CASE STUDY: SALMON

Introduction
In June of 1997, the Coalition of Fair Atlantic Salmon Trade (FAST) of the United States filed an antidumping petition claiming that salmon farmers in Chile were selling farmed, fresh Atlantic salmon at less than normal value in the U.S. market and these imports were causing material injury to the domestic industry. Both the U.S. International Trade Commission (ITC) and Department of Commerce (DOC) agreed, and antidumping duties were imposed on imports of farmed Atlantic salmon from Chile between 1998 and 2003.

Background: The Farmed Atlantic Salmon Market

Fresh Atlantic salmon is sold in the United States either in whole “dressed” form or in various cuts such as fillets or steaks. In the period leading up to the antidumping petition, demand for salmon in all forms increased significantly in the United States. According to investigation reports, consumption of whole salmon rose 50.7 percent between 1994 and 1997, while consumption of cuts of salmon increased 356.1 percent during the same time period. The surge in consumption was attributed to the shift in American diets towards healthier foods, as well as the decrease in the price of salmon that coincided with the availability of farm-raised salmon.

Farming of Atlantic salmon began in the North Atlantic in the early 1970s and grew quickly; in 1998, worldwide production of farmed Atlantic salmon was 710,342 tons, over 295 times the quantity of wild salmon caught in the North Atlantic in that year. Salmon has a three-year growth/production cycle. Production begins in the fall, when Atlantic salmon typically spawn. The first 18 months of production, from egg to juvenile “smolt” occurs in fresh water. Then the smolt are then transferred to ocean sites for an additional 18 months until maturity.

In the United States, twelve firms farmed Atlantic salmon in 1997—10 of which were located in Maine with the other two located in Washington. Most Maine producers processed the salmon through the dressed stage, while the two Washington producers sold non-dressed salmon to independent processors. In addition to the producers, there were a number of small processors in both states that cut and dressed Atlantic salmon into fillets, steaks, and other cuts.

Norway and Scotland together accounted for 63 percent of total worldwide production of Atlantic salmon in 1998. Chile was the third largest producer of fresh Atlantic salmon in the world. Production of Chilean salmon first began in 1986 when Marine Harvest International, the largest salmon producer in Scotland, invested in the Chilean aquaculture industry in order to take advantage of the country’s lower costs of production and different harvesting seasons. At the time of the antidumping investigation there were

1 Dressed salmon has been bled, gutted and cleaned.
2 According to investigation reports, the commercial harvest of wild Atlantic salmon is prohibited in the United States and most other countries in order to preserve the species for sport fishery.
3 U.S. Fish and Wildlife Service.
49 firms farming Atlantic salmon in Chile; five firms accounted for the bulk of Chilean production.

Chile was and continues to be the leading source of Atlantic salmon in the United States.\(^4\) Moreover, the bulk of Chilean salmon production was exported to the United States in the period leading up to the antidumping petition; between 91.9 and 96.5 percent of all Chilean production of cuts of Atlantic salmon was shipped to the United States. As seen in Figure [1], imports from Chile surged dramatically in the period leading up to the antidumping petition. According to the investigation reports, imports of all fresh Atlantic salmon from Chile increased 35 percent between 1995 and 1996, and an additional 20 percent between 1996 and 1997. Although U.S. domestic production also increased during this time period, U.S. market shares fell significantly between 1994 and 1997.

Figure 1

U.S. Imports of Atlantic Salmon

[Graph showing U.S. imports of Atlantic salmon from 1995 to 2004]

Source: U.S. Census Bureau

Of perhaps more concern to U.S. domestic producers, the unit import price of Chilean salmon fell during the investigation period, which is illustrated in Figure [2]. Calculated import prices of total fresh Atlantic salmon from Chile fell from $2.15 in 1995 to $1.91 in 1996 and 1997, a decrease of nearly 12 percent. This in turn put downward pressure on

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\(^4\) Imports from Norway have been subject antidumping duties since 1991; in 1997 these duties ranged from 2.28 to 31.81 percent. The tariffs effectively eliminated U.S. imports of Norwegian salmon.
the price of domestically produced salmon and profitability levels, which prompted the antidumping petition. Gross profits per pound of dressed, whole salmon fell from $0.56 in 1994 to $0.22 in 1997.

According to U.S. producers, the rapid expansion of the Atlantic salmon aquaculture industry resulted in overcapacity. They claimed that in order to maintain market share and continue to grow, Chilean producers were selling at prices 40 percent below full production costs. Chilean producers argued that they were just more competitive than U.S. producers, with better weather and sea conditions, cheap and plentiful feed from Chile’s fishmeal industry, moderate labor costs, and fewer environmental regulations. Chilean producers also noted that they had invested a great deal in new production technologies and marketing in the United States.\(^5\) Regardless of the reason, Chile was selling whole, dressed salmon at prices 10 percent lower than U.S. producers, and salmon fillets at prices 25 percent lower than U.S. producers at the time of the investigation.\(^6\)

![Figure 2](source: U.S. Census Bureau)

Like many antidumping petitions, the case divided U.S. firms. For example, while the two salmon producers in Washington state were members of FAST, other Washington

\(^5\) Friedland.
\(^6\) Rushford.
companies sold production equipment and salmon eggs to Chilean producers and imported Chilean salmon for distribution. As a result, the Washington Fish Growers Association declined to take a position on the antidumping petition.\(^7\)

**The Antidumping Petition**

On June 12, 1997, the Coalition of Fair Atlantic Salmon Trade (FAST) of the United States filed an antidumping petition claiming that salmon farmers in Chile were selling farmed, fresh Atlantic salmon at less than normal value in the U.S. market, and these imports were causing (or threatening to cause) material injury to the domestic industry. The Coalition was made up of eight of the twelve U.S. salmon producers in Maine and Washington, although an additional producer joined the coalition on March 9, 1998.\(^8\) An official investigation was initiated by the DOC on July 10. On July 28, the ITC made a preliminary determination that there was reasonable evidence that the domestic industry was injured due to imports of farmed Atlantic salmon from Chile.

The DOC released their preliminary dumping margins on January 16, 1998, paving the way for the collection of a bond on imports of Atlantic salmon from Chile equal to the amount of the estimated dumping margins. The final revised margins, which were released on June 1, 1998, are presented in Table [1].\(^9\)

To calculate the final margin, the DOC compared a weighted average adjusted export price to a weighted average “normal value.” Under U.S. law, normal value is typically based on the price at which the product is sold in the targeted country’s domestic market. However, when there are insufficient quantities of the product sold in the domestic market, the DOC may use the price sold in a third market or a constructed value based on the cost of production. In this case, the DOC determined that Japan was the appropriate third market comparison for Mares Australes and Canada was the appropriate third market for sales of certain products by Aguas Claras. Normal value was based on constructed value for all other firms.

<table>
<thead>
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<tr>
<td>Aguas Claras</td>
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<td>Eicosal</td>
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<tr>
<td>Marine Harvest</td>
<td>1.36</td>
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<tr>
<td>All Others</td>
<td>5.19</td>
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\(^7\) Wilhelm.  
\(^8\) Members of the Coalition included Atlantic Salmon of Maine, Cooke Aquaculture of US, Inc., DE Salmon, Inc., Global Aqua USA, LLC, Island Aquaculture Corp., Maine Coast Nordic, Inc., Scan Am Fish Farms, Treats Island Fisheries, and Trumpet Island Salmon Farm, Inc.  
\(^9\) The final dumping margins were higher than the preliminary margins for five of the six Chilean firms under investigation.
The ITC made its final determination that the U.S. industry was materially injured or threatened with injury due to imports from Chile on July 14, 1998, paving the way for the permanent imposition of antidumping duties. Only three commissioners voted in the final determination; one commissioner found evidence of material injury, a second commissioner found evidence that the industry was threatened with material injury, while the final commissioner found no evidence of injury.

The final determination was based in large part on how the ITC defined the “domestic industry,” as this definition significantly altered the economic data taken into consideration. Throughout the investigation Chilean producers argued that whole salmon and salmon cuts should be considered different products produced by two separate industries. The Commission rejected this argument and defined the product under investigation as all fresh Atlantic salmon. However, critics argued that Commissioners then contradicted this finding by excluding U.S. salmon processors, or those who produced salmon cuts from whole salmon, from the definition of the domestic industry. The commissioner who found no evidence of material injury included processors in the definition of the domestic industry.

Although the period of investigation in antidumping petitions is typically the three years prior to initiation, in this case the ITC used four years of data in order to better understand the “growth in demand in the salmon market and the manner in which the subject imports are competing within the market.” Using this data, the dissenting commissioner determined that imports from Chile did not have a significant price effect on domestic prices of Atlantic salmon. In contrast, those commissioners that voted in favor of the imposition of antidumping duties found that the surge in Chilean imports of salmon did depress U.S. domestic prices.

It should be noted that FAST submitted a countervailing duty petition claiming that the domestic industry was materially injured by subsidized imports of farmed Atlantic salmon at the same time that they filed the antidumping petition. However, the DOC determined that countervailable subsidies were not being provided to Chilean salmon producers on June 9, 1998.

**Case Outcome**

Chilean producers appealed the affirmative ITC decision to the Court of International Trade shortly after the decision was released, arguing that the decision was not supported by substantial evidence. Moreover, the producers claimed that the decision was counter to U.S. law in its use of evidence, the discussion of injury causation, and the effects of the dumping margins. The Commission then filed petition for a voluntary remand, or the opportunity to review the decision, in order to determine whether its calculation of foreign production and capacity was in error. On July 2, 1999, the CIT granted the ITC’s motion.

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10 One Commissioner dissented and used only a three-year period of investigation. USITC (1998).
In October 1999, after considering new data, the ITC voted once again that there was evidence that the domestic industry was materially injured or threatened with injury due to imports of dumped Atlantic salmon from Chile. The CIT was not satisfied that the ITC had accurately verified foreign production, capacity and shipments data.11 In its second remand order to the ITC, the CIT directed the ITC to either adjust 1998 production data or justify the determination that the current 1998 data was the best available. The ITC did not adjust the 1998 production data, but rather invoked a clause allowing the Commission to use the best “facts available” in making its determination in August of 2000. The CIT found the response lacking, specifically stating that the Commission failed to justify the use of “facts available.” After further justification, the CIT finally upheld the ITC’s third remand determination on January 9, 2002.

Throughout the court fight, importers of Chilean salmon continued to have to post duties in the amounts listed in Table [1]. However, the duties did not slow the growth of Chilean imports, as can be seen in Figure [1]. Moreover, prices continued to fall sporadically over the period. In 2003, production of Atlantic salmon in the United States was only 6,453 tonnes, compared to nearly 51,000 tonnes of imports from Chile; production in Maine fell significantly between 2001 and 2003 due to environmental restrictions that limited harvesting to every other year.

In June 2003, the ITC and DOC initiated a five-year “sunset” review of the dumping duties as required under the World Trade Organization. On July 25, 2003, the DOC announced its decision to revoke the dumping duties because “domestic interested parties expressed no interest in the continuation of this order.”12

References


11 Specifically, there was some question whether one Chilean producers production was double counted in estimates of Chilean shipments, production and capacity due to consolidations in the industry.