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Trade Agreements and Eastern Canada's Fisheries

Publication No. 2014-05-E
19 February 2014

Thai Nguyen

Economics, Resources and International Affairs Division
Parliamentary Information and Research Service

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(In Brief)

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Ce document est également publié en français.

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TRADE AGREEMENTS AND EASTERN CANADA'S FISHERIES

1 INTRODUCTION

Trade agreements with major fishery products importer nations have the potential to increase the competitiveness of fishery products from eastern Canada by eliminating or reducing duties.[1] However, these agreements can also contain services and investment rights that may have implications for fisheries management in this region.

This paper briefly summarizes eastern Canada's fisheries exports and the tariff rates applied by major markets. The paper then outlines opportunities offered by various trade agreements upon which the fishery industry in eastern Canada could capitalize. Finally, management policies, including licensing and vessel registration, minimum processing requirements, fleet separation and owner-operator policies, and co-management are examined.

2 FISHERIES EXPORT OPPORTUNITIES AND CHALLENGES

2.1 EXPORTS

Between 1990 and 2010, Canada slipped from the third to the seventh position among global fish and seafood exporters in terms of value (see Table 1). Key factors contributing to this evolution in Canada's place in international trade include the collapse of North Atlantic groundfish stocks and increased aquaculture production in Asia.[2]

Table 1 – Top 10 Fish and Seafood Exporting Countries ($ millions)

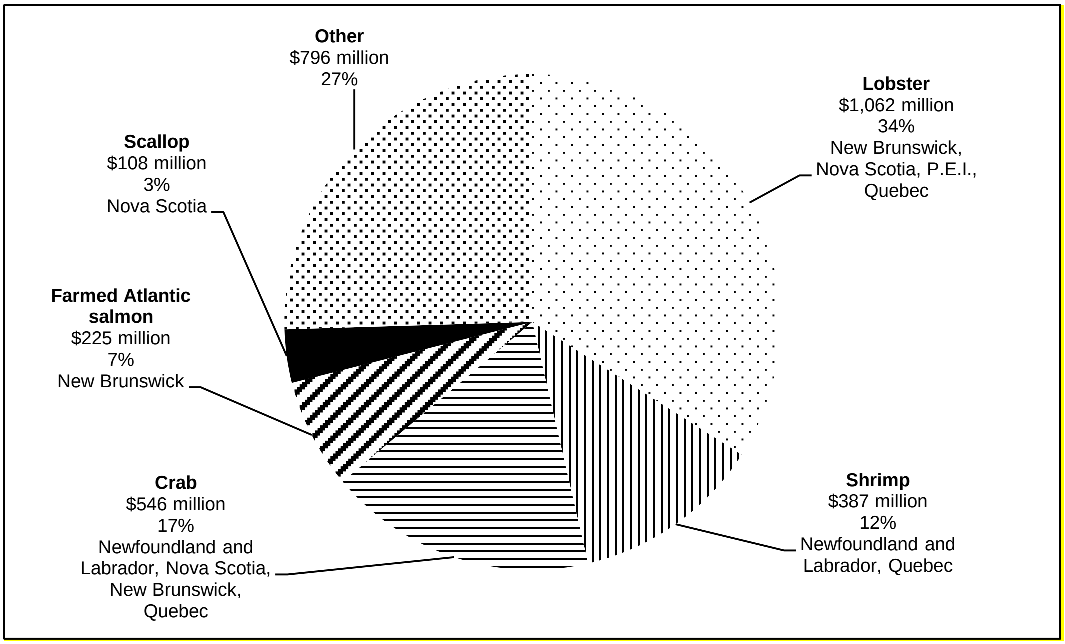
Rank	Country (1990)	Country (2010)	Value of Exports (2010)[a]
1	United States	China	15,166
2	Thailand	Norway	9,084
3	Canada	Thailand	7,342
4	Denmark	Vietnam	5,262
5	Norway	United States	4,801
6	Korea	Denmark	4,308
7	Netherlands	Canada	3,962
8	China	Netherlands	3,665
9	Taiwan	Chile	3,503
10	Iceland	Spain	3,409

Note: a. Export values were converted from U.S. dollars to Canadian dollars using the Bank of Canada 2010 annual average exchange rate.

Sources: Table prepared by the author using data obtained from Food and Agriculture Organization of the United Nations [FAO], *FAO Yearbook: Fishery and Aquaculture Statistics* , Rome, 2012, p. 45; and FAO, Fisheries and Aquaculture Department, Dataset: "Fishery Commodities Global Production and Trade (online query)," *Fishery Statistical Collections: Fishery Commodities and Trade*.

Eastern Canadian fishery products were valued at 70% of the total Canadian export of fish and seafood in 2010.[3] In 2012, eastern Canada's largest exports were lobster, crab, shrimp, and farmed Atlantic salmon. Figure 1 illustrates the share of top export products and their main exporters, as well as their respective total export value.

Figure 1 – Eastern Canada's Fishery Exports, 2012



Source: Figure prepared by the author using data obtained from Fisheries and Oceans Canada, *Provincial and Territorial Statistics on Canada's Fish and Seafood Exports in 2012*; and Fisheries and Oceans Canada, "Domestic Exports of Selected Commodities by Province," *Exports* (2011 and 2012).

2.2 Tariff Rates

Table 2 summarizes the average tariff rates applied by major exporting markets for eastern Canada's top four fishery exports. As can be seen, the United States (U.S.) is the main market for these products, except for frozen shrimp, fresh crab and frozen Atlantic salmon. The highest tariff rates were applied by the European Union (EU), Korea and Taiwan.

Table 2 – 2013 Average Tariff Rates and Share of Exports for Lobster, Crab, Shrimp and Atlantic Salmon

Export Market	Lobster, Fresh (030622)[a]		Lobster, Frozen (030612)[a]	
	Tariff Rate (%)	Share of Exports (%)	Tariff Rate (%)	Share of Exports (%)
U.S.	0	67	0	82
Hong Kong, China	0	15	0	1
EU	8.7	8	11	8
Korea	20	4	20	Under 1
Japan	1	3	1	5
Export Market	Crab, Fresh (030624)[a]		Crab, Frozen (030614)[a]	
	Tariff Rate (%)	Share of Exports (%)	Tariff Rate (%)	Share of Exports (%)
Hong Kong, China	0	92	0	16
U.S.	0	6	0	74
EU	7.5	Under 1	7.5	Under 1
Japan	4	Under 1	4	6
Indonesia	N/A	Under 1	5	2
Export Market	Shrimp, Fresh (030627)[a]		Shrimp, Frozen (030617)[a]	
	Tariff Rate (%)	Share of Exports (%)	Tariff Rate (%)	Share of Exports (%)
U.S.	0	76	0	35
Taiwan	20	14	20	Under 1
Hong Kong, China	0	7	0	8
EU	12	3	12	10
Japan	N/A	Under 1	1	42
Vietnam	N/A	Under 1	12	2
Export Market	Atlantic Salmon, Fresh (030214)[a]		Atlantic Salmon, Frozen (030313)[a]	
	Tariff Rate (%)	Share of Exports (%)	Tariff Rate (%)	Share of Exports (%)
U.S.	0	96	0	33
Japan	3.5	2	3.5	Under 1
EU	2	Under 1	2	13
Hong Kong, China	0	Under 1	0	53

Note: a. The Harmonized Commodity Description and Coding System (HS) code is provided for each product.

Source: Table prepared by the author based on information in World Trade Organization, "Duties faced in export markets," *Tariff Analysis Online*; and Industry Canada, *Trade Data Online*.

2.3 EXPORT COMPETITIVENESS AND SUSTAINABILITY ISSUES

The export competitiveness of fishery products depends on many factors. The removal of customs duties by trade agreements with major fishery products importer markets has the potential to increase eastern Canadian fishery products competitiveness and to enhance market diversification. The elimination of duties and quotas on processed products may also be beneficial to the eastern Canadian fish and seafood processing sector, possibly allowing more value-added products to be exported. For example, if the current 20% duty were removed from processed shrimp (compared with a rate of 12% for unprocessed shrimp), more of the processed product might be exported to the EU.[4] Other variables, such as marketing efforts, exchange rate fluctuations and operating costs could also influence the competitiveness of Canadian products in foreign markets.[5]

The sustainable management of the resource is another factor for consideration when examining the impacts of trade agreements. Responding to increasing demand for improvements in fishery sustainability, traceability and food safety would be important factors in ensuring export competitiveness.[6] The sustainability of fish and seafood stocks is essential for economically prosperous fisheries, given eastern Canada's current dependency on the shellfish fishery[7] and the limited recovery conditions of many groundfish stocks.[8]

2.4 Aquaculture

Because of the importance of aquaculture world-wide and the fact that about 50% of Canada's aquaculture production originates from eastern Canada, opportunities presented to this sector by trade agreements should be considered. Currently, the production growth needed to capitalize on prospects offered by trade agreements is hindered by several factors, including environmental impacts and consequent perceptions of the industry's sustainability,[9] and a complex regulatory environment which varies from province to province.[10]

While both the Food and Agriculture Organization of the United Nations and the Department of Fisheries and Oceans (DFO) predict that global aquaculture production will surpass the production capacity of wild fisheries within 20 years,[11] a study on global aquaculture has concluded that, due to factors such as scarcity of suitable space, the price of fishmeal, and environmental challenges,

> the declining growth rate in the production of farmed salmon and all finfish aquaculture is an indication that the expectation that fish from aquaculture will continue increasing into the future at recent rates … is not likely to come to fruition.[12]

Indeed, Canadian production has stalled, and the aquaculture sector has lost 40% of its global market share since 2002.[13]

3 EASTERN CANADA'S FISHERIES MANAGEMENT

Trade agreements can include services and investment rights which may have repercussions on eastern Canada's fisheries management policies. Potential impacts on minimum processing requirements, fleet separation and owner-operator policies, licensing and vessel registration, and co-management are examined below.

3.1 MINIMUM PROCESSING REQUIREMENTS

Newfoundland and Labrador and Quebec have put in place regulations that favour domestic processing by barring the export of unprocessed fish and seafood without approval. Exemptions can be granted to unprocessed export products when they can fetch a higher price than those that are locally processed. Provinces can also exempt a specific quantity of products for guarantees to process a portion locally.[14]

These provincial regulations, unless exempted, as in the case of the North American Free Trade Agreement (NAFTA), may be in conflict with certain provisions included in Canada's trade agreements, such as provisions requiring parties to treat foreign nationals and locals equally as well as provisions prohibiting the restriction of imports and exports.[15] According to the agreement-in-principle of the Canada–EU Comprehensive Economic and Trade Agreement (CETA), the minimum processing requirements would be protected for three years after entry into force of the agreement.[16]

For Newfoundland and Labrador, a federal–provincial fund of $400 million has been announced to address impacts of the removal of the minimum processing requirements and to "invest in research and development, new marketing initiatives, fisheries research and enhancements to provincial fisheries infrastructure."[17] No similar announcement has been made for Quebec. However, since the share of fishery exports to the EU is much smaller for Quebec (6%)[18] compared to Newfoundland and Labrador (15%),[19] the impact of the removal of minimum processing requirements would be less important for Quebec.

3.2 FLEET SEPARATION AND OWNER-OPERATOR POLICIES

Eastern Canada's fisheries have a large independent inshore sector, with over 10,000 operators and about 20,000 workers as crew members. In 2010, the landed value of lobster, crab and shrimp by independent fleets accounted for 63% of the total value of eastern Canada's fisheries.[20] By being geographically dispersed, this inshore sector contributes to the economic viability of many coastal communities.[21]

Fleet separation and owner-operator policies for inshore fisheries are in place throughout eastern Canada. They are designed to "ensure that inshore fish harvesters remain independent, and that the benefits of fishing licences flow to the fisher and to Atlantic coastal communities."[22] The fleet separation policy keeps ownership of fish harvesting and processing sectors separate by preventing processing companies from acquiring the fishing licences of inshore vessels (those measuring less than 19.8 m or 65 ft).[23] The owner-operator policy requires the holders of licences for inshore vessels to be present on the boat during fishing operations.[24]

Debate surrounds the merits and shortcomings of these licensing policies. For example, fleet separation and owner-operator policies are not present in Canada's west coast fisheries industry. Research carried out by the Canadian Council of Professional Fish Harvesters,[25] as well as a study of British Columbia's halibut fishery[26] reported that the absence of these policies in the Pacific region has led to the concentration of ownership of licences and quotas in large urban areas, leaving many coastal rural communities without control of, or access to, adjacent resources. On the other hand, there have been calls for a "modernization" of the fleet separation policy in eastern Canada. It is argued that this policy prevents vertical integration which would create economies of scale, reduce production costs and improve coordination throughout the supply chain.[27]

Fleet separation and owner-operator policies have not been affected by market access obligations in previous trade agreements signed by the federal government. The Canada–Chile Free Trade Agreement, for example, contains exemptions for Canada's *Commercial Fisheries Licensing Policy*, as well as exemptions over the awarding of fishery licences at the minister's discretion as permitted under the *Fisheries Act*.[28] It remains to be seen if in future agreements these licensing policies would be in conflict with market access rules.[29]

3.3 Commercial Fishing Licences and Vessel Registration

Currently, only Canadian citizens can hold fishing licences, and licences and quotas in eastern Canada are allocated based on the principles of adjacency to the resources, fish harvesters' historical participation in the fishery and maintenance of geographic distribution of economic opportunities.[30] Furthermore, only Canadian vessels can be registered for commercial fishing. A foreign vessel may be leased for a maximum of two years with ministerial approval when a Canadian vessel is disabled and must have a crew comprising either Canadian citizens or permanent residents.[31]

These restrictions may be in conflict with the principle of national treatment in trade agreements unless they are exempted by using reservations,[32] as in the case of previous trade agreements signed by the federal government.[33] Under the agreement-in-principle of the Canada–EU CETA, the rights of governments to regulate and their right to sovereign control over the development of natural resources is recognized. This may be an indication that Canadian licensing regulations will not be affected.[34]

3.4 Co-management

The *Atlantic Integrated Commercial Fisheries Initiative* of DFO was designed to integrate First Nations fishing enterprises into existing commercial fisheries and provide First Nations a voice in fisheries co-management.[35] DFO's Integrated Fisheries Management Plans also include the concept of co-management in the form of shared stewardship arrangements.[36] Co-management emphasizes local control and participation in the management of fisheries. Until now, it has not been considered a technical barrier to trade, as Canada has used reservations to protect its fisheries policies.

4 CONCLUSION

Tariff eliminations contained in trade agreements with major fishery products importing markets have the potential to increase the competitiveness of Canadian fishery exports and to contribute to the economic viability of fishing communities. This is particularly true for fisheries in eastern Canada, which account for 70% of all Canadian fish and seafood exports. Beyond tariffs, a number of other factors, such as exchange rate fluctuations, operating costs, marketing efforts, fishery sustainability and traceability, and food safety, can also play a role in the capacity of the industry to capitalize on opportunities offered by trade agreements.

Trade agreements may also have implications for fisheries management policies both at the federal and provincial levels. In previous trade agreements, Canada has made use of reservations to exempt these management policies from conflicts with the principle of national treatment and market access rules or from being considered as technical barriers to trade.

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31. DFO, "Vessels," Chapter 8 in *Commercial Fisheries Licensing Policy for the Gulf Region* (2013).

32. Reservations are exception clauses meant to exclude certain non-conforming measures of the parties from the scope of application of specific treaty obligations. According to the *Vienna Convention on the Law of Treaties* (art. 2.1.(d)),

> "reservation" means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State.

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