



## THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of: )  
 ) Investigation Nos.:  
 FRESH AND CHILLED ATLANTIC ) 701-TA-302 and  
 SALMON FROM NORWAY ) 731-TA-454 (Second Review)

Thursday,  
 November 10, 2005

Room No. 101  
 U.S. International  
 Trade Commission  
 500 E Street, S.W.  
 Washington, D.C.

The hearing commenced, pursuant to notice, at  
 9:30 a.m., before the Commissioners of the United States  
 International Trade Commission, the Honorable STEPHEN  
 KOPLAN, Chairman, presiding.

## APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

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 VICE CHAIRMAN DEANNA TANNER OKUN  
 COMMISSIONER JENNIFER A. HILLMAN  
 COMMISSIONER CHARLOTTE R. LANE  
 COMMISSIONER DANIEL R. PEARSON  
 COMMISSIONER SHARA L. ARANOFF

APPEARANCES: (cont'd.)

Staff:

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WILLIAM BISHOP, HEARINGS AND MEETINGS COORDINATOR  
SHARON BELLAMY, HEARINGS AND MEETINGS ASSISTANT  
JOHN KITZMILLER, INVESTIGATOR  
ROGER COREY, INDUSTRY ANALYST  
JOHN BENEDETTO, ECONOMIST  
CHARLES YOST, ACCOUNTANT/AUDITOR  
CHARLES ST. CHARLES, ATTORNEY  
DIANE MAZUR, SUPERVISORY INVESTIGATOR

Embassy Appearance:

HIS EXCELLENCY KNUT VOLLEBACK, Ambassador, Royal  
Norwegian Embassy

In Support of the Continuation of the Antidumping and  
Countervailing Duty Orders:

On behalf of Atlantic Salmon of Maine and Heritage  
Salmon Company, Inc.:

GLENN COOKE, Vice President, Atlantic Salmon and  
Heritage  
ALAN CRAIG, Vice President, Sales and Marketing,  
Atlantic Salmon and Heritage  
DAVID MORANG, Manager, Eastport Operations,  
Atlantic Salmon and Heritage  
LEN STEWART, Vice President, Corporate  
Development, Atlantic Salmon and Heritage,  
JACK CASHMAN, Commissioner, Maine Department of  
Economic and Community Development  
GINA BECK, Economist, Georgetown Economic Services  
  
KATHLEEN W. CANNON, Esquire  
MICHAEL J. COURSEY, Esquire  
GRACE W. KIM, Esquire  
Collier Shannon Scott, PLLC  
Washington, D.C.

APPEARANCES: (cont'd.)

In Opposition to the Continuation of the Antidumping and  
Countervailing Duty Orders:

On behalf of the Government of Norway; the Norwegian  
Seafood Federation; and The Norwegian Seafood  
Association:

OTTO GREGUSSEN, Fisheries Councillor, Royal  
Norwegian Embassy  
SVEIN BERG, Managing Director, Norwegian Seafood  
Export Council  
AUDUN BJELKAROY, Director, Purchasing, Fjord  
Seafood  
PER DAG IVERSEN, Director, Norwegian Seafood  
Federation  
TERJE KORSNGS, President, Nordic Group, Inc.  
LARS LIABO, Chief Executive Officer, Kontali  
Analyses AS  
ODD ATLE RYGG, President, Coast Seafood USA  
SVERRE SORAA, Chief Executive Officer, Coast  
Seafood AS  
PAULA STERN, Chairwoman, The Stern Group  
  
THOMAS V. VAKERICS, Esquire  
KRISTEN S. SMITH, Esquire  
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Washington, D.C.

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P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN KOPLAN: Good morning. On behalf of the United States International Trade Commission I welcome you to this hearing on Investigation Nos. 701-TA-302 and 731-TA-454 (Second Review) involving Fresh and Chilled Atlantic Salmon from Norway.

The purpose of these five-year review investigations is to determine whether the revocation of the antidumping and countervailing duty orders covering fresh and chilled Atlantic salmon from Norway would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Notices of investigation for this hearing, list of witnesses and transcript order forms are available at the Secretary's desk. I understand the parties are aware of the time allocation. Any questions regarding the time allocation should be directed to the Secretary.

As all written material will be entered in full into the record, it need not be read to us at this time. Parties are reminded to give any prepared non-confidential testimony and exhibits to the Secretary. Do not place any non-confidential

1 testimony or exhibits directly on the public  
2 distribution table. All witnesses must be sworn in by  
3 the Secretary before presenting testimony.

4 Finally, if you will be submitting documents  
5 that contain information you wish classified as  
6 business confidential, your requests should comply  
7 with Commission Rule 201.6.

8 Mr. Secretary, are there any preliminary  
9 matters?

10 MR. BISHOP: Yes, Mr. Chairman. With your  
11 leave we will add Len Stewart, Vice President,  
12 Corporate Development, Atlantic Salmon and Heritage,  
13 to the list of witnesses for those in support of  
14 continuation.

15 CHAIRMAN KOPLAN: Without objection.

16 Let us announce our first witness.

17 MR. BISHOP: His Excellency Knut Volleback,  
18 Ambassador, Royal Norwegian Embassy.

19 CHAIRMAN KOPLAN: Welcome, Mr. Ambassador.

20 AMBASSADOR VOLLEBACK: Thank you very much.  
21 Good morning, Commissioners. My name is Knut  
22 Volleback. I am Norway's ambassador to the United  
23 States of America. I would like to thank you for the  
24 opportunity to appear before you today.

25 As long as humans have inhabited Norway,



1 they have been dependent on the sea and the riches of  
2 the sea for their livelihood. With their backs to the  
3 mountains and their face towards the sea, Norwegians  
4 became fishermen, sailors and merchants. Over the  
5 centuries Norwegians developed successful business  
6 clusters in the maritime sector, in fisheries and,  
7 more recently, in aquaculture. Today, Norway is the  
8 third largest exporter of fish in the world, and fish  
9 products from Norway are found in more than 150  
10 countries.

11 While we are among the largest exporters of  
12 fish in the world, it is important to realize that  
13 this export does not play such a dominant role in the  
14 Norwegian economy. Total seafood exports from Norway  
15 represent only five percent of the country's export  
16 revenues in 2004. Oil and gas represent 64 percent of  
17 export revenues, followed by metals, other products  
18 and then fish.

19 As a small country with an open economy,  
20 Norway is dependent on free and fair market access for  
21 its export products, including our fisheries products.  
22 Norway is committed to competing in the world markets  
23 with fisheries products of the highest quality  
24 produced by an industry which is competitive based on  
25 natural advantages and not based on government

1 subsidies.

2           Norway depends not only on international  
3 markets, but also on the international set of rules  
4 governing these markets and of these rules being  
5 followed by everyone. The Government of Norway  
6 therefore attaches high importance to the World Trade  
7 Organization.

8           Norway relies on its trading partners to  
9 honor the obligations agreed to under the WTO and the  
10 adopting agreement, and we know that the United States  
11 Government feels the same way. We therefore  
12 appreciate the opportunity to participate in this  
13 review where all the evidence presented is carefully  
14 considered.

15           You will understand that the Norwegian  
16 Government has a strong interest in this sunset review  
17 and is following it very closely. The government is  
18 deeply concerned by the U.S. antidumping and  
19 countervailing duty orders applied to whole fresh  
20 chilled salmon and considers this case to be an  
21 opportunity to remove them. The revocation of the  
22 orders would also remove the only source of concern  
23 affecting the otherwise excellent relations between  
24 our two countries.

25           The United States' antidumping and

1       countervailing duty orders against Norwegian salmon  
2       are now 15 years old. In this period, Canadian and  
3       Chilean imports have grown to control approximately 97  
4       percent of the U.S. market for domestic salmon. The  
5       Atlantic salmon farmed by U.S. owned companies has  
6       diminished to account for no more than three percent  
7       of the U.S. market in 2004.

8               While a casual observer might think that  
9       Norwegian salmon is heavily present in the U.S.  
10       market, this is an illusion based on branding.  
11       Norwegian exports account for only .3 percent of the  
12       U.S. market for whole fresh salmon.

13               Since the United States' antidumping and  
14       countervailing duty orders were imposed against Norway  
15       in 1990, the Norwegian salmon industry has found and  
16       established many new markets and have lost interest in  
17       the United States markets. That is why it was the  
18       Norwegian Government, not the industry itself, that  
19       took the initiative to participate in this review.

20               The industry participation is largely on the  
21       urging of the government, which wants these orders  
22       revoked as a matter of principle. The Government of  
23       Norway does not see any sign of increasing interest in  
24       this market in the foreseeable future simply because  
25       the growth in other markets offers more profitable

1 opportunity.

2           With respect to the United States'  
3 production, we understand that there is farmed salmon  
4 production the States of Washington and Maine. The  
5 east and the west coasts are two separate markets.  
6 The production in Washington state, serving primarily  
7 the west coast of the United States, cannot possibly  
8 be affected by Norwegian imports due to costs of  
9 transportation.

10           According to our information, the production  
11 of farm salmon in Maine is controlled almost entirely  
12 by one Canadian company; that is Cooke Aquaculture,  
13 which is a major producer of farmed Atlantic salmon in  
14 New Brunswick and which views the United States as its  
15 home market.

16           To us it is a paradox that in fact it is a  
17 Canadian company, Cooke, through its U.S.  
18 subsidiaries, which is the only company appearing at  
19 the Department of Commerce and at the International  
20 Trade Commission opposing revocation of the orders  
21 against Norway.

22           We understand that Atlantic salmon imported  
23 from Chile is a major factor in the U.S. market. In  
24 2003, the U.S. industry supported revocation of the  
25 antidumping order regarding salmon from Chile. We

1 fail to understand that the same industry needs any  
2 kind of protection from fresh whole salmon from  
3 Norway. Whole fresh salmon from Norway will never be  
4 anything but the minimal fraction of the high end  
5 market in the United States.

6 The Government of Norway and our salmon  
7 industry are cooperating fully with the U.S.  
8 authorities, such as the Department of Commerce and  
9 the International Trade Commission, in this review.  
10 We understand that the only way to obtain full  
11 revocation of the orders is to win revocation in the  
12 sunset review.

13 If this Commission does not vote in favor of  
14 revocation, the orders continue for another five years  
15 and will have been in operation for a period of over  
16 20 years before the next sunset review takes place.  
17 This possibility is a grave concern to the Norwegian  
18 Government.

19 We hope, based on the evidence presented in  
20 this review, that the International Trade Commission  
21 will draw the conclusion that there is absolutely no  
22 reason to believe that injury to the U.S. industry  
23 would reoccur if these orders were revoked.

24 Thank you, Commissioners, for your  
25 attention.

1                   CHAIRMAN KOPLAN: Thank you very much for  
2 your appearance, Mr. Ambassador.

3                   Let me see if any of my colleagues have any  
4 comments.

5                   (No response.)

6                   CHAIRMAN KOPLAN: I see that they have none.  
7 Thank you very much.

8                   AMBASSADOR VOLLEBACK: Thank you.

9                   CHAIRMAN KOPLAN: You're excused.  
10 Mr. Secretary?

11                  MR. BISHOP: Opening remarks on behalf of in  
12 support of continuation of orders will be made by  
13 Michael J. Coursey, Collier Shannon Scott.

14                  CHAIRMAN KOPLAN: It's on.

15                  MR. COURSEY: Thank you. Mr. Chairman,  
16 members of the Commission, good morning. I am Michael  
17 Coursey of Collier Shannon Scott, counsel for Atlantic  
18 Salmon of Maine and Heritage Salmon, two of the three  
19 largest farm salmon producers in Maine.

20                  Both companies strongly support the  
21 continuation of the dumping and countervailing duty  
22 orders on fresh and chilled Atlantic salmon imports  
23 from Norway. The record before you clearly shows that  
24 revocation of these orders would result in the return  
25 in force of dumped and unfairly subsidized imports

1 from Norway and that these imports would overwhelm and  
2 eliminate the domestic industry.

3 These trade orders resulted from the  
4 collapse of the U.S. fresh Atlantic salmon market in  
5 1989 under the massive weight of unfairly traded  
6 imports from Norway, a fact finally agreed to by  
7 Respondents in their brief.

8 At that time, the Norwegian industry's  
9 practice of doubling its production each year finally  
10 swamped demand in both its major markets, the U.S. and  
11 the EU. Both governments then acted swiftly under  
12 their dumping and subsidy laws to protect their  
13 fledgling salmon industries.

14 In the intervening 15 years, the Norwegian  
15 producers unfortunately have not changed their trade  
16 disrupting ways. In this country, Respondents have  
17 never challenged the subsidy finding against them, nor  
18 have they demonstrated that they can sell here without  
19 dumping at substantial rates.

20 Nor did Norway even participate in the  
21 Commission's first sunset review of these orders six  
22 years ago. Confronted with the order's prohibition  
23 against unfair trading, Respondents have been unable  
24 to demonstrate the ability to compete fairly in this  
25 market.

1           If these orders are revoked, the renewed  
2 volume of Norwegian imports will be not just  
3 significant, but massive. First, there is a published  
4 statement just a year ago by Respondents' consultant,  
5 Mr. Liabo, that Norwegian shipments would quickly  
6 retake 20 percent of the U.S. market, which translates  
7 to about 30 million pounds, if the trade orders were  
8 revoked. As Mr. Liabo said, this is a whole fish  
9 market we can win back.

10           Second, Norway produces 45 percent of the  
11 world's Atlantic salmon and remains by far the world's  
12 largest Atlantic salmon producer. Indeed, Norway's  
13 salmon production has almost quintupled since it first  
14 shook global markets, rising from a mere quarter  
15 million pounds in 1989 to 1.2 billion pounds last  
16 year. Virtually all of that product is exported from  
17 Norway as whole salmon, the same form as subject  
18 merchandise.

19           Third, Norway's capacity to produce Atlantic  
20 salmon, according to its own government, mushroomed to  
21 1.47 billion pounds last year. This translates to an  
22 unused capacity of 270 million pounds, which is far  
23 more than the U.S. market's total apparent consumption  
24 last year of Atlantic salmon from all sources.

25           Fourth, Norway's access to its principal



1 market, the EU, remains tightly restricted. Indeed,  
2 the Norwegian producers have been held by the European  
3 Commission under what amounts to dumping house arrest  
4 for the past 15 years. In the latest round of that  
5 saga, the Trade Directorate found Respondents to have  
6 dumped last year in the EU at rates of up to 38  
7 percent.

8           The record also leaves no doubt that if the  
9 orders are revoked the prices at which renewed  
10 Norwegian imports will be sold here will have a  
11 significant downward effect on the prices for domestic  
12 salmon. By Respondents' own admission, farmed  
13 Atlantic salmon is a commodity product, and purchasers  
14 consistently state that price is very important to  
15 their purchasing decisions. Thus, Norwegian imports  
16 will recapture sales in this market by offering  
17 significantly lower prices than the domestic  
18 producers, and surging import volume alone will  
19 depress U.S. prices.

20           Finally, the record also makes clear that  
21 the renewed surge of low-priced Norwegian imports that  
22 would spawn from the revocation of the trade orders  
23 would have a devastating impact on the domestic  
24 industry. As our witnesses will explain, the Maine  
25 farmed salmon industry is in a highly vulnerable

1 condition and is attempting to restore its production  
2 levels and return to steady profitability after having  
3 suffered severe setbacks in recent years.

4 Both Heritage and Atlantic Salmon have just  
5 been purchased by Cooke Aquaculture, the largest farm  
6 salmon producer in the neighboring New Brunswick.  
7 Cooke is in the midst of reviving the Maine industry  
8 by investing tens of millions of dollars into it with  
9 the goal of repeating in Maine its impressive success  
10 in expanding New Brunswick's salmon industry.

11 While the Maine industry prospects have  
12 immensely improved with the arrival of Cooke in that  
13 state, this fragile industry could not withstand the  
14 onslaught that would be launched from Norway with the  
15 revocation of the trade orders. Now is exactly the  
16 wrong time to unleash the Norwegian juggernaut on the  
17 domestic farmed salmon industry.

18 Thank you.

19 CHAIRMAN KOPLAN: Thank you, Mr. Coursey.

20 Mr. Secretary?

21 MR. BISHOP: Opening remarks on behalf of  
22 those in opposition to continuation of orders, Thomas  
23 V. Vakerics, Sandler, Travis & Rosenberg.

24 CHAIRMAN KOPLAN: Good morning.

25 MR. VAKERICS: During the period of

1 investigation there was in fact a type of perfect  
2 storm that occurred leading to the affirmative entry  
3 determination.

4 The conditions that converged to form that  
5 perfect storm were first demand in the U.S. market for  
6 fresh whole salmon that could not be met by the  
7 combined production of Canadian, Chilean and U.S.  
8 industries, creating an opening for Norwegian salmon.

9 Second, a series of miscalculations in  
10 Norway that led to an oversupply and relatively large  
11 volumes of imports into the U.S. market over a  
12 relatively short period of time.

13 Third, we had a U.S. industry in a start-up  
14 phase with heavy investment debt, no revenue stream  
15 and a U.S. industry bringing its first harvest to  
16 market at precisely the same time that relatively  
17 large volumes from Norway hit the east coast of the  
18 United States.

19 The converging conditions that led to that  
20 perfect storm and the Commission's affirmative  
21 determination cannot reoccur in the reasonably  
22 foreseeable future for the following reasons:

23 First, demand in the United States' market  
24 today is fully met by well-established producers in  
25 Canada, Chile and the United States, leaving no window

1 of opportunity for Norway to enter the U.S. market if  
2 the orders are revoked.

3 Second, the original miscalculations of  
4 Norway leading to oversupply conditions have long  
5 since been corrected, and supply in Norway is now and  
6 will continue to be in balance with global demand.  
7 Thus, there is no excess supply in Norway that can  
8 flood the U.S. market if the orders are revoked.

9 Third, the U.S. industry has matured and is  
10 no longer in a start-up condition and no longer  
11 particularly vulnerable to injury. At the time of the  
12 original investigation, Norwegian producers were  
13 flying blind, unable to predict demand three years  
14 into the future. Today there are sophisticated  
15 forecasting programs in place that allow Norwegian  
16 producers to forecast future demand with great  
17 accuracy.

18 These forecasting systems are taken very  
19 seriously in Norway, as well as by other leading  
20 global producers. In 2003, for example, in Norway 20  
21 million fingerlings were voluntarily destroyed when  
22 forecasting models showed that there would be an  
23 oversupply if these fingerlings were permitted to grow  
24 into full-size salmon. Thus, forecasting models make  
25 the three-year growing cycle for salmon today a

1 relatively unimportant condition of competition.

2           Since the orders issued there has been  
3 considerable consolidation in the global industry,  
4 including Norway. The number of Norwegian firms has  
5 declined from 782 to 141. The 25 largest salmon  
6 companies in Norway control 70 percent of production.  
7 The Norwegian industry accounted for 80 percent of  
8 global production in the early 1990s and accounts for  
9 only 45 percent of global production today.

10           Domestic consumption of fresh whole salmon  
11 accounted for over 75 percent of total salmon  
12 consumption in the 1970s and only 23 percent of  
13 domestic consumption today, making the U.S. market  
14 even less attractive to the Norwegian industry.

15           The Maine operations. Well, there are  
16 questions there. The Maine operations of Marine  
17 Harvest and ASM/Heritage should be excluded from the  
18 domestic industry. There are no apparent domestic  
19 shipments from the Maine farms. All Maine grown  
20 salmon is processed in and exported from Canada to  
21 U.S. customers.

22           There are also serious questions whether  
23 after processing salmon exported to the U.S. were  
24 actually grown in the United States or in Canada. If  
25 the Maine farms are included in the U.S. industry, the

1 Commission must recognize that there are two separate  
2 and distinct segments to the industry, one on the west  
3 coast and one on the east coast, and conduct its  
4 injury analysis accordingly.

5 The appropriate measure of capacity in the  
6 Norwegian salmon industry is the number of available  
7 smolt. Based on that measure, the Norwegian industry  
8 has been operating at capacity during the POR, and  
9 capacity will decline through 2008. There is no  
10 excess capacity in Norway that could lead to a  
11 significant increase in imports of fresh whole salmon  
12 if the orders are revoked.

13 In the original investigation on pricing,  
14 without the disciplining effect of the orders the  
15 Commission found that the Norwegian product  
16 consistently oversold the domestic product. The same  
17 finding was made in the first review, and the staff  
18 has determined that in this review the Norwegian  
19 product consistently oversold the domestic product.  
20 This is compelling evidence that the Norwegian fresh  
21 whole salmon will oversell in the product if the  
22 orders are revoked.

23 Over the last 20 years --

24 CHAIRMAN KOPLAN: Excuse me. Your time has  
25 expired.

1 MR. VAKERICS: Okay. Thank you very much.

2 CHAIRMAN KOPLAN: Certainly. Thank you.

3 Mr. Secretary?

4 MR. BISHOP: Would those in support of  
5 continuation of the orders please come forward?

6 Mr. Chairman, all witnesses have been sworn.

7 (Witnesses sworn.)

8 CHAIRMAN KOPLAN: Thank you.

9 (Pause.)

10 CHAIRMAN KOPLAN: You may proceed.

11 MR. COURSEY: Mr. Chairman, good morning  
12 again; Commissioners. Our first witness this morning  
13 is Glenn Cook, vice president of Atlantic Salmon of  
14 Maine and Heritage Salmon.

15 Glenn?

16 MR. COOKE: Good morning, Mr. Chairman and  
17 members of the Commission. It is an honor to testify  
18 this morning about the improving prospects of the  
19 Maine farmed salmon industry, as well as the threat  
20 posed to the industry if the Commission decides to  
21 revoke the trade orders against Norway.

22 I'm appearing today as vice president of  
23 both Atlantic Salmon of Maine and Heritage Salmon  
24 Company, two of the three largest farmed salmon  
25 producers in Maine. I am also CEO of Cooke

1 Aquaculture, Inc. of St. George, New Brunswick, which  
2 recently acquired Heritage and Atlantic Salmon of  
3 Maine. With these acquisitions, Cooke is the largest  
4 farmed salmon producer in both New Brunswick and  
5 Maine, the only two major production areas for the  
6 production of Atlantic salmon in eastern North  
7 America.

8 Cooke was started 20 years ago in St.  
9 George, New Brunswick, by my father, my brother and  
10 myself. We had one saltwater grow-out site, which we  
11 eventually put 5,000 smolt. We had our first harvest  
12 in 1988. We learned right at the beginning that a  
13 salmon farmer won't see a penny of profit until three  
14 years after he starts to invest heavily into it.  
15 Along those three years there will be plenty of  
16 opportunities to lose it all.

17 We've sought for the past 20 years to be a  
18 low-cost North American producer, and for the most  
19 part we have consistently reached this goal by  
20 steadily increasing our production scale. We have  
21 focused on being vertically integrated from the  
22 hatchery to the packing and shipping of our product so  
23 we can trim costs at every possible point.

24 As we've grown in New Brunswick, we've  
25 acquired with the facilities an extremely talented



1 staff to the point where today we have about 900  
2 skilled workers in New Brunswick, and we plan to  
3 repeat this pattern in Maine. We've invested heavily  
4 in the Maine industry over the past 18 months by  
5 acquiring the Heritage and Atlantic Salmon operations.  
6 Indeed, these are the two largest acquisitions Cooke  
7 has ever made.

8 Our investment in these companies to date is  
9 around \$25 million. As I will explain, we have  
10 committed to investing more than twice that in the  
11 Maine industry over the next two years alone.

12 It is fair to ask why we have done this.  
13 There are three reasons. First, at this point the  
14 opportunities for further significant growth in New  
15 Brunswick are very limited. The industry has grown as  
16 large as current technology and government regulations  
17 will allow. The New Brunswick industry now is larger  
18 than the Maine industry, but the Maine industry really  
19 has the potential to grow substantially larger than it  
20 is.

21 Second, we see enormous opportunity in Maine  
22 where many others only see peril and risk. The past  
23 two decades have given us plenty of experience with  
24 what does and doesn't work in this business. We're  
25 confident that we will succeed in Maine where others

1 have failed.

2           The third reason is that Cooke, being a  
3 native Bay of Fundy salmon producer, is inherently  
4 better equipped to succeed in Maine than the world's  
5 other major salmon farmers. This is because in doing  
6 so we are merely continuing the steady expansion we  
7 have successfully undertaken in the past 20 years  
8 literally across the street so to speak in New  
9 Brunswick.

10           If you look at a map of the area you will  
11 see the industries in both Maine and New Brunswick are  
12 grouped very close together just off the Atlantic  
13 coast and right near the U.S.-Canada border. My point  
14 is that the growth for both industries are identical.  
15 By moving into Maine we are not moving into a foreign  
16 or strange land. We are simply moving home.

17           The Maine industry has been through a very  
18 challenging period of time in recent years. ISA  
19 disease, a fast-moving virus that is fatal to salmon,  
20 struck a severe blow earlier this decade with Heritage  
21 losing virtually all its harvest to ISA in 2002.  
22 Atlantic Salmon had a similar destiny the following  
23 year.

24           The sudden occurrence of ISA is a risk to  
25 which salmon producers in almost all countries are

1 exposed. Indeed, ISA was first detected in Norway.  
2 The disease has devastated producers there, as well as  
3 Scotland and, of course, New Brunswick. Producers  
4 have learned through hard experience they can lower  
5 the risk of an ISA breakout by following certain  
6 practices such as maintaining strict biosecurity, but  
7 the ISA risk cannot be eliminated.

8 Heritage and Atlantic Salmon of Maine were  
9 also placed in superchill conditions two years ago and  
10 suffered a huge loss of smolt that had recently been  
11 placed in seawater. Superchill, which is a relatively  
12 rare event, is a significant drop in ocean water  
13 temperature caused by the sudden arrival of arctic air  
14 mass.

15 Like ISA, superchill does not discriminate  
16 by nationality. Salmon thrive in a very cold water  
17 environment that are at risk for occasional superchill  
18 conditions, so superchill is another risk that will  
19 always be present.

20 The major setback the Maine industry  
21 experienced in recent years stems from an  
22 environmental lawsuit filed in 2000 alleging that the  
23 three major Maine producers were in violation of the  
24 federal Clean Water Act.

25 As I understand the suit, state and federal

1 regulators have failed to agree on which agencies were  
2 responsible for regulating salmon farming in Maine.  
3 The result was the Clean Water Act was simply not  
4 enforced for most of the 1990s.

5           Indeed, the Judge who presided over the  
6 lawsuit ultimately said that the blame lay with the  
7 adoption of the regulations, lay with the regulators,  
8 not with the industry. Nevertheless, the presiding  
9 Judge ordered that most of the saltwater grow-out  
10 sites had to remain in farrow -- that is empty -- for  
11 18 months after they were next harvested. As a  
12 result, salmon production in Maine again dropped  
13 significantly in 2004 and will remain very low through  
14 2006.

15           The dramatic drop in Maine salmon production  
16 over the last several years has resulted in a  
17 significant but temporary loss of work for many  
18 Heritage and Atlantic Salmon employees. Contrary to  
19 the Norwegian producers' claim, all the work  
20 reductions were set in motion by the former owners of  
21 those two companies well before Cooke ever acquired  
22 them.

23           For example, Fjord, the producer from whom  
24 we brought Atlantic Salmon in the spring of 2004, told  
25 us well before our purchase negotiations it intended

1 to close the Machiasport processing facility due to  
2 Atlantic Salmon's reduced production. In fact, Fjord  
3 asked whether Cooke was interested in processing  
4 Atlantic Salmon's harvest production across the border  
5 in their St. George, New Brunswick, facility.

6 Thus, the temporary closing of the  
7 Machiasport facility last fall after we acquired  
8 Atlantic Salmon, we only finished what Fjord had  
9 started. Further, Heritage had already closed its  
10 single processing facility in Eastport many months  
11 before we purchased that company this past June.

12 For the next two years, until we can fully  
13 revive Heritage's and Atlantic Salmon's production, we  
14 must continue our temporary measure of moving  
15 harvested and bled salmon from our main growing sites  
16 across the border to our processing facility in St.  
17 George where the salmon is gutted, cleaned and packed  
18 and then returned to the United States for sale.

19 As of this spring, the Court ordered  
20 farrowing period for our Maine grow-out sites will be  
21 over. We've already taken the steps needed to ensure  
22 that we will have on hand all the smolt needed to  
23 fully restock each grow-out site when it becomes  
24 available this spring.

25 All the smolt are already being reared in

1 two of the hatcheries acquired from Heritage and  
2 Atlantic Salmon in Maine. Indeed, immediately after  
3 Cooke purchased these hatcheries Cooke saved them from  
4 being closed by immediately investing substantial  
5 amounts to bring the hatcheries into regulatory  
6 compliance. Contrast this with Norway's false claim  
7 that Cooke purchased these hatcheries with the intent  
8 of shuttering them.

9 Our plan is to return both Heritage and  
10 Atlantic Salmon's production to the restored levels by  
11 the fall of 2007. This is just two years from now,  
12 which is not even the time it takes to complete a  
13 single three-year production cycle for Atlantic  
14 salmon.

15 We've also committed to reopening Atlantic  
16 Salmon's Machiasport processing facility by the fall  
17 of 2007 and to process all our Maine production there  
18 from that time forward. We expect at this point that  
19 the Machiasport facility will employ 100 skilled  
20 workers when it returns to full production.

21 Cooke Aquaculture has already made a huge  
22 investment in Maine's salmon production of about \$25  
23 million over the past 18 months alone. Over the next  
24 two years, we have committed to invest another \$60  
25 million in the Maine industry to meet our ambitious

1 goals. Make no mistake about it. We've bet the  
2 entire Cooke operation that this will succeed in  
3 Maine. We simply can't afford to fail.

4 Cooke can face the risk of ISA and  
5 superchill. We can operate in full compliance with  
6 the daunting environmental regulations that are a fact  
7 of life in salmon farming in Maine and New Brunswick.  
8 We believe that in two years' time we will return  
9 Maine's production from the current low point caused  
10 by Court ordered filings to the historic high point of  
11 five and six years ago.

12 We cannot do this against another flood of  
13 dumped and subsidized salmon imports from Norway.  
14 Given the \$85 million investment Cooke is making in  
15 the Maine salmon production, the Norwegian industry  
16 claim that we were looting and disabling Maine's  
17 industry is unbelievable, desperate and lame.

18 The threat posed by Norway to our investment  
19 in Maine's salmon production is very, very real. I  
20 sincerely hope and trust the Commission will give the  
21 Maine industry the chance it needs to recover from its  
22 recent setbacks by not revoking the trade orders  
23 against salmon imports from Norway.

24 Thank you very much.

25 MR. COURSEY: Mr. Commissioner, our next

1 witness is David Morang also of Atlantic Salmon and  
2 Heritage.

3 MR. MORANG: Good morning. I am David  
4 Morang, and I'm the manager of Atlantic Salmon of  
5 Maine and Heritage Maine operations and have worked in  
6 this business for 15 years.

7 I began in 1991 as a feed and material  
8 supervisor with Heritage Salmon. As you have heard,  
9 Heritage was recently purchased by Cooke Aquaculture,  
10 a family-owned and operated business. I am proud to  
11 be part of this company, an industry that is so  
12 important to the State of Maine, and am grateful to  
13 Mr. Cooke for purchasing Heritage.

14 Mr. Cooke's vision for our company and its  
15 workers gives us an enormous amount of hope for the  
16 future for the salmon farming industry, as well as my  
17 own personal livelihood.

18 Today I will explain for you the three-year  
19 production cycle of fresh Atlantic salmon. Although  
20 Commissioner Pearson and some of the Commission staff  
21 have had the opportunity to visit our facility in  
22 Maine, many of you have not experienced the production  
23 process firsthand, so we will be attempting to bring  
24 the salmon farm to you through a series of slides.

25 There are three phases. There are three



1 phases to fresh Atlantic salmon production. Number  
2 one is freshwater; two, saltwater; and three,  
3 harvesting and processing.

4 MR. COURSEY: Excuse me. Mr. Chairman, I am  
5 wondering. We are having technical difficulties with  
6 our slide show and the equipment.

7 CHAIRMAN KOPLAN: Are these the same slides  
8 that we have on the dais?

9 MR. COURSEY: Correct.

10 CHAIRMAN KOPLAN: Okay. We can follow you  
11 with this if you have that problem.

12 MR. COURSEY: Very good.

13 CHAIRMAN KOPLAN: You can proceed. If you  
14 get it going that's fine, but we do have them up here.

15 MR. COURSEY: Well, the problem is you're  
16 advancing with the slide. You may not know when to  
17 advance, but maybe David will indicate what slides  
18 he's talking about.

19 MR. MORANG: Okay. Slide 4. There are  
20 three phases to fresh Atlantic salmon production.  
21 Number one, freshwater; number two, saltwater; number  
22 three, harvesting and processing.

23 For the initial production stage or  
24 freshwater hatchery stage, Heritage owns one hatchery  
25 located at Gardner Lake in Machias. Atlantic Salmon

1 of Maine, also owned by Cooke Aquaculture, has two  
2 hatcheries. The Kennebec Hatchery is located in Solom  
3 and the Oquossoc Hatchery in Ranglely.

4 The Kennebec Hatchery was forced to close in  
5 2003 due to a fire that resulted in the loss of over  
6 two million fry and 672,000 smolt. It had operated  
7 continuously since 1988. The Kennebec facility is  
8 fully licensed and permitted and could be restarted  
9 and restocked.

10 CHAIRMAN KOPLAN: Just so you know, the  
11 slides have caught up with your testimony.

12 MR. MORANG: Okay. The Oquossoc Hatchery,  
13 which was slated for closure by the former owner, is  
14 now a fully operational and thriving hatchery.

15 A salmon producers' significant capital  
16 investment begins with his freshwater hatchery  
17 facility. The fish are in their freshwater stages  
18 between 12 and 18 months, and this stage mirrors the  
19 salmon's life cycle in the wild as closely as  
20 possible.

21 Our hatchery in Oquossoc is shown in the  
22 next slide. What you see here are two buildings. One  
23 is the hatchery where the fish are kept during the egg  
24 and very early stages of life. The other building  
25 contains somewhat larger tanks where the fish are

1 moved after completion of the first feeding.

2           In the background you can see 19 large  
3 circular tanks which fish which are called fry. Once  
4 they develop past initial life stages, these fry will  
5 grow to baby salmon or smolt. Each of these tanks is  
6 about 50 feet in diameter.

7           The next several slides show how the  
8 production cycle begins. A producer will maintain a  
9 select group of male and female adult salmon referred  
10 to as broodstock nucleus. Salmon are selected to be  
11 broodstock early in their growth cycle and only after  
12 passing rigorous tests, including the consideration of  
13 the family pedigree. The broodstock members are  
14 branded and kept separate from the production stock.

15           Each fish has an individual identification  
16 number and is tracked in our computerized database.  
17 The males and females are kept in separate tanks. The  
18 natural time for spawning in the Northern Hemisphere  
19 is late November. In this process, eggs are obtained  
20 from the female broodstock and sperm or milt will be  
21 obtained from the male brookstock.

22           In this slide you can see the supply of eggs  
23 that have been retrieved from the female. Here you  
24 see the identification of the broodstock indicated on  
25 each container.

1                   Here the technicians are shown with a male  
2 broodstock salmon for the spawning process, and they  
3 are removing milt from the salmon. The slide also  
4 shows the enormous size of the broodstock fish. The  
5 fish in this picture probably weighs around 35 pounds.  
6 The milt is then combined with eggs obtained and  
7 collected from the female broodstock to create  
8 fertilized eggs.

9                   This slide and the next one show newly  
10 fertilized eggs being incubated in the hatchery's  
11 laboratory. The eggs are stored in this phase  
12 according to their family group. Here is a closer  
13 view of a tray of the fertilized eggs.

14                   As I mentioned, the fish are typically in  
15 freshwater stages between 12 and 18 months. They  
16 enter as fertilized eggs in December or late November  
17 and depart for the saltwater as smolts between October  
18 and the following May.

19                   The fish progress rapidly during this period  
20 through many developmental phases. They require  
21 constant high tech monitoring at all times. Abundant  
22 freshwater is a basic requirement and must be  
23 constantly flowing to simulate the current of a stream  
24 or the river the small fish would experience in the  
25 wild.

1           In the next slide you'll see the tank, the  
2 larger tank where the fish are moved to further  
3 develop and where they will remain for a couple of  
4 months. Each tank has a sophisticated computerized  
5 feeding system. As the next slide shows, the fish are  
6 vaccinated against various diseases at a relatively  
7 late stage in the freshwater cycle.

8           The vaccination process is sophisticated,  
9 expensive and is performed by salmon producers in  
10 every country. The salmon that you see being  
11 vaccinated have progressed to the smolt stage. The  
12 salmon are clearly recognizable as the baby salmon are  
13 ready to be placed into the ocean.

14           After 12 to 18 months in the freshwater, the  
15 fish will be ready to be trucked from the hatchery to  
16 the saltwater sea cages. The sites are located  
17 offshore in protected deep bays off the coastlines of  
18 Maine and Washington state. In the State of Maine,  
19 Atlantic Salmon of Maine inherited a saltwater grow-  
20 out site in four areas -- Mount Desert, Pleasant Bay,  
21 Machias Bay and Cobscook Bay. Each of these areas  
22 contain between 40 and 120 sea cages.

23           For example, the next slide shows a detail  
24 of Machias Bay. Machias Bay has sites at Cross Island  
25 North, Cross Island, Stone Island, Starboard Island

1 and Libby Island. As you can see, the sea cages or  
2 pens are rather large and are usually circular in  
3 shape. They are typically grouped in sets of eight to  
4 20 to form one grow-out site.

5 Here is an aerial view of the saltwater site  
6 at Cross Island. The pens and the related equipment  
7 are very expensive, and we are constantly updating  
8 equipment in our effort to drive down our unit cost.

9 A goal of salmon production is to get the  
10 fish to gain weight as efficiently as possible. We  
11 want to try to minimize feed waste. To do so we have  
12 entirely automated feeding systems with in-pen cameras  
13 to ensure that the operators are always feeding the  
14 fish optimally.

15 In the foreground of the picture on the left  
16 with the 16 sea cages you will see a feed barge with  
17 tubes extending from it. The next two slides show a  
18 closer view of the barge and the feeding system. The  
19 barge contains an automatic feed delivery system. The  
20 system protects and scatters small particles of feed  
21 to the surface of the water. The fish will rise from  
22 under the surface of the water to eat the feed.

23 The class of smolt in saltwater in April  
24 will begin to yield market size salmon by about  
25 September of the following year, roughly two and a

1 half years after the salmon of the class began. The  
2 cycle ends. The goal is to have each of the fish at  
3 optimal harvest weight over the next 12 months.

4           Once it is harvest time, we send out our  
5 harvest vessel to the actual sea cage site. The  
6 harvest is performed right next to our sea cages off  
7 the coast of Maine in the United States. Our harvest  
8 boat is a large vessel and includes equipment,  
9 machinery and harvest technicians for the harvesting  
10 stages, including the bleeding and killing of the  
11 fish.

12           The fish go through a percussion stunning  
13 system to relax them and then are hand split, after  
14 which they are bled. The fish are sent down a chute  
15 into a tank on the vessel which has a chilling system.  
16 The vessel then returns to shore when the salmon are  
17 ready for transport. Once the boat arrives at the  
18 shore, the fish are pumped into a truck to be  
19 transported to the processing facility where the fish  
20 are gutted and packed.

21           I noticed that the Norwegians incorrectly  
22 said that we transfer live fish to the processing  
23 facility in Canada. This is absolutely not true. As  
24 I have described and several of you have seen  
25 firsthand, no live fish are sent to Canada or anywhere

1 else.

2           Until a couple of years ago our processing  
3 was done close to our ocean sites at our state-of-the-  
4 art processing plant in Machiasport, Maine. The plant  
5 was closed just a year ago in the fall of 2004, as Mr.  
6 Cooke described, due to the decline in the salmon for  
7 processing that resulted from the Court ordered  
8 farrowing of several sites.

9           The Machiasport plant will reopen in 2007.  
10 As you see, our Machiasport processing facility now  
11 sits idle filled with millions of dollars worth of  
12 equipment that is not being used. All the equipment  
13 is still in place and could be restarted within a  
14 matter of weeks.

15           We are storing feed in the plant, and our  
16 office in the plant is still operating. Until our  
17 Machiasport facility reopens, the harvested fresh  
18 Atlantic salmon are taken to a processing facility in  
19 Canada. We are looking forward to the return of jobs  
20 to Maine when the Machiasport plant reopens in 2007.

21           As you can tell from my description of the  
22 production operation, the time and expense required to  
23 produce fresh Atlantic salmon from the initial stages  
24 to sale is significant. Based on this production  
25 cycle, salmon aquaculture is a capital-intensive



1 business. It requires access to substantial amounts  
2 of investment capital both to enter the business  
3 initially and to remain in the business long-term. It  
4 is a business with significant risks and obstacles,  
5 but it's one in which we are well put to compete in as  
6 long as the competition is fair.

7 If the orders against salmon from Norway are  
8 removed, my job and the jobs of hundreds of others in  
9 our community will be in jeopardy. If it were not for  
10 Mr. Cooke's plans for our company and these orders  
11 remaining in place, I would have no hope for the  
12 future of this industry.

13 Thank you.

14 MR. COURSEY: Thank you, Dave.

15 Our next witness is Alan Craig. Alan?

16 MR. CRAIG: Good morning. My name is Alan  
17 Craig, the Vice President of Sales and Marketing for  
18 Atlantic Salmon of Maine and for Heritage Salmon  
19 Company. I've been in the business of selling fresh  
20 Atlantic salmon in the U.S. market for 17 years.

21 My testimony today will focus on the U.S.  
22 market for fresh Atlantic salmon, the conditions of  
23 competition we face in selling salmon in this market  
24 and the ease with which dumped salmon from Norway will  
25 be able to regain a large share of our market if the

1 orders are revoked.

2 As you have heard from Mr. Morang, the  
3 production of fresh Atlantic salmon is somewhat unique  
4 as compared to most other products. It involves a  
5 three-year production cycle, as well as the production  
6 of what is highly perishable product. These facts  
7 have important consequences of the sales of the  
8 product.

9 Because salmon producers must harvest salmon  
10 once they are grown to maturity within a relatively  
11 short period of time, a certain supply of salmon will  
12 be brought to market as a result of production  
13 decisions made a number of years earlier. In our  
14 market, prices of fresh salmon are heavily influenced  
15 by available supply, and oversupply of salmon will  
16 depress U.S. market prices.

17 Further, because salmon is a highly  
18 perishable product, we don't have the ability to  
19 inventory the salmon and wait for prices in the market  
20 to increase or supplies to diminish. Instead,  
21 domestic producers must sell their product within a  
22 fairly narrow window of time at competitive market  
23 prices.

24 Another important factor for the Commission  
25 to consider is that fresh Atlantic salmon from Norway

1 has always been sold primarily in whole form and not  
2 in as fillet steaks or other value-added products.  
3 Atlantic Salmon and Heritage concentrate our sales in  
4 whole salmon.

5 Virtually all sales of Atlantic Salmon's  
6 production are of whole salmon, and a large percentage  
7 of Heritage's sales are also of whole salmon, so when  
8 I try to sell our U.S. whole salmon I will compete  
9 directly for the same accounts that are and will be  
10 targeted by the Norwegian producers if the orders are  
11 revoked.

12 The Norwegian Respondents claim that past  
13 small volumes of exports of cut salmon from Norway in  
14 the U.S. market show that they are not interested in  
15 the U.S. market for whole salmon. That is not true.

16 As a review of Norway's exports to all  
17 markets reveals, Norway sells small amounts of cut  
18 product to any market and instead concentrates its  
19 sales on whole salmon. Norway's low volume of exports  
20 of cut product in the United States does not  
21 demonstrate a lack of interest in selling salmon in  
22 the United States, but rather a lack of interest in  
23 selling the cut product.

24 As was true before the orders were imposed  
25 and remains true today, Norway is very interested in

1 selling whole salmon in the U.S. market, and when  
2 Norway attempts to sell its salmon in the U.S. market  
3 it will do so on the basis of low prices.

4 Competition for sales of fresh salmon in the  
5 U.S. market is largely price based. Fresh Atlantic  
6 salmon is a commodity product whether produced  
7 domestically or imported from Canada, Norway or other  
8 countries. Purchasers have repeated to the Commission  
9 that price is a very important factor in their  
10 purchasing decisions.

11 Although purchasers also find quality  
12 important, the quality of U.S. produced salmon is  
13 comparable to salmon imported from Norway making price  
14 a critical factor on which purchasing decisions are  
15 based.

16 It is not true, as the Norwegian producers  
17 claim, that the fresh Atlantic salmon produced in  
18 Norway is either a premium product or sold into a  
19 niche market. Given the huge volumes of salmon that  
20 Norway produces and sells worldwide, it is hard to  
21 imagine how you can characterize their sales as  
22 targeting a small niche market.

23 Based on my active participation in this  
24 market and inspection of these products, I can also  
25 confirm that Norwegian salmon is not a higher quality

1 product than the U.S. product. I was involved in  
2 selling salmon in the U.S. market before the orders  
3 were imposed and saw how the Norwegians sold product  
4 at that time.

5 While they did a good job of marketing their  
6 product as a high quality product, those claims of  
7 premium product only go so far when there's a large  
8 volume of imports coming into the country. Once they  
9 start flooding the market with product, there will be  
10 no premium price for the product, and all U.S. prices  
11 will be depressed.

12 Although there may have been a certain cache  
13 to Norwegian salmon years ago, purchasers today  
14 recognize that all these products are essentially the  
15 same regardless of source. Farm fresh Atlantic  
16 salmon, whether produced in the U.S. or Norway, is of  
17 high quality and is accepted as interchangeable by  
18 purchasers. Because both Norwegian and U.S. produced  
19 fresh Atlantic salmon is of high quality, price is the  
20 key selling factor.

21 The manner in which sales occur in our  
22 market also increases the importance of price in  
23 purchasing decisions. Most sales take place on a spot  
24 basis. Very few are under contracts. Purchasers  
25 often contact several suppliers looking for the lowest

1 price on a given day. Both U.S. producers and  
2 importers compete for sales to the same distributors,  
3 and price is a factor that determines who wins the  
4 sales.

5 It is highly disturbing to hear the  
6 Norwegians boast of plans to win back this market if  
7 the orders are revoked. In order for Norwegian salmon  
8 to increase sales significantly as they have stated  
9 they plan to do they will sell at low prices to  
10 capture the sales.

11 As we saw recently in Europe and as the U.S.  
12 Government has recognized here, sales of Norwegian  
13 salmon will be made at significant margins of dumping.  
14 These low, dumped prices will undercut our prices and  
15 take sales as well as depressing our prices.

16 Further, as I mentioned earlier, even those  
17 sales at low prices, a large increase in the supply of  
18 salmon itself depresses prices in this market. Plans  
19 to recapture at least 20 percent of this market, as  
20 they have stated, would itself cause prices in the  
21 U.S. market to decline dramatically.

22 Only this year are we beginning to see  
23 prices at a sufficient level to recover costs and earn  
24 a profit. As you see from data gathered in this case,  
25 the U.S. salmon industry has suffered financial losses

1 the past several years. Under these precarious  
2 financial circumstances, it will cause us serious harm  
3 if we have to cut our prices again to compete with  
4 those dumped imports.

5 Given these marketing conditions, I am very  
6 concerned about what will happen if the orders against  
7 salmon from Norway are revoked. The ability of the  
8 Norwegian producers, who have enormous capacity and  
9 who produce their salmon largely for export, to resume  
10 dumping into the U.S. market without any restraints is  
11 a truly frightening prospect for those of us who wish  
12 to remain in the domestic salmon industry.

13 As was the case before the orders were  
14 imposed, dumped sales of this product from Norway will  
15 cause my company to lose sales, to see prices fall and  
16 to quickly return to the dismal financial conditions  
17 we suffered in the past several years.

18 Under those circumstances, the recovery we  
19 have been hoping for will quickly reverse, and in a  
20 few short years there will be little, if anything,  
21 left of the domestic salmon producing industry in the  
22 United States.

23 Thank you.

24 MR. COURSEY: Thank you, Alan.

25 Mr. Chairman, we are privileged to have with

1 us on our panel with us Mr. Jack Cashman, who is  
2 Commissioner of the State of Maine's Department of  
3 Economic and Community Development.

4 Jack?

5 MR. CASHMAN: Thank you, Mike.

6 Good morning, Mr. Chairman and members of  
7 the Commission. It is truly a pleasure for me to be  
8 here and speak on behalf of the State of Maine about  
9 the future of Maine's farmed salmon industry.

10 I was glad to hear that Commissioner Pearson  
11 has visited our state, and I'd like to extend an  
12 invitation to the rest of you to come up and see us.

13 CHAIRMAN KOPLAN: If you could move the  
14 microphone just a bit closer?

15 MR. CASHMAN: Is that better?

16 CHAIRMAN KOPLAN: Much better. Thank you.

17 MR. CASHMAN: The principal mission of the  
18 Department of Economic and Community Development is to  
19 build Maine's economy. Governor Baldacci is dedicated  
20 to creating economic opportunity for the people of  
21 Maine, particularly for those areas that have the  
22 greatest need such as Maine's Washington County where  
23 the bulk of our salmon farming activities take place.

24 At my department we partner with industries  
25 that will work for Maine, taking advantage of our



1 geographic strengths and our natural resources.  
2 Salmon farming clearly is such an industry. Maine has  
3 clean ocean waters, deep bays and inlets and cleansing  
4 power of tremendous tides, all of which are needed to  
5 produce the finest farmed salmon. Maine is also  
6 ideally situated to deliver this product to the huge  
7 U.S. market.

8 In addition, DECD partners with industries  
9 that will employ Maine's citizens in good, high paying  
10 jobs, and salmon farming needs many skilled workers.  
11 We also promote industries with a future, and that  
12 means focusing on industries whose products are  
13 growing in demand and that benefit from high  
14 technology.

15 Aquaculture and salmon farming clearly meet  
16 all of these requirements so much so that aquaculture  
17 is one of the seven main industries we are targeting  
18 for development through our Pine Tree Development  
19 Program. Salmon farming was for many years Washington  
20 County's largest employment sector, reaching in the  
21 range of 1,000 workers until the industry suffered a  
22 series of setbacks in recent years.

23 I believe that Glenn Cooke outlined those  
24 setbacks -- disease, superchill and of course an  
25 environmental lawsuit. Maine is a state with very

1 strict environmental laws. We are a very pristine  
2 state, and we take great pride in that. I must say,  
3 in working with Cooke Aquaculture I have been  
4 extremely impressed with their sensitivity to Maine's  
5 consciousness of environmental protection.

6           These issues have been faced and resolved,  
7 but nevertheless the resolution in the case of the  
8 lawsuit which was reached three years ago required  
9 that each of the companies' saltwater grow-out sites  
10 remain fallow for an extended period of time. This  
11 has caused a substantial drop in our state's farmed  
12 salmon production beginning the last half of 2004 and  
13 extending through 2006. This in turn has forced the  
14 closure of two Washington County processing facilities  
15 at which the harvested salmon were cleaned and packed  
16 for sale.

17           I heard testimony earlier that the U.S.  
18 industry is now matured and is no longer vulnerable.  
19 I can tell you that in Maine we are working diligently  
20 towards a rebirth of this industry, and we are indeed  
21 at a very vulnerable state.

22           The three-year drop in Maine salmon  
23 production has been difficult and painful for the  
24 producing companies and their employees. The closing  
25 of Atlantic Salmon of Maine's large, state-of-the-art

1 processing facility in Machiasport has been  
2 particularly painful for the community, given the loss  
3 of the many jobs.

4 Further, the owners of two of our three  
5 major producers, Atlantic Salmon of Maine and  
6 Heritage, left the state in the past year, and the  
7 owner of the third producer, formerly known as Stolt  
8 but now called Marine Harvest, has been trying to find  
9 a buyer.

10 Fortunately for Maine, Atlantic Salmon of  
11 Maine and Heritage were sold. Their assets were sold  
12 to Cooke Aquaculture, one of whose principals, Glenn  
13 Cooke, just testified here. Over the past few years,  
14 Cooke has given new life to what was a highly  
15 tentative farmed salmon industry across the border in  
16 New Brunswick. Cooke is now doing the same for Maine.

17 I heard testimony earlier that it was  
18 paradoxical that a Canadian company was here to speak  
19 for the salmon industry in Maine. I can tell you that  
20 the major source of foreign direct investment in my  
21 state comes from the Atlantic provinces of Canada, and  
22 the same is true in reverse. We work very closely as  
23 economic partners.

24 I was quite stunned to learn that the  
25 Norwegian industry has advised the Commission that

1 Cooke Aquaculture bought into our salmon industry only  
2 to loot and paralyze it. I have worked very closely  
3 with Cooke, Glenn in particular and his colleagues  
4 over the past year, and I can tell you that this  
5 accusation is untrue.

6 My department has worked closely with the  
7 industry and with environmental groups in recent years  
8 to help achieve and maintain compliance with a very  
9 wide array of environmental regulations that apply to  
10 salmon farming in Maine.

11 Over the past year, I personally have been  
12 very impressed with Cooke's high commitment to  
13 compliance in this area. Cooke clearly understands  
14 the government's imperative of ensuring that salmon  
15 farming does not harm our great natural resources and  
16 surroundings and has approached environmental  
17 compliance with a highly cooperative attitude.

18 As you know and has just been explained, it  
19 takes three years to produce farmed salmon. This  
20 means that a salmon farmer must begin making costly  
21 investments in its crop long before they receive any  
22 return.

23 According to the plans that we have worked  
24 with Glenn Cooke on in my department, the company over  
25 the past year has already invested a huge amount of

1 money in Maine, and it must invest even more in the  
2 near future to make their current investment pay off.

3 Cooke has told us that it currently is  
4 taking all of the steps needed to return Atlantic  
5 Salmon of Maine's and Heritage's production rate to  
6 about 20 million pounds of gutted and packed salmon by  
7 the fall of 2007. This would match those two  
8 companies' highest historical production rates.

9 Cooke's plans include the reopening of the  
10 Machiasport processing facility in the fall of 2007  
11 and thereafter processing all farmed salmon harvested  
12 in Maine in that facility. That would bring back to  
13 work roughly 100 workers in that now vacant facility.

14 You've heard Glenn Cooke. By the end of  
15 2006, Cooke will have invested \$85 million in Maine's  
16 salmon production. These are not the plans and  
17 commitment of a company that intends to dismantle and  
18 disarm the Maine industry. On the contrary, my  
19 department considers Cooke Aquaculture an important  
20 partner in revitalizing Washington County, which  
21 routinely has one of the highest poverty rates and  
22 often times the highest poverty rate in my state.

23 Without Cooke's investment and their  
24 commitment to Maine's farmed salmon industry, the  
25 industry's future would be bleak. With Cooke working

1 with us to revitalize the industry, we are confident  
2 that salmon production will within two years' time  
3 again be the highest private employer in Washington  
4 County.

5 In summary, the Maine farmed salmon industry  
6 has met and overcome the challenges of the past few  
7 years, and we are indeed poised for a rebound.  
8 Nevertheless, it still will be two years before  
9 production returns to its highs of earlier this decade  
10 and employment returns to where it should be.

11 I won't pretend to understand the many  
12 technical issues that this Commission is addressing in  
13 this proceeding, but I do know that the Maine industry  
14 is not now prepared to survive a new influx of  
15 unfairly priced salmon imports.

16 The State of Maine is solidly behind Cooke  
17 Aquaculture and the rest of the industry. We trust  
18 that your decision will allow Maine salmon farming to  
19 survive now so it can thrive in the coming years in  
20 Washington County where these jobs are sorely needed.

21 Thank you very much.

22 MR. COURSEY: Thank you, Jack.

23 Mr. Chairman, can I ask how much time we  
24 have remaining?

25 MR. BISHOP: You have 20 minutes remaining.

1 MR. COURSEY: Thank you.

2 Our next witness is my colleague, Kathy  
3 Cannon, who will address some legal issues.

4 MS. CANNON: Good morning. I'm Kathleen  
5 Cannon of Collier Shannon Scott, and I'd like to talk  
6 about a couple of the legal issues in this case.

7 First, the domestic like product. There  
8 does not seem to be any disagreement here among the  
9 parties that the Commission should retain the like  
10 product definition adopted in the original  
11 investigation and in the first sunset review. That  
12 definition is fresh and chilled Atlantic salmon,  
13 including salmon smolt.

14 Second, the domestic industry definition.  
15 Here there does seem to be some controversy.  
16 Respondents first argue that the operations of  
17 Atlantic Salmon and Heritage Salmon are limited to the  
18 production of swimming inventories of live salmon, a  
19 product outside the scope of the case, and therefore  
20 that these companies have no domestic production of  
21 the like product.

22 This argument fails on several counts.  
23 Initially Respondents are wrong that Atlantic Salmon  
24 and Heritage produce and export live salmon to Canada.  
25 As Mr. Morang testified and as the Commission observed

1 during its Maine plant tour, Atlantic Salmon and  
2 Heritage do not ship live salmon to Canada, but after  
3 completing the extensive three-year growth cycle to  
4 produce the salmon, harvest, kill and bleed the salmon  
5 in the United States.

6 Further, the issue presented is not whether  
7 Atlantic Salmon and Heritage produce a product within  
8 the scope of the case, but whether they produce a like  
9 product. The like product in this case is defined as  
10 not only fresh salmon, but also smolt.

11 Given that smolt, which are basically baby  
12 salmon, are part of the like product it cannot be  
13 questioned that the fully grown and harvested salmon  
14 produced by Atlantic Salmon and Heritage are a like  
15 product whether or not those companies undertake the  
16 final gutting and packing of the product.

17 As an aside, because smolt are part of the  
18 like product, it would be wholly inappropriate to  
19 measure capacity based on smolt production as  
20 Respondent also produced. Production of smolt is  
21 production of a like product, not a measure of  
22 capacity.

23 Getting back to the domestic industry  
24 definition, as the Commission has previously  
25 recognized the critical production aspect for a



1 company to qualify as a domestic producer of fresh  
2 Atlantic salmon is undertaking the extensive three  
3 year production cycle. Processing operations alone do  
4 not qualify a company as a domestic producer of this  
5 product.

6 Respondents' references to U.S. producers  
7 that undertake the lengthy and expensive production  
8 operations Mr. Morang described as mere caretakers  
9 badly mischaracterize what those operations entail,  
10 nor does Respondents' further contention that Atlantic  
11 Salmon and Heritage should be excluded from the  
12 domestic industry because they are now owned by a  
13 Canadian company have any merit.

14 Companies can only be excluded from the  
15 domestic industry under the statute if they're related  
16 to an exporter or importer of the subject project  
17 which in this case would require a relationship with a  
18 Norwegian company or importations from Norway which is  
19 not true.

20 Not surprisingly Respondents cite no  
21 statutes or caselaw in support of their request.  
22 Further I would note that it is hardly an unusual or  
23 unique situation in this day and age for a U.S.  
24 company to be owned in whole or in part by a foreign  
25 company.

1           That ownership however does not change the  
2 fact that there is U.S. production by U.S. workers of  
3 a like product. The last argument Respondents advance  
4 with respect to the domestic industry is that the  
5 Commission must consider differences in conditions of  
6 competition that exist between companies that operate  
7 on the east and west coasts.

8           We do not disagree that there are some  
9 differences in conditions of competition among U.S.  
10 salmon producers depending on where those producers  
11 are based. In fact we have highlighted this morning  
12 problems faced by U.S. producers located in Maine.  
13 Indeed all U.S. producers face difficult conditions of  
14 competition and the domestic salmon industry as a  
15 whole is in a very vulnerable condition.

16           Respondents arguments however go beyond  
17 simply pointing out various competitive conditions  
18 affecting U.S. producers. They assert that separate  
19 considerations should be given to west coast and east  
20 coast operations.

21           They state that little if any Norwegian  
22 salmon would be sold into the west coast region if the  
23 orders were revoked and they discuss the geographic  
24 location of customers of east coast and west coast  
25 producers basically implying that a regional industry

1 analysis should be used.

2 Under a regional industry approach the  
3 Commission may reach an affirmative finding of the  
4 likelihood of injury continuing or recurring by  
5 focusing solely on the operations of companies within  
6 the affected region even if it does not find that the  
7 domestic industry as a whole would be injured by  
8 imports.

9 While the record evidence is compelling that  
10 that revocation of the orders would cause material  
11 injury to the U.S. industry as a whole the record  
12 evidence is even more compelling for the Commission to  
13 focus its analysis only on the east coast region.  
14 Accordingly we agree that the Commission should  
15 explore the use of a regional industry analysis in  
16 this case as Respondents have proposed.

17 The final issue I wanted to mention is the  
18 recent EU action against imports of Norwegian salmon.  
19 We described in our prehearing brief and appended as  
20 exhibit detailed findings of the European union as to  
21 the problems the EU salmon producers suffered just  
22 this year due to increasing volumes of dump imports of  
23 salmon from Norway.

24 These imports of cheap salmon from Norway  
25 prompted the EU to impose provisional anti-dumping

1 duties at a significant level this past April. The  
2 duties were later replaced by minimum import price  
3 regime.

4 To read Respondents' brief one would  
5 conclude this action was widely celebrated in Norway  
6 as a boom to salmon producers and that Norwegian  
7 producers are looking forward to continued imposition  
8 of EU restraints. They cite to statements by the  
9 attorney representing the Norwegian producers in  
10 support of these claims.

11 In assessing the relevance of the EU trade  
12 action to this case the Commission should focus not on  
13 statements by Norwegian counsel, but on findings  
14 published in the official EU journal in the recent EU  
15 safeguards and dumping cases.

16 A review of those findings will show that  
17 (1) these actions were taken earlier this year in  
18 response to findings of substantial levels of dumping  
19 by Norwegian producers that injured EU producers; (2)  
20 the EU found that Norwegian volumes surged due in part  
21 to continued overproduction salmon in Norway; (3) that  
22 the Norwegian product is a commodity product not a  
23 premium product, that it is sold on the basis of price  
24 and that the Norwegian prices undercut the EU producer  
25 prices; (4) that the purpose of the minimum import

1 price is the same as the anti-dumping duty which is to  
2 remedy the injury to EU producers from unfairly low  
3 priced Norwegian salmon; and (5) the EU stated that if  
4 the minimum import price is "manipulated, absorbed or  
5 circumvented" by the Norwegian producers as the EU has  
6 found has been the case in the past the EU will change  
7 the remedy to address the problem.

8           Despite the long time the U.S. orders on  
9 salmon have been affect these recent EU findings  
10 provide every reason to believe that similar unfair,  
11 injurious trading behavior by Norwegian salmon  
12 producers would occur in the United States if the  
13 orders were revoked.

14           Contrary to their claims the Norwegian  
15 producers are facing significant restraints in their  
16 major export market, the EU, which will cause them to  
17 look to alternative export markets for their increased  
18 and excess production including most notably the U.S.  
19 market if these orders are revoked. Thank you.

20           MR. COURSEY: Mr. Chairman, our last witness  
21 is our economic expert, Gina Beck.

22           MS. BECK: Good morning, Commissioners and  
23 Commissioner staff. I am Gina Beck of Georgetown  
24 Economic Services. This morning I would like to  
25 discuss the factors indicating that a large volume of

1 low priced product from Norway will return to the U.S.  
2 market in the event of revocation of the orders as  
3 well as the vulnerable condition of the domestic  
4 salmon industry.

5 Prior to the imposition of the orders salmon  
6 imports from Norway surged and held a 60 percent share  
7 of the U.S. market at their peak. After the orders  
8 were imposed subject imports from Norway declined to  
9 minimum levels and have remained at low levels. In  
10 fact foreign producers have admitted that the orders  
11 caused a reduction or a halt in imports to the United  
12 States.

13 Although imports from Norway increased  
14 between 2000 and 2003 from prior levels these volumes  
15 still represented levels well below those reached  
16 before the orders were imposed. In 2004 salmon  
17 imports again dropped. The orders have clearly had a  
18 restraining affect on the volume of subject imports  
19 entering the U.S. market.

20 Despite the low volumes of import from  
21 Norway following issuance of the orders Norwegian  
22 producers have increased capacity, production and  
23 exports to the United States substantially. Norway  
24 has been and remains the largest producer and exporter  
25 of fresh and chilled Atlantic salmon in the world.

1           As you can see in the last chart of your  
2 packet the Commission's data based on foreign  
3 producers' questionnaires show that production  
4 capacity in Norway doubled from 223 million pounds in  
5 1999 to 467 million pounds in 2004. Similarly  
6 production of salmon in Norway more than doubled.

7           The responding Norwegian foreign producers'  
8 capacity and production grew by significant levels  
9 during each year of the POR. In the first half of  
10 2005 responding Norwegian producers' capacity to  
11 produce salmon grew by close to 15 percent.

12           Respondents curiously attempt to divert the  
13 Commission's attention from the aggregate foreign  
14 producer data as presented in the Commission's  
15 prehearing report. In particular Respondents claim  
16 that the capacity figures reported by the Norwegian  
17 producers are incorrect even though they have been  
18 reported and certified as accurate by the companies  
19 they represent.

20           Their theories as to why capacity should  
21 have been calculated differently based on smoke  
22 production are wrong. The bottom line is simply that  
23 the certified data as reported does not help  
24 Respondents' arguments because it shows increasing  
25 capacity, production and exports.

1           Even more notably, although the Commission's  
2 database shows significant capacity production and  
3 export increases these levels are understated. As  
4 Respondents concede there are hundreds of salmon  
5 producers in Norway, but the Commission received  
6 information from only 21 producers.

7           Information on total capacity and production  
8 of salmon is much greater than that reported by the  
9 responding companies.

10           Again, the production and export chart in  
11 your packet demonstrates that as compared to total  
12 exports of 539 million pounds in 2004 reported in  
13 foreign producers' questionnaires data obtained from  
14 Statistics Norway indicate that total Norwegian  
15 exports of fresh Atlantic salmon grew steadily over  
16 the review period to 750 million pounds in 2004.

17           The actual level of exports by Norwegian  
18 salmon producers are more than 200 million pounds  
19 greater or roughly 40 percent higher than the amount  
20 reported by responding producers. With respect to  
21 production the FAO data show Norwegian production  
22 increasing to 1.1 billion pounds in 2003 compared to  
23 production of only 431 million pounds as reported by  
24 the 21 responding producers.

25           The Koutali report shows Norway's salmon



1 growing further to 1.2 billion pounds in 2004.  
2 Capacity to produce salmon in Norway is also much  
3 higher than that calculated from the responding  
4 foreign producers.

5 Data gathered by IntraFish and set forth in  
6 Exhibit No. 3 to our prehearing brief shows  
7 substantially larger capacity for Norwegian producers  
8 than the amounts reported and despite the already  
9 massive capacity and production levels in Norway,  
10 Norwegian producers are projecting further increases  
11 in production and exports in 2005 and 2006 based on  
12 supplemental questionnaire responses submitted to the  
13 Commission.

14 Not only are capacity production and exports  
15 huge increasing and projected to grow further, but  
16 Norwegian producers are also operating well below  
17 capacity. Based on responses to Commission  
18 questionnaires in interim 2005 Norwegian capacity to  
19 produce salmon was severely under utilized standing at  
20 only 79.9 percent.

21 Information gathered by IntraFish on  
22 Norway's largest producers indicates even higher  
23 levels of unused capacity with a reported capacity  
24 utilization rate of 61.6.

25 What is even more telling is that

1 Respondents' own data presented at page 29 in Exhibit  
2 No. 28 of their brief shows a 1.47 billion pounds of  
3 capacity derived by multiplying 857, the number of  
4 licenses, by 780 metric tons, the legal limit set to  
5 buy amount per license.

6 This shows excess capacity of around 270  
7 million pounds or 20 percent when using the public  
8 Koutali production figure of 1.2 billion pounds in  
9 2004. This excess capacity is almost twice the  
10 Commission's figure for the entire U.S. market in  
11 2004. In addition the record also demonstrates that  
12 Norwegian foreign producers are heavily export  
13 oriented.

14 Exports from Norway account for over 80  
15 percent of Norwegian shipments in 2004. As the  
16 Commission notes in its prehearing report when asked  
17 to describe their home market for fresh Atlantic  
18 salmon "Norwegian producers generally indicated that  
19 the Norwegian market was small and that they produce  
20 mostly for export."

21 Norway's ability and interest in exporting  
22 large volumes of salmon has accelerated. Not only is  
23 Norway highly export oriented, but the United States  
24 is Norway's choice market. According to Respondents'  
25 consultant Norwegians will win back the U.S. market

1 and quickly rise to 300 to 400 million Kroner, which  
2 is 20 percent of the U.S. market.

3 U.S. consumption of the subject product was  
4 150 million pounds in 2004 as compared to Norway's  
5 export level of 750 million pounds last year. If the  
6 Norwegian imports were to target just the east coast  
7 region of the United States as they now have stated  
8 they intend to do the devastation to this smaller  
9 market area will be even more pronounced.

10 The manner in which Norway will be able to  
11 win back the U.S. market as they plan is through low  
12 prices. As Mr. Craig described competition for sales  
13 in this market is largely price based.

14 The recent pricing behavior of Norwegian  
15 salmon producers in selling it to the EU market before  
16 import restraints were imposed provides an indication  
17 of the low levels that Norwegian producers would offer  
18 in the United States if not restrained by the orders.  
19 U.S. prices for fresh Atlantic salmon were depressed  
20 over the POR.

21 Now, they're just starting to recover in  
22 2005. These pricing levels are still well below  
23 prices in 1999 leading to the U.S. industry's losses  
24 and deteriorating profitability over the POR. The  
25 U.S. industry's vulnerability is clearly demonstrated

1 in the Commission's trade and financial database.

2 In Respondents' brief they imply that the  
3 domestic industry has been healthy and is not  
4 vulnerable to the return of unfair imports. In making  
5 these arguments however Respondents do not cite to any  
6 data in the Commission's staff report and conveniently  
7 ignore four straight years of losses suffered by the  
8 U.S. industry during the POR.

9 As the Commission's database demonstrates  
10 the hardships faced by the domestic industry have  
11 resulted in declines in most trade variables as well  
12 as profitability deteriorating to severe losses. With  
13 four of the last six full years of reviews showing  
14 operating losses as well as shipments and employment  
15 in decline in the most recent years the condition of  
16 the U.S. industry cannot be characterized as healthy.

17 Last year the industry had an operating loss  
18 of \$6.4 million or -12.4 percent as a ratio of sales  
19 with six of six responding U.S. producers suffering  
20 losses. The slide up to unprofitability the industry  
21 experienced in the first half of 2005 fully represents  
22 levels well below profit levels reached in 1999 and  
23 2000 and is insufficient to characterize this industry  
24 as healthy.

25 As John Sowles of the Maine Department of

1 Marine Research has indicated "we're in a very  
2 critical period right now." Mr. Cooke also mentioned  
3 this morning the recent purchase of Heritage Salmon  
4 and Atlantic Salmon of Maine as part of the plan to  
5 revitalize the U.S. salmon industry and return jobs to  
6 the State of Maine and the plan to reopen the state of  
7 the art Machiasport processing plant within two years.

8 Just at a time when there were numerous  
9 signs of hope for the future of the domestic salmon  
10 industry it would be devastating for unfair imports  
11 from Norway to return to the U.S. market. Thank you  
12 for your attention. That concludes my testimony.

13 MR. COURSEY: Thank you, Gina.

14 Mr. Chairman, our panel is ready for your  
15 questions.

16 CHAIRMAN KOPLAN: Thank you. I want to  
17 thank the panel for its direction presentation. It's  
18 been very helpful.

19 I'll begin the questioning beginning with  
20 you, Mr. Cooke. On page 19 of Respondents' joint  
21 brief they state "with state of the art processing  
22 facilities in Canada it is unlikely we submit that the  
23 company would duplicate those facilities in  
24 Machiasport."

25 "It is more likely that Glenn Cooke as he

1 has with other acquired U.S. companies, will dismantle  
2 the Machiasport facility and move the machinery to New  
3 Brunswick to expand his Canadian processing  
4 operations. The company's processing facility on  
5 Campabello Island was subsidized by the Canadian  
6 government in the amount of \$898,941." How do you  
7 respond?

8 Before you do let me ask you one quick  
9 question. When did you actually close the Machiasport  
10 plant in 2004?

11 MR. COOKE: I believe it was november 2004.

12 CHAIRMAN KOPLAN: November?

13 MR. COOKE: October/November 2004.

14 CHAIRMAN KOPLAN: Okay. Go ahead.

15 MR. COOKE: To start with the Machiasport  
16 plant is more technologically advanced than even the  
17 plants in Canada. It's a very state of the art plant.  
18 Our commitment is to keep that facility going. We've  
19 never taken equipment out of there. It's all set to  
20 go.

21 The plants in New Brunswick are  
22 overcapacitated. There's no extra room for production  
23 and a lot of the extra work that's being done in the  
24 plants now is being farmed out to second or third  
25 party processors, so there's no extra capacity in

1 Canada to take up any kind of extra volume. So we're  
2 very, very committed to opening that plant.

3 We didn't receive grants for Campabello  
4 plant. There might have been some funding for a new  
5 plant in St. George, but certainly not for Campabello.

6 CHAIRMAN KOPLAN: That part of it is in  
7 accurate? The \$898 --

8 MR. COOKE: That's correct.

9 CHAIRMAN KOPLAN: I'm looking in the article  
10 from I guess it was in the *Bangor News* and it appears  
11 that it came out last fall actually.

12 There's a gentleman by the name of Doug  
13 Campbell, Machiasport's first councilman, and he's  
14 quoted as saying that he couldn't get his phone calls  
15 returned by Cooke and at that time he said the last  
16 communication that they had with Cooke was a September  
17 14 letter in which the Canadian owner asked to  
18 exercise a purchase option for the pier for \$2,000.

19 He goes on in the story saying that  
20 Machiasport would like to regain the pier used by  
21 Atlantic Salmon in the event that Cooke Aquaculture  
22 sells the plant to another company allowing the town  
23 to lease the pier to any new owner.

24 The quote is "we want to work with companies  
25 that can bring employment here". He said "these

1 employees are gone except for one person there  
2 watching the building." He states "we are really not  
3 getting anywhere. They don't return my calls and  
4 that's too bad. If we were talking maybe we can do  
5 something."

6 Can you fill me in on that? Are you  
7 familiar with Mr. Campbell and his efforts to --

8 MR. COOKE: We've actually done extensive  
9 work with the councilman and the Town of Machiasport.  
10 You see the reason we have to keep the pier is it is a  
11 center for our farming operations as well as the plant  
12 operations and if we don't bring that plant up again  
13 we have to retain ownership of the pier.

14 We tried to work with the town. We worked  
15 with most of the -- and this one -- that's gone off  
16 sideways and we are still trying to facilitate that to  
17 resolve it. Our plan again is not to vacate  
18 Machiasport, it's to stay in Machiasport. That pier  
19 is not just center for that wharf, but it's also  
20 center if you saw the map of all the seawater  
21 operations, so it's key to that as well.

22 CHAIRMAN KOPLAN: Thank you for that.

23 Ms. Cannon, if I could turn to you for a  
24 moment you were just talking about the EU and its  
25 affect on all of this. On page 18 of your prehearing



1       brief you assert that "given the measures already  
2       taken by the EU to control the volumes of Norwegian  
3       exports it's unlikely that the EU will provide an  
4       outlet for the projected further increases in volumes  
5       of Norway's salmon production."

6                       That's what you were getting into in your  
7       direct testimony, but the EU as I understand it does  
8       not currently control import volumes of Norwegian  
9       salmon, rather they established a minimum import price  
10      for such imports in June of 2005.

11                      Moreover according to information in Exhibit  
12      No. 3 of Respondents' brief if I can summarize it they  
13      say that EU market prices are well above this minimum  
14      price and are expected to remain above the minimum  
15      price due to the strong EU demand. Now, how do you  
16      respond to that?

17                      MS. CANNON: As a legal matter I would  
18      respond that you've had a very volatile situation in  
19      the EU and maybe Mr. Craig could amplify on this.

20                      The prices for salmon fluctuate extremely  
21      and the fact that there were dumping duties earlier  
22      this year imposed in reaction to the situation at that  
23      time that were later replaced by a minimum import  
24      price occurred because there was a change just over  
25      the course of a few months in prices that the EU

1 decided alleviated the need for those duties and  
2 therefore they went with the minimum import price  
3 regime which is currently in place.

4 As I stated, as the EU has stated they are  
5 not saying that is definitive. They are reexamining  
6 the effectiveness of that minimum import price and  
7 have specifically stated that they are poised to  
8 change that if the flood of imports comes back, or the  
9 pricing behavior, or circumvention of those minimum  
10 import prices occurs as has taken place in the past.

11 I don't know if you want to discuss more the  
12 volatile nature of pricing which one of the industry  
13 members would be better situated to do, but that is my  
14 understanding of why that situation is still highly  
15 volatile. You can't assume that simply because  
16 there's a minimum import price regime that there's no  
17 affect on those imports or will not be in the future.

18 CHAIRMAN KOPLAN: I'd be happy to hear both  
19 that and, but first from Mr. Craig if there's  
20 something he would like to add to what you just said.

21 MR. CRAIG: If I can the point that I guess  
22 that we should make here is that the price of salmon  
23 -- first of all the salmon market is a commodity, the  
24 product we're selling is a commodity, therefore it's  
25 subject to supply and demand and there's --

1           CHAIRMAN KOPLAN: Could you move your mic a  
2 little closer to you?

3           MR. CRAIG: Sure. If you look carefully at  
4 the history of the pricing over the last 10 years or  
5 so you'll see that there's up and downward swings in  
6 the price that can happen quite periodically. At the  
7 moment we're in an upside of the pricing.

8           As I said it's related to supply and demand,  
9 but I think that it's on public record that one of the  
10 company's from Norway has projected that over the next  
11 two to three years their volume is going to increase  
12 by 36 percent. If that holds with some other  
13 companies in Norway where are the prices going to be  
14 in two or three years?

15          CHAIRMAN KOPLAN: Thank you.

16          Mr. Coursey?

17          MR. COURSEY: Thank you, Mr. Chairman. I  
18 just wanted to point out that both normal dumping  
19 duties and MIP program are not quota related. In  
20 other words a dumping regime also does not set quotas.  
21 As long as there's fairly priced product as much  
22 product an exporter wants to ship can come in.

23          So there really isn't that much of a  
24 difference between the two, the EU largely because  
25 it's filled with a commodity product and chooses to

1 deal with the issue on a price basis outright as  
2 opposed to a duty basis.

3 CHAIRMAN KOPLAN: Thank you.

4 Mr. Cooke, you were reaching for your  
5 microphone?

6 MR. COURSEY: Yes. I guess I want to reach  
7 your comment that, you know, we're dealing with fresh  
8 salmon so it has a very short shelf life --

9 CHAIRMAN KOPLAN: Ten to 14 days I believe.

10 MR. COURSEY: That's right. So that's why  
11 the price, you know, too much volume in the  
12 marketplace and the price drops, right? So I think  
13 the MIP in Europe probably has a good control. It's a  
14 similar mechanism that once they get over that  
15 obviously that to drive the volume in the price is  
16 going to drop.

17 CHAIRMAN KOPLAN: Thank you.

18 Mr. Cashman?

19 MR. CASHMAN: Actually this is in reference  
20 to your last question to Mr. Cooke on the select from  
21 Machiasport.

22 CHAIRMAN KOPLAN: I was going to come to you  
23 on that actually.

24 MR. CASHMAN: Thank you.

25 CHAIRMAN KOPLAN: Go ahead.

1           MR. CASHMAN:  When Cooke Aquaculture  
2           acquired Atlantic Salmon of Maine I believe both of  
3           the freshwater facilities had been closed.  Also,  
4           there were several fallowed sites that we have worked  
5           with Cooke Aquaculture to reopen.  Both freshwater  
6           facilities have been reopened.

7           I think the brief history of ownership by  
8           Cooke Aquaculture has indicated a strong desire to  
9           reopen facilities in Maine, not to leave them vacant.

10          CHAIRMAN KOPLAN:  Thank you very much for  
11          that.  I see my time is about to expire, so I'll turn  
12          to Vice Chairman Okun.

13          VICE CHAIRMAN OKUN:  Thank you, Mr.  
14          Chairman.

15          Let me join the Chairman in welcoming the  
16          witnesses here today, particularly those members of  
17          the industry and to you, Mr. Cashman, for taking the  
18          time to come down and be with us today.

19          Let me just turn to the industry witnesses  
20          for a moment to help understand kind of the state of  
21          the industry now versus during the time of the  
22          original investigation.

23          I think Mr. Coursey and perhaps Ms. Cannon  
24          commented on the fact that the Commission in the  
25          original investigation spent a fair amount of time

1 talking about the start-up nature of the domestic  
2 industry at that time and we're 15 years later I  
3 guess, but there were some comments made about kind of  
4 the situation now with the restructuring almost looks  
5 like that again, so I had some questions about that.

6 Let me ask just first if you can explain to  
7 me on the Court Order, and the fallowing, the start-  
8 up. You said the start-up, that the farms that had  
9 been fallowed would be stocked again. Help me  
10 understand.

11 When that happens is there anything with  
12 regard to the environment, or the Court Order, or any  
13 other laws passed that mean that the stocking  
14 densities are going to be lower than they were prior  
15 to the fallowing of the farms?

16 Mr. Cooke?

17 MR. COOKE: There would be certain sites and  
18 they require less stocking because of auction levels  
19 and that type of thing. Prime overall, though,  
20 maximizing the least as they can handle, the extra  
21 volume, like the ones that are high.

22 Understand some of these have like a 28 foot  
23 tidal drop so there's a lot of current and those sites  
24 basically you level the overall production so you're  
25 going to climb more on a level basis, particularly

1 since we brought them down into, you know, we own  
2 these two companies we can work both their productions  
3 together a lot better than previous where one was  
4 limited, wouldn't use other previous leases, that type  
5 of thing.

6 VICE CHAIRMAN OKUN: Okay. Does that relate  
7 at all -- I know in response to the Chairman you were  
8 talking about Machiasport and its reopening -- is  
9 there a certain, and it may not be something you can  
10 say here but could you put in posthearing, is there a  
11 certain level of production that needs to be going on  
12 to justify opening Machiasport or is it just simply  
13 what you said which is the plans in New Brunswick,  
14 there's enough there so you don't want so much coming  
15 further north as it were?

16 MR. COOKE: Obviously the salmon farming  
17 worldwide is a very cost competitive business and  
18 because of the lack of fish to go through the plant we  
19 can't run enough fish through the plant to keep full  
20 hours for employees, we can't -- so the deflection  
21 costs of running that plant with extremely small  
22 volume would be very cost prohibitive.

23 Just to say that we have, though, worked  
24 again with the Commissioner. Cashman has worked with  
25 getting sites in Machiasport back up and going, so

1 production is climbing. It's not like nothing is  
2 happening in Machiasport or that area. There is  
3 production going on constantly.

4 We've already started the process of putting  
5 the hatcheries -- you've got to start in the  
6 freshwater. We now have all the freshwater volume to  
7 take the seawater next spring to get this growth back  
8 where it should be.

9 VICE CHAIRMAN OKUN: Again, is there a  
10 projection that you're comfortable sharing on what  
11 that production needs to be? Again, you can do this  
12 posthearing, it doesn't have to be in a public  
13 session, but where it makes as you say economic sense  
14 to run Machiasport with that amount of production?

15 MR. COOKE: We're basically 20 million  
16 pounds and we're on track with what's in the  
17 freshwater now that's already hatched and they're  
18 swimming ready for spring next spring. We're on track  
19 for that, so we're very much on a set course.

20 VICE CHAIRMAN OKUN: That's helpful. Thank  
21 you. Then let me ask and I don't know who is the best  
22 person to respond to this, but one of the points made  
23 by Respondent, and again, looking at changes in the  
24 industry would be again the point that this is no  
25 longer a start-up industry, which I'd like to hear a



1 response on, but also with regard to the Norwegian  
2 industry that they have restructured in terms of how  
3 many owners are able to own licenses whereas during  
4 the original investigation they were limited where  
5 there was one license and you couldn't hold more than  
6 one license and now that there's been restructuring  
7 that makes it more a better able to controlled  
8 production volume in the oversupply situation which  
9 they have talked about in their brief.

10 Can you comment at all here on how you view  
11 that with regard to the Norwegian industry?

12 I don't know. Mr. Coursey?

13 Mr. Cooke, you're in the business.

14 MR. COURSEY: Ms. Okun, I have been involved  
15 in representing the domestic industry since the  
16 original investigation and for this proceeding we have  
17 not spent the time that we did in the original  
18 investigation in learning the Norwegian business. It  
19 was what I would refer to as sort of a nonmarket  
20 economy structure in Norway with respect to salmon  
21 farming at that time.

22 What we know now however is that there still  
23 is very rigorous control. There are limits set on  
24 bio-mass for example and we've used those that they  
25 put in their brief to calculate their capacity. What

1 we can best go on at this point is the facts of record  
2 in response to the Norwegians saying that the industry  
3 is now competitive or better able to control its  
4 growth or its production.

5           What we see is a huge industry with massive  
6 undercapacity. So whether that's coming from  
7 government direction or private direction it is there  
8 and it is intimidating. I can't say that I could go  
9 into detail at this point about the different levels  
10 of control that exist now as opposed to what existed  
11 under what was called the Foss back in the late 1980s  
12 and early 1990s.

13           VICE CHAIRMAN OKUN: Well, I hope to have  
14 the opportunity to spend some time with them this  
15 afternoon asking those questions. You had mentioned  
16 the capacity issue, so let me just return to that for  
17 a moment in terms of the idea of the number of salmon  
18 eggs in the water, the bio-mass issue which you  
19 mentioned the Respondents raise.

20           For the U.S. industry, again, you're looking  
21 at the industry and saying for the U.S. industry the  
22 correct measure is, continues to be the same as it was  
23 in the original investigation -- Ms. Cannon is shaking  
24 her head back there -- but in terms of whether there  
25 should be any change in how the Commission looks at

1       how to measure capacity.

2                   MS. CANNON:  No.  We don't think there  
3       should be a change.  We certainly disagree as I said  
4       that it could be based on smolt, but I guess and this  
5       may require more of a confidential response that just  
6       as is true in any industry where a bottleneck in a  
7       particular company occurs maybe somewhat different,  
8       but generally speaking you're looking at licensed  
9       capacity for the grow out sites.

10                   I would note that in the recent European  
11       union cases what I was looking back at this morning  
12       that's what they looked at when they measured capacity  
13       as well which I think is consistent with how it has  
14       been typically done in this industry.

15                   VICE CHAIRMAN OKUN:  Is that consistent, I  
16       mean, when we were just talking with Mr. Cooke here  
17       about how he looks at production and when another site  
18       or when Machiasport might come back on that you need  
19       to know how many eggs are laid to know how many fish  
20       are going to be in the water?

21                   I mean, I'm trying to understand it just  
22       from the industry's perspective whether that is an  
23       important point.  You have to know that don't you to  
24       know what's coming down the line?

25                   Yes?

1           MR. COOKE: Just to comment on that is even  
2 in their testimony they said they destroyed 20 million  
3 prior. They obviously had the capacity to produce  
4 those fish because they destroyed them, so those fish  
5 go to water. Norway actually has better growing  
6 conditions than the east coast of North America with  
7 warm water temperatures.

8           They can get those fish up to market in less  
9 than 14, 15 months. So that's the kind of volume that  
10 you're talking about, that capacity they could charge  
11 up very quickly.

12           VICE CHAIRMAN OKUN: That comes from the  
13 eggs being laid down? I mean, that would be the --

14           MR. COOKE: Well, even --

15           VICE CHAIRMAN OKUN: You think even that  
16 doesn't matter because you could more or less in to  
17 the --

18           MR. COOKE: There's a way of accelerating  
19 your production as far as using -- and things called  
20 super smolt. There's a way they can accelerate their  
21 harvest which Norway is quite prone to do because  
22 their water temperatures are much more warmer than our  
23 east coast.

24           VICE CHAIRMAN OKUN: Just to return for a  
25 moment on the EU's actions and what they've taken, one

1 of the points made by Norway in their brief is that if  
2 we look at the earlier MIPs that were imposed you  
3 didn't see a decline to exports into the EU and that  
4 therefore that would be the reason you wouldn't see  
5 anything different.

6 What would you point us to in looking at the  
7 record evidence here in terms of what we can expect  
8 Norway's exports to do to the EU?

9 MR. COURSEY: I recall from looking at that  
10 information the claim is that the volume of import  
11 from Norway is actually increasing into the EU. The  
12 amount by which the increase is taking place is quite  
13 small, particularly when you put it up next to the  
14 growth in production and the growth in capacity.

15 They are not taking care of their excess  
16 production problem by sending it into the EU even at a  
17 slight growth level when their rate of growth and  
18 production overall is just much steeper. That product  
19 has got to go somewhere and it's not all going to the  
20 EU.

21 VICE CHAIRMAN OKUN: Ms. Cannon, had you  
22 wanted to add something? It looked like you reached  
23 for your microphone back there.

24 MS. CANNON: Yes. I was just going to say  
25 that similar to what Mr. Coursey was stating you're

1 having to look at what happened versus what might have  
2 happened had they not imposed the restraints and you  
3 must assume that those restraints to be left in effect  
4 or not changed over, although at some points they were  
5 changed over when the supply or the prices changed  
6 dramatically were in effect curbing something that  
7 would have otherwise occurred.

8           You also have to consider the excess  
9 capacity that exists in Norway.

10           So there's a lot of other potential out  
11 there in terms of what could come to the United States  
12 whether or not they maintain a large volume in the EU  
13 in response to these minimum import price regime, but  
14 they're not able to really increase it as much as they  
15 could have because this has been constantly in place  
16 in the EU over all these years.

17           VICE CHAIRMAN OKUN: My red light has come  
18 on, but I thank you for those additional comments.

19           CHAIRMAN KOPLAN: Thank you.

20           Commissioner Hillman?

21           COMMISSIONER HILLMAN: Thank you. I, too,  
22 would join my colleagues in welcoming you all here and  
23 thanking you for taking the time and the trouble to  
24 travel to Washington to be with us today. Let me if I  
25 could just very quickly follow-up on this EU issue.

1           Ms. Cannon, I appreciate all of the  
2 information that was in the brief as well as the  
3 submission of the EU orders of late and it's the of  
4 late that I would just ask if there is something that  
5 you could put together to help us put this in some  
6 historical perspective?

7           In other words I think you've explained very  
8 clearly in the brief and the exhibits what's happened  
9 in essence since 2004 in the European union. It's not  
10 so clear to me that we really have good information on  
11 what the EU was doing prior to that.

12           So if there is more that could be added just  
13 to explain as a sort of history of the EU restrictions  
14 on salmon from Norway going into the European union I  
15 think it would be helpful.

16           MS. CANNON: Yes. We'll be happy to do  
17 that.

18           COMMISSIONER HILLMAN: Because the reason I  
19 say this is at some point we have to make an  
20 assessment of whether there has been a change as a  
21 result of this that is going to either allow more  
22 Norwegian salmon into the European union or in essence  
23 push more out of the European union going into the  
24 U.S. market or somewhere else.

25           That's what I'm trying to understand is

1       whether in your view these most recent actions by the  
2       European union result in a change in what had been  
3       done such that you would see any changes in the trade  
4       patterns between Norway and the EU.

5               MS. CANNON:   Sure.   We'll be happy to  
6       document that and I know there have been findings in  
7       the past.   I think just to sum up what we put in our  
8       brief, though, you've got very aggressive findings  
9       this year that started in February, safeguards actions  
10      and then dumping actions both, showing accelerated  
11      behavior by the EU against the Norwegians just a few  
12      months ago.

13             I think that's a significant development as  
14      compared to historically what the EU has been watching  
15      going on here, and the findings by the EU are very  
16      telling because all of the statements that the  
17      Norwegians have made before this Commission that the  
18      volumes will increase, there's no overproduction, they  
19      won't undercut prices are findings that the EU just  
20      found were true in that major export market.

21             So I think that's a significant current and  
22      fairly recent development as well.

23             COMMISSIONER HILLMAN:   Appreciate that  
24      answer and I look forward to seeing the further  
25      details in the brief.   If I can then turn to the issue



1 of what's been going on in the U.S. market  
2 particularly in terms of demand for this product. I  
3 mean, if I look at the data in our staff report it  
4 would show a fairly noticeable drop in consumption  
5 again from 2001 through 2004.

6 I'm curious from the industry's perspective  
7 do you perceive a drop in the demand for your product  
8 and if so to what do you attribute a decline in  
9 demand?

10 Mr. Cooke?

11 MR. COOKE: We had an unfounded PCB scare  
12 spring of 2004 which dramatically cut consumption in  
13 North America and actually the world and, you know, we  
14 can go into that detail, but the industry certainly --  
15 is unfounded which that actually impacted.

16 I think consumption basically dropped .5 or  
17 .05 a pound in that timeframe.

18 COMMISSIONER HILLMAN: So you saw the drop  
19 in demand only in 2004 and attribute it to the PCB  
20 issue?

21 MR. COOKE: That was the major drop. There  
22 was some prior to that, but that was at that point the  
23 major drop and recovery thereafter.

24 COMMISSIONER HILLMAN: Going forward what do  
25 you see in terms of demand? Is this PCB issue

1 continuing to overshadow consumption?

2 MR. COOKE: I think overall I think we're  
3 probably flat for consumption. I don't think it's  
4 dropping, but I still don't believe we're seeing a big  
5 gain in consumption at this point.

6 COMMISSIONER HILLMAN: Mr. Craig, did you  
7 want to add something?

8 MR. CRAIG: If I might just clarify that a  
9 little bit. I think when you said from 2001 to 2004  
10 there was a decline, the reality was it wasn't 2004 as  
11 Mr. Cooke mentioned. While I think there was a growth  
12 up until 2004 I think that the worst case now in 2005  
13 is that it's flat. To me it's beginning to come back,  
14 it has come back significantly from 2004 and there  
15 will be at least a flat or slight recovery in 2005.

16 COMMISSIONER HILLMAN: Then help me  
17 understand this issue of the relationship between  
18 whole salmon and the cut product.

19 Again, you describe, Mr. Craig, in your view  
20 the fact that the Norwegians are fundamentally not in  
21 the cut product, I mean, that they want to sell the  
22 whole product. Help me understand both the demand  
23 relationship and the supply relationship between the  
24 whole product versus the cut product.

25 You all are obviously primarily in the whole

1 product. If there is more demand in the cut product  
2 why not? Why not go into cut production? Why don't  
3 you do it, why don't the Norwegians do it?

4 MR. COOKE: We do do some cut. One of the  
5 reasons I believe the Norwegians don't do it is the  
6 expense. Their cost to cut fish in Norway is very  
7 expensive. There's two customers I think in the U.S.  
8 that take whole fish. One is what we call recutters.

9 They take the fish and then they recut it  
10 in, you know, like a distributor that would recut the  
11 fish in industry, but then there's the white  
12 tablecloth restaurant type that would take the whole  
13 fish and utilize the whole fish. So those are the two  
14 types of market our product is going into.

15 We do cut some fish, but a large percentage  
16 of our fish go whole.

17 COMMISSIONER HILLMAN: Is there a reason why  
18 you would want it to be cut closer to the market in  
19 which it will be sold for end use?

20 MR. COOKE: I think when that happens is  
21 it's more detailed because it may be a certain cut the  
22 restaurant wants or a retailer wants. Maybe a  
23 different cut than what, you know, you're further away  
24 from the marketplace that would pertain to.

25 COMMISSIONER HILLMAN: Mr. Craig, did you

1 want to add anything on that?

2 MR. CRAIG: I think that he's covered it  
3 fairly well. I think the point is that the large  
4 distributors' cutters are still cutting their product  
5 and supplying it to the end users.

6 COMMISSIONER HILLMAN: You've describe  
7 demand for the whole product. How would you describe  
8 demand for the cut product?

9 MR. COOKE: The same type. I would say  
10 during that period prior to 2004 the growth in the cut  
11 product was probably higher than it was -- the  
12 consumption growth was probably higher in the cut than  
13 it was the whole, but there was still growth in the  
14 whole.

15 COMMISSIONER HILLMAN: Then this PCB affect,  
16 would you describe it as largely a U.S. or North  
17 American phenomenon or has the PCB issue affected  
18 consumption or demand in Europe or other major  
19 markets?

20 MR. COOKE: I believe they hit North  
21 American probably the hardest. It certainly was an  
22 issue in the EU, but it was a study that was done by  
23 environmental groups and research groups based in the  
24 U.S. and it was covered very heavily by the U.S.  
25 media, so my assumption is it was -- much worse.

1                   COMMISSIONER HILLMAN: I appreciate those  
2                   answers.

3                   Then, Mr. Morang, I wanted to go back to you  
4                   to make sure I understand a point that you said and I  
5                   just want to make sure I understand it which is this  
6                   east coast/west coast issue. Are any Atlantic salmon,  
7                   smolt or otherwise, being shipped to the west coast to  
8                   be grown out on the west coast?

9                   I thought I heard that and it didn't ring  
10                  true to me in terms of how I understood things  
11                  working.

12                  MR. MORANG: No. We were explaining that  
13                  there was pens on the east coast and the west coast.

14                  COMMISSIONER HILLMAN: What's in the pens on  
15                  the west coast?

16                  MR. MORANG: Atlantic salmon.

17                  COMMISSIONER HILLMAN: Atlantic salmon.  
18                  Okay. But it is being breed, hatched, et cetera, on  
19                  the west coast?

20                  MR. MORANG: Right.

21                  COMMISSIONER HILLMAN: How would you  
22                  describe the competition between the product raised on  
23                  the east coast versus the product raised on the west  
24                  coast?

25                  MR. COOKE: There's west coast comes into

1 the east and east coast goes to west coast. It's one  
2 marketplace.

3 COMMISSIONER HILLMAN: Because it's one  
4 species of fish.

5 MR. COOKE: Absolutely.

6 COMMISSIONER HILLMAN: How does that relate  
7 to the production of pacific salmon. I mean, there's  
8 just no overlap at all in terms of who the producers  
9 are, who the processors are?

10 MR. COOKE: Most farm product, you know,  
11 there are some, but most farm product is Atlantic out  
12 of North America, there's a little bit of pacific, but  
13 not really and basically the -- go to a different,  
14 it's a different market segment and it's a short --  
15 fish compared to the.

16 COMMISSIONER HILLMAN: So no overlap on the  
17 process itself?

18 MR. COOKE: No.

19 COMMISSIONER HILLMAN: Okay. All right. I  
20 appreciate that.

21 Ms. Cannon, I guess I wanted to follow-up  
22 just a little bit on this issue of regional industry.  
23 I guess I hadn't really thought about this case  
24 necessarily as a regional industry case, so I was a  
25 little curious to hear your statements on that. How

1 would you define the region? Where would you draw the  
2 line in terms of the region?

3 Obviously because we need to see a  
4 concentration both of your shipments as well as of the  
5 imports in order to in fact view this as a regional  
6 industry case.

7 MS. CANNON: Right. We've only just started  
8 to look at this in all honesty once we saw the  
9 Respondents' brief because as you know the Commission  
10 did not find there to be a regional industry  
11 originally and we did not have any reason to believe  
12 frankly that the Norwegian imports would be  
13 concentrated into the east coast region because  
14 originally I believe there was a significant amount of  
15 that product sold on the west coast.

16 They have now raised and as I read their  
17 brief suggested that if revocation occurred they would  
18 concentrate on what they've called the east coast  
19 region, and frankly I can't get into the confidential  
20 information of where U.S. producers on the east coast  
21 actually sell and where west coast producers sell.

22 We could do that in our brief, but it looked  
23 like there was some concentration of sales by those  
24 producers into particular regions and frankly I think  
25 it's up to the Commission to explore at this point

1        what Respondents have put on the table which is their  
2        statement that they intend to sell into the east coast  
3        market because if that is true then where exactly that  
4        falls, we could help you define that better in a  
5        brief, but --

6                    COMMISSIONER HILLMAN:    Then also what do we  
7        do with the west coast producers?    I mean, again, we'd  
8        have to understand what you're suggesting in terms of  
9        whether there's a separate regional industry there or  
10       if we're going to go down that road how that would be  
11       addressed?

12                   MS. CANNON:    Right.    I understand.    As I  
13       said we're just starting to look at this issue because  
14       they have now raised it, but if they intend to target  
15       the east coast market then I think there may be reason  
16       for you to pursue that.

17                   COMMISSIONER HILLMAN:    Appreciate those  
18       answers.    Thank you.

19                   CHAIRMAN KOPLAN:    Thank you.

20                   Commissioner Lane?

21                   COMMISSIONER LANE:    Good morning.    I have a  
22       few questions, but the first one I have relates to the  
23       issue of the salmon escaping from the pens and going  
24       elsewhere.    Is that a major issue or a problem for the  
25       industry?



1                   MR. COOKE: We believe it's a very small  
2 problem. If you look at it all our fish basically the  
3 DNA or -- they have actually announced very strict in  
4 the State of Maine they basically come from local  
5 rivers, so these fish are not like fish that are from  
6 -- anywhere. These fish are local strains and there's  
7 very, very limited escapes.

8                   We want them to stay in the cage obviously  
9 and we fight very hard to do that and so we've worked  
10 very well. Now, we're actually even fin clipping the  
11 fish in Maine and working on a tagging system so if  
12 there was an escape and they're found most of these  
13 rivers they actually have a collection point where the  
14 wild fish go off where they could actually determine  
15 if there was a wild fish there.

16                   The interaction, there's not a severe issue  
17 at all. It's very minor.

18                   COMMISSIONER LANE: Thank you. Now, I have  
19 some questions about the distribution of fresh  
20 Atlantic salmon. Do any producers own or have any  
21 affiliation in common such as parent company with any  
22 other businesses in the downstream chain such as  
23 distributors, grocery, or fish markets, or  
24 restaurants?

25                   MR. COOKE: No. The only -- in Canada we

1 have a smoked fish plant, but that would be it.

2 COMMISSIONER LANE: Do any of the domestic  
3 producers make any direct sales to grocery markets or  
4 restaurants?

5 MR. COOKE: Yes. Retail.

6 COMMISSIONER LANE: How big a portion of the  
7 market is that?

8 MR. COOKE: Of our sales or of the  
9 marketplace?

10 COMMISSIONER LANE: Of yours and the  
11 marketplace.

12 MR. COOKE: Can we provide that information  
13 for you on a confidential basis?

14 COMMISSIONER LANE: Yes. That'll be fine.

15 MR. COOKE: Okay.

16 COMMISSIONER LANE: The Commission pricing  
17 and AUV data show that the limited amount of Norwegian  
18 fresh Atlantic salmon sold in the United States during  
19 the POI oversold U.S. fresh Atlantic salmon sometimes  
20 by quite large volume margins. Can you explain that?  
21 In other words does it support the Respondents'  
22 arguments that Norway is likely to oversell from a  
23 pricing standpoint?

24 MR. CRAIG: I think that maybe, Glenn, if  
25 you want I'll try that one. I think that pricing is a

1 direct result of supply and how large a supply it is  
2 and I keep coming back to supply and demand. If you  
3 have limited amount of product to sell and the demand  
4 is greater you can maintain better pricing.

5           Going forward if you increase supply the  
6 price changes.

7           MR. COOKE: If you look at the early days  
8 when you're going back to where the original case was  
9 part of the reason was is domestic industry had just  
10 started getting established and at that time probably  
11 the quality coming from Norway may have been better,  
12 but today is -- you know, a fish today, the quality  
13 from the United States or Canada is best in the world  
14 far as I'm concerned, so I don't see any difference.

15           It's a commodity basis with volumes from the  
16 marketplace. When you cut it and put it on the dinner  
17 table there's not much difference.

18           MS. BECK: Commissioner Lane, could I also  
19 just add that at this point in time there are duties,  
20 so what we're seeing is the restraint of the pricing  
21 on the Norwegian prices. So if that were to go away  
22 we'd likely see under something like they just  
23 recently found in their determination.

24           COMMISSIONER LANE: Thank you. Prices for  
25 fresh Atlantic salmon in the United States seem to be

1 falling since 1999. Would you attribute these price  
2 declines more to shifts toward processed forms of  
3 salmon, or to reduce demand due to various  
4 contamination controversies, or to other reasons?

5 MR. COOKE: I think one of the keys is that  
6 the worldwide production of salmon has increased  
7 drastically. It also has lowered the cost of  
8 production of salmon and I think that because of that  
9 -- supplied to the marketplace those prices have  
10 fallen.

11 Again, going into spring of 2004 this PCB  
12 scare didn't have an affect on pricing and volume into  
13 the marketplace.

14 COMMISSIONER LANE: Thank you. Operating  
15 income data for the domestic industry shows that from  
16 1994 through 2000 the industry experienced profitable  
17 years. Starting in 2001 there was a large swing to  
18 negative operating income and the industry has not  
19 shown a profit in any year since 2000.

20 Would you please give me your thoughts on  
21 this change in profitability of the domestic industry  
22 including what caused the shift and what it is going  
23 to take to turn this profit picture around?

24 MR. COOKE: Actually, Cooke Aquaculture went  
25 against that trend. We actually made money during

1 those times because I think part of it is we're  
2 family-owned, we concentrate on low production costs  
3 and good quality fish.

4 I think what we've done in Maine is  
5 basically buying these companies to show them the  
6 commitment that we're putting the money and working  
7 those operations together to keep our costs low to be  
8 very competitive going forward.

9 MR. COURSEY: Commissioner Lane, I think the  
10 response to your question is what you've heard in  
11 testimony. There were a series of setbacks that the  
12 Maine producers suffered, some having to do with  
13 disease like the ISA incident, super chill, and then  
14 the Court ordered fallowing.

15 It was in essence an extended workout in  
16 Maine of how the industry was going to be regulated to  
17 keep in compliance with the Clean Water Act. I think  
18 what you'll see is those setbacks put up against the  
19 timeline with the drop in production and the fall to  
20 losses, they'll line up exactly.

21 We're at the point now that these setbacks  
22 are behind the industry, particularly the fallowing  
23 and there is an opportunity for the industry to  
24 recover particularly with the new resources, the large  
25 resources that are being brought into Maine by Cooke

1 Aquaculture.

2 COMMISSIONER LANE: Did someone else want to  
3 respond to that?

4 (No response.)

5 COMMISSIONER LANE: Okay. Follow-up  
6 question then. Looking at the industry as a whole,  
7 which did show a poor financial picture since 2002,  
8 Respondents have characterized the U.S. industry as  
9 not vulnerable.

10 Starting on page 85 of their prehearing  
11 brief Respondents indicate that the domestic industry  
12 is not vulnerable because it is now mature and because  
13 U.S. producers have strong financial backing or are in  
14 a strong competitive position. Please comment on  
15 vulnerability and the Respondents' arguments.

16 MR. CASHMAN: Yeah. If I could respond to  
17 that I can tell you and I think that much of this has  
18 just been touched on in the previous question, but the  
19 setbacks that have occurred to the Maine industry,  
20 which is the domestic industry we're talking about,  
21 the reasons why they have shown losses over the last  
22 three or four years I think we are right back to a  
23 beginning point just as we were in the early 1990s in  
24 Maine with -- salmon.

25 We're poised for a rebound, but it is still

1 a very vulnerable industry. The only reason that we  
2 are poised for the rebound is the investment being  
3 made by Cooke Aquaculture. As I stated earlier Cooke  
4 has reopened a couple of the freshwater facilities,  
5 they have reopened at least one of the -- sites and  
6 we're working on others.

7 We have learned from our mistakes, we have  
8 enlisted the support and the help of environmental  
9 groups such as the Nature Conservancy in identifying  
10 future sites that can be permitted and I think we're  
11 poised for a rebound, but to say that we're mature and  
12 no longer vulnerable is a tremendous misstatement.

13 MS. BECK: Commissioner Lane, I think the  
14 reason that Respondents are able to do that as you  
15 notice on 85 and forward the Respondents have not  
16 cited once to the data in the Commission's own staff  
17 report and the Commission's staff report data whether  
18 it's the trade, the production, shipments, financials  
19 show the variable in the -- industry.

20 COMMISSIONER LANE: Thank you. I will wait  
21 for my next round.

22 Mr. Chairman, thank you.

23 CHAIRMAN KOPLAN: Thank you, Commissioner.  
24 Commissioner Pearson?

25 COMMISSIONER PEARSON: Thank you, Mr.

1 Chairman.

2 Let me also express my greetings to the  
3 panel. Appreciation for your being here and a special  
4 appreciation to the people from Heritage and Atlantic  
5 Salmon of Maine who helped the delegation from the  
6 Commission who went up to Maine a couple of months ago  
7 get I think a much better understanding of the  
8 complexities of the production process for salmon.

9 Let me go back to the question raised by  
10 Commissioner Hillman regarding apparent consumption.  
11 In the public staff report our data show that the  
12 apparent consumption peaked in 2001 and then has  
13 declined year by year since then. The testimony as I  
14 understood it was that you believe there had been a  
15 decrease just in 2004 relating to the PCB concerns.

16 Can you provide any insights into why our  
17 data are showing this longer term decrease?

18 MR. COOKE: If we could we'll do some  
19 research on that and --. I'm not sure why that's  
20 showing the decrease.

21 COMMISSIONER PEARSON: I can think of at  
22 least two possible reasons why the data might be  
23 showing a decrease.

24 One would be that there has been some  
25 shifting at the purchaser level or the consumer level



1 between buying whole salmon or buying salmon that had  
2 been filleted or otherwise portioned before being  
3 imported into the United States so that we could see a  
4 decline in whole salmon and still the total  
5 consumption of salmon in the United States could be  
6 rising.

7 MR. COOKE: Just to clarify your consumption  
8 is dealing just with whole fish or all salmon?

9 COMMISSIONER PEARSON: My understanding is  
10 that our data just covers subject product which would  
11 be whole salmon --

12 MR. COOKE: Yes.

13 COMMISSIONER PEARSON: -- and I don't think  
14 that in terms of apparent consumption we include the  
15 smolt because I don't think very many of them get  
16 consumed in a way that we would measure them.

17 MR. COOKE: No. I would agree with you then  
18 that some of the consumption has gone to cut salmon.  
19 Sure.

20 MR. CRAIG: I could add a couple of points  
21 here.

22 COMMISSIONER PEARSON: Please.

23 MR. CRAIG: I just see these numbers looking  
24 at them now there isn't significant change in the  
25 numbers for three years. I think that the PCB issue

1 of 2004 certainly had an impact in 2004, but the  
2 problem started in the latter part of 2003 with some  
3 other information that was coming out at that time.

4 I think the consumption decline started in  
5 the latter part of 2003 and through 2004.

6 COMMISSIONER PEARSON: If you could provide  
7 any further information in the posthearing regarding  
8 shift in consumer purchasing, but from whole salmon to  
9 the cut salmon that would be useful or perhaps could  
10 we get some aggregation if you have that information  
11 available of the whole salmon and the parts if you  
12 will so that we could have a better sense on the  
13 record of what's happening to salmon consumption  
14 overall?

15 I ask this because I probably am eating more  
16 of it now than I did several years ago.

17 CHAIRMAN KOPLAN: Excuse me. As you answer  
18 questions particularly in the back row if you could  
19 reidentify yourself so the reporter understands who is  
20 responding. Thank you.

21 Go ahead.

22 COMMISSIONER PEARSON: Ms. Beck, did you  
23 have --

24 MS. BECK: I was just going to confirm that  
25 we will provide additional information on that, the

1 breakdown on the cuts.

2 COMMISSIONER PEARSON: In this type of  
3 industry where the product is in many respects a  
4 commodity there's at least one other possibility of  
5 why we're seeing a decline in apparent consumption and  
6 that would be just in availability of supply. Is it  
7 possible that's been a factor in causing the  
8 reduction?

9 Because if I understand correctly on a  
10 global scale the most obvious place to get more supply  
11 would be Norway and yet that's restricted by the  
12 import duties. So I'm wondering have we got a market  
13 where we're consuming everything that we reasonably  
14 can bring into the market and that's why the numbers  
15 are going down?

16 Mr. Cooke?

17 MR. COOKE: If you look at the -- of supply  
18 and demand if that was the case then prices should  
19 skyrocket. In those years, the low salmon prices in  
20 the history of the salmon farming business that  
21 certainly was not the case. There was oversupply  
22 coming into the marketplace and that's why prices were  
23 extremely low.

24 COMMISSIONER PEARSON: Okay, but looking at  
25 it broadly some of that oversupply is coming in

1 through imports of cut products and that's why --  
2 because the imports of the cut product to the extent  
3 that they add to total supply of salmon if a guy like  
4 me perceives it that would be tending to hold down the  
5 price and preventing the price reaction that you're  
6 just describing. Is that correct?

7 MR. COOKE: Well, if you think of it in the  
8 end no one eats a whole fish. -- U.S., the market and  
9 then there's a distributor who actually cuts them or  
10 whatever or they go to a restaurant that's cut, right?  
11 So it all ends up being -- you know, like the price of  
12 whole fish has dropped consistently.

13 Even at times when the price of Chilean --  
14 per se come into the market in cuts they stayed level.

15 COMMISSIONER PEARSON: Yes, Mr. Coursey?

16 MR. COURSEY: Commissioner Pearson, we will  
17 review this question and answer it in the posthearing  
18 brief, but I just wanted to comment that following the  
19 theory of your question it would seem that one would  
20 speculate that some of the demand for whole salmon is  
21 being taken by cut salmon coming into the market and  
22 obviously the principal cut salmon coming in is from  
23 Chile.

24 Chile may be able to do this by having lower  
25 costs of cutting in Chile. I think what that does

1 overall if you follow through is show that it makes  
2 the domestic industry even that much more vulnerable  
3 because its market base is shrinking and the base into  
4 which Norway is going to have to send its product is  
5 also shrinking.

6 Norway has high labor costs, just as high as  
7 labor costs in North America. It's going to end up  
8 with if the orders are lifted Norway competing for the  
9 dwindling wholesales on an even more aggravated basis.

10 COMMISSIONER PEARSON: Right. I don't  
11 disagree with that concept.

12 MR. COURSEY: I'm saying in any event the  
13 decline is small. The perceived decline from 2001 to  
14 2003 is relatively small and one -- you know, yes,  
15 there could be this capture by cut product of part of  
16 the demand for the whole full product.

17 I guess I was just to point out that it's  
18 relatively small and to the extent it exists it's  
19 cutting back on what the natural market is for U.S.  
20 industry and the Norwegian industry.

21 COMMISSIONER PEARSON: Right, but another  
22 way of looking at it that I think we need to keep in  
23 mind is that if the overall consumption of subject and  
24 nonsubject salmon in the United States is rising  
25 instead of declining as our data currently show then

1 the risk posed by imports of any type of subject or  
2 nonsubject salmon from any source would seem to me to  
3 be different.

4 I mean, growing demand versus falling  
5 demand, and then the question how do you evaluate the  
6 imports? I really would like to understand it better  
7 than I think we're able to do currently with what we  
8 have in the staff report.

9 MS. CANNON: Commissioner Pearson, if I  
10 could add in response to that specific point that  
11 assumes that whole salmon and cut salmon are purely  
12 interchangeable then if you aggregate the entire  
13 market and look at growing demand because demand is  
14 growing for cuts.

15 Based on our discussions with the industry  
16 people that is not true. Maybe Mr. Craig could  
17 elaborate on this, but my understanding is that when  
18 they're selling into the market a whole fish the  
19 purchasers that they are targeting to sell a whole  
20 fish to, those who want a whole fish, are not the same  
21 account, not the same people that would buy the cut  
22 product.

23 Mr. Craig?

24 MR. CRAIG: Yeah. I think that's the  
25 important point is that there's a group of large

1 further processors that are looking for whole fish and  
2 that's a different group. They're still cutting the  
3 product and delivering it to the end users.

4           It's an approach that -- Chile has taken a  
5 different approach altogether which is they cut the  
6 product, and bring it in and bypass those people to a  
7 large extent or have it distributed through those  
8 people without cutting it. To answer your question  
9 directly when you said is there a shortage of product  
10 that caused the decline, in whole fish absolutely not.

11           The decline was related to PCBs in 2004 and  
12 so on. If you look at 2005, January to June,  
13 comparison 2005 to 2004 there is an increase in the  
14 whole fish sales.

15           COMMISSIONER PEARSON: Thank you. Well, my  
16 light has changed, but I would just as a final comment  
17 note that I'm not a terribly sophisticated consumer.  
18 I never have claimed to be. By the time it gets to my  
19 plate I wonder about whether it tastes good, not how  
20 it came into the country or whether it started off in  
21 this country and I think a lot of consumers probably  
22 look at this product that way.

23           So you can see what I'm wrestling with and  
24 do what you can please to help me understand better  
25 what's happening in the market broadly for subject and

1 nonsubject.

2 Thank you, Mr. Chairman.

3 CHAIRMAN KOPLAN: Thank you, Commissioner.

4 Commissioner Aranoff?

5 COMMISSIONER ARANOFF: Thank you, Mr.

6 Chairman. I want to join my colleagues in thanking  
7 the panel for being with us this morning. I grew up  
8 in Massachusetts, spent a lot of time in coastal Maine  
9 as a child, and it is a pleasure to hear the Down East  
10 accent this morning, so thank you all for coming down  
11 to join us.

12 I want to start out with a question perhaps for  
13 Mr. Cooke or Mr. Morang about the conditions for  
14 producing salmon in coastal Maine and New Brunswick.

15 There's some evidence in our record that the  
16 conditions for growing salmon in Maine and New  
17 Brunswick are just more difficult than the conditions  
18 for raising salmon in Norway, Chile, or perhaps the UK  
19 in that the water is colder. Certainly there's some  
20 evidence of that in the super chill experience that  
21 the industry has gone through.

22 So my question to you -- Well, I should also add,  
23 we've read also that, Mr. Cooke, that your company  
24 came in and rescued an industry in New Brunswick which  
25 was in some respects also facing very challenging



1 conditions similar to those that face the industry in  
2 Maine.

3 Is it always going to be an uphill battle? Is  
4 there a built-in vulnerability to producing salmon in  
5 under less than ideal conditions on the east coast of  
6 North America?

7 MR. COOKE: Salmon farming's always risk, you  
8 know, it is a higher risk business because of all the  
9 problems. But we've taken a model to grow fish very  
10 competitively, we've taken a lot of costs out of the  
11 business, and a lot of that is just because of the  
12 volume and the size of our company. We're basically  
13 producing salmon in volume enough comparable to some  
14 of these bigger Norwegian companies now, and that's  
15 allowed us to lower our production costs.

16 From a quality perspective I think our product is  
17 probably better quality because of the colder waters.  
18 Our fish, for instance, is higher in fat, good fat,  
19 the Omega 3 fatty acid, then like Chile.

20 So I think overall we've done a very good at  
21 getting our cost down. Yes, there's risks, and there  
22 will be risks but those risks can be managed and we're  
23 a fairly reasonable size, we're an operation now that  
24 can be managed better.

25 COMMISSIONER ARANOFF: Thank you, I appreciate

1 that answer.

2 I'm going to now I guess be the skunk of the  
3 party and ask some like product questions. I have  
4 the, well, I don't know if you'd call it the  
5 advantage, but the distinction of being the one person  
6 who wasn't here on the Commission when we developed  
7 the questionnaires in this review so maybe I'm the  
8 only one who can come out and say now in the Chilean  
9 investigation the Commission defined the like product  
10 to include both the whole fish and the cut. it's true  
11 that in that case the cuts were part of the scope and  
12 they're not here, and it's true that the Commission is  
13 perhaps somewhat more reluctant traditionally to have  
14 a like product that's broader than the scope, but it's  
15 certainly done, and we looked at this six factor test,  
16 the five factor test in that case and found no clear  
17 dividing line.

18 Why shouldn't like product be an issue in this  
19 review, Ms. Cannon?

20 MS. CANNON: Well, I think you've laid out,  
21 Commissioner Aranoff exactly a lot of the reasons that  
22 I would state.

23 Basically, the Commission was faced with a  
24 different like product starting this case. When  
25 Norway started, or when this case was brought way back

1 when there really weren't cuts in the market at all,  
2 and that was the reason that the case was defined the  
3 way it was and the industry was defined the way it  
4 was. When the product from Chile came along, the form  
5 in which that product was imported was largely a cut  
6 form and that was causing serious problem to the  
7 industry as it existed at that time, so the case  
8 covered both whole and cut salmon and the affected  
9 industry. The people that testified were involved in  
10 selling a lot of cut product and we were able to  
11 demonstrate injury to that industry as a whole.

12 When we came back here for this review, we looked  
13 at this again to see whether there would be a reason  
14 to change it, and I would submit that the starting  
15 point of the scope being different is an important  
16 factor for the Commission to consider in retaining  
17 this definition. But frankly, this was not put in  
18 issue by the Respondents. They accepted the  
19 definition, as did we, and so we didn't probe further  
20 to see whether there had been changes in the industry  
21 or otherwise that would warrant reexamining a  
22 different industry, and I don't think that's necessary  
23 at this point. I think you'd have to have more  
24 information to suggest because the industry's changed  
25 a lot over that time, and whether a broader industry

1 definition would be warranted would require an  
2 examination of some factors that really aren't on the  
3 record at this time.

4 The simple, maybe overly simplistic answer is it  
5 wasn't put in issue so we didn't develop the record on  
6 that and we both accepted the definition as developed  
7 originally.

8 COMMISSIONER ARANOFF: Thank you. I appreciate  
9 that answer, and I certainly plan to ask the  
10 Respondents this afternoon because I guess of the two  
11 sides they're the one who it would seem like it would  
12 have been in their interest to raise this issue and  
13 they didn't, so I will be asking them about it.

14 Mr. Cooke, in your direct testimony earlier today  
15 you indicated that there was a potential for expansion  
16 of salmon production in Maine that perhaps you don't  
17 see in New Brunswick. I was going to ask you to  
18 elaborate on that. reading our record so far we get  
19 the sense that because of the strictness of the  
20 environmental regulations and because perhaps of  
21 objections from property owners along the shore, it's  
22 very difficult to get a new license to put in  
23 additional salt water pens in Maine. Is that true?  
24 Is it changing? have any new licenses been granted  
25 lately or are they contemplated? What can you tell me

1 to develop our record on that?

2 MR. COOKE: I think I'll talk and then let Jack  
3 talk a second on this.

4 The coast of Maine is a very long coast line.  
5 There are some areas where you probably shouldn't try  
6 to put a salmon site because you're going to be in  
7 front of someone's view. But there is some very  
8 isolated coast line that we believe we can work with  
9 the environmental groups. Instead of being their  
10 enemies, it's better to partner and get their okay and  
11 get their blessing on where you might put sites, and  
12 that's our intention. There's a vast coast line there  
13 and we believe there's an opportunity.

14 The other opportunity we believe is the off-shore  
15 farming. And there's a bill to do some off-shore  
16 farming along the coast of Maine as well.

17 COMMISSIONER ARANOFF: By off-shore you mean  
18 where no one could see it?

19 MR. COOKE: That's correct.

20 MR. COACHMAN: I would just add to that that I  
21 think the first initiative we took when Cooke  
22 Aquaculture bought Atlantic Salmon of Maine's assets  
23 was to enlist the support of the Marine Resources  
24 Department in our state in making a commitment by the  
25 state to bring this industry back to where it should

1 be.

2 We then went to environmental groups who had  
3 expressed concerns about the aquaculture industry in  
4 Maine over the years and we faced those concerns up  
5 front and we have dealt with them and worked with them  
6 in trying to identify sites that would be acceptable  
7 to everybody in terms of their environmental impact,  
8 sight lines, and all the other factors in identifying  
9 new sites that can be permanent.

10 Lastly I would say that another initiative that  
11 my department has supported has been the development  
12 of a new pen system that is workable in deep water and  
13 totally submersible. At some point in time, and I  
14 would say again, Cooke Aquaculture has been very  
15 helpful with us in testing and trying to develop that  
16 model as well. So at some point in time we hope to be  
17 manufacturing those in Maine.

18 COMMISSIONER ARANOFF: Okay, I appreciate that  
19 answer.

20 And just to clarify, Mr. Coachman, in order to  
21 grant a new permit for a new pen, in addition to the  
22 state having to grant permission, are there federal  
23 permitting requirements, and how have you been working  
24 with the federal authorities on that?

25 MR. COACHMAN: I think the permitting

1 requirements are pretty much set by the state. We  
2 have been working with the Department of Marine  
3 Resources who is the lead agency on permitting.

4 COMMISSIONER ARANOFF: Okay, so you don't need a  
5 sign-off from EPA or any other federal authorities?

6 MR. COOKE: Maybe Fish and Wildlife. There may  
7 be groups we have to work to make sure we're -- But  
8 overall the state I believe has the lead.

9 COMMISSIONER ARANOFF: Okay, and as I understand  
10 the testimony of both of you gentlemen, this is all in  
11 the planning stages. No new permits have been granted  
12 yet.

13 MR. COOKE: No, and the greatest plan now is to  
14 get the ones that are already granted out there, back  
15 in use, and that's our priority right now.

16 MR. COACHMAN: And we have begun that process of  
17 some of the fallowed sites, bringing them back on-  
18 line.

19 COMMISSIONER ARANOFF: Okay, I appreciate those  
20 answers and I see that my yellow light is on. Thank  
21 you very much.

22 CHAIRMAN KOPLAN: Thank you, Commissioner.

23 Ms. Cannon and Mr. Coursey, Respondents assert on  
24 pages eight and nine of their brief, and I'm quoting,  
25 they say it is "extremely unlikely that there would be

1 significant underselling of Norwegian FWS if the  
2 orders were to be revoked. Norwegian salmon is a  
3 premium brand, premium priced product that even with  
4 the orders in place has continued to be sold at high  
5 prices in the U.S. in a very limited niche market.  
6 Norwegian FWS consistently oversold domestic FWS  
7 during the POI, the first review, and during this  
8 POR."

9 Pricing data from staff found in Tables 5-1, 2,  
10 and 3 on pages 5-8 through 10 of the Commission's pre-  
11 hearing staff report largely backs that up. But you  
12 claim at page 48 of your brief that revocation of the  
13 orders would result in price suppression and  
14 depression of U.S. prices.

15 Please elaborate, explaining how price  
16 suppression or depression would be attributed to  
17 subject imports rather than non-subject imports or  
18 some other cause. If the subject imports that I'm  
19 looking at in those tables have consistently oversold  
20 the domestic product.

21 MS. CANNON: There are a few answers to that,  
22 Commissioner Koplan. The first one is --

23 CHAIRMAN KOPLAN: I'm sure.

24 MS. CANNON: The first one is that the prices  
25 that you're looking at during the period of review are



1 a very limited volume of sales and subject to very  
2 substantial dumping duties. So obviously you would  
3 expect and hope that those prices would go up and  
4 wouldn't be low or undercutting U.S. prices when  
5 they're having to pay those duties.

6 CHAIRMAN KOPLAN: But the overselling is rather  
7 high as you look at that.

8 MS. CANNON: The dumping duties are rather high  
9 also.

10 I think that the better venue for you to look at  
11 is the European Union where when there weren't any  
12 restraints in place the European Union found  
13 underselling by the Norwegians at levels of up to 15  
14 percent, and that's documented in one of the exhibits  
15 to our brief. That's a very recent finding that just  
16 occurred and was made this year by the EU. So it does  
17 indicate that the Norwegian product is selling at  
18 those low prices.

19 It also indicates that the Norwegian product was  
20 not recognized to be, by the European Union, a premium  
21 product. It was recognized to be a commodity product  
22 sold on the basis of price.

23 So while there was finding by the Commission in  
24 the original investigation that the Norwegian product  
25 had a certain cache' and could command certain premium

1 prices at that time because it was marketed well and  
2 because the U.S. industry that existed was a startup  
3 industry and not well established, so even at somewhat  
4 premium prices they were able to obtain sales, it was  
5 also recognized that they were depressing prices in  
6 this market and that cache', whatever existed at that  
7 time, has been eliminated now. There is no further  
8 premium associated with this product, this Norwegian  
9 product that existed at that time. It's all  
10 considered commodity as the EU recently found, and  
11 there's every reason to believe it would be sold in  
12 this market as it was sold in the EU market at a lower  
13 price.

14 The last point I would make is a point Mr. Craig  
15 keeps making which is price is heavily influenced by  
16 supply. And if you get a significant volume of  
17 imports, which given the massive production, the  
18 excess capacity, the huge volume you're looking at  
19 from Norway right now, even a very small percentage of  
20 that coming into this U.S. market, that alone is going  
21 to drive the U.S. prices down, even without there  
22 being significant underselling.

23 MR. COURSEY: If I could add just one thing to  
24 that, Mr. Chairman. If you go back to the original  
25 investigation you will see that yes, while there was a

1 price premium of Norwegian product over U.S. product,  
2 over the period studied where there were comparison  
3 prices, both went down in unison. As the volume of  
4 the Norwegian product increased, the prices went down,  
5 which would support Mr. Craig's point that it was the  
6 imported subject merchandise that had a suppressing  
7 effect on the U.S. prices.

8 CHAIRMAN KOPLAN: Thank you. Thank you both for  
9 that response to my question.

10 Mr. Morang and Mr. Cooke, and Ms. Beck, you might  
11 want to get in on this as well because I'm going to  
12 refer to a table in the staff report.

13 But could you explain how capacity and capacity  
14 utilization is normally calculated in your industry?  
15 It appears that utilization heavily depends on  
16 production in a given year which has fluctuated over  
17 the period examined, due to a variety of reasons. And  
18 you talked this morning about things like super chill  
19 and infectious salmon anemia as some of those factors.

20 How reliable are our figures and how much weight  
21 should the Commission put on capacity utilization and  
22 its analysis? I'm saying that, Ms. Beck, because  
23 looking at Table C which is public. But I'd like to  
24 hear from the industry witnesses how you calculate  
25 capacity and capacity utilization.

1           MR. COOKE: Basically there's, you buy the lease.  
2           There's two or three parameters. The environmental  
3           parameter, how many fish can grow on that lease and  
4           how many cages you can put on that lease and your  
5           biomass, so there's a scientific mathematical  
6           calculation on how many fish you can grow on those  
7           leaves.

8           CHAIRMAN KOPLAN: Okay. Mr. Morang, anything --  
9           Does that cover it?

10          MR. MORANG: That covers it.

11          CHAIRMAN KOPLAN: Ms. Beck?

12          MS. BECK: I think that in response to your  
13          question about how much should the Commission rely on  
14          the figures, we think you should rely heavily on them.  
15          I mean it shows that the industry is operating well  
16          below their capacity --

17          CHAIRMAN KOPLAN: I know what they show.

18          MS. BECK: And that the capacity figures are  
19          correct. We have a couple of companies that have been  
20          verified as reporting correct and verified data, so I  
21          think you should definitely rely on them without any  
22          hesitation.

23          CHAIRMAN KOPLAN: Mr. Cooke, I note that you  
24          provided business plan projections in your  
25          questionnaire response to the Commission staff for

1 both ASM and Heritage, but when I looked, it didn't  
2 appear that you provided us with the dates those  
3 projections were formulated or specified the basis for  
4 those projections.

5 In your post-hearing submission could you provide  
6 the dates and any documentation that would relate to  
7 those responses?

8 MR. COOKE: Yes, definitely.

9 CHAIRMAN KOPLAN: Thank you very much.

10 With that I have no further questions. I want to  
11 thank you for your answers to my questions this  
12 morning.

13 Vice Chairman Okun?

14 VICE CHAIRMAN OKUN: Thank you, Mr. Chairman.

15 I wanted to return briefly on the environmental  
16 issues just to make sure that I understand that the  
17 record is complete. There are no pending suits with  
18 regard to any of your operations, is that correct?  
19 Mr. Cooke, you're shaking your head no.

20 MR. COOKE: That's correct, there's none. We're  
21 just waiting for the final leases to come out  
22 underneath the following.

23 VICE CHAIRMAN OKUN: I didn't hear the last of  
24 your --

25 MR. COOKE: We're just waiting for the remaining

1 leases to come out from within the following which  
2 will occur next spring, starting next spring.

3 VICE CHAIRMAN OKUN: Okay. I just wanted to make  
4 sure I understood that.

5 Ms. Cannon, and Mr. Coursey, this I guess falls  
6 in the legal world for you which is you've put a lot  
7 of information on the record which I appreciate with  
8 regard to the EU findings and you were just talking  
9 about those in response to several of the other  
10 Commissioners' questions with regard to premium,  
11 whether it's a premium product et cetera.

12 I guess my question for you is, if this were not,  
13 if this were a case where what we had instead was the  
14 EU had had an original order on salmon from Norway and  
15 they had sunset the order in the recent past and they  
16 would cite it in that the conditions had changed, that  
17 the Norwegian product either was or wasn't a premium  
18 product, and that it was not going to enter the EU at  
19 prices that would undersell. Should the Commission be  
20 looking to that as well if that were the case? In  
21 other words, I'm asking really in this case how much  
22 you would have us place emphasis on what the EU has  
23 found in this, in thinking about other cases where the  
24 finding may be opposite to what you would support.

25 MS. CANNON: That's a good question. I'm not

1 suggesting by my testimony that a finding by the EU is  
2 necessarily the same finding by the United States.  
3 Obviously there are different conditions in each  
4 market and there can be different findings in the EU  
5 that wouldn't necessarily be relevant here. But I  
6 think in this particular case the findings of the EU  
7 that have just occurred this year are rather telling  
8 because they're directed at some specific issues that  
9 have been raised here as to, for example, is the  
10 Norwegian product a premium product sold into a niche  
11 market? Well, they said no, this is a commodity  
12 product. Or the Norwegian claims, we only sell this  
13 product, our product is this premium product we sell  
14 at a high price. That's been a very generic claim of  
15 theirs, not specific to the U.S. market, but overall  
16 as I understand it, and the EU has said no. They're  
17 undercutting the prices here and they've said we don't  
18 have any problems with over-production, we don't have  
19 any more reason to believe there would be a surging  
20 volume into the U.S., and the EU has said we're just  
21 seeing that exact problem.

22 So I think it's more some of the specific  
23 findings by the EU. And frankly, the finding that  
24 they were dumping into that market which shows a  
25 continued tendency to engage in unfair trading

1 behavior where, interested in penetrating an export  
2 market, that should be recognized and taken into  
3 account not as dispositive of the Commission's  
4 findings here, but as relevant to your findings here.

5 VICE CHAIRMAN OKUN: Okay. I appreciate those  
6 comments.

7 Then I have, maybe not so much a question but an  
8 observation, thinking of Commissioner Pearson's  
9 question about what does the consumer think. And as  
10 my colleagues know, I used to work for an Alaskan  
11 senator so I have a lot more familiarity with wild  
12 Pacific salmon than I do with farmed Atlantic salmon.  
13 At least my senator was convinced there is taste  
14 difference. We spent a lot of time tasting all the  
15 different salmon to determine whether or not that was  
16 true, and I think they've done a great job with their  
17 marketing campaign on that.

18 But it's not a subject product, different  
19 species, obviously wild and not farmed.

20 But the one thing that I did want to ask you  
21 about that relates to this case, it goes back to the  
22 pricing again. You've talked about this commodity  
23 product and pricing is set by world conditions, and I  
24 know at least with regard to the marketing of the wild  
25 Pacific salmon, it was influenced greatly by movement



1 in Japan. Japan consumer markets. I always thought  
2 of it being, that really drove what they were looking  
3 at in terms of pricing. They had a specific market,  
4 and obviously Alaska is looking at the Pacific and  
5 looking at Japan and that's how they figured out what  
6 their prices were going to be.

7 So I'm just trying to understand with regard to  
8 the pricing here what, if you're just, again if it's  
9 just these overall numbers, or if someone out there in  
10 the market, a trader, is just looking at these overall  
11 supply and demand numbers and saying that's where  
12 prices are going to go. I just want to make sure I  
13 understand this market. I don't know if -- Mr. Craig?  
14 You've been speaking about that.

15 MR. CRAIG: That's a tricky one to try to answer,  
16 I think. But I think the point, how do we, I think  
17 you're asking how do we come up with our price, is  
18 that correct?

19 VICE CHAIRMAN OKUN: And what sets it? In other  
20 words, you have pointed us towards that right now  
21 prices are pretty good because of the supply situation  
22 in the world, if I understand that correctly. I think  
23 the Respondents have pointed more to if you look at  
24 the overall demand numbers, they're going up so that's  
25 what we're following are these overall demand numbers.

1 I'm trying to understand in looking into the  
2 reasonably foreseeable future, what you would have us  
3 focus on most specifically, determining what prices  
4 will be in the U.S. market.

5 MR. CRAIG: I'll try to answer this. A commodity  
6 product is based on the supply and demand that I've  
7 talked about before. What has happened in the past in  
8 the salmon industry is that when prices are strong  
9 like they are today we as an industry, and I don't  
10 want to point fingers at anybody in particular, have a  
11 tendency to put in more product and more smolt in the  
12 water and try to grow our industry too fast.

13 Therefore we flood the market and it drops again.

14 That's why it's very cyclical and it's up and down.

15 But to go back to a very simple statement of how  
16 we come up with pricing, there's an Erner Barry report  
17 that comes out twice a week no the seafood industry  
18 out of the New York area and that is a trend-setting  
19 prices, and it's different fish. That's where you see  
20 the pricing to a large extent.

21 I think there's one other item that I would like  
22 to clarify a little bit. We keep talking about the  
23 premium price for Norway and debating whether that's  
24 true or not.

25 What makes a premium product? That's the

1 question I think to get the key point here. And the  
2 reality is it's both Atlantic salmon, both grown in  
3 similar conditions whether it's in Maine or in Norway.  
4 The grading standards that we establish are much the  
5 same in both areas. So what really separates, what  
6 would make a product premium?

7 In my opinion it's providing your customer with  
8 the shelf life of a product, and the service that goes  
9 with that logistics. And so if we really wanted to  
10 talk about where is the premium product, it's probably  
11 in the state of Maine because we are a day away from  
12 the largest part of the market in the eastern United  
13 States and because our logistics chain is a day to a  
14 day and a half, we can respond and provide a better  
15 service. So I don't know how Norway can have a  
16 premium product.

17 VICE CHAIRMAN OKUN: Do you think, with regard to  
18 the Maine product, do country of origin markings help  
19 or hurt you in looking forward? I mean are you able  
20 to hone in on the fact that you've got a product being  
21 grown there and is that going to be something you're  
22 looking into or have looked into?

23 MR. COOKE: Certainly grown in Maine is a very  
24 good seller in the United States. No question of  
25 that.

1 VICE CHAIRMAN OKUN: Mr. Coachman?

2 MR. COACHMAN: I think it's part of our  
3 initiatives with fish products in general, not just  
4 Atlantic salmon or pen-raised salmon, but with Maine  
5 lobster and Maine fin fish in general, to identify  
6 them and brand them as Gulf of Maine seafood. I think  
7 that is the only brand name that can compete in terms  
8 of cache' with your former boss' state.

9 VICE CHAIRMAN OKUN: Mr. Coursey, a legal  
10 question for you. As you know there was litigation  
11 that followed the Commission's original determination  
12 and one of the things that I wanted to have you  
13 comment on for post-hearing is in terms of what the  
14 Commission was upheld in after its remand. There was  
15 the remand where there was a 3-3 vote and Judge  
16 Goldberg upholds the Commission, but I read it as a  
17 not very flattering opinion. In fact he takes issue  
18 with almost every finding the Commission made and then  
19 uses a looking at everything, based on the entirety of  
20 the record, particularly upon the significant absence  
21 of the volume of subject imports during the POI and  
22 uncontroverted record evidence that the lingering  
23 effects of past sales in the region of salmon continue  
24 to adversely impact the domestic industry. The court  
25 finds that the pluralities affirmative injury

1 determination supported by substantial record evidence  
2 in accordance with law is the final finding, but  
3 everything else including the price findings, the  
4 volume findings, he takes issue with.

5 I wondered if there's anything you can put in  
6 post-hearing, including the currency rate issue which  
7 was a big part of the original Commission's  
8 determination in which he spends a good amount of time  
9 talking about what relevance we should make of that in  
10 this investigation, in this review?

11 MR. COURSEY: We'd be happy to do that,  
12 Commissioner Okun.

13 I just would like to point out that on the exact  
14 date the first Judge Goldberg decision came out, the  
15 U.S. also received the panel report from the GATT in  
16 which the U.S. was upheld on 28 of 30 itemized issues,  
17 many of which were injury issues. It was the greatest  
18 or most significant victory that the U.S. had had in  
19 some time under the GATT regime and dispute  
20 resolution. I do recall both decisions very well, so  
21 we will address that in the post-hearing brief.

22 VICE CHAIRMAN OKUN: Okay.

23 Then since my yellow light's still on, if I can  
24 just do one other quick one for post-hearing, with  
25 regard to capital investment and the information in

1 Table 312 is confidential, Ms. Beck, but we've heard,  
2 and I've looked in the briefs at the reference to the  
3 investment that Mr. Cooke has made, and the  
4 information we have on Table 312 doesn't reflect those  
5 numbers. I just want to make sure I understand why  
6 that is and if there's anything you could add for  
7 post-hearing.

8 MS. BECK: Just to clarify the question, why the  
9 figures in the staff report don't reflect -- I mean we  
10 thought they were reflective in the sense that capital  
11 expenditures have declined over the period which is  
12 yet another factor that we believe makes the industry  
13 vulnerable. The research and development numbers --

14 VICE CHAIRMAN OKUN: Not the R&D so much but the  
15 investment that we've talked about that Cooke has put  
16 into the industry in the United States is not  
17 reflected, or has put into the industry and it may be  
18 that it's not all U.S. investment. I'm trying to  
19 understand how we should look at those numbers vis-a-  
20 vis the numbers we collected in this table.

21 MS. BECK: Okay, we will do so in the post-  
22 hearing.

23 VICE CHAIRMAN OKUN: I appreciate that. Thank  
24 you.

25 Thank you, Mr. Chairman.

1 CHAIRMAN KOPLAN: Sure.

2 Commissioner Hillman?

3 COMMISSIONER HILLMAN: Thank you.

4 I wanted to follow up just a little bit on the  
5 pricing issues as well. I appreciate your testimony,  
6 Mr. Craig, in terms of that prices are good right now.  
7 I have to say if I look, and some of it may be a time  
8 lag. If I look at the pricing data that we have in  
9 our staff report which looked at three specific  
10 products and asked for pricing information, beginning  
11 in 1999 through the end of June of 2005, as a general  
12 matter it looks to me as though prices are down and  
13 have been trending down over this time.

14 So part of me wants to make sure I understand how  
15 I square that with your testimony that prices right  
16 now are very good, so again, maybe it's just a timing  
17 issue, but secondly, to what would you ascribe this  
18 decline in price that we see over the time period that  
19 we're looking at? To me our data looks like you've  
20 seen a relatively significant decline in prices.

21 MR. CRAIG: I think I'll start off by saying  
22 everything's relevant. Yes, the prices have declined  
23 in the period you're talking about, but I was  
24 comparing the price today to what it was a year, a  
25 year and a half ago. It has come back somewhat from

1 that price.

2 Why is that happening? Why is there continuing  
3 decline in price? I think it's an indication of the  
4 efficiencies that the industry worldwide is  
5 extracting, and the supply of the product from around  
6 the world in relation to that. Maybe Glenn would  
7 perhaps want to answer that a little better.

8 COMMISSIONER HILLMAN: Mr. Cooke?

9 MR. COOKE: There's been an over-production  
10 worldwide. That's part of why you see the price import  
11 levels in the EU. There's been continued over-  
12 production, particularly from Norway.

13 MR. COURSEY: I just want to add, the observation  
14 you're making I think gives lie to the rosy scenario  
15 the Norwegians are presenting. Prices are relatively  
16 high right now. To them that means it's going to be  
17 that way out into the future. All you have to do is  
18 take a slice of the past going back several years to  
19 see how prices have changed. They are volatile. You  
20 can't depend on the prices which are relatively high  
21 today being there six months from now. It's a factor,  
22 as Craig has been saying, of supply and demand.

23 COMMISSIONER HILLMAN: Actually, I wanted to  
24 follow up a little bit on the comment that you just  
25 made, Mr. Cooke, in response to this. Because



1 obviously you heard the testimony that was given in  
2 the opening statement of the Respondents, that the  
3 Norwegians have put in place these very sophisticated  
4 controls on supply, that they've killed a number of  
5 these smolt in order to make sure that their  
6 production was in balance and in synch with what  
7 demand trends were doing.

8           Obviously your testimony is suggesting that  
9 that's really not been the case and that there  
10 continues to be over-supply. I wondered if you could  
11 elaborate a little bit about whether you've seen any  
12 changes in the ability to match supply and demand,  
13 either here or among the other major producers of the  
14 product?

15           MR. COOKE: I would tell you one of the reasons  
16 why supply and demand -- There's been a rise since the  
17 chicken flu, particularly in some european countries,  
18 people are not eating as much chicken. I think the  
19 consumption in Italy in chicken is down 30 percent.  
20 Well that consumption's being filled by other proteins  
21 like salmon currently.

22           Obviously those are perceptions more than reality  
23 and they could correct themselves very quickly. So  
24 it's going to be a very short-lived price increase  
25 that we're seeing in the marketplace.

1 I don't believe at all that -- I think the world  
2 would tell you that Norway's terrible at forecasting  
3 their production. Continually, over and over, they  
4 over-produce. One of the big proponents of the issue  
5 in EU was Scotland. Scotland was damaged very  
6 severely by the over-production of Norway in that  
7 marketplace. It will continue.

8 I think there's like, you talk about  
9 restructuring, but I think there's at least 174  
10 different companies still in Norway. That's massive.

11 COMMISSIONER HILLMAN: Other than the number of  
12 companies, which we do have information on. If there  
13 is anything further on this issue of over-supply or  
14 over-production, again by the Norwegians or others  
15 that you would want to add in the post-hearing brief,  
16 given that their argument is very clearly that that's  
17 not true, they have in fact been able to create these  
18 greater controls and more accurate forecasting and all  
19 of that. If your view is the contrary, if there's  
20 anything you want to add in the post-hearing on that I  
21 think it would be helpful.

22 MR. COURSEY: We will do so, but I would just  
23 comment that is there evidence of that? It's just  
24 their claim. The evidence to us is quite the  
25 contrary. They cannot sell into their major market,

1 the EU, without dumping. That does not reflect or  
2 support their claims of being able to predict and  
3 govern their production to fit with world demand.

4 MR. COOKE: Why would they kill 20 million fish  
5 if they could forecast what they were doing? Wouldn't  
6 they pin the forecasting and not grown the 20 million  
7 fish in fresh water? To me, you'd have to question  
8 why they went to that state and probably spent \$20 or  
9 \$30 million.

10 I would tell you the reason why they killed fish  
11 is because the import duty in the EU was put in place.

12 MS. BECK: And Commissioner Hillman, I think also  
13 some evidence, the foreign producers' questionnaires  
14 went through the time period of 2004 for a full year,  
15 and then a half year, 2005. The Commission staff went  
16 out with a supplemental questionnaire that asked for  
17 projections for a full year 2005 and 2006, and the  
18 data that was reported back to the Commission is that  
19 in fact production by Norwegian foreign producers is  
20 expected to increase. So although they may be saying  
21 that about the controls, the other evidence we're  
22 seeing is not only expanded production based on their  
23 numbers, but also capacity.

24 COMMISSIONER HILLMAN: I appreciate that answer  
25 which also raised another question I wanted to just

1 make sure I understood your testimony, Mr. Cooke.  
2 That's this issue of again, how long? Everything  
3 we've heard from your end of it is it's a three year  
4 window from when the eggs are laid down to when the  
5 salmon goes to market. But you mentioned that the  
6 Norwegians, I thought you had the word super smolt and  
7 then something about warmer water in terms of whether  
8 they are shortening the timeframe between when eggs  
9 are laid down and when the Norwegian salmon comes to  
10 market. I wondered if you could --

11 MR. COOKE: There definitely is a shorter  
12 timeframe for Norway to grow fish than eastern North  
13 America. From when it's laid down at the hatchery, my  
14 guess is it could be 10 to 12 months shorter than what  
15 we would in the east coast. Part of that's just  
16 because the salmon is a cold blooded species and it  
17 grows faster in warm water.

18 COMMISSIONER HILLMAN: So it's largely a function  
19 of the warmer water?

20 MR. COOKE: Absolutely.

21 COMMISSIONER HILLMAN: Did I hear this word super  
22 smolt?

23 MR. COOKE: Yes.

24 COMMISSIONER HILLMAN: What is that?

25 MR. COOKE: They basically take a small juvenile

1 fish in fresh water and accelerate it using photo  
2 period manipulation and sometimes feed manipulation so  
3 it's actually getting over the water quicker. It's  
4 kind of scientific stuff, but --

5 COMMISSIONER HILLMAN: Okay. I appreciate that.

6 The last question is trying to understand this  
7 issue of what was found in the original investigation  
8 largely on the price effects issue. If I look at the  
9 original investigation, subject imports mostly  
10 oversold the domestic product, but the Commission  
11 nonetheless found price effects largely based on  
12 volume. I mean it was in essence saying it's partly  
13 this premium issue, notwithstanding the overselling,  
14 that they attributed the overselling largely to the  
15 premium being paid for Norwegian salmon and said due  
16 to the huge volume we are going to assume a price  
17 effect.

18 Given how much of the market today is non-subject  
19 imports -- Canadian, Chilean, non-subject imports, can  
20 we make the same finding today? That volume alone  
21 results in a price effect if such a large portion of  
22 the market would be non-subject.

23 Ms. Cannon?

24 MS. CANNON: Yes, I think you can make that  
25 finding today because I don't think anything has

1 changed in terms of supply affecting price. That's  
2 the testimony you've heard from Mr. Craig today, that  
3 the increased volumes into the market from any source  
4 are going to affect price and the fact that there  
5 happened to be increased non-subject imports into the  
6 market at this point, is not --

7 COMMISSIONER HILLMAN: Can I really attribute a  
8 price effect from Norwegian salmon to imports of  
9 Canadian salmon or Chilean salmon? That's the  
10 struggle I have. If there were no demonstrated price  
11 effects in the original investigation, direct price  
12 effects, the price effects were indirect as a result  
13 of volume. But now my volume is largely from other  
14 sources.

15 MS. CANNON: Part of the predicate of that is  
16 that you're assuming that the Norwegian product would  
17 still be able to obtain a higher price, would be  
18 premium priced which as we stated today is not the  
19 case. This is a commodity product at this point and  
20 there's no reason to think that Norway's going to come  
21 in here and sell at higher prices as they did at the  
22 time of the original investigation because things have  
23 changed a lot.

24 So those original findings and conclusions by the  
25 Commission at that time are not true today as the EU

1 has just found. That's part of the answer to your  
2 question, that you shouldn't assume that that premium  
3 is going to be obtained today by Norway were the  
4 orders to be revoked.

5 Mr. Coursey has --

6 MR. COURSEY: In the original investigation what  
7 was going on was you had a relatively new entrant,  
8 U.S. producers, coming into a market that the  
9 Norwegians were already present in. Newcomers often  
10 have to sell at a lower price to get a sale.

11 If you have the established market person, this  
12 goes on in the airlines, you read about it in the  
13 airlines every day. Sees the newcomers coming in and  
14 goes down on its price, it's going to force the  
15 newcomer to go down as well.

16 So you have the exact same direct effect you have  
17 with underselling, except it's overselling with a  
18 premium caused by the fact that there's a perception  
19 that the product is worth a nickel more. I guess I  
20 don't -- The U.S. industry couldn't get out behind  
21 that. The Norwegians had to go down in price. They  
22 brought the volume in, it caused them to go down in  
23 price and the U.S. in order to get the sale had to  
24 keep going down with the price. It was pushed down in  
25 essence by the Norwegian product.

1           If you go to today, I don't think you can --  
2       There just isn't Norwegian product in the market, so  
3       there's really nothing, what is in the market is  
4       anecdotal sales. The Norwegians will go around and  
5       promote their product as saying it's premium still,  
6       and there are a certain number of people, if you tell  
7       them something's premium they'll buy it anyway just  
8       because you've told them it's premium, but not that  
9       many people are selling it. These are anecdotal  
10      sales. I don't think that the higher prices really  
11      tell you much of anything right now about what  
12      Norwegian pricing would do if the orders were lifted  
13      and if they could bring product here without having  
14      the duties.

15           COMMISSIONER HILLMAN: I appreciate that  
16      response. Thank you.

17           CHAIRMAN KOPLAN: Commissioner Lane?

18           COMMISSIONER LANE: Thank you. I forget who  
19      mentioned this in the earlier testimony, or maybe Mr.  
20      Coursey, it was you in your opening remarks, but you  
21      talked about the number of production workers in the  
22      U.S. and I didn't understand how many you said, how  
23      many workers there were.

24           MR. COACHMAN: Actually that may have been in my  
25      remarks. I said that in Washington County three or



1 four years ago the aquaculture or salmon farming  
2 industry had nearly a thousand employees, in  
3 Washington County alone. That figure has been reduced  
4 dramatically, and Cook Aquaculture's purchase of  
5 Atlantic Salmon of Maine has given us hope that we can  
6 bring it back. In fact Glenn can speak to this better  
7 than I can, but I think he is back up just in Cooke  
8 Aquaculture's operation I think they're back up 80 or  
9 90 employees since he moved into Maine.

10 Our hope is once we start reopening processing  
11 plants that we can get the employment in Washington  
12 County back up to where it was four or five years ago  
13 and salmon farming would be the number one employer in  
14 the county as it was at that time.

15 COMMISSIONER LANE: Those thousand workers were  
16 all production workers?

17 MR. COACHMAN: No, that was in all aspects of  
18 farming, from the beginning of the process in the  
19 fresh water hatcheries to the penned fish areas to the  
20 processing areas.

21 COMMISSIONER LANE: So it included the processing  
22 aspect of it also.

23 MR. COACHMAN: Yes, it did.

24 COMMISSIONER LANE: Maybe Mr. Cooke or Mr.  
25 Coursey or someone, I need a little history lesson I

1 think, and I am not a consumer of salmon, unlike  
2 Commissioner Pearson, so I really don't know a whole  
3 lot about salmon except sometimes I buy it and other  
4 people eat it.

5 Atlantic salmon is not wild raised. Was it ever  
6 wild raised or is this something, a new product? I'm  
7 just sort of curious as to why it is now being farmed  
8 in this country, et cetera, and it wasn't before.

9 MR. COURSEY: My understanding Commissioner Lane,  
10 is that many years ago there was quite a market in  
11 wild caught Atlantic salmon but that the Atlantic  
12 salmon was in essence fished out and through treaty  
13 there has been a prohibition generally on the  
14 harvesting of Atlantic salmon. I think there is a hope  
15 for a come-back of that.

16 I'm sure you'll ask the same question of the  
17 Respondents. My guess is they'll tell you that one of  
18 the reasons they got into salmon farming is because  
19 they had a lot of unemployed fishermen that they  
20 needed to find something to do. It is true that all  
21 of the Atlantic salmon consumed in the world today is  
22 farmed, and very little outside of sport fishermen  
23 harvest is wild caught.

24 COMMISSIONER LANE: Why Maine instead of other  
25 parts of the United States?

1 MR. COOKE: Maine has the coast line, the water  
2 temperature, the profile that fits the salmon farming  
3 basically. It has the temperature regimes and the  
4 area to grow them.

5 COMMISSIONER LANE: Is the size of the industry  
6 limited by government regulation or are there  
7 practical reasons why the size of the industry in  
8 Maine is limited?

9 MR. COOKE: Well, it's kind of two-fold. You  
10 have to actually lease a piece of technically water  
11 lot from the state so it's limited by how many, you go  
12 through the process, it's quite a heavy regulatory  
13 process to go through to get a site approval, so it's  
14 limited to how many of those sites you can get  
15 approved and the timeframe to go through those. It's  
16 also obviously limited by the coast line, and the  
17 places you can put them.

18 A lot of the future relies on off-shore farming  
19 and I think that has a whole new future for the state  
20 of Maine and Canada as well probably at some point.

21 COMMISSIONER LANE: You're going to have to  
22 explain to me what the difference is between off-shore  
23 farming and what you're doing now.

24 MR. COOKE: Well, consider this more like coastal  
25 farming. We're in coves and inlets and areas that are

1 semi-protected, whereas off-shore means you're way out  
2 in the middle kind of the bay, off-shore five miles,  
3 that type of thing, heavy exposure. It's a whole  
4 different process.

5 MR. COACHMAN: If I can add to that, we have very  
6 strict environmental laws in Maine and we're very  
7 serious about them as I stated in my testimony. So  
8 citing new areas of the state, of the coast line where  
9 we can permit salmon farming is an involved process in  
10 Maine and we have enlisted the support and help of  
11 environmental groups so as to avoid some of the  
12 problems that have been run into in the past.

13 But when you talk about off-shore salmon farming,  
14 the big aspect of that is, the big advantage to it is  
15 it addresses all of the environmental concerns in  
16 terms of sight line, in terms of if you're in deeper  
17 water the pollution from the raised salmon is  
18 obviously not as much of a factor as it is in shallow  
19 water. Many of the other environmental concerns are  
20 addressed.

21 So we feel, and again, Cooke Aquaculture has been  
22 very supportive and helpful in helping us develop a  
23 totally submersible system where we can have salmon  
24 farming off-shore and address all of the environmental  
25 concerns.

1 COMMISSIONER LANE: Okay, thank you.

2 I note that the data on research and development  
3 is business proprietary, so I expect an answer in a  
4 post-hearing response. I would like to know if  
5 research into resistance to disease, improved yield,  
6 or any other area where I would expect the search  
7 to be taking place is being done in the public areas  
8 such as by government or universities. And if so, how  
9 is that knowledge made available to your industry?

10 Also, any additional detail or comments you can  
11 provide on research and development would be  
12 appreciated. For example, do you agree with the BPI  
13 data we have on research and development?

14 MR. COURSEY: We will respond to that in a post-  
15 hearing brief.

16 COMMISSIONER LANE: Thank you.

17 That's all the questions I have, Mr. Chairman

18 CHAIRMAN KOPLAN: Thank you.

19 Commissioner Pearson?

20 COMMISSIONER PEARSON: I'm curious about how the  
21 Norwegian industry goes about exporting its salmon.  
22 Are Norwegian export prices determined by open  
23 competition among a number of Norwegian producers? Or  
24 is there some sort of centralized export entity that  
25 exerts some control over export sales and pricing?

1 Mr. Craig perhaps?

2 MR. CRAIG: I don't think I can answer that. I'm  
3 not quite sure how they do it. Maybe someone else  
4 here, but maybe the Norwegians would have a better  
5 answer.

6 COMMISSIONER PEARSON: Ms. Cannon?

7 MS. CANNON: We could look into that further for  
8 you. I don't believe we know the answer to that right  
9 now as to how, whether there's a central pricing or  
10 there are individual pricing. Obviously they know  
11 more about that than we, but if you'd like us to look  
12 into it -- Unless Mr. Cooke, do you have anything?

13 MR. COOKE: I'm quite sure there's individual  
14 pricing as well in the marketplace because there are  
15 certainly different major players that are exploring  
16 to the marketplace.

17 COMMISSIONER PEARSON: The record indicates that  
18 in the original investigation there was some  
19 meaningful involvement by the government of Norway in  
20 this industry, and I don't have a good sense of what's  
21 there now. I'll ask the second panel this afternoon.

22 Mr. Craig, there have been quite a number of  
23 questions already about price, but I've got one more.  
24 Why are buyers willing to pay more for Norwegian  
25 salmon? I would explain that question going partly to

1 what Ms. Cannon had commented on a few minutes ago.  
2 Our record shows our pricing products show quite  
3 observable levels of over-selling by the Norwegian  
4 product during this period of review. And I'm  
5 wondering why are people willing to pay more for the  
6 Norwegian salmon?

7 MR. COOKE: Would you mind if I responded?

8 COMMISSIONER PEARSON: Please go ahead, Mr.  
9 Cooke.

10 MR. COOKE: Part of it is there are such limited  
11 volumes going in. A certain distributor would say oh  
12 gee, I'll sell this to this restaurant and put  
13 Norwegian salmon on the menu and have something a  
14 little different or a little niche different than  
15 anyone.

16 When volume comes in, that volume will take way  
17 that niche to it and everybody has it. That's the  
18 difference.

19 It's like there's some product coming in from  
20 Iceland or wherever. If it's specific and it comes in  
21 very niche and very low volumes, you can find your  
22 niche and find a higher price for that, but these are  
23 low volume numbers.

24 COMMISSIONER PEARSON: Mr. Craig, I thought you  
25 made a rational argument earlier that the salmon from

1 Maine should have a shelf life advantage over anything  
2 imported from Norway. And in light of that, do you  
3 have anything additional to add to Mr. Cooke's comment  
4 about why the record does show that people in the  
5 United States have been willing to pay more for the  
6 Norwegian product?

7 MR. CRAIG: I think we have to go back again to  
8 the fact that it's very small volumes. I think if you  
9 can identify the few people in the United States that  
10 want to buy your product and keep the volumes at that  
11 level, you can get a premium price. That's not the  
12 reality going forward if they had free access to the  
13 market, obviously.

14 It's controlled, in my opinion, it's controlled  
15 selling when you have a few customers that you're  
16 trying to sell to and keep the volumes at a very  
17 minimal. From my perspective as a sales person, I'd  
18 love to be able to have that opportunity, but that  
19 doesn't work very well in most cases.

20 COMMISSIONER PEARSON: And Ms. Cannon, in light  
21 of your earlier assertions that, if I understood you  
22 correctly, that there hadn't been much overselling  
23 recently, could you explain either now or in the post-  
24 hearing how we should interpret what we observe in our  
25 pricing product?



1 MS. CANNON: I'm sorry in light of my earlier  
2 assertions there's not over-selling?

3 COMMISSIONER PEARSON: I had thought that's what  
4 you said earlier, that the Norwegians had not been  
5 over-selling. You mentioned something going on in  
6 Europe and then in reference to what was happening in  
7 the United States. Perhaps I just didn't understand  
8 what you were saying.

9 MS. CANNON: Maybe I misspoke. I was not  
10 suggesting that they are not over-selling. At the  
11 moment based on the small volume of sales as shown on  
12 your staff report, it indicates they do tend to be  
13 over-selling in this market with that small volume of  
14 sales. But I was citing to the EU cases, an example  
15 of where the larger volumes happen. Then you don't  
16 see that over-selling. That's where they are  
17 underselling and that's what we would expect to see in  
18 this market as well where the order is revoked.

19 So we do find it to be very much related as Mr.  
20 Cooke and Mr. Craig said, to the tiny volumes that  
21 they're selling at right now, the reason that you're  
22 seeing that over-selling.

23 COMMISSIONER PEARSON: And that would be the case  
24 even though, as I understand in the original  
25 investigation we did have continued over-selling by

1 the Norwegian product throughout the period.

2 MS. CANNON: That's correct, because we don't  
3 believe that that premium that they were able to  
4 command at the time of the original investigation  
5 would any longer be true.

6 COMMISSIONER PEARSON: Mr. Coursey?

7 MR. COURSEY: Commissioner Pearson, you have to  
8 keep in mind that if you look at the pricing  
9 comparisons from the original investigation you'll see  
10 that although the Commission had its traditional three  
11 year analysis, it actually was a very useable  
12 comparison as I recall, were over a relatively short  
13 period of time very close to the actual investigation  
14 itself because the industry was just coming on-stream  
15 in Maine at the time. So we're not talking about a  
16 three year period where this is taking place.

17 COMMISSIONER PEARSON: Okay, fair enough.

18 Because imports from Norway have been quite small  
19 during the period of review, they really haven't had  
20 much effect on the domestic industry. I don't think  
21 anyone's made the assertion that they have.

22 So to some degree, are you arguing that the  
23 injury to the domestic industry has come from  
24 somewhere else then? The harm that we see during the  
25 period of review, the financial losses are there, it's

1 quite clear, I don't think they're disputed.

2 Something is causing them, not the Norwegian imports.

3 So are to some degree you arguing that the orders  
4 should be kept in place due to the harm done by court-  
5 ordered fallowing of sites?

6 What's the -- Please, Mr. Coursey, get me out of  
7 this.

8 MR. COURSEY: I think that the theory is fairly  
9 straightforward in following the statute. It's that  
10 if, the question is if the orders are revoked would  
11 the foreign exporters resume their unfair trading and  
12 would that likely injure or reinjure the domestic  
13 industry. That's simply all we're saying is yes. you  
14 have a very vulnerable industry here and we're not  
15 saying the industry is vulnerable because of anything  
16 that has happened to them by way of Norwegian products  
17 over the last few years. However, it is vulnerable.  
18 The orders do exist. You have findings from the  
19 Commerce Department as well about the levels of  
20 dumping and subsidization one can expect if the orders  
21 were revoked as well as the common sense analysis you  
22 get from looking at the EU. And just applying your  
23 standard criteria for a sunset review, I can't see how  
24 they would warrant pulling these orders. I don't  
25 think you're looking at the same type of causation

1 question in a sunset review as you're looking in an  
2 original investigation.

3 COMMISSIONER PEARSON: Of course not, but we've  
4 got an industry that's already not doing terribly  
5 well, you lift the order is it going to do any worse?  
6 It's not completely obvious.

7 MR. COURSEY: Part of our job is to convince you  
8 that it is going to, that it needs these orders in  
9 order to recover fully, to improve. That's in essence  
10 what we are trying to do here.

11 We would have a harder situation, granted, if we  
12 had a finding by the EU that everything was fine,  
13 we've sunsetted the dumping order there. If in fact  
14 the Norwegians come in and show that there is in act  
15 no excess capacity, in fact production is going down.  
16 But we don't see any of those things.

17 So you have an industry that's vulnerable, that  
18 has been through difficult times unrelated to subject  
19 imports. however, what it is looking at, and frankly  
20 what Mr. Cooke is looking at is, what is the risk  
21 here? What is at stake here?

22 What I think he told you in his testimony is that  
23 this isn't that we are planning on putting \$85,000  
24 into this industry, we are putting it in there. It is  
25 there. It's a bet the company deal.

1           If the order is revoked and Norwegians come in,  
2           the company will be swamped. The industry will go  
3           down. That's I think our message.

4           MR. COOKE: That's the case. I have no doubt in  
5           my mind whatsoever. If Norway is allowed back into  
6           the U.S. market it will spell the end for me. The  
7           history of Norway is they over-produce and they end up  
8           dumping.

9           For instance, maybe they dump into the U.S. so  
10          they don't get a minimum import pricing problem in the  
11          EU now. The history is they over-produce and they end  
12          up dumping. And obviously not just the U.S., in the  
13          EU as well.

14          MR. COACHMAN: If I could just add, if Cooke  
15          Aquaculture is going to reduce its investment in order  
16          to reduce its risk because the game has been changed  
17          here, I would suspect and I haven't talked to Glenn  
18          about this, but I would suspect that the first  
19          curtailment would be any further investment in Maine  
20          which kills our industry.

21          COMMISSIONER PEARSON: Thank you very much.

22          CHAIRMAN KOPLAN: Commissioner Aranoff?

23          COMMISSIONER ARANOFF: Thank you, Mr. Chairman.

24          Let me start by following up on Commissioner  
25          Pearson's question. Mr. Cooke, you just indicated

1 that if the Norwegians come into the U.S. market  
2 that's the end. Are there any trade remedies in  
3 effect against Norwegian imports to Canada?

4 MR. COOKE: No, and currently, I understand a lot  
5 of the Norwegian salmon has to be flown in from  
6 Norway. Canada's a very small country, obviously,  
7 compared to the U.S., and even prior to the original  
8 order they were not there in Canada in any large  
9 means. There's less than 30 million people in Canada.  
10 Compared to that many in New York City, it's --

11 COMMISSIONER ARANOFF: So your basic argument is  
12 that Norwegian competition is actually going to be  
13 more intense in the U.S. market than it ever has been  
14 in Canada.

15 MR. COOKE: I think that's partly how the  
16 market's set up in Canada. I mean basically outside  
17 of Quebec and Ontario, those are the major markets in  
18 Canada. They're very small, isolated, particularly  
19 for fresh salmon being flown in from Europe.

20 COMMISSIONER ARANOFF: Anything you can add on  
21 that in the post-hearing would be helpful, and it  
22 leads me directly to my next question which had to do  
23 with transportation costs.

24 Is there really, is there any real difference in  
25 transportation costs for the Norwegian industry in

1 terms of shipping to the U.S. versus some of the other  
2 markets that they ship to now that would have an  
3 affect on their incentive or the cost to them of  
4 reentering this market in significant volumes?

5 MR. COURSEY: If you're asking are transportation  
6 costs to the U.S. greater than to the EU, Eastern  
7 European countries, perhaps Russia. I'm not sure  
8 about Russia. I would assume -- They're lower than  
9 shipments to those countries.

10 What's attractive about the U.S. market to the  
11 Norwegians is there is direct transportation to New  
12 York City. Look at Exhibit 1 of our pre-hearing  
13 briefs. The news report where Mr. Liabo was quoted,  
14 and he talks about the great advantage the Norwegians  
15 have over the Chileans in getting product into the  
16 eastern, northeastern market.

17 What this market holds out for the Chileans is  
18 volume, and generally higher prices than other export  
19 markets. This is why they want in. They will, there  
20 is the potential of overcoming the transportation  
21 costs to selling into this market. The volume  
22 [presented is really not matched but the EU for  
23 example.

24 So obviously there are different costs. I think  
25 as Mr. Cooke was saying, the transportation costs to

1 Canada are going to be considerably more because there  
2 isn't a direct route to Montreal or Quebec from  
3 Norway. you're talking about another jag. But here,  
4 they set up their industry in many ways to service the  
5 EU and the U.S. markets.

6 COMMISSIONER ARANOFF: The only sort of follow-up  
7 I'd ask you to address on that is, once you're  
8 shipping salmon in by air, are they sharing the plane  
9 with other cargo so that you care what the routes are?  
10 I mean once you have a whole cargo plane full of fish,  
11 assuming that you have enough people in Canada to eat  
12 it, what's the difference?

13 MR. COOKE: I think that's it though. It's  
14 volume, right? For instance, our company shipments to  
15 Montreal are minuscule compared to the shipments to  
16 New York.

17 COMMISSIONER ARANOFF: You can't fill one plane?

18 MR. COOKE: No, we can't fill a truck. That's  
19 the issue.

20 COMMISSIONER ARANOFF: Okay.

21 MR. COOKE: You have also Commissioner Aranoff,  
22 questions of haul back. Planes come over full,  
23 they've got to go back with something. You're not  
24 going to be -- You always have the problem in this  
25 industry figuring out what's going to be,



1 transportation costs depend to a great degree on  
2 what's in the haul back.

3 COMMISSIONER ARANOFF: Thanks. I won't belabor  
4 that point any further.

5 One other data issue that I wanted to follow up  
6 on, Mr. Cooke, can you tell us how far it is from the  
7 docks in Maine to your processing plant in New  
8 Brunswick?

9 MR. COOKE: By water?

10 COMMISSIONER ARANOFF: By however you actually  
11 ship the fish there.

12 MR. COOKE: By truck between Eastport, Maine and  
13 St. George you're probably talking an hour. And  
14 Machiasport, another 35, 40 minutes on top of that.

15 COMMISSIONER ARANOFF: Can you please put on the  
16 record for us in your post-hearing what the capacity  
17 is at your New Brunswick plant and what your capacity  
18 utilization has been over the period of review?

19 MR. COOKE: Yes, okay.

20 COMMISSIONER ARANOFF: Obviously I'm looking at  
21 the issue of the extent to which there really is a  
22 need to reopen the processing facility in Maine in  
23 order to handle Maine production.

24 MR. COOKE: Even in New Brunswick today we're in  
25 a leased, Heritage which we have just purchased, is in

1 a leased facility that we have to be out in 2007. So  
2 there's extreme under-capacity in New Brunswick. We  
3 will provide that though for you.

4 COMMISSIONER ARANOFF: Thank you.

5 I also wanted to follow up on a question that  
6 Commissioner Lane was asking about the data on  
7 employment in our record. Mr. Coachman was testifying  
8 that at a certain point there were a thousand people  
9 employed in this industry in Maine. If you take a look  
10 at the data in our Table 3-6 in the confidential staff  
11 report, they're confidential so I can't comment on  
12 them specifically, but the numbers are a lot smaller  
13 and that's even including the Washington State  
14 industry.

15 Any help you could give us in figuring out why  
16 this discrepancy is there would be very helpful. And  
17 I notice that the numbers being smaller goes all the  
18 way back to 1999 which is before the period where the  
19 domestic industry in Maine started to experience a lot  
20 of its reduced production problem.

21 MR. COACHMAN: The figures I quoted you for  
22 1,000 employees was in aquaculture and production of  
23 aquaculture. There were other aquaculture products in  
24 Maine -- mussels. They're just starting to, scallop  
25 for example, and sea worms and other aquaculture

1 products, that may be the reason for the discrepancy.

2 But the point of the testimony is we've gone from  
3 a thousand employees to roughly 250 in Washington  
4 County because of predominantly the decline in salmon  
5 farming in the county.

6 So I think the reason for the discrepancy may be  
7 that I was including all aquaculture activities in the  
8 county.

9 COMMISSIONER ARANOFF: Thank you, Mr. Coachman,  
10 that's a very helpful clarification. Even before you  
11 had testified about the thousand workers I was going  
12 to ask about the employment data because if you look  
13 at the current data which again includes the  
14 Washington State industry which hasn't had some of the  
15 problems that the Maine industry has, the numbers are  
16 still remarkably low. So I'm still wondering if we're  
17 missing something.

18 MR. COURSEY: We will address that in our post-  
19 conference brief, and we will address the projections  
20 that Cooke has for Maine operations there as well.

21 COMMISSIONER ARANOFF: Thank you very much, Mr.  
22 Coursey.

23 One more question that I wanted to get through,  
24 and I guess this goes to the definition of the  
25 reasonable period of time in this case.

1           As I take it, one of the arguments that the  
2 Norwegian industry is making, when they talk about the  
3 amount of smolt available as being a measure of  
4 capacity, you can debate as you have already whether  
5 or not it's a measure of capacity, but it does place  
6 an upper limit on how many fully grown salmon you can  
7 harvest within some period of time.

8           I take Mr. Cooke's testimony that that time might  
9 not be three years. Maybe it's only two years or even  
10 a little less depending on how you can accelerate it  
11 and some other things. But it seems to me that when  
12 we look at what's going to happen within a reasonable  
13 period of time, we've got two periods that maybe we're  
14 looking at. The time period based on what's in the  
15 water right now, and then maybe after that, assuming  
16 we can look that far ahead. It seems to me that the  
17 Norwegian argument has been if you take what's in the  
18 water now that's what there's going to be u through  
19 2008 and that's your reasonable period of time, so any  
20 other sort of capacity that they could be growing fish  
21 in doesn't matter.

22           I have two questions for you which you can follow  
23 up on in your brief. One is can we look further than  
24 that? Does the reasonable time extend further than  
25 2008 given the conditions in this industry? And as

1 you predict for us what you think will happen if the  
2 orders are revoked, can you make a distinction between  
3 what will happen based on the fish that are already in  
4 process versus what they can decide to do if the order  
5 is revoked to perhaps increase production? I think we  
6 need to look at those two periods of time separately.

7 MS. CANNON: We will do that Commissioner  
8 Aranoff. I do think, and we have said this in our  
9 brief and can elaborate on it further in post-hearing,  
10 that the reasonable period of time in this particular  
11 case should be longer than that typically used by the  
12 Commission because of the unique conditions of  
13 competition here, including the fact that if the  
14 Commission revokes the order early next year, they can  
15 just dump a bunch of new fish in right away and  
16 they're already guaranteeing accelerated production  
17 that quickly, even though those fish might not be  
18 harvested for a couple of years out.

19 So you have quite a different dynamic in this  
20 case when you're looking at that issue than you  
21 normally do in other cases.

22 COMMISSIONER ARANOFF: In following up on that, I  
23 don't want to come back for a next round if I can  
24 avoid it, so I just want to ask the rest of my  
25 question. If you could comment on, we heard that the

1 salmon in the U.S. spawn in November. If that's the  
2 same case in Norwegian, and if they don't know if the  
3 Commission's going to revoke this order by then, does  
4 that add another year to the period that we need to  
5 look at before they could actually be increasing their  
6 production?

7 MS. CANNON: We will do so.

8 COMMISSIONER ARANOFF: Thank you.

9 CHAIRMAN KOPLAN: Thank you, Commissioner.  
10 Let me see if there is another round?  
11 Commissioner Hillman?

12 COMMISSIONER HILLMAN: I have only one question,  
13 just to make sure I understand again this issue  
14 between the cut and the whole fish.

15 Why did the domestic industry not seek the  
16 continuation of the order on imports from Chile?

17 MR. COURSEY: I will try a general answer at  
18 that. You had a, four years ago I believe, or three  
19 years ago, a different ownership makeup of the major  
20 U.S. industries, and at the time the sunset review was  
21 initiated for the Chilean order, all the major  
22 producers had owners or had affiliates in Chile. It  
23 was not in the interests of the owners at that point  
24 to persist with the order any further. You had  
25 Atlantic salmon of Maine which had been bought by

1 Fjord in Norway, ownership had transferred from  
2 American interests to Norwegian interests and Fjord  
3 had the major operation in Chile.

4 Heritage, the other major grower, had been  
5 neutral in the investigation, but had a major  
6 affiliate or subsidiary in Chile producing product at  
7 Fjord Blanco, and in essence the one company, LR  
8 Enterprises, that was pursuing the case was bought by  
9 Heritage. So there was no one left with independent,  
10 ownership that was independent of Chilean interests  
11 that wanted to pursue the case so the industry  
12 registered its disinterest.

13 COMMISSIONER HILLMAN: I appreciate that response  
14 and I appreciate the answers to all the questions  
15 today. Thank you.

16 CHAIRMAN KOPLAN: Thank you. It appears there  
17 are no other questions from the dias. Ms. Mazur, do  
18 staff have any questions of this panel before I  
19 release them?

20 MS. MAZUR: Mr. Chairman, we do have one question  
21 from Chuck Yost, our financial analyst.

22 CHAIRMAN KOPLAN: Sure.

23 MR. YOST: Good afternoon, Charles Yost, office  
24 of investigations.

25 I do have one question for the post-hearing brief

1 regarding by-products. What I understand is when a  
2 fish goes from the whole flopping fish that then  
3 becomes processed, the blood is drained and the fish  
4 is eviscerated.

5 In your post-hearing would you please provide a  
6 reasonable estimate of the net cost recovery of those  
7 by-products for the periods that we have under review?

8 CHAIRMAN KOPLAN: Can you response for the  
9 record?

10 MR. COURSEY: We will do so, Mr. Yost, in our  
11 post-hearing briefs.

12 MR. YOST: Thank you.

13 MS. MAZUR: Mr. Chairman, staff has no further  
14 questions.

15 CHAIRMAN KOPLAN: Thank you, Ms. Mazur.

16 Before I release the panel, Mr. Vakerics, do you  
17 have any questions of this panel before they're  
18 released?

19 MR. VAKERICS: Thank you, Mr. Chairman. We have  
20 no questions.

21 CHAIRMAN KOPLAN: Thank you.

22 With that then, this concludes the first part of  
23 our hearing. I want to thank you all for your  
24 testimony, your responses to our questions and the  
25 fact that you traveled a distance to be with us today.



1           We're going to break for lunch, come back at 2:00  
2 o'clock.

3           I would just point out to you that this room is  
4 not secure, so any business proprietary information  
5 you need to take with you during the recess.

6           With that, I'll see you back at 2:00 o'clock.

7           (Whereupon, the hearing was recessed to reconvene  
8 at 2:00 p.m. this same day, Thursday, November 10,  
9 2005.)

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1 A F T E R N O O N S E S S I O N

2 (2:00 p.m.)

3 CHAIRMAN KOPLAN: We can resume.

4 Ms. Secretary, I understand there's a  
5 preliminary matter?6 MR. BISHOP: Yes, Mr. Chairman. Those in  
7 opposition to continuation of orders were to have a  
8 witness named Mr. Wally Stevens. Mr. Stevens is  
9 unable to attend to testify today, however I have  
10 distributed his affidavit and those in opposition  
11 would appreciate that being submitted for the record.12 CHAIRMAN KOPLAN: Without objection. I  
13 assume Petitioners have that as well, right?

14 MR. BISHOP: Yes, sir. they have.

15 CHAIRMAN KOPLAN: Thank you very much.

16 MR. BISHOP: Those in opposition to the  
17 continuation of the Antidumping and Countervailing  
18 Duty orders have been seated. All witnesses have been  
19 sworn.

20 CHAIRMAN KOPLAN: Tank you very much.

21 You may proceed, Mr. Vakerics.

22 MR. VAKERICS: Thank you, Mr. Chairman.

23 MR. BERG: Mr.Chairman, Commissioners, my  
24 name is Svein Berg and I am the President and CEO of  
25 the Norwegian Seafood Export Council. From here on

1 out I will refer to this as NSEC.

2 NSEC is a generic marketing body and our  
3 main target is to increase the demand for Norwegian  
4 seafood.

5 As you see in this chart, the production of  
6 Atlantic salmon has risen steadily for the last ten  
7 years. The present market situation is good and the  
8 world market prices are high and stable. This proves  
9 that production is not growing faster than demand.  
10 However, Norway's growth has been lower than other  
11 countries and Norway's world market share has  
12 decreased in this period.

13 This chart is displaying the global market  
14 for Atlantic salmon and who sells to which country.  
15 As you see, Norway and Chile are the two main players  
16 on the world market and these two major players have  
17 three different playing fields. The U.S. market is  
18 dominated by Chile and is considered to be Chile's  
19 home market. Chile's export is totally dominated by  
20 fillets. Canada is the most important supplier among  
21 the so-called other suppliers to the U.S. market.

22 Europe and Russia is Norway's home market.  
23 Norway's export to these markets is dominated by fresh  
24 whole salmon.

25 The Asian market is an area of more intense

1 competition than the two other areas. Norway is  
2 leading with regard to fresh whole salmon and Chile  
3 with regard to frozen.

4 This chart is saying that Norway has always  
5 had strength in exporting fresh whole salmon. Our  
6 main markets have developed a processing industry  
7 based on Norwegian fresh whole salmon, specifically  
8 for filleting and smoking. This is mainly due to high  
9 labor costs in Norway and custom duties in import  
10 markets.

11 Let me give you some examples. Russia is  
12 the market with the highest growth rate the last year,  
13 rising almost 50 percent in 2004. The strong growth  
14 continues in 2005. Conservatively estimated, we  
15 believe the Russian market will double in the next  
16 three years.

17 It is interesting to notice that the growth  
18 in Russia is in fresh, whole salmon. Frozen is at the  
19 same time decreasing. The growth rate in Russia is  
20 expected to continue based on several factors.

21 The increased import of fresh whole salmon  
22 is stimulated by the growth in modern super and hyper  
23 markets, especially in the large cities. The middle  
24 class is growing and they buy increasingly more  
25 salmon.

1           If the political regime stays stable there  
2 is no reason to expect that the growth will not  
3 continue. The EU market is our main market and it's  
4 also growing.

5           This development in demand is mainly caused  
6 by economic growth and the development in modern  
7 distribution in the ten new EU countries. But also  
8 increase consumption frequently among consumers in the  
9 important markets as the UK and France.

10           Poland is the strongest example of the  
11 growth in the new EU market with a growth of more than  
12 5,000 tons in 2004.

13           This chart shows that there is a strong  
14 connection between a number of modern super and hyper  
15 markets and the consumption of salmon. It is  
16 therefore good news to see how modern distribution is  
17 developing in Poland as it is in the rest of East  
18 Europe.

19           China is maybe the most interesting example  
20 of the long term potential for Atlantic salmon.  
21 Considering China's population, the growing middle  
22 class, and the income development in China, we believe  
23 this market represents a huge potential for salmon.  
24 This potential is the reason why my organization has  
25 been working in China for the last nine years.

1           I have given you examples on how our  
2 important markets grow. In contradiction to these  
3 markets, the U.S Market for fresh whole salmon is not  
4 growing.

5           This chart illustrates that fillets have  
6 driven the U.S. market. I see no reason why this  
7 trend will change.

8           Canada is dominating the import of fresh  
9 whole salmon to the U.S. Norway's share of this  
10 segment is next to nothing. Our share is hardly  
11 visible on the top of each column. I hope you are  
12 able to see the thin red line on the top of each  
13 column here.

14           This last diagram shows how we are investing  
15 this year compared to five years ago. AS you can see,  
16 we now give priority to our home markets -- European  
17 markets and the East Europe market.

18           We have eliminated our market investments in  
19 the U.S. as of 2003 when we closed down our U.S.O.  
20 office in Boston.

21           I do not foresee that we are going to reopen  
22 our U.S. operation because it makes no business sense.

23           We will in the future concentrate our  
24 operations. One, we have a strong market position;  
25 two, where our competitive advantages are the

1 strongest; three where the potential is the greatest.

2           Seen from my position, the U.S. market does  
3 not meet these criteria. Based on discussions I've  
4 had with Major Norwegian producers and exporters, I am  
5 confident that they view the U.S. market in the same  
6 way.

7           Thank you.

8           MR. LIABO: Good afternoon. My name is Lars  
9 Liabo. I am the Chief Executive Officer of Kontali  
10 Analyses. I remain engaged in salmon market analysis  
11 for over 18 years, focusing on salmon aquaculture in  
12 Norway and other major producing countries.

13           Based on statistical analysis it is  
14 extremely unlikely that if the orders are revoked the  
15 Norwegian industry would ship significant volumes of  
16 fresh whole salmon to the United States. It's also  
17 very unlikely that any Norwegian shipments of fresh,  
18 whole salmon to the United States. If the orders are  
19 revoked, would have any adverse impact on U.S. prices.

20           The farming of Atlantic salmon took off at  
21 the end of the '80s and the early '90s. At that time  
22 the Norwegian global market share was about 80  
23 percent. Today Norway's share of the global Atlantic  
24 salmon market has declined to 45 percent. Exhibit 1  
25 shows the total harvest quantity in Norway and

1 Norway's global market share from 1985 to today.

2 Before orders issued there were close to  
3 1,000 independent salmon farms around the world.  
4 Today there are only 170. The top gen global  
5 companies account for close to 50 percent of world  
6 harvest as shown in Exhibit 2. This consolidation  
7 makes it much easier to ensure that production and  
8 demand stay in balance.

9 The global markets are split between the  
10 producing countries based on the nature of products --  
11 fresh versus frozen -- and transportation costs. The  
12 main markets for Norwegian fresh whole salmon are the  
13 EU and Russia, where fresh salmon can be shipped by  
14 truck.

15 Exhibit 3 shows the distribution of  
16 Norwegian salmon exports. Chile ships fresh and  
17 frozen fillets to the U.S. and frozen to more distant  
18 markets by sea. Canada supplies fresh whole salmon  
19 to the northern parts of the U.S. market by truck.  
20 Exhibit 4 shows these trade patterns for 2004.

21 The U.S. market, Exhibit 5. The U.S.  
22 markets have changed from a fresh whole salmon market  
23 to a market dominated by non-subject non-subject  
24 Atlantic salmon fillets. In 2004 fresh whole salmon  
25 accounts for only 23 percent of the U.S. market down



1 75 % in 1990. This makes the U.S. markets for  
2 Norwegian fresh whole that producers even less  
3 attractive. In 2004, close to 70 % of fresh whole  
4 salmon in the U.S. is of Canadian origin. Together,  
5 Chile and Canada account for 90 percent of U.S. market  
6 share in 2004. Norway is reduced to being a niche  
7 supplier and high end alternative. See Exhibit 6.

8           Production capacity constraints in Norway.  
9 The Norwegian industry is currently producing at  
10 capacity. The number of salmon eggs placed in the  
11 water creates a constraint on current and future  
12 harvest. There has been a downward trend in the  
13 number of eggs laid down in Norway since the 2002,  
14 2003 season that will cause production capacity to  
15 decrease. It is not likely that production quantity  
16 or harvests can increase before mid 2008 at the  
17 earliest.

18           These capacity constraints make it very  
19 unlikely that the Norwegian industry can increase  
20 fresh whole salmon imports in the foreseeable future  
21 to the United States if the orders are revoked.

22           Harvest simulation models. In the late '80s  
23 and early '90s no one kept track of how many eggs were  
24 available, the number of smolts being released, the  
25 number of swimming inventory, biomass and estimated

1 harvest quantity. Today with sophisticated  
2 forecasting methods in the hands of consolidated  
3 industry leaders it's far easier to take action to  
4 avoid over-supply.

5 I work closely in forecasting the major  
6 global salmon companies and can assure you that they  
7 understand that it's in their economic self-interest  
8 to pay attention to harvest simulation models.

9 The Norwegian industry in particular will  
10 react positively if the models tell them supply will  
11 outstrip demand. Farmers, for example, can take  
12 action to destroy fingerlings when the number of smolt  
13 slated to be released is too high compared to future  
14 market demand. That's happened, for instance, in  
15 Norway in 2003. To avoid market over-supply, farmers  
16 took action and voluntarily destroyed more than 20  
17 million fingerlings.

18 Some words about freight costs, Exhibits 7  
19 and 8. Norwegian exports on non-subject fresh salmon  
20 fillets have continued to lose ground in the U.S.  
21 market because of high transportation costs.

22 Exhibit 7. From Norway, fresh whole salmon  
23 can be trucked overland. Transportation costs for one  
24 pound of salmon trucked from Norway to the EU or  
25 Russia, is between cents U.S. 9 to 18 per pound. Cost

1 of air freight for fresh whole salmon from Norway to  
2 the U.S. is cents U.S. 90 per pound to U.S. \$1.02 per  
3 pound, a difference of cents, U.S., 71 to 93 per  
4 pound. By comparison, fresh whole salmon  
5 transportation costs from Canada to the U.S. have  
6 trended between cents U.S. 09 and cheaper -- See  
7 Exhibit 8.

8 Based on freight costs alone it is highly  
9 unlikely that Norwegian exports of fresh whole salmon  
10 should increase notably if the orders are revoked.  
11 The high transportation costs would require Norwegian  
12 exporters to place their fresh whole salmon in a niche  
13 premium price market segment.

14 The EU minimum import price. Exhibit 9.  
15 Given the actual strong demand for Atlantic salmon  
16 that will continue into this future in the EU, the  
17 minimum import price will have no impact on trade  
18 flows on salmon from Norway to the EU based on the  
19 number of eggs and smolt available we do not expect an  
20 increase in harvest level in 2008. At the same time,  
21 increased demand for Atlantic salmon in the EU, Russia  
22 and the Far East, have lifted salmon prices to the  
23 highest levels in years.

24 At wholesale markets in the U.S., fresh  
25 whole salmon prices are 40 percent higher than the

1 prices quoted in September last year. The same level  
2 increase is quoted in the EU. Prices are expected to  
3 remain high in the future and certainly higher than  
4 the MIP. As a result the MIP will not force the  
5 Norwegian industry to find alternative markets to the  
6 EU.

7 Before concluding my testimony I would like  
8 to comment on the mis-use by ASM and Heritage if I  
9 must say so myself, of a relatively meaningless and  
10 unimportant interview with an Intrafish reporter,  
11 Exhibit 2 to the pre-hearing brief, Exhibit 1, excuse  
12 me, to the pre-hearing brief..

13 First, I want to make it very clear that I  
14 was giving my personal opinion and was not speaking on  
15 behalf of the Norwegian industry or any individual  
16 Norwegian company. Any effort by ASM and heritage to  
17 attribute my comments so to the industry is completely  
18 without any basis in in fact.

19 Second, in that interview I was asked by the  
20 reporter if it was possible that the Norwegian  
21 industry could take back the U.S. market. I answered  
22 yes, it was possible. I don't know about the U.S.  
23 but in "Norway, we believe that just about anything is  
24 possible.

25 Note, and this is very important. If that

1 reporter had asked me if I thought it was likely or  
2 probable that the Norwegian industry could or would  
3 attempt to take over the U.S. market, I would have  
4 said no. If that reporter had also asked me why I did  
5 not think it was likely or probable, I would have  
6 given him the same reasons I've given to the  
7 Commission to support my conclusion, that it is  
8 extremely unlikely that if the orders are revoked  
9 there will not any meaningful increase in threshold  
10 salmon shipments to the U.S. from Norway. Thank you.

11 MS. STERN: Good afternoon. It's a pleasure  
12 -- In this case, there are volume, price, cost,  
13 market, and other economic factors affecting the world  
14 market for fresh whole salmon. The Commissioner  
15 should consider these economic factors which are  
16 comprehensively reviewed in the Stern Group Report,  
17 Exhibit 1 to respondent's Prehearing brief based on  
18 our extensive research in Respondent's prehearing  
19 brief, when deciding whether Norway will be likely to  
20 sell its FWS at low prices in the U.S. market, if the  
21 orders are revoked.

22 In the view of the Stern Group, the  
23 Commission must conduct a so-called "from/to"  
24 analysis, to cover what has happened from the period  
25 of investigation, through today's market place

1 conditions to the future, if and when the orders are  
2 revoked.

3           Based on our extensive research for this  
4 case, the Stern Group has concluded that for the  
5 following eight reasons, revocation of the orders will  
6 not lead to continuation or reoccurrence of material  
7 injury to the domestic industry.

8           In the 14 year past, East Coast salmon  
9 facilities have, in effect, moved from being a  
10 domestic salmon-producing industry as defined by the  
11 ITC, to now being pens used to grow salmon that are  
12 merely works in progress. Today, salmon farmed in  
13 Maine do not become subject to FWS until they're  
14 transported across the border into Canada for further  
15 and final processing.

16           Canadian investment has made the most out of  
17 today's situation here in the U.S., which is  
18 characterized by the shrinking availability of sites,  
19 strict environmental regulations, and hostile public  
20 attitudes. These developments are entirely unrelated  
21 to FWS from Norway.

22           Secondly, since the imposition of the AD and  
23 CVD duties, there have also been dramatic changes in  
24 U.S. demand and supply for all salmon, including FWS,  
25 which again have nothing to do with the orders.

1           U.S. consumptions shifted strongly away from  
2 fresh whole salmon, which is Norway's primary product,  
3 to non-subject products, which are fillets, and  
4 further processed products. Canada and Chile,  
5 therefore, are now the dominant suppliers in the U.S.  
6 salmon market. This shift in consumer demand  
7 essentially forecloses the U.S. market to FWS. So  
8 this will drive Norway to market low volumes of FWS to  
9 U.S. connoisseurs, who are willing to pay premium  
10 prices.

11           After years out of the U.S. market and in  
12 the face of this Canadian and Chilean competition,  
13 Norwegian FWS producers will need to target white  
14 tablecloth gourmet restaurants, whose patrons will be  
15 attracted to Norwegian salmon, because of its origin  
16 and its reputation. U.S. salmon is not a candidate,  
17 obviously, for this niche market.

18           Third, the Norwegian FWS industry has  
19 evolved and prospered since the imposition of duties  
20 14 years ago. That is, again, without having any  
21 meaningful access to the U.S. market.

22           Technology has evolved in both production  
23 and distribution. And is spelled out by others on our  
24 panel, fundamental changes in government regulations  
25 in Norway have also encouraged drastic restructuring

1 and consolidation of the Norwegian industry.

2 Over this period, Norwegian producers have  
3 developed an array of growth markets worldwide by  
4 maximizing on their own efficiency, minimizing  
5 production costs and, again, restructuring their  
6 environmental regulatory systems, all without  
7 competing in the U.S. market.

8 Fourth, global demand is out-stepping  
9 Norwegian supply. There is no basis for concern that  
10 Norway will want to increase shipments to the U.S. As  
11 Lars Liabo has just testified, the Norwegian industry  
12 is producing at capacity, and capacity is expected to  
13 decline over the next two or three years.

14 Fifth, Norway has many non-U.S. alternative  
15 markets that are both well established and new, to  
16 which it exports FWS. As Svein Berg has testified,  
17 the Norwegian industry focused on the EU, its main  
18 market for FWS; on Russian, one of the world's fastest  
19 growing markets for Norwegian FWS; and on numerous  
20 other long-term growth markets in China, Korea,  
21 Singapore, Malaysia, and Eastern Europe.

22 Sixth, Norway markets its FWS in the U.S. as  
23 a premium-priced specialty product, and it's products  
24 are recognized as such in the U.S. market.

25 Wally Stevens, a major U.S. importer and



1 distributor, has filed an affidavit with the ITC to  
2 the effect that Norwegian salmon is this specialty  
3 premium product with a very special image. Norwegian  
4 producers, therefore, have no incentive to risk  
5 damaging their reputations by selling at low prices or  
6 at high volumes.

7           Seven, because subject FWS is highly  
8 perishable, the significant distance from Norway to  
9 U.S. ports of entry requires that Norwegian producers  
10 use air freight, which is prohibitively expensive. It  
11 makes no economic sense for the Norwegian producers,  
12 therefore, to initiate low-priced sales in the U.S. if  
13 the orders are revoked.

14           Eight, the strength of the Norwegian kroner,  
15 compared to the U.S. dollars, is another reason why  
16 Norway has little incentive to enter the U.S. market  
17 place, and even a less incentive to enter the U.S.  
18 market place with low priced sales of its FWS.

19           The Norwegian industry profits more from  
20 selling to markets where there is less risk that those  
21 currencies will depreciate against the kroner. The  
22 depreciating U.S. dollar, in recent years, makes the  
23 U.S. market less profitable for Norwegian FWS exports,  
24 and further projections of the Norwegian kroner  
25 suggests that there will continue to be currency-

1 related dis-incentives to sell here in the U.S.

2 The Stern Group concluded, as stated in our  
3 report, that for each of these eight reasons,  
4 revocation of the orders against Norwegian fresh-hold  
5 salmon will not lead to continuation or reoccurrence  
6 of material injury to the domestic industry within a  
7 reasonably foreseeable time.

8 Norway will seek to maintain its niche  
9 position, as a producer of specialty premium-priced  
10 salmon in the U.S. market. It will play an immaterial  
11 role in the U.S. market place, that's now dominated by  
12 salmon fillets from Chile, and by FWS from Canada.

13 Norway's competitive edge, therefore, will  
14 be limited to marketing salmon renown for its taste,  
15 quality, and premium status. Norway's FWS sales will  
16 be confined to America's white tablecloth gourmet  
17 market. In this way, Norway will uphold its  
18 reputation in the U.S. and in world market places for  
19 being a producer of only the best FWS, and it will not  
20 resort to injurious sales if the orders are revoked.  
21 Thank you for your attention.

22 MR. IVERSEN: Good afternoon, my name is Per  
23 Dag Iversen. I'm the Director of the Norwegian  
24 Seafood Federation, which is an umbrella organization  
25 representing the whole value chain from fish feed to

1 market in the salmon farming industry in Norway.

2 I'm also representing another organization  
3 called the Norwegian Seafood Association. The two  
4 organizations account for nearly 100 percent of the  
5 Norwegian salmon production. I have been involved in  
6 the Norwegian salmon industry since 1973; in fact,  
7 more than 32 years.

8 I'm leading the delegation of the Norwegian  
9 salmon organizations in their talk with the EU on  
10 salmon trade issues. My task today is to address this  
11 question. By far, the main share of the Norwegian  
12 fresh salmon production goes to the EU; about 76  
13 percent of our production and 80 percent of our  
14 exports. I have, in fact, been responsible for the  
15 European trade issues for Norwegian salmon for the  
16 last 15 years.

17 Norwegian salmon trade has in these years,  
18 for some period, experienced EU regulatory measures.  
19 But the actual development of Norwegian exports to the  
20 EU have been characterized by stability and, in fact,  
21 by a regulatory and steady expansion. The EU import  
22 measures for salmon have not led to diversions of  
23 exports to other markets.

24 The EU has been investigating the Norwegian  
25 salmon industry for alleged dumping, and the Norwegian

1 government and the salmon industry have contested  
2 these allegations. Discussions with the EU earlier  
3 this year about the issue resulted, on June the 16th,  
4 in a framework understanding on provisional, minimum  
5 import prices -- the so-called MIPs.

6           These MIPs entered into force on the Fourth  
7 of July, and are applicable until January 22, 2006.  
8 This provisional arrangement MIPs was welcomed by the  
9 Norwegian salmon industry. The MIPs will not lead to  
10 any diversion of exports to other markets. The MIPs  
11 introduced by the EU Commission were far below market  
12 prices, both in June, and have remained so until  
13 today; and are now expected to continue also for the  
14 foreseeable future.

15           We are now in the middle of a new round of  
16 talks with the EU Commission on possible MIPs  
17 arrangements for a period of five years from January  
18 of next year. The basis for these talks is the  
19 understanding of June 16th.

20           I would like to quote from this  
21 understanding. "Any definitive proposal should result  
22 in a long-term solution, which will bring more  
23 stability to the market. At the same time, regular  
24 trade flows should be maintained, with a continuity of  
25 supply of salmon, so that Norwegian farmers can have

1 access to the community market for their salmon, and  
2 the important EU salmon processing industry is  
3 preserved."

4           There are now only two likely options. One  
5 option is that there will be no EU import regulatory  
6 measures at all. The EU agrees that no definitive  
7 measures will be introduced, unless there is a  
8 definitive finding of injurious dumping.

9           The Norwegian industry has provided detailed  
10 data to the EU, documenting that no dumping has taken  
11 place. At this stage, it is not certain what will be  
12 the community position.

13           The other option is a new MIPs arrangement.  
14 Such an arrangement would, in any case, be applicable  
15 for five years. It would not create any instability  
16 in the salmon market. It could, on the contrary, be  
17 said that MIPs may contribute to a greatest stability  
18 in the market.

19           The general disadvantage with MIPs is that  
20 they may create unnecessary regulations of trade, but  
21 I will, in this context, again quote from the  
22 provisions understanding with the EU.

23           "The MIP in the definitive measures will be  
24 adjusted, when needed to quickly ensure its continued  
25 relevance to market conditions, as well as its

1 effectiveness. The parties will base their assessment  
2 on objective market-criteria, the details of which are  
3 to be finalized. The parties will have reviews at  
4 least every six months of the MIP level."

5 So my conclusion would be that I'm confident  
6 that the EU will not establish any harmful measures  
7 against Norwegian salmon. There are two main  
8 arguments for this.

9 Firstly, the EU has, over the years, by the  
10 concrete trade measures taken in practice, showed that  
11 it will not go against free, harmonious trade for  
12 fresh salmon from Norway. This is also fully  
13 confirmed in the understanding of June 16 of this  
14 year.

15 Secondly, there are no industrial or  
16 political reasons why the EU should change its  
17 position. Let me refer to the following. About 50 %  
18 of the fresh-round Norwegian salmon exports go to  
19 their EU-processing industry. Norwegian salmon  
20 provides the basis for an important processing  
21 industry in the EU.

22 Norwegian salmon thus provides employment to  
23 six to seven times as many workers in the EU as salmon  
24 farmers in the EU would be able to provide.

25 The facts of the matter thus assure that no

1 disruptive measures will be introduced by the EU  
2 against fresh Norwegian salmon; thank you.

3 MR. BJELKAROY: Good afternoon, my name is  
4 Audun Bjelkaroy. I'm a Director of Sales with Fjord  
5 in Norway a daughter company of Fjord Seafood ASA.  
6 Fjord Seafood is one of the largest seafood companies  
7 in the world, with operations on three continents and  
8 representative sales offices in nine countries. The  
9 corporation annual turnover is approximately \$615  
10 million in U.S. dollars.

11 While we have an office in Miami, that  
12 office is for sales or production in Chile. The  
13 dumping order against Chile was revoked in 2003. In  
14 2004, Fjord produced 20,000 metric tons of salmon and  
15 31,000 metric tons in 2005 in Chile. Less than one  
16 percent of Fjord Chilean salmon production entered the  
17 U.S. as fresh whole salmon. That was shipped to the  
18 U.S. at the request of special customers.

19 Fjord Seafood in Norway is a totally  
20 integrated company in farming, primary processing, and  
21 worldwide sales of salmon, only operating sales of  
22 fish from Norway. My responsibility on a day-to-day  
23 basis is to organize sales of fresh and frozen whole  
24 gutted salmon to Europe, previous Russian Republics,  
25 Middle East, and Southeast Asia, including China,

1 Korea, and Japan.

2           When I heard that the Norwegian industry was  
3 considering participating in this sunset review to  
4 have the order removed, my initial reaction was quite  
5 negative. I did not think it was the best way to  
6 spend industry resources of Fjord, and I believe more  
7 or less all major Norwegian salmon producers have  
8 absolutely no interest in returning to the U.S. market  
9 with exports of whole fresh salmon.

10           The fresh salmon market in the U.S. is not  
11 competitive with the other existing whole fresh fish  
12 markets in terms of prices. Besides, the U.S. market  
13 for fresh Atlantic salmon is based upon fresh fillet,  
14 making it even less attractive to Norwegian exporters  
15 of whole fresh salmon. But then I learned that the  
16 Norwegian government had a strong interest in having  
17 the orders lifted. Therefore, Fjord and the industry  
18 agreed to cooperate with the government in this case.

19           I took my first job in the industry in 1983.  
20 There have been many changes in the industry since  
21 that time. From the mid-1970s until the mid-1980s,  
22 the salmon industry in Norway was run by enthusiastic  
23 pioneers, recruited from fishermen and farmers. Most  
24 of the farmers were small companies, not very well  
25 organized, and their market was the Norwegian fish



1 exporters. There was no focus on the real market  
2 where the fish was consumed.

3 Even after the establishment of FOS, Fish  
4 Farmers Sales Organization, in the 1980s, monopolizing  
5 all first-hand sales of salmon, production was still  
6 given first priority. Sales and marketing were a  
7 secondary consideration. This attitude encouraged  
8 more production, keeping in mind, FOS established a  
9 guaranteed minimum price to the farmer, not reflecting  
10 the actual market price.

11 During the period of time leading up to the  
12 orders, this was the situation, and there was a  
13 considerable amount of over-production of whole fresh  
14 salmon in Norway, because the actual market at that  
15 time was not taken into consideration.

16 This system could not last, and finally FOS  
17 went bankrupt in 1991. Also, a lot of farmers went  
18 bankrupt, since they could get their money from the  
19 monopoly. It was due time to reorganize the industry.

20 It was quite clear for everybody involved  
21 that the industry had to improve their efficiency and  
22 production, and also start a vertical integration  
23 between companies doing the farming, processing, and  
24 sales in the market. Their willingness and the  
25 necessity to adjust the farm quantity in Norway of

1 fish in accordance to the actual market became  
2 possible.

3 This reorganization is continuing. Also for  
4 those farmers who are not integrated vertically they  
5 have searched for close cooperation with exporters,  
6 securing market access for their production.

7 This has led to a situation where farming in  
8 Norway now is market-driven; unlike in the late 1980s,  
9 where the market was production driven. Industry  
10 consolidation, both locally and globally, has made it  
11 easier to maintain a positive balance between supply  
12 and demand.

13 Supported by market and production analysis  
14 like the Kontali and the Norwegian Seafood Export  
15 Council, it makes the total picture more transparent.  
16 It is easier to forecast the future, even taking a  
17 whole salmon production cycle of three years into  
18 consideration.

19 This means that the kind of major supply and  
20 demand imbalance that existed during the Commission's  
21 investigation some 15 years ago is extremely unlikely  
22 to reoccur in the future. Demand is increasing, and  
23 will continue to grow in the foreseeable future.  
24 Prices are very positive, and the Norwegian industry  
25 now cannot meet the demand for fresh whole salmon.

1           Due to this fact, if the orders are revoked,  
2           there is no chance, in my opinion, that the U.S.  
3           market would see significant increases in fresh whole  
4           salmon from Norway. Our production has been re-  
5           directed to existing well-paying customers. In our  
6           company -- and I do believe this is the situation in  
7           the rest of the industry in Norway -- we do not  
8           include U.S. in our strategic market plans for fresh  
9           whole salmon.

10           Another important difference in the U.S.  
11           markets today is that American customers prefer  
12           fillets and value-added salmon products. Most of  
13           these products are processed in Chile. I do not  
14           foresee that the U.S. market will return to whole  
15           fresh salmon. It is also not very likely that any  
16           processor in the U.S. would prefer to buy fresh whole  
17           salmon from Norway for re-processing in the U.S. The  
18           air freight costs are simply too high.

19           There are now challenges to import whole  
20           fresh salmon from Norway that will not be solved in  
21           the foreseeable future. One, existing production  
22           limits in Norway do not allow us to expand in new  
23           markets. Production capacity is regulated by the  
24           availability of smolt. At the present moment, supply  
25           is very tight and will not improve, because the the

1 salmon cycles before 2008 at earliest.

2 Two, our sales to the U.S. must be made in  
3 U.S. dollars. Because of the oil situation in Norway,  
4 the kroner is strong against a weak dollar. In my  
5 company, we expect the kroner to grow stronger in the  
6 future. The kroner is in a much more favorable  
7 situation against The Euro. This provides an  
8 incentive not to export to the U.S., and an incentive  
9 to increase whole fresh exports to the EU.

10 Three, the expansion in new markets like  
11 Russia, Ukraine, and the Baltic states is very  
12 positive. These areas are also more like our home  
13 markets in the rest of Europe. Logistically, we find  
14 an expansion in Europe is easier than the logistics to  
15 the U.S.

16 Likewise, the demand in this market is for  
17 bigger sized salmon, six kilo and bigger; a production  
18 size which is more profitable than producing a smaller  
19 fish, like the preferred three to five kilo into the  
20 U.S.

21 I understand that the Commission will take  
22 minimum import price in the EU into consideration when  
23 making a final decision in this case. Based on my  
24 experience in the industry, including my experience  
25 with earlier MIPs in Europe, I'm confident that the

1 MIPs will not cause Norwegian companies to reduce  
2 shipments to EU and send those shipments to the U.S.

3 The EU processing industry is completely  
4 dependent on receiving salmon from Norway. They  
5 simply cannot stop buying fish from Norway, even with  
6 the MIPs in the EU.

7 Thousands of workers in the European  
8 processing industry are dependent on fresh whole  
9 salmon from Norway. These fish cannot be replaced  
10 with salmon, either from Scotland or from any other  
11 producing countries that cannot be competitive with  
12 Norway, because of the transportation costs.

13 In conclusion, in my opinion, based on my  
14 experience and knowledge of the industry, the  
15 Norwegian industry will not re-enter the U.S. market  
16 with fresh whole salmon in any significant way if the  
17 orders are revoked; thank you very much.

18 MR. SORAA: Good afternoon, my name is  
19 Sverre Soraa. I am the CEO of Coast Seafood, which is  
20 located in Maaloey.

21 While we have ownership interests in some  
22 salmon farms in Norway, the principle business line of  
23 Coast is the export of seafood products, including  
24 fresh whole salmon. The company's turnover is  
25 approximately \$230 million in U.S. dollars.

1           I, like my colleague, Audun Bjelkaroy,  
2 believe that the resources spent by the Norwegian  
3 industry on these proceedings are of limited value to  
4 the industry in terms of return on investment. Since  
5 these orders were issued, the Norwegian industry has  
6 moved on to other markets. If the orders are revoked,  
7 Coast Seafood has no intention of resuming shipments  
8 of fresh whole salmon to the U.S. market.

9           I first entered the salmon industry in  
10 Norway in the late 1980s, working at Domstein  
11 Seafood. After five years with Domstein, I left the  
12 company and established Coast Seafood. In 2003, we  
13 established our Boston office, which is run by Odd  
14 Atle Rygg, who is also with us here today.

15           Coast exports fresh whole salmon to  
16 approximately 30 markets all over the world, but not  
17 to the U.S. markets where air freight costs are  
18 prohibitive. Our main markets are EU countries,  
19 Eastern European countries, and Russia, where our  
20 product can be shipped by truck. Per kilo cost of  
21 shipments fresh by air are 10 times higher than by  
22 truck.

23           As an exporter, it would be foolish to air  
24 ship fresh whole salmon to the U.S., when I have a  
25 strong close market where I can ship fresh whole

1 salmon by truck. Transportation costs alone are a  
2 sufficient reason not to ship fresh whole salmon into  
3 the U.S. from Norway, even if the orders are removed  
4 by this Commission. Furthermore, the exchange rate  
5 situation makes the U.S. market particularly not  
6 attractive to my company.

7 Coast, as do my competing exporters, has  
8 well established long-term relationships with existing  
9 customers in nearby markets. We have standing  
10 commitments to those customers and will supply their  
11 needs. There is no surplus in fresh whole salmon in  
12 Norway, and I do not anticipate that there will be any  
13 surplus in Norway in the foreseeable future that would  
14 allow us to meet existing customers' demand and ship  
15 to the U.S.

16 In fact, we are barely producing enough  
17 fresh whole salmon in Norway to meet the demand. The  
18 Eastern European market is developing rapidly, and  
19 shipments to Russian are doubling. I expect demand in  
20 the EU and Russian to continue to increase well into  
21 the future.

22 If these orders are revoked, even if Coast  
23 wanted to re-enter the U.S. market in a significant  
24 way, I would have to break off relationships with  
25 existing good customers to try to supply the U.S.

1 market. Why would I want to do that? As a  
2 businessman, it would be foolish for me to do that,  
3 and I believe all my competitors in Norway would feel  
4 the same way.

5 Like Coast, none of my competitors have  
6 access to additional salmon supplies. We are working  
7 as hard as we can right now to meet the existing and  
8 future demand from our customers in the EU, Eastern  
9 Europe, and in Asia.

10 I have no concern that the MIPs in Europe  
11 will make it difficult to continue or even increase  
12 our shipment levels to our EU customers. The  
13 Norwegian industry has, in the past, successfully  
14 dealt with EU MIPs, and I'm confident that we will be  
15 able to do so now. The MIPs will not cause us to  
16 reduce our shipment levels to the EU and to seek  
17 alternative markets for our FWS exports.

18 With respect to the U.S. market, our  
19 shipments are limited to salmon fillets, and we are  
20 increasingly relying on fillets as our primary market  
21 for salmon around the world.

22 There has been considerable consolidation in  
23 the salmon farming industry around the world, and I  
24 expect that consolidation to continue. With fewer  
25 companies controlling a larger amount of production,



1 it will be much easier to control supply and demand in  
2 the future.

3 Today, unlike the situation in the original  
4 investigation, we also have very reliable forecasters  
5 that allow us to reasonably predict the amount into  
6 the future and to control the supply of smolt to  
7 Norway.

8 The smolt supply is the ultimate limit on  
9 capacity. Given the extent of consolidation today and  
10 available forecast methods, it is extremely unlikely,  
11 in my opinion, that there will be any meaningful  
12 imbalance in Norway in supply and demand in the near  
13 future.

14 In light of one, the dominance of the U.S.  
15 by nearby Canada in fresh whole salmon market; two,  
16 the Chilean dominance in the U.S. fresh and frozen  
17 salmon fillet market, and three, the move to fillets  
18 in the U.S., the U.S. market is of limited interest to  
19 Norwegian exporters.

20 In my opinion, there is little, if any,  
21 chance that removal of the orders would be followed by  
22 a significant increase in shipment of fresh whole  
23 salmon to the U.S. from Norway. Thank you very much  
24 for your time.

25 MR. RYGG: Good afternoon, my name is Odd

1 Atle Rygg. I am the President of Coast Seafood USA,  
2 an importer of fresh and frozen seafood products. Our  
3 main product is fresh salmon from Canada and Chile.  
4 We do import some salmon from Scotland and Norway, as  
5 well.

6 Since 1992, I've been involved in the salmon  
7 industry, primarily on the sales and marketing side of  
8 the business. From 1992 to 1996, I was managing sales  
9 from Norway to mainly European countries.

10 Since 1996, I worked with the sales and  
11 marketing of salmon here in the U.S., three years out  
12 of Seattle, and the remaining six years out of Boston.  
13 During my years in Seattle, we did not face any  
14 competition from East Coast fresh whole gutted salmon  
15 producers.

16 The U.S. market of fresh farm raised salmon  
17 product is dominated by Chile and Canada. Chile is  
18 mainly selling their fresh product as fresh salmon  
19 fillets. Canada is still selling most of its product  
20 as fresh gutted whole fish.

21 Due to the logistical cost of flying in fish  
22 to the U.S., Canada will always have a competitive  
23 advantage, compared to other producing regions.  
24 Canada can use truck freight to the U.S. instead of  
25 high cost alternatives like air freight.

1                   For regions like Chile, Scotland, Iceland,  
2                   and Norway, air freight must be used. Higher costs  
3                   for oil, as well as security measures, are forcing the  
4                   airlines to increase their rates for cargo. I do not  
5                   see this change in the future.

6                   Because of the facts, Norwegian salmon will  
7                   always have a landed cost that is higher than domestic  
8                   or Canadian product, making it a niche product for  
9                   certain high end segments in the market place.

10                  Norwegian salmon still has a premium  
11                  reputation in some U.S. market segments, and customers  
12                  in these segments are willing to pay more for the  
13                  product than domestic product. These segments would  
14                  consist of white tablecloth restaurants, that are  
15                  marketing Norwegian salmon on the menus, high-end  
16                  sushi restaurants and bars, and high end retailers.  
17                  U.S.-produced fresh whole gutted salmon is not viewed  
18                  by these customers as a premium niche product.

19                  Coast Seafood imports a limited volume of  
20                  Norwegian fresh whole gutted salmon each year. For  
21                  2004, we imported approximately 360 metric tons, and  
22                  so far in 2005, we have imported 110 metric tons,  
23                  which represents less than five percent of our overall  
24                  imports. We import from a Norwegian exporter, with a  
25                  2.15 percent anti-dumping duty.

1           I do not see these volumes changing if the  
2 orders are revoked. The Norwegian salmon is just too  
3 expensive to compete in the commodity market place  
4 dominated by Canadian and Chilean products. The  
5 customers that are willing to pay more for Norwegian  
6 salmon are limited in number, and I see no real growth  
7 opportunity in this market segment.

8           These customers are willing to pay more for  
9 Norwegian whole fresh, due to Norwegian's fish image,  
10 as well as the product quality of the salmon.

11           The Norwegian salmon has typically a higher  
12 fat content, firmer flesh, brighter gills, and clearer  
13 eyes. These are all standards that the chef at the  
14 restaurant level checks and appreciates with the  
15 Norwegian product.

16           These kinds of customers want to buy the  
17 whole fish, so they can check these key indicators  
18 that give a summary of the overall quality of the  
19 product.

20           With the strong growth in the European and  
21 Asian markets, there is actually not enough Norwegian  
22 salmon production to increase exports to the U.S.,  
23 even if demand in the U.S. for the high priced  
24 Norwegian product would become more competitive with  
25 Canadian or U.S. product. This is highly unlikely,

1 based on the cost of logistics across the Atlantic  
2 Ocean.

3 For all these reasons, it is extremely  
4 unlikely that there will be any significant increase  
5 in fresh whole gutted salmon exports to the U.S., if  
6 the orders are revoked. As a current importer of this  
7 product, I know that I cannot increase the import  
8 level in any meaningful way. The market is just not  
9 there; thank you.

10 MR. KORSNES: Good afternoon, my name is  
11 Terje Korsnes. I am the President of Nordic Group,  
12 Inc., which I will refer to Nordic US. I have over 30  
13 years of experience in the seafood export/import  
14 market, with a particular focus on my home country,  
15 Norway.

16 Nordic US is located in Boston,  
17 Massachusetts, and is a wholly-owned subsidiary of the  
18 Norwegian company, Nordic Group, AS, in Trondheim,  
19 Norway, which I will refer to as Nordic Norway.

20 The company opened its office in Boston in  
21 1978. Nordic US is primarily an importer of seafood  
22 products from throughout the world for sale and  
23 distribution in the United States. Nordic Group  
24 Norway was established in 1967, and is primarily an  
25 exporter of Norwegian seafood products.

1           In 1978, at Seamark Corporation in Boston, I  
2           pioneered the introduction of fresh airborne farm-  
3           raised salmon to the U.S. market, resulting in Seamark  
4           becoming the leading importer of fresh whole salmon  
5           from Norway. At Nordic US, I have, since 1992, worked  
6           to develop our position in the frozen seafood  
7           business, and I've only occasionally handled  
8           transactions involving fresh seafood when certain  
9           customers have required us to do so.

10           Effective January 10, 1997, Nordic Norway,  
11           as an exporter, was assigned a zero anti-dumping  
12           margin. Notwithstanding the fact that Nordic Norway  
13           can export fresh whole salmon to the United States  
14           without dumping duties, Nordic US has imported no  
15           fresh whole salmon from Norway since 1996.

16           Fresh whole salmon sales in the U.S. are  
17           dominated by Canada and Scotland. Norwegian fresh  
18           whole salmon is a premium product that commands  
19           premium prices. However, because of high  
20           transportation costs and the accessibility of other  
21           markets closer to Norway that will pay premium prices,  
22           the Norwegian salmon industry, in my experience, has  
23           little, if any, incentive to ship to the United  
24           States, even if the orders are revoked.

25           In 2003, when the U.S. experienced a

1 shortage of supply of fresh whole salmon from Canada  
2 and Scotland, a window to the U.S. market opened that  
3 enabled Nordic Norway to export fresh whole salmon to  
4 the U.S. at premium prices.

5           Again, during 2004 and early in 2005, Nordic  
6 Norway had further opportunities to sell very limited  
7 volumes in the U.S. market because of supply  
8 shortages. But once supply and demand regained  
9 balance in the U.S., we found we were unable to  
10 continue to sell in the U.S. market at the premium  
11 prices required to remain competitive with the  
12 European market, and Nordic Norway withdrew from the  
13 U.S. fresh whole salmon market.

14           I've been asked to address the question of  
15 whether it's likely that one farmer or one producer in  
16 Norway could, if the orders were revoked, easily move  
17 their production to the United States. First, based  
18 on my knowledge of the conditions in Norway, the  
19 companies cannot now produce enough salmon to meet  
20 demand in existing profitable markets.

21           Second, sales begin with either the receipt  
22 of an order from an U.S. importer or a solicitation  
23 from a Norwegian exporter to sell the product to the  
24 United States. In either case, the Norwegian exporter  
25 will shop world markets for the highest prices the

1 exporter can get; and inevitably, as of right now,  
2 prices outside the U.S. will likely be higher.

3 Typically, when an order is accepted, the  
4 exporter will have to contact several farms to obtain  
5 the quantities and the specific sizes of fish required  
6 for the interest in the United States.

7 The exporter will then consolidate the  
8 shipment with the various sizes and sell the shipment  
9 to its customer. Any suggestion that the Norwegian  
10 farm or producer is able to rapidly move all their  
11 production into the U.S. market is totally  
12 unrealistic.

13 Currently, based on my observation of the  
14 global market, there is a situation with under-supply.  
15 Prices for fresh whole salmon, as well as for other  
16 seafood products, are strong. In my opinion, those  
17 conditions will continue into the foreseeable future.

18 Furthermore, it is unlikely, in light of the  
19 market demand in countries closer to Norway and the  
20 high cost of air freight, that export volumes from  
21 Norway will significantly increase in the future, even  
22 if the orders are revoked; thank you.

23 MR. GREGUSSEN: Good afternoon, my name is  
24 Otto Gregussen, and I'm the Fisheries Councillor of  
25 the Royal Norwegian Embassy in Washington, D.C. I am



1 also a former Minister of Fisheries in Norway. I'm  
2 speaking on behalf of the government of Norway, and  
3 will be able to respond to questions in the absence of  
4 the Ambassador.

5 The salmon anti-dumping case is, as the  
6 Ambassador stated this morning, the only thorn in  
7 relations between Norway and the U.S. As emphasized  
8 by several members of the Norwegian government  
9 visiting the U.S. over the last year, involvement in  
10 this case on the part of the Norwegian government is  
11 really a matter of principle. For this reason, the  
12 government has pushed and authorized a hesitant and  
13 uninterested industry to participate in these sunset  
14 proceedings.

15 Norway's salmon products are found in more  
16 than 150 countries, as a result of Norway's reputation  
17 as a producer of high quality salmon, and as a fair  
18 and reliable nation to trade with. A suggestion that  
19 Norwegian producers would dump and cause injury to the  
20 U.S. market, should the 15 year order be lifted, has  
21 no foundation and is incomprehensible to Norway and  
22 the Norwegian industry.

23 Maintaining this unjustified order for a  
24 total period of 20 years before the next possible  
25 review establishes a false impression of our salmon

1 industry that we cannot accept.

2 The evidence presented in this case  
3 demonstrates that injury will not occur or reoccur if  
4 the order is lifted. The global salmon market has  
5 grown at an average of 19 percent annually over the  
6 last 20 years. It also demonstrates that the U.S.  
7 market is totally dominated by imports from Chile and  
8 Canada, with a market share of 90 percent.

9 The domestic industry has declared that they  
10 do not need any protection against salmon from Chile,  
11 the largest player in the market. The same industry  
12 certainly does not need any protection from exports of  
13 whole fresh salmon accounting for 0.3 percent of the  
14 U.S. market.

15 The reality after the allocation would be  
16 that no change in the present market situation would  
17 arise. The main players in the market would still be  
18 Canadian and Chilean companies.

19 Domestic production will continue to be a  
20 tiny fraction of the total supply. The Canadian  
21 owners of the U.S. companies will continue to have the  
22 consolidation of a strong Canadian industry as their  
23 main focus.

24 The domestic parties to this case have  
25 clearly stated their goals, and have demonstrate that

1 they have the financial power to position themselves  
2 as the major player in the U.S. market for whole fresh  
3 salmon from their base in Canada.

4 I would like to point out to the Commission  
5 that the domestic industry incorrectly stated in their  
6 pre-hearing brief that salmon was exempted from  
7 concessions in a recently-negotiated free trade  
8 agreement with Korea; and that in a final agreement --  
9 are entitled to duty-free treatment, as of July 2006.

10 In conclusion, once the Commission takes  
11 into account all the evidence presented in this  
12 review, we are confident that the Commission will find  
13 that there is absolutely no reason to conclude that  
14 injury would occur if these out-of-date orders are  
15 revoked. Thank you for your attention.

16 MR. VAKERICS: Mr. Chairman, may I ask how  
17 much time we have remaining?

18 MR. BISHOP: You have five minutes  
19 remaining.

20 MR. VAKERICS: With your permission, I would  
21 like to reserve that time for rebuttal.

22 CHAIRMAN KOPLAN: Certainly.

23 MR. VAKERICS: Thank you very much; we are  
24 ready to receive your questions.

25 CHAIRMAN KOPLAN: All right, we'll begin the

1 questioning with Vice Chairman Okun. Let me say that  
2 I greatly appreciate your direct presentation, and the  
3 fact that you've come a great distance to participate  
4 in this hearing; thank you.

5 VICE CHAIRMAN OKUN: Thank you, Mr.  
6 Chairman, and let me join the Chairman in welcoming  
7 all of you here this afternoon, and particularly those  
8 who have traveled a great distance to be with us. We  
9 greatly appreciate you being here and talking about  
10 your industry.

11 I think I wanted to start, if I could, on  
12 some of the volume issues, as that was a big part of  
13 the case in the original investigation. Through the  
14 questioning this morning, we talked about the  
15 different ways to measure capacity production and what  
16 we should be looking at in what we would say would be  
17 the reasonably foreseeable future, for purposes of  
18 this case.

19 I don't know which witnesses would be the  
20 best ones to respond to this. But my question is,  
21 there's been a lot of emphasis on both how many eggs  
22 are laid down, as well as the smolt, and we talked  
23 about that this morning. I had noticed in your  
24 Exhibit 34 of the prehearing brief, which talks about  
25 the amount of it's from Mr. Liabo. It's your

1 information, so I'll ask you to comment, first. This  
2 talks about egg smolt and salmon harvest in Norway.

3 As I look at it, one thing that I notice is  
4 that it looks what we see there is an increased yield  
5 and increased survival rates. So even though you  
6 could say that the number of eggs laid down may be  
7 different, what you yield from that actually goes up.

8 So I'm trying to have you help me  
9 understand, if we were to look at the number of eggs  
10 as an indicator, do we also need to be taking into  
11 account increased yields, increased survival rates, as  
12 it goes up, and how should we take that into account?

13 MR. LIABO: Yes, thank you for the question.  
14 I will try to answer you. From Exhibit 34, you can  
15 see that the yield varies from one season to another.  
16 For instance, for the 2001/2002 season, the yield is  
17 very low. That's because 20 million fingerlings were  
18 taken out of production, because the companies were  
19 afraid that too much salmon could harm the market  
20 prices.

21 So in last season, 2003/2004, we saw that  
22 less eggs were laid down for hatching, and then the  
23 companies tried to take care of all the eggs  
24 available. So that's the explanation on that yield  
25 rate per egg.

1                   VICE CHAIRMAN OKUN: Okay, one of the other  
2 issues that was explored with that is, even for those  
3 years where the smolt were destroyed, the way the  
4 Commission usually thinks about capacity produced,  
5 that doesn't really affect the capacity. I mean, they  
6 clearly could produce because they produced these  
7 eggs, but then they destroyed them.

8                   So I don't know if this is actually the  
9 right question for you or for counsel or for Dr.  
10 Stern, in terms of what the Commission should place  
11 the most emphasis on, in looking at Norway's capacity  
12 and production, in the way we would normally factor  
13 that into our volume analysis. So Mr. Vakerics, if I  
14 could start with you, and then Dr. Stern may want to  
15 add something.

16                   MR. VAKERICS: Sure, the basic proposition -  
17 - and everyone I've talked with in the Norwegian  
18 industry has agreed -- is that the ultimate constraint  
19 on capacity is the number of eggs laid in the water.  
20 You can't have more fresh salmon than you have eggs.

21                   Then-Chairman Brunsdale adopted basically  
22 that approach in the original investigation in her  
23 dissent, which I think was very well taken, where she  
24 said you can have a large number of cages in the  
25 water; but if you don't have any fish to put in those

1 cages, then the cages are meaningless in terms of  
2 capacity. I think she referred to "baby salmon,"  
3 which are smolt.

4 So our position is that the ultimate  
5 constraint on capacity, and capacity increases and  
6 capacity utilization, is the number of eggs laid in  
7 the water, which translates into smolt. What you'll  
8 see through the process, the eggs will get lost -- and  
9 Mr. Liabo can explain this further -- as there are  
10 fatalities and mortalities.

11 But today, for example, we heard AS and  
12 Heritage  
13 argue strenuously that there has been a 30/40 percent  
14 increase in capacity. Well, that's just not correct.  
15 If you look at Exhibit 34, the number of eggs that  
16 have gone into the water have actually declined, or  
17 are declining now, and certainly have not increased by  
18 30 to 40 percent.

19 Our position is, therefore, by definition,  
20 if you look at the number of eggs, you cannot possibly  
21 come up with a 30/40 percent increase in capacity over  
22 the period of review. Lars, do you have anything to  
23 add?

24 MR. LIABO: No, you know, when you have 100  
25 eggs, you cannot add something during the production

1 process. That's impossible.

2 VICE CHAIRMAN OKUN: Okay, again, for that  
3 argument, that is basically, from that number of eggs,  
4 you can determine a set period, whether it's three or  
5 what seems to be really the outside, and it could  
6 actually be less than that, when that fish could go to  
7 market. But that goes back to, that's a reasonably  
8 foreseeable period, and whether we should be looking  
9 beyond that.

10 MR. VAKERICS: I don't think there's any  
11 basis at all to look beyond what you might consider to  
12 be a reasonably foreseeable period, in any case.

13 I saw Petitioner's prehearing brief, with a  
14 reference to, you should maybe add two more years; so  
15 that it's really a five year period, because of the  
16 decisions involved in the three year growing cycle.  
17 This makes absolutely no sense to us, since the  
18 decision in the three year growing cycle is made in  
19 year one, and the results of that decision come out in  
20 year three. It's not made two years before year one.

21 I believe ultimately that AS and Heritage  
22 said that a three year period is what they think ought  
23 to be a reasonably foreseeable time.

24 Assuming that's correct, we think the record  
25 demonstrates pretty clearly that there is not going to



1 be an increase in capacity, and that supply will  
2 remain tight, but that production is going to keep up  
3 with demand.

4 VICE CHAIRMAN OKUN: Okay, Dr. Stern, is  
5 there anything you want to add to this?

6 MR. STERN: No. Mr. Vakerics has been  
7 extremely clear on this. The challenge for the  
8 Commission is always to take what is practical and is  
9 related to the industry at hand, -- in this case, it's  
10 the FWS industry -- and then the measuring capacity to  
11 look, if you will, at what the ultimate limit is.  
12 Eggs, given this industry, seems to be the best and  
13 most practical and most kind of business-oriented  
14 approach to establishing capacity and capacity  
15 utilization.

16 VICE CHAIRMAN OKUN: Okay. Yes, someone  
17 else?

18 MR. VAKERICS: Just one more comment. I  
19 think it's a particularly attractive approach since it  
20 does give you an industry-wide view. You have 22  
21 producers come in, as we noted, based on feed quota  
22 ratios converting theoretical numbers into production  
23 and capacity, but here you're really interested in  
24 what can the industry do in the reasonably foreseeable  
25 future, and a particular attraction in my mind to the

1 eggs/smolt is that's it. It's a finite supply of raw  
2 material. The industry can't produce anymore.

3 VICE CHAIRMAN OKUN: I understand your  
4 position on that.

5 Okay. Putting aside what the actual number  
6 is in terms of looking at the reasonably foreseeable  
7 future, there is no disagreement, though, that Norway  
8 remains the largest worldwide producer.

9 MR. VAKERICS: That's correct.

10 THE COURT: Okay. Everyone agrees on that.  
11 It's just where, then, that production is going to go.

12 Mr. Liabo, I want to turn to you briefly. I  
13 was going to ask you to discuss your comments in the  
14 IntraFish article, but you did that as part of your  
15 testimony, and just so that I can be clear for the  
16 record, if you can just tell me again, in terms of  
17 what you were saying there, you would say that the  
18 report did not put in context what you were asked. I  
19 don't want to put words in your mouth, but if you  
20 could just restate for me what you were saying in the  
21 IntraFish article.

22 MR. LIABO: It's nice thinking, in a way.  
23 It was a very unusual interview. I talked to  
24 journalists on the second day and asked if it's  
25 possible -- he asked me if I thought it could be

1 doubled, and I said maybe, I said yes. I didn't read  
2 through the article afterwards either, so it was just  
3 nice thinking from me.

4 VICE CHAIRMAN OKUN: Okay. Yes?

5 MR. VAKERICS: Can you explain what you mean  
6 by "nice thinking"? That's not a U.S. term. Sorry to  
7 interrupt.

8 MR. LIABO: I didn't put so much in it,  
9 actually.

10 VICE CHAIRMAN OKUN: Okay. I see my yellow  
11 light is coming on -- oh, my red light. I can't get  
12 another question in, Mr. Chairman.

13 CHAIRMAN KOPLAN: Thank you. Commissioner  
14 Hillman?

15 COMMISSIONER HILLMAN: Thank you, and I,  
16 too, would join my colleagues in welcoming all of you  
17 to the Commission this afternoon and thanking you for  
18 taking the time and the trouble to be with us this  
19 afternoon.

20 If I can follow up a little bit on some of  
21 the questions that Vice Chairman Okun was asking in  
22 terms of trying to put into perspective some of the  
23 numbers that we have before us, I've read your briefs,  
24 and I've looked at a lot of the numbers that you've  
25 put on the table in terms of eggs, and I am trying to

1 square that, on the other hand, with the data that we  
2 have on the record in terms of how much production  
3 there has actually been in Norway, and we obviously  
4 collected data, and there is no question that if we  
5 look at those numbers, in terms of how many pounds of  
6 fresh, whole salmon have been produced, it is showing  
7 more than a doubling over this period between 1999 and  
8 2004 and, again, a continued rise in the first six  
9 months of 2005.

10 So, on the one hand, I hear what you're  
11 saying in terms of some of these cutbacks in eggs, but  
12 I'm struggling with how I square that with the data on  
13 the record that is clearly showing you going from on  
14 the order of 200,000 pounds of production to nearly  
15 500,000 pounds of production in 2004, production up  
16 again in the first half of 2005. That is a very, very  
17 substantial increase in the total volume of production  
18 which doesn't, to me, square with this general notion  
19 that there have been constraints or cutbacks to make  
20 sure that supply and demand are in better balance and  
21 that egg production has been curtailed in order to  
22 keep production under control. A more than doubling  
23 of production doesn't feel to me like there has been a  
24 significant restraint or control on the volume of  
25 production.

1           MR. LIABO: As a consequence of the action  
2 we have taken in Norway, we have too less salmon to  
3 sell, so the prices today are, in my opinion, a little  
4 bit too high. Farms in Norway are earning a fortune  
5 today.

6           COMMISSIONER HILLMAN: Are you saying there  
7 is too little salmon to sell?

8           MR. LIABO: Yes. We should have had more  
9 salmon to market because the EU asked for more fish,  
10 Russia asked for more fish. It's too little salmon  
11 available in the market today.

12           COMMISSIONER HILLMAN: Okay. Then help me  
13 understand that because, again, if I look at the data  
14 we have on the record, even the data that you all have  
15 put on the record, and I realize this is a limited  
16 price series in terms of timing, to me, this looks  
17 like prices are, in fact, going down. If I look at  
18 this data, prices are coming down and are getting  
19 closer to the minimum import price established by the  
20 European Union, and yet you're saying supplies are  
21 tight, and prices are high.

22           I'm looking at, again, these numbers that  
23 you've given us, and, to me, they look down. If I  
24 look at the prices in our record for what's going on  
25 in the U.S. market, they have come down over the

1 period of this investigation. So, again, I'm trying  
2 to square that with you're telling me supply is tight  
3 and prices are high.

4 MR. LIABO: You see, during our year, salmon  
5 prices have a normal pattern, and they stay at the  
6 lowest level during November every year almost. So  
7 this curve I show here is the normal pattern for  
8 salmon prices in Europe. They also reflect salmon  
9 prices for the whole world.

10 So this drop is quite normal, and the  
11 Norwegian farmers know. They harvested more than  
12 expected to meet the market needs, and in that way we  
13 will have less salmon to harvest the next year, 2006.

14 COMMISSIONER HILLMAN: Okay.

15 MR. VAKERICS: We had talked about that, if  
16 I might contribute, and you're going to look at a huge  
17 upswing over the Christmas holiday, so it's kind of a  
18 normal ebb and flow on the pricing. So there is no  
19 reason to take from that it would go below the MIPs.

20 On your first question, if I might comment,  
21 I believe you're talking about a snapshot of the 22  
22 producers who responded to the producers'  
23 questionnaire, and my take on that, and I hope this is  
24 helpful for you, is you had a snapshot there of 22  
25 companies which really is not representative of the

1 entire industry. And those numbers were based on not  
2 actual -- they are theoretical. They were based on  
3 taking the feed quotas and converting them by formula  
4 into number of fish produced. So these were not  
5 actual numbers. Unfortunately, they are theoretical  
6 numbers, and I would suggest that they are just a  
7 snapshot, and you just can't get away from the number  
8 of eggs that are in the water. These companies may  
9 have represented a blip in the screen but are not  
10 representative of the entire industry in terms of  
11 production and production increases.

12 COMMISSIONER HILLMAN: Okay. I will say, I  
13 really am struggling because I hear what you're  
14 saying, but on the other hand, it would take some sort  
15 of really different skewing to change the basic  
16 picture that is presented to the Commission, which is  
17 can the production in Norway have more than doubled  
18 over the past four-year period that we're looking at,  
19 four- or five-year period?

20 So maybe I should turn to some of the  
21 producers out there. Does that seem to square with  
22 your sense? Obviously, some of your own data are  
23 showing us increases in overall production.

24 Mr. Vakerics, part of this is I'm sure that  
25 our questionnaires would have asked for actual numbers

1 in terms of capacity, production, shipments. We would  
2 not have been asking for theoretically what you could  
3 have done, particularly on the actual production  
4 numbers. How many pounds of product did you produce?  
5 So presumably, those same 22 companies that are  
6 responding to our questionnaires are giving us  
7 consistent data, not theoretical data.

8 MR. VAKERICS: I understand that it was  
9 consistent in that all of the companies -- I did not  
10 work for the companies to prepare that data. Mr.  
11 Liabo did, and I understand that all of them used the  
12 feed conversion ratio. The questionnaire can specify  
13 things, but we went through the questionnaires to help  
14 them to understand what was requested, and my  
15 instructions to Mr. Liabo were to have each company  
16 report capacity and production in the way they  
17 normally keep records on capacity and production. Yet  
18 these things happen with questionnaires between then  
19 and when the questionnaires came in. I learned later  
20 that the numbers were based on conversions from feed  
21 quota ratios. I apologize for that.

22 COMMISSIONER HILLMAN: Okay. But even so,  
23 that would still show me a more than doubling of total  
24 production. However the numbers were derived, again,  
25 they are showing this very substantial increase in the



1 total amount of production in Norway. I guess what  
2 I'm trying to understand is, is that an accurate  
3 picture of what's happened in Norway?

4 MR. VAKERICS: No, no.

5 COMMISSIONER HILLMAN: There has been a very  
6 substantial increase in the total amount of  
7 production. Leave aside where it's going; I'm just  
8 trying to get at how much has been produced. Mr.  
9 Berg?

10 MR. BERG: Thank you. I showed in my  
11 presentation a chart showing the development in the  
12 production through the last 13 years. There you can  
13 see the total overall production, how that has  
14 developed, and as you can see, there has not been a  
15 dramatic change through the last years. It's  
16 displayed on the chart.

17 COMMISSIONER HILLMAN: I see it. And the  
18 source of this data?

19 MR. BERG: That is from our organization,  
20 and we are basing our data on the Norwegian Bureau of  
21 Statistics, so these are public statistics.

22 COMMISSIONER HILLMAN: This would include --  
23 this is, again, production in tons.

24 MR. BERG: Yes, it is.

25 COMMISSIONER HILLMAN: Okay. So this is

1 product that has been harvested in Norway.

2 MR. BERG: It is.

3 COMMISSIONER HILLMAN: Okay.

4 MR. BERG: That is the total production, and  
5 it's measured in whole fish, weight, round weight.

6 COMMISSIONER HILLMAN: Fish weight.

7 MR. BERG: Yes.

8 COMMISSIONER HILLMAN: Okay.

9 MR. VAKERICS: If I might make just one more  
10 comment, we walked in here knowing that the size of  
11 the Norwegian industry and the total production of the  
12 Norwegian industry was going to be something that ASM  
13 Heritage was going to really yell about. We have been  
14 very, very forthcoming. There are variety of reports  
15 in the Kontali reports, and there are other charts in  
16 exhibits which go back as far as 1980 on total  
17 production and on total exports. So you can see  
18 actual industry-wide, based on statistics from Norway,  
19 and nowhere can you see within the last five years a  
20 doubling of production, and these are actual export  
21 data maintained by the government.

22 We can address this further in our post-  
23 hearing brief to kind of consolidate what's on the  
24 record to show you these overviews, and that's why I  
25 say the snapshot you have is an aberration because

1       there has not been a doubling of production in Norway  
2       during that period of time. Thank you.

3                   COMMISSIONER HILLMAN: I appreciate that.  
4       Obviously, at some level, we are reliant, to a  
5       significant degree, on questionnaire data, and there  
6       is no question that the questionnaire data is telling  
7       us something different than what your data is. I  
8       would say, even looking at your data, however, there  
9       has clearly been an increase in the production, and  
10      that's what we're trying to put into some perspective  
11      along with the issue of price. But given that that  
12      red light has come on, I will come back to some of  
13      these other issues. Thank you.

14                   CHAIRMAN KOPLAN: Thank you, Commissioner.  
15                   Commissioner Lane?

16                   COMMISSIONER LANE: Good afternoon. Thank  
17      you all for coming and helping us on this case.

18                   Dr. Stern, I would like to start with you.  
19      You testified that salmon from Norway is a premium  
20      product with an image to uphold. Does Norway hold  
21      itself out as a premium product in other markets, and  
22      if so, what is it about Norwegian salmon that makes it  
23      a premium product?

24                   MS. STERN: I think that I would be happy to  
25      try to answer that question, but you have actual

1 experts here on this panel who every day are in the  
2 markets, whether they be in Singapore or whether they  
3 be in the EU, so I think you're going to get a much  
4 better answer from the head of the organization who is  
5 responsible for the exports.

6 COMMISSIONER LANE: Mr. Berg?

7 MR. BERG: My organization works in more  
8 than 20 different countries. We carry out surveys on  
9 a regular basis in our most important markets where we  
10 pick by random something between 1,000 and 1,500  
11 consumers every time in every market, and then we  
12 measure how Norwegian salmon is perceived by the  
13 consumers in the market. I am very pleased to see  
14 that the way the consumers perceive the quality of  
15 Norwegian salmon is very high.

16 For instance, in Japan, I remember that more  
17 than 60 percent of the Japanese population prefers  
18 Norwegian salmon, and we have so many strong numbers  
19 from other countries as well. It wouldn't be any  
20 problem to provide that for the Commission if that's  
21 needed.

22 COMMISSIONER LANE: Did you do that survey  
23 in the United States also?

24 MR. BERG: No, we don't, and the reason for  
25 that is that we pulled out of the U.S. three years ago

1 because we don't want to give priority to the U.S.  
2 market.

3 MS. STERN: With regard to the U.S., you do  
4 have an affidavit from Wally Stevens, who is the  
5 president and CEO of Slade Gorton & Company, who has  
6 been in this marketplace as a major importer and  
7 distributor for many, many years. While there has not  
8 been a great deal, as you have heard, of Norwegian FWS  
9 sold in this country, there is, nevertheless, a  
10 certain small niche of connoisseurs who do seek it  
11 out, and Wally Stevens has put on record for your  
12 purposes a response on the U.S. But the fact that you  
13 don't have a survey here in the U.S., I think, is  
14 reflective of the fact that, as these gentlemen have  
15 testified, they are not interested in the U.S.  
16 marketplace compared to the much faster-growing, much  
17 more profitable, much more easily accessible markets,  
18 both in Europe as well as in Russia plus other  
19 countries.

20 We do have, Commissioner Lane, in the report  
21 that the Stern Group prepared, a reference to a  
22 particular taste survey and preferences based on taste  
23 and just other consumer considerations that was  
24 conducted in Germany, as a matter of fact. I'm sorry  
25 Vice Chairman Okun is not here, but the taste tests

1 and other tests also took in wild salmon in that,  
2 reflective of the preferences that consumers have for  
3 Norwegian salmon.

4 COMMISSIONER LANE: Okay. Thank you, and I  
5 will stick with you or perhaps Mr. Vakerics. You have  
6 made a point of the fact that the industry in Maine  
7 uses processing facilities in Canada. How does that  
8 make any difference for purposes of this case?

9 MR. VAKERICS: It's our position that the  
10 fish that leave the U.S. is not subject merchandise,  
11 and it becomes subject merchandise in Canada and,  
12 therefore, is not domestic product. Therefore, there  
13 are no domestic shipments.

14 COMMISSIONER LANE: Okay. Now, you heard  
15 this morning, I think, that there were no live salmon  
16 that went into Canada and then coming back into the  
17 U.S. If you believe that, does that make a difference  
18 to your argument?

19 MR. VAKERICS: No, it does not make a  
20 difference, and at the risk of being morbid, they are  
21 probably still alive when they cross the border  
22 because they are slowly bleeding to death. Excuse me.  
23 The key factor here is the salmon that's covered by  
24 this order is gutted, cleaned salmon. It's  
25 eviscerated. It does not get eviscerated until it

1 arrives in Canada. That's a key difference in our  
2 mind.

3 COMMISSIONER LANE: Okay. Let me stick with  
4 you, then. Given the financial data that is reflected  
5 in the staff report, what data or facts do you have to  
6 demonstrate that the domestic industry is not  
7 vulnerable?

8 MR. VAKERICS: If we're talking about the  
9 East Coast, I would point to Mr. Cooke's bank account  
10 because with the acquisition of Cooke Aquaculture,  
11 even assuming, arguendo, the industry was vulnerable  
12 before those acquisitions, the record is quite clear  
13 that ASM and Heritage are now members of the Cooke  
14 family. Cooke is pumping in something like \$85  
15 million into the Maine industry. I don't see how you  
16 can say they are vulnerable with that kind of  
17 financial backing, that kind of leadership.

18 Cooke is the tenth-largest producer in the  
19 world. Cooke is the largest producer in Canada. They  
20 have been embraced by a giant who is going to, and has  
21 already started to, increase production. You know,  
22 the past is past. This case is about the future, and  
23 while they have been on difficult times in the past,  
24 when those acquisitions occurred, the whole world  
25 changed. I cannot see how they could be possibly

1 viewed as vulnerable with the backing of Cooke  
2 Aquaculture.

3 COMMISSIONER LANE: Okay. Thank you. Would  
4 someone please explain the licensing process or  
5 restrictions on new facilities? And specifically, is  
6 it more difficult to license new or expanded ocean  
7 facilities than it is to license new or expanded smolt  
8 production facilities?

9 MR. GREGUSSEN: There has presently not been  
10 giving out any new facilities for production, ongoing  
11 production for saltwater production of salmon in  
12 Norway, and there is no indication that there will be  
13 new licenses for saltwater production. When it comes  
14 to production of smolts, there are government  
15 limitations on the giving of new permits, but, of  
16 course, there is a market concern there will not be  
17 produced any more salmon in new facilities unless  
18 there is a market for it.

19 COMMISSIONER LANE: I'm just sort of  
20 curious. In looking at the record, Norway exports  
21 most of the salmon. Why do you not consume more in  
22 your home market?

23 MR. GREGUSSEN: We are four and a half  
24 million people. We produce a very lot of fish. We  
25 are the third-largest fish exporter in the world. I



1 don't think that, if we even tried, we would be able  
2 to make an impact on our own production. It's very  
3 fortunate to have this great opportunity related to  
4 the industries in our oceans, but we are, with all  
5 respect, not able to eat it ourselves.

6 MR. BERG: If I could add, we have a huge  
7 consumption of salmon in Norway per capita. It's one  
8 of the highest. We are, unfortunately, not more than  
9 four and a half million people.

10 COMMISSIONER LANE: Okay. I just  
11 misunderstood. Thank you for that clarification.

12 Now, I heard Mr. Rygg say that Norwegian  
13 salmon have a higher fat content. I thought I heard  
14 the same thing being said about Maine salmon this  
15 morning. Please explain to me what controls the fat  
16 content in salmon and what steps are being taken in  
17 Norway to reduce the high fat content.

18 MR. RYGG: Well, there is not a concern  
19 about reducing the high fat content because it is the  
20 quality of the product that the chefs prefer to see.  
21 The fat content gives --

22 COMMISSIONER LANE: I'm sorry. I misread  
23 it. What steps are you taking to produce the high fat  
24 content?

25 MR. RYGG: Okay. We put more fish oil in

1 the feed mix and less fish meal and proteins compared  
2 to the percentage of oil.

3 COMMISSIONER LANE: Okay. Thank you.

4 Mr. Chairman, my time is up.

5 CHAIRMAN KOPLAN: Thank you.

6 Commissioner Pearson?

7 COMMISSIONER PEARSON: Thank you, Mr.  
8 Chairman. (Speaking in Norwegian.) To the reporter,  
9 I'm trying to offer a poor greeting in Norwegian to  
10 our visitors.

11 Is it correct to understand that you are  
12 making this robust presentation largely as a matter of  
13 principle rather than as a matter of economics?

14 MR. BJELKAROY: I would like to give some  
15 short explanation on this point. For us, as a  
16 commercial company, we actually haven't had any export  
17 of whole, fresh salmon to the U.S. since the orders  
18 came up, and we don't see any reason to reenter it  
19 either in the near future or foreseeable future. The  
20 whole, fresh salmon is actually commercial enough into  
21 the U.S. and not in our strategy. But as explained  
22 previously today by the ambassador, we do feel that  
23 this is a situation which should not exist among  
24 partners, and, therefore, we also participate in this  
25 hearing to explain that, commercially, for us, it

1 doesn't matter, but it's not correct.

2 COMMISSIONER PEARSON: Mr. Gregussen, did  
3 you have any comment?

4 MR. GREGUSSEN: Yes. I would very much  
5 emphasize that the government of Norway really is  
6 paying attention to this matter. We believe that  
7 these matters should be resolved after a period of  
8 five years after review, and we believe, especially in  
9 this case, that the reason for maintaining the order  
10 is absent, and we are, as the ambassador said, a very  
11 small country with a very open economy, and we are  
12 very eager to oversee that the rules and regulations,  
13 for example, introduced by WTO is abided by, and we  
14 have our own understanding of those rules.

15 COMMISSIONER PEARSON: Dr. Stern?

16 MS. STERN: Thank you. When we were given  
17 this assignment to look at the likelihood or not of  
18 material injury if the orders were revoked and looked  
19 at the entire considerations that I went through with  
20 my eight reasons why we thought it's highly unlikely,  
21 when we got all finished, we said just your question:  
22 Why is the industry coming in with this presentation?  
23 Economically, there is very little incentive to come  
24 into the United States. They have so many closer,  
25 more robust, longer-term relationships, more

1 profitable markets. The only answer that makes sense  
2 to us is one which we absolutely -- when we finished  
3 our economic analysis was this is a matter of  
4 principle.

5 I'm, quite frankly, impressed, based on my  
6 experience, old that it is, here at the Commission,  
7 that the Embassy of Norway and its representatives  
8 have made it very clear in principled arguments here  
9 that this is about allies, and this is about an old  
10 order, and this is about a thorn in the sides of what  
11 is a very, very fine relationship between two  
12 countries.

13 MR. KORSNES: Mr. Pearson, may I make a  
14 comment on that same issue?

15 COMMISSIONER PEARSON: Please. This is Mr.  
16 Korsnes.

17 MR. KORSNES: Yes. There is a misconception  
18 that the U.S. market has been closed to Norwegian  
19 whole, fresh salmon. It is a misconception because  
20 our company has had a zero dumping margin since 1997,  
21 as I stated in my testimony. Our company is a well-  
22 established exporter of seafood from Norway since  
23 1967. We are not lacking in experience there. We've  
24 been in this market since 1978. I have personally  
25 worked in the United States since 1978, at that time

1 not affiliated with Nordic Group.

2 We possess the tools to make business out of  
3 the product flow from Norway, and we have not found it  
4 to be economical or possible in the years since 1997  
5 to bring Norwegian salmon here. The market has not  
6 been closed. What would change if the order was  
7 revoked is only that more companies have the same  
8 opportunity as our company has had. I think we are  
9 well ahead of most of them with a reputation here in  
10 the United States and the experience we have. Thank  
11 you.

12 COMMISSIONER PEARSON: Thank you. We  
13 occasionally hear arguments for lifting orders based  
14 on principle, but it's not unusual that lurking close  
15 nearby are the economics. In this record, I don't  
16 think we yet have data that would give a rather clear  
17 comparison between the potential profitability of  
18 Norwegian exporters selling salmon to Singapore  
19 compared to the United States or to Russia compared to  
20 the United States.

21 It might be helpful, and perhaps given the  
22 expertise in this panel, it could be done, to provide  
23 some comparison that would show, side by side, the  
24 bids, offers, the logistics, costs of serving a market  
25 on a given day or in a given week. If we could have

1 that information -- certainly, what's happening in the  
2 market right now would be of interest.

3 To the extent it also would be possible to  
4 have that type of information going back through all  
5 or part of the period of review, I think it would be  
6 helpful because we are looking at a situation where  
7 the industry in Norway does seem to be growing, and it  
8 is the largest in the world, and airplanes do fly back  
9 and forth between the continents every day. It's not  
10 entirely obvious why there couldn't be some surge of  
11 salmon, but if the economics don't argue for it, it  
12 would be good to understand that clearly.

13 MR. VAKERICS: We will provide that for you  
14 in our post-hearing brief, Commissioner.

15 MS. STERN: If I might just add, you heard  
16 testimony earlier this afternoon that simply based on  
17 transportation costs alone, to compare trucking to  
18 Russia, which is one of the fastest-growing markets  
19 and a neighbor of Norway, in its back yard, is one-  
20 tenth the cost of shipping the same product to the  
21 United States by air, and you have a growth market  
22 there for whole salmon, whereas in the United States,  
23 you have had a shift in demand away from whole and  
24 towards the fillets; and, therefore, you've had this  
25 advantage that goes to Chile that the Norwegians, even

1 after they put it on an airplane and be willing to pay  
2 10 times more, would have a very hard time selling to  
3 the U.S. marketplace.

4 So, you know, I do think we will try to  
5 provide more, but you need to understand, with due  
6 respect, that the transportation cost is like a  
7 natural protection, if you will, for the Canadian  
8 producers who wish to ship FWS to the U.S.  
9 marketplace, which they call their home market. That  
10 natural protection is the flip side of the  
11 disincentive that we've been talking about that Norway  
12 has to come into the U.S. marketplace.

13 As for the West Coast, which hasn't even  
14 been mentioned, you have in your record reasons why  
15 there is very little interest among, I think, anyone  
16 that you've heard from today in selling into the West  
17 Coast.

18 COMMISSIONER PEARSON: Right. And I accept  
19 that the transportation costs of bringing the Canadian  
20 salmon into the United States are very low. That  
21 point has been well made. There have been some  
22 persuasive presentations here, but it would be nice,  
23 to the extent possible, to have that document be a  
24 little better so that we could see the numbers on the  
25 record.

1           Norway, although it has transportation  
2           disadvantages to get to the United States, does have  
3           certain advantages, including a whole lot of wonderful  
4           coastline with deep fjords and lots of good places to  
5           raise salmon, I think, more than we have in Maine and  
6           New Brunswick put together, I would guess. So there  
7           may be production cost advantages that could allow  
8           them to ship into the United States profitably, even  
9           given the Canadian transportation advantages into the  
10          United States.

11           However, even if they have low production  
12          costs, and there are more profitable places for them  
13          to sell it elsewhere, then that would explain the  
14          trade patterns that you're trying to tell me would  
15          exist.

16           MS. STERN: Precisely. You've anticipated  
17          my point on that.

18           COMMISSIONER PEARSON: Mr. Chairman, my time  
19          has expired.

20           CHAIRMAN KOPLAN: Yes. Commissioner  
21          Aranoff?

22           COMMISSIONER ARANOFF: Thank you, Mr.  
23          Chairman, and I just want to join my colleagues in  
24          thanking this panel for being with us this afternoon,  
25          particularly to those who have traveled so far to lend



1 us your expertise. There is really no substitute for  
2 that, so thank you.

3 Just to follow up on the questions about  
4 transportation costs that Commissioner Pearson has  
5 been asking, the data in our staff report show us that  
6 imports from the U.K., from Scotland, are much higher  
7 in the last five years than imports from Norway, and,  
8 of course, they are not subject to an order, but I  
9 would think that the transportation costs from  
10 Scotland to the United States and Norway to the United  
11 States are fairly comparable. Do you have any  
12 thoughts on what accounts for that?

13 MR. RYGG: I can comment on that. The costs  
14 of transportation from the U.K. to the U.S., since  
15 there are a lot of direct flights from the U.K. to the  
16 U.S. out of both Glasgow and London and other  
17 airports, are approximately 30 percent lower. We can  
18 document in the post 30 percent lower on the Scottish  
19 salmon.

20 COMMISSIONER ARANOFF: Actually, that would  
21 be really helpful if you could get that to us.

22 MR. RYGG: There are no direct flights from  
23 Norway. I think that was stated earlier here by --  
24 that there were direct flights from Norway to the  
25 U.S., but there is not.

1                   COMMISSIONER ARANOFF: I certainly accept  
2 that it's cheaper to fly something from London to the  
3 United States, but first you would have to get the  
4 fish from Scotland to London, and that has a cost,  
5 too.

6                   Okay. Also, following up on some of the  
7 questions that the vice chairman was asking about the  
8 reasonable period of time, one of the questions I  
9 raised this morning with the domestic industry, I  
10 wanted to raise again. The domestic industry told us  
11 that, in Maine, the salmon spawn in November. Is that  
12 the same in Norway?

13                  MR. LIABO: Yes.

14                  COMMISSIONER ARANOFF: The reason,  
15 obviously, as I said this morning, is because any  
16 decision about whether or not to revoke this order is  
17 going to be made, I assume, before the salmon are  
18 finished spawning for this year, and my question was,  
19 how does that affect sort of the first moment at which  
20 a production decision could be made upon revocation of  
21 the order to start growing more salmon? So anything  
22 that you can add to that in your brief, or if you want  
23 to comment now.

24                  MR. LIABO: Yes. We start ready to spawn in  
25 the period from November to January. Then we collect

1 data at the end of April showing how many eggs have  
2 been laid down for hatching. We also know the results  
3 of the hatching, the number of many fish available.  
4 And then we give that data to the industry, and then  
5 the industry can immediately take action. If they  
6 say, okay, now that we had a high- yield hatching  
7 rate, and there have been no diseases so far, et  
8 cetera, et cetera, we continue to give information to  
9 the industry all the way until the smolt is ready to  
10 be released in saltwater and then further on.

11 COMMISSIONER ARANOFF: Okay. Thank you very  
12 much. I wanted to follow up with a couple of more  
13 questions -- sorry about this -- on transportation  
14 costs, as you're providing us with information.

15 Mr. Liabo, in your Exhibit 8, which deals  
16 with freight costs, -- let me pull it back out -- I  
17 wanted to ask whether, as you're providing us with  
18 more information on this in your post-hearing brief,  
19 can you take some of that information back to our  
20 original period of investigation? I'm trying to  
21 figure out whether the freight cost differentials that  
22 you're pointing out in the most recent period were  
23 also true during the original period of investigation  
24 or whether something has changed.

25 MR. LIABO: I'm not quite sure if I have

1 data back in 1990 or '89, but we could see.

2 COMMISSIONER ARANOFF: Okay. Thank you very  
3 much. I appreciate that.

4 Mr. Vakerics, I'll ask you now the question  
5 that I said I would ask you this morning on like  
6 product. Why has your client not requested that the  
7 Commission reconsider the issue of like product in  
8 this review? Does it just not matter to the outcome,  
9 in your mind?

10 MR. VAKERICS: We gave it very, very serious  
11 thought, and we considered it, analyzed it, and kicked  
12 it around a lot, and without going into attorney-  
13 client issues, our conclusion was that, quite frankly,  
14 we had our strongest case keeping it fresh, whole  
15 salmon. You pick your battles, and we think fresh,  
16 whole salmon is appropriate, and it should be the  
17 domestic like product.

18 I know, typically, a respondent likes to  
19 expand the like product for various reasons, but in  
20 this case, it just didn't make sense to us to do that.

21 COMMISSIONER ARANOFF: Okay. Thank you for  
22 that answer.

23 There is a great deal of discussion today in  
24 some of your testimony and in some of your briefs  
25 about the idea of Norwegian salmon being a niche

1 product in the U.S. market, and I have noticed that,  
2 at some points, you use the term "niche" to mean the  
3 same thing as small, and they are really not synonyms.  
4 U.S. per capita consumption may be below other  
5 countries, but, obviously, we have a lot more people  
6 than many of the other countries to which Norway  
7 markets its product.

8 I guess what I'm asking is this: Is there a  
9 point -- with most products, there is usually a point  
10 at which it makes more sense to sell more volume at a  
11 lower price, and you make more profit, than selling a  
12 smaller volume at a high price. Why isn't that the  
13 case here?

14 MR. VAKERICS: That's a very good question,  
15 and by "niche" we are referring to a relatively  
16 limited volume. If you look at the overall industry,  
17 what I might call the "mainstream product," which ASM  
18 Heritage calls a "commodity product," that provides a  
19 basis for establishing a niche in that market. And I  
20 think maybe the best way to answer it is to go to the  
21 affidavit of Wally Stevens. Mr. Stevens was going to  
22 be here today. He called me Monday, and because of  
23 personal reasons, he could not make it, so he put the  
24 affidavit together. I think this might answer your  
25 question.

1           In paragraph 8 of his affidavit, Mr. Stevens  
2 states, "Norwegian seafood continues to enjoy a  
3 reputation as a premium product in the United States."  
4 He goes on, in paragraph 9: "As president of Slade  
5 Gorton, I look forward to the return of fresh, whole  
6 Norwegian salmon, which I will market as a premium  
7 seafood product and sell at premium prices. As an  
8 importer, I would, in turn, expect to pay higher  
9 prices for Norwegian salmon, both whole fish and  
10 fillets, than I would fresh, whole salmon or fillets  
11 farmed in the United States."

12           That's really what we're talking about when  
13 we're talking about niche, in that we have people like  
14 Slade Gorton, who are major importers and  
15 distributors, and what Mr. Stevens goes on to say, but  
16 in less detail than he would have in his testimony, is  
17 that in the seafood market in the United States today,  
18 the taste of the consumer has advanced, and the  
19 pocketbooks open up, and consumers are looking for  
20 something different.

21           In his affidavit, Mr. Stevens says that yet  
22 today, seafood from Norway, Norwegian salmon, still  
23 carries that cachet. When we talk about niche, we're  
24 talking about the kind of market Mr. Stevens  
25 describes, which is where his high-end retailers and

1 his high-end restaurants would take that salmon and  
2 put Norwegian salmon on the menu as a premium, limited  
3 product.

4 So it is a limited volume, and it would  
5 dictate for a higher price. I guess the best way to  
6 say it is contrast it to what Canada is doing today.  
7 Mr. Stevens states in his affidavit also words to the  
8 effect that it would be absolutely foolish for the  
9 Norwegian salmon industry to import large volumes of  
10 Norwegian salmon into the United States and destroy  
11 that image. That, I think, and then you have to add  
12 the other factors that Chile and Canada totally  
13 dominate this market, and to the extent the Norwegians  
14 would come in because of the transportation costs,  
15 we're going to go for that niche premium, not a large,  
16 high-volume market.

17 COMMISSIONER ARANOFF: Okay. I appreciate  
18 those answers. What might be helpful to me, in the  
19 post-hearing, in addressing this issue of the premium  
20 product, would be maybe you could provide for us some  
21 data that compares the premium aspects of the  
22 Norwegian product, like its fat content and some of  
23 the other features that were described, to the product  
24 that is typically shipped to the U.S. from some of the  
25 other major suppliers so that we could maybe compare.

1 MR. KORSNES: May I make a comment, please?

2 COMMISSIONER ARANOFF: Certainly.

3 MR. KORSNES: In regard to your issue about  
4 the niche market, a niche of a market for us is a  
5 segment of a market, and that can be defined by type  
6 of restaurant or type of cuisine. Most of what has  
7 been coming in from Norway, the little that has come  
8 in from Norway, in the form of whole fish has gone  
9 into a segment of the market that we might call the  
10 Asian cuisine. You could call it sushi bars, but you  
11 could also expand that to call it Asian cuisine.

12 You may also find that there are restaurants  
13 who take pride in putting Norwegian on the menu  
14 because, in the perception of the consumer, there is a  
15 higher value to Norwegian salmon than there is to  
16 other salmon thanks to good marketing in the years  
17 prior. The marketing was so good 15 years ago that a  
18 lot of us still think of Norwegian salmon in that  
19 regard, even though we haven't had much to enjoy.

20 But back to the original issue, and the  
21 issue is a segment of the market where someone is  
22 willing to pay the extra price to get what you have to  
23 sell.

24 COMMISSIONER ARANOFF: Okay. I appreciate  
25 those answers, and my time is up.



1 MR. VAKERICS: Can I just add one clarifying  
2 point?

3 COMMISSIONER ARANOFF: Mr. Chairman?

4 MR. VAKERICS: Two seconds. We're not  
5 talking about a quality difference; we're talking  
6 about a consumer perception, a branding image, not  
7 really a difference in quality between the products.

8 COMMISSIONER ARANOFF: Thanks. I'm going to  
9 come back to that in the next round.

10 CHAIRMAN KOPLAN: Thank you.

11 Mr. Liabo, if I could start out by coming  
12 back to you, I know that you went over this with, I  
13 believe, Commissioner Hillman, but since this article  
14 is in the record, I thought I would just kind of walk  
15 through it myself with you, if I could, just a little  
16 bit to see if you could help me.

17 Tell me first, what is the IntraFish Report?  
18 Is it a weekly publication? a monthly? a daily? I see  
19 the date on it is the 27th of August of '04, so it  
20 must come out fairly frequently.

21 MR. LIABO: It's a daily publication, --

22 CHAIRMAN KOPLAN: Daily.

23 MR. LIABO: -- only on the Internet. They  
24 have short articles, very short interviews, gossip in  
25 the industry, et cetera.

1                   CHAIRMAN KOPLAN: Okay. And it's available  
2 to the public. I guess we're able to pull it up as  
3 well on the Web. You don't have to subscribe to read  
4 it.

5                   MR. LIABO: If you subscribe.

6                   CHAIRMAN KOPLAN: What? Oh, it isn't  
7 available generally? Okay.

8                   How did the interview come about with you?  
9 Did they call you?

10                  MR. LIABO: I think I was driving in my car,  
11 and I got a call on my mobile, and they asked me some  
12 leading questions, and I think the journalist put his  
13 opinion --

14                  CHAIRMAN KOPLAN: No. I understood your  
15 response. I'm just trying to understand how it came  
16 about. Had they interviewed you in the past, or was  
17 this the first time you had ever been contacted?

18                  MR. LIABO: Oh, no, no, no. They call me  
19 maybe once a week, yes.

20                  CHAIRMAN KOPLAN: Okay. Let me do this, if  
21 I could, because I'm just trying to understand. When  
22 I look at it, I think what's in the Petitioners' brief  
23 as an exhibit, unless I'm incorrect, and I'm sure you  
24 all can correct me on this, although it says page 1 of  
25 2 pages, I believe what I've got is the full article.

1 If it turns out that I'm wrong on that, I suppose you  
2 all can insert that.

3 So let me just ask you about a few other  
4 aspects of the article, if I could. One aspect was  
5 that, in discussing the effect of our determination in  
6 the first sunset review that we had had, you indicated  
7 that the effect -- now this isn't in quotes, but they  
8 say that you indicated the effect goes beyond our  
9 borders and yours and that currently Norway's  
10 opponents in Europe were using it as one of their  
11 arguments in their allegation that you're dumping in  
12 the EU. I see you're nodding that, yes, you got into  
13 that.

14 Then they have this very brief quote from  
15 you that says, "We have a 14-year-old ruling still  
16 hanging over our heads and which will certainly be  
17 used by our opponents in various contexts." Does that  
18 sound like what you said? Thank you.

19 Then you also discussed the countervailing  
20 duty that exists in this determination, according to  
21 the article, and, again, there is a very short quote  
22 from you that I'm looking at, and it says, "This is  
23 incorrect, that Norway subsidizes salmon production,  
24 but in the USA, through the punitive duty, we have  
25 been judged guilty of subsidizing for 14 years so far.

1 That's not good. So it would be great to be rid of  
2 that." Does that sound about right? Okay.

3 Then one other aspect of the article states,  
4 and this relates to Chile and what threat Norway might  
5 pose to Chile, -- it says that, and this isn't a  
6 quote, that, according to you, they wouldn't have  
7 particularly much to fear if you came back to the U.S.  
8 market with fresh, gutted salmon. And then the quote  
9 is: "We'll be competing in various ways in different  
10 niches. Currently, we are able to freely sell fillet  
11 in the same way as the Chileans, and we're doing just  
12 that, too, even if this is only to a limited extent,"  
13 and that's the end of that quote. Does that sound  
14 about right? It does. Is that microphone on? Now it  
15 is. So these are all accurate. Is that true?

16 MR. LIABO: Yes, more or less, yes.

17 CHAIRMAN KOPLAN: And then the last one that  
18 I want to refer to is the one that came up earlier.  
19 I'm just asking about the quote itself. The quote is:  
20 "This is a whole fish market that we can win back.  
21 The value of the market could quickly rise up to NOK3-  
22 400 million."

23 That's the language attributed to you. I'm  
24 asking, is it possible that you said that -- maybe you  
25 think we're interpreting it the wrong way, but is it

1 possible that you might have said that as well?

2 MR. LIABO: As far as I remember, export of  
3 fresh, whole salmon from Norway to the U.S. varies  
4 between 1,000 tons and 3,000 tons a year for the last  
5 years. Correct?

6 CHAIRMAN KOPLAN: No, no. That's not what  
7 I'm asking.

8 MR. LIABO: Just I will try to explain my  
9 thinking, as I can remember it from the interview.

10 CHAIRMAN KOPLAN: No, no. You've done that,  
11 and I appreciate that. My only question, at this  
12 point, is, is it possible that this quote is accurate,  
13 what I just read? I understand --

14 MR. LIABO: No. Then I have to recalculate  
15 it based on --

16 CHAIRMAN KOPLAN: Recalculate it?

17 MR. LIABO: Yes, yes.

18 CHAIRMAN KOPLAN: Okay. If you could go  
19 back, for purposes of the post-hearing, and take a  
20 look at that, and you all have the exhibit, and if he  
21 got part of your statement wrong, part of the quote  
22 wrong, if you could submit that for me post-hearing, I  
23 would appreciate it. Thank you very much.

24 Mr. Berg and Mr. Iversen, on pages 14 to 15  
25 of the Petitioner's brief, they state, and I quote:

1 "Norwegian salmon producers have maintained their  
2 emphasis on exports of subject product, fresh, whole,  
3 Atlantic salmon, rather than cuts of salmon, since the  
4 time of the original investigation. The strong  
5 Norwegian preference for exporting whole salmon over  
6 cuts of salmon is most vividly illustrated by the  
7 Norwegian producers' failure to increase exports of  
8 cuts of salmon to the United States, even though cut  
9 salmon is not subject to the antidumping or  
10 countervailing duties."

11           However, I note from page 73 of your  
12 prehearing brief, looking at Chart No. 8, that  
13 Norwegian exports of salmon fillets are a growing part  
14 of overall Norwegian salmon exports but not in the  
15 United States. I also note that it is apparent in  
16 Exhibit 4 of Mr. Liabo's submission this afternoon, if  
17 other exporters, particularly from Chile, are  
18 increasing their exports of salmon cuts to the U.S.  
19 market, why aren't Norwegian exporters doing the same  
20 thing?

21           I'm aware of your contention that Norwegian  
22 fillets cannot compete with Chilean fillets in the  
23 U.S. market due to lower labor and environmental  
24 costs, but you must be competing with Chilean fillets  
25 in other third-country markets. How do you respond?

1 Why not in the United States when it's elsewhere?

2 MR. BERG: The way the world market is  
3 organized today is that Norway has a competitive  
4 advantage, and it has a very strong position in Europe  
5 and East Europe. We can export fresh salmon  
6 efficiently into those markets.

7 CHAIRMAN KOPLAN: But you're sending it to  
8 Canada as well.

9 MR. BERG: We don't.

10 CHAIRMAN KOPLAN: You send no cuts to  
11 Canada?

12 MR. BERG: Not as I'm aware of. We don't  
13 give any priority to the Canadian market. As far as I  
14 remember, here and now, we export other seafood  
15 products to Canada but not --

16 CHAIRMAN KOPLAN: I'm sorry. I see the  
17 light has come on. When I look at this exhibit, it  
18 looks like one of the arrows is going in that  
19 direction or a couple. I can come back to this on the  
20 next round. That might give you a chance to look at  
21 it in between. So why don't I turn to Vice Chairman  
22 Okun, and we can start with that when it comes back to  
23 me?

24 VICE CHAIRMAN OKUN: Thank you. Let me just  
25 go back for just one moment to you, Mr. Vakerics, with

1 regard to the capacity information that's in the staff  
2 report that was based on the questionnaire responses  
3 because I'm trying to sort out some of the things you  
4 said in response to Commissioner Hillman with what you  
5 believe to be better data or the best data we have on  
6 the record.

7           The one question I wanted to clarify is, in  
8 terms of what you understand about how they were  
9 reported, and I understand that you didn't fill them  
10 out, but Mr. Liabo helped, and then they came in and  
11 looked different than what you had thought, I think,  
12 is what you said, does it have to do with how the feed  
13 quotas were used on production versus what you're now  
14 saying is the total allowable biomass per pen? Do you  
15 know if that affected those numbers, or is it a  
16 completely different issue than that?

17           MR. VAKERICS: The best answer I can give  
18 you is, one, that using the feed quotas is somewhat  
19 theoretical. In my honest opinion, I view the numbers  
20 as aberrational because they don't fit into the  
21 overall industry production supply data that we have,  
22 which I think is the best data available.

23           VICE CHAIRMAN OKUN: Okay. But the feed  
24 quota was how the Norwegian industry would have  
25 prepared them normally until it changed to this



1 biomass. They were using that before, the feed quota?

2 MR. VAKERICS: I would have to defer to Lars  
3 Liabo on that because he --

4 MR. LIABO: Yes. The feed quota system was  
5 based on limitations for production. The farmers had  
6 to adjust the number of smolt according to the feed  
7 food that they got. So, therefore, in a way, capacity  
8 could be the feed quota, or, on the other hand, you  
9 could also say that the number of smolt was the  
10 capacity, but, again, the number of smolt was based on  
11 the available feed for the farms.

12 VICE CHAIRMAN OKUN: Okay. I think this is  
13 hard to do in this setting, so I guess my suggestion  
14 is that the staff work with you in determining whether  
15 the information from the questionnaires needs to be  
16 resubmitted or should be submitted using both methods  
17 to try to understand if there is, indeed, a big  
18 distinction between the two that would be more  
19 consistent with the data your presented on production  
20 because right now it's hard for me to figure out what  
21 the differences are, and perhaps that would be  
22 helpful, but I encourage you to work with staff on  
23 that to make sure that that's properly submitted or  
24 resubmitted.

25 And then the last question, just on that

1 side, you've talked in your testimony about the  
2 restructuring of the Norwegian industry and emphasis  
3 placed on this restructuring allowed the Norwegian  
4 industry to make better decisions about production.  
5 I'm just trying to be clear in understanding if the  
6 number of licenses themselves in Norway have gone  
7 down, or it's just the fact that one owner could own  
8 more licenses. In other words, in 1990, there were  
9 782 farm licenses. Do you know -- maybe this would be  
10 a question for the government -- how many farm  
11 licenses there are currently?

12 MR. GREGUSSEN: Yes. As described in  
13 Exhibit No. 28, I think, there has been given a few  
14 new licenses. They have been given only in the latest  
15 years. Currently, there are 857 licenses in Norway.  
16 The new licenses were given because there were areas  
17 in Norway which were suitable for production which  
18 didn't have any licenses, and they were given in a  
19 period where there was growth in the market. The  
20 government doesn't plan to give any new licenses.

21 VICE CHAIRMAN OKUN: Okay. I just wanted to  
22 make sure I understood that particular figure.

23 And then, I guess, turning to the demand  
24 side, you've spent a fair amount of time talking about  
25 the numbers on production, what the best numbers are,

1 and I just want to get some further information with  
2 respect to where you see the market for Norwegian  
3 salmon, whatever figure you want to use for  
4 production.

5           If you can help me out, I know, in Dr.  
6 Stern's analysis, there is a chart on salmon  
7 consumption, global salmon consumption, and there has  
8 been discussion about the Russian market and other  
9 markets. The one thing that Petitioners have talked  
10 about in terms of the relevance of the MIPs and the  
11 EU, which is if you see these production numbers,  
12 whichever ones we're going to use, and you see  
13 production increasing in Norway, and the markets that  
14 are out there where Norwegian can find a home, they  
15 use a very large part of that, even on the information  
16 you've submitted.

17           The Petitioners would have us look to this  
18 EU order for a number of things. Ms. Cannon talked  
19 about that this morning. One was that it didn't show  
20 that there was a premium product. They, for the  
21 safeguard investigation, found the unforeseen  
22 circumstance being that the Norwegians misjudged their  
23 production.

24           So I would like to have your response with  
25 what you would have the Commission focusing on in

1 terms of where Norwegian product will be going in the  
2 reasonably foreseeable future in light of what the EU  
3 findings were. Mr. Vakerics?

4 MR. VAKERICS: Would you like us to respond  
5 to that now or in our post-hearing brief?

6 VICE CHAIRMAN OKUN: I would like a post-  
7 hearing response, but maybe just from you, as a legal  
8 matter, in terms of the relevance of the EU finding  
9 with regard to the issues such as overproduction by  
10 Norway, a lack of a finding of there being a premium  
11 product.

12 MR. VAKERICS: My take on the EU, with the  
13 exception of the fact that the MIPs exist, is that  
14 what the Europeans do over in Europe really has little  
15 value and little relevance to what the Norwegians do  
16 in the United States. You have a different  
17 administering authority. You have different  
18 regulations. You have different approaches. You have  
19 different methodologies. What they may consider to be  
20 dumping, we might not consider to be dumping.

21 I can't speak for the observations,  
22 obviously, but I think what they may view as happening  
23 in the European Union really ought not to have any  
24 impact on what this Commission decides with respect to  
25 revocation in the United States, with the exception of

1 the MIPs, which I think we've addressed pretty  
2 thoroughly.

3 VICE CHAIRMAN OKUN: On the MIPs, I know  
4 that you submitted the price series that I believe  
5 Commissioner Hillman had asked about that showed the  
6 price series, and I think, Mr. Liabo, you had  
7 described that as kind of the normal flow of prices.  
8 You might have submitted this elsewhere, but if you  
9 have it, if there is a long price series for the EU  
10 that we could look at, then perhaps we could put that  
11 in better perspective, what you said about the  
12 seasonality and where prices have been and if there is  
13 anything with regard to the future prices as well.

14 MR. VAKERICS: Okay. I might also point out  
15 that Exhibit 63 takes 2004 versus 2005. In February  
16 2005, dumping duties were imposed and then moved to  
17 MIPs, and we've given you export data from Norway to  
18 the EU in Exhibit 63 showing that, for this period  
19 compared to the same period last year without MIPs,  
20 imports are increasing. It's pretty compelling stuff.

21 VICE CHAIRMAN OKUN: I know that data, and I  
22 also just was curious about the pricing data during  
23 that same -- the pricing data.

24 MR. VAKERICS: Okay.

25 VICE CHAIRMAN OKUN: Dr. Stern?

1 MS. STERN: Thank you. I just wanted to add  
2 to Tom's comment about your question about the  
3 relevance of the EU findings on the premium product  
4 question. It's a different market. You've got  
5 testimony here from these business people who know the  
6 U.S. market and who know the EU market and know the  
7 other markets overseas, and what I hear them saying is  
8 that, in the EU, much of the product that Norway has  
9 exported to Europe has been for further processing,  
10 that that is a key component, if you will, of the EU  
11 conditions of competition, whereas, in the United  
12 States, were the orders to be lifted, the FWS would be  
13 purchased by Asian sushi markets, white tablecloth  
14 gourmet, chefs who want to see the eyes of the salmon  
15 to make sure that they are the freshest, best, et  
16 cetera.

17 So it is a premium market. They are two  
18 very different markets that reflect transportation  
19 costs as well as long-term relationships and the whole  
20 processing industry which has grown up in Europe which  
21 does not exist here that Norway is serving.

22 VICE CHAIRMAN OKUN: Your mention of  
23 transportation costs to Commissioner Aranoff, I know  
24 that in response to Commissioner Aranoff, you are  
25 going to submit information with regard to

1 transportation differences between the U.K. and Norway  
2 shipping to the United States. And if you haven't  
3 done so, the other transportation cost issue was with  
4 regard to the Russian trucking costs and that may be  
5 somewhere in your brief, that it might be useful to  
6 see on something like Chart 8, as well, just as  
7 comparison purposes. And that will be for post-  
8 hearing.

9 Thank you, Mr. Chairman.

10 CHAIRMAN KOPLAN: Thank you. Commissioner  
11 Hillman?

12 COMMISSIONER HILLMAN: Thank you. First,  
13 just a quick follow-up on the data. If I could ask  
14 for really both sets of charts that were submitted, to  
15 the extent that a lot of them have no sourcing  
16 information on it, if we could find out what the  
17 source of the data was, because I am, again, still  
18 trying to square some of the data that you've  
19 presented here versus some of the data that we have in  
20 our staff report.

21 MR. VAKERICS: We will do that for you,  
22 Commissioner.

23 COMMISSIONER HILLMAN: Thank you. Secondly,  
24 if I could come back to some of this issue of sort of  
25 relative prices and the premium nature of the product.

1 And I guess I want to pick up a little bit with a  
2 comment that you made, Mr. Vakerics, in response to  
3 Commissioner Aranoff's question. And I just want to  
4 make sure I understand it from the Norwegian  
5 perspective, is the product that you are selling into  
6 the United States or had been selling prior to the  
7 order different in any way than the product that  
8 you're selling into the European Union or into Russia  
9 or into elsewhere? In other words, is a Norwegian  
10 salmon a Norwegian salmon? That's what you get. It  
11 sort of doesn't matter from whom in Norway you source  
12 it or it is the same product or do you, in fact,  
13 target certain kinds of salmon to the U.S. market and  
14 different kinds to any of these other markets?

15 MR. RYGG: I can answer some on that. The  
16 salmon we bring into the EU is typically size three to  
17 four, four to five kilo --

18 COMMISSIONER HILLMAN: Okay.

19 MR. RYGG: -- and five to six kilo, which is  
20 a smaller size salmon. And also when it's smaller, it  
21 doesn't have as much marble path line in the meat, as  
22 a bigger size salmon. The salmon we bring into the  
23 U.S. is typically a six kilo salmon, which gives more  
24 of like a steak feeling, I would say, for the  
25 consumer. It's the item characteristics when the



1 consumer gets it on the plate that distinguishes the  
2 Norwegian salmon with the marbled type. It's kind of  
3 like a tenderloin compared to a rib-eye steak, you  
4 know. Some people like the more marbled steak, other  
5 people like the tenderloin.

6 COMMISSIONER HILLMAN: Okay. I very much  
7 appreciate that answer. And would you say that has  
8 always been the case? In other words, if we go back  
9 to the original investigation and look at the imports  
10 that would have been coming in from Norway at that  
11 time, same thing, the larger steak type product coming  
12 in, in the early days, or has there been a change?

13 MR. RYGG: I will have Terje answer that,  
14 since I have been in this market only since 1996.

15 COMMISSIONER HILLMAN: Mr. Korsnes?

16 MR. KORSNES: Yes, there's been a change.  
17 During the earlier years of Norwegian salmon coming  
18 into the market, notably in the 1980s, there was no  
19 alternative to this wonderful product in the United  
20 States. It was probably the finest, well handled,  
21 well packaged seafood product that a wholesaler could  
22 buy from anywhere in the world and it was taken into  
23 distribution at different levels for distribution in  
24 high-end restaurants, of course, and in the retail  
25 markets that considered themselves high end. In the

1       meantime, since Norway was forced to leave the market,  
2       the Chileans came in with fillets and captured much of  
3       that retail market that would have taken Norwegian  
4       salmon in the past and what we are left with supplying  
5       today is niche markets or segments of market that  
6       would pay the extra to get that special size of fish,  
7       the special appearance of the product.

8                COMMISSIONER HILLMAN:   Okay.  I appreciate  
9       that.  And then, again, just so I understand it,  
10      because when you're sitting here trying to square this  
11      notion that this is a premium product being sold into  
12      a niche market and then I look at what market share  
13      you have in the European Union and in Russian and in  
14      other places, and I think, if it's only actually going  
15      to the white tablecloth, very high-end market, there  
16      must be a very, very large high-end market in Russian  
17      or the E.U.  So, I'm trying to make sure I understand  
18      whether it's the product, itself, or whether your view  
19      is that you are also a premium product being sold into  
20      Russia and the European Union at these levels.

21               MR. KORSNES:  I was addressing the  
22      perception of the product in the United States and the  
23      change from --

24               COMMISSIONER HILLMAN:  Okay.

25               MR. KORSNES:  -- 1990 to now.

1                   COMMISSIONER HILLMAN: What would be the  
2 perception of the Norwegian salmon in Russia or in the  
3 European Union?

4                   MR. KORSNES: I will defer to my colleagues  
5 from Norway here.

6                   COMMISSIONER HILLMAN: Okay.

7                   MR. BERG: We do surveys and we can document  
8 that they have a very strong preference for Norwegian  
9 salmon. When we ask consumers, they rank Norwegian  
10 salmon way above all others. I don't remember the  
11 figures from Russia or different countries in Europe,  
12 but Norway is by far the most preferred supplier of  
13 salmon in front of everybody else.

14                   COMMISSIONER HILLMAN: In the EU, is it  
15 largely, again, going to the white tablecloth type  
16 restaurant, the high-end retailer?

17                   MR. BERG: We don't have any measures on  
18 that. We ask randomly picked consumers, so I couldn't  
19 answer that.

20                   COMMISSIONER HILLMAN: And then if we focus  
21 on the price side of it, if the U.S. market is taking  
22 this larger steak-type product that you're describing,  
23 the greater than six kilo product, is that priced  
24 differently than the smaller product that is going  
25 into the European Union?

1                   MR. RYGG: Yes. It's typically higher  
2 priced and I think you will find that also in the U.S.  
3 market that bigger-sized fish is on the average over  
4 12 months or 24 months higher priced than three to  
5 five kilo fish.

6                   COMMISSIONER HILLMAN: Okay. How much  
7 higher, generally?

8                   MR. RYGG: I would say it could vary with up  
9 to 30 percent.

10                  COMMISSIONER HILLMAN: Okay. So, then, if  
11 we tried to understand whether the U.S. market has a  
12 price premium for salmon over the European Union or  
13 Russia, I'm trying to get a sense, compared to the  
14 other markets that you could sell into, would you get  
15 a better price selling into the U.S. market? I  
16 understand there's transportation costs that clearly  
17 have to be taken into account. But just if I was  
18 looking at prices for this kind of salmon here,  
19 Europe, Japan, Russia, who is the highest priced  
20 market today?

21                  MR. RYGG: I would say, as it also was  
22 earlier said, that the Norwegian exporter would  
23 typically put the fish where they would get the most  
24 price for the fish, and they would evaluate that on a  
25 weekly or bi-weekly, maybe monthly basis. The U.S.

1 market might be paying slightly more, maybe five to 10  
2 percent more than the other main markets for that  
3 sized fish.

4 COMMISSIONER HILLMAN: Okay. And is that  
5 five to 10 percent better price enough to pull product  
6 in, given the transportation costs? Again, in the  
7 absence of anything else, is that enough of a premium  
8 that this is an attractive market?

9 MR. RYGG: Well, the only -- there is very  
10 limited availability of this size fish globally  
11 basically, of this big-sized fish, so -- and there is  
12 the market, especially if you look also to the Russian  
13 market, it's increasing in this size fish. So, I  
14 don't know if those five to 10 percent would be able  
15 to attract more fish or not, because you still have to  
16 serve the other markets, even if you could get a  
17 premium in the U.S.

18 COMMISSIONER HILLMAN: Okay. Now, you're  
19 saying clearly, the U.S. market likes these bigger  
20 steak-type products.

21 MR. RYGG: That's correct.

22 COMMISSIONER HILLMAN: What other markets  
23 prefer the larger fish?

24 MR. RYGG: Then, I will have Sverre or --

25 MR. SORAA: Then, we have to move to Hong

1 Kong, Taiwan, those are the big countries for all  
2 these bigger-sized fish.

3 COMMISSIONER HILLMAN: Okay. For the sushi-  
4 type product, do you want the large salmon or you're  
5 wanting the smaller fish, for that sushi, Asian kind  
6 of market?

7 MR. BJELKAROY: I would also like to try to  
8 give some explanation to this point. Both in Russia,  
9 where also you have the big fish going, where they are  
10 salting it, they're making it for a luxury product for  
11 the restaurants and also sold as luxury product in the  
12 hypermarkets, they prefer the big fish. When we look  
13 into the Far East, the big fish is also used for the  
14 sushi and Sashimi bars and that's highly appreciated.  
15 And that's, again, the reason why this fish is a  
16 little bit more fatty and the taste of the salmon, the  
17 splendid fish is in the fat. And as I said, that's  
18 what they want to have. And when we compare whether  
19 we are going to ship it to Russia or the Far East or  
20 whatever, we are looking what is the payback for the  
21 fish, itself, and that's what's important and that's  
22 what makes our choice.

23 COMMISSIONER HILLMAN: Now, can you decide,  
24 again, as the fish is in these tanks, that you want to  
25 start producing more of the higher poundage fish or is

1 it one of those things that you had to have decided  
2 all along, that this is going to become a higher fat,  
3 big fish, good for the sushi market?

4 MR. BJELKAROY: Again, we are farming this  
5 fish. We all the time, throughout the production,  
6 trying to give it the most optimal feed, so the fish  
7 grow and get bigger and fatter throughout the period.  
8 And the biggest fish get more fatty than the smaller  
9 fish.

10 COMMISSIONER HILLMAN: But is it purely a  
11 timing thing? If you decide you want more big fish,  
12 you just let them feed for longer and there, you will  
13 get a higher percentage of big fish?

14 MR. BJELKAROY: That's correct, if you do  
15 that. But, that's also based upon what we do for sea,  
16 as an option, to handle these quantities of big fish.  
17 If we don't foresee that there will be that demand for  
18 this kind of big fish in that volume, we will harvest  
19 the big as a slightly smaller fish, which is suitable  
20 for the European industry processing it for cutting.

21 COMMISSIONER HILLMAN: Okay. I appreciate  
22 those responses. Thank you, very much.

23 CHAIRMAN KOPLAN: Thank you, Commissioner.  
24 Commissioner Lane?

25 COMMISSIONER LANE: I'd like to follow up a

1 little bit about the size of the fish. Are the fish  
2 in the same tank and some of them, you allow to get  
3 bigger and some of them, you cut their life short and  
4 sell them? I mean, how does this work?

5 MR. BJELKAROY: I might try to give a short  
6 explanation about that, since we both are a farmer and  
7 a processor. The fish, itself, is like humans, some  
8 are growing fast and some are not growing that fast.  
9 And you get a gulf corral, with a big, smaller, and a  
10 medium. The most optimum for the industry, when we  
11 are looking into the basic market, like especially  
12 Europe, they prefer a medium size of the four to six  
13 kilo and, therefore, we try to optimize the production  
14 up to that size. But, among that fish and that  
15 generation, there are big, small, and medium. But,  
16 also throughout the operation, we try to split the  
17 fish, so always we try to have as close to that  
18 optimal size that we can get all the time through.  
19 So, we can decide whether we want to have it really  
20 big or we can harvest it earlier. But, too early, it  
21 will be too small and it's not cost-wise good.

22 COMMISSIONER LANE: And so all of the fish  
23 can be in one pond and you can decide that some of  
24 them are growing faster and you can allow them to get  
25 bigger and other ones -- I mean, you can divide them



1 up from one big pool?

2 MR. BJELKAROY: Yes, we can.

3 COMMISSIONER LANE: Okay, thanks. I'm sort  
4 of curious as to whether or not you can provide post-  
5 hearing the price that you are receiving for your  
6 Norwegian salmon in U.S. dollars to your other  
7 markets, like Japan, Russia, and the EU.

8 MR. VAKERICS: We'll do our best,  
9 Commissioner, to give you that data.

10 COMMISSIONER LANE: Okay, thank you. And  
11 the other question I had is do you have the same  
12 environmental issues in Norway that you have heard  
13 that the U.S. industry faces here with regard to  
14 environmental issues?

15 MR. GREGUSSEN: I think I can answer that.  
16 I think both the attitudes and the requirements are  
17 quite different. Running fish farms are generally  
18 considered to be a good environmental friendly  
19 business in Norway and the communities that have fish  
20 farms, they appreciate the business that the farms  
21 give them. There are, however, of course things like  
22 you have yours, where you have to protect because of  
23 the populations we have of salmon. But, I don't think  
24 any of the attitudes or any of the practical  
25 applications are similar to what you face in the U.S.

1 or in Canada.

2 COMMISSIONER LANE: Okay, thank you. Mr.  
3 Chairman, that's all the questions I have.

4 CHAIRMAN KOPLAN: Thank you, Commissioner.  
5 Commissioner Pearson?

6 COMMISSIONER PEARSON: Thank you, Mr.  
7 Chairman. In my first round of questions, I asked  
8 for, if possible, side-by-side comparisons of debt  
9 returns for exports to various markets. Based on what  
10 I've learned now in the testimony, why don't we focus  
11 that on fish that would be of particular interest in  
12 the U.S. market, the larger, six kilo fish, and  
13 perhaps compare then to other markets that demand  
14 those fish, Taiwan, Japan? That might be the simplest  
15 comparison, so that we don't put unnecessary  
16 information onto a spreadsheet.

17 MR. VAKERICS: We'll do that. Thank you,  
18 Commissioner.

19 COMMISSIONER PEARSON: Okay. Is there a  
20 market mechanism in Norway that would allow price  
21 discrimination among various export destinations?  
22 What I'm trying to understand, knowing at least early  
23 in the history of this industry, there was significant  
24 government involvement. Do we still have some  
25 government involvement that would guide the exporting

1 of this product or are all of the export decisions  
2 made by individual firms that compete actively against  
3 each other?

4 MR. GREGUSSEN: There is no government  
5 involvement in anything that really gives any kind of  
6 guidance or anything to what markets the produces are  
7 targeting. In fact, it's very likely to say that all  
8 of the instruments that was in place in 1989, 1990,  
9 and 1991, that could indicate that that government  
10 protection or anything was in place has been removed,  
11 and that has been a part of the restructuring of the  
12 industry. So, we have a clear tendency that over the  
13 years has gone in a situation where the total  
14 responsibility is within the industry and everything  
15 that we have been able to do to make the industry  
16 consolidate and farm larger units has been done by the  
17 government.

18 COMMISSIONER PEARSON: Okay. In the United  
19 States, we have what are known as export trading  
20 companies, in which the domestic industries, the  
21 various companies, are allowed to collaborate with  
22 each other for exporting their products and in order  
23 to do that, they have protection from the U.S.  
24 antitrust requirements for that specific purpose of  
25 exporting. Is there that type of arrangement in

1 Norway that allows collaboration among the exporting  
2 firms?

3 MR. GREGUSSEN: No, there is not.

4 COMMISSIONER PEARSON: Okay. In this case,  
5 if there's not much government involvement, how is the  
6 decision made to take 20 million fingerlings out of  
7 production? Did the industry just wake up one morning  
8 and each company decide to get rid of a certain number  
9 of fingerlings? Mr. Liabo?

10 MR. LIABO: No. We collect data from the  
11 companies three times a year and give the data back to  
12 the industry. And based on that, the industry farming  
13 that production, number of eggs, the yield, et cetera,  
14 and then they simply the different companies  
15 voluntarily took action.

16 COMMISSIONER PEARSON: Mr. Berg?

17 MR. BERG: If I could add, in addition to  
18 having the information presented by Kontali, Mr.  
19 Liabo, my organization is supplying the fish farmers  
20 and the exporters with market information every week.  
21 So, that makes the best possible decision information.  
22 So, then, we have both information from the production  
23 side and from the market side.

24 COMMISSIONER PEARSON: Thank you.

25 MR. IVERSEN: Can I, also, add something on

1 this?

2 COMMISSIONER PEARSON: Please, Mr. Iversen.

3 MR. IVERSEN: Because during last year, the  
4 Norwegian producers have struggled quite a lot to  
5 bring down the cost of production and they have  
6 learned, they have seen, and they have understood that  
7 one of the most important part of this cost of  
8 production is a good quality smolt, a good quality  
9 fish. So, when they all of a sudden are -- when they  
10 understood that there were in a risk to produce too  
11 much according to the demand in the market, it was  
12 quite easy for them to reduce the number of smolts by  
13 20 million, because the rest, which then were going to  
14 farm, was the good quality smolt, which brought down  
15 the cost of production eventually.

16 COMMISSIONER PEARSON: Okay. So, there was  
17 an ability of the fingerlings to sort out the better  
18 ones from the ones --

19 MR. IVERSEN: Exactly.

20 COMMISSIONER PEARSON: -- that weren't quite  
21 so good?

22 MR. IVERSEN: Yes.

23 COMMISSIONER PEARSON: Okay. But, still,  
24 isn't there a free rider issue here? I mean, a firm  
25 that would decide, well, I think my large competitor

1 over here will reduce his production of fingerlings,  
2 so I think I'll just keep all of mine. I mean, how  
3 it still seems surprising to me that there would be a  
4 consensus across the industry somehow to reduce by  
5 some number. Mr. Iversen?

6 MR. IVERSEN: Of course. But, if you end up  
7 as a free rider with the highest cost of production,  
8 then you are a bad free rider. So, I don't think they  
9 would do that.

10 COMMISSIONER PEARSON: Okay. That's fair  
11 enough. So, going back to the question of  
12 exportation, how many firms are there that are  
13 generally involved in exporting salmon from Norway to  
14 all destinations?

15 MR. LIABO: I think there are between 100  
16 and 150 companies that might be involved in the export  
17 of salmon through a year, a whole year. But, if you  
18 count the 10 largest exporters in Norway know they  
19 count for 70 percent of the total export.

20 COMMISSIONER PEARSON: Okay. And those 10  
21 would compete actively against each other every month  
22 of the year, more or less?

23 MR. LIABO: Every day, almost.

24 COMMISSIONER PEARSON: Every day?

25 MR. LIABO: Yes. But, since the industry is

1 more integrated now with companies owning their own  
2 filleting plants in Europe, they try to make the  
3 industry more industrialized, more planning. The  
4 slaughtering plant have a given capacity and they have  
5 to fill that capacity every day. So, it's not the  
6 kind of up and down.

7 COMMISSIONER PEARSON: Okay.

8 MR. LIABO: It's a planned industry.

9 COMMISSIONER PEARSON: In some industries,  
10 we see examples where one firm in an exporting country  
11 might be a very large producer and exporter, a  
12 dominant player, and that company might have the  
13 ability to, in order to protect a high price in its  
14 domestic market, to export at low cost some modest  
15 percentage of its output, 10 percent, something like  
16 that. And so, it would have the market power to make  
17 that type of decision, to try to maximize its overall  
18 revenues. Is any Norwegian exporter large enough to  
19 exert that kind of market power?

20 MR. BJELKAROY: In my opinion, so far not.  
21 I might also comment that --

22 COMMISSIONER PEARSON: Mr. Bjelkaroy?

23 MR. BJELKAROY: No. Unfortunately, nobody  
24 is that big.

25 COMMISSIONER PEARSON: Okay. So, we

1 genuinely can look at salmon as a very competitive  
2 market, in terms of the export from Norway. And I'd  
3 like to compare commodities to soybeans. Soybeans  
4 might be more of a commodity than salmon, because, of  
5 course, you have bigger sized fluctuations or  
6 variations in salmon than in soybeans. But, in a pure  
7 commodity market, it's very difficult for any one  
8 producer to have control over the price and so all  
9 producers tend to be price takers. But, based on what  
10 you've said about some firms having filleting  
11 operations in Europe, are all of the exporters just  
12 price takers or do some have some ability to control  
13 the price that they get?

14 MR. LIABO: In the long run, no.

15 MR. SORAA: Maybe I can give a comment on  
16 that.

17 COMMISSIONER PEARSON: Mr. Sorra?

18 MR. SORAA: Yes, Mr. Sorra. And, of course,  
19 we can make contracts with big supermarket chains. We  
20 can make contracts with processors in the industry in  
21 Europe. And we do that, yes, to secure the price for  
22 a certain period of time.

23 COMMISSIONER PEARSON: Okay. Any other  
24 comments?

25 (No response.)



1                   COMMISSIONER PEARSON: Mr. Chairman, my  
2 light is changing, so I'll stop.

3                   CHAIRMAN KOPLAN: Thank you, Commissioner.  
4 Commissioner Aranoff?

5                   COMMISSIONER ARANOFF: Thank you, Mr.  
6 Chairman. Mr. Vakerics, I want to start with an  
7 argument that you made in your brief that hasn't come  
8 up yet today. You were arguing that in the event that  
9 the order were revoked, part of the U.S. industry that  
10 operates out of Washington State would be, in some  
11 sense, insulated from any possible injury, because  
12 there's not a whole lot of competition from Norwegian  
13 product on the west coast. And you quoted from the  
14 original investigation that only 7.7 percent of the  
15 Norwegian product was entering the port of Los  
16 Angeles, at the time. And I asked our staff to go off  
17 and get me some comparable data for the current period  
18 and it turns out there must be a lot more sushi eaters  
19 on the west coast now than there were at that time,  
20 because the data showed that in 2004, about 21 percent  
21 of Norwegian imports were entering in western ports,  
22 Los Angeles, San Francisco, Seattle. How does that  
23 effect the argument?

24                   MR. VAKERICS: Well, it's a lot more than  
25 seven percent, but it really doesn't change our

1 position that you have two separate markets. And why  
2 we raise that and not ask for a regional industry is,  
3 is we believe that you have to give separate  
4 consideration to the west coast and to the east coast,  
5 in terms of conditions of competition and in terms of  
6 the criteria you apply to determine whether they're  
7 vulnerable to injury or likely to be injured. The 21  
8 percent number is higher than I would have expected,  
9 but it still doesn't change the overall fact that  
10 they're quite insulated from imported salmon.

11 MR. RYGG: May I make a comment as well?  
12 Odd Rygg.

13 COMMISSIONER ARANOFF: Yes.

14 MR. RYGG: These numbers are the subject  
15 merchandise. They get fresh whole fish, I assume,  
16 right, and not including the fresh fillets.

17 COMMISSIONER ARANOFF: I believe that that's  
18 correct.

19 MR. RYGG: Well, as I said in my testimony,  
20 I worked in Seattle, managing the sales of one of the  
21 largest fish farms in Canada and also actually sales  
22 for the fish farm that's now owned by Golden Seafood,  
23 Smoki Food sale, and there had been production  
24 problems related to a parasite called Kudoa on the  
25 west coast. I think they're starting to overcome the

1 problems now according to what I'm hearing. And  
2 during this period where they had this parasite in the  
3 meat, that makes it look like jelly, basically, it  
4 gets soft and it's not suitable for human consumption,  
5 there might have been a window for imported product  
6 from Scotland and Norway to fill those segments with  
7 the sushi quality they needed. When they get the  
8 production they need, you know, when they get the  
9 health issues under control, these segments have no  
10 problem serving this -- getting fish from the State of  
11 Washington.

12 COMMISSIONER ARANOFF: Okay, thank you. I  
13 appreciate that answer. I wanted to ask a question to  
14 Mr. Korsnes. You were the one, who testified that  
15 your company has a zero margin, right? Can you tell  
16 me, does your company have affiliated in Chile or  
17 Canada or elsewhere that are exporting to the United  
18 States?

19 MR. KORSNES: Our company has arrangement  
20 with companies in Chile. We purchase large amount of  
21 Chilean product, bring into the United States, all of  
22 which is frozen product. They're either fillets or  
23 portions or, to some degree, whole fish in the past.  
24 We are currently not doing any business with salmon  
25 out of Canada and it's not just -- we are primarily in

1 the frozen seafood business. The Canadian producers  
2 of Atlantic salmon do not have an infrastructure and  
3 are not interested really in producing frozen product  
4 at too close to markets. So, they prefer fresh,  
5 obviously.

6 COMMISSIONER ARANOFF: Okay. I appreciate  
7 that answer. Obviously, I'm trying to weigh this  
8 argument that there's a company with zero margin that  
9 has no incentive to ship to the U.S. And so, if there  
10 are other companies that have low or zero margins that  
11 haven't been shipping here, I'm interested in knowing  
12 whether they have affiliates in other non-subject  
13 countries, who are shipping here. Thank you.

14 Mr. Vakerics, I'm going to come back to you  
15 and the conversation that we had in the last round and  
16 that you continued with Commissioner Hillman on this  
17 issue of the niche product. At the very end of our  
18 conversation when my light had already turned red, you  
19 indicated to me that, well, when they say 'niche,'  
20 it's not really a quality difference. It's actually  
21 its image. But, your witnesses seem to have persisted  
22 in saying that it is, in fact, a quality difference.  
23 So, I guess rather than saying to you which is right,  
24 I'll assume there are some of both. But, I had, at  
25 the time, been requesting whether there was a way to

1 actually compare these qualities that make the  
2 Norwegian product a niche product with the products  
3 that come out of some other countries.

4 MR. VAKERICS: Right, and that's why I  
5 wanted to add that comment. Of course, we are very  
6 proud producers here, who believe they make the best  
7 salmon in the world, and I agree with them. I think  
8 they do. But, in the context of this forum, what I  
9 was saying is we're not getting into a quality battle,  
10 whether our salmon is better than their salmon and  
11 that's what produces the ability to create the niche  
12 and the ability to command a premium price. It is  
13 based on branding.

14 Mr. Coursey, himself, and we have a quote in  
15 his brief back in I think the original no, it was  
16 either the original investigation, and I can give you  
17 a cite later, or in the Chilean case, Mr. Coursey,  
18 himself, said that the branding was so powerful that  
19 in the United States, perception was, you had three  
20 types of salmon: Atlantic, Pacific, and Norwegian.  
21 And that's a great way to explain the position we're  
22 taking here, in terms of our niche marketing. And  
23 back in the Chilean investigation, we have a quote  
24 from the president of Legal Seafood, who said back in  
25 1998, he'll pay 25 to 50 cents a pound more for

1 Norwegian fillet, because of the premium branding.  
2 And here, today, we have Wally Stevens saying, yes,  
3 that premium perception continues to exist in this  
4 country.

5 But, what I want to avoid is the age-old  
6 classic argument here, where we get a better price,  
7 because we have higher quality. For the purpose of  
8 this forum, what we're saying to you is, we've got a  
9 better brand image. It's a perception. It's not that  
10 one fish is actually better than the other fish, but  
11 it's a fact that the perception in the market among  
12 consumers, high-end retailers, and restaurants is that  
13 Norwegian is premium, is different, and they get  
14 better prices for it.

15 COMMISSIONER ARANOFF: Now, in that as I  
16 understand all of these gentlemen from the industry,  
17 who have testified they're not really marketing in the  
18 United States right now, so they're kind of riding on  
19 a reputation that they invested in many years ago.

20 MR. VAKERICS: That's absolutely correct.  
21 That's how strong the branding was. And look at this  
22 Wally Stevens' affidavit. He says that image still  
23 exists today and he's willing to pay more money for  
24 it. In his affidavit, he says he's willing to pay  
25 more money for Norwegian imported salmon than he would

1 pay for U.S.-produced salmon and he would expect his  
2 customers to sell it at a higher price and position it  
3 as a premium Norwegian product. Yes, that's how good  
4 it was. Remember, Mr. Coursey's three kinds of  
5 salmon: Pacific, Atlantic, Norwegian. That still  
6 exists today.

7 COMMISSIONER ARANOFF: Okay. I appreciate  
8 those answers. Let me ask you one more question and  
9 perhaps this goes to the government representative.  
10 Given the interest that the Norwegian government has  
11 now expressed as a matter of principle in this  
12 proceeding, why hasn't the Norwegian industry ever  
13 requested a review at Commerce?

14 MR. VAKERICS: I'm going to ask Otto  
15 Gregussen to comment on that, but I also -- I've been  
16 working -- I did not represent the industry in the  
17 original investigation. They hired me after to  
18 conduct some reviews and I've been working with them  
19 over the last 10 years or so, encouraging them to  
20 request reviews at Commerce, in order to get rid of  
21 the margins, and the answer I received consistently  
22 was, we don't care. We're not interested in the U.S.  
23 market. But, Otto knows even better. He was Minister  
24 of Fisheries in Oslo around this time.

25 MR. GREGUSSEN: Yes, I can just add to the

1 same things that Tom says. But, it is kind of if this  
2 continues forever, it creates an image that we feel  
3 that we cannot disturb and the longer time it goes,  
4 the worse it really gets. I mean, we have done  
5 everything we can to make the industry efficient,  
6 compatible. You have changed the laws in every way,  
7 so they have a better possibility to form decisions.  
8 We have removed the monopoly from 1990. And after  
9 having done this, it doesn't make any sense for us  
10 that everything should continue as if they were the  
11 same as they were in 1999. This is not the case. It  
12 was bad to look at it five years later; it was bad to  
13 look at it 10 years later; it's not good to look at it  
14 15 later; and it would be even more uncomfortable to  
15 look at this in 20 years. So, that's why.

16 COMMISSIONER ARANOFF: Okay, thank you, very  
17 much. And I see my time is up. I want to thank all  
18 the witnesses for their answers this afternoon.

19 CHAIRMAN KOPLAN: Thank you, Commissioner.  
20 Let me come back, if I could, to the question I ended  
21 with on my first round. I think I was talking to you,  
22 Mr. Berg. And without going through the whole thing  
23 all over again, I asked why you weren't increasing  
24 your exports of salmon cuts to the U.S. market, as you  
25 are in other parts of the world, and I mentioned



1 Canada. And I think you indicated that to your  
2 knowledge, fillets were not going to Canada. But when  
3 I look at Exhibit 4 and I look at the arrows, it would  
4 appear that there's a red arrow that goes to Norway to  
5 Canada and it shows whole, 1,500 tons. I assume these  
6 are all metric tons we're talking about, right? These  
7 are metric tons?

8 (No verbal response.)

9 CHAIRMAN KOPLAN: And fillets, 1,800 metric  
10 tons. It's those two arrows right at the top of your  
11 chart, right there. Aren't they running from Norway  
12 to Canada or am I reading that wrong? Mr. Liabo?

13 MR. LIABO: That's our fault. They should  
14 have continued to the U.S.

15 CHAIRMAN KOPLAN: They should have continued  
16 to the U.S.

17 (Laughter.)

18 MR. BERG: And if I could add to that.

19 CHAIRMAN KOPLAN: What?

20 MR. BERG: If I could add, that we did  
21 export some salmon to Canada last year, altogether 339  
22 tons, and the value of that was less than two million  
23 dollars. Out of this, it was 16 tons with fresh whole  
24 salmon.

25 CHAIRMAN KOPLAN: Okay. Do you want to

1 maybe go over this chart and resubmit it? Maybe there  
2 are some other areas that you might want to work with.

3 MS. STERN: Chairman Koplan?

4 CHAIRMAN KOPLAN: Yes.

5 MS. STERN: If I might encourage you to look  
6 at my map, which is on page 10 of the joint  
7 report/brief, it's in Exhibit 1.

8 CHAIRMAN KOPLAN: I don't have it in front  
9 of me.

10 MS. STERN: It's Chart 1 schematic diagram  
11 of world trade flows in salmon. You don't have that  
12 arrow going from Norway to Canada. I hope you will  
13 take a look at that when you get a chance.

14 CHAIRMAN KOPLAN: I have it right here.

15 MS. STERN: Thank you.

16 CHAIRMAN KOPLAN: You might want to work  
17 with them on their chart.

18 MS. STERN: Okay, great.

19 MR. VAKERICS: We will, Mr. Chairman. Thank  
20 you.

21 CHAIRMAN KOPLAN: Thank you, very much. Let  
22 me turn now to Mr. Vakerics and Dr. Stern, since  
23 you're already up. On page one of your brief, you  
24 state the following, 'the age of the orders alone, we  
25 submit, is sufficient, at a minimum, to create a

1 presumption that the order should be revoked.' And  
2 then you cite to the explanation of the Commission's  
3 determination on adequacy for carbon, steel, butt-weld  
4 pipe fittings from Brazil, China, Japan, Taiwan, and  
5 Thailand, in which the Commission voted to conduct a  
6 full sunset review, 'because of the age of the orders  
7 in question, in order to examine in detail changes in  
8 the conditions of competition in the market.'

9 I'm afraid I don't understand your point.  
10 The Commission standards for adequacy votes are very  
11 different than the standards for revocation. We're  
12 talking about apples and oranges here. In fact, I  
13 believe on that one, I voted to expedite. But, I  
14 don't think you can point to an adequacy vote as the  
15 basis to remove the order.

16 MR. VAKERICS: Then, I may have  
17 misunderstood the vote, but I perceived it to be a  
18 vote on whether to conduct a full versus an expedited  
19 review.

20 CHAIRMAN KOPLAN: Well, the fact that you  
21 conduct the full doesn't mean you're going to keep the  
22 order in place or not keep the order in place. It's  
23 just, you need more information. How much interest  
24 have the parties exhibited with respect to the review  
25 in question; have there been changes in conditions of

1 competition that you believe might have taken place  
2 that you need more information on. But, just the fact  
3 that the order has been in place, at least as far as I  
4 am concerned, that's not sufficient, absent other  
5 factors, all by itself to go forward.

6 MR. VAKERICS: Okay. I stand correct.  
7 Thank you, Mr. Chairman.

8 CHAIRMAN KOPLAN: Thank you. Let me stay  
9 with you and Dr. Stern, if I could. On page six of  
10 your brief, you note that 'there are no confirmed lost  
11 sales of revenues during the POI.' Because sunset  
12 reviews are prospective in nature, how should the lack  
13 of lost sales or lost revenues be factored into my  
14 analysis of likely continuation of material injury in  
15 the reasonably foreseeable future, if the orders are  
16 revoked?

17 MR. VAKERICS: Well, I review that same  
18 criteria as I do when I view overselling or  
19 underselling. The evidence from the original  
20 investigation is that the Norwegians did not go to the  
21 level of actually pulling away sales or pulling away  
22 revenues from the domestic industry. Therefore, I  
23 would argue, that since the orders were not in place  
24 at that time, it's unlikely that the same thing would  
25 happen here, and that goes to the question of whether

1 material injury would continue or recur.

2 CHAIRMAN KOPLAN: Okay. So, that's the  
3 basis for that. I appreciate you telling me that.

4 Let me stay with the two of you, again. On  
5 page eight of your brief, you state that 'the  
6 Norwegian FWS industry is operating at capacity.'  
7 This statement appears to be at odds with data  
8 collected by Commission staff. I refer you to Table  
9 4-3 on page 4-6 of the Commission's pre-hearing staff  
10 report. Capacity utilization for the Norwegian  
11 industry during the period examined ranges from 73.7  
12 percent in 1999, to 91.7 percent in 2004. Considering  
13 the size of the Norwegian salmon industry, there  
14 appears to be considerable unused capacity. I note  
15 that you'd like us to use Kontali data for Norwegian  
16 capacity and you mention that at page 56 of your  
17 brief. But, the data we use in the staff report were  
18 provided to us by Norwegian producers. Could you  
19 please comment on that?

20 MR. VAKERICS: Yes. The data, I think, is  
21 basically aberrational. It's theoretical. And I  
22 don't think it's reliable, because if for no other  
23 reason, if you look at the industry-wide data we've  
24 given you based on Statistics Norway and based on  
25 Kontali data, you see nothing that even suggests a

1 doubling in capacity during the entire period of  
2 review.

3 CHAIRMAN KOPLAN: Could you expand on that  
4 for me, for purposes of the post-hearing?

5 MR. VAKERICS: Absolutely, yes, sir.

6 CHAIRMAN KOPLAN: I appreciate it. And then  
7 coming back to Commissioner Aranoff's walking through  
8 these numbers, in terms of the U.S. imports from  
9 Norway by ports within a region, the data that you've  
10 got, taking into account that data, perhaps you could,  
11 for purposes of the post-hearing, give me some legal  
12 arguments that are taking the data into account that  
13 I'm looking at here, legal arguments for your  
14 continuing to push for a regional analysis. Would you  
15 do that?

16 MR. VAKERICS: Yes, sir, we'll do that.

17 CHAIRMAN KOPLAN: Thank you, very much. And  
18 with that, I want to thank you all for your answers to  
19 my questions and I'll turn to Vice Chairman Okun.

20 VICE CHAIRMAN OKUN: I don't think I have  
21 any other questions, just to clarify your response. I  
22 thought you were not actually arguing for a regional  
23 industry; you were just arguing for different  
24 conditions of competition.

25 MR. VAKERICS: I'm sorry, I may have

1       misunderstood. No, we are not arguing for a regional  
2       industry, just different consideration for the  
3       industries on each coast.

4               VICE CHAIRMAN OKUN: Okay.

5               CHAIRMAN KOPLAN: I stand corrected. Thank  
6       you.

7               MR. VAKERICS: Thank you.

8               VICE CHAIRMAN OKUN: Thank you for your  
9       clarification.

10              MR. VAKERICS: Yes, thank you, very much.

11              VICE CHAIRMAN OKUN: Okay. And with that,  
12       Mr. Chairman, I have no further questions.

13              CHAIRMAN KOPLAN: Okay, thank you.  
14       Commissioner Hillman?

15              COMMISSIONER HILLMAN: Thank you. I have  
16       just a couple of further clarifications, as well.  
17       First, on some of the data in terms of this length of  
18       time for the production time, from the time salmon  
19       eggs are laid down, to the time that they're  
20       harvested, we've heard some testimony this morning  
21       from the domestic industry about warmer waters in  
22       Norway allowing production to be faster than they  
23       would be off the coast of Maine or Canada. And, also,  
24       this notion of sort of super smolt, these slightly,  
25       more heavily fed smolt before they are put into the

1 ocean or into the pins. I wondered if you all could  
2 comment, from your perspective, what is the time, the  
3 typical time ranges from the time eggs are laid down,  
4 to the time that they're harvested in Norway. Your  
5 data, Mr. Liabo, had suggested to me somewhere between  
6 20 and 36 months.

7 MR. LIABO: Yes. The average was 33 months.

8 COMMISSIONER HILLMAN: Thirty-three?

9 MR. LIABO: Thirty-three months, yes --  
10 thirty-two-and-a-half.

11 COMMISSIONER HILLMAN: Okay.

12 MR. LIABO: But that can vary, because of  
13 natural reasons. If the natural condition is better,  
14 it can be 31 or it can be 34, depending on the ground  
15 conditions.

16 COMMISSIONER HILLMAN: But the 20 months  
17 that you cited in there, that's pretty unusual, is  
18 that what you're suggesting?

19 MR. LIABO: It can happen for some farms,  
20 that they can grow the salmon very fast, but that's an  
21 average for the whole Norway, the long coastal Norway.

22 COMMISSIONER HILLMAN: Okay.

23 MR. LIABO: It's thirty-two-and-a-half.

24 COMMISSIONER HILLMAN: Okay. And then I  
25 wanted to also make sure I understood the response



1 that was given to Commissioner Lane on this issue of  
2 the environmental issues. Mr. Gregussen, I think you  
3 were commenting that, again, the sort of norm in  
4 Norway is supportive of this kind of aquaculture.  
5 But, I'm trying to make sure I understand whether  
6 there are different environmental issues, because,  
7 obviously, some of the concerns in the U.S. have been  
8 over just the concentration of the pond and the amount  
9 of either biomass, you know, feed that goes to the  
10 bottom of the ponds that can collect and make an algae  
11 bloom or something else, and the amount of effluent  
12 runoff from these ponds. Why do you not have those  
13 same concerns in Norway? Is it purely a function of  
14 the level of concentration of the ponds in a given  
15 part of the coastline? Is it something about the  
16 level of tidal change in depth? Why would you not  
17 have those same concerns at the same level in Norway  
18 that we do here?

19 MR. LIABO: Each individual farm has a  
20 permit to -- I can call it the pollution of the close  
21 environment and pollution meaning everything from  
22 traces of food to whatever, and that is very closely  
23 monitored. But, you are also using sites, which have  
24 very high currents, so that the interchange of water  
25 really makes it possible for us to have a production,

1       which is very in line with the carrying capacity of  
2       the environment surrounding the fish farm. The main  
3       element of that is very controlling every single fish  
4       farm, the impact right below the farm, the impact in  
5       different distances, along with the current, just to  
6       see if the farm has any inference on the industry.  
7       You, also, have the system when you are used to a  
8       production site for a period, you follow -- to be able  
9       to have the community and whatever restored to its  
10      original state.

11               So, it isn't a big issue, because it is  
12      monitored. It isn't a big issue, because it is  
13      running away, that you become totally dependent in  
14      harmony with the surrounding environment.

15               COMMISSIONER HILLMAN: Okay. I appreciate  
16      that response. Thank you.

17               One other data-related question. The  
18      Ambassador had also pointed out this number that your  
19      perception is that the amount of domestic production  
20      for the total U.S. market of Atlantic salmon is at the  
21      level of three percent. And I'm trying to understand  
22      where that number really comes from. Obviously, if I  
23      look at the data for the whole fish, your data would  
24      show U.S. production more in the -- again, depending  
25      on which year you're picking, but in the full year

1 2004, closer to 20 percent. Again, that's for whole  
2 product. Obviously, I would assume that you somehow  
3 have taken into account fillets in here and some of  
4 this may be how much of the market you think is made  
5 up of fillet. But even so, I'm not sure how I go  
6 from, if the domestic production is in the order of 20  
7 percent for whole product, how you get down to as low  
8 a market share for the U.S. production of three  
9 percent or less, as I read this data.

10 MR. LIABO: Yes. The total market for  
11 Atlantic salmon in the U.S. is around 300,000 pounds,  
12 whole fish equivalent -- whole fish equivalent. And  
13 the harvest quantity in the State of Washington and  
14 Maine is between 10,000 and 15,000 tons. And there,  
15 we can calculate the three percent.

16 COMMISSIONER HILLMAN: Okay.

17 MR. LIABO: Yes. And -- yes.

18 COMMISSIONER HILLMAN: Okay. Again, like I  
19 said is there's no source on the data, so I'm trying  
20 to understand how and I'm trying to understand how it  
21 squares with the data that we have already.

22 MR. LIABO: We will support the source.

23 COMMISSIONER HILLMAN: Okay, all right.

24 But, then, help me understand the issue of fillets.

25 We've discussed the fact that Norway is largely not in

1 that market. That's largely the Chileans. Is it a  
2 U.S. phenomenon to go to heavier and heavier  
3 consumption of fillet or is that going on everywhere  
4 in the world? Are we larger consumers of product in  
5 the fillet form?

6 MR. LIABO: I think very few consumers eat  
7 whole salmon.

8 COMMISSIONER HILLMAN: Obviously. But, I'm  
9 trying to understand, again, Norway, as I understand  
10 it, is still largely exporting the whole product,  
11 whole fresh product, maybe frozen product, but whole  
12 product. And, yet, you're saying the consumption here  
13 has shifted -- I think your data was showing to more  
14 like 70 percent of the production is sold as a fillet  
15 product, rather than as a whole product that could be  
16 further cut.

17 MR. LIABO: The difference is very easy to  
18 explain. In Europe for years, there's been a seafood  
19 industry, filleting wild fish. When the salmon came  
20 in, they started to fillet salmon close to the market,  
21 close to the consumers. So, there are -- for years,  
22 there's been cooperation between the farmers in Norway  
23 and the value-adding industry in the EU. In the U.S.,  
24 you can't find the same seafood industry, filleting.  
25 So when the Chilean came in, they came in with a new

1 product and there was -- they had no competition from  
2 the domestic U.S. value-adding industry.

3 COMMISSIONER HILLMAN: Okay. And you're  
4 describing that between the U.S. and Europe. How  
5 about other markets? I mean, do the Russians, do the  
6 Asians, the Japanese, do they have this seafood  
7 industry ala the Europeans, or are they more like us?

8 MR. LIABO: In Japan, for instance, the  
9 Japanese, they like to do their own fillets to some  
10 extent and that varies from market to market and it  
11 develops over time, as well.

12 COMMISSIONER HILLMAN: Okay. And then the  
13 last question I guess is I wanted just a clarification  
14 on this issue of the domestic production. I mean,  
15 I've heard your argument that we should somehow  
16 discount or take out the domestic production or the  
17 domestic producer's production, because the product is  
18 gutted in Canada. Now, I have to say, I'm having  
19 trouble understanding the legal basis for that  
20 argument. I mean, clearly, the scope of the order and  
21 the like product, as defined by the Commission all  
22 along, has included round fish, I mean, ungutted fish.  
23 And, certainly, nothing in the scope speaks to whether  
24 even the fish is alive or dead. So, I'm having  
25 trouble both on the factual side on whether there is,

1 in fact, live fish going to Canada. I'm not sure that  
2 makes any sense to me. But, leave aside whether  
3 they're alive or dead, why, if round fish, ungutted  
4 fish, are clearly included in the scope and the like  
5 product, why should I be discounting anything if the  
6 U.S. industry is still doing all of the hatchery and  
7 the growing of smolt and putting them in the fresh-  
8 water tanks and putting them into the ocean-kept  
9 tanks, harvesting them, you know, whacking them, doing  
10 whatever they're doing to stun them, bleeding them,  
11 all of that, which at least from our data would show  
12 is relatively high percentage of the total cost, I'm  
13 having trouble squaring that with this notion that  
14 somehow, we should count the product, there's no  
15 domestic production.

16 MR. VAKERICS: Basically, to take that  
17 position, you would have to argue, you can take that  
18 fish out of the water in Maine and put it in a box on  
19 ice and ship it to the customer. You can't do that.  
20 It's a work in progress.

21 COMMISSIONER HILLMAN: Its origin is where  
22 it's harvested, so it is clearly a production of Maine  
23 for purposes of its rule of origin, a product of the  
24 U.S.A. Again, I would read it as 70, whatever the  
25 percentage number is of the value added is done in the

1 U.S.A. So, how is it that I'm supposed to count it  
2 for purposes of this investigation is somehow a  
3 product of Canada?

4 MR. VAKERICS: Well, for Custom's purposes,  
5 I think you're right. I think it would be considered  
6 a U.S.A. origin. But we're involved in a dumping case  
7 and we're involved in an order where the order said,  
8 typically, gutted and bled, packed in ice, chilled.

9 COMMISSIONER HILLMAN: Well, typically, but  
10 not necessarily.

11 MR. VAKERICS: But not necessarily. One  
12 aside is there's virtually no whole round salmon sold.  
13 I mean, that's -- but the main point is this, this is  
14 our position: that the fish that comes out of the  
15 water is not subject merchandise for the domestic like  
16 product. The fish that comes back from Canada is.  
17 Therefore, for the purposes of this investigation, are  
18 there domestic shipments of the domestic-like product?  
19 We say, no, the Canadian exports.

20 There's also the related question of  
21 commingling and the processing. I would think we  
22 would all agree that the fish that comes back into the  
23 United States has to be the fish that was grown in the  
24 United States. And this record is totally devoid  
25 really of any evidence to indicate something which is

1 to me very counterintuitive, that when you bring those  
2 fish up into Canada, you start processing them, are  
3 you really going to tag them and trace them and say,  
4 yes, that one was grown in Maine, that one was grown  
5 in Canada. It's a huge black hole in this record.

6 I think for those two reasons, I think it's  
7 highly questionable that you have domestic shipments.  
8 You don't have domestic shipments. You don't have a  
9 domestic industry.

10 COMMISSIONER HILLMAN: I hear the argument.  
11 I have to say, given that the product -- that the  
12 subject product can be round fish, I just don't  
13 understand from a legal standpoint how you can say  
14 it's not subject merchandise. Again, it's clearly in  
15 the scope and in the definition of the domestic  
16 industry. So, I'm having trouble with that one. So,  
17 if there's anything further you want to add within the  
18 post-hearing, I'm happy to look at it.

19 MR. VAKERICS: Thank you, very much.

20 COMMISSIONER HILLMAN: Thank you.

21 CHAIRMAN KOPLAN: Thank you, Commissioner.

22 Commissioner Lane?

23 (No questions.)

24 CHAIRMAN KOPLAN: Commissioner Pearson?

25 COMMISSIONER PEARSON: Thank you, Mr.



1 Chairman. The discussion has prompted me to make an  
2 observation that life sometimes just doesn't seem  
3 fair. The gulf stream goes past the United States and  
4 it tends to give us hurricanes. It gets up to Norway  
5 and it tends to give you fast-growing salmon. I guess  
6 that's just the way it is.

7 A more serious point, Mr. Rygg, you have  
8 talked about salmon of various sizes. If you're  
9 discussing a six kilogram salmon, is that a live  
10 weight or dressed weight?

11 MR. RYGG: That's gutted, head on.

12 COMMISSIONER PEARSON: Okay. And just out  
13 of curiosity, what would be the approximate live  
14 weight of a six kilogram dressed salmon?

15 MR. RYGG: It could be approximately seven  
16 kilo.

17 COMMISSIONER PEARSON: Okay, thank you.

18 MR. RYGG: Seven, seven-and-a-half.

19 COMMISSIONER PEARSON: Okay. This morning,  
20 I discussed with the domestic industry the question of  
21 the apparent consumption figures that are contained in  
22 the staff report and we've had some other discussion  
23 of it this afternoon. Do you know whether U.S.  
24 consumption of fresh whole salmon is declining, as  
25 shown in the report, or are those figures incorrect?

1 MR. RYGG: I might be helpful, at least, to  
2 support documentation about that after the hearings.

3 COMMISSIONER PEARSON: Okay.

4 MR. RYGG: The National Marine Fishery and  
5 Services have a website where all the imports that is  
6 cleared through, you can get current data on that. It  
7 divides it up in whole fish and fillets and fresh and  
8 frozen.

9 COMMISSIONER PEARSON: Okay, good. To the  
10 extent we can have that on the record in a way that  
11 even I could understand that would be great.

12 MR. RYGG: We'll do that for you,  
13 Commissioner. Thank you.

14 COMMISSIONER PEARSON: Okay. And along that  
15 same line then, it's not -- is it clear from your  
16 perspective whether overall consumption of salmon in  
17 the United States, subject plus non-subject salmon, is  
18 that increasing or decreasing? Mr. Liabo, I think  
19 your figures would indicate there's some increase, if  
20 I'm correct, in the total consumption of Atlantic  
21 salmon in the United States, both the fresh whole  
22 salmon and the fillets or other parts.

23 MR. LIABO: It's increasing.

24 COMMISSIONER PEARSON: Okay.

25 MR. LIABO: Yes, the total market in the

1 U.S. is increasing.

2 COMMISSIONER PEARSON: Okay. So, depending  
3 on what a clear reading of the data show us, we might  
4 have a situation, in which we have the overall market  
5 for people like me, as I would see it, increasing, and  
6 the subject product share, not only the share, but the  
7 absolute amount, might be decreasing. And so, as a  
8 legal matter, how do we analyze that, how do we  
9 analyze the potential effects of the imports of fresh  
10 whole salmon from -- the effects of imports of fresh  
11 whole salmon from Norway might have upon revocation,  
12 given that I don't understand yet exactly what's going  
13 on in the U.S. domestic market for salmon?

14 MR. VAKERICS: Understood. We'll clarify  
15 that in our brief.

16 COMMISSIONER PEARSON: Okay. Dr. Stern, do  
17 you have -- you looked like you wanted to say  
18 something.

19 MS. STERN: No, no. I think we need to rely  
20 on the numbers that Lars Liabo has provided for  
21 consumption in the United States.

22 COMMISSIONER PEARSON: If they could be  
23 augmented by the National Marine Fisheries or other  
24 sources that we -- you know, just so that we know  
25 where they start from, other than from the sharp mind

1 of Mr. Liabo.

2 MS. STERN: Absolutely, we will provide  
3 that.

4 COMMISSIONER PEARSON: Okay. Mr. Chairman,  
5 I don't believe I have any other questions.

6 CHAIRMAN KOPLAN: I'll accept that.  
7 Commissioner Aranoff?

8 (No response.)

9 CHAIRMAN KOPLAN: No? Are there any other  
10 questions from the dais?

11 (No response.)

12 CHAIRMAN KOPLAN: Seeing that there are  
13 none, Ms. Mazur, do you have any questions? Does the  
14 staff have any questions?

15 MR. MAZUR: Mr. Chairman, the staff has no  
16 questions.

17 CHAIRMAN KOPLAN: Thank you. I want to  
18 thank you all for your testimony.

19 Before the panel is released, Mr. Coursey,  
20 you have two minutes left from your direct  
21 presentation. Did you want to use any of that to ask  
22 questions of this panel before I release them?

23 MR. COURSEY: No, Mr. Chairman.

24 CHAIRMAN KOPLAN: No? Well, then I want to  
25 again thank you for your testimony and for coming such

1 a great distance to appear in front of us and respond  
2 to our questions. We look forward to your posthearing  
3 submissions.

4 I'll release the panel, and we'll turn to  
5 rebuttal and closing. Those in support of  
6 continuation have two minutes left from their direct  
7 presentation. Those in opposition to continuation  
8 have five minutes left for rebuttal. Of course, you  
9 both have five minutes for closing remarks.

10 How do you wish to proceed? Mr. Coursey, do  
11 you wish to use your two minutes for rebuttal? You  
12 need a microphone, because none of your answer is on  
13 the record yet, sir.

14 MR. COURSEY: I'd like to use all seven  
15 minutes, the two and five minutes combined, for  
16 rebuttal.

17 CHAIRMAN KOPLAN: Well, the way we do it is  
18 first you do the rebuttal, then he'll do his rebuttal,  
19 and then you both go to your closing remarks.

20 MR. COURSEY: Okay.

21 CHAIRMAN KOPLAN: Did you say you needed a  
22 minute or two? We can take a two minute break. Sure.

23 (Whereupon, a short recess was taken from  
24 5:13 p.m. to 5:18 p.m.)

25 CHAIRMAN KOPLAN: You can proceed.

1 MR. COURSEY: Mr. Chairman, I'm going to  
2 waive the two minutes of rebuttal and just do a five  
3 minute closing at the appropriate time.

4 CHAIRMAN KOPLAN: Okay.

5 MR. VAKERICS: Mr. Chairman, I have just a  
6 couple points.

7 During the testimony Ms. Cannon suggested  
8 that the higher prices in the United States for the  
9 limited import volumes was directly related to the  
10 high dumping margins in place against the Norwegian  
11 exporters.

12 The fact is that to the extent all those  
13 imports came in from one of two exporters. One was  
14 Nordic Norway, which has a zero margin, and the other  
15 one was a company called Kinn, K-I-N-N, Salmon, which  
16 has a 2.1 percent dumping margin, so the higher prices  
17 cannot have been driven by dumping margins.

18 Just a second point. During their testimony  
19 today I know ASM/Heritage was trying to drive back  
20 looking into the rearview mirror. They were so  
21 successful on the start-up industry argument in the  
22 original investigation, and it seems they're trying to  
23 recreate a start-up type situation here.

24 Well, the two situations are dramatically  
25 different. As I see a vulnerable industry and a

1 start-up industry, the key factor is financing,  
2 particularly with a three year growing cycle. Is  
3 there money available to bridge the gap between the  
4 time you put the eggs in the water and the time you do  
5 your first harvest? If you're in a weakened  
6 condition, can you find financing to pay the bills?

7 Well, that's not the situation we have  
8 today. First, there's no infrastructure left in  
9 Maine. You have the pens and a few people tending the  
10 pens, so there's no real payroll. There's no  
11 corporate overhead. There's no executive level people  
12 in Maine.

13 The fact remains that Cooke Aquaculture can  
14 more than afford to bring that financing gap between  
15 the first day you put the smolt in the water and then  
16 the first day of harvest, so I don't think it's a fair  
17 comparison of say this looks like a start-up  
18 situation. It is not that at all because the money is  
19 there to keep those pens operating.

20 That closes my rebuttal.

21 CHAIRMAN KOPLAN: Thank you very much.

22 We'll now go to closing remarks. Mr.  
23 Coursey?

24 MR. COURSEY: Thank you, Mr. Chairman. I  
25 want to bring your attention back to the basics, the

1 likely volume and price effects on potential  
2 revocation of these orders.

3 We can start with the insistence by the  
4 Respondents that the information reported to the staff  
5 in the questionnaires about the doubling of production  
6 in Norway is wrong. Well, we disagree with that. We  
7 think that the staff did its job, went out and got the  
8 information.

9 In fact, the information was obtained from  
10 companies who are on a list provided to the staff by  
11 Respondents -- I think it's Exhibit 10 to their  
12 prehearing brief -- with a Kontali letterhead which  
13 said the following 25 companies control 70 percent of  
14 fresh whole salmon production in Norway.

15 How can Mr. Vakerics at this point say that  
16 the information reported from these companies is  
17 aberrational? It isn't. I mean, this is the  
18 information that they gave the staff. We think it's  
19 good to reflect the accurate picture.

20 We heard the Respondents over and over  
21 talking about the market in the U.S. for whole salmon  
22 and how it's gone down from the original investigation  
23 from 75 percent of the market to whatever, 30 or 25  
24 percent of the market.

25 What they don't focus on is the volume



1 numbers. In fact, the volume of whole salmon has  
2 grown immensely over the past 15 years. In fact, over  
3 the current POR that we've been discussing it actually  
4 has grown, although it went in a curve, and for the  
5 interim period it is actually up nine percent so it's  
6 just the focus on a percent is not the appropriate  
7 focus here. The focus should be on what the actual  
8 volume is.

9 We've had a discussion of what is the  
10 appropriate way to measure capacity. Well, we read  
11 the Respondents' brief. You get to page 29, and there  
12 is the claim that we have fixed the overproduction  
13 problem in Norway because we have limitations on the  
14 amount each licensee can grow by putting a limit on  
15 biomass.

16 You go to that number. You take the numbers  
17 that they report. A certain number of metric tons can  
18 be grown per licensee. If you look at the number of  
19 licensees and multiply it out, you get potential  
20 capacity.

21 It's their argument. They want to come back  
22 or they come back and say you can't look at anything.  
23 You can't look at the capacity and the excess unused  
24 capacity reported in the questionnaire response. You  
25 can't look at what the Government of Norway is saying

1 is the total potential capacity. You have to look at  
2 smolt.

3 Well, this just doesn't make any sense.  
4 Smolt, fingerlings, egg. These are all work in  
5 progress. Dr. Stern said as much. Your instructions  
6 for defining capacity in your questionnaire say do not  
7 rely on work in progress. It's like going to an apple  
8 grower and saying determine your capacity by counting  
9 your apple buds on a tree. It simply doesn't work.  
10 It's self-defining.

11 Commissioner Brunsdale back in the original  
12 investigation, her dissent is brought up, and the  
13 argument is made well, Commissioner Brunsdale said  
14 we're not going to look at theoretical capacity. We  
15 have to look at something else. Fish in the water.

16 Commissioner Brunsdale was looking at an  
17 entirely different issue than the one you're looking  
18 at. She was looking at threat of injury, okay? She  
19 was looking at what's going to happen in the next year  
20 or year and a half.

21 Perhaps it's appropriate to look at that  
22 point of what's in the water? What's going to be  
23 coming out? It's entirely different here when we're  
24 talking about what we have argued is a three-year  
25 salmon production cycle in terms of determining what

1 is the real potential capacity of these producers.

2 We get to the question of whether shipments  
3 are likely to return or come into the U.S. if the  
4 orders are lifted. The essence of the argument we get  
5 is Norway has an unlimited number of third country  
6 markets that are more than willing to take all of  
7 their available regular salmon. It has one market and  
8 one market only that has niche or, as Dr. Stern said,  
9 a small niche of connoisseurs who will purchase only a  
10 specific type of product.

11 This is a market the United States, which  
12 last year had a domestic consumption of 149 million --  
13 I'm sorry. I guess -- seeing that Mr. Vakerics is  
14 here.

15 Let me just conclude with the impact. At  
16 one point Mr. Vakerics said that ASM/Heritage are not  
17 injured because they've been bankrolled by Cooke. He  
18 implied that if Cooke wasn't here to bankroll there  
19 would be vulnerability.

20 The response to that is if Cooke hadn't  
21 shown up, Heritage and Atlantic Salmon would not be  
22 here. They would have been sold on the auction block  
23 and broken up for parts. If that's not vulnerability,  
24 I don't know what is.

25 Thank you.

1                   CHAIRMAN KOPLAN: Thank you, Mr. Coursey.  
2                   Mr. Vakerics?

3                   MR. VAKERICS: Thank you, Mr. Chairman.  
4                   Let's see. That's my opening statement. I have some  
5                   notes on my closing statement.

6                   CHAIRMAN KOPLAN: You can do that again.

7                   MR. VAKERICS: American Gold has not shown  
8                   up at this proceeding. That shows I think a complete  
9                   lack of interest. Marine Harvest has not shown up to  
10                  support these orders. I think that shows a complete  
11                  lack of interest. All you have is ASM/Heritage and  
12                  Canada here supporting these orders.

13                  The Liabo interview. I'm very disturbed by  
14                  the misuse of the Liabo interview. Mr. Liabo  
15                  testified under oath today. He was not speaking on  
16                  behalf of the Norwegian industry, and he said he would  
17                  have answered no to the question if the question had  
18                  been is it likely or probable that the Norwegian  
19                  industry would re-enter.

20                  ASM/Heritage's misuse of the Liabo interview  
21                  is really inappropriate. They cite to that interview  
22                  to support the following assertion: "Respondents have  
23                  reported plans to accelerate exports to the U.S.  
24                  market if the orders are revoked," and they cite to  
25                  Exhibit 1. That's outrageous. That's page 44 of

1 their brief.

2 The second attribution, among others, to Mr.  
3 Liabo, the Norwegian industry has vowed to win back  
4 the U.S. market. We urge the Commission to look at  
5 that brief, and anything followed by an Exhibit 1  
6 citation should be totally disregarded.

7 ASM/Heritage today argues about the three-  
8 year growing cycle. I'm sorry. It just doesn't work  
9 anymore. They've got deep pockets. As I said  
10 earlier, that period of time between the fish in the  
11 water can be financed totally by Mr. Cooke. I don't  
12 understand how they can say if Cooke were not here  
13 ASM/Heritage wouldn't be here. The fact is Cooke is  
14 here. They're not vulnerable.

15 We're talking further, which is disturbing,  
16 about the fact that ASM/Heritage wants special  
17 treatment as a vulnerable industry because they broke  
18 the law. They violated the law. The Court ordered  
19 them to fallow their sites because they violated the  
20 Clean Water Act.

21 With all due respect, as a result there were  
22 only 14 of 45 salmon pens in use in June 2005, which  
23 is why we say you can't use the traditional indicators  
24 for Maine. Of course employment is down. Of course  
25 profits are down. Of course sales are down. They

1 were violating the law. The Court told them to stop  
2 it.

3 Let's end on a high note. I see nothing but  
4 a rosy future here. This is not a vulnerable  
5 industry. According to their own prehearing brief,  
6 the Court ordered fallowing is ending in 2005 for some  
7 sites. It will be completed for all grow-out sites in  
8 2006. With the fallowing periods coming to an end,  
9 resumption of production at significant levels in  
10 Maine will reoccur. Pages 26-27 of their brief.

11 Page 24 of their brief. The supply of Maine  
12 domestic salmon will increase in the near future as  
13 past problems are addressed and resolved. The  
14 fallowing periods are coming to an end. Plans are in  
15 place to plant significant quantities of smolt in  
16 spring 2006 and to reopen the Machiasport processing  
17 facility in fall 2007. The Maine production of salmon  
18 will by 2007 be at a rate equal to earlier peak  
19 production years.

20 At page 29 of their brief, under the  
21 leadership of Cooke, which has invested millions of  
22 dollars in purchasing and improving two of Maine's  
23 three largest producers and which plans to invest  
24 substantially more into the industry over the next few  
25 years, Maine production of fresh Atlantic salmon at

1 ASM and Heritage should return to historic highs  
2 within two years, and the number of workers employed  
3 in the industry will rebound dramatically.

4 Now, those are their words. This is good  
5 news for Maine. We're delighted for Maine that Mr.  
6 Cooke and his company has come along, but the picture  
7 they paint into the recently foreseeable future is not  
8 one of a vulnerable industry likely to be injured if  
9 the orders were revoked. This industry is back today,  
10 and they have told us within two years we'll be back  
11 to historic levels.

12 Thank you.

13 CHAIRMAN KOPLAN: Thank you. I want to  
14 thank both sides. I think we've had an exhaustive  
15 process today and a rather complete record, and I look  
16 forward to what we get in the posthearing.

17 Posthearing briefs, statements responsive to  
18 questions and requests of the Commission and  
19 corrections to the transcript must be filed by  
20 November 21, 2005; closing of the record and final  
21 release of data to parties by December 20, 2005; and  
22 final comments are due December 22, 2005.

23 With that, this hearing is adjourned.

24 (Whereupon, at 5:32 p.m. the hearing in the  
25 above-entitled matter was concluded.)

**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Fresh and Chilled Atlantic Salmon  
**INVESTIGATION NO.:** 701-TA-302 and 731-TA-454  
**HEARING DATE:** November 10, 2005  
**LOCATION:** Washington, D.C.  
**NATURE OF HEARING:** Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: November 10, 2005

SIGNED: LaShonne Robinson  
Signature of the Contractor or the  
Authorized Contractor's Representative  
1220 L Street, N.W. - Suite 600  
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez  
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Christina Chesley  
Signature of Court Reporter