as one-half of the region's total groundfish harvests. One of

these firms, National Sea Products, Ltd., of Nova Scotia, is also the single largest supplier of fresh groundfish products to the U.S. market. 1/ This concentration in fresh and frozen groundfish production is the result of recent merger activities encouraged by the Federal Government, in which the five larger vertically integrated processors were, in 1983, merged with several smaller, one-plant firms into the two firms that now dominate the industry.

Harvesters.--There is a very wide range of types of groundfish fishermen in Atlantic Canada. At one end of the spectrum is the inshore fisherman, usually found in isolated outports such as those scattered around Newfoundland, who operates a vessel often no larger than a dory, fishing within sight of his dock, during a season lasting 3 to 4 months before ice sets in and the fish migrate to deeper waters. At the other extreme is the crewman of a large offshore trawler, a 100- to 300-foot vessel with a complement of 10 to 16 crewmen, which can fish as far as 400 miles from port for periods of up to 2 weeks, in all but the worst winter weather. The harvesting of groundfish makes up a substantial portion of the activity of these fishermen; the subject species of groundfish accounted for 60 percent of the total fish harvest in Atlantic Canada in 1984.

The number of Atlantic Canada fishermen engaged in groundfish harvesting in 1984, as estimated by the Fisheries Council of Canada, is shown in the following tabulation:

Province	Number
Nova Scotia	7,556
Quebec	3,444
New Brunswick	3,012
Prince Edward Island	2,850
Newfoundland	16,818
Total	33,680

Total landings of the subject species of groundfish in Atlantic Canada during 1982-85 are shown in table 3. Total landings declined from 1.6 billion pounds in 1982 to 1.5 billion in 1983 and 1.4 billion in 1984, or overall by 11 percent during 1982-84. Landings in 1985 remained about the same as those in 1984. The total value of Canadian landings of the subject groundfish declined steadily from $210 million in 1982 to $178 million in 1984,

1/ In additional to fish caught by its own vessels, National Sea sells fresh whole fish and fresh fillets produced by * * *. Total fresh round and fillet sales by National Sea to the United States in 1985 amounted to * * * million and * * * million pounds, or * * * percent and * * * percent, respectively, of U.S. imports from Canada. The other large Canadian groundfish producer, Fisheries Products International, ships no fresh whole fish to the United States. In 1985, fresh fillet shipments by this firm to the U.S. totaled * * * pounds, or about * * * percent of total imports from Canada.

Table 3.--Certain groundfish: Atlantic Canadian landings, by species, 1982-85

Species	1982	1983	1984	1985 1/
	Quantity (1,000 pounds)			
Cod	1,140,554	1,122,256	1,049,262	1,053,799
Flatfish	206,494	169,673	175,810	186,289
Pollock	85,045	74,610	77,637	97,002
Haddock	102,300	87,692	71,967	79,366
Hake	37,216	28,951	30,289	31,085
Total	1,571,609	1,483,182	1,404,965	1,447,541
	Value (1,000 U.S. dollars)			
Cod	156,683	151,168	131,980	136,507
Flatfish	22,210	19,068	19,551	21,677
Pollock	9,240	7,059	6,451	8,056
Haddock	18,724	19,718	17,476	19,260
Hake	3,567	2,597	2,631	2,929
Total	210,424	199,610	178,089	188,429
	Unit value (cents per pound)			
Cod	14	13	13	13
Flatfish	11	11	11	12
Pollock	11	09	08	08
Haddock	18	22	24	24
Hake	10	09	09	09
Average	13	13	13	13

1/ Preliminary.

Source: Compiled from official statistics of the Canadian Department of Fisheries and Oceans.

but then increased to $188 million in 1985. 1/ During 1982-85, the value of landings declined by 10 percent.

Of primary importance to the Atlantic Canadian groundfish-harvesting industry, in terms of both volume and value, is cod, which accounted for 73 percent of the volume and 72 percent of the value of total 1985 landings of the subject groundfish in the region. It is cod that is principally responsible for the decline in groundfish landings experienced in Atlantic Canada during 1982-85, contributing 87 million pounds to the overall 124-million-pound decline in the volume of groundfish landings, and $20 million to the overall $22 million decline in the value of such landings. One

1/ According to the Commerce verification report, value data for Canadian landings are of questionable accuracy.

important cause of the decline in cod landings in 1984 was a strike of Newfoundland's large processing plants by company-owned offshore trawler crews and plant workers, which severely cut back the landings of cod and other groundfish in Canada's largest fishing Province.

Unlike the Northeastern United States, where the majority of the groundfish harvesting activity is undertaken by a relatively homogeneous group of 30- to 80-foot otter trawlers, Canadian groundfish harvesting is a two-tier activity, with the bulk of the groundfish harvest split between the small, inshore vessels and the large, offshore trawlers. The former are by far the greater in absolute numbers, but the latter catch a disproportionate share of the total Canadian harvest of groundfish, as shown in the following tabulation (official 1982 data for Atlantic Canada (excluding Quebec) from the Government of Canada):

Vessel length	Number	Groundfish harvest (1,000 pounds)
Under 65 feet	26,960	880,303
65 to 99 feet	138	49,857
Over 99 feet	229	748,499

The smaller vessels (those under 65 feet in length) are typically individually owned and operated, selling their catch to dealers and small processing plants, although some also sell to the large vertically integrated processors. These vessels were 26,960 in number in 1982, approximately 99 percent of the total absolute number of fishing vessels in the Atlantic Canadian fleet in 1982, but accounted for only about one-half the total fishing output of the fleet, as indicated by their combined share of the Canadian groundfish harvest. The large offshore trawlers, now virtually entirely owned by the two vertically integrated processing firms, National Sea Products and Fishery Products International, were only 229 in number in 1982, yet accounted for 748 million pounds, or 45 percent of the total Atlantic Canada groundfish harvest. The remaining 50 million pounds, approximately 3 percent of the total, was harvested by 138 vessels of between 65 and 99 feet in length, a class of vessel relatively new to many Canadian ports and a growing segment of the fleet.

Processors.--The fish-processing sector of the Altantic Canada fishing industry consisted of some 15,683 employees (excluding Quebec) and 325 establishments in 1983, when it produced 1.49 billion Canadian dollars' worth of fish products, of which Can. $43 million constituted products made from the subject groundfish.

The processing sector of the industry is as diverse in scale and distribution as is the harvesting sector. The scale of operations of the hundreds of fish plants in the region ranges from tiny, family-operated, backyard businesses operating only a few months of the year to huge, 1,000-employee plants operating year round. The processing of groundfish is mostly an onshore activity.

The number of processing establishments in the Atlantic Provinces appears to have been stable during 1980-82, ranging between 290 and 292 plants, before jumping to 325 in 1983. This increase was mainly in Newfoundland establishments, and according to the Department of Fisheries and Oceans (DFO) may largely be a statistical error, as it is believed the above data do not account for a substantial number of small, seasonal operations found scattered along the coasts of each Atlantic Province.

It is not known how many of these establishments are involved in fresh groundfish processing, either exclusively or in combination with other fish products. It is believed that most such operations are located in Nova Scotia and New Brunswick, with additional substantial production of fresh groundfish in Newfoundland for some air shipment to the United States and shipment to Nova Scotia for further processing and sale to U.S. markets. Most of these fresh groundfish processors are believed to be small operations, exporting their product either directly or through the larger processors. In Newfoundland, it seems likely that much of the fresh fish production is along the south coast of Newfoundland, close to Nova Scotia, an area that is dominated by relatively large processing operations.

Production of the subject fresh groundfish products in Atlantic Canada in 1982, the latest period for which data are available, is shown in table 4. A total of 50 million pounds of whole fresh groundfish were produced in the region's processing plants. Of this, 22 million pounds (44 percent) were produced in Nova Scotia, and 22 million pounds (44 percent) were produced in Newfoundland. Cod made up the bulk of this whole fish production, accounting for 32 million pounds (63 percent of the total), of which 22 million pounds, or 69 percent, was produced in Newfoundland and 7 million pounds, or 21 percent, was produced in Nova Scotia. Also important was haddock, of which 11 million pounds were produced in Atlantic Canada, nearly all in Nova Scotia.

Production of fresh fillets in Atlantic Canada in 1982 totaled 23 million pounds, of which 14 million pounds, or 63 percent, was produced in Nova Scotia, and 7 million pounds (30 percent) was produced in Newfoundland. As with whole fish, of primary importance was cod, totaling 13 million pounds,or 59 percent of total fillet production, the bulk of which was split evenly between Nova Scotia (47 percent) and Newfoundland (46 percent). Haddock fillet production was also substantial, with 5 million pounds produced, nearly all in Nova Scotia.

The Question of a Threat of Material Injury

The rate of increase of imports from Canada

Fresh whole groundfish.- Imports of fresh whole groundfish from Canada have increased steadily since 1982, as shown in the following tabulation:

Table 4.--Fresh Atlantic groundfish: Canadian production, by product forms, species, and Altantic provinces, 1982

(In thousands of pounds, product weight)

Product and species	Nova Scotia	New Brunswick	Prince Edward Island	Quebec	Newfound-land	Region total
Whole fish:						
Cod	6,526	1,462	650	1,259	21,667	31,563
Haddock	11,140	243	2/	2/	2/	11,382
Flatfish	1,850	238	606	77	282	3,053
Pollock	1,012	2/	2/	2/	2/	1,012
Hake 1/	1,433	1,241	399	31	2/	3,104
Total	21,960	3,183	1,656	1,367	21,949	50,115
Fillets:						
Cod	6,270	77	496	437	6,129	13,408
Haddock	5,192	130	2/	2/	79	5,401
Flatfish	1,515	71	2/	183	635	2,403
Pollock	1,345	0	2/	2/	7	1,351
Hake 1/	60	2/	183	2/	40	282
Total	14,381	278	679	619	6,889	22,846

1/ Includes cusk.
2/ Not available.

Source: Fisheries and Oceans Canada, Annual Statistical Review of Canadian Fisheries, 1982, vol. 15, pp. 87-102, tables 72-76.

Note.--Because of rounding figures may not add to the totals shown.

Year	Imports for consumption (million pounds)
1982	36.0
1983	46.3
1984	76.1
1985	94.0

On an annualized basis, the rate of increase from 1982 to 1985 was 38 percent.

Fresh groundfish fillets.--Imports of fresh groundfish fillets from Canada have also increased since 1982, as shown in the following tabulation:

Year	Imports for consumption (million pounds)
1982	16.4
1983	17.7
1984	21.5
1985	26.0

The annualized rate of increase during 1982-85 was 17 percent.

The capability of Canada to increase its exports to the United States

The management of the Canadian resource.--The Canadian Government, through its DFO, manages the various groundfish species found in Canadian waters for both conservation and socioeconomic purposes. This management includes both limiting the amount of fishing effort and placing a quota on the quantity of fish that may be caught in a given year.

The amount of fishing effort expended in Canada is controlled by requiring that each commercial fishing vessel have a commercial fishing license, that each commercial fisherman be licensed, and that every vessel under 65 feet in length obtain a limited entry license for each species it will harvest. No new licenses are issued. 1/ Instead, anyone desiring to enter the industry must purchase the appropriate licenses from a current license holder, with the price being set by the market.

1/ An exception to this is DFO's recent action making three licenses for offshore factory trawlers available to National Sea Products, Ltd., Fisheries Products International, and a consortium of other offshore companies. To date, only National Sea has applied for and been granted a license. To qualify, strict guidelines must be met, including a limit on the amount of cod which may be caught in certain areas and the requirement that the balance of the catch consist of redfish and under-utilized species. Since the cod caught by such a trawler is deducted from a company's allocation, the overall fishing effect is not increased.

The quantity of groundfish that may be harvested each year is set by DFO after a study of resource availability and following discussions with fishermen and regional authorities. A quota called the total allowable catch (TAC) is set for each species by fishing zone. The TAC is then divided into a Canadian allocation, a Northwest Atlantic Fisheries Organization (NAFO) allocation, and a Foreign Reserve. The NAFO allocation is distributed to foreign countries in instances where a surplus exists above the needs of the Canadian industry, and the foreign reserve may be awarded to foreign countries at the discretion of DFO.

The Canadian allocation is split into inshore and offshore components. 1/ These allocations insure that an equitable share of the Canadian TAC is available for harvest by inshore fisherman, who are unable to fish during much of the year due to climatic conditions. The offshore allocation is divided by the large offshore operations among themselves into enterprise allocations, while the inshore allocation may be further divided into allowable harvests by gear types and seasons. Canadian allocations for the species covered by this investigation during 1984-86 are shown below (table 5).

Table 5.--Canadian groundfish allocations, by inshore and offshore segments and species, 1984-86

(In thousands of pounds)

Species and fishery	1984	1985	1986
Cod:			
Inshore	779,062	788,475	720,221
Offshore	429,897	456,981	424,463
Total	1,208,959	1,245,456	1,144,684
Flatfish:			
Inshore	60,186	58,929	60,186
Offshore	215,202	199,142	208,930
Total	275,388	258,071	269,116
Pollock:			
Inshore	50,155	41,116	44,092
Offshore	43,320	52,359	44,092
Total	93,475	93,475	88,184
Haddock:			
Inshore	67,902	44,050	42,218
Offshore	57,761	43,982	39,573
Total	125,663	88,032	81,791

Source: DFO, 1986 Atlantic Groundfish Management Plan

Product mix and shipments to other markets.- The groundfish species subject to this investigation that are harvested by Canadian fishermen may be sold as fresh fish, frozen fish, and/or salt fish. As shown in table 6, the

1/ This split is implemented on an experimental basis until 1988.

Table 6.--Atlantic Canada production of groundfish products, by product types, 1982-84

(In thousands of pounds)

Product	1982	1983	1/ 1984
Fresh:			
Round or dressed	51,283	47,181	79,053
Fillets	23,530	27,438	29,015
Subtotal	74,813	74,619	108,068
Frozen:			
Round or dressed	16,407	6,085	16,971
Fillets	246,803	210,550	211,739
Blocks	134,020	166,013	118,365
Sticks and portions	27,157	26,246	29,145
Subtotal	424,387	408,894	376,220
Salted:			
Wet	65,997	36,114	41,169
Dried	62,842	46,131	43,797
Boneless	7,595	6,294	7,635
Subtotal	136,434	88,539	92,601
Total	635,635	572,052	576,889

1/ Preliminary.

Source: Compiled from official data of the Canadian Dept. of Fisheries and Oceans.

amount of all groundfish processed in Atlantic Canada into both fresh whole fish and fresh fillets increased during 1982-84.

As a share of the total catch, the amount of whole fish utilized as fresh round (whole) fish or processed into fresh fillets increased during 1982-84, as shown in the following tabulation (in percent):

Type	1982	1983	1984
Fresh round or dressed fish	3	3	5
Fresh fillets	4	5	6
Subtotal	7	8	11
Frozen	70	75	70
Salted	23	17	19

The Question of Alleged Material Injury

The petition has alleged that a regional industry in the United States is materially injured or threatened with material injury. According to the statute, the United States may be divided into two or more markets and the producers within each market treated as if they were a separate industry if--

i. the producers within such market sell all or almost all of their production of the like product in question in that market; and
ii. the demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere on the United States; and
iii. if there is a concentration of subsidized . . . imports into such an isolated market and if the producers of all, or almost all of the product within that market are being materially injured or threatened with material injury.

These criteria for both fresh whole fish and fresh fillets are addressed to the extent possible in the "Question of Alleged Material Injury" and the "Question of the Causal Relationship Between Alleged Material Injury and Subsidized Imports from Canada" sections of this report.

U.S. fishermen

The Commission sent questionnaires to a sample of 114 vessel owners in an attempt to gather data on vessel profitability and pricing. The recipients of the questionnaires are members of the various fishermen's associations that support the petition for the instant investigation and are believed to harvest the subject species of groundfish. Usable information obtained from these questionnaires is incorporated in the employment, financial performance, and pricing sections of this report. Other data presented in this report are official statistics of the U.S. Department of Commerce.

U.S. commercial landings.--U.S. commercial landings 1/ of the groundfish covered by this investigation increased slightly from 411 million pounds in 1982 to 416 million pounds in 1983 and then declined to 382 million pounds in 1984 (table 7). The 1984 level is 7 percent below that in 1982. Landings declined again in 1985, to 332 million pounds or by 13 percent from those in 1984 and 19 percent from those in 1982. During 1982-85 the average unit value of landings increased by 33 percent.

The share of total landings (by quantity) accounted for by haddock, cod, and flatfish decreased during 1982-85; that for pollock and hake increased (table 8).

Number of vessels.- The number of fishing vessels having their principal port in New England and landing any species of groundfish in New England at

1/ Commercial landings are the equivalent of U.S. production.

Table 7.--Certain fresh Atlantic groundfish: U.S. landings, by species, 1982-85

Species	1982	1983	1984	1985 1/
	Quantity (1,000 pounds)			
Flatfish	165,949	184,887	153,824	126,017
Cod	116,907	112,189	96,680	82,823
Hake	54,539	55,979	66,137	64,809
Pollock	31,640	30,801	39,672	43,477
Haddock	42,022	32,568	25,995	14,416
Total	411,057	416,424	382,308	331,542
	Value (1,000 dollars)			
Flatfish	86,647	96,704	105,872	106,883
Cod	39,116	38,191	36,137	35,140
Hake	10,653	9,616	9,970	12,162
Pollock	6,474	5,382	6,465	6,978
Haddock	21,643	18,977	18,350	13,545
Total	164,533	168,870	176,794	174,708
	Unit value (per pound)			
Flatfish	52	52	69	84
Cod	33	34	37	42
Hake	20	17	15	19
Pollock	20	17	16	16
Haddock	52	58	71	93
Average	40	41	46	53

1/ Preliminary.

Source: Compiled from official data of the National Marine Fisheries Service.

Note.--Because of rounding, figures may not add to the totals shown.

Table 8.--Certain fresh Atlantic groundfish: Share of U.S. landings accounted for by selected species, 1982-85

(In percent)

Species	1982	1983	1984	1985
Flatfish	40.4	44.4	40.2	38.0
Cod	28.4	26.9	25.3	25.0
Hake	13.3	13.5	17.4	19.5
Pollock	7.7	7.4	10.3	13.1
Haddock	10.2	7.8	6.8	4.4

Source: Compiled from official data of the National Marine Fisheries Service.

any time during the year, as compiled from unpublished data of the NMFS, is presented in the following tabulation for the period 1982-85: 1/

Vessel type	1982	1983	1984	1985
Otter trawls:				
5 to 50 gross tons	408	374	385	363
51 to 150 gross tons	353	375	406	379
Over 150 gross tons	79	86	87	104
Total	840	835	878	846
Longliners	1/	52	52	55
Gillnetters	1/	145	138	137
Total	1/	1,032	1,068	1,038

1/ Not available.

Otter trawl vessels account for an estimated 91 and 94 percent of the volume and value, respectively, of all Northeastern U.S. landings of the subject groundfish. 2/ The total number of otter trawlers having their principal port in New England and landing groundfish in New England decreased by 1 percent from 1982 to 1983, from 840 to 835. In 1984, however, the number of vessels increased to 878 vessels, or by 5 percent, even though landings dropped by about 43 million pounds. During 1982-84, the greatest change occurred in the number of vessels in the 51- to 150-gross ton range, which increased from 353 to 406. This increase was partially offset by a decrease

1/ Data for the total number of otter trawl vessels having their principal port in any port of the United States but landing groundfish in New England at any time during the year are as follows: 1982 (1,006), 1983 (995), and 1984 (1,021).

2/ James Kirkley, "An Empirical Analysis of Production in Single and Multispecies Fisheries", in Conrad, et al., Lectures on the Economics of Fisheries Production, National Marine Fisheries Service, Northeast Fisheries Center, Woods Hole, MA, July 1984, pp. 68-71, tables 1-2.

in the number of smaller vessels between 5 and 50 gross tons, which fell from 408 to 385. This apparent shift from small to large vessels is a trend in some New England ports, because, according to industry sources, a larger vessel enhances the ability to both make longer trips and fish a greater number of days each year by withstanding rougher weather and sea conditions and because a larger, better-equipped vessel means a less fatiguing job for its crew. Also, according to some industry members, there was a general increase in fishing vessels on the market after 1981, including an increase in vessel availability from other U.S. ports such as the South Atlantic and Gulf. This increased availability pulled used-vessel prices down enough that in some cases a fisherman could economically sell his small vessel and buy an older, larger vessel. Last, and perhaps most important, a larger vessel allows a fisherman to harvest a greater volume of a wider variety of species, alleviating somewhat the adverse effects of fluctuating market prices.

The number of longliners remained steady during 1983-84 at 52 vessels, but the number of vessels using gill nets decreased from 145 in 1983 to 138 in 1984. The decline in the number of gillnetters may also be related to the shift in otter trawlers, as some former gillnetters may have opted for larger vessels.

Employment.--The NMFS does not collect data on employment of groundfishermen, and no other official data series is known to exist.

Actual data on vessel crew sizes were requested in the Commission's vessel owner's questionnaires. Usable responses were received from 28 vessels whose total catch consisted of at least 50 percent of the species covered by this investigation. As shown in the following tabulation, employment on these vessels declined by about 10 percent during 1983-85:

Year	Employment 1/
1983	125
1984	118
1985	113

1/ Captain and crew.

The declining trend indicated by this sample is corroborated by both testimony at the hearing that crew sizes of large vessels in Gloucester, MA, have been reduced in recent years 1/ and by staff interviews with NMFS port agents in Portland, ME, Gloucester, MA, and New Bedford, MA. 2/

Mr. Greg Power of the Portland, ME, NMFS office, provided the following estimates of average otter trawler crew size in 1985:

1/ Statement of Sam Parisi. Transcript of the hearing pp. 17 and 116-117.
2/ See notes of Fred Warren.

Vessel tonnage	Average crew size
5 to 50	2.3-2.4
51 to 150	3.5-4.0
151+	4.5-5.0

Mr. Power stated that, in general, the average trawler had reduced its crew by 1 to 1.5 men since 1982.

Mr. Vito Giacalone of the Gloucester, MA, NMFS office provided the following estimates of average otter trawler crew sizes in 1982 and 1985:

Vessel tonnage	Average crew size	
	1982	1985
5 to 50	2-4	1-3
51 to 150	5-7	4-7

Mr. Dennis Main of the New Bedford, MA, NMFS office was unable to provide exact estimates, but did state that crew sizes have declined in recent years. Reasons provided by these agents for the decline included increased insurance premiums, declining stocks, and the Canadian boundary dispute.

Financial experience of vessel owners.--Of the 114 vessel owners that received Commission questionnaires, 28 who reported at least 50 percent groundfish landings furnished usable income-and-loss data for the 3-year period 1983-85.

Aggregate gross revenues of the 28 vessel owners were virtually unchanged at $9.6 million in 1983-84 and then declined by 6.6 percent, to $9.0 million, in 1985 (table 9). As a share of gross revenues, total expenses before officers' or partners' salaries during 1983-85 were 101.5, 104.8, and 106.6 percent, respectively. However, only three expense categories registered increases in absolute amounts from 1983 to 1985: depreciation, insurance, and all other expenses. All other expenses increased by 17 percent from 1983 to 1985. All other expenses also recorded the sharpest jump as a share of gross revenues of any expense category, from about 18 percent in 1983-84 to 23 percent in 1985. Insurance expense increased by 31.4 percent from 1983 to 1985. However, the increase in insurance expense varies widely among different vessel sizes, as shown in the following tabulation:

Range of gross register tonnage	Number of vessels	Increase in insurance expense from 1983 to 1985 (percent)
5 to 50 tons	7	97.6
51 to 150 tons	12	31.3
Over 150 tons	6	22.8
Tonnage unavailable	3	33.9
All vessels	28	31.4

Table 9.--Income-and-loss experience of 28 New England vessel owners, accounting years 1983-85

Item	1983	1984	1985
Gross revenues	$9,603,742	$9,607,925	$8,977,424
Expenses of trips	2,646,845	2,645,354	2,472,018
Captains' and/or crew shares	3,235,489	3,450,876	2,838,621
Depreciation	1,136,334	1,271,010	1,184,122
Interest expense	476,289	443,058	371,459
Insurance expense	475,844	539,529	625,229
All other expenses	1,774,013	1,721,111	2,077,348
Total expenses	9,744,814	10,070,938	9,568,797
Net (loss) before taxes and officers' or partners' salaries	(141,072)	(463,013)	(591,373)
Officers' and partners' salaries 1/	41,848	61,932	42,775
Net (loss) before taxes	(182,920)	(524,945)	(634,148)
Depreciation expense included above	1,136,334	1,271,010	1,184,122
Cash flow 2/	953,414	746,065	549,974
As a share of gross revenues:			
Expenses of trips--percent	27.6	27.5	27.5
Captains' and/or crew shares--do	33.7	35.9	31.6
Depreciation--do	11.8	13.2	13.2
Interest expense--do	5.0	4.6	4.1
Insurance expense--do	5.0	5.6	7.0
All other expenses--do	18.5	17.9	23.1
Total expenses--do	101.5	104.8	106.6
Net (loss) before taxes and officers' or partners' salaries--do	(1.5)	(4.8)	(6.6)
Officers' and partners' salaries--do	0.4	0.6	0.5
Net (loss) before taxes--do	(1.9)	(5.5)	(7.1)
Number of vessel reporting losses	20	20	20
Number of vessel owners reporting	28	28	28

1/ Reported by 4 vessels during 1983-85 and 1 in 1985 only.
2/ Net loss before taxes plus depreciation expense.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

The aggregate pretax loss after officers' or partners' salaries as a share of gross revenues was 1.9, 5.5, and 7.1 percent during 1983-85, respectively. However, the three vessels of unavailable tonnage, which all use the same New Bedford marine services firm for their bookkeeping and accounting, had a significant impact on pretax margins in 1984-85 as seen in the tabulation below (in percent):

Number of vessels	Net (loss) before taxes 1983	1984	1985
3	(1.9)	(12.8)	(24.1)
Other 25	(1.9)	(4.5)	(4.7)
All 28	(1.9)	(5.5)	(7.1)

The expense category with the largest difference between the 3 and the other 25 vessels was captains' and/or crew shares. As a share of gross revenues, this expense category averaged 43.0 percent during 1983-85 for the 3 vessels compared with 32.5 percent for the other 25. The three vessels did not report any officers' or partners' salaries during 1983-85; such salaries, reported by only 5 of the other 25 vessels, averaged 0.6 percent of gross revenues during 1983-85.

A comparison of gross revenues and pretax income or loss data by vessel-size category reveals some sharp contrasts in operating results, as shown in table 10.

Table 10.--Gross revenues, pretax income or loss, and pretax income or loss as a share of gross revenues for 28 New England vessels, by vessel sizes, 1983-85

Vessel size	1983	1984	1985
Gross revenues:			
5 to 50 tons (7 boats)--1,000 dollars	662	706	708
51 to 150 tons (12 boats)--do	3,979	3,868	3,466
Over 150 tons (6 boats)--do	3,832	3,891	3,720
Tonnage unknown (3 boats)--do	1,131	1,143	1,083
All 28 vessels--do	9,604	9,608	8,977
Pre-tax income or (loss):			
5 to 50 tons--do	(11)	(19)	(26)
51 to 150 tons--do	18	(90)	(275)
Over 150 tons--do	(169)	(270)	(71)
Tonnage unknown--do	(22)	(146)	(261)
All vessels--do	(183)	(525)	(634)
Pretax income or (loss) as a share of gross revenues:			
5 to 50 tons--percent	(1.6)	(2.6)	(3.7)
51 to 150 tons--do	0.5	(2.3)	(7.9)
Over 150 tons--do	(4.4)	(6.9)	(1.9)
Tonnage unknown--do	(1.9)	(12.8)	(24.1)
All vessels--do	(1.9)	(5.5)	(7.1)

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Twenty of the 28 vessel owners reported net losses before income taxes in all 3 years 1983-85.

Of the 28 boats that provided usable income-and-loss data, 21 provided data on their yearly total catch in pounds for all 3 years. The total catch, certain financial data, and unit selling price, cost, and income-or-loss data by vessel sizes and in total, are presented in table 11.

Seventeen vessels owners furnished 3-year data for both their total catch in pounds and the total number of fishing days. The data, and the average catch per day, are presented by vessel sizes and in total in table 12. Without exception, the average catch per day declined steadily during 1983-85 in all three vessel-size categories and in total. The percentage drop for each vessel size category and in total are shown in the following tabulation:

Vessel size	Decrease in average catch per day, 1985 over 1983 (percent)
5 to 50 tons (4 boats)	26.3
51 to 150 tons (6 boats)	12.2
Over 150 tons (7 boats)	19.2
Total (17 boats)	14.4

Resource availability.- The groundfish resources available to both Northeastern U.S. fishermen and Atlantic Canada fishermen have, at times in recent years, been subject to very high levels of fishing effort and, consequently, various forms of Government regulation and management. This management carries implications not only for resource availability for the industry and consumers, but also for industry performance and relative competitiveness.

Following a precipitous decline in groundfish harvests from the waters off Northeastern North America, from a record high of 5.9 billion pounds in 1968 to 3.9 billion pounds in 1974, industry members and Government officials in the United States and Canada grew concerned that high levels of foreign fishing effort in the Northwest Atlantic were injuring the harvesting sectors of the groundfish industries of both nations, as well as endangering the fish resources themselves. In the mid-1970's, a system of quota controls on harvests was instituted by the then-governing body of offshore fishing, the International Commission for the Northwest Atlantic Fisheries (later changed to the Northwest Atlantic Fisheries Organization). Total allowable catches (TAC's) were imposed on each species in each of several areas delineated on a grid over the Atlantic waters off northeastern North America and west of Greenland. Separate quotas were allocated by country.

Starting in the 1960's, rising harvesting effort in the waters off the Northeastern United States, particularly by "distant water" fleets from Soviet bloc and Western European nations, placed many major groundfish species in jeopardy, bringing their populations to such low levels that sustainable yields were falling. Pressure grew in many countries, including the United States and Canada, to institute fishery conservation zones, so-called 200-mile

Table 11.--Certain fresh Atlantic groundfish: Total catch, selected financial data, and unit price, cost, and income or loss data by vessel sizes, accounting years 1983-85

Vessel size	1983	1984	1985
Total catch:			
5 to 50 tons (4 boats)			
1,000 pounds	1,158	965	847
51 to 150 tons (9 boats)---do	6,261	5,898	5,604
Over 150 tons (5 boats)---do	6,339	8,262	7,429
Tonnage unknown (3 boats)---do	2,045	1,608	1,378
Total (21 boats)---do	15,803	16,733	15,258
Gross revenues:			
5 to 50 tons---1,000 dollars	528	491	521
51 to 150 tons---do	2,775	2,838	2,692
Over 150 tons---do	3,180	3,297	3,298
Tonnage unknown---do	1,131	1,143	1,083
Total---do	7,614	7,769	7,594
Total expenses (including officers' or partners' salaries):			
5 to 50 tons---do	545	521	557
51 to 150 tons---do	2,729	2,818	2,805
Over 150 tons---do	3,259	3,442	3,259
Tonnage unknown---do	1,152	1,289	1,345
Total---do	7,685	8,070	7,966
Pretax income or (loss):			
5 to 50 tons---do	(16)	(30)	(37)
51 to 150 tons---do	46	20	(113)
Over 150 tons---do	(79)	(145)	39
Tonnage unknown---do	(22)	(146)	(261)
Total---do	(71)	(301)	(372)
Average selling price per pound:			
5 to 50 tons---cents per pound	45.6	50.9	61.5
51 to 150 tons---do	44.3	48.1	48.0
Over 150 tons---do	50.2	39.9	44.4
Tonnage unknown---do	55.3	71.1	78.6
Total---do	48.2	46.4	49.8
Average total cost per pound:			
5 to 50 tons---do	47.0	54.0	65.8
51 to 150 tons---do	43.6	47.8	50.0
Over 150 tons---do	51.4	41.7	43.9
Tonnage unknown---do	56.4	80.2	97.6
Total---do	48.6	48.2	52.2
Pretax income or (loss) per pound:			
5 to 50 tons---do	(1.4)	(3.1)	(4.3)
51 to 150 tons---do	0.7	0.3	(2.0)
Over 150 tons---do	(1.2)	(1.7)	0.5
Tonnage unknown---do	(1.1)	(9.1)	(19.0)
Total---do	(0.4)	(1.8)	(2.4)

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 12.--Total catch, number of fishing days, and average catch per day for 17 vessels, by vessel sizes, 1983-85

Item	1983	1984	1985
Total catch:			
5 to 50 tons (4 boats)--------pounds--	1,157,942	964,597	846,895
51 to 150 tons (6 boats)--------do----	4,729,214	4,501,438	4,248,888
Over 150 tons (7 boats)--------do----	11,142,688	12,402,542	10,941,150
Total (17 boats)----------do----	17,029,844	17,868,577	16,036,933
Number of fishing days:			
5 to 50 tons----------days--	646	667	641
51 to 150 tons----------do----	1,112	1,164	1,138
Over 150 tons----------do----	1,359	1,606	1,651
All vessels----------do----	3,117	3,437	3,430
Average catch per day:			
5 to 50 tons----------pounds--	1,792	1,446	1,321
51 to 150 tons----------do----	4,253	3,867	3,734
Over 150 tons----------do----	8,199	7,723	6,627
All vessels----------do----	5,464	5,199	4,675

Source: Compiled from data submitted in response to questionnaires of the United States International Trade Commission.

limits extending national jurisdiction over harvesting rights and fisheries management to 200 nautical miles from a nation's shoreline. Such legislation was implemented in Canada in January 1977 and in the United States, in the form of the MFCMA (Public Law 94-265), in March 1977.

The MFCMA gives U.S. fishermen priority in harvesting fishery resources within U.S. jurisdiction (200 miles); however, where U.S. harvesting capacity is inadequate to fully utilize the TAC of a particular fishery, foreign fleets are to be given allocations out of the particular fishery's Total Allowable Level of Foreign Fishing (TALFF), that portion of the TAC not able to be harvested by U.S. vessels. Both TAC's and TALFF's are assessed annually and readjusted as necessary. There are currently no TALFF's for any of the subject groundfish in the Northeastern United States. 1/

The MFCMA also set up eight regional fishery management councils, of which two, the New England and the mid-Atlantic councils, are responsible for fishing areas of concern in this investigation. These councils are each composed of State government officials, the regional director of the National Marine Fisheries Service, and "qualified individuals" knowledgeable about harvesting or fisheries management and conservation, who are appointed by the

1/ TALFF's are currently in effect for species such as mackerel and butterfish.

Secretary of Commerce from lists submitted by the governors of the member States.

During January 1979-March 1982, the groundfish management plan of the New England Fishery Management Council (NEFMC) regulated the harvesting of cod, haddock, and yellowtail flounder only, with haddock and yellowtail flounder being the resources most adversely affected by the heavy foreign fishing prior to 1977. Quarterly quotas set by fishing ground, vessel size, and species dictated the maximum allowable catch of each species by each vessel category. However, these quotas were rarely restrictive, as evidenced by the fact that fisheries were almost never closed because of filled quotas. The only exception to open fisheries was (and continues to be) the haddock fishery, for which the spawning grounds are closed during the spawning period for haddock, which is usually during March through May. This also affects landings of cod and flounder during that period, since these species are frequently located on the same fishing grounds.

As a result of poor compliance and ineffective enforcement of the plan's restrictions, the groundfish management plan was discontinued in 1982 in favor of the so-called Interim Plan for Atlantic Groundfish. This plan became effective on March 31, 1982, and eliminated nearly all restrictions on groundfish harvesting except for a minimum net mesh size of 5.5 inches and minimum lengths of fish that can be landed; no cod or haddock shorter than 17 inches can legally be landed, and no yellowtail flounder shorter than 11 inches can be landed. This restriction, which is currently in effect, applies to anyone who deals in these species of fish (in whole form), whether fishermen, dealers, processors, or wholesalers, and regardless of whether the fish is domestic or imported. In addition to the above regulations, the NEFMC'S policy closing the haddock spawning grounds during the spawning period remains in effect. 1/

A major event affecting the harvesting and management of the groundfish resources off the Northeast coast was the October 12, 1984, decision of the International Court of Justice delimiting the Atlantic maritime boundary between the United States and Canada. The dispute between the two countries over a substantial portion of the Gulf of Maine has been one of the most important issues concerning fisheries trade between the Northeastern United States and Atlantic Canada in recent years. This dispute, with origins as far back as the early 1960's, came to a head in recent years with the extension of U.S. and Canadian maritime boundaries to 200 nautical miles in 1977. Because of differing interpretations of the geography of the Atlantic coastline of North America, the boundaries claimed by the United States and Canada overlapped. The area in dispute was composed primarily of Georges Bank, which

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1/ The Interim Plan expires on Sept. 30, 1986. A new plan proposed by NEFMC, called the Atlantic Demersal Finfish Multi-Species Groundfish Management Plan, was rejected by the NMFS in January. The NMFS directed NEFMC to give limited entry, quotas, and larger minimum fish sizes consideration, as well as stating that the objective of conservation of the resource should be more heavily emphasized.

contains some of the world's most productive and valuable fish resources and is a major source of the subject groundfish used in fresh fish processing by both the Northeastern U.S. and Canadian industries. The World Court decision awarded about 80 percent of Georges Bank to the United States. The Court awarded Canada a portion of Georges Bank called the Northeast peak, which is viewed by many to be the most productive section of the Bank.

The Northeast Fisheries Center (NEFC) of the NMFS at Woods Hole, MA, conducts annual assessments of the abundance of various species off the Northeastern United States. Biologists attempt to determine the status of the fish resource through the use of trawl surveys by research vessels and data collected on commercial harvests, fishing effort, fish sizes and ages, as well as other parameters. The amounts of data available to the biologists vary by species; hence, the degree of accuracy to which the status of given species may be estimated differs. In general, estimates of abundance are best viewed over time rather than as absolute amounts in a given year.

The availability of the major species covered by this investigation is measured each spring and autumn by NMFS research vessels that make survey sample trawls. The results of these surveys are presented in the form of stratified mean catch per tow data, presented by number of fish and weight. The quantity data include juvenile fish, and therefore the weight data are a more meaningful indicator of the size of the biomass. 1/

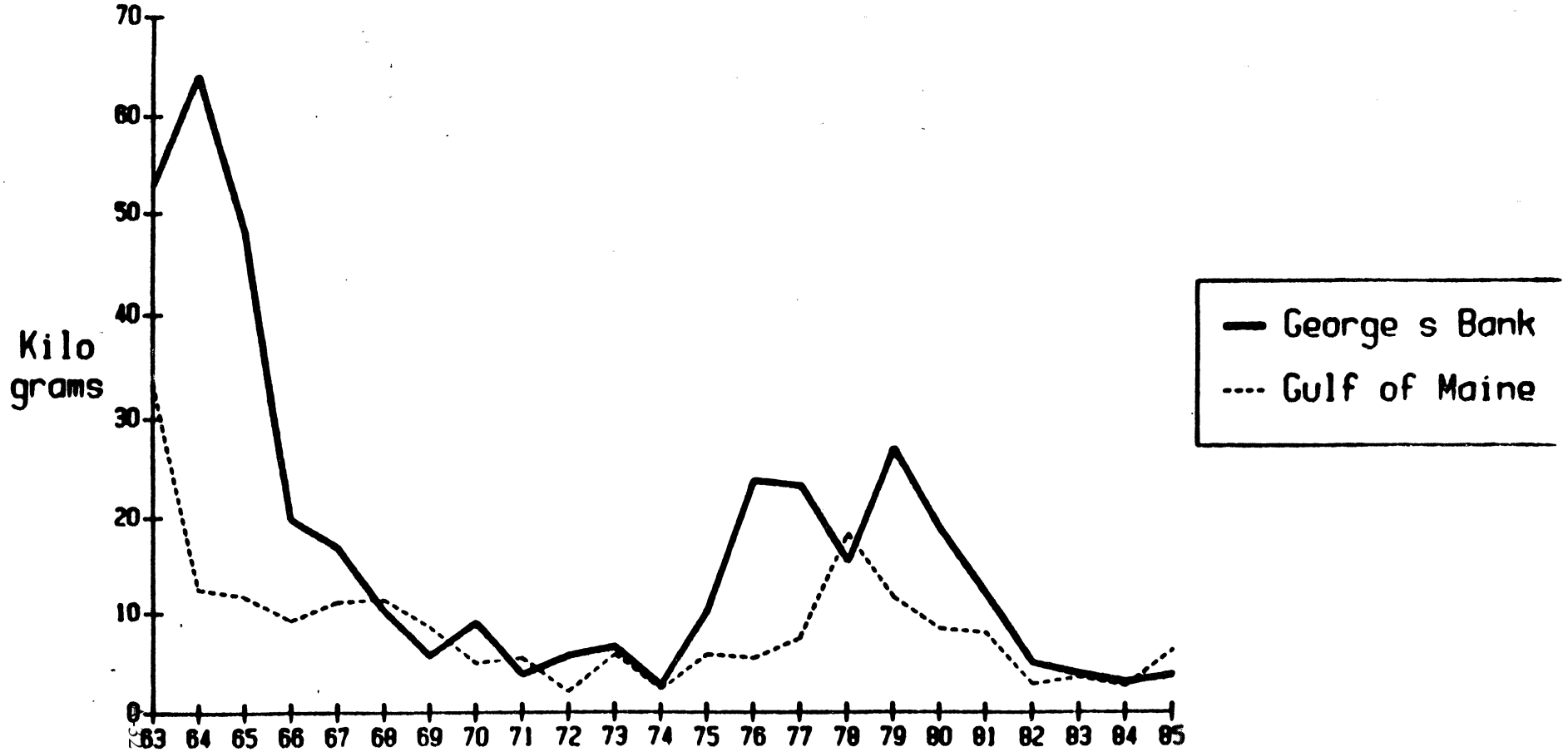
As shown in figure 1, surveys of haddock indicate that the relative abundance of this species declined from 1979 through 1984 in both fisheries studied. The low level reached in 1984 approximates the previous low level of 1974. Recruitment of juvenile haddock into the fishery takes about 2 to 3 years, so that a class of haddock born in 1978, for example, will support fishing effort in 1980 or 1981. Recent good year classes occured in 1975 and 1978. From 1979 through 1984, there were no good year classes. However, the 1985 year class is believed to contain the third highest number of young fish since 1963. The actual size of the 1985 year class is apparently between those of 1975 and 1978, and may contribute between 62 and 83 million 2-year-old fish to the fishery. 2/ This addition, if it occurs, would add stock to a fishery that is currently in a depressed condition. The NMFS has characterised the haddock stock in the Gulf of Maine as "now in extremely poor condition" and the stock in the Georges Bank area as "comparable to the record lows observed during the early to mid-1970's when recruitment was poor." 3/ The NMFS adds that the Georges Bank "stock is expected to decline even further in the near future."

1/ Biomass is defined as the total weight of spawning fish in a fishery.

2/ Commercial Fisheries News, March 1986, p. 17.

3/ Status of the Fishery Resources off the Northeastern United States for 1985, National Marine Fisheries Service, August 1985, pp. 33 and 35.

Figure 1.--Haddock: Stratified mean catch per tow for Georges Bank and the Gulf of Maine, NEFC Autumn survey, 1963-85.



Source: Compiled from official statistics of the U.S. Department of Commerce.

Flatfish are studied by individual species. The major species, yellowtail flounder, increased in abundance following the imposition of the 200-mile limit, owing primarily to a strong 1980 year-class. However, the 1982 and 1983 year-classes "appear to be among the weakest on record", 1/ and the 1984 abundance level was among the lowest since the studies began. 2/ The results of NMFS trawl surveys for yellowtail flounder in the Georges Bank and Southern New England fisheries are presented in figure 2.

Other species of flatfish are in varying conditions. Summer flounder (fluke), winter flounder (blackback or lemon sole), and American plaice (dab) are in relatively poor shape, with recent abundance studies showing declining trends. Witch flounder (gray sole), however, appears to be in good condition. 3/

Cod fishing mortality rates are currently the highest in 20 years in both the Gulf of Maine and Georges Bank areas. 4/ NMFS attributes this to increased fishing pressure to declines in abundance of haddock, redfish, and yellowtail flounder. The decline in abundance of cod is shown in figure 3. According to the NMFS, the 1985 fall survey yielded the second highest number of young fish since 1963, exceeded only by the 1975 year-class. 5/

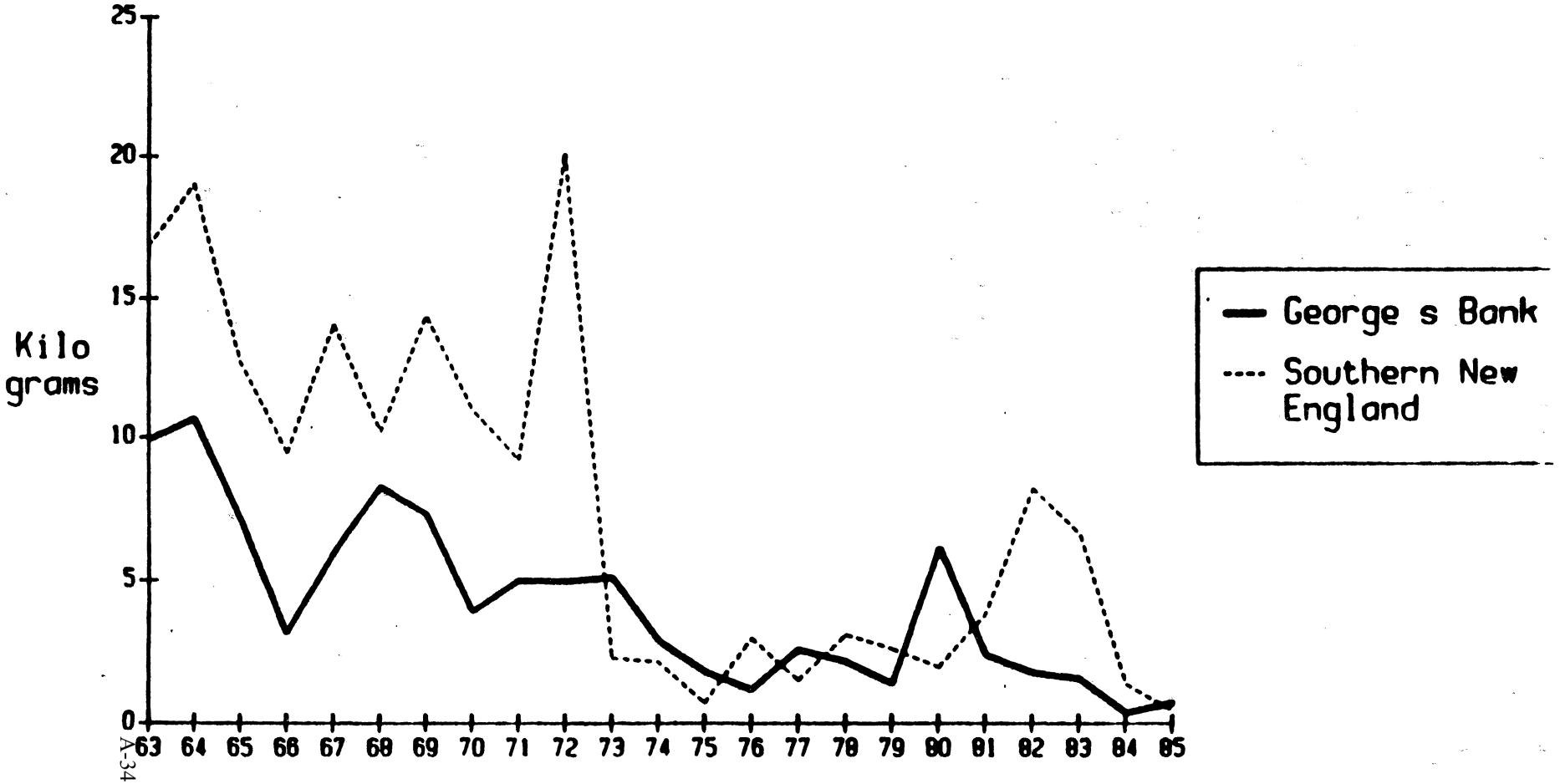
The abundance of the three hake species has generally remained stable in recent years. The exception is white hake, which the NMFS believes declined, although little is known about this species. 6/

The abundance of pollock has generally been high in recent years, as shown in the following tabulation:

Year	Biomass (1,000 metric tons)
1977	260
1978	280
1979	310
1980	320
1981	322
1982	295
1983	296
1984	312

1/ National Marine Fisheries Service, Northeast Fisheries Center, Clark, et al., Yellowtail Flounder Assessment Update-1984, Reference doc. No. 84-39, p. 14.
2/ Status of the Fishery Resources off the Northeastern United States for 1985, National Marine Fisheries Service, August 1985, pp. 54-59.
3/ Ibid, pp. 60-69.
4/ Ibid, p. 30.
5/ Commercial Fisheries News, March 1986, p. 17.
6/ Status of the Fishery Resources off the Northeastern United States for 1985, National Marine Fisheries Service, August 1985, pp. 41-50, 76-78.

Figure 2.--Yellowtail flounder: Stratified mean catch per tow for Georges Bank and Southern New England, NEFC Autumn survey, 1963-85.



Source: Compiled from official statistics of the U.S. Department of Commerce.

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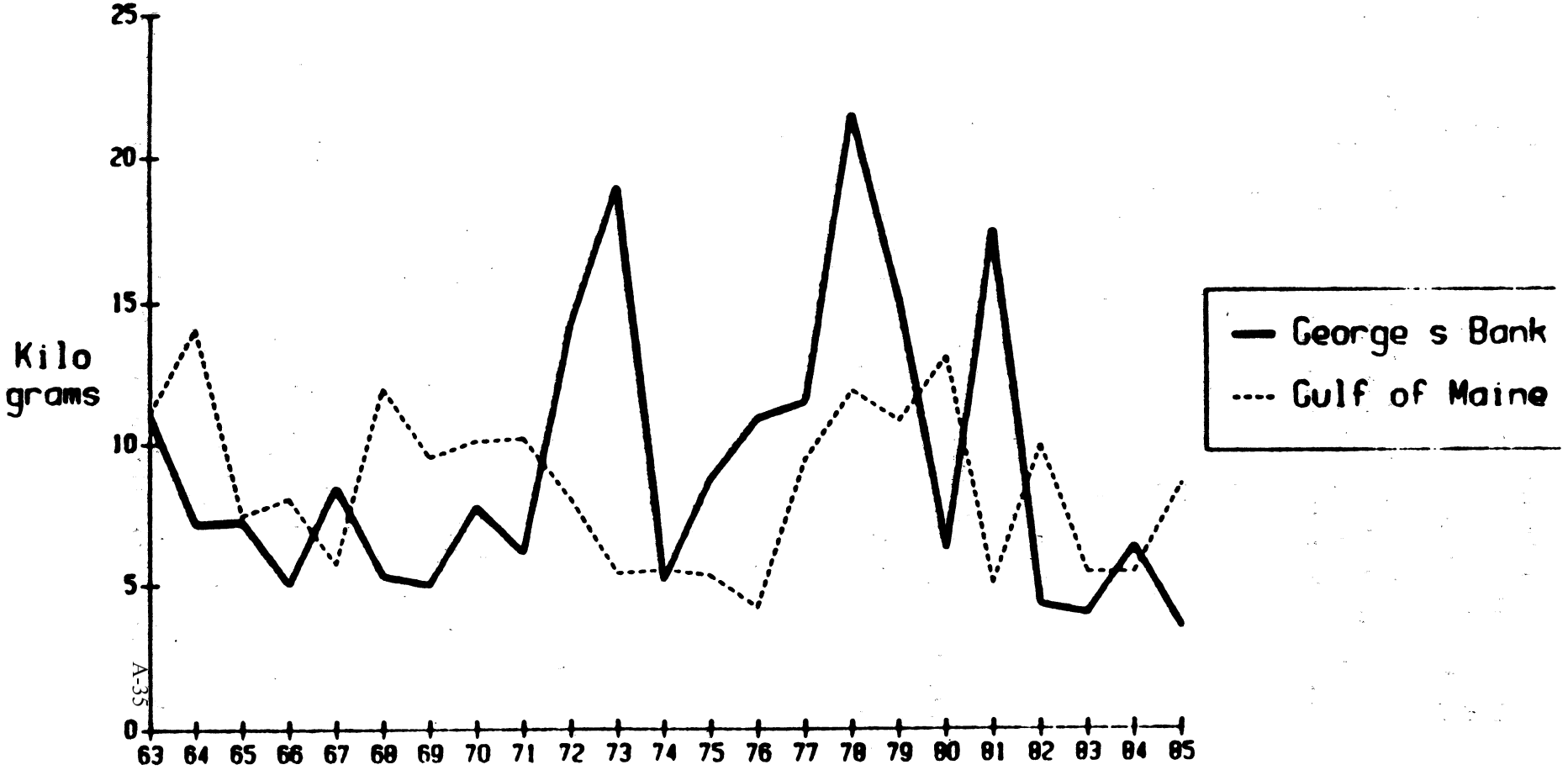
Figure 3.--Cod: Stratified mean catch per tow for Georges Bank and the Gulf of Maine, NEFC Autumn survey, 1963-85.



Source: Compiled from official statistics of the U.S. Department of Commerce.

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Processors

The Commission sent questionnaires to 97 firms believed to be significant processors of groundfish in an attempt to gather information on their operations. These firms are estimated to account for over 80 percent of U.S. production of the fillets covered by this investigation.

U.S. production.- According to unpublished statistics of the NMFS, U.S. production of fresh groundfish fillets rose from 95.6 million pounds, valued at $173 million, in 1982 to 105.2 million pounds, valued at $223 million, in 1985, as shown in the following tabulation:

Year	Quantity 1,000 pounds	Value 1,000 dollars
1982	95,613	173,070
1983	98,281	162,950
1984	102,260	195,045
1985	1/ 105,170	1/ 222,784

1/ Preliminary.

Domestic shipments.--All production of fresh fillets is shipped soon after being cut.

Employment.- Employment data collected by NMFS for plants in which the types of groundfish covered by this investigation are processed are presented below:

Year	Average number of employees	Plants
1982	2,715	126
1983	3,348	124
1984	2,906	128
1985	1/ 2,320	1/ 125

1/ Preliminary.

These data include workers that process fish other than those covered by this investigation. The increase in workers during 1983 is believed by the NMFS to represent increased processing of species not covered by this investigation.

Financial experience of U.S. processors.- Fourteen processors furnished usable income-and-loss data on their overall establishment operations, and 10 of the 14 provided usable data on their operations processing fresh and chilled whole groundfish and fillets.

Operations processing whole groundfish and fillets.- Aggregate net sales of the 10 processors increased from $92.8 million in 1983 to $99.3 million in 1984, a gain of 7.1 percent, and then grew by 10 percent to $109 million in 1985 (table 13). Operations were profitable in all 3 years,

Table 13.--Income-and-loss experience of U.S. processors on their operations processing fresh and chilled whole groundfish and fillets, accounting years 1983-85

Item	1983	1984	1985
Net sales----------1,000 dollars--	92,757	99,325	109,290
Cost of goods sold----------do----	85,123	90,319	98,030
Gross profit----------do----	7,634	9,006	11,260
Operating expenses----------do----	6,002	7,428	8,352
Operating income----------do----	1,632	1,578	2,908
Interest expense----------do----	242	217	197
Other income or (expense), net----------do----	186	250	305
Net income before income taxes do----	1,576	1,611	3,016
Depreciation and amortization expense included above---do----	719	769	876
Cash flow 1/----------do----	2,295	2,380	3,892
As a share of net sales:			
Cost of goods sold-----percent--	91.8	90.9	89.7
Gross profit----------do----	8.2	9.1	10.3
Operating expenses----------do----	6.5	7.5	7.6
Operating income----------do----	1.8	1.6	2.7
Net income before income taxes----------do----	1.7	1.6	2.8
Number of firms reporting operating losses----------	0	1	1
Number of firms reporting----------	10	10	10

1/ Net income before taxes plus depreciation and amortization expense.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

although there was a 3.3 percent drop in operating income from 1983 to 1984. Operating income nearly doubled from $1.6 million in 1984 to $2.9 million in 1985. Operating margins during 1983-85 were 1.8, 1.6, and 2.7 percent, respectively. None of the 10 producers reported an operating loss in 1983, but one incurred losses in both 1984 and 1985. Cash flow increased by 3.7 percent from 1983 to 1984, and then soared by 63 percent to $4.0 million in 1985, mainly because of the sharp increase in net income before taxes.

Overall establishment operations.- Aggregate net sales of the 14 producers increased steadily from $163 million in 1983 to $184 million in 1985, representing a 2-year gain of 13 percent (table 14). Operating income dropped slightly from $2.4 million in 1983 to $2.1 million in 1984, and then more than doubled to $4.5 million in 1985. The operating margin dipped from 1.5 percent in 1983 to 1.2 percent in 1984, and then jumped to 2.5 percent in 1985. One of the 14 producers incurred an operating loss in 1983, two suffered losses in 1984, and one reported an operating loss in 1985. Cash

Table 14.--Income-and-loss experience of U.S. processors on the overall operations of their establishments within which fresh and chilled whole groundfish and fillets are processed, accounting years 1983-85

Item	1983	1984	1985
Net sales----------1,000 dollars--	163,020	176,735	183,659
Cost of goods sold----------do----	148,770	161,169	164,417
Gross profit----------do----	14,250	15,566	19,242
Operating expenses----------do----	11,858	13,419	14,716
Operating income----------do----	2,392	2,147	4,526
Interest expense----------do----	923	857	854
Other income or (expense), net----------do----	334	318	499
Net income before income taxes do----	1,803	1,608	4,171
Depreciation and amortization expense included above----do----	1,604	1,690	1,853
Cash flow 1/----------do----	3,407	3,298	6,024
As a share of net sales:			
Cost of goods sold-----percent--	91.3	91.2	89.5
Gross profit----------do----	8.7	8.8	10.5
Operating expenses---------do----	7.3	7.6	8.0
Operating income----------do----	1.5	1.2	2.5
Net income before income taxes----------do----	1.1	0.9	2.3
Number of firms reporting operating losses----------	1	2	1
Number of firms reporting-------	14	14	14

1/ Net income before taxes plus depreciation and amortization expense.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

flow declined slightly from $3.4 million in 1983 to $3.3 million in 1984, then nearly doubled to $6.0 million in 1985, due primarily to a 159-percent jump in net income before taxes.

The Question of the Causal Relationship Between Alleged Material Injury and Subsidized Imports from Canada

U.S. imports

Fresh whole groundfish.- U.S. imports of fresh whole groundfish from Canada increased steadily from 36 million pounds in 1982 to 94 million pounds in 1985, or by 161 percent (table 15). In addition to Canada, fresh whole groundfish were imported in small quantities from about 24 other countries in 1985. However, imports from Canada have accounted for at least 97 percent of total imports from all sources since 1982.

Table 15.--Certain fresh whole Atlantic groundfish: 1/ U.S. imports for consumption, 2/ by sources, 1982-85

Source	1982	1983	1984	1985
	Quantity (1,000 pounds)			
Canada	35,978	46,327	76,107	94,024
Netherlands	361	553	838	904
Mexico	82	233	336	218
All other	189	200	477	588
Total	36,610	47,313	77,758	95,734
	Value (1,000 dollars)			
Canada	12,796	17,090	27,704	35,459
Netherlands	1,428	1,842	2,610	3,108
Mexico	78	206	198	115
All other	483	595	1,168	1,260
Total	14,785	19,733	31,680	39,942
	Unit value (per pound)			
Canada	$0.36	$0.37	$0.36	$0.38
Netherlands	3.96	3.33	3.11	3.44
Mexico	.96	.88	.59	.53
All other	2.55	2.98	2.45	2.14
Average	.40	.42	.41	.42

1/ Tariff Schedules of the United States Annotated items 110.1585, 110.1593, and 110.3560.

2/ Includes imports of Pacific species, which are believed to account for less than 20 percent of the total.

Source: Compiled from official statistics of the U.S. Department of Commerce.

As shown in the following tabulation, the major share of imports from Canada enter the United States through customs districts located in the Northeast: 1/

Year	Share of total imports from Canada entered through northeast customs districts (percent)
1982	83
1983	85
1984	84
1985	82

1/ Customs districts located in Maine, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, the District of Columbia, Maryland, and Virginia.

Most imports of fresh whole groundfish that enter the northeast are believed to remain in that region for processing into fresh fillets.

Fresh groundfish fillets.- Imports of fillets from Canada rose steadily from 16.4 million pounds in 1982 to 26.0 million pounds in 1985, or by 59 percent (table 16).

Table 16.--Certain fresh Atlantic groundfish fillets: 1/ U.S. imports for consumption 2/, by sources, 1982-85

Source	1982	1983	1984	1985
	Quantity (1,000 pounds)			
Canada	16,383	17,692	21,482	26,013
Iceland	672	1,639	1,360	1,719
Denmark	3/	126	227	768
All other	168	268	787	1,048
Total	17,224	19,726	23,856	29,547
	Value (1,000 dollars)			
Canada	20,320	21,252	25,860	32,187
Iceland	760	2,192	1,821	2,655
Denmark	3/	296	330	1,402
All other	254	691	1,346	2,241
Total	21,335	24,431	29,357	38,485
	Unit value (per pound)			
Canada	$1.24	$1.20	$1.20	$1.24
Iceland	1.13	1.34	1.34	1.54
Denmark	1.57	2.34	1.46	1.83
All other	1.51	2.58	1.71	2.14
Average	1.24	1.24	1.23	1.30

1/ Tariff Schedules of the United States Annotated items 110.5545, 110.5565, and 110.7033.
2/ From table 15.
3/ Less than 500.

Source: Compiled from official data of the U.S. Department of Commerce.

Imports of fresh groundfish fillets from Canada also enter the United States primarily through Customs districts located in the Northeast, as shown in the following tabulation:

Year	Share of total imports entered through northeast customs districts (percent)
1982	86
1983	87
1984	89
1985	91

Although statistics are not available on shipments of fillets to areas outside the Northeast region, significant quantities of fillets are believed to be shipped by air and truck to wholesalers and retailers in areas outside the northeast.

Market penetration

Fresh whole groundfish.- Imports of fresh whole groundfish from Canada increased steadily from 8.0 percent of apparent consumption in 1982 to 22.0 percent in 1985 (table 17).

Table 17.--Certain fresh whole Atlantic groundfish: U.S. imports from Canada and apparent U.S. consumption, 1982-85

Year	Imports from Canada	Apparent U.S. consumption	Ratio of imports from Canada to apparent U.S. consumption
	Million pounds		Percent
1982	36.0	447.7	8.0
1983	46.3	463.7	10.0
1984	76.1	460.1	16.5
1985	94.0	427.2	22.0

Source: Compiled from official statistics of the U.S. Department of Commerce.

The ratios of imports from Canada into the Northeast region to U.S. landings in that region during 1982-85 are shown in the following tabulation:

Year	Ratio of imports from Canada into the Northeast to U.S. landings (percent)
1982	7.4
1983	9.7
1984	17.4
1985	24.1

Fresh groundfish fillets.--Imports of fresh groundfish fillets from Canada increased from 14.5 percent of apparent consumption in 1982 to 19.3 percent in 1985 (table 18).

Table 18.--Certain fresh Atlantic groundfish fillets: U.S. imports from Canada and apparent U.S. consumption, 1982-85

Year	Imports from Canada	Apparent U.S. consumption	Ratio of imports from Canada to apparent U.S. consumption
	1,000 pounds		Percent
1982	16,383	112,837	14.5
1983	17,692	118,007	15.0
1984	21,482	126,116	17.0
1985	26,013	134,717	19.3

Source: Compiled from official statistics of the U.S. Department of Commerce.

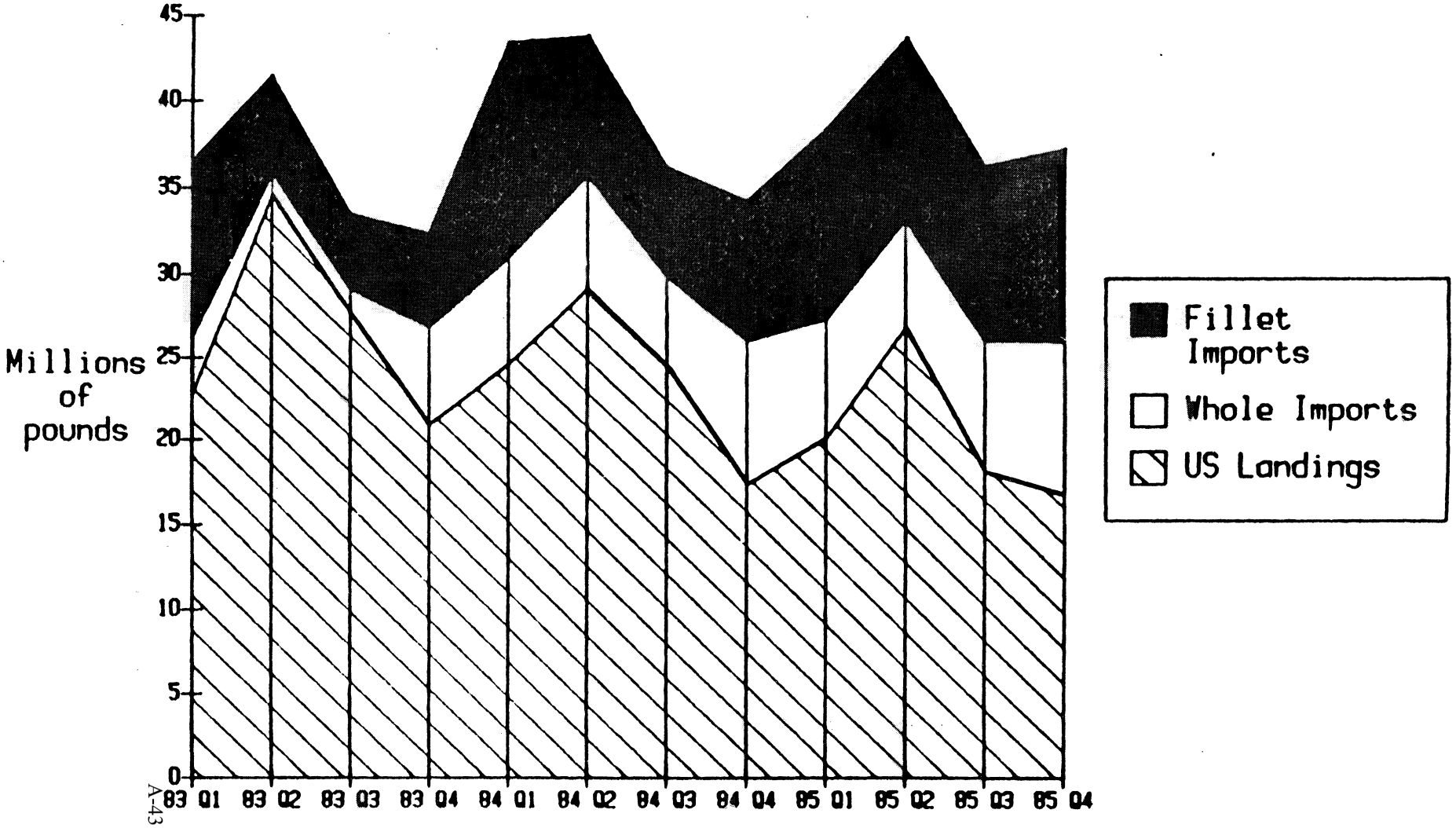
A comparison of imports of fillets from Canada entered through Northeast Customs districts to U.S. production in that region is shown below:

Year	Ratio of imports from Canada into the Northeast to U.S. production (percent)
1982	14.9
1983	16.4
1984	19.4
1985	23.5

Composition of the total supply of fresh groundfish.- The domestic supply of groundfish is highly variable, primarily due to the seasonality of the catch. If it is true that domestic demand for fresh groundfish exceeds the available domestic supply, then imports of Canadian whole fish and fillets may enter the United States as a supplement to the insufficent domestic supply. If this is the case, then imports should rise in periods when domestic landings are declining and should fall when domestic landings are on the increase.

In figures 4-7, domestic landings, imports of whole fish, and imports of fillets are shown together, and constitute total supply available to the U.S.

Figure 4.—Fresh cod: Composition of U.S. supply, by quarters, 1983-85.



Source: Compiled from official statistics of the U.S. Department of Commerce.

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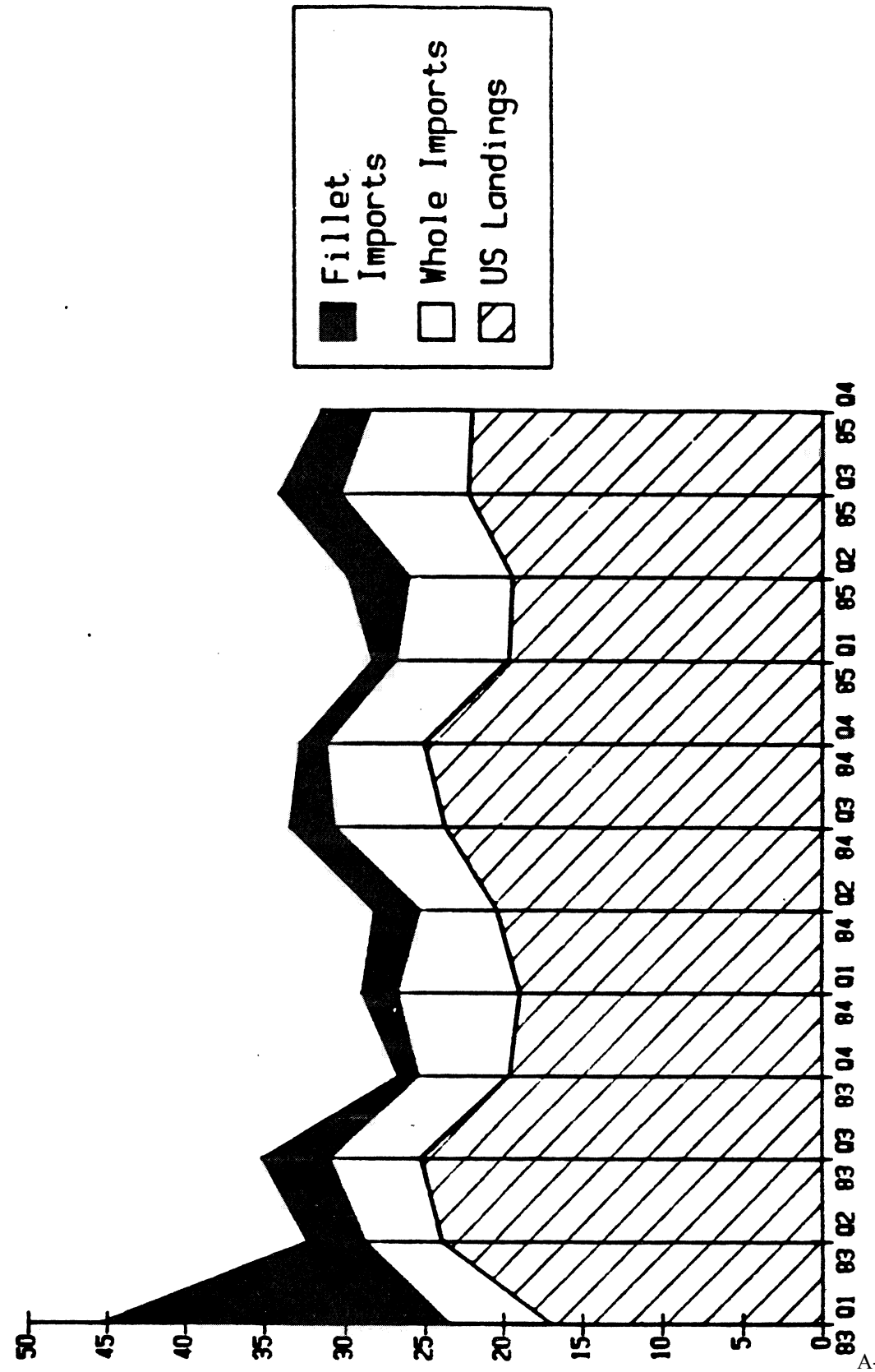
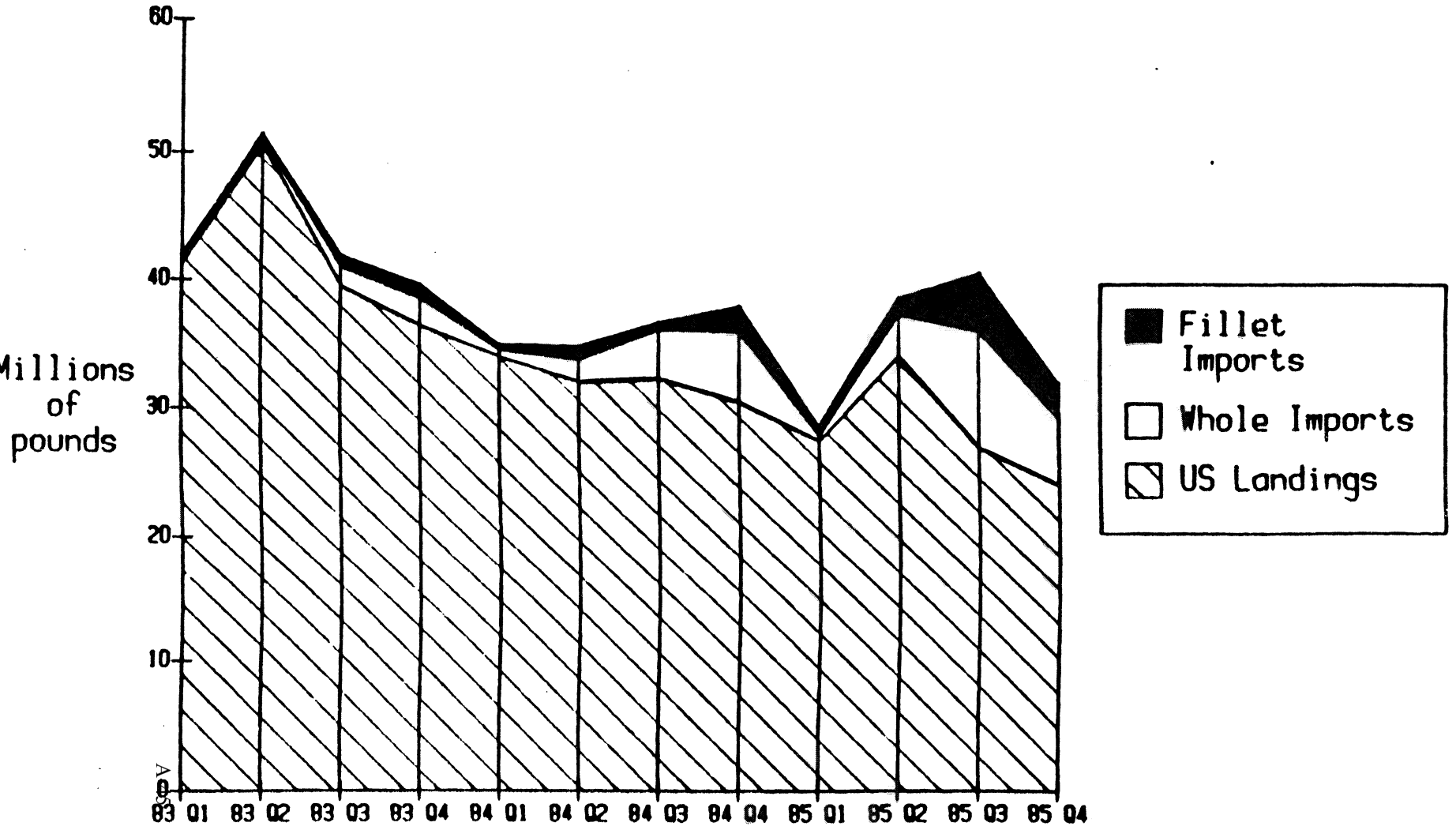


Figure 5.—Fresh haddock: Composition of U.S. supply, by quarters, 1983-85.

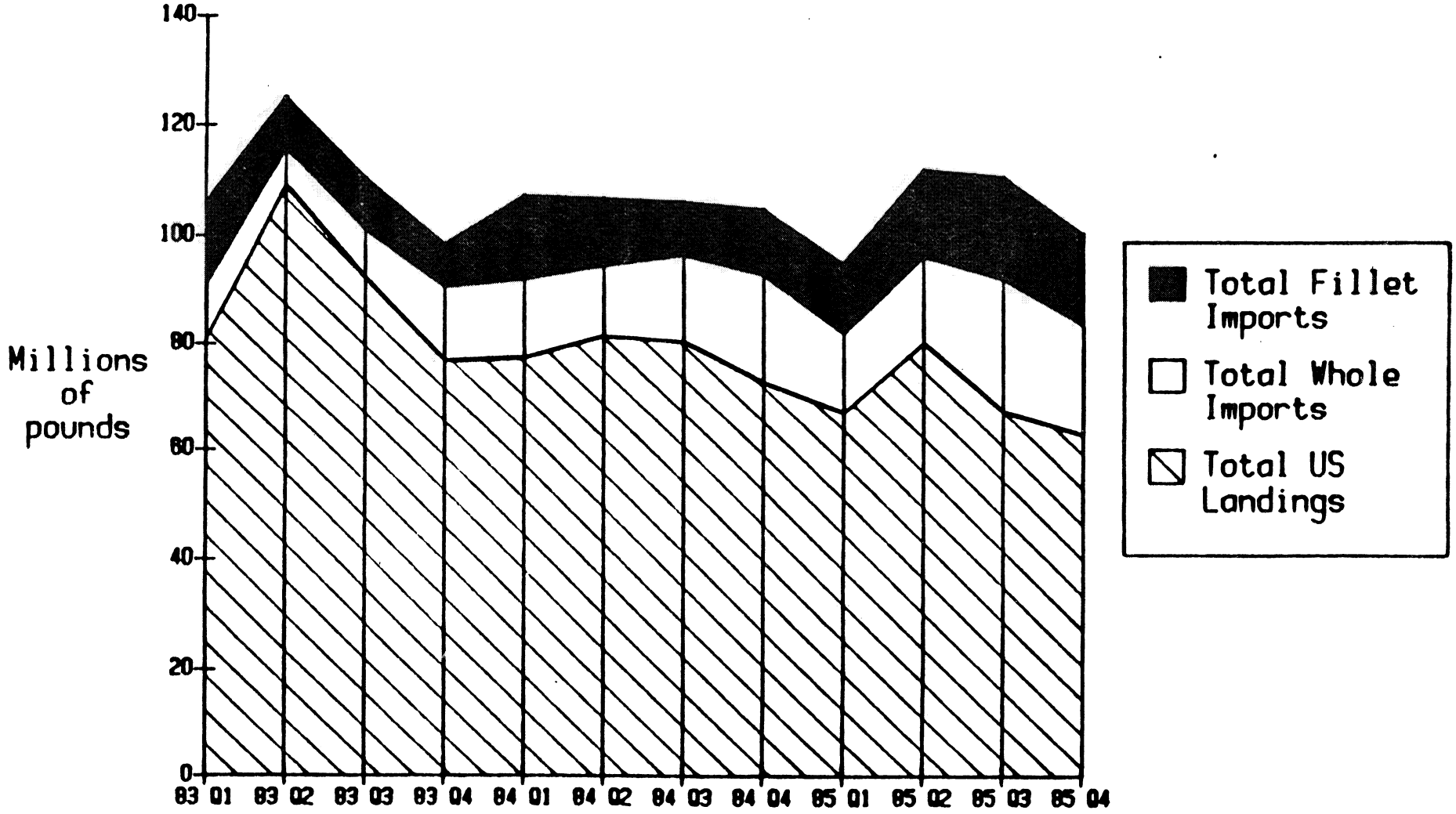
Source: Compiled from official statistics of the U.S. Department of Commerce.

Figure 6.—Fresh flounder: Composition of U.S. supply, by quarters, 1983-85.



Source: Compiled from official statistics of the U.S. Department of Commerce.

Figure 7.—Fresh cod, haddock, and flounder: Composition of U.S. supply, by quarters, 1983-85.



Source: Compiled from official statistics of the U.S. Department of Commerce.

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market. 1/ Imports of fillets have been converted to the whole-fish equivalent in order to aggregate all imports with landings. 2/

There are several ways to analyze the available data on landings and imports: on a quarter to quarter basis, from one quarter in a year to the corresponding quarter in the following year, or on an annual basis. When viewed quarter-to-quarter, the available evidence does not suggest that Canadian imports regularly rise and fall in response to changes in domestic landings. However, when examined annually or from one quarter to the corresponding quarter of the next year, such a correlation generally does exist.

Prices

Domestic whole fish are generally sold directly by fishermen to processors, brokers, or dealers. Exceptions include fish landed in Boston and New Bedford, where fishermen may sell their catch at the daily auction. 3/ Because the size of the whole fish will affect the yield of flesh when it is processed, whole fish are differentiated by both species and sizes. Auction bidding then takes place by species and size, and different prices are established for each size within each species. In New Bedford, bidders must buy an entire boatload at the individually established species prices. In both ports, the fish are not seen by the purchaser until they are unloaded from the boat.

Besides the auction transactions, vessel owners (including independent Canadian vessel owners) may sell whole fish directly to buyers. 4/ Some buyers have preferential arrangements with vessel owners and offer a higher price for the vessel owner's fish in exchange for receiving the freshest fish on the boat -- the "top of the trip." Many buyers routinely purchase fish landed in a variety of Northeast ports, and vessel owners have the option of

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1/ Data on domestic landings were compiled from official statistics of the National Marine Fisheries Service. Import data were compiled from official statistics of the U.S. Customs Service. The data on haddock includes cusk, haddock, hake, and pollock, although haddock is the largest component. The data on flounder includes all species of flounder.

2/ Each pound of fillets imported was converted to 2.75 pounds of whole-fish equivalent. This conversion factor implies a yield of approximately 36 percent from whole fish.

3/ The volume of fish sold at the auctions on a given day generally represents a relatively small share of total U.S. landings. This was recently accentuated when the fishermen's strike in New Bedford lowered landings in that port below normal levels.

4/ An example of this is Gloucester, where vessel owners typically sell all their catch to the same buyer after each trip. The Gloucester buyers may then resell the whole fish, may process the fish themselves, or do both. Some buyers have established relationships with Canadian fishermen and import Canadian whole fish directly.

landing fish in ports other than their home ports. 1/ In New Bedford and Gloucester many processors have dockside locations and are able to unload boats directly into their plants, thus reducing the handling of the fish. Any buyers not located dockside must have the fish unloaded from the boats, sorted, crated, loaded into refrigerated trucks, and trucked to their locations.

Although all prices for domestic whole groundfish are determined in a competitive market, the process by which transaction prices are established is complicated and intricate.

The domestic supply of whole fish available for sale on any given day is affected by numerous factors. In winter months, domestic catches are below average, while in summer months, they are above average, given a constant fishing effort year round. Bad weather conditions may cause boats to dock early and may delay departures. In this way a given day's supply can be increased because of boats landing earlier than expected or decreased because of a lack of boats landing. Fishermen may also attempt to influence prices by timing their landings to occur on days when fewer fish are typically marketed. 2/ Similarly, previously landed groundfish may influence the following day's supply if the fish cannot be sold at a satisfactory price and are held for sale the following day. 3/ In addition, NEFMC regulations prohibit fishing in some spawning grounds for a three-month period each spring, thus limiting the size of the legal fishing grounds and reducing available and realized catches. Supply is also affected by the number of days at sea and fishing effort exerted while at sea.

Supplies of individual species of groundfish will be affected by all these factors, as well as by the availability of the species in the U.S. fishing grounds. Overall, the domestic supply of the species of groundfish subject to this investigation has fallen in recent years. Certain groundfish species, especially haddock, some types of flounder, and, to a lesser extent cod, have been reduced by overfishing and also perhaps by the natural cycles in the species' populations, even though some species of groundfish, especially pollock, continue to be abundant.

There are also many factors that influence U.S. demand for whole groundfish. The demand for the whole fish is derived from the end consumer's demand for fish fillets and fish products. While this demand has apparently increased as consumers have shifted their diets to leaner sources of protein in recent years, consumers remain sensitive to price changes. If prices rise, they may shift their consumption to less expensive varieties of fish or may choose to consume other sources of protein (chicken, beef, and so forth).

Processors typically buy fish daily and sometimes do so seven days a week to ensure steady supplies to their plants. Processors and brokers gather information about landings throughout the Northeast by telephoning each other throughout the early morning. At both the Boston and New Bedford auctions,

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1/ This option is infrequently exercised, and most boats land fish in the same port over a long period of time.

2/ This practice is not reported to be widespread. Its influence is reported to be fairly consistent and predictable and does not act as a random shock to supply.

3/ This will more likely be true when supplies are abundant.

fish buyers continually receive information about availability of groundfish outside the auction, requirements to meet customer needs, and auction prices established at the other simultaneous auction. This information then influences the price buyers are willing to pay at auction.

Many in the fishing industry consider the Boston auction price to be a benchmark price from which individual transaction prices are separately negotiated. For instance, a number of processor/brokers in Gloucester have indicated that they typically buy whole fish from the vessel owners at a discount from the day's Boston auction price and attempt to resell the fish to processors at the Boston auction price. This discount may range up to 15 cents per pound for some varieties of fish some days.

Even if the purchase was arranged and an initial price established through the auction or through a broker, buyers of whole fish negotiate the final transaction prices of each purchase. Negotiation takes place primarily on the basis of the actual or perceived quality of the fish once it is received by the processor. If the fish is not judged to be of sufficiently high quality when it is first inspected, a discount will be negotiated, and the transaction price will be lower than the initial price agreed upon. In addition, if the fish does not hold up well in processing, the buyer may negotiate another discount off the previously established transaction price. Therefore, the initial prices are not representative of the final transaction prices for groundfish. 1/

The actual or perceived quality of fresh whole groundfish is an important influence on the demand for fish. Clearly, older fish are less desirable than newly caught fish, as their shelf life is reduced once they reach the processor and end user. Therefore, older fish receive a lower price than newly caught fish. The amount of time that passes between when the fish is caught and when it reaches the processor is affected by such factors as the duration of the fishing trip, and, once landed, the amount of time it takes to ship the fish to processors and then to end users.

The quality of the fish is also affected by the amount of, and care in, handling of the fish from the time it is caught to the time it reaches its destination. Fish buyers perceive "over the road" fish--fish which has been trucked to the processor--to be of lower quality than fish not trucked because of the damage to the flesh that occurs during transit. It is a common perception of many New England fishermen, processors, and brokers that Canadian fish is not handled as well as U.S. fish, and thus is of lower quality.

Quality is also measured by the yield of flesh from the fresh whole fish, i.e., the size of the fillet. Yield can vary by method of processing, but can also vary by the weight of the fish. Many individuals in the Northeast groundfish industry contend that the Canadian fishing grounds provide a more difficult climate for the growth of fish, and therefore, that Canadian fish are more slender than U.S. fish of comparable size, may contain worms, and have a correspondingly smaller yield. Some processors have indicated that the Canadian fish may yield up to 8 percent less than an equivalent-sized domestic fish.

1/ This is true for auction prices as well as initial prices established outside auction.

In addition, there are differences in the way U.S. and Canadian fish are categorized by size, especially for cod. Cod are grouped by weight into four major sizes: scrod cod, market cod, large cod, and whale cod. In the United States, scrod cod weigh between 1.5 and 3 pounds, market cod weigh between 3 and 10 pounds, large cod weigh between 10 and 25 pounds, and whale cod weigh over 25 pounds. However, Canadian cod is sorted at lower weights for each group; scrod cod from Canada weigh up to 2.5 pounds, market cod weigh 2.5 to 10 pounds, and large cod from Canada weigh over 10 pounds. Therefore, domestic fish buyers generally discount the Canadian cod because of its smaller size.

All of the factors that affect the quality of the whole groundfish, in turn, affect the quality of the groundfish fillet. Processors and retailers contend that their primary concern in marketing fish fillets is shelf life. The longer the fillets can be kept on the vendors' shelf, the more likely the vendor is to sell the product fillet at the price he desires. Thus, older whole fish, and therefore fillets cut from these fish, are worth less to the retailer and receive a lower price than fresher fillets. Many processors and retailers agree that Canadian whole fish, as well as fillets, are older, and give correspondingly less shelf life. For this reason, they allege, Canadian fillets often receive a lower price per pound than equivalently processed domestic fillets.

In the fillet market, however, there are additional factors that substantially affect the cost of processing whole fish and, hence, the price of the fillet. There are many different types of fillets produced domestically and in Canada. Fillets can vary by the type of cut, the amount of flesh retained, whether it is boneless, and whether it is skinless. The greater the amount of flesh lost in processing, the lower the yield from the original whole fish and the higher the price of the resulting fillet. Each additional step of processing (skinning, boning, and so forth) causes some flesh to be lost, and thus increases the cost and price of the fillet.

Packaging is another significant cost factor in fish processing. Fillets can be packaged in various-sized containers, ranging from 100-pound bulk packs to individually wrapped tray packs. The more packaging the processor does per pound of fillets, the higher the cost of producing the finished product, and the higher the price of the fillet to the retailer.

A third additional cost incurred in processing applies to those domestic processors that produce fillets receiving the U.S. Department of Commerce (USDC) Grade A rating. These processors contend that it is more costly to them to produce to USDC specifications and that Grade A fillets must be charged a correspondingly higher price.

Even though processing of whole fish introduces many different types of costs, in addition to the cost of purchasing the whole fish, prices for fillets of a given cut, grade, and type of packaging do not fluctuate as widely as do prices for whole groundfish.

National Sea Products of Canada markets fillets in the United States and deals primarily through seafood distributors. Most U.S. retailers require a variety and quantity (small) of fish that National Sea cannot easily supply.

Fillets sold to distributors are often repackaged into smaller quantities and sold to retail outlets. National Sea does market some of its fillets directly to U.S. retailers but sells to those retailers with the capability of buying and repackaging large quantities of fillets.

National Sea has stated that its prices for fresh fillets depend importantly upon the prices it could receive for its fillets if they were sold into alternate markets (frozen, salted, and so forth). 1/ It claims that for its fillets to be sold into the U.S. fresh groundfish market, it must receive more than the going price for premium frozen fillets. If fresh fillets can exceed this minimum price, they will be sold to the United States. If not, the fish will be diverted into the premium frozen market. The minimum price fresh fillets must receive is revised every two months or so.

Trends in prices.-- Processors were asked to report prices paid for their largest purchase of whole domestic and Canadian market cod and haddock on the second Monday of each month from January 1984 through December 1985. The staff also requested that National Sea Products of Canada provide selling prices of whole Canadian groundfish to brokers and U.S. processors. This information had not been received as of the writing of this report. 2/ Ten usable responses were received from U.S. processors, and were used to create weighted-average prices paid (tables 19 and 20). In addition, because these prices varied widely across processors, the range of reported prices is also presented in these tables. The staff also requested fillet purchase prices from the Kroger Co. and has included Kroger's f.o.b. prices paid in the ranges presented in table 21. 3/

Figure 8 shows that there is a slight upward trend in the prices paid for domestic whole market cod and whole haddock. Prices for domestic cod and haddock were, on average, higher in 1985 than in 1984. This upward trend is also evident in the ranges of reported prices; the highest reported price paid in each month in 1985 is usually higher than the highest reported price paid in 1984. For haddock, throughout 1985 at least one processor each month was paying more than $1.00 per pound, compared with 1984, when at least one processor was paying over $1.00 per pound in only 4 months.

Most notable, however, is the great variability in the weighted-average prices; they commonly rose and fell by more than 20 percent from one month to the next. Some seasonality is evident in the weighted-average price series. From April or May until September or October, prices tend to be somewhat lower than in the rest of the year. This is likely to be due to larger catches of groundfish in the spring and summer months.

1/ See notes of Holly Glenn.

2/ On Jan. 22, 1986, the Commission staff requested this information through the law firm of O'Melveny and Myers. The staff was assured such information could and would be made available. After repeated calls, including a request made during the public hearing, little or no usable information was received.

3/ * * *.

Table 19.--Whole market cod: Prices paid by U.S. processors for domestic and Canadian fish, by selected days, Jan. 9, 1984-Dec. 9, 1985

(Per pound)

Date	Domestic price		Canadian price	
	Weighted average	Range	Weighted average	Range
1984:				
Jan. 9	$0.40	$0.32-0.46	$0.44	$0.40-0.45
Feb. 13	.38	.35-1.00	.36	3/
Mar. 12	.70	.60-1.00	.79	.75-.80
Apr. 9	.41	.38-0.70	2/ .40	-
May 14	.38	.35-0.40	2/ .40	-
June 11	.27	.24-0.30	.38	.25-.75
July 9	.56	.30-0.75	1/	-
Aug. 13	.37	.33-0.60	2/ .35	-
Sept. 10	.42	.37-0.55	.35	3/
Oct. 8	.70	.60-0.85	2/ .80	-
Nov. 12	.61	.45-0.74	2/ .53	.50-.55
Dec. 10	.58	.53-1.00	.56	.55-.56
1985:				
Jan. 14	.74	.33-0.90	.63	.62-.65
Feb. 11	.58	.53-1.00	.51	.50-.55
Mar. 11	.48	.30-0.60	.45	.45-.50
Apr. 8	.48	.41-0.80	.49	.45-.55
May 13	.60	.55-0.64	.55	3/
June 10	.34	.30-0.41	1/	-
July 8	.55	.38-0.75	.36	.35-.40
Aug. 12	.55	.20-0.74	.46	.45-.51
Sept. 9	.59	.50-0.72	.56	.50-.60
Oct. 14	.66	.65-0.70	1/	-
Nov. 11	.87	.80-1.08	.72	.70-.75
Dec. 9	.62	.55-1.40	.56	.55-.60

1/ Not available.
2/ Only one price reported.
3/ No variation in prices reported.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 20.--Whole haddock: Prices paid by U.S. processors for domestic and Canadian fish, by selected days, Jan. 9, 1984-Dec. 9, 1985

(Per pound)

Date	Domestic price		Canadian price	
	Weighted average	Range	Weighted average	Range
1984:				
Jan. 9	$0.63	$0.46-0.75	$0.60	3/
Feb. 13	.63	.40-.90	.62	3/
Mar. 12	1.53	1.50-1.75	1.50	3/
Apr. 9	.90	.70-1.06	.90	3/
May 14	.65	.49-.70	2/ .70	3/
June 11	.47	.44-.55	2/ .50	3/
July 9	1.21	.75-1.48	1/	-
Aug. 13	.62	.60-.65	.57	$0.55-0.60
Sept. 10	.83	.49-.92	2/ 1.30	-
Oct. 8	1.45	1.45-1.60	2/ 1.10	-
Nov. 12	1.10	.84-1.25	2/ 1.10	-
Dec. 10	2/ 1.45	-	1/	-
1985:				
Jan. 14	1.67	1.60-1.75	1.55	1.50-1.65
Feb. 11	1.28	1.25-1.35	.96	.87-1.00
Mar. 11	1.24	.60-1.60	1.01	.80-1.40
Apr. 8	.94	.53-1.25	1.10	3/
May 13	1.19	.85-1.67	1.19	1.13-1.25
June 10	.68	.35-1.05	.69	.63-.80
July 8	.82	.60-1.30	.79	.65-1.15
Aug. 12	.97	.51-1.15	.85	.70-.85
Sept. 9	.89	.55-1.35	.90	3/
Oct. 14	.85	.61-1.25	.93	.40-1.10
Nov. 11	1.87	1.72-1.90	2/ 1.50	-
Dec. 9	.89	.65-1.50	1.26	1.25-1.30

1/ Not available.
2/ Only one price reported.
3/ No variation in price reported.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 21.--Fresh cod fillets: Prices received by domestic processors and brokers of Canadian fillets on sales of fresh or chilled cod fillets, by months, January 1984-December 1985

(Per pound)

Period 1/	Domestic	Canadian
1984:		
January 9	$1.45-2.16	2/ $1.40
February 13	1.30-1.91	3/
March 12	1.87-2.91	2/ 1.35
April 9	1.40-2.45	2/ 1.20
May 14	1.35-1.83	2/ 1.15
June 11	1.15-2.47	2/ 1.30
July 9	1.45-2.23	1.35-1.85
August 13	1.42-1.96	2/ 1.45
September 10	1.40-2.10	1.25-1.70
October 8	1.70-3.28	2/ 1.50
November 12	1.77-2.73	1.40-2.35
December 10	1.90-3.00	1.20-2.15
1985:		
January 14	1.50-2.93	1.55-2.00
February 11	1.15-2.90	1.40-1.50
March 11	1.30-2.42	1.45-1.80
April 8	1.00-2.58	1.20-1.50
May 13	1.40-2.44	1.15-1.50
June 10	1.25-2.10	1.10-1.50
July 8	1.38-2.30	1.20-1.85
August 12	1.00-2.82	1.15-2.10
September 9	1.30-2.87	1.20-1.68
October 14	1.54-3.12	1.25-1.50
November 11	2.08-3.92	1.60-2.65
December 9	1.62-2.78	1.55-1.85

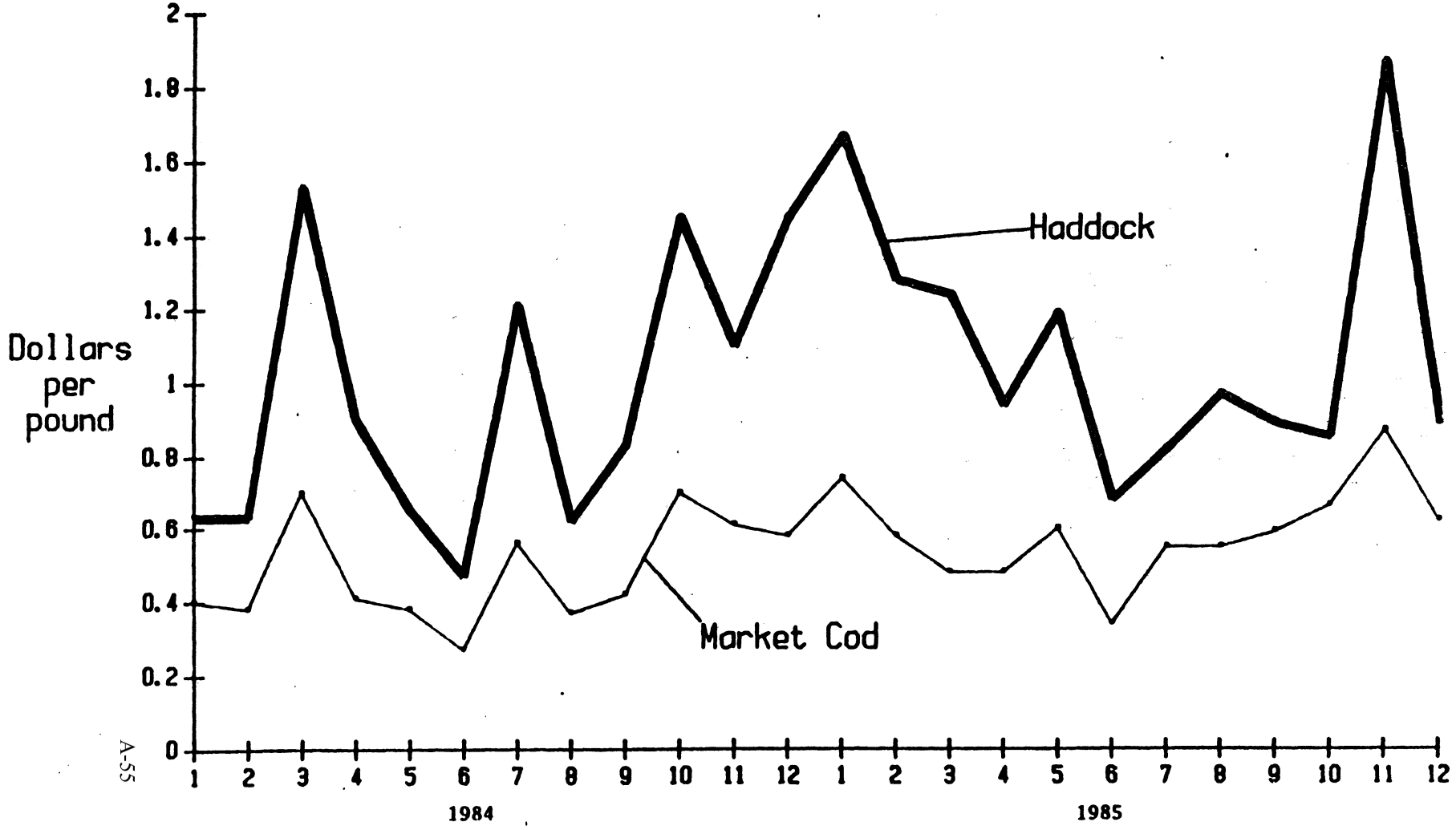
1/ Data reported refer to sales on the indicated date or on the nearest date to that.

2/ Only one price response received.

3/ Not available.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Figure 8.—Prices paid by U.S. processors for domestic whole haddock and market cod on the second Monday of each month, January 1984–December 1985.



Source: Compiled from data in tables 19 and 20.

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Vessel owners were also asked to report prices received for their catches of market cod and haddock on the second Monday of each month from January 1984 through December 1985. Weighted-averages of these responses across all New England ports were calculated and are reported in tables 22 and 23. In general, the prices received by vessel owners show the same variability and trend as the prices paid by processors (figs. 9 and 10). 1/ Weighted-average prices were also calculated for sales on the second Monday of each month for each New England port or group of ports. A comparison of these port-specific prices with the weighted-average price for all New England cod and haddock sales reported on the designated day shows that for market cod, Gloucester, Boston, and Portsmouth prices often exceeded the weighted average, but prices in the ports of Maine were often lower than the average. In New Bedford and ports of Cape Cod, there was no discernible pattern. For haddock, the data were reported primarily from vessels landing in Gloucester and the ports of Maine. Thus, the weighted-average prices in each of those ports cluster around the weighted-average across all ports. Only the Portsmouth prices appear to be systematically above the overall weighted-average.

The weighted-average prices paid by processors for whole Canadian market cod and haddock are similar to the respective U.S. prices (tables 19 and 20 and Figures 11 and 12). The Canadian prices also showed a slight upward trend and were highly variable, but were somewhat less variable than U.S. prices. The weighted-average prices for Canadian whole fish do not reveal a constant differential from the corresponding U.S. price, but were more often less than the U.S. price than they were above it.

Because of the difficulty in quantifying cost and price differences that are attributable to different fillet characteristics, weighted-average prices for fillets were not calculated from the data received. Tables 21 and 24 report the ranges of prices received by U.S. processors and brokers of Canadian fillets on sales to seafood distributors or retail outlets. Some prices were received from National Sea Products, but the level of the marketing chain where the reported sales were made was not clear. Therefore, these prices are not explicitly included in the ranges compiled.

Because of the wide range of prices reported, potentially covering many varieties of fillets, trends in prices are difficult to identify. In 1985. some slight seasonality is evident in the Canadian price range.

Exchange rates.- Quarterly data reported by the International Monetary Fund indicate that during January 1983-December 1985 the nominal value of the Canadian dollar depreciated relative to its U.S. counterpart in 9 out of 12 quarters by an overall 11.1 percent (table 25). 2/ In response to the higher level of inflation in Canada compared with that in the United States over the

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1/ Weighted-average prices paid by processors and received by vessel owners are not identical, because the sales reported by vessel owners do not necessarily correspond with the purchases reported by processors.

2/ International Financial Statistics, April and December 1985.

Table 22.--Whole market cod: Weighted-average prices received by U.S. vessel owners for sales of domestic fish, by ports and selected days, Jan. 9, 1984-Dec. 9, 1985

(Per pound)

Date	All ports	Port of Gloucester	Ports of Maine	Port of New Bedford	Ports of Cape Cod	Port of Boston	Ports of Rhode Island	Portsmouth, NH Coop
1984:								
Jan. 9	$0.35	2/ $0.35	2/ $0.30	1/	1/	1/	1/	1/
Feb. 13	.36	.36	.35	1/	1/	1/	1/	1/
Mar. 12	1/	1/	1/	1/	1/	1/	1/	1/
Apr. 9	.55	1/	1/	1/	1/	1/	1/	2/ $0.55
May 14	.39	.38	.35	1/	1/	2/ $0.40	1/	2/ .42
June 11	.23	.33	.22	1/	1/	1/	1/	1/
July 9	.46	.69	2/ .35	1/	1/	1/	1/	1/
Aug. 13	.35	2/ .35	1/	1/	2/ $0.38	1/	1/	1/
Sept. 10	.38	2/ .55	.38	1/	1/	1/	1/	2/ .50
Oct. 8	.73	2/ .85	.46	1/	2/ .68	2/ .80	1/	.80
Nov. 12	.52	1/	2/ .52	1/	2/ .60	1/	1/	1/
Dec. 10	.58	2/ .95	.55	1/	1/	1/	1/	2/ .75
1985:								
Jan. 14	.72	1.13	.69	2/ $0.70	.70	2/ .81	1/	2/ .85
Feb. 11	.53	2/ .55	.53	1/	2/ .55	1/	1/	1/
Mar. 11	.58	.72	.40	.65	1/	2/ .60	1/	.50
Apr. 8	.48	2/ .60	.52	.45	2/ .47	1/	1/	.60
May 13	.67	.56	1/	.70	1/	1/	1/	2/ .70
June 10	.46	.48	2/ .27	2/ .60	1/	2/ .40	1/	1/
July 8	.37	1/	.36	1/	.50	1/	1/	1/
Aug. 12	.60	.65	.46	1/	1/	1/	1/	1/
Sept. 9	.68	.67	2/ .45	1/	.40	2/ .72	2/ $0.72	1/
Oct. 14	.74	1/	.77	1/	2/ .60	1/	1/	1/
Nov. 11	.81	1/	2/ .80	1/	2/ .90	1/	1/	1/
Dec. 9	.58	2/ .60	.43	2/ .65	1/	1/	1/	2/ .47

1/ Not available.
2/ Only one price reported.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 23.--Whole haddock: Weighted-average prices received by U.S. vessel owners for sales of domestic fish, by ports and selected days, Jan. 9, 1984-Dec. 9, 1985

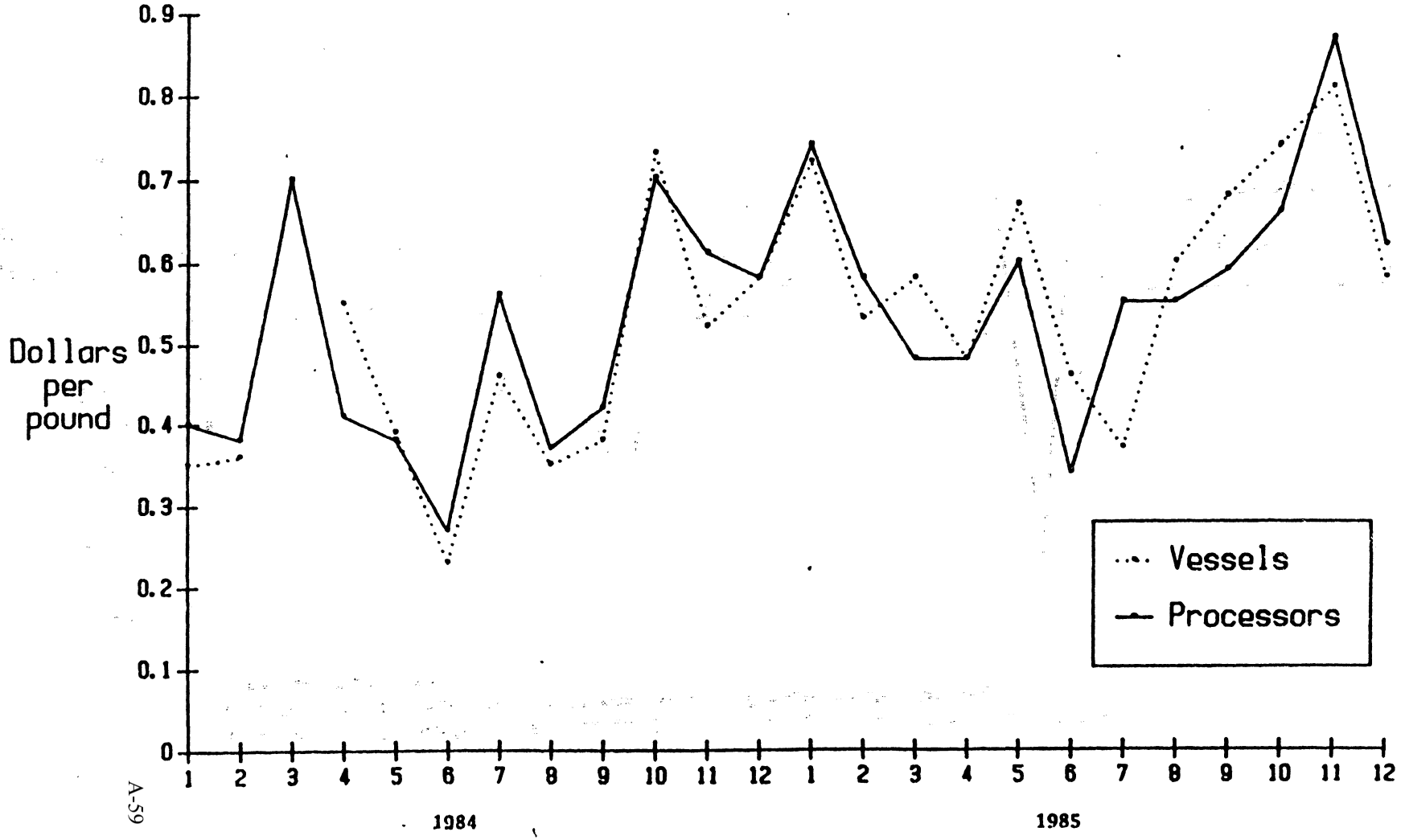
(Per pound)

Date	All ports	Port of Gloucester	Ports of Maine	Port of New Bedford	Ports of Cape Cod	Port of Boston 1/	Ports of Rhode Island	Portsmouth, NH Coop
1984:								
Jan. 9----	2/ $0.65	2/ $0.65	1/	1/	1/	--	1/	1/
Feb. 13---	.62	2/ .62	2/ $0.62	1/	1/	--	1/	1/
Mar. 12---	1/	1/	1/	1/	1/	--	1/	1/
Apr. 9----	1/	1/	1/	1/	1/	--	1/	1/
May 14----	.65	2/ .65	.63	1/	1/	--	1/	2/ $0.70
June 11---	.47	1/	.47	1/	1/	--	1/	1/
July 9----	1/	1/	1/	1/	1/	--	1/	1/
Aug. 13---	2/ .60	2/ .60	1/	1/	1/	--	1/	1/
Sept. 10--	2/ .82	1/	2/ .82	1/	1/	--	1/	1/
Oct. 8----	1.41	2/ 1.45	1/	1/	2/ $1.15	--	1/	2/ 1.27
Nov. 12---	2/ 1.20	1/	2/ 1.20	1/	1/	--	1/	1/
Dec. 10---	1.45	1/	1.45	1/	1/	--	1/	2/ 1.55
1985:								
Jan. 14---	1.60	2/ 1.50	2/ 1.60	1/	1/	--	1/	1/
Feb. 11---	1.25	2/ 1.25	2/ 1.25	1/	1/	--	1/	1/
Mar. 11---	1.30	2/ 1.55	1.21	1/	2/ 1.60	--	1/	1.59
Apr. 8----	1.24	2/ 1.15	2/ 1.40	2/ $1.00	1/	--	1/	1.50
May 13----	1.31	1.40	1/	1.20	1/	--	1/	2/ 1.56
June 10---	.82	.81	2/ .82	1/	1/	--	1/	1/
July 8----	1.15	1/	1.15	1/	1/	--	1/	1/
Aug. 12---	1.02	2/ 1.05	1.02	1/	1/	--	1/	1/
Sept. 10--	1.31	2/ 1.25	1/	1/	2/ 1.35	--	2/ $1.35	1/
Oct. 14---	2/ 1.30	1/ 1.30	1/	1/	1/	--	1/	1/
Nov. 11---	1/	1/	1/	1/	1/	--	1/	1/
Dec. 9----	1.40	1/ 1.40	2/ 1.30	1/	1/	--	1/	1/

1/ Not available.
2/ Only one price reported.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Figure 9.—Whole market cod: Prices paid by U.S. processors and prices received by U.S. vessel owners on the second Monday of each month, January 1984–December 1985.



Source: Compiled from data in tables 19 and 22.

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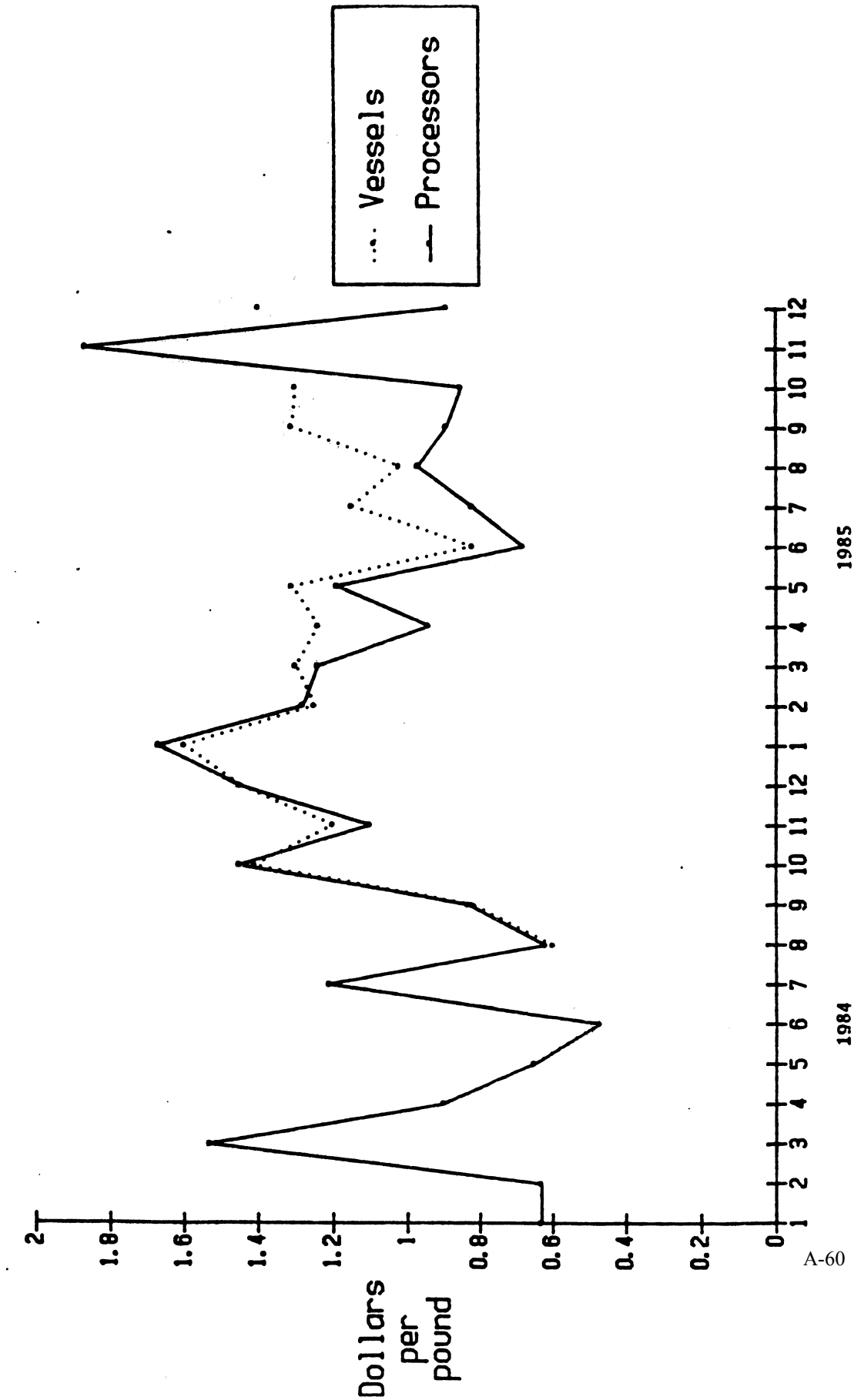
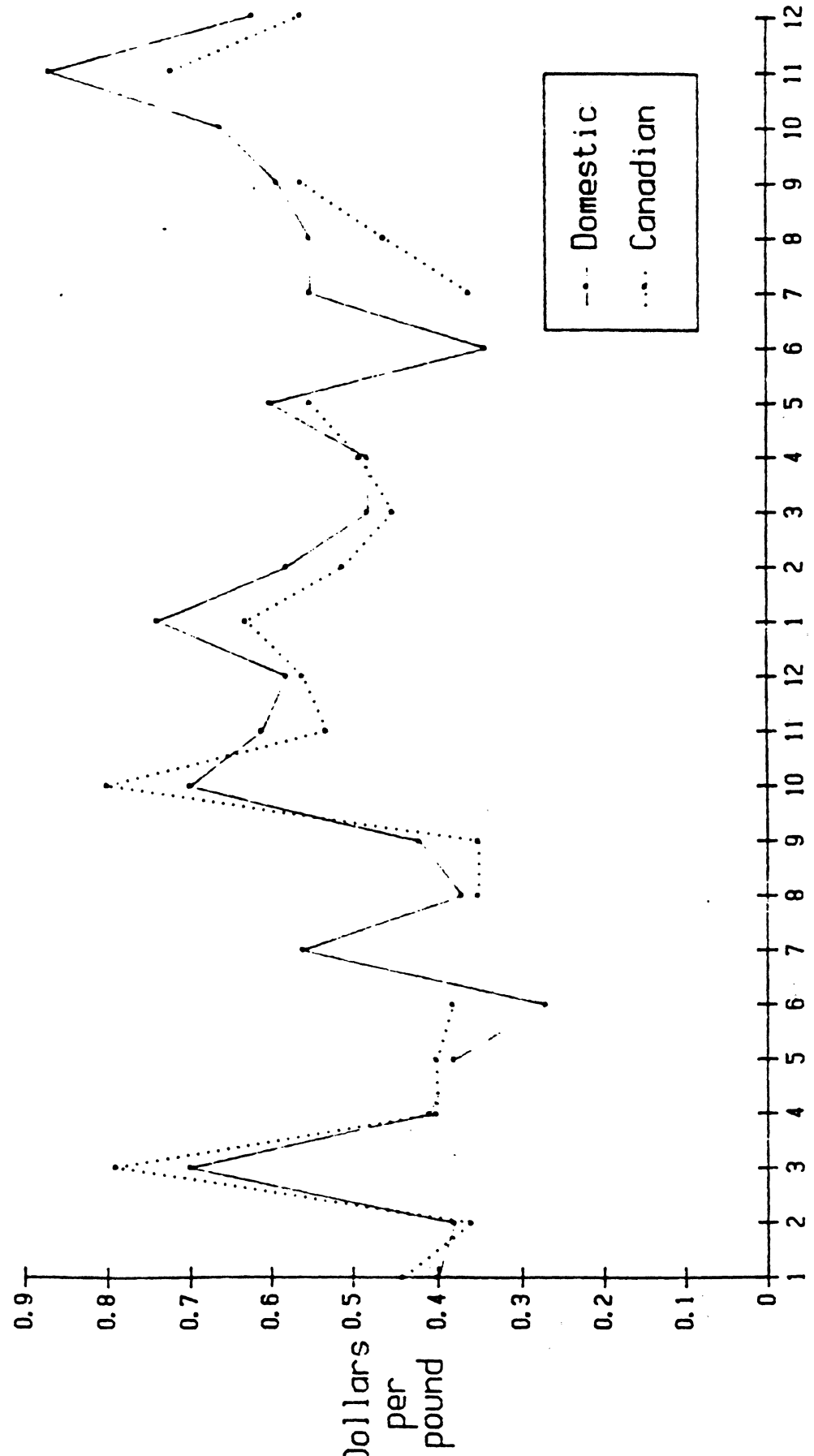


Figure 10.—Whole haddock: Prices paid by U.S. processors and prices received by U.S. vessel owners on the second Monday of each month, January 1984–December 1985.

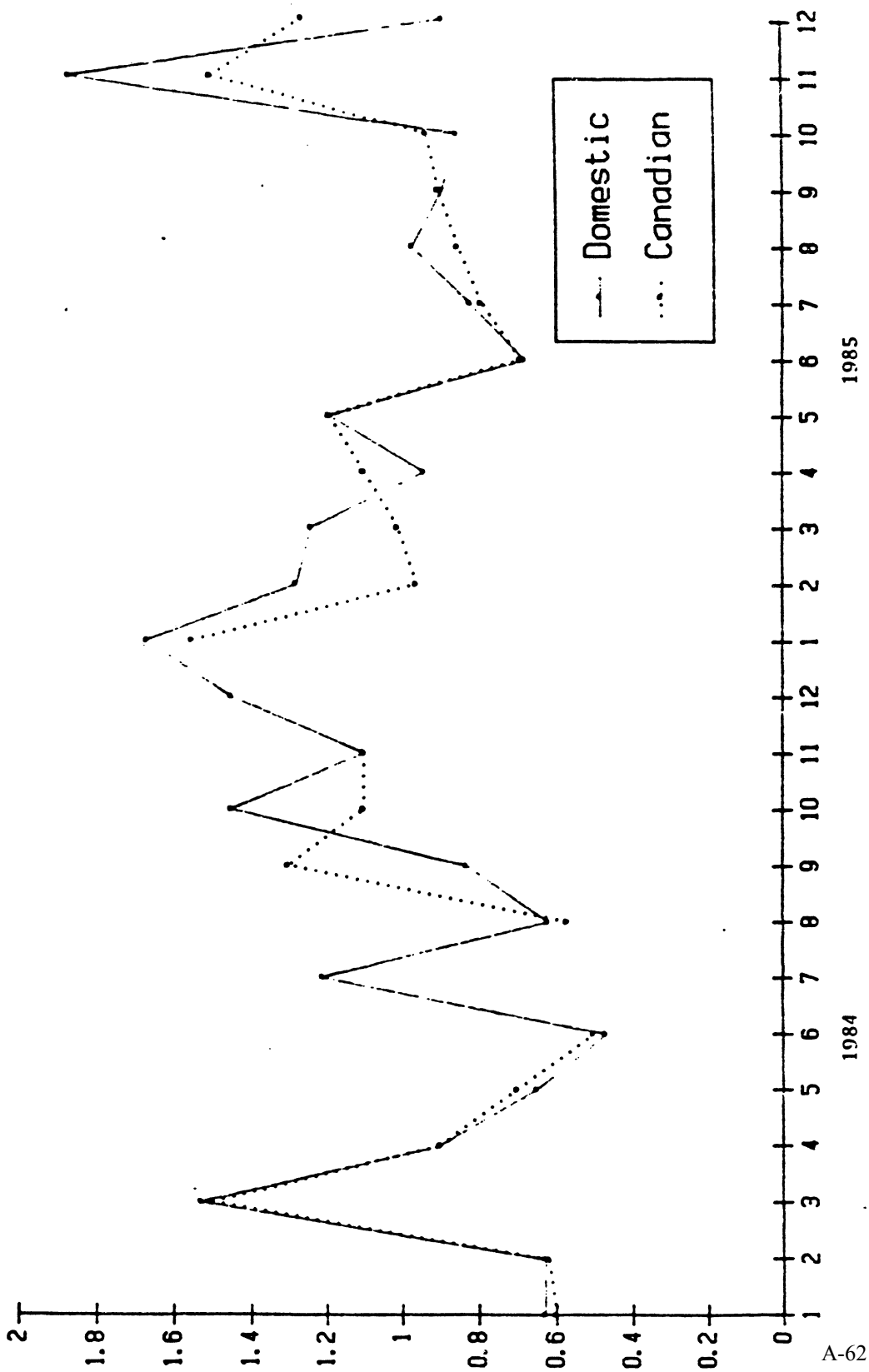
Source: Compiled from data in tables 20 and 23.

Figure 11.—Prices paid by U.S. processors for domestic and Canadian whole market cod on the second Monday of each month, January 1984-December 1985.



Source: Compiled from data in table 19.

Figure 12.—Prices paid by U.S. processors for domestic and Canadian whole haddock on the second Monday of each month, January 1984-December 1985.



Source: Compiled from data in table 20.

Table 24.--Fresh haddock fillets: Prices received by domestic processors and brokers of Canadian fillets on sales of fresh or chilled haddock fillets, by months, January 1984-December 1985

(Per pound)

Period 1/	Domestic	Canadian
1984:		
January 9	$1.95-2.50	3/
February 13	1.85-2.43	3/
March 12	2.60-4.52	3/
April 9	2.20-3.26	3/
May 14	2.00-2.50	2/ $1.50
June 11	1.55-3.80	2/ 1.80
July 9	2.43-3.75	2/ 2.75
August 13	1.85-2.81	1.70-2.20
September 10	2.25-3.06	2/ 2.00
October 8	2.85-4.16	3/
November 12	3.10-4.40	2.55-2.60
December 10	2.50-5.50	2.70-2.90
1985:		
January 14	2.85-5.13	3.00-3.25
February 11	2.05-3.95	1.50-2.65
March 11	2.65-4.80	2/ 2.70
April 8	.90-3.93	2.25-2.85
May 13	2.60-4.80	3/
June 10	2.25-2.65	1.50-2.40
July 8	2.77-3.76	3.00-3.20
August 12	2.50-3.50	1.70-2.85
September 9	2.95-4.00	2.25-2.75
October 14	2.80-4.85	2.25-2.50
November 11	3.60-6.10	3.50-3.85
December 9	2.60-4.72	2.80-3.00

1/ Data reported refer to sales on the indicated date or on the nearest date to that.

2/ Only one price response received.

3/ Not available.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 25.--U.S.-Canadian exchange rates: 1/ Indexes of nominal-exchange-rate equivalents of the Canadian dollar, real-exchange-rate equivalents, and producer price indicators in the United States and Canada, 2/ by quarters, January 1983-December 1985

(January-March 1983=100)

Period	U.S. Producer Price Index	Canadian Producer Price Index	Nominal-exchange-rate index	Real-exchange-rate index 3/
1983:				
January-March	100.0	100.0	100.0	100.0
April-June	100.3	101.5	99.7	101.0
July-September	101.2	102.3	99.5	100.7
October-December	101.8	102.8	99.5	100.1
1984:				
January-March	102.9	104.5	97.7	99.3
April-June	103.5	105.8	94.9	96.9
July-September	103.2	106.4	94.9	96.1
October-December	103.1	106.6	93.0	96.3
1985:				
January-March	102.9	107.7	90.6	95.0
April-June	103.0	108.4	89.6	94.4
July-September	102.2	108.6	90.2	95.8
October-December	102.2	109.4	88.9	94.7

1/ Exchange rates expressed in U.S. dollars per unit of Canadian currency.

2/ Producer price indicators--intended to measure final product prices--are based on average quarterly indexes presented in line 63 of the International Financial Statistics.

3/ The real value of a currency is the nominal value adjusted for the difference between inflation rates as measured here by the Producer Price Index in the United States and in Canada. Producer prices in the United States increased by 2.9 percent during January 1983 December 1985 compared with a 9.4-percent increase in Canada during the same period.

Source: International Monetary Fund, International Financial Statistics, April and December 1985.

12-quarter period, the real value of the Canadian currency depreciated by only 5.3 percent relative to the U.S. dollar--less than the apparent depreciation of 11.1 percent represented by the change in the nominalexchange rate.

Lost sales

No lost sales allegations were received in this final investigation.

The Commission received seven allegations from three U.S. processors regarding sales lost to imports from Canada in response to questionnaires sent in connection with the preliminary investigation. Several other processors provided allegations but were unable to provide specific information.

* * * of * * * confirmed * * * allegations. His firm purchased Canadian * * * fillets in * * * for * * * per pound after rejecting a quote from a domestic processor of * * * per pound. * * * further stated that he generally purchases Canadian product during the summer months because of its low price relative to the domestic product.

A domestic processor alleged that in * * * the * * * purchased Canadian * * * fillets for * * * per pound after rejecting an offer of * * * per pound for the U.S. product, and that in * * * purchased Canadian * * * fillets at a * * *-cent discount from the * * * per pound price offered by the domestic processor. * * * confirmed these * * * transactions, however, he stated that the Canadian product was only priced * * * cents below the domestic fish on both occasions.

* * * confirmed that he purchased Canadian * * * fillets at approximately * * * cents less than the price offered by a domestic processor. He further stated that he purchases fillets at the lowest price available on a given day. He has purchased both domestic and imported fish in varying quantities for 15 years and on any given day domestic or imported fish can be lower priced depending on the supplier.

* * *, the fresh fish purchaser for * * *, denied an allegation that they were purchasing Canadian fish. He stated that his firm deals exclusively with two U.S. processors for all of their fresh fish needs.

* * * of * * * could neither confirm nor deny an allegation that his firm purchased * * * fillets at * * * per pound from Canada after rejecting a quote of * * * per pound from a domestic processor. He did state that * * * per pound was entirely too low of a price. He further stated that this allegation may be a result of his ongoing practice of telling domestic processors that he is able to purchase Canadian fish at a * * * discount in an attempt to leverage a lower price.

APPENDIX A

EXCERPTS FROM COMMERCE'S FINAL DETERMINATION

Federal Register / Vol. 51, No. 56 / Monday, March 24, 1986 / Notices 10011

DEPARTMENT OF COMMERCE

International Trade Administration

[C-122-507]

Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to producers or exporters in Canada of certain fresh Atlantic groundfish as described in the "Scope of Investigation" section of this notice. The estimated net subsidy is 5.82 percent *ad valorem*.

We have notified the U.S. International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of certain fresh Atlantic groundfish from Canada that are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on

entries of these products in the amount equal to the estimated net subsidy as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: March 24, 1986.

FOR FURTHER INFORMATION CONTACT: Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0161.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Canada of certain fresh Atlantic groundfish (groundfish). For purposes of this investigation, the following programs are found to confer subsidies:

A. Federal Programs

1. Fishing Vessel Assistance Program;
2. Department of Fisheries and Oceans (DFO) Promotions Branch;
3. Assistance for the Construction of Ice-making and Fish Chilling Facilities;
4. Certain Types of Investment Tax Credits;
5. Program for Export Market Development;
6. Regional Development Incentive Program;
7. Industrial and Regional Development Program;
8. Fisheries Improvement Loan Program;
9. DFO Grants to Fishermen and Fish Processors from SRCPP Funds;
10. Preferential User Fees to Fishermen under the Small Craft Harbour Program; and
11. Government Equity Infusions into National Sea Products Limited and Fishery Products International Limited.

B. Joint Federal-Provincial Programs

1. Agricultural and Rural Development Agreements;
2. Prince Edward Island (P.E.I.) Comprehensive Development Plan;
3. General Development Agreements;
4. Transitional Programs;
5. Economic and Regional Development Agreements; and
6. Interest-Free Loans to National Sea Products Limited.

C. Provincial Programs

1. New Brunswick: Loans from the Fisheries Development Board;
2. New Brunswick: Fish Unloading Systems and Ice-making Programs;
3. New Brunswick: Insurance Premium Prepayment Program;
4. New Brunswick: Interest Rate Rebates;
5. New Brunswick: Technical Services;
6. Newfoundland: Grants for Purchasing and Constructing Boats;
7. Newfoundland: Grants for Rebuilding and Repair of Fishing and Coastal Vessels;
8. Newfoundland: Grants to Cover Operating Expenses;
9. Newfoundland: Loans from the Fisheries Loan Board;
10. Newfoundland: Loan Guarantees from the Fisheries Loan Board;
11. Newfoundland: Operation of Fisheries Facilities and Services;
12. Newfoundland: Construction and Repair of Fisheries Facilities;
13. Newfoundland: Enhancement of Fishing Operations;
14. Newfoundland: Marketing Assistance;
15. Nova Scotia: Fishing Vessel Construction Program;
16. Nova Scotia: Loans from the Fisheries Loan Board;
17. Nova Scotia: Industrial Development Division Grants;
18. Nova Scotia: Market Development Assistance;
19. P.E.I.: Fishing Vessel Subsidy Program;
20. P.E.I.: Near and Offshore Vessel; Assistance Program;
21. P.E.I.: Engine Conversion Program;
22. P.E.I.: Commercial Fishermen's Investment Incentive Program;
23. P.E.I.: Assistance for the Construction of Ice-making and Fish Chilling Facilities;
24. P.E.I.: Fish Box Pool Program;
25. P.E.I.: Technical Upgrading Program;
26. P.E.I.: Fresh Fish Marketing Program;
27. Fishing Industry Technology Program;
28. P.E.I.: Technology Improvements Program;
29. P.E.I.: Onboard Fishing Handling Systems Program;
30. Quebec: Vessel Construction Assistance Program;
31. Quebec: Gear Subsidy Program;
32. Quebec: Insurance Premium Subsidy Program;
33. Quebec: Large Vessel Construction Program;
34. Quebec: Loans from the Ministry of Agriculture, Fisheries and Food;
35. Quebec: Grants for Engine Purchases;
36. Quebec: Grants for Fish Transport and Seafood Processing Tanks;
37. Quebec: Grants to Processing Enterprises for Capital Equipment; and
38. Quebec: Ice-making and Fish Chilling Assistance.

We determine the estimated net subsidy to be 5.82 percent *ad valorem*.

Case History

On August 5, 1985, we received a petition in proper form from the North Atlantic Fisheries Task Force on behalf of the United States groundfish industry which harvest and produces for sale Atlantic groundfish in fresh form. The North Atlantic Fisheries Task Force is an unincorporated association representing fisherman, fishermen's cooperatives, and processors located in the northeastern United States. A majority of the members of the Task Force are producers, wholesalers, or trade or business associations whose members are producers or wholesalers of groundfish.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on August 26, 1985, we initiated this investigation (50 FR 35281). We stated that we expected to issue a preliminary determination by October 29, 1985.

Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry. On September 19, 1985, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Canada of certain fresh whole Atlantic groundfish. At the same time, it determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of certain fresh Atlantic groundfish fillets from Canada (50 FR 38904).

We presented a questionnaire concerning the allegations contained in the petition to the government of Canada in Washington, DC, on September 9, 1985. On November 8, 1985, we received a response to our questionnaire containing information submitted by the government of Canada, the governments of the provinces of New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, and Quebec, and three Canadian firms (Fishery Products International Limited, National Sea Products Limited, and United Maritime Fisherman (Co-op). We received supplementary information throughout November and December 1985.

On October 7, 1985, based upon a request made by the petitioner and in accordance with section 703(c)(1)(A) of the Act, we postponed the deadline date for the preliminary determination to no later than January 2, 1986 (50 Fed. Reg. 41921). On the basis of information contained in the response, we made a preliminary determination on January 2, 1986 (51 Fed. Reg. 1010).

From January 13 to February 10, 1986, we verified the information submitted in response to our questionnaire. At the request of petitioner, we held a hearing on February 18, 1986. We received pre-hearing briefs on February 12, 1986, and post-hearing briefs on February 26, 1986. Written comments on the verification reports were submitted by petitioner on March 7, 1986.

In accordance with § 355.38 of the Commerce Regulations, several Canadian firms claiming not to have benefitted from subsidies applied for exclusion from any possible countervailing duty order. On October 8, 1985, we informed representatives of the Canadian government of the applications, and requested questionnaire responses from each of the firms applying for exclusion. We also informed the Canadian officials that, for the exclusion requests to be considered, the Department would require that both the federal and the appropriate provincial governments submit formal certifications attesting to the non-receipt of benefits by the firms in question. Both the questionnaire responses and government certifications were due no later than November 8, 1985. We received responses to the questionnaire during the period November 8–15, 1985. However, in a letter dated November 6, 1985, the Canadian government informed the Department that it was not feasible for the federal and certain provincial governments to comply with the certification requirement. On November 27, 1985, we notified the Canadian government that, due to the volume of requests for exclusion and the difficulty of verifying the responses of firms requesting exclusion, the current policy of the Import Administration is to accept and verify exclusion requests in countervailing duty investigations only if the respondent government provides certification that the firm or firms are not receiving subsidies. Given that we had not previously denied an exclusion request on the basis of a government's refusal or inability to provide certification, we extended the certification deadline until December 6, 1985, to allow the Canadian federal and the appropriate provincial governments to comply with this requirement. However, we stated that, if we did not receive the certifications by that date, we would not consider the exclusion requests. On December 4, 1985, the Canadian government notified the Department that it would be unable to provide the certifications. Therefore, we denied the requests for exclusion.

Standing Issue

Section 702(b)(1) of the Act requires that a petition be filed "on behalf of" a U.S. industry. As we have previously stated, neither the Act nor the Commerce Regulations require a petitioner to establish affirmatively that it has the support of a majority of a particular industry. The Department relies on petitioner's representation that it has, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that this is not the case.

In the course of this investigation, we heard from a number of members of the domestic industry producing fresh groundfish fillets who unconditionally oppose the petition. These firms primarily opposed the case on whole, fresh groundfish, which they do not, by and large, produce. This opposition did not reach such a level as would lead us to believe that a majority of either industry opposes the petition on the like product each produces. We also received a submission from the Task Force for the Survival of American Fishermen, Processing Plants and Jobs, a group claiming to account for a major proportion of groundfish fillet production in the United States, and a significant amount of domestic landings of whole groundfish. The group has stated its opposition to the investigation of filleted *and* whole groundfish, but it is opposed to terminating the investigation just on groundfish fillets. The group has provided no information on the volume of domestic landings for which it accounts, nor has it provided sufficient evidence that it accounts for a major proportion of the domestic whole groundfish industry. Accordingly, we believe that the opponents of the petition have not demonstrated affirmatively that the petition was not filed on behalf of the domestic industry. This conclusion is not based upon any exclusion from consideration, as part of the domestic industries, of those firms which may also import from Canada the like product which they allegedly produce.

Scope of Investigation

The products covered by this investigation are certain fresh Atlantic groundfish, which cover fresh whole and fresh fillets of Atlantic groundfish, including cod, haddock, pollock, hake, and flatfish (including fllunder and sole). These species are generally referred to collectively as "groundfish" because they live on or near the seabed. The term "fresh" includes fish that are chilled, but excludes fish that have been frozen. Whole fish include fish which are whole, or processed by removal of heads, viscera, fins, or any combination thereof, but not otherwise processed. Fillets (including fish steaks) include fish, other than frozen blocks, which are otherwise processed (whether or not heads, viscera, fins, scales, or any combination thereof have been removed). These products are currently provided for in items 110.1585, 110.1593, 110.3560, 110.5000, 110.5545, 110.5565, and 110.7033 of the *Tariff Schedules of the United States Annotated (TSUSA).*

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing duty Order,* which was published in the April 26, 1984, issue of the Federal Register (49 FR 18006).

For purposes of this final determination, the period for which we are measuring subsidization ("the review period") is the government of Canada's 1985 fiscal eyar (April 1, 1984—March 31, 1985).

With respect to the calculations of benefits from grant programs, we allocated grants for fishing vessels over 18 years (the average useful life of vessels, barges, tugs, and similar water transportation equipment), for private wharves and slipways over 16 years (the average useful life of ship and boat building dry docks and land improvements), for fish boxes over four years (the average useful life of specialized materials handling devices), and for all other assets over 12 years (the average useful life of assets used in the manufacture of food and other sundry products). Because we used aggregate data for subsidy programs in this case, we used as the discount rate the long-term corporate bond rate in Canada, as published by the Bank of Canada.

With respect to the benchmark interest rates used to calculate benfits from loan programs, for long-term fixed-rate loans, we used the long-term corporate bond rate in Canada. For long-

APPENDIX B

COMMISSION'S NOTICE OF INSTITUTION

[Investigation No. 701-TA-257 (Final)]

Import Investigation; Certain Fresh Atlantic Groundfish From Canada

AGENCY: International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby given notice of the institution of final countervailing duty investigation No. 701-TA-257 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of fresh and chilled cod, haddock, pollock, hake, and flounders and other flatfish (except halibut), whether whole or processed by removal of heads, viscera, fins, or any combination thereof, but not otherwise processed, provided for in items 110.15 and 110.35 of the Tariff Schedules of the United States (TSUS), and of otherwise processed fresh and chilled cod, haddock, pollock, hake, and flounders and other flatfish (except halibut), provided for in items 110.50, 110.55, and 110.70 of the TSUS, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Canada. Commerce will make its final subsidy determination in this investigation on or before March 18, 1986, and the Commission will make its final injury determination by May 8, 1986 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: January 9, 1986.

FOR FURTHER INFORMATION CONTACT: David Coombs (202-523-1376), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Canada of certain fresh Atlantic groundfish. The investigation was requested in a petition filed on August 5, 1985 by the North Atlantic Fisheries Task Force, Gloucester, Massachusetts. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investgation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (50 FR 38904, Sept. 19, 1985).

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report.—A public version of the prehearing staff report in this investigation will be placed in the public record on March 14, 1986, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on April 1, 1986, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on March 18, 1986. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on March 20, 1986, in room 117 of the U.S. International Trade Commission Building. The deadline for filng prehearing briefs is March 25, 1986.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.—All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on April 8, 1986. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 8, 1986.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: January 17, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-1496 Filed 1-23-86; 8:45 am]

BILLING CODE 7020-02-M

APPENDIX C

WITNESSES APPEARING AT THE HEARING

TENTATIVE CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject : Certain Fresh Atlantic Groundfish from Canada

Inv. No. : 701-TA-257 (Final)

Date and time: April 1, 1986 - 10:00 a.m.

Sessions were held in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

Congressional witness:

Honorable William S. Cohen, United States Senator, State of Maine

In support of the imposition of countervailing duties:

Patton, Boggs & Blow--Counsel
Washington, D.C.
on behalf of

The North Atlantic Fisheries Task Force

Salvatore Parisi, Executive Director, Cape Ann Vessels Assn., Gloucester, Massachusetts, and Chairman, North Atlantic Fisheries Task Force

Jacob J. Dykstra, Captain F/V Janileen II, Pt. Judith, Rhode Island

James A. McCauley, President, Pt. Judith Fishermen's Co-op., Pt. Judith, Rhode Island

James Costakes, General Manager, Seafood Producers Association, New Bedfore, Massachusetts

Jay Trenholm, Stinson Canning Company

- more -

Merrill Bateman, Commodity Information, Inc.

John Norton, President, Cozy Harbor Seafoods, Portland, Maine

Cyrus Lauriat, Captain F/V Elizabeth, Booth Bay, Maine

Bart W. Fisher)
Michael D. Esch)--OF COUNSEL
Robert J. Portman)

In opposition to the imposition of countervailing duties:

McNair, Glenn, Konduros, Corley, Singletary, Porter & Dibble, P.A.--Counsel
Washington, D.C.
on behalf of

Task Force for the Survival of American Fisherman, Processing Plants and Jobs

James A. Bordinaro, Jr., Co-Chairman

Robert G. Coutu, President, Ocean Fresh Seafood

Stephen Koplan--OF COUNSEL

O'Melveny & Myers--Counsel
Washington, D.C.
on behalf of

The Fisheries Council of Canada and National Sea Products, Ltd.

Ronald W. Bulmer, President, Fisheries Council of Canada

John Nagle, Vice President, John Nagle Company

Daniel Kenney, D.B. Kenney Fisheries, Ltd.

R. Leigh Mazany, Professor of Economics, Dalhousie University

Gary N. Horlick)
Richard G. Parker)--OF COUNSEL
Sheila J. Landers)

The Kroger Company, Cincinnati, Ohio

Russell Byerly, Seafood Merchandiser

Quick. Finan & Associates
Washington, D.C.
on behalf of

The American Seafood Distributors Association

Perry D. Quick

United Food & Commercial Workers International Union,
AFL-CIO & CLC, Washington, D.C.

Arnold Mayer, Internatinal Vice President

APPENDIX D

PREVIOUS COMMISSION INVESTIGATIONS

On June 10, 1977, the Fishermen's Marketing Association of Washington, Inc., Seattle, WA, filed a petition with the Department of the Treasury (Treasury) concerning imports from Canada of fresh, chilled, or frozen whole cod; salted, pickled, smoked, or kippered cod, cusk, haddock, hake, and pollock; cod and flatfish (except turbot) frozen in blocks of 10 pounds or more each; and fresh, chilled, or frozen flatfish fillets (except halibut and turbot). On June 27, 1978, the Commission received advice from Treasury that a bounty or grant was being paid by the Government of Canada on certain fish and fish products exported to the United States. The Commission then instituted investigation No. 303-TA-3 to determine whether an industry in the United States was being or was likely to be injured, or was prevented from being established, by reason of such imports. On September 27, 1978, the Commission determined by a vote of 5 to 0 that an industry in the United States was not being injured, was not likely to be injured, and was not prevented from being established, by reason of the subject imports. 1/

On January 9, 1979, the Commission received advice from Treasury that a bounty or grant was being paid with respect to imports from Canada of duty-free whole cusk, haddock, hake, and pollock, whether fresh, chilled, or frozen; fish blocks made of Atlantic ocean perch, haddock, whiting, and other fish except cod, flatfish, or pollock; live lobsters; and scallops. A petition had been filed with Treasury on December 30, 1977, by the National Federation of Fishermen and the Point Judith Fishermen's Cooperative Association of Narragansett, RI. The Commission's investigation, No. 303-TA-9, was instituted on January 18, 1979. On April 9, 1979, the Commission 2/ determined that an industry in the United States was not being injured, was not likely to be injured, and was not prevented from being established, by reason of these imports from Canada. 3/

On August 20, 1979, a petition was filed by the Fishermen's Marketing Association of Washington, Inc., Seattle, WA, and the Coast Draggers Association, Westport, WA, alleging that increasing imports of groundfish and groundfish products were causing serious injury to the U.S. fishing industry. The Commission instituted investigation No. TA-201-41 on September 5, 1979, to determine whether fresh, chilled, or frozen cod, cusk, haddock, hake, pollock, whiting, wolffish, Atlantic ocean perch, Pacific rockfish (including Pacific ocean perch), flounder, turbot, and all other flatfish except halibut were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. On January 29, 1980, the Commission 4/ determined that the above-mentioned groundfish were not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or

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1/ Certain Fish From Canada, Investigation No. 303-TA-3, USITC Publication 919, September 1978.

2/ Commissioners Parker, Alberger, Moore, Bedell, and Stern.

3/ Certain Fish and Certain Shellfish From Canada, Investigation No. 303-TA-9, USITC Publication 966, April 1979.

4/ Commissioners Alberger, Moore, and Stern.

threat of serious injury, to the domestic industry producing the like or directly competitive products. 1/

On February 5, 1980, the Commission received information from Commerce concerning current subsidy levels on imports from Canada of fresh, chilled, or frozen, but not otherwise prepared or preserved, fish that had been the subject of affirmative subsidy determinations in three investigations conducted by Treasury prior to 1978, but for which countervailing duties had been waived. Accordingly, pursuant to section 104(a)(2) of the Trade Agreements Act of 1979, the Commission conducted investigation No. 701-TA-40 (Final) and determined 2/ that an industry in the United States was not injured or threatened with injury by reason of the subject imports. 3/

1/ Certain Fish, Investigation No. TA-201-41, USITC Publication 1028, January 1980.

2/ Commissioners Alberger, Moore, Stern, and Calhoun.

3/ Fish, Fresh, Chilled, or Frozen, Whether or Not Whole, but Not Otherwise Prepared or Preserved, from Canada, Investigation No. 701-TA-40 (Final), USITC Publication 1066, May 1980.

APPENDIX E

EXCERPTS FROM THE TSUSA

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986)

SCHEDULE 1. - ANIMAL AND VEGETABLE PRODUCTS
Part 3. - Fish and Shellfish

1 - 3 - A
110.10 - 110.33

Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
				1	Special	2
		Fish, fresh, chilled, or frozen, whether or not whole, but not otherwise prepared or preserved:				
110.10		Sea herring, smelts, and tuna	.....	Free		Free
		Smelts:				
	07	Fresh or chilled	Lb.			
	09	Frozen	Lb.			
		Tuna:				
	12	Albacore	Lb.			
		Yellowfin:				
	20	Whole fish	Lb.			
		Eviscerated fish:				
	25	Head-on	Lb.			
	30	Head-off	Lb.			
	37	Other	Lb.			
	45	Skipjack	Lb.			
	50	Other	Lb.			
		Sea herring:				
	60	Fresh or chilled	Lb.			
	70	Frozen	Lb.			
		Other:				
		Whole; or processed by removal of heads, viscera, fins, or any combination thereof, but not otherwise processed:				
110.15		Cod, cusk, eels, haddock, hake, pollock, shad, sturgeon, and fresh-water fish	.....	Free		1c per lb.
		Fresh-water fish:				
		Whitefish:				
	05	Fresh or chilled	Lb.			
	15	Frozen	Lb.			
		Pike, pickerel, and pike perch (including yellow pike):				
	37	Fresh or chilled	Lb.			
	39	Frozen	Lb.			
	40	Lake trout	Lb.			
	50	Other trout	Lb.			
	75	Other	Lb.			
		Cod:				
	85	Fresh or chilled	Lb.			
	89	Frozen	Lb.			
		Cusk, haddock, hake, and pollock:				
	91	Fresh or chilled	Lb.			
	97	Frozen	Lb.			
	99	Eels, shad, and sturgeon	Lb.			
110.20		Halibut and salmon	.....	Free		2c per lb.
		Halibut:				
	25	Fresh or chilled	Lb.			
	30	Frozen	Lb.			
		Salmon:				
	45	Fresh or chilled	Lb.			
	50	Frozen	Lb.			
		Mackerel:				
110.25	00	Fresh or chilled	Lb.....	Free		2c per lb.
110.28	00	Frozen	Lb.....	0.04c per lb.	Free (A,D,E,I)	2c per lb.
		Swordfish:				
110.30	00	Fresh or chilled	Lb.....	Free		2c per lb.
110.33	00	Frozen	Lb.....	Free		3c per lb.

Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
				1	Special	2
		Fish, fresh, chilled, or frozen, etc. (con.):				
		Other (con.):				
		Whole; or processed by removal, etc. (con.):				
110.35		Other.....	.....	0.5¢ per lb.	Free (A,E,I)	1¢ per lb.
	52	Atlantic ocean perch.....	lb.			
		Flounders and other flatfish, except halibut:				
	60	Fresh or chilled.....	lb.			
	65	Frozen.....	lb.			
		Other:				
	70	Fresh or chilled.....	lb.			
	75	Frozen.....	lb.			
110.36		If products of Cuba (except Atlantic ocean perch (rosefish) and totoaba or white sea bass).....	.....	0.4¢ per lb. (a)		
		Scaled (whether or not heads, viscera, fins, or any combination thereof have been removed), but not otherwise processed:				
110.40	00	In bulk or in immediate containers weighing with their contents over 15 pounds each.....	lb.....	Free		1.25¢ per lb.
110.45	00	Other.....	lb.....	6% ad val.	Free (A,E,I)	25% ad val.
110.47		Skinned and boned, whether or not divided into pieces, and frozen into blocks each weighing over 10 pounds, imported to be minced, ground, or cut into pieces of uniform weights and dimensions.....	.....	Free		1.25¢ per lb.
	10	Cod.....	lb.			
		Flatfish:				
	24	Turbot.....	lb.			
	26	Other.....	lb.			
	30	Haddock.....	lb.			
	40	Pollock.....	lb.			
	55	Whiting.....	lb.			
	60	Atlantic ocean perch (rosefish).....	lb.			
	65	Other.....	lb.			
		Otherwise processed (whether or not heads, viscera, fins, scales, or any combination thereof have been removed):				
		Cod, cusk, haddock, hake, pollock, and Atlantic ocean perch (rosefish):				
110.50	00	For an aggregate quantity entered in any calendar year of 15,000,000 pounds, or not more than a quantity equal to 15% of the average aggregate apparent annual consumption of such fish during the 3 calendar years immediately preceding the year in which the imported fish are entered, whichever quantity is greater, of which total quantity not over 1/4 shall be entered during the first 3 months, not over 1/2 during the first 6 months, and not over 3/4 during the first 9 months of that year....	lb.....	1.875¢ per lb.	Free (E,I)	2.5¢ per lb.

(a) = Suspended. See general headnote 3(b).

Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty		
				1	Special	2
		Fish, fresh, chilled, or frozen, etc. (con.):				
		Other (con.):				
		Otherwise processed, etc. (con.):				
		Cod, cusk, haddock, etc. (con.):				
110.55		Other	.....	1.96¢ per lb.	1.875¢ per lb. (D) Free (E,I)	2.5¢ per lb.
	20	Atlantic ocean perch (rosefish)	Lb.			
		Cod:				
	45	Fresh or chilled	Lb.			
	50	Frozen	Lb.			
		Cusk, haddock, hake, and pollock:				
	65	Fresh or chilled	Lb.			
	70	Frozen	Lb.			
110.57		Wolf fish (see catfish)	.....	Free		2.5¢ per lb.
	10	Fresh or chilled	Lb.			
	20	Frozen	Lb.			
110.65		Yellow perch	.....	0.1% ad val.	Free (D,E,I)	1% ad val.
	10	Fresh or chilled	Lb.			
	20	Frozen	Lb.			
110.70		Other	.....	Free		2.5¢ per lb.
		Fresh-water fish:				
		Pike, pickerel, and pike perch (including yellow pike):				
	05	Fresh or chilled	Lb.			
	15	Frozen	Lb.			
	24	Catfish	Lb.			
	28	Other	Lb.			
		Flatfish, except halibut:				
	32	Fresh or chilled	Lb.			
		Frozen:				
	38	Turbot	Lb.			
	39	Other	Lb.			
	40	Halibut	Lb.			
	70	Salmon	Lb.			
	80	Other	Lb.			
		Subpart B. - Fish, Dried, Salted, Pickled, Smoked, or Kippered				
		Subpart B headnote:				
		1. In this subpart, the term "dried" means dried (but not salted, pickled, smoked, or kippered), the term "salted or pickled" means salted or pickled (whether or not dried, but not smoked or kippered), and the term "smoked or kippered" means smoked or kippered (whether or not dried, salted, or pickled).				
		Fish, dried, whether or not whole, but not otherwise prepared or preserved, and not in airtight containers:				
111.10	00	Cod, cusk, haddock, hake, and pollock	Lb.	0.1¢ per lb.	Free (A,E,I)	2.5¢ per lb.
111.15	00	Shark fins	Lb.	0.2¢ per lb.	Free (A,E,I)	1.25¢ per lb.
111.18	00	Other	Lb.	0.1¢ per lb.	Free (A,E,I)	1.25¢ per lb.