

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

**IN RE: FARM-RAISED SALMON AND SALMON
PRODUCTS ANTITRUST LITIGATION**

**Master File No. 19-21551-CV-
ALTONAGA**

JURY TRIAL DEMANDED

CONSOLIDATED AMENDED DIRECT PURCHASER CLASS ACTION COMPLAINT

TABLE OF CONTENTS

NATURE OF ACTION 1

JURISDICTION AND VENUE 3

PLAINTIFFS 4

DEFENDANTS 6

AGENTS AND CO-CONSPIRATORS 28

FACTUAL ALLEGATIONS 30

 A. The European Commission Is Investigating Unexplained Price Increases
 In The Salmon Market 30

 B. Defendants Have Engaged In Historically Unprecedented And Unjustified
 Pricing Behavior That Has Resulted In Record Profitability..... 34

 C. In Recent Years, Defendants Have Switched From Competition To
 Cooperation..... 43

 D. The Structure And Characteristics Of The Market For Atlantic Farm-
 Raised Salmon Support The Existence Of A Conspiracy..... 55

 1. Industry Concentration Facilitates Collusion..... 56

 2. Barriers To New Entry Are High..... 58

 3. Farm-Raised Salmon Is A Commodity Product And Prices Are
 Correlated Across the Globe..... 63

 4. Norwegian Companies Dominate The Production Of Farm-Raised
 Salmon And The Defendants Are The Largest Global Producers 67

 5. Farmed Salmon Production Is Highly Inelastic And The Product Is
 Perishable..... 68

 E. The Alleged Conspiracy Affected Adversely Direct Purchasers In The
 United States, Which Is A Substantial Market For Farm-Raised Salmon 69

CLASS ACTION ALLEGATIONS 71

INTERSTATE TRADE AND COMMERCE 73

PLAINTIFFS AND THE CLASS SUFFERED ANTITRUST INJURY 74

COUNT 1: VIOLATION OF SECTIONS 1 AND 3 OF THE SHERMAN ACT (15
U.S.C. §§ 1, 3) (CONSPIRACY IN RESTRAINT OF TRADE)..... 75

PRAYER FOR RELIEF 77

DEMAND FOR JURY TRIAL 78

Plaintiffs Euclid Fish Company, Euro USA Inc., Schneider's Fish and Sea Food Corporation, Beacon Fisheries, Inc., Cape Florida Seafood, The Fishing Line LLC, and Hesh's Seafood, Inc. (collectively, "Plaintiffs"), individually and on behalf of all others similarly situated (the "Class," as defined below), bring this class action for damages, injunctive relief, and any other relief pursuant to the federal antitrust laws. The allegations in this action are based on Plaintiffs' personal knowledge as to the facts pertaining to themselves and upon information and belief, including the investigation of counsel, as to all other matters. Plaintiffs demand a trial by jury on all matters so triable.

NATURE OF ACTION

1. This lawsuit arises from the unlawful coordination of prices charged to direct purchasers of farm-raised Atlantic salmon (*Salmo salar*) and salmon products derived therefrom, which were sold directly by Defendants Mowi ASA (f/k/a Marine Harvest ASA); Mowi USA, LLC (f/k/a Marine Harvest USA, LLC); Marine Harvest Canada, Inc.; Mowi Ducktrap, LLC (f/k/a Ducktrap River of Maine LLC); Grieg Seafood ASA; Grieg Seafood BC Ltd.; Ocean Quality AS; Ocean Quality North America Inc.; Ocean Quality USA Inc.; Ocean Quality Premium Brands, Inc.; SalMar ASA; Lerøy Seafood Group ASA; Lerøy Seafood USA Inc.; Scottish Sea Farms Ltd.; and entities owned or controlled by them (collectively, "Defendants") between July 1, 2015 and the present in violation of Sections 1 and 3 of the Sherman Act (15 U.S.C. §§ 1, 3).

2. As used herein, unless otherwise indicated, the term "salmon" refers to "Atlantic salmon." As further explained below, "Atlantic salmon" can be farmed not only in locations that border the Atlantic Ocean (e.g., Norway and Scotland), but also in certain locations that border the Pacific Ocean (primarily in Canada and Chile).

3. The European Commission (“EC”) recently confirmed “that on 19 February 2019 its officials carried out unannounced inspections in several Member States at the premises of several companies in the sector of farmed Atlantic salmon.”¹

4. The EC commenced its investigation by sending a letter in early February 2019 to the world’s dominant suppliers of farm-raised salmon and their affiliates, in which it explained that it had received information that the Defendants are “participat[ing in] or have participated in anti-competitive agreements and/or concerted practices related to different ways of price coordination in order to sustain and possibly increase the prices for Norwegian salmon.”²

5. The Defendants are and have been engaging in the following conduct:

- Coordinating sales prices and exchanging commercially sensitive information;
- Agreeing to purchase production from other competitors when these other competitors sell at lower prices; and
- Applying a coordinated strategy to increase spot prices of farmed Norwegian salmon in order to secure higher price levels for long-term contracts.

6. Plaintiffs seek to represent a Class consisting of all persons and entities in the United States, its territories, and the District of Columbia who directly purchased farm-raised Atlantic salmon or products derived therefrom from one or more Defendants and/or entities owned or controlled by them from July 1, 2015 to the date on which any direct purchaser class is certified

¹ See European Commission Press Release Statement/19/1310, *Antitrust: Commission Confirms Unannounced Inspections in the Farmed Atlantic Salmon Sector* (Feb. 19, 2019), http://europa.eu/rapid/press-release_STATEMENT-19-1310_en.htm [hereinafter “*E.C. Statement/19/1310*”].

² See Tom Seaman, *Norway’s antitrust regulator eyes salmon price-fixing probe ‘with interest’*, UNDERCURRENT NEWS, <https://www.undercurrentnews.com/2019/02/21/norways-antitrust-regulator-eyes-salmon-price-fixing-probe-with-interest/>.

(the “Class Period”). Excluded from the Class are the Court and its personnel and any Defendants and their parent or subsidiary companies.

JURISDICTION AND VENUE

7. Plaintiffs bring this class action lawsuit pursuant to Sections 4 and 16 of the Clayton Act (15 U.S.C. §§ 15 and 26) to: (a) recover damages suffered by the Class and the costs of suit, including reasonable attorneys’ fees; (b) enjoin Defendants’ anticompetitive conduct; and (c) obtain any other relief afforded under the antitrust laws of the United States for Defendants’ violations of Sections 1 and 3 of the Sherman Act (15 U.S.C. §§ 1, 3).

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337, and Sections 4 and 16 of the Clayton Act (15 U.S.C. §§ 15(a), 26).

9. This Court has personal jurisdiction over the Defendants pursuant to Fed. R. Civ. P. 4(k) and 15 U.S.C. § 22, which states that “[a]ny suit, action, or proceeding under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is an inhabitant, but also in any district wherein it may be found or transacts business; and all process in such cases may be served in the district of which it is an inhabitant, or wherever it may be found.”

10. The Court further has personal jurisdiction over the Defendants based on, *inter alia*, their residency or transaction of business in the State of Florida, their purposeful actions in placing price-fixed salmon and products derived therefrom into the stream of commerce seeking to serve Florida (into which collectively tens of millions of kilograms of Norwegian, Scottish and Chilean salmon have been shipped during the Class period), Defendants’ purposeful availing of the benefits and protections of the laws of the State of Florida, Defendants’ commission of tortious acts within the State of Florida, Defendants’ United States subsidiaries’ purposeful activities within the State of Florida that are imputable to parent-entity Defendants located outside the

United States, and/or the “conspiracy theory of jurisdiction” recognized by the Florida Supreme Court in *Execu-Tech Business Sys., Inc. v. New Oji Paper Co., Ltd.*, 752 So. 2d 582 (2000). This Court also has jurisdiction over Defendants for claims arising under the Sherman and Clayton Acts based on their minimum contacts with the United States as a whole, and not simply through their contacts with the State of Florida.

11. Venue is proper in this District pursuant to Sections 4, 12, and 16 of the Clayton Act (15 U.S.C. §§ 15, 22, and 26) and 28 U.S.C. §§ 1391(b), (c), and (d), because, at all times relevant to the Complaint, one or more of the Defendants resided, transacted business, was found, or had agents in this District.

PLAINTIFFS

12. Plaintiff Euclid Fish Company (“Euclid”) is an Ohio corporation that specializes in the distribution of fish and seafood to restaurants, specialty stores, country clubs, hotels, and casinos throughout the mid-west. Euclid is headquartered at 7839 Enterprise Drive, Mentor, Ohio 44060. As a result of Defendants’ collusive and anticompetitive conduct, during the Class Period, Euclid purchased farm-raised salmon and/or products derived therefrom directly from one or more of the Defendants at artificially high or fixed prices and has suffered monetary losses as a result of the antitrust violations alleged herein.

13. Plaintiff Euro USA Inc. (“Euro USA”) is an Ohio corporation that distributes fish and seafood, among other items. Euro USA is headquartered at 4481 Johnston Parkway, Cleveland, Ohio 44128. It has distribution offices in Sterling, Virginia and Chicago, Illinois. As a result of Defendants’ collusive and anticompetitive conduct, during the Class Period, Euro USA purchased farm-raised salmon and/or products derived therefrom directly from one or more of the Defendants at artificially high or fixed prices and has suffered monetary losses as a result of the antitrust violations alleged herein.

14. Plaintiff Schneider's Fish and Seafood Corp. ("Schneider's") is a New York corporation that specializes in the distribution of fish and seafood to restaurants, specialty stores, hotels, and other entities in the general area of Upstate and Western New York, headquartered at 2150 Old Union Rd., Cheektowaga, New York 14227. As a result of Defendants' collusive and anticompetitive conduct, during the Class Period, Schneider's purchased farm-raised salmon and/or products derived therefrom directly from one or more of the Defendants at artificially high or fixed prices and has suffered monetary losses as a result of the antitrust violations alleged herein

15. Plaintiff Beacon Fisheries Inc. ("Beacon") is a Florida corporation with its principal place of business at 7357 Digital Circle, Jacksonville, Florida 32258. Beacon also has a warehouse facility located in Miami, Florida. As a result of Defendants' collusive and anticompetitive conduct, during the Class Period, Beacon purchased farm-raised salmon and/or products derived therefrom directly from one or more of the Defendants at artificially high or fixed prices and has suffered monetary losses as a result of the antitrust violations alleged herein.

16. Plaintiff Cape Florida Seafood ("Cape Florida") is a Florida corporation that specializes in the distribution of fresh and frozen seafood to restaurants and other fine establishments locally, nationally, and internationally. Cape Florida is headquartered at 7304 N.W. 34th Street, Miami, Florida 33122. As a result of Defendants' collusive and anticompetitive conduct, during the Class Period, Cape Florida purchased farm-raised salmon and/or products derived therefrom directly from one or more of the Defendants at artificially high or fixed prices and suffered monetary losses as a result of the antitrust violations alleged herein.

17. Plaintiff The Fishing Line LLC ("The Fishing Line") is a New Jersey corporation that is a fresh fish market which supplies fish, including farm-raised salmon, to retailers and institutions throughout the United States. The Fishing Line is headquartered at 6774 Highway 9

South, Howell, New Jersey 07731. As a result of Defendants' collusive and anticompetitive conduct, during the Class Period, The Fishing Line purchased farm-raised salmon and/or products derived therefrom directly from one or more of the Defendants at artificially high or fixed prices and has suffered monetary losses as a result of the antitrust violations alleged herein.

18. Plaintiff Hesh's Seafood, Inc. ("Hesh's") is a Pennsylvania corporation that specializes in the distribution of fresh and frozen seafood to restaurants and other fine establishments locally, nationally, and internationally. Hesh's is headquartered at 1428 Ford Rd, Unit C, Bensalem, Pennsylvania 19020. As a result of Defendants' collusive and anticompetitive conduct, during the Class Period, Hesh's purchased farm-raised salmon and/or products derived therefrom directly from one or more of the Defendants at artificially high or fixed prices and suffered monetary losses as a result of the antitrust violations alleged herein.

DEFENDANTS

19. **Mowi Defendants.** Defendant Mowi ASA (f/k/a Marine Harvest ASA) ("Mowi ASA") touts itself as a "global corporate brand"³ of one of the largest seafood companies in the world and the largest producer of Atlantic salmon. Mowi ASA is headquartered at Sandviksboder, 77AB, 5035, Bergen, Norway. Mowi ASA is listed on the Oslo Stock Exchange, where it is a constituent of the benchmark OBX Index.

20. Mowi ASA is a global organization that operates through numerous subsidiaries and divisions in 25 countries, including the United States. Through its subsidiaries and divisions, Mowi ASA engages in, *inter alia*, the production, processing, and sale of farmed salmon, the operations of which are focused in Norway; Scotland; Canada; the Faroe Islands; Ireland; and Chile. Mowi ASA has a share of between 25% and 30% of the global salmon and trout market,

³ *Integrated Annual Report 2018*, MOWI, 8 (2018), <http://hugin.info/209/R/2239765/882920.pdf> [hereinafter *Mowi Annual Report 2018*].

making it the world's largest company in the sector. Mowi ASA also owns a "value added processing" unit, which prepares and distributes a range of seafood products, and a number of smaller divisions. In 2013, Mowi ASA acquired Laschinger Seafood, which owned Morpol S.A. ("Morpol"), the world leader in smoked salmon.

21. Using its operations in the United States and other countries, Mowi ASA sells its products to the United States, as well as more than 70 different countries.⁴ Mowi ASA's website states that "[m]ore than 6 million Mowi meals are enjoyed around the world every day."⁵

22. Mowi ASA is and advertises itself as a single unified global company. A recent example of this is its business strategy, unveiled in late 2018, of renaming itself from "Marine Harvest" to "Mowi," which functions as a global brand for its products. Indeed, after Mowi ASA announced its name change, its wholly owned and controlled subsidiaries also changed their names. For example, Marine Harvest USA, LLC renamed itself as Mowi USA, LLC ("Mowi USA")⁶ and Ducktrap River of Maine, LLC renamed itself as Mowi Ducktrap, LLC ("Mowi Ducktrap").⁷

⁴ *Id.* at 9.

⁵ *Our Products*, MOWI, <https://mowi.com/products/> (last visited Aug. 16, 2019).

⁶ Joy Weaver, *Articles of Amendment to Articles of Organization of Marine Harvest USA, LLC*, SUNBIZ (Apr. 19, 2019), <http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2019%5C0423%5C27911942.Tif&documentNumber=L01000011779>; *see also* MOWI ANNUAL REPORT 2018, *supra* note 3, at 135; *Marine Harvest Changes Name to Mowi*, SALMON BUSINESS (Nov. 13, 2018), <https://salmonbusiness.com/marine-harvest-changes-name-to-mowi/>.

⁷ *Mowi Ducktrap Information Summary*, DEPT. OF THE SECRETARY OF STATE OF MAINE, <https://icrs.informe.org/nei-sos/icrs/ICRS?CorpSumm=19980307DC> (last visited Aug. 16, 2019, 5:17 PM).

23. In furtherance of its unified global business strategy, Mowi ASA promotes itself on its website and in its marketing materials as one “global fully integrated company”—“Mowi.”⁸ Instead of having separate websites for each wholly owned and controlled subsidiary, Mowi ASA integrates most of these subsidiaries within its main webpage under the “Contact us” tab.⁹ On that webpage, it represents all of these subsidiaries, including Mowi USA; Mowi Canada West, LLC; and Mowi Canada East, LLC, as one entity—stating, as noted above, that “Mowi is located in 25 countries worldwide.”¹⁰ Mowi ASA’s American subsidiaries are intertwined with the parent entity, as evidenced by Mowi USA’s webpage that only identifies and provides contact information for three employees—one of whom is identified as the Sales Manager for Mowi Ducktrap.¹¹ In advertising employment vacancies and new job opportunities within its company, Mowi ASA provides the public only one webpage, which is not divided by company (or subsidiary name).¹² Instead, Mowi ASA consciously gives the impression that all job opportunities are within the one same “Mowi” company. The “Vacancies” webpage only identifies: (1) a brief job vacancy description; (2) the workplace (described as a destination, *e.g.*, Fort William, Bruges); and (3) the application due date.¹³

⁸ *New Name – New Website*, MOWI BLOG, <https://mowi.com/blog/2019/04/10/new-name-new-website/> (last visited Aug. 16, 2019).

⁹ *Contact Us*, MOWI, <https://mowi.com/contact/> (last visited Aug. 16, 2019) [hereinafter *Mowi Contact Us*].

¹⁰ *See id.*; *Mowi USA*, MOWI, <https://mowi.com/contact/office/> (last visited Aug. 16, 2019); *Mowi Canada East*, MOWI, <https://mowi.com/contact/canada-east/> (last visited Aug. 16, 2019); *Mowi Canada West*, MOWI, <https://mowi.com/contact/mowi-canada-west/> (last visited Aug. 16, 2019).

¹¹ *See* MOWI, *Mowi USA*, *supra* note 10.

¹² *Vacancies*, MOWI, <https://mowi.com/people/vacancies/> (last visited Aug. 16, 2019).

¹³ *Id.*

24. Mowi ASA's promotional materials note that Mowi employs 667 full time "[s]ales & [m]arketing" employees in "the Americas" alone,¹⁴ and that "[t]he [sales and marketing] division is organized geographically to support our worldwide client base."¹⁵ Mowi ASA further explains that it has "significant new product development competence in [Mowi's] central markets like the Americas."¹⁶ In fact, in 2018 Mowi ASA experienced a 7.6% increase in the "market distribution and demand" in the United States.¹⁷ Specifically, in 2018, the United States had 427,900 GWT (gross weight tonnage) of Mowi ASA's market distribution and demand, nearly one-fifth of Mowi ASA's GWT for all of its markets.¹⁸

25. Mowi ASA targets and transacts business in the United States, including Florida, through its wholly owned and wholly controlled subsidiary, Mowi USA, headquartered in Miami, Florida. Mowi ASA ships salmon regularly to Mowi USA for the express purpose of transacting business within Florida and the United States. Mowi ASA is so intertwined with its United States subsidiary that Mowi USA does not even have its own website independent of Mowi ASA. Instead, as noted above, Mowi USA is relegated to one short webpage within Mowi ASA's larger website. Like the other subsidiaries identified on Mowi ASA's website, Mowi USA is marketed and advertised on that website using Mowi ASA's logo. Mowi USA's registered trademarks "REBEL FISH" and "THE SALMON KITCHEN.COM" are marketed on Mowi ASA's website as well.

¹⁴ MOWI 2018 ANNUAL REPORT, *supra* note 3, at 3.

¹⁵ *Id.* at 11.

¹⁶ *Id.*

¹⁷ *Id.* at 31.

¹⁸ *Id.*

The public perception is such that media outlets continually describe Mowi in the United States and abroad as one interchangeable entity, referring, for example, to Mowi USA's processing plants in the United States as belonging to "Mowi."¹⁹ Mowi USA has also been described as the "US downstream division" of Mowi ASA.²⁰

26. As stated on Mowi USA's single webpage within Mowi ASA's main website, "[e]veryday fresh fish is flown to Miami and Dallas where we package and ship it across the country. Our strategic plant locations enable us to ship fresh, never frozen fish anywhere in the US. Mowi USA is located in sunny Florida where salmon are flown in daily from Canada, Chile, Norway and other fish farms around the world."²¹ Mowi ASA identifies high level employees as contacts in Miami, such as Robert Clark (Sales Director for Consumer Products) and Diana Dumet (Marketing Director).²²

27. Describing its expansion into the United States' seafood market, Mowi ASA explained that "[t]hrough our logistical network and well-situated facilities, we are able to reach the west coast, east coast[,] and central states within days, enabling us to provide fresh, healthy

¹⁹ Tom Seaman, *Mowi sees big US, China value-added Salmon potential with new plants*, UNDERCURRENT NEWS (Apr. 4, 2019, 5:21 PM), <https://www.undercurrentnews.com/2019/04/04/mowi-sees-big-us-china-value-added-salmon-potential-with-new-plants/>.

²⁰ Tom Seaman, *Marine Harvest to more-than double Miami production with new plant*, UNDERCURRENT NEWS (Jan. 26, 2018, 5:12 PM), <https://www.undercurrentnews.com/2018/01/26/marine-harvest-to-more-than-double-miami-production-with-new-plant/>.

²¹ MOWI CONTACT US, *supra* note 9. As noted above, Mowi ASA farms salmon from locations in Norway, Canada, and Chile.

²² *See, e.g.*, Robert Clark, LINKEDIN, <https://www.linkedin.com/in/robert-clark-70748b26/> (last visited Aug. 16, 2019); Diana Dumet, LINKEDIN, <https://www.linkedin.com/in/diana-dumet-a686a529/> (last visited Aug. 16, 2019).

and delicious salmon and fish products to the entire US market.”²³ Fulfilling the crucial role of targeting American consumers, Mowi ASA uses not only its factories in Florida, Maine, and Canada, but also its factory in Dallas, Texas, which opened in December of 2016 and replaced the role of its old factory in Los Angeles, California.²⁴

28. As described in its annual report, Mowi ASA also launched a skin pack program of farmed Norwegian Atlantic Salmon in the United States with “a new nationwide retail partner . . . giving [Mowi] a new revenue stream.”²⁵ According to at least one media site, the nationwide partner being referred to is none other than Walmart, where Mowi ASA and Walmart’s partnership with the skin pack program dates back to mid-2015.²⁶

29. Further targeting American consumers nationwide, Mowi ASA sells its farm-raised Atlantic salmon through Amazon’s website, something it has done from at least late 2017 through the present.²⁷

²³ MOWI ANNUAL REPORT 2018, *supra* note 3, at 77.

²⁴ Tom Seaman, *Marine Harvest adds regional flavor to Wal-Mart pre-pack offering*, UNDERCURRENT NEWS, (Mar. 20, 2017, 2:20 PM), <https://www.undercurrentnews.com/2017/03/20/marine-harvest-adds-regional-flavor-to-walmart-pre-pack-offering/>.

²⁵ MOWI ANNUAL REPORT 2018, *supra* note 3, at 77.

²⁶ Tom Seaman, *Marine Harvest skin-pack salmon, whitefish sales rocket in Wal-Mart*, UNDERCURRENT NEWS, (Apr. 6, 2017, 5:18 PM), <https://www.undercurrentnews.com/2017/04/06/marine-harvest-skin-pack-salmon-whitefish-sales-rocket-in-walmart/>.

²⁷ Marine Harvest Fresh Atlantic Salmon, Skin-On, Responsibly Farm Raised, 12 oz by Marine Harvest, AMAZON, https://www.amazon.com/Marine-Harvest-Atlantic-Responsibly-Farm-Raised/dp/B0732ZP2HC/ref=cm_cr_arp_d_pb_opt?ie=UTF8 (last visited Aug. 16, 2019).

30. Mowi ASA has availed itself of the laws and privileges of the United States, filing forms with the United States Securities & Exchange Commission (“SEC”) and benefitting from its sale to United States investors of depositary shares evidenced by American depositary receipts through Citibank, N.A. in the United States.²⁸

31. Defendant Mowi USA is a Florida limited liability company that maintains its principal place of business at 8550 N.W. 17th Street #105, Miami, Florida 33126. Mowi ASA wholly owns and controls its subsidiary Mowi USA for the purpose of causing Mowi USA to process salmon in Florida and Texas and distribute it to wholesalers, retailers, and others in Florida and elsewhere in the United States.

32. Mowi USA just recently (in May of 2019) moved into its new seafood production plant in Miami which, at 106,000 square feet, is more than triple the size of its former United States production facility.²⁹ Ola Brattvoll, chief operating officer of Mowi ASA’s sales and marketing, explained that the Miami factory is one of Mowi ASA’s biggest plants.³⁰

33. Defendant Mowi Ducktrap is a Maine limited liability company and a wholly owned and controlled subsidiary of Mowi ASA. The company has its headquarters at 57 Little River Dr., Belfast, Maine 04915. Mowi Ducktrap sells processed salmon products, such as sliced smoked salmon, under a number of trade names, including Ducktrap and Kendall Brook. These products are sold throughout the United States, including Florida. For example, Mowi Ducktrap

²⁸ See Mowi ASA, Post-Effective Amendment No. 2 to Form F-6 Registration Statement (Form F-6/A) (Dec. 14, 2018).

²⁹ See Tom Seaman, *Mowi starts full production in new US, China salmon plants*, UNDERCURRENT NEWS (May 10, 2019, 4:42 PM), <https://www.undercurrentnews.com/2019/05/10/mowi-starts-full-production-in-new-us-china-salmon-plants/>.

³⁰ UNDERCURRENT NEWS, *supra* note 19.

has promoted its Kendall Brook smoked salmon products at the Whole Foods Market PGA, located in Palm Beach Gardens, Florida.³¹

34. Defendant Mowi Canada West (“Mowi Canada”) (f/k/a Marine Harvest Canada) is a foreign corporation and wholly owned and controlled subsidiary of Mowi ASA. Mowi Canada is headquartered at 1334 Island Highway, Suite 124, Campbell River, British Columbia, V9W 8C9, Canada. Mowi Canada processes salmon in British Columbia, Canada. Mowi ASA uses its ownership and control over Mowi Canada to sell Atlantic salmon in Canada and the United States, including Florida. As discussed above, Mowi ASA also targets the United States and Florida through its wholly owned and controlled subsidiary Mowi USA, and, to achieve that purpose, Mowi ASA uses its control over Mowi Canada to ship fresh salmon to Mowi USA in Florida and Mowi Ducktrap in Maine on a regular basis.

35. Employees of Mowi Canada also attended the 2018 Aquaculture Innovation Workshop (“AIW”) held in Miami, Florida.³²

36. As evidenced in Mowi ASA’s 2018 annual report, Mowi ASA’s consolidated financial statements include its subsidiaries in the United States and Canada, such as Mowi USA, Mowi Canada, and Mowi Ducktrap.

37. Through its financial, investor, and promotional materials, Mowi ASA clearly conveys that it consists of a single global, integrated entity, and Mowi USA, Mowi Canada, and Mowi Ducktrap are each agents and/or divisions of Mowi ASA. Mowi ASA is vicariously liable for the conduct of Mowi USA, Mowi Canada, and Mowi Ducktrap in relation to the antitrust acts

³¹ *Whole Foods Market Spotlight on Kendall Brook*, DUCKTRAP RIVER OF MAINE, <http://ducktrap.com/recent-whole-foods-demo/> (Apr. 23, 2014).

³² *2018 Aquaculture Innovation Workshop*, THE CONSERVATION FUND, (2018), <http://www.conservationfund.org/images/AIWProgram.pdf>.

committed by each complained of herein. In addition, the presence of Mowi ASA, Mowi USA, Mowi Canada, and/or Mowi Ducktrap in the United States subjects all Mowi entities to the jurisdiction of this Court for the actions giving rise to this litigation.

38. Mowi ASA, Mowi USA, Mowi Canada, and Mowi Ducktrap are collectively referred to herein as “Mowi.”

39. **Grieg Defendants.** Defendant Grieg Seafood ASA (“Grieg ASA”) is a foreign corporation that describes itself as “one of the world’s leading fish farming companies, specializing in Atlantic salmon.”³³ Grieg ASA owns farming facilities in Finnmark and Rogaland in Norway, British Columbia in Canada, and Shetland in the United Kingdom. The company is headquartered at C. Sundtsgate 17/19, 5004, Bergen, 5004, Norway. Grieg ASA is listed on the Oslo Stock Exchange.

40. Grieg ASA targets and sells its salmon to the United States, including Florida, using its majority-owned sales agent, Ocean Quality AS (“OQ AS”). This company operates in the United States and Canada through three wholly owned subsidiaries, Defendants Ocean Quality N.A. Inc. (“OQ NA”), Ocean Quality USA Inc. (“OQ USA”), and Ocean Quality Premium Brands, Inc. (“OQ Premium Brands”).

41. Defendant OQ AS is a foreign corporation engaged in the salmon distribution business, with its headquarters at Grieg-Gaarden, C. Sundtsgate 17/19, N-5004, Bergen, Norway. Grieg ASA owns 60% of the outstanding shares of OQ AS.³⁴ Bremnes Fryseri AS (“Bremnes”)

³³ See GRIEG SEAFOOD, <https://www.griegseafood.no/en/> (last visited Aug. 16, 2019).

³⁴ *Annual Report 2018*, GRIEG SEAFOOD, 208 (2018), https://www.griegseafood.no/wp-content/uploads/2019/04/Grieg_Årsrapport_Komplett_Enkelt sider_110419.pdf [hereinafter *Grieg Seafood Annual Report 2018*] (“OQ sells the fish to Asia, Europe, the USA and Canada.”). See also *id.* at 49.

owns the remaining 40% of OQ AS. Grieg ASA controls the operations of OQ AS and its various subsidiaries; indeed, in its 2018 annual report, Grieg ASA describes OQ AS (including its subsidiaries) as “Grieg Seafood’s sales company” with “offices in the UK and Canada, taking care of Grieg Seafood’s fish from the processing plant and all the way to the customers.”³⁵ OQ AS has repeatedly shipped salmon from Norway to Doral, Florida as part of its activities.

42. It was recently announced that Steven Leask, the Managing Director of OQ AS’s operations in the United Kingdom, was leaving, in a move that one publication has linked with the ongoing EC antitrust investigation.³⁶

43. The control and dominance that Grieg ASA exercises over OQ AS was confirmed by a report issued by a Committee of Experts of the Financial Services Authority of Norway.³⁷

The report states:

Grieg owns 60% of OQ [AS] and, according to the shareholder agreement, has the right to appoint 3 out of 5 directors, while Bremnes owns 40% and has 2 out of 5 directors.

In the Financial Supervisory Authority’s assessment, OQ [AS] is not a joint arrangement, since the relevant activities that significantly affect OQ [AS]’s return do not have to be decided on unanimously by the owners, but can be made by the board or the management of the company. In the assessment of the Financial Supervisory Authority, Grieg, with a majority of the board, has control over OQ [AS], and the company must recognize OQ [AS] as a subsidiary. The company has taken note of the Financial Supervisory Authority’s assessment, and in the first quarterly report for 2015 presented OQ [AS] as a subsidiary and restated the comparative figures in accordance with IAS 8 Accounting Policies, Changes in *Accounting Estimates and Errors*.

³⁵ *Id.* at 85.

³⁶ Neil Ramsden, *Ocean Quality’s UK MD leaves, as EC investigates group*, UNDERCURRENT NEWS (July 9, 2019, 10:19 AM), <https://www.undercurrentnews.com/2019/07/09/ocean-quality-uk-md-leaves-as-ec-investigates-group/>.

³⁷ Appendix A is a certified translation of the Norwegian text found at <https://www.finanstilsynet.no/nyhetsarkiv/brev/2015/kontroll-av-finansiell-rapportering>.

44. During the Class Period, the Board of Directors of OQ AS has included Per Grieg (“P. Grieg”) (Chairperson of the Board for Grieg ASA); Nina Grieg (Manager Business Development for Grieg ASA); Andreas Kvame (“Kvame”) (CEO of Grieg ASA), Alte Harald Santorv (“Santorv”) (Chief Financial Officer (“CFO”) of Grieg ASA), and Knut Utheim (“Utheim”) (Chief Operating Officer (“COO”) of Grieg ASA).

45. Defendant OQ NA is a foreign corporation and a wholly owned subsidiary of OQ AS. OQ NA is headquartered at 4445 Lougheed Highway, 500, Burnaby, BC V5C0E4, Canada. OQ NA was set up to undertake distribution and sale of farm-raised salmon produced by Grieg ASA and its subsidiaries and Bremnes throughout the United States, including Florida. As explained in a 2014 article:

Norway-based Grieg Seafood announced the launch of Ocean Quality North America, which will assume exclusive responsibility for all sales and marketing of Grieg Seafood British Columbia’s farmed seafood products in North America.

According to Dave Mergle, manager of the new sales organization, the move follows Grieg Seafood in Europe’s launch of Ocean Quality for selling and marketing Grieg Seafood’s fish a few years ago.

“That model has gone very well so recently the decision was made that this is how it should work everywhere so it’s being implemented here in North America,” Mergle told SeafoodSource. “What they found was that it’s given [Grieg] a lot more proximity to the market and allowed them to get closer to the customers.[”]

“Grieg Seafood farms in British Columbia predominantly serve the North American market. Since its inception, they’ve used a third party broker, Calkins and [B]urke, for sales and marketing and focused mostly on producing their fish. We’ve had a great relationship [with our broker, who has] done a nice job for us but we think it hasn’t really allowed us to get close to marketplace. We want to bring transparency to the entire chain and deliver more value by being integrated. It will also allow us to start giving our customers more option[s] across our entire

portfolio including fish from Scotland and Norway and accessing the power of the whole Grieg Network.”³⁸

46. OQ NA has sold salmon to customers based in Florida. For example, in 2016 and 2017 it sold salmon in transactions with a Miami-based company, Ocean Group and Seafood Distributors, Inc. When that customer failed to pay the invoices sent to it by OQ NA, the latter sued for collection in the Circuit Court of the 11th Judicial Circuit in Miami Dade-County, Florida on April 10, 2017. *See* Appendix B.

47. OQ NA has a dedicated sales office headed by General Manager Dennis Bryant (“Bryant”), whose direct telephone number bears a Dallas, Texas area code.³⁹

48. Defendant OQ USA is a Delaware corporation and wholly owned subsidiary of OQ AS, with its principal place of business located at 1914 Skillman Street #110-309, Dallas, Texas, 75206-8559. OQ USA distributes salmon products produced by Grieg ASA and its subsidiaries throughout the United States, including Florida.⁴⁰

49. Defendant OQ Premium Brands is a Delaware corporation and wholly owned and controlled subsidiary of OQ NA, headquartered at 4445 Lougheed Highway, 500, Burnaby, BC V5C0E4, Canada. OQ Premium Brands’ business purpose, according to a December 7, 2018 filing

³⁸ April Forristall, *Grieg takes over North America sales, marketing*, SEAFOODSOURCE (July 9, 2014), <https://www.seafoodsource.com/news/supply-trade/grieg-takes-over-north-america-sales-marketing>.

³⁹ *Contact*, OCEAN QUALITY, <https://oceanquality.com/contact/> (last visited Aug. 16, 2019) [hereinafter *Ocean Quality Contact*].

⁴⁰ *See* GRIEG SEAFOOD ANNUAL REPORT 2018, *supra* note 34, at 208 (“Ocean Quality USA Inc. [is] domiciled in the USA.”).

with the California Secretary of State, is “MARKETING AND BRANDING.”⁴¹ OQ Premium Brands distributes salmon products produced by Grieg ASA and its subsidiaries throughout the United States, including Florida.

50. Grieg ASA’s own website also evidences the link among all these subsidiary entities. For example, Grieg AS’s website states: “Ocean Quality is the sales organization of Grieg Seafood and Bremnes Seashore (60% owned by Grieg Seafood ASA and 40% owned by Bremnes Fryseri AS.”⁴² Likewise, there is a similar interconnectedness and dependence between the Ocean Quality entities as the website fails to mention the other Ocean Quality entities. Instead, on one brief “Contact” page within OQ AS’s website, OQ AS lists its sales offices across the world, identifying only one employee for the USA region—Bryant—and only one employee for the North America region—Managing Director Alexander Krutoy.⁴³

51. In addition to targeting and selling salmon into the United States through OQ AS and its subsidiaries, Grieg ASA targets and sells its salmon to the United States, including Florida, by also using its wholly owned and controlled subsidiary, Defendant Grieg Seafood BC Ltd. (“Grieg BC”). Grieg BC is a foreign corporation and wholly owned and controlled subsidiary of Grieg ASA. Grieg BC is headquartered at 1180 Ironwood Street # 106, Campbell River, British Columbia, Canada, V9W 5P7. Grieg BC farms salmon on 22 sites in British Columbia.

⁴¹ State of California, *Statement of Information (Foreign Corporation)*, OFFICE OF THE SECRETARY OF STATE OF THE STATE OF CALIFORNIA (Dec. 7, 2018), <https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=04201105-25258957>.

⁴² *Sales*, GRIEG SEAFOOD, <https://www.griegseafood.no/sales/> (last visited Aug. 16, 2019).

⁴³ OCEAN QUALITY CONTACT, *supra* note 39.

52. Due to its key location, Grieg ASA uses and controls Grieg BC to produce salmon targeted for the American market.⁴⁴ In its 2017 annual report, Grieg ASA explained Grieg BC's increase in earnings before interest and taxes ("EBIT"), noting that "[h]aving production close to the US market is advantageous due to fast deliveries and shorter transport."⁴⁵ A year later, in its 2018 annual report, Grieg ASA again correlated the success between the increased sales in the United States market and Grieg BC's production in Canada: "[t]he main change in our share of sales was an increase to the USA from 9 % in 2017 to 14 % in 2018 due to record high harvest volumes in Grieg Seafood British Columbia."⁴⁶

53. Grieg BC produces Skuna Bay, a branded salmon product that is marketed and sold throughout the United States, including Florida. Evidencing the interconnected nature of the different Grieg and Ocean Quality entities, Grieg ASA's 2018 annual report explained that Skuna Bay is "Grieg Seafood's premium brand from British Columbia"⁴⁷ and is sold, along with its other salmon products, by OQ AS's subsidiaries.

54. As part of its success in the American market, Grieg ASA's annual report publicized that "[t]he White House served Skuna Bay Salmon on the menu for the Inauguration Dinner to former President and First Lady of the United States, Barack and Michelle Obama."⁴⁸

⁴⁴ See *Annual Report 2017*, GRIEG SEAFOOD, 48 (2017), https://www.griegseafood.no/wp-content/uploads/2018/04/GSF_2017_ENG.pdf [hereinafter *Grieg Seafood Annual Report 2017*] ("OQ sells the fish to Asia, Europe, the USA and Canada.").

⁴⁵ *Id.*

⁴⁶ See GRIEG SEAFOOD ANNUAL REPORT 2018, *supra* note 34, at 95.

⁴⁷ See *id.* at 85.

⁴⁸ *Id.*

Indeed, Skuna Bay Salmon had been “served at more than 2,500 high-end restaurants and boutique retailers” across the United States by 2015,⁴⁹ and Grieg ASA’s 2018 annual report listed a half dozen top restaurants throughout the United States that purchased Skuna Bay salmon.⁵⁰ In addition to being served at top American restaurants, Skuna Bay salmon has gained marketing and exposure through its partnerships with the James Beard Foundation, headquartered in New York, and the Women Chefs and Restaurateurs organization.⁵¹

55. The report highlighted the significance of Skuna Bay sales for Grieg ASA. Adam O’Brien, General Manager for Skuna Bay at Ocean Quality Canada, explained that “[m]ost months, Skuna Bay accounts for approximately only five % of the volume and delivers roughly 25% of our margins.”⁵²

56. Although Skuna Bay salmon was first sold to the United States market in 2011, the brand was so successful that by mid-2015, Skuna Bay was being sold across the country, including in Florida.⁵³ Now “Skuna Bay salmon has achieved national U.S. distribution, available in all continental U.S. states . . . and sixteen exclusive distributor relationships across North America.”⁵⁴

⁴⁹ *Skuna Bay Salmon Expands to Florida Adding North Star Seafood to its Roster of Exclusive Purveyors*, SKUNA SALMON (Apr. 23, 2015), <https://www.skunasalmon.com/news/158-skuna-bay-salmon-expands-to-florida-adding-north-star-seafood-to-its-roster-of-exclusive-purveyors>.

⁵⁰ See GRIEG SEAFOOD ANNUAL REPORT 2018, *supra* note 34, at 86.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Sysco-owned distributor to bring Grieg’s ‘Skuna Bay’ salmon to Texas*, UNDERCURRENT NEWS (May 9, 2019, 9:29 AM), <https://www.undercurrentnews.com/2016/05/09/sysco-owned-distributor-to-bring-griegs-skuna-bay-salmon-to-texas/>; SKUNA SALMON, *supra* note 49.

⁵⁴ FISHCHOICE, <https://fishchoice.com/seafood-supplier/ocean-quality-north-america-inc> (last visited Aug. 16, 2019).

57. As a notable example of Grieg’s distributor relationships, in April of 2015, Florida-based North Star Seafood began selling Skuna Bay salmon throughout Florida.⁵⁵ Less than a year later, North Star Seafood was acquired by “US foodservice giant Sysco Corporation [‘Sysco’],”⁵⁶ thereby supporting North Star Seafood’s growth throughout Florida due to Sysco’s “multi-billion dollar broadline food distribution business.”⁵⁷ North Star Seafood is still Skuna Bay salmon’s exclusive distributor in Florida and is “the largest independent wholesale distributor of fresh and frozen seafood in Florida,”⁵⁸ reaching over 650 Floridian customers and 25 major cruise lines and specialty markets.⁵⁹ By mid-2016, Louisiana Foods, also owned by foodservice giant Sysco, distributed Skuna Bay throughout Texas.⁶⁰

58. Grieg ASA and OQ AS (through OQ USA, OQ NA, and OQ Premium Brands) have sold Skuna Bay salmon to top restaurants throughout Florida, including but not limited to, the following restaurants in Miami: the River Seafood Oyster Bar, Habitat at the 1 Hotel South Beach, Watr at the Rooftop at the 1 Hotel South Beach, the Sandbox at the 1 Hotel South Beach, and Marion (Marion’s current menu does not highlight the Skuna Bay salmon, but one of its menus

⁵⁵ UNDERCURRENT NEWS, *supra* at note 53.

⁵⁶ *Id.*

⁵⁷ See *Sysco Acquires Fresh and Frozen Seafood Distributor North Star Seafood*, SEAFOOD NEWS (Feb. 25, 2016), <https://www.seafoodnews.com/Story/1009656/Sysco-Acquires-Fresh-and-Frozen-Seafood-Distributor-North-Star-Seafood>.

⁵⁸ *Our Suppliers – North Star Seafood*, SYSCO, <https://www.sysco.com/Products/Products/Specialty-Meat-and-Seafood/Specialty-Seafood.html> (last visited Aug. 16, 2019).

⁵⁹ *Our Difference*, NORTH STAR SEAFOOD, <http://northstarseafood.com/our-difference/> (last visited Aug. 16, 2019).

⁶⁰ UNDERCURRENT NEWS, *supra* at note 53.

(likely a former one) posted on Allmenus.com does.⁶¹ Skuna Bay salmon has even been publicized in articles and reviews discussing restaurants in Miami, Florida. For example, in January of 2018, the *Miami New Times* wrote an entire paragraph describing the flavors of the Skuna Bay salmon dish being served, noting that: “[t]his is the Skuna Bay salmon, the highlight of any visit to Habitat inside the 1 Hotel South Beach . . . the newest restaurant by the five-time James Beard-nominated chef Jose Mendin.”⁶² In August of 2015, the *Miami Food Pug*’s review of the River Oyster Bar also described the Skuna Bay salmon dish’s flavors being served and raved that “[o]ur main[] [entrée]—sweet-spicy [S]kuna [B]ay salmon . . . —absolutely killed it.”⁶³

59. Grieg Seafood BC, through executives Frode Mathiesen and Rocky Boschman (“Boschman”), attended the AIW session held in Miami, Florida in 2018.⁶⁴

60. Grieg ASA is vicariously liable for the conduct of OQ NA, OQ USA, and OQ Premium Brands in relation to the antitrust acts committed by each complained of herein. In addition, the presence of OQ NA, OQ USA, and OQ Premium Brands in the United States subjects all Grieg entities to the jurisdiction of this Court for the actions giving rise to this litigation.

⁶¹ See *Marion*, ALLMENUS, <https://www.allmenus.com/fl/miami/499612-marion/menu/> (last visited Aug. 16, 2019).

⁶² Clarissa Buch, *Habitat at the 1 Hotel South Beach Shows Jose Mendin Doesn’t Give Up Easily*, MIAMI NEW TIMES (Jan. 16, 2018, 8:00 AM), <https://www.miaminewtimes.com/restaurants/habitat-at-the-1-hotel-south-beach-restaurant-review-9995933>.

⁶³ *The River Oyster Bar: Why Didn’t We Eat Here Sooner?*, MIAMI FOOD PUG (Aug. 28, 2015), <http://miamifoodpug.com/2015/08/river-oyster-bar-review/>.

⁶⁴ *2018 Aquaculture Innovation Workshop*, THE CONSERVATION FUND, (2018), https://www.conservationfund.org/images/2018_AIW_Event_Flyer.pdf.

61. Grieg ASA, Grieg BC, OQ AS, OQ NA, OQ USA, and OQ Premium Brands are referred to collectively herein as “Grieg.”

62. **SalMar Defendant.** Defendant SalMar ASA (“SalMar”) is a foreign corporation that describes itself as “one of the world’s largest and most efficient producers of Atlantic salmon, and is vertically integrated along the entire value chain from broodfish, roe and smolt to harvesting, processing and sales.”⁶⁵ The company is headquartered at Industriveien 51, N-7266, Kverva, Norway. SalMar is listed on the Oslo Stock Exchange.

63. According to SalMar’s website:

SalMar has established a fully integrated system for farming, processing, sales and distribution of farmed salmon and is thus in control of the total value chain.

The salmon that SalMar is producing is sold through an in-house salesforce and/ or through close partners.

Proximity to markets and customers, direct or through partners is important to secure efficient use of a high-quality raw material that has been through a traceable and controlled production process.

InnovaMar is the name of SalMar’s new harvesting and processing facility in Frøya, central Norway. It aims to be the world’s most innovative and efficient facility for the landing, harvesting and processing of farmed salmon. InnovaMar covers 17,500 m² of floor space and comprises two departments (harvesting and processing). The facility has the capacity for all kinds of storage. Good internal logistics ensure safe and efficient handling of the products. The increased capacity affords a high level of flexibility with regard to organising production and sales.

SalMar produces a wide variety of fresh and frozen salmon products. The customer base is global and includes small and large importers/exporters, as well as larger processing companies and retail chains.⁶⁶

⁶⁵ See *2017 Annual Report*, SALMAR, 45 (2017), <http://hugin.info/138695/R/2188425/846513.pdf> [hereinafter *SalMar Annual Report 2017*].

⁶⁶ See *Sales & Distribution*, SALMAR (last visited Aug. 16, 2019) <https://www.salmar.no/en/sales-distribution/>.

64. SalMar sells directly to entities within the United States:

SalMar had direct sales to around 50 different countries in 2017. SalMar's most important geographic market in 2017 was Europe, with Poland, Lithuania and Sweden as the largest individual markets. The second largest market was Asia, with Vietnam, Japan and Singapore as the largest individual markets. After sales to Russia were blocked in 2014, North America has been the third largest market, with the USA as the largest individual market. SalMar experienced particularly strong growth in the American market in 2017.⁶⁷

65. North America is the third largest export destination for SalMar.⁶⁸ In 2018, its group revenue from the USA and Canada totaled 1,989,222 (measured in thousands of Norwegian krone ("NOK")).⁶⁹

66. SalMar targets and transacts business in the United States, including Florida, and has sold salmon to customers based in Florida. For example, on July 5, 2016, SalMar shipped 19,894 kilograms of salmon to Miami.⁷⁰ SalMar's shipment was received by Platina Seafood, Inc., a Florida corporation with its principal place of business at 31 SE 5th Street, #214, Miami FL, 33131.⁷¹ From Platina, Seafood, Inc., SalMar's salmon was destined for distribution throughout

⁶⁷ See SALMAR ANNUAL REPORT 2017, *supra* note 65, at 53.

⁶⁸ See 2018 Environment and Social Responsibility Report, SALMAR, 55 (2018) <http://hugin.info/138695/R/2242726/885264.pdf>.

⁶⁹ 2018 Annual Report, SALMAR, 93 (2018), <http://hugin.info/138695/R/2242726/885263.pdf>.

⁷⁰ Bill of Lading for Salmar salmon shipment, PORT EXAMINER (July 5, 2016), <https://portexaminer.com/trade-data/salmar-as-platina-seafood-inc/mscurx616270/> (last visited Aug. 16, 2019).

⁷¹ Florida Secretary of State Annual Report for Platina Seafood, Inc., 2019 Florida Profit Corporation Annual Report, (Apr. 3, 2019), <http://search.sunbiz.org/Inquiry/CorporationSearch/GetDocument?aggregateId=domp-p12000035608-759679d5-e7c6-46fa-90e7-15fc5288e30a&transactionId=p12000035608-2a246bb8-2af7-404c-85e5-427fc41afe61&formatType=PDF>; Contact, PLATINA SEAFOOD, <http://www.platinaseafood.com/contact> (last visited Aug. 16, 2019). Platina Seafood, Inc. appears to be a subsidiary of Platina Seafood AS, which is headquartered in Norway, but has offices in at least Miami, Los Angeles, New Jersey, and Boston. *Storages North America*, PLATINA SEAFOOD,

the United States, including Miami, Florida.⁷² Platina Seafood, Inc. is owned by Norwegian salmon farming pioneer Johan Andreassen, the co-founder of Norwegian fish farmer Villa Organic, which now belongs to SalMar and Lerøy Seafood Group ASA.

67. SalMar also sold salmon to Plaintiff Beacon, which is based in Florida.

68. **Lerøy Defendants.** Defendant Lerøy Seafood Group ASA (“Lerøy ASA”), a foreign corporation, is a seafood production and distribution company. Lerøy ASA is the second largest salmon and trout farming company in the world and has fish farms in Hitra, Kristiansund, Troms and Scotland (Shetland). The company is headquartered at Thormøhlens gate 51 B, 5006 Bergen, Norway.

69. On its website, Lerøy ASA describes itself as a “global presence stretching from China to the USA” and selling to “more than 70 markets worldwide.”⁷³ Lerøy ASA’s website also promotes its global reach and sales offices in the United States:

Our main office is located in Bergen, but we have fishing vessels and fish farms in operation along the entire coast of Norway. We have production and packaging plants in Norway, Sweden, Denmark, Finland, France, the Netherlands, Portugal, Spain and Turkey. We also have sales offices in the USA, Japan and China.⁷⁴

<http://www.platinaseafood.com/about-platina-seafood/storages-north-america> (last visited Aug. 16, 2019).

⁷² *About Platina Seafood*, PLATINA SEAFOOD, <http://www.platinaseafood.com/about-platina-seafood> (last visited Aug. 16, 2019).

⁷³ *About Lerøy*, LERØY SEAFOOD GROUP, https://www.leroyseafood.com/en/aurora/about-leroy/?_t_id=1B2M2Y8AsgTpgAmY7PhCfg%3d%3d&_t_q=usa&_t_tags=language%3ano%2c%3asiteid%3a4f9c115d-7280-41c1-bc1b318c9d6edd9e%2clanguage%3aen&_t_ip=62.92.69.136&_t_hit.id=Leroy_Core_CMS_Pages_Aurora_AuroraPage/_9a11e54b-4ab7-4bc3-bff5-1f57c5bf5304_en&_t_hit.pos=1 (last visited Aug. 16, 2019).

⁷⁴ *See About Lerøy*, LERØY, <https://www.leroyseafood.com/en/about-us/about-leroy/> (last visited Aug. 16, 2019).

70. A press release advertised the “Lerøy Seafood Group [as] the world’s second largest farmer of Atlantic salmon [e]stablished in 1899, its global network today spans Sweden, France, Portugal, China, Japan and the USA.”⁷⁵

71. Defendant Lerøy Seafood USA Inc. (f/k/a “Hallvard Lerøy USA, Inc.”) (“Lerøy USA”), a North Carolina corporation and wholly owned and controlled subsidiary of Lerøy ASA, is the United States distribution subsidiary for Lerøy ASA’s farm-raised salmon business and sells and distributes Lerøy ASA’s farmed salmon throughout the United States, including Florida. Lerøy USA’s principal place of business is located at 1289 Fordham Blvd., Suite 406, Chapel Hill, NC 27514. Lerøy ASA ships from Bergen, Norway a large volume of salmon to a customs broker in Miami, Florida, where it is then processed. Commercial manifests obtained from the service Panjiva reveal that between October of 2017 and July of 2019, Lerøy ASA made 75 shipments of salmon totaling over 2.4 million kilograms in this manner. *See Appendix C.*

72. Lerøy USA operates as a division of Lerøy ASA. Indeed, Lerøy USA does not have its own official website. Instead, Lerøy USA is identified within Lerøy ASA’s main website as one of Lerøy ASA’s offices for “VAP [value-added processing], Sales & Distribution.”⁷⁶ The only information provided on Lerøy ASA’s website for Lerøy USA is the address, contact telephone number, and contact email address for one employee.⁷⁷ Lerøy USA’s Bloomberg profile

⁷⁵ Press Release, LERØY, *Premium Aurora Salmon from Arctic Norway Now Available in Singapore*, http://www.dunbarjones.com/assets/userfiles/Aurora_Salmon_in_Singapore.pdf (last visited Aug. 16, 2019).

⁷⁶ *Contact*, LERØY, <https://www.leroyseafood.com/en/contact/our-offices/> (last visited Aug. 16, 2019).

⁷⁷ *Id.*

states that it has only three employees and that its business consists of “the wholesale distribution of fresh, cured, or frozen fish and seafood.”⁷⁸

73. Lerøy ASA’s premiere brand of salmon is Aurora salmon.⁷⁹ Aurora salmon is sold by Lerøy USA throughout the United States, including Florida.⁸⁰

74. Lerøy ASA has availed itself of the laws and privileges of the United States, filing SEC forms and benefitting from its sale of depositary shares to United States investors evidenced by American Depositary receipts through Citibank, N.A. in the United States.⁸¹

75. Lerøy ASA is vicariously liable for the conduct of Lerøy USA in relation to the antitrust acts committed by it complained of herein. In addition, the presence of Lerøy USA in the United States subjects all Lerøy entities to the jurisdiction of this Court for the actions giving rise to this litigation.

76. Lerøy ASA and Lerøy USA are collectively referred to herein as “Lerøy.”

77. **Scottish Sea Farms Defendant.** Defendant Scottish Sea Farms Ltd. (“Scottish Sea Farms”) is an aquaculture company that engages in the farming and production of salmon. Scottish Sea Farms is the United Kingdom’s second largest producer of farmed salmon.⁸² The company

⁷⁸ Bloomberg Profile for Lerøy, BLOOMBERG, <https://www.bloomberg.com/profile/company/1008310D:US> (last visited Aug. 16, 2019).

⁷⁹ *Key Brands*, LERØY, <https://www.leroyseafood.com/en/brands/aurora-salmon/> (last visited Aug. 16, 2019); Aurora Salmon Fillets, LB, CENTRAL MARKET SHOP, <https://centralmarket.com/product/aurora-salmon-fillets-lb/> (last visited Aug. 16, 2019); Aurora Norwegian Salmon, BALDUCCI’S FOOD LOVER’S MARKET, <https://www.balduccis.com/details/aurora-norwegian-salmon> (last visited Aug. 16, 2019).

⁸⁰ *FishChoice Supplier Directory*, *supra* note 79.

⁸¹ See Lerøy Seafood Group ASA, Registration Statement (Form F-6) (July 7, 2015).

⁸² See SALMAR ANNUAL REPORT 2017, *supra* note 65, at 45.

sells its products to retailers in the United Kingdom, the United States, Europe, and internationally. Scottish Sea Farms is a joint venture of Defendants SalMar and Lerøy, and each owns a 50% interest in Scottish Sea Farms through an entity known as Norskott Havbruk AS (“Norskott Havbruk”). Norske Havbruk includes among its officers or directors Henning Beltestad (Chief Executive Officer (“CEO”) of Lerøy), Helge Singelstad (“Singelstad”) (Chairman of Lerøy), Lief-Inge Nordhammer (a Board member of SalMar), and Gustav Witzøe (“Witzøe”) (co-founder and Director of Strategic Projects for SalMar). The company is headquartered at Laurel House, Laurelhill Business Park, Stirling, FK7 9JQ, United Kingdom, 01786 44552. The United States was the leading destination for exported Scottish farmed salmon four years in a row in 2014, reaching \$334.2 million in that year alone, according to the Scottish Salmon Producers Organization; Jim Gallagher, Managing Director of Scottish Sea Farms, called this “a great jump in our performance.”⁸³ By 2017, Scottish salmon exports to the United States were £193 million, continuing its position as the largest export market.⁸⁴

AGENTS AND CO-CONSPIRATORS

78. The acts alleged against the respective Defendants in this Consolidated Amended Complaint were authorized, ordered, or done by their officers, agents, employees, or representatives, while actively engaged in the management and operation of the respective Defendants’ businesses or affairs. The respective Defendant parent entities identified herein exercise dominance and control over all of their respective Defendant subsidiary entities and those respective subsidiaries have a unity of purpose and interest with their respective parents. To the

⁸³ *Scottish Salmon Exports to US to Reach £200m*, SEAFOODSOURCE, (Mar. 13, 2014), <https://www.seafoodsource.com/news/aquaculture/scottish-salmon-exports-to-us-to-reach-200m>.

⁸⁴ *Scottish salmon export value hits £600m record*, FISHFARMINGEXPERT, (Feb. 9, 2018, 7:14 PM), <https://www.fishfarmingexpert.com/article/scottish-salmon-export-value-hits-600m-record/>.

extent any respective parent Defendant did not keep a tight rein on its respective subsidiary Defendant(s), it had the power to assert control over the subsidiary if the latter failed to act in the parent's best interests. The respective parent Defendants and their respective subsidiary Defendants thus operated as a single economic unit. The respective subsidiaries played a critical role in the conspiracy in that they (as well as the respective parent Defendants) sold price-fixed farmed salmon and products derived therefrom to direct purchasers outside Defendants' conspiracy in the United States, including Florida.

79. When Plaintiffs refer to a corporate family or companies by a single name in their allegations of participation in the conspiracy, it is to be understood that the Plaintiffs are alleging that one or more employees or agents of entities within the corporate family engaged in conspiratorial acts or meetings on behalf of all of the Defendant companies within that family. The individual participants entered into agreements on behalf of, and reported these meetings and discussions to, their respective corporate families. As a result, the entire corporate family was represented at any such meetings and discussions by its agents and was a party to the agreements reached by them.

80. Various persons and/or firms not named as Defendants herein may have participated as co-conspirators in the violations alleged herein and may have performed acts and made statements in furtherance thereof.

81. Each Defendant acted as the principal, agent, or joint venturer of or for other Defendants with respect to the acts, violations, and common course of conduct alleged by Plaintiffs.

FACTUAL ALLEGATIONS

A. The European Commission Is Investigating Unexplained Price Increases In The Salmon Market.

82. On February 19, 2019, *Undercurrent News*, a fishing industry trade publication, reported that in early February of 2019, the EC opened an antitrust investigation into the world's major producers of farm-raised salmon:

According to the letter, the EC has “received information -- **from different actors operating at different levels in the salmon market -- alleging that Norwegian producers of farmed Atlantic salmon . . . participate or have participated in anti-competitive agreements and/or concerted practices related to different ways of price coordination in order to sustain and possibly increase the prices for Norwegian salmon.**”

The letter, which was sent to producers at the start of February, states the Norwegian producers concerned have been allegedly:

- Coordinating sales prices and exchanging commercially sensitive information;
- Agreeing to purchase production from other competitors when these other competitors sell at lower prices; and
- Applying a coordinated strategy to increase spot prices of farmed Norwegian salmon in order to secure higher price levels for long-term contracts.

Based on the information the EC has, these alleged practices have been going on since “at least” November 2017 and “are presumably ongoing.”⁸⁵

83. The EC also released the following statement on February 19, 2019:

The European Commission can confirm that on 19 February 2019 its officials carried out unannounced inspections in several Member States at the premises of several companies in the sector of farmed Atlantic salmon.

The Commission has concerns that the inspected companies may have violated EU [(“European Union”)] antitrust rules that prohibit cartels and restrictive business practices (Article 101 of the Treaty on the Functioning of the

⁸⁵ See Seaman, *Norway’s antitrust regulator eyes salmon price-fixing probe ‘with interest,’ supra* note 2 (emphasis added).

European Union). The Commission officials were accompanied by their counterparts from the relevant national competition authorities.⁸⁶

84. According to another article in *Undercurrent News* dated February 19, 2019, Mowi, Grieg, and SalMar have all confirmed that they were the subject of EC raids:

Undercurrent first reported the news earlier on Tuesday, then Mowi, Grieg Seafood and SalMar all confirmed raids on their operations in the UK. Mowi's spokesman said the company's plant in Rosyth, UK, was raided, but then also confirmed a plant in Lemmers, formerly Marine Harvest Sterk, was inspected.

The Sterk plant, the only one the company owns in the Netherlands, is mainly specialized on coating whitefish, but also does some salmon, according to its website.⁸⁷

85. In a recently released annual report for 2018, Mowi admitted:

In February 2019, The European Commission carried out unannounced inspections at selected premises of several Norwegian salmon companies, including Mowi. The Commission was acting on concerns that the inspected companies may have violated EU antitrust rules.⁸⁸

86. On February 19, 2019, Grieg filed a notice with the Oslo Stock Exchange stating as follows:

The European Commission DG (Director General) Competition has today performed an inspection at Grieg Seafood Shetland to explore potential anti-competitive behavior in the salmon industry.

Grieg Seafood aims to be open, transparent and forthcoming and will provide all necessary information requested by the European Commission DG Competition in its investigation.⁸⁹

⁸⁶ See E.C. STATEMENT/19/1310, *supra* note 1 (emphasis added).

⁸⁷ See Tom Seaman, *Mowi Dutch plant also raided as EC confirms probe of alleged salmon cartel*, UNDERCURRENT NEWS, <https://www.undercurrentnews.com/2019/02/19/mowi-dutch-plant-also-raided-as-ec-confirms-probe-of-alleged-salmon-cartel/>.

⁸⁸ See MOWI 2018 ANNUAL REPORT, *supra* note 3, at 216.

⁸⁹ See *Stock Exchange Filings*, GRIEG SEAFOOD, <https://www.griegseafood.no/inverstors/stock-exchange-filings/> (last visited Aug. 16, 2019).

87. On February 20, 2019, Lerøy filed a notice with the Oslo Stock Exchange stating as follows:

EU's competition authorities (European Commission Director General Competition) has conducted an inspection at the premises of Scottish Sea Farms Ltd. A company owned 50% by Lerøy Seafood Group ASA (LSG). The purpose is, according to the competition authorities, to investigate accusations of anti-competitive cooperation in the salmon market. In connection with the inspection, the EU competition authorities has also requested for [sic] information from the shareholders in Scottish Sea Farms Ltd.⁹⁰

88. Also on February 19, 2019, SalMar issued the following report to the Oslo Stock Exchange:

On 19th of February 2019 the European Commission Director General Competition performed an inspection at Scottish Sea Farms Ltd., in which SalMar ASA indirectly owns 50 per cent. SalMar is in constructive dialogue with the Commission in this regard.⁹¹

89. The inspections by the EC were not undertaken casually. Inspections are typically done by an order of the EC, and the EC must have “reasonable grounds for suspecting an infringement of the competition rules;” “[i]t must be borne in mind that the inspections carried out by the Commission are intended to enable it to gather the necessary documentary evidence to check the actual existence and scope of a given factual and legal situation concerning which it already possesses certain information.”⁹² The EC relied on multiple sources to support its very specific allegations that justified the raids.

⁹⁰ See *Stock Exchange Notices*, LEROY SEAFOOD, <https://www.leroyseafood.com/en/investor/Stockexchangenotices/> (last visited Aug. 16, 2019).

⁹¹ See SalMar ASA, Comment to *Inspection by the European Comm'n*, NEWSWEB (Feb. 19, 2019, 8:21 PM), <https://newsweb.oslobors.no/message/470051>.

⁹² Case No. T-135/09, *Nexans France SAS v. Comm'n*, 2012 E.C.R. 43, http://curia.europa.eu/juris/document/document_print.jsf?doclang=EN&text=&pageIndex=0&part=1&mode=lst&docid=129701&occ=first&dir=&cid=663482.

90. The EC's recent investigation into the farmed salmon industry is also not without precedent. In a decision entered in 1992, the EC found the former Fiskeoppdretternes Salgslag Organization ("FOS") (the Norwegian Fresh Fish Trade Association), the Scottish Salmon Growers' Association ("SSGA"), the Scottish Salmon Farmers' Marketing Board ("SSB"), and the Shetland Salmon Farmers Association ("SSA") had entered into an unlawful agreement to fix the minimum prices of farmed Atlantic salmon back in 1989 that ended in 1991 with the bankruptcy of FOS. The decision is attached as Appendix D. The three Scottish entities had accused the FOS of dumping salmon at low prices. Although the complaint was terminated without decision, the FOS decided to create a minimum pricing system on exported Norwegian salmon. The Scottish entities accepted this proposal and adjusted their own prices accordingly. The EC found that FOS had created a "coordinated plan to stabilize and increase salmon prices" and that the SSB, SSGA, and SSFA "contributed to this plan by assuring FOS that they urged their members to exercise price discipline in support of the Norwegian action."⁹³ One of the means of implementing the agreement was the SSB providing FOS with confidential price and volume statistics by SSGA and SSFA members. "The regular contacts to exchange price information provided the parties with an opportunity to monitor the success of their agreement."⁹⁴

91. Similarly, the Australian Competition and Consumer Commission found in 2003 that the Tasmanian Salmonid Growers Association facilitated an illegal agreement in 2002 to have

⁹³ *Id.* at 19.

⁹⁴ *Id.*

Atlantic salmon farmers cull 10 percent of their salmon stocks in order to reduce the scope of any price reductions caused by oversupply.⁹⁵

92. There is a plausible basis to conclude that similar types of unlawful misconduct are occurring now and have affected worldwide farmed Atlantic salmon prices, including prices of such salmon sold in the United States.

B. Defendants Have Illegally Engaged In Historically Unprecedented And Unjustified Pricing Behavior That Has Resulted In Record Profitability.

93. The salmon market is susceptible to manipulation by the major salmon producers in Norway. As alleged further below, the industry is highly concentrated, and the spot market for salmon in Oslo, Norway is the most important benchmark for salmon prices around the globe.

94. Salmon is sold on the spot market and through annual contracts. Only one percent of Norway's salmon production is sold on the spot market, but those spot prices set the baseline for the longer term contract prices.⁹⁶

95. As alluded to in the EC's letter to the companies being investigated, since 2015, salmon buyers in Europe have complained that Norway's salmon producers, including Mowi, have been rigging the spot market by using subsidiary companies, including Mowi's Polish subsidiary, Morpol (which is, as noted above, a fish processor and distributor and the world's leading producer of smoked salmon products) to drive up the spot price. As the purchasing director of Graal S.A. ("Graal") (a Polish salmon processor) Alina Piasecka, has explained, "[w]e've seen examples of

⁹⁵ See *Federal Court Declares Tassal Limited and Tasmanian Salmonid Growers Association Involved in Anti-Competitive Fish Cull*, AUSTRALIAN COMPETITION & CONSUMER COMM'N (Aug. 1, 2003), <https://www.accc.gov.au/media-release/federal-court-declares-tassal-limited-and-tasmanian-salmonid-growers-association>.

⁹⁶ See Aslak Berge, *Suempol Norway's GM doesn't believe in price caps for second half of 2017*, SALMONBUSINESS.COM, <https://salmonbusiness.com/suempols-gm-does-not-believe-in-price-caps-in-the-second-half-of-2017/>.

prices falling in the spot market, and exporters offering fish at increasingly lower prices.” She continued, “[s]uddenly, 15 minutes later there are aren’t fish available, and we find out that Morpol has purchased perhaps 60 truckloads.” Graal’s CEO Boguslaw Kowalski also explained that “[w]e are seeing that now and again they take advantage of Morpol to buy at higher prices than that charged by the market, to hike up prices.”⁹⁷

96. In 2017, Stale Hoyem (“Hoyem”), general manager of Suempol Norway, one of the biggest smoked salmon producers in Poland and Europe, complained that “companies in Norway buy small quantities of salmon to raise the price for the rest of the players.” Hoyem added that “[o]ne last thing that affects prices is that some of the major players choose to create their own purchasing departments buying a truckload here and a truckload there”; he was “suggesting this ‘daily’ practice is heavily influencing prices on the spot market.”⁹⁸ Borge Prytz Larsen, purchasing director at Severnaya, which imports salmon into Russia, confirmed Hoyem’s statement: “The big players buy fish, and they then use the price as indicators for other customers.”⁹⁹

97. There is no good non-collusive reason for the “big players”—the Norwegian Defendants here—to make limited salmon spot market purchases except to drive up the prices on that market. Each of them is an integrated farmed salmon producer. They simply do not need to buy more fish.

⁹⁷ See *Marine Harvest Accused of Manipulating Polish Salmon Market*, INTRAFISH (Aug. 8, 2016), <https://www.intrafish.com/news/751597/marine-harvest-accused-of-manipulating-polish-salmon-market>.

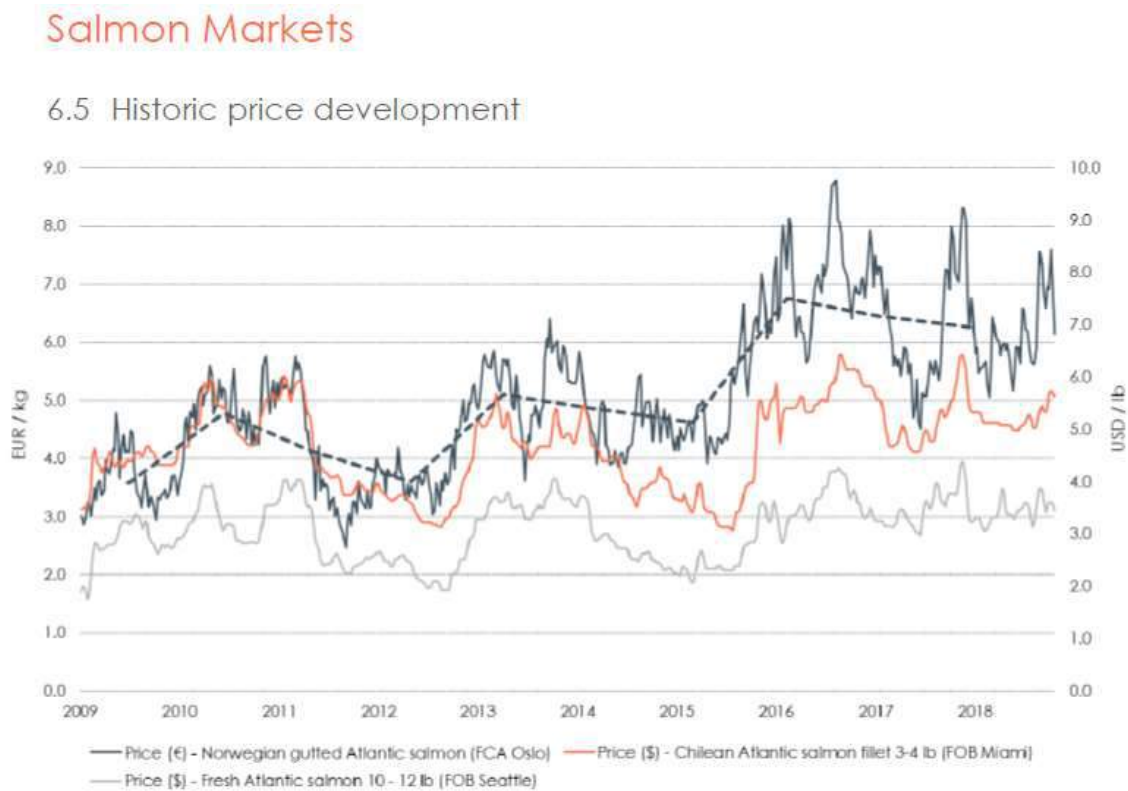
⁹⁸ See *Norwegian Salmon Giants Accused of Price Manipulation*, INTRAFISH (Aug. 22, 2017), <https://www.intrafish.com/news/1330269/norwegian-salmon-giants-accused-of-price-manipulation>.

⁹⁹ *Id.*

98. Defendants’ pricing behavior changed at the start of the Class Period. Hoyem also complained: “In the old days we could negotiate contracts. Producers looked at their cost and then they put on a surcharge of about NOK 1 (€0.11/\$.13) to NOK 2 (€0.21/\$.25) [per kilo].”¹⁰⁰

99. The foregoing are examples of complex and historically unprecedented changes in pricing structure made at the very same time by multiple competitors and made for no other discernible reason than collusion.

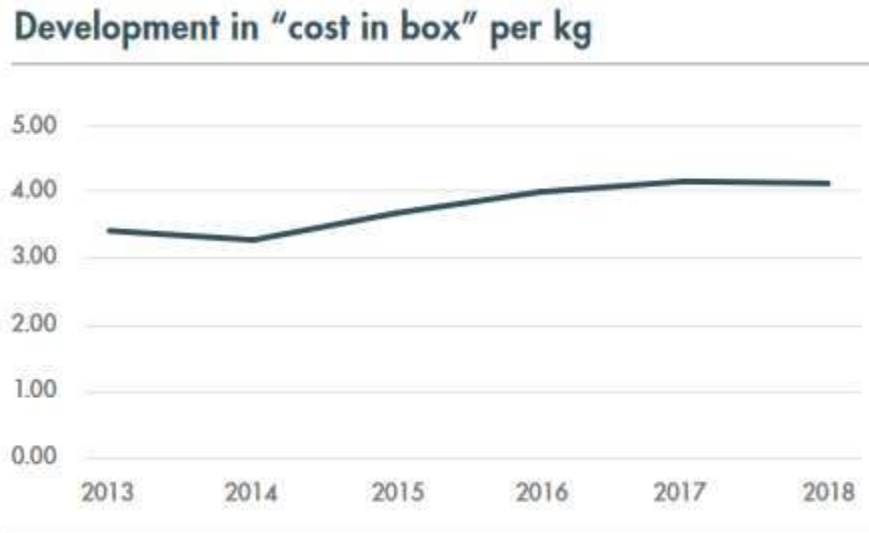
100. As a result of the conspiracy, Defendants’ prices—and profits—for salmon have been increased since mid-2015, as Mowi itself illustrates in this chart:¹⁰¹



¹⁰⁰ *Id.*

¹⁰¹ See *Salmon Farming Indus. Handbook 2019*, MOWI, 41 (2019), <https://corpsite.azureedge.net/corpsite/wp-content/uploads/2019/06/Salmon-Industry-Handbook-2019.pdf> [hereinafter *Mowi Salmon Indus. Handbook 2019*].

101. Defendants frequently—and falsely—asserted that cost increases justified their price increases, but their own data disproves their purported justification. For example, the following chart from Mowi indicates that the “cost in box” of producing salmon (per kilogram) has increased approximately half of one Euro (or less) during the Class Period—far less than salmon prices:¹⁰²



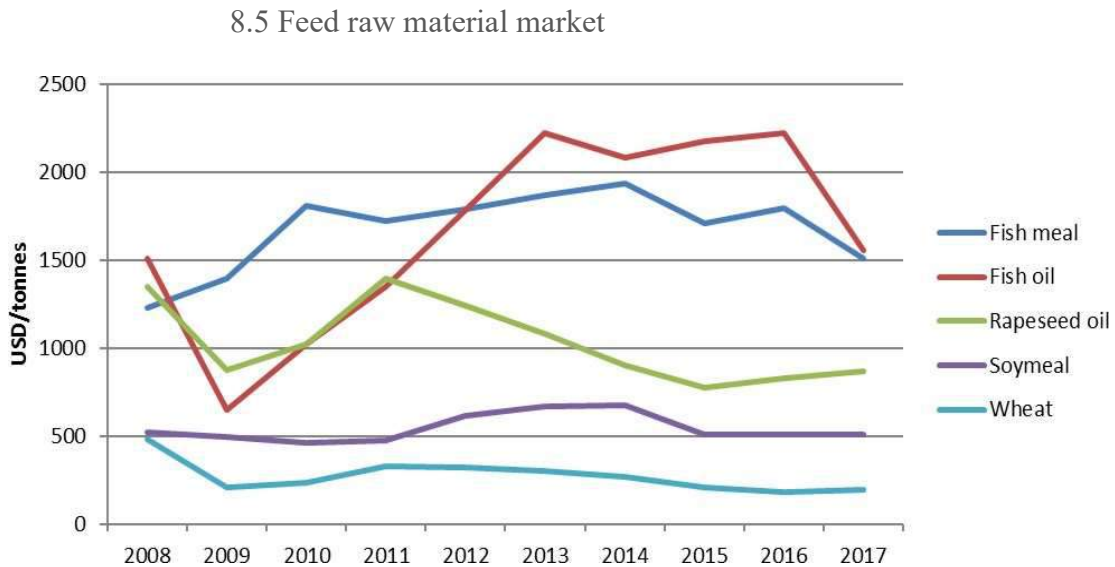
102. The biggest single production cost for producers of farmed salmon is feed. As Mowi notes in its 2018 Handbook, “[h]istorically, the two most important ingredients in fish feed have been fish meal and fish oil. The use of these two marine raw materials in feed production has been reduced in favour of ingredients such as soy, sunflower, wheat, corn, beans, peas, poultry by-products (in Chile and Canada) and rapeseed oil. This substitution is mainly due to heavy constraints on the availability of fish meal and fish oil.”¹⁰³ The following chart from that

¹⁰² See MOWI ANNUAL REPORT 2018, *supra* note 3, at 253.

¹⁰³ See MOWI SALMON INDUS. HANDBOOK 2019, *supra* note 101, at 62.

Handbook, however, shows that these feed components either stabilized or declined in the period since mid-2015.¹⁰⁴

08 Feed Production

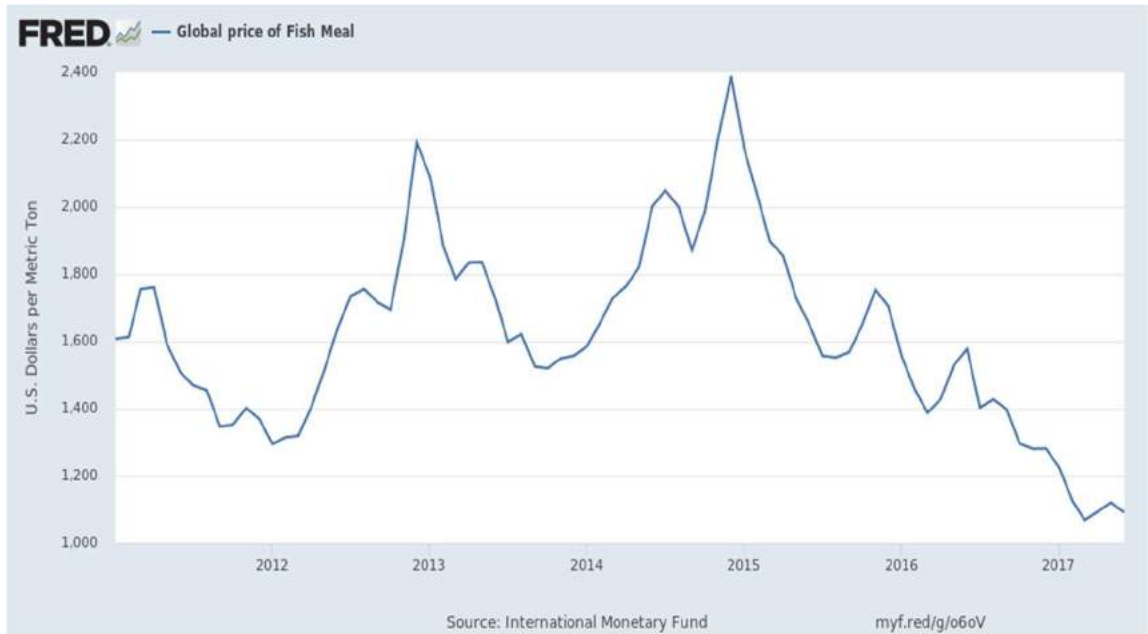


103. It is true that Mowi, for example, markets “organic” farmed salmon that are fed primarily fish meal and fish oil.¹⁰⁵ But the costs for those two components fell significantly during part of the Class period, as Mowi’s own chart confirms. And economic data compiled by the Federal Reserve Bank of St. Louis on global fish meal prices show that prices collapsed at the beginning of 2015, thus providing no cost justification for the price increases by farmed salmon producers that commenced later that year.¹⁰⁶

¹⁰⁴ *Id.* at 57.

¹⁰⁵ See *Mowi Ireland’s Organic Salmon FAQ’s*, MOWI, <http://marineharvestireland.com/product/about-marine-harvest-ireland-organic-salmon/> (last visited Aug. 16, 2019).

¹⁰⁶ See *Global Price of Fish Meal*, FRED ECONOMIC DATA, <https://fred.stlouisfed.org/series/PFISHUSDM#0> (last visited Aug. 16, 2019).



104. In sum, as the foregoing charts reflect, the price increases for salmon in 2015 and following years, viewed in relation to production costs, represent a structural break from past practices. Indeed, in prior periods, the Norwegian farmed salmon industry had been accused of dumping their product overseas at unreasonably low prices.¹⁰⁷

105. It has sometimes been asserted that increased demand explains the price increases since mid-2015, but that explanation also does not hold water here. In August of 2014, Russia banned imports of Norwegian seafood in response to economic sanctions imposed by the United States, the EU, and others for its annexation of Crimea; prices in Norway fell by ten percent as a

¹⁰⁷ See *Fresh and Chilled Atlantic Salmon from Norway*, Inv. Nos. 701-TA-302 and 731-TA-454, USITC Pub. 3835 (Jan. 2006) (Second Review), https://www.usitc.gov/publications/701_731/pub3835.pdf; European Commission Press Release Memo/06/87, Norwegian Salmon (Feb. 21, 2006), http://europa.eu/rapid/press-release_MEMO-06-87_en.htm.

result.¹⁰⁸ The ban was supposed to last a year, but Russia extended it in late June of 2015 and it remains in effect.

106. This is highly significant because, as an analyst at Swedbank Markets explained in 2017, “Russia’s import ban wiped out 10 percent of Norway’s salmon market.”¹⁰⁹ Teimuraz Ramishvili (“Ramishvili”), the Russian ambassador to Norway, said in 2018 that “[f]rom an economic point of view, **Norway lost a billion dollars from the fish trade with Russia.** There were attempts from Oslo to find new markets, great hopes were associated with China, **but the Russian market was not replaced.**”¹¹⁰

107. Ramishvili’s estimate of the loss to Norwegian salmon farmers like the Defendants turned out to be severely understated. In January of 2019, the industry publication *Intrafish* reported that:

Russia was once one of the seafood sector’s most promising markets -- for Norwegian seafood suppliers in particular.

But since the 2015 ban on seafood imports from several Western countries, the Norwegian salmon industry alone has lost NOK 20 billion (€2 billion/\$2.3 billion), according to estimates from Asbjørn Warvik Rørtveit, director of market insight and market access at the Norwegian Seafood Council (NSC).¹¹¹

¹⁰⁸ See Ole Petter Skonnord, *Update 1-Russia Sanctions Throw Norway’s Fish Industry into Turmoil*, REUTERS (Aug. 8, 2014, 8:25 AM), <https://www.reuters.com/article/ukraine-crisis-sanctions-salmon-idUSL6N0QE32E20140808>.

¹⁰⁹ See *Norway fails to find new buyers for its fish after losing Russian market*, RT (Mar. 15, 2018, 2:56PM), <https://www.rt.com/business/416729-norway-fish-russian-market-sanctions/>.

¹¹⁰ *Id.* (emphasis added).

¹¹¹ *Norway’s Seafood Firms Have Lost Nearly \$3 Billion Since Russian Ban*, INTRAFISH (Jan. 16, 2019) (emphasis added), <https://www.intrafish.com/marketplace/1673343/norways-seafood-firms-have-lost-nearly-usd-3-billion-since-russian-ban>.

108. The Mowi pricing chart depicted in paragraph 101 shows declining Norwegian salmon average prices in 2014 attributable to the Russian import ban. But it also shows average prices ramping drastically upward in mid-2015 (shortly *after* Russia extended that ban) and continuing to increase or stabilize in succeeding years while the ban continued. These sustained, historically unprecedented price increases can only be explained by collusion. Norwegian salmon farmers knew that a huge portion of demand and their export market had been eliminated and reacted by collusively raising prices. The planning cycle for the production of Norwegian salmon in 2015 had been set three years earlier in 2012 (before the Russian ban), as Mowi's 2018 Investor's Handbook itself reflects.¹¹² Yet despite this supply of salmon based on an overall market that no longer existed in 2015 and despite the fact that the ban had caused salmon prices to drop in 2014, Defendants, by conspiring together, were able to raise prices substantially and keep prices at levels significantly above those experienced in 2014.

109. These price increases since mid-2015 have resulted in huge profits for the Defendant farmed salmon producers. According to Mowi's 4Q 2018 financial disclosures:

“2018 was a very good year for Mowi. Strong demand for salmon and high prices in all markets resulted in great earnings for the company. I am proud of all my colleagues who work hard to produce healthy and tasty seafood for consumers all over the world. They have all contributed to the strong results”, [sic] says CEO Alf-Helge Aarskog.¹¹³

¹¹² See *Salmon Indus. Handbook 2018*, MOWI, 32 (2018), <http://www.mowi.com/globalassets/investors/handbook/2018-salmon-industry-handbook.pdf> [hereinafter *Mowi Salmon Indus. Handbook 2018*].

¹¹³ See *Strong Results for Mowi in the Fourth Quarter 2018*, MOWI (Feb. 13, 2019), https://www.mowi.com/about/news-and-media/news_new2/strong-results-for-mowi-in-the-fourth-quarter-2018/.

110. Mowi's 2017 annual report also confirmed that since the increases in salmon pricing starting in 2015, its operating profits or "Operational EBIT" (reported in Euros) has substantially increased—from 83 million Euros in 2015, to 184 million Euros in 2016, and 214 million Euros in 2017.¹¹⁴ As noted above, in accounting and finance, earnings before interest and taxes ("EBIT") is a measure of a firm's profit that includes all income and expenses (operating and non-operating) except interest expenses and income tax expenses.

111. Grieg similarly reported that its EBIT per kg gutted weight of fish (in Norwegian Kroners) has increased during the course of the conspiracy. According to Grieg's 2017 annual report, its EBIT was 0.7 Kroners/kg in 2015, 18.0 Kroners/kg in 2016, and 14.4 Kroners/kg in 2017.¹¹⁵ Grieg's Q4 2018 Quarterly Report announced an EBIT per kg (in Norwegian Kroner) of 14.72 for 2018.

112. Lerøy has also experienced substantial increases in EBIT/kg (also measured in Norwegian Kroner), increasing from 8.8 Kroners in 2015 to 18.9 Kroners in 2016, and 23.6 Kroners in 2017.¹¹⁶ In 2018, Lerøy's EBIT/kg was 19.6.¹¹⁷

¹¹⁴ See *Integrated Annual Report 2017*, MARINE HARVEST, 7 (2017), <http://hugin.info/209/R/2239765/882920.pdf>.

¹¹⁵ See GRIEG SEAFOOD ANNUAL REPORT 2017, *supra* note 44, at 8.

¹¹⁶ See *Annual Report 2017 Key Figures*, LEROY SEAFOOD (2017), <https://www.leroyseafood.com/en/investor/reports-and-webcast/annual-report-2017/to-the-table/#anchor-article-key-figures>.

¹¹⁷ See *Preliminary Financial Figures 2018*, LEROY SEAFOOD, 10 (2018), <https://www.leroyseafood.com/globalassets/02-documents/english/reports/quarterly-reports/q4-2018-report.pdf>.

113. Similarly, SalMar's EBIT has increased substantially. In 2015, its EBIT was 1404 million Norwegian Kroners. In 2016, its EBIT was 2432 million Kroners. In 2017, EBIT was 3162 million Kroners.¹¹⁸ In 2018, its EBIT was 3460.8 million Kroners.¹¹⁹

114. Similarly, the stock prices of Mowi ASA, Grieg ASA, SalMar ASA, and Lerøy ASA have all risen dramatically since January of 2013.

115. These price increases—and the Defendants' coordinated behavior that caused them—have come at the expense of Plaintiffs and the Class, who have paid more for farm-raised salmon than they otherwise would have in the absence of Defendants' collusion.

C. In Recent Years, Defendants Have Switched From Competition To Cooperation.

116. After the dissolution of the FOS in 1991, the Norwegian farmed salmon industry appears to have operated competitively for a while. In recent years, however, the farmed salmon industry has undergone a major shift in attitude, with the key players in Norway and their foreign subsidiaries transitioning from a culture of competition back to a culture of cooperation that once again involves a cessation of trade competition.

117. **Trade Associations And Industry Organizations.** This attitude is reflected not only in Defendants' unprecedented pricing moves in 2015, but also in their transition to openly collusive behavior reflected in the activities of certain trade associations or industry groups to which some of them belong. These trade associations or industry groups include several entities discussed below.

¹¹⁸ See SALMAR ANNUAL REPORT 2017, *supra* note 65, at 4.

¹¹⁹ See *Quarterly Report – Fourth Quarter 2018*, SALMAR ASA (2018), <http://hugin.info/138695/R/2234948/879657.pdf>.

118. One is the Norwegian Seafood Council (“NSC”), which is based in Tromsø, Norway and has offices in 12 countries (including an office in Boston) and which bills itself as “the industry’s main source for market insight based on statistics, trade information, consumption and consumer insight.”¹²⁰ It licenses the “Seafood From Norway” trademark utilized by Norwegian seafood producer-exporters.¹²¹ The NSC conducts a co-funded “Joint Marketing Program” that utilizes this trademark.¹²² The NSC utilizes “advisory groups” that meet periodically and give it input and opinions regarding its work; among the members of such groups are Frode Mikkelsen and Knut Hallvard Lerøy of Lerøy, Witzøe of SalMar, Arne Aarhus of OQ, and Erik Holvik of Mowi ASA.¹²³ As explained in detail below, the data analytics firm SAS Data Management (“SAS”) has created a database and analytical tools for the NSC that allow industry members to share current individualized competitor data, including price data. This is undoubtedly one of the things to which the EC was referring when it said the raided firms were suspected of “exchanging commercially sensitive information.”

119. Another Norwegian industry group of note is the *Sjømatbedrifters Landsforening* (the Norwegian Seafood Federation (“NSF”). The Norwegian Defendants are represented in this

¹²⁰ *About Us*, NORWEGIAN SEAFOOD COUNCIL (Nov. 18, 2016, 2:36 PM), <https://en.seafood.no/about-norwegian-seafood-council/about-us/>.

¹²¹ *See Licensing “Seafood from Norway”-trademark*, NORWEGIAN SEAFOOD COUNCIL (Feb. 28, 2019, 3:02 PM), <https://en.seafood.no/marketing/merke--og-stotteordninger/trademarks-and-labeling/the-country-of-origin-mark/licensing-SFN/>.

¹²² *See The NSC’s Joint Marketing Program*, NORWEGIAN SEAFOOD COUNCIL (Feb. 25, 2019, 9:10 AM), <https://en.seafood.no/marketing/merke--og-stotteordninger/bedriftsinitiativ-og-stotteordninger/company-initiative--increasing-the-value-of-norwegian-seafood-together/>.

¹²³ *See Advisory Groups*, NORWEGIAN SEAFOOD COUNCIL, <https://en.seafood.no/about-norwegian-seafood-council/advisory-groups/> (last visited Aug. 16, 2019).

organization. Its former Chairman was Ole-Eirik Lerøy, the Chairman of the Board of Mowi since 2010, who was the CEO of Lerøy from 1991 to 2008; Ole-Eirik Lerøy was also not the only executive from Lerøy to move to Mowi. The current CEO of Mowi is Alf-Helge Aarskog (“Aarskog”), who previously served as Executive Vice-President and then CEO of Lerøy, and Mowi’s Chief Financial Officer (“CFO”) is Ivan Vindheim (“Vindheim”) who formerly served in that role at Lerøy.¹²⁴ The Deputy Managing Director of the NSF is Trond Davidsen (“Davidsen”), whose views on cooperation among salmon producers are set forth below.

120. A third industry organization of note is the BC Salmon Farmers Association (“BCSFA”), which is headquartered in Campbell River, British Columbia. Its website states that it “is a forum for communication and cooperation within the salmon farming sector” and “is dedicated to driving communication and cooperation within the salmon farming sector.”¹²⁵ Its members include OQ NA and subsidiaries of Mowi and Grieg.¹²⁶ Its executives include Boschman of Grieg and Dr. Diane Morrison of Mowi Canada.¹²⁷

121. A fourth important organization is the International Salmon Farmers Association (“ISFA”), which includes the NSF and the BCSFA among its members. Its President is Davidsen

¹²⁴ *Mowi ASA (MNHVF.PQ) People*, REUTERS, <https://www.reuters.com/finance/stocks/company-officers/MNHVF.PQ> (last visited Aug. 16, 2019).

¹²⁵ *Our Members*, BC SALMON FARMERS ASSOC., <http://bcsalmonfarmers.ca/our-members/> (last visited Aug. 16, 2019) [hereinafter *Our Members*]; *About the BC Salmon Farmers Association*, BC SALMON FARMERS ASSOC., <http://bcsalmonfarmers.ca/about/> (last visited Aug. 16, 2019).

¹²⁶ OUR MEMBERS, *supra* note 125.

¹²⁷ *Our Board and Team*, BC SALMON FARMERS ASSOC., <http://bcsalmonfarmers.ca/about/board-team/> (last visited Aug. 16, 2019).

of the NSF, who was re-elected as President at a general meeting of ISFA held in Boston in early 2016 and has represented Norway in ISFA since 2012.¹²⁸

122. **Switch To Cooperation Rather Than Competition.** In a speech given in November of 2016, Davidsen explained how the farmed salmon industry in recent years has shifted from competition to cooperation:

I was part of the trade disputes since mid 1990's and I can still remember how the parties in the processes were able to also take care of the personal relations across the borders. We had days over in Europe where the Scots, the Irish and the Norwegians had been in tough meetings with the European Commission in daytime, before we all went out for dinner in the evening and having an enjoyable time together. **Some were actually really good friends, spending their holidays together. And these good relations made it much easier to shift focus and work together when the trade wars ended.**

We have without doubt moved from battling each other in trade wars to cooperating and finding solutions on common challenges to feeding a growing world population – such as sea lice, feed resources, technology and knowledge in general.

Of course, a general good market situation has removed some of the stress in the salmon industry. **But it seems also to be a fact that a continuously increasing cross border activity in the industry has moved the whole industry into a new way of thinking.** We had cross border activities in the past as well, with Norwegian salmon companies involved in operations in Scotland, Ireland and the US.

However, the way the salmon business has developed in the last years – with a vast increase in cross border ownership and operations – will probably decrease the risk of any battles between the producing countries in the future. I am convinced that the increased business integration strengthens the whole industry, improves our operations and makes us even more suited to produce healthy and valuable products to a growing population.

¹²⁸ *Trond Re-Elected*, INT'L SALMON FARMERS ASSOC. (Mar. 4, 2016), <http://www.salmonfarming.org/trond-re-elected/>.

I know for sure that all parties involved in the salmon business agree that the potential for further growth is tremendous – and that we need to develop our industry to meet the global demand **rather than fight each other**.¹²⁹

When Davidsen was referring to “trade wars” or “battles” or “fight[ing]” in this speech, he was clearly referring to price competition. As explained below, farmed salmon is a commodity product and the way producers can compete with respect to the sale of it is on the dimension of price.

123. **Activities Of The GSI.** This commitment to cooperation is also reflected in the activities of the Global Salmon Initiative (“GSI”). As explained on its website:

In 2012, a small group of CEOs from salmon farming companies from Norway, Chile and Scotland attended a talk about improving environmental reputation. Inspired by stories from other sectors, these CEOs decided to continue the discussions and look at ways they could break down barriers to environmental improvement in the salmon aquaculture sector.

Those leaders quickly realized that when one company performs poorly, it harms the reputation of all, and **instead of using environmental performance as a means of competition, they would secure greater advantages and economic success by working together to lift the performance of the sector as a whole.**

The GSI was launched in August 2013. Now with 16 members, with operations covering 8 countries – Australia, Canada, Chile, Faroe Islands, Ireland, New Zealand, Norway, and the United Kingdom the group represents approximately 50% of the global farmed salmon sector.¹³⁰

¹²⁹ *Producing Healthy Sustainable Food for the World*, INTERNATIONAL SALMON FARMERS ASSOCIATION, <http://www.salmonfarming.org/producing-healthy-sustainable-food-for-the-world/> (emphasis added).

¹³⁰ *What is the GSI?*, GLOBAL SALMON INITIATIVE, <https://globalsalmoninitiative.org/en/what-is-the-gsi/> (last visited Aug. 16, 2019) (emphasis added).

The original members of GSI included Scottish Sea Farms and the Norwegian entities for Mowi, Grieg, Lerøy, and SalMar.¹³¹ Aarskog, the CEO of Mowi, came up with the idea for the GSI and is its Co-Chair.

124. Defendants have conceded the purpose of the GSI is inconsistent with normal competition for market share by competitors and that the GSI was undertaken with the goal of increasing revenue.¹³²

125. While the activities of the GSI were focused on how to sustainably produce farmed salmon, it was clearly dedicated to preventing competition by individual companies in the environmental sector. One stated reason for this was a conscious common commitment to “[m]anaging our operations in a manner to support economic growth and stability.”¹³³ If the Defendants by mid-2013 were willing to engage explicitly in “precompetitive cooperation” in order to eliminate individual environmental improvements as a competitive tool, it is entirely plausible that they would do likewise with respect to farmed salmon prices two years later, when the ban on Russian sales was disrupting their market and reducing their profits.

126. **Sharing Of Sensitive Commercial Information Under The Auspices Of The NSC.** This close cooperation among Defendants is further exhibited in the data collection practices

¹³¹ Norway Trondheim, *Global Salmon Initiative (GSI) Launched with Commitment to Sustainable Salmon Farming*, GLOBAL SALMON INITIATIVE (Aug. 15, 2013, 00:01 AM), <https://globalsalmoninitiative.org/en/news/global-salmon-initiative-gsi-launched-with-commitment-to-sustainable-salmon-farming/>.

¹³² Avrim Lazar, *5 Lessons from GSI for Game-Changing Success Through Collaboration*, GLOBAL SALMON INITIATIVE, <https://globalsalmoninitiative.org/en/blog/sometimes-the-best-way-to-win-a-game-is-to-change-it/> (last visited Aug. 16, 2019) (emphasis added).

¹³³ *Why is GSI Important?*, GLOBAL SALMON INITIATIVE, <https://globalsalmoninitiative.org/en/why-is-the-gsi-important/> (last visited Aug. 16, 2019).

used by SAS on behalf of the NSC. On its website, SAS touts how it has given confidential “sensitive market insight” to the NSC’s constituency, including Defendants:

The Norwegian Seafood Council employs around 17 people to work on analysis and reporting on a daily basis. **The analysis department has recently set up a new database to give businesses access to sensitive market statistics, including an overview of their own market shares and a comparison of their prices with those of competitors.**

Customers can compare themselves to other exporters in terms of both price and share of the market.¹³⁴

This is undoubtedly one of the items the EC was referring to when it declared that the raided firms were suspected of “exchanging commercially sensitive information.”

127. This practice of providing horizontal competitors real-time ongoing price and market share data about each other—a practice to which these competitors obviously agreed—is a real cause for concern. As discussed above, it was a key aspect of the price-fixing conspiracy among FOS, SSGA, SSA, and SSB back in 1989-91.

128. As the Federal Trade Commission (“FTC”) has said:

[F]orming a trade association does not shield joint activities from antitrust scrutiny: **Dealings among competitors that violate the law would still violate the law even if they were done through a trade association. For instance, it is illegal to use a trade association to control or suggest prices of members. It is illegal to use information-sharing programs, or standardized contracts, operating hours, accounting, safety codes, or transportation methods, as a disguised means of fixing prices.**

One area for concern is exchanging price or other sensitive business data among competitors, whether within a trade or professional association or other industry group. Any data exchange or statistical reporting that includes current prices, or information that identifies data from individual

¹³⁴ *The Norwegian Seafood Council Uses SAS to Give Norwegian Fish Exporters a Competitive Advantage*, SAS INSTITUTE INC., https://www.sas.com/no_no/customers/norwegian-seafood-council.html (last visited Aug. 16, 2019) (emphasis added).

competitors, can raise antitrust concerns if it encourages more uniform prices than otherwise would exist.¹³⁵

129. Likewise, the United States government delegation stated to the Organization for Economic Cooperation & Development’s Competition Committee in a 2010 report that “certain information exchanges among competitors may violate Section 1 of the Sherman Act, which prohibits a ‘contract, combination...or conspiracy’ that unreasonably restrains trade.”¹³⁶ The presentation was principally authored by the United States Department of Justice (“DOJ”) and is part of a list of such submissions on its website.¹³⁷ The United States government noted that “[i]n addition to serving as evidence of an unlawful agreement, information exchanges likely to affect prices may, under certain circumstances, be illegal in and of themselves.”¹³⁸ Even if the information exchange is not itself an unlawful agreement, it can be powerful evidence of an agreement to fix prices because “[t]he antitrust concern is that information exchanges may facilitate anticompetitive harm by advancing competing sellers’ ability either to collude or to tacitly coordinate in a manner that lessens competition. Thus, for example, exchanges on price may lead to illegal price coordination.”¹³⁹ The United States delegation noted that actual evidence

¹³⁵ *Spotlight on Trade Associations*, FEDERAL TRADE COMMISSION, <https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/dealings-competitors/spotlight-trade> (last visited Aug. 16, 2019) (emphasis added).

¹³⁶ *Roundtable on Information Exchanges Between Competitors Under Competition Law, Note by the Delegation of the United States*, DIRECTORATE FOR FINANCIAL & ENTERPRISE AFFAIRS, ORGANIZATION FOR ECONOMIC COOPERATION & DEVELOPMENT COMPETITION COMMITTEE, 2 (Oct. 21, 2010), <https://www.justice.gov/sites/default/files/atr/legacy/2014/09/17/269282.pdf>.

¹³⁷ *U.S. Submissions to the Organization for Economic Cooperation and Development (OECD) Competition Committee*, UNITED STATES DEPT. OF JUSTICE, <https://www.justice.gov/atr/us-oecd-submissions-competition-policy> (last visited Aug. 16, 2019).

¹³⁸ DIRECTORATE FOR FINANCIAL & ENTERPRISE AFFAIRS, ORGANIZATION FOR ECONOMIC COOPERATION & DEVELOPMENT COMPETITION COMMITTEE, *supra* note 136, at 3.

¹³⁹ *Id.* at 2.

of competitive harm, such as industry-wide price movements resulting from the exchange are a strong factor in finding illegality.¹⁴⁰ Other identified factors that may be considered include: (a) “[t]he nature and quantity of the information (extensive exchange of information regarding pricing, output, major costs, marketing strategies and new product development is more likely to have anticompetitive implications);” (b) “[h]ow recent the shared data is (sharing of past data is generally deemed less problematic than sharing current data);” (c) “[t]he parties’ intent in sharing the information (an anticompetitive intent, such as an intent to stabilize prices, is problematic);” (d) “[t]he industry structure (in concentrated industries, an exchange among few firms could be more likely to harm competition);” and (e) “[t]he frequency of exchanges (the more frequent the exchange, the more problematic it may be).”¹⁴¹ The frequent detailed information exchanges among competitors through the NSC satisfy these criteria.

130. The DOJ and the FTC had made a similar point in their 2000 *Antitrust Guidelines for Collaborations Among Competitors* (“DOJ-FTC Guidelines”):

[I]n some cases, the sharing of information related to a market in which the collaboration operates or in which the participants are actual or potential competitors may increase the likelihood of collusion on matters such as price, output, or other competitively sensitive variables. The competitive concern depends on the nature of the information shared. **Other things being equal, the sharing of information relating to price, output, costs, or strategic planning is more likely to raise competitive concern than the sharing of information relating to less competitively sensitive variables. Similarly, other things being equal, the sharing of information on current operating and future business plans is more likely to raise concerns than the sharing of historical information. Finally, other things being equal, the sharing of individual company**

¹⁴⁰ *Id.* at 4.

¹⁴¹ *Id.*

data is more likely to raise concern than the sharing of aggregated data that does not permit recipients to identify individual firm data.¹⁴²

131. Defendants’ Activities Through The North Atlantic Seafood Forum.

Defendants have also used events organized in part by third parties to communicate with each other on cooperative pricing arrangements for farmed salmon or products derived therefrom. One such event is the annual North Atlantic Seafood Forum (“NASF”), which is described as “[t]he world’s largest seafood business conference” and has occurred every March for the last 14 years in Bergen, Norway and generally lasts for three days.¹⁴³ It is sponsored in part by major players in the farmed salmon industry, such as Grieg, Mowi, and Lerøy.

132. In recent years, the NASF conference has proceeded with an initial opening address called “The View from the Bridge” given by so-called “Global Seafood Industry Captains.” A speaker at the 2015 meeting was Ole-Eirik Lerøy. There are then typically lunch and “networking” sessions followed by what are called “parallel sessions” devoted to particular industry sectors “for the latest update on industry challenges, supply and market outlook, prices, innovation and business, and sustainability issues.” One such parallel session at NASF is a half day “industry workshop” devoted to “global salmon supply, markets and prices.” One of the presenters on global salmon demand at the 2015 and 2016 sessions was Ola Bratvoll (“Bratvoll”), COO and Group Sales Director of the Marine Harvest Group. At each annual session, there are provided “different

¹⁴² *Antitrust Guidelines for Collaborations Among Competitors*, FEDERAL TRADE COMMISSION, 15 (2000), https://www.ftc.gov/sites/default/files/documents/public_events/joint-venture-hearings-antitrust-guidelines-collaboration-among-competitors/ftcdojguidelines-2.pdf [hereinafter *DOJ-FTC Antitrust Guidelines for Collaborations Among Competitors*] (emphasis added).

¹⁴³ See *10th North Atlantic Seafood Forum, Bergen 2015 – Final Programme*, NORTH ATLANTIC SEAFOOD FORUM (2019), <http://prod.dfox.com/public/images/0000438021/000/080/0000804137.pdf>. The 2015 NASF session preceded by a few months the sudden price increases that occurred in mid-2015.

arenas for meeting the delegates in an unstressed atmosphere . . .” in order to use “networking opportunities.”

133. NASF sessions are heavily attended by representatives of the Defendants.¹⁴⁴ For instance, at the tenth annual NASF conference in March of 2015—immediately prior to the beginning of the Class Period—the delegates for Grieg were: P. Grieg (Chairman of the Board), Wenche Kjølås (“Kjølås”) (Board Member), Karin Bing Orgland (Board Member), Asbjørn Reinkind (“Reinkind”) (Vice-Chairman), Andreas Kvame (“Kvame”) Sandtorv ((CFO), and Utheim (COO).

134. At the same 2015 session, delegates for Lerøy were: Beltestad (CEO), Sjur Malm (“Malm”) (CFO), Annichen Edvardsen (“Edvardsen”) (Financial Manager), Jonas Langeteig (Project Controller), and Singelstad (Chairman).

135. At the same 2015 session, delegates for Mowi (at that time Marine Harvest ASA) were: Arild Aakre (Marketing Director), Aarskog (CEO), Brattvoll (COO Sales & Marketing), Kim Galtung Døsvig (IRO), Kristine Gramstad (Global Director Communications), Henrik Heiberg (VP of Finance and Treasury), Inger-Elisabeth Holberg (Controller Global Farming), Andreas Mikalsen (Managing Director RMT Europe), Eivind Nævdal-Bolstad (Public Affairs Manager), Øyvind Oaland (Global Director R&D and Technical), Marit Solberg (COO Farming), Olav Soleide (Group Controller Sales & Marketing), Vindheim (CFO), Charlie Wu (Managing Director Asia), and Ole-Eirik Lerøy (Chairman).

136. Similarly, at the 2019 NASF session, to cite another example, the delegates for Grieg were: Kristina Furnes (Global Communications Manager), P. Grieg (Chairman), Kjølås

¹⁴⁴ See *10th North Atlantic Seafood Forum, Bergen 2015 - Conference Delegates*, NORTH ATLANTIC SEAFOOD FORUM (2019), <http://prod.dfox.com/public/images/0000438021/000/081/0000814865.pdf>.

(Board Member), Kvame (CEO), Kathleen Mathison (Chief Human Relations Officer), Reinkind (Vice-Chairman), Sandtorv (CFO), and Utheim (COO). Also present was Grant Cummings (Managing Director of Grieg's Scottish operations).¹⁴⁵

137. At the same 2019 session, delegates for Lerøy were: Jennelyn Grude (Team Leader), Tone Myklebust (Head of Frozen Foods), Terje Antero Olsen (Team Leader), Bjørn Opheim (Sales Manager), Carmen Thomasson (Sales Manager), Hans Peter Vestre (Team Leader), Webjorn Barstad (COO for Wildcatch and Whitefish), Cristian Askvik (Team Manager Value Added Production ("VAP") USA), Beltestad (CEO), Endre Edvartsdag (Team Manager), Carmel Egenberg (Team Manager VAP), Thomas Finnøy (Project Manager IT), Ole Jan Flatraker, Per Arve Hausvåg (Team Manager), Knut Hallvard Lerøy (Head of Operation), Malm (CFO), Frode Mikkelsen (Head of VAP), Harald Voltersvik Hernæs (Team Manager), Edvardsen (Finance Chief), Kristren Hoass (Public Affairs), Anne Hilde Midttveit (Head of Quality & Sustainability), Ole Risøy (Head of Analysis), Bjarte Sævig (head of IT), Jørn Erik Toppe (Business Analyst), Pål Erik M. Michelsden (Head of Brands & Digital Marketing), Karoline Møgster (Board member), Hage Torvund Nilsen (Head of Finance, Sales & Distribution), and Ivar Wulff (COO of Sales & Distribution).

138. At the same 2019 session, delegates for Mowi were: Aarskog (CEO), Kim Galtung Døsvig (IRO), Ole-Eirik Lerøy (Chairman of the Board), Joachim Ulsrud (Treasury Analyst), Vindheim (CFO), and Jørgen Wenggaard (Driftstekniker).

139. At the 2018 NASF conference, the CEOs of the major Defendants here were also present: Kvame of Grieg, Baltestad of Lerøy, Aarskog of Mowi, and Trond Willikson of SalMar.

¹⁴⁵ *14th North Atlantic Seafood Forum - Conference Delegates*, NORTH ATLANTIC SEAFOOD FORUM, 9 (2019), <https://d1tosi66po7sm3.cloudfront.net/1551709799/list-of-delegates-14th-north-atlantic-seafood-forum-2019.pdf>.

140. **Joint Venture Activity.** As noted above, SalMar and Lerøy are joint owners of Scottish Sea Farms. This fact is conducive to collusion, as explained in the DOJ's and FTC's joint guidelines on collaborations among competitors. Indeed, the DOJ-FTC joint guidelines provide:

Marketing collaborations may involve agreements on price, output, or other competitively significant variables, or on the use of competitively significant assets, such as an extensive distribution network, that can result in anticompetitive harm. Such agreements can create or increase market power or facilitate its exercise by limiting independent decision making; by combining in the collaboration, or in certain participants, control over competitively significant assets or decisions about competitively significant variables that otherwise would be controlled independently; or by combining financial interests in ways that undermine incentives to compete independently. For example, joint promotion might reduce or eliminate comparative advertising, thus harming competition by restricting information to consumers on price and other competitively significant variables.¹⁴⁶

D. The Structure And Characteristics Of The Market For Atlantic Farm-Raised Salmon Support The Existence Of A Conspiracy.

141. The structure and other characteristics of the market for Atlantic farm-raised salmon make it conducive to anticompetitive conduct among Defendants and make collusion particularly attractive.

142. The DOJ has emphasized that structural market factors can be important in assessing whether conspiratorial conduct in violation of the antitrust laws has occurred. Indeed, the DOJ has explained that:

While collusion can occur in almost any industry, it is more likely to occur in some industries than in others. An indicator of collusion may be more meaningful when industry conditions are already favorable to collusion.

- Collusion is more likely to occur if there are few sellers. The fewer the number of sellers, the easier it is for them to get together and agree on prices, bids, customers, or territories. Collusion may also occur when the number of firms is fairly large, but there is a small group of major sellers and the rest are “fringe” sellers who control only a small fraction of the market.

¹⁴⁶ DOJ-FTC ANTITRUST GUIDELINES FOR COLLABORATIONS AMONG COMPETITORS, *supra* note 142, at 14 (emphasis added).

- The probability of collusion increases if other products cannot easily be substituted for the product in question or if there are restrictive specifications for the product being procured.
- The more standardized a product is, the easier it is for competing firms to reach agreement on a common price structure. It is much harder to agree on other forms of competition, such as design, features, quality, or service.
- Repetitive purchases may increase the chance of collusion, as the vendors may become familiar with other bidders and future contracts provide the opportunity for competitors to share the work.
- Collusion is more likely if the competitors know each other well through social connections, trade associations, legitimate business contacts, or shifting employment from one company to another.
- Bidders who congregate in the same building or town to submit their bids have an easy opportunity for last-minute communications.¹⁴⁷

143. All these factors are present here. As explained below: (a) the Norwegian farmed salmon industry is dominated by a few top producers with a number of smaller players; (b) farmed Atlantic salmon is a standardized product not readily substitutable with other types of salmon; (c) opportunities to conspire abound in numerous trade associations and industry meetings, and otherwise; (d) Mowi, OQ AS, Grieg, and Lerøy are all headquartered in Bergen, Norway; (e) Grieg BC, Mowi Canada, OQ NA, and OQ Premium Brands are located in British Columbia, Canada; and (f) there is mobility among executives of certain Defendants, such as Ole-Eirik Lerøy, Aarskog, and Vindheim.

1. Industry Concentration Facilitates Collusion.

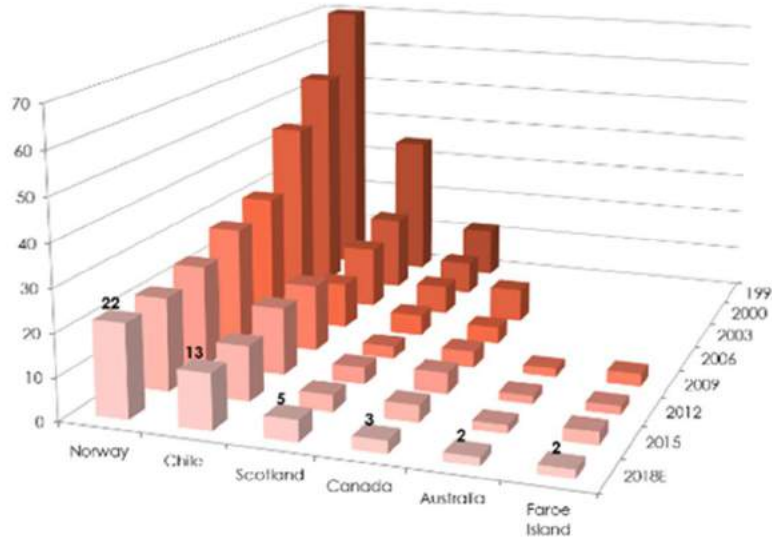
144. A highly concentrated market is more susceptible to collusion and other anticompetitive practices than less concentrated markets.

¹⁴⁷ *Price Fixing, Bid Rigging, And Market Allocation Schemes: What They Are And What To Look For*, FEDERAL TRADE COMMISSION, 5, <https://www.justice.gov/atr/file/810261/download> (last visited Aug. 16, 2019).

145. Here, there has been significant (and rapid) consolidation of salmon farming operations around the globe in recent years, as Mowi reports:¹⁴⁸

Industry Structure

7.2 Number of players in producing countries



The graph shows the number of players producing 80% of the farmed salmon and trout in each major producing country.

Historically, the salmon industry was dominated by several small firms. As illustrated above, it was the case in Norway, and to some extent in Scotland and Chile.

During the last decades the salmon farming industry has been through a period of consolidation in all regions and this is expected to continue.

The vast majority of the 22 remaining salmon farming companies in Norway are “fringe sellers,” to use the words of the DOJ. And the Norwegian Defendants dominate the market.

¹⁴⁸ See MOWI SALMON INDUS. HANDBOOK 2019, *supra* note 101, at 45.

146. The foregoing graphic is consistent with the 2016 speech by Davidsen of ISFA quoted previously, in which he referred to a “vast increase in cross border ownership and operations in recent years.”

147. According to Mowi’s own figures, Norway’s salmon industry is dominated by Defendants Mowi, Lerøy, SalMar, and Grieg.¹⁴⁹

Industry Structure

7.1 Top 5-10 players of farmed Atlantic salmon

	Top 10 - Norway		Top 5 - United Kingdom		Top 5 - North America		Top 10 - Chile	
		H.Q.		H.Q.		H.Q.		H.Q.
1	Mowi	230,400	Mowi	38,400	Cooke Aquaculture	60,800	"New Aquachile" (Agrasuper)	109,000
2	Salmar	142,500	The Scottish Salmon Co.	29,900	Mowi	39,300	Mitsubishi / Cermaq	66,000
3	Lerøy Seafood	137,800	Scottish Seafarms	27,500	Mitsubishi / Cermaq	21,800	Salmones Multiexport	64,800
4	Mitsubishi / Cermaq	57,400	Cooke Aquaculture	21,600	Grieg Seafood	16,600	Mowi	53,200
5	Grieg Seafood	46,100	Grieg Seafood	11,900	*		Blumar	47,600
6	Nova Sea	37,900	*				Camanchaca	43,600
7	Nordlaks	36,100					Australis Seafood	34,500
8	Norway Royal Salmon	36,000					Ventisqueros	30,300
9	Sinkaberg-Hansen	27,500					Invermar	20,000
10	Alsaker Fjordbruk	26,000					Marine Farm	19,800
	Top 10	777,700	Top 5	129,300	Top 5	138,500	Top 10	449,000
	Others	350,400	Others	8,900	Others	10,200	Others	160,700
	Total	1,128,100	Total	138,200	Total	148,700	Total	609,700

All figures in tonnes GWT

* The industry in the UK and North America are best described by top 5 and top 4 producers, respectively.

Mowi Group represents the largest total production, harvesting around one fifth of the salmon produced in Norway, and about one third of the total production in North America and the UK.

2. Barriers To New Entry Are High.

148. A collusive arrangement that raises product prices above competitive levels would, under basic economic principles, attract new entrants seeking to benefit from the supracompetitive pricing. When, however, there are significant barriers to entry, new entrants are much less likely to enter the market. The market for farming salmon has high entrance barriers.

149. The production process for farmed salmon is costly and lengthy.

¹⁴⁹ *Id.* at 44.

150. Mowi has diagrammed the process for breeding and growing farm-raised salmon as follows:¹⁵⁰

The life cycle of salmon starts in freshwater and involves several stages before the young salmon (smolt) are ready for the sea.

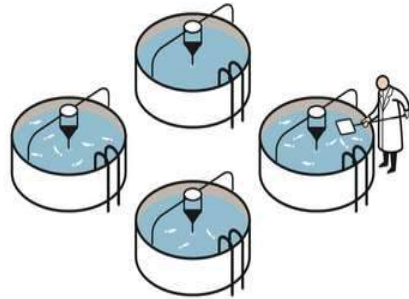
1



EGGS

Fertilised eggs are kept in incubation tanks in fresh water. There are approximately 5,000 eggs per litre. The eggs hatch into tiny fish (alevins), which have a yolk sac that provides nutrition until they are large enough to feed themselves.

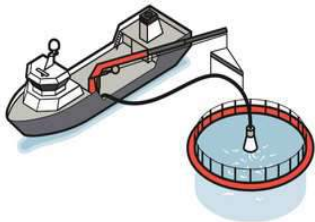
2



PARR

Once they weigh about six grams, the fish are moved to larger freshwater tanks or to an open net cage in a lake. The fish now develop into parr and once they weigh about 60–80 grams they're ready to move on to the smolt stage.

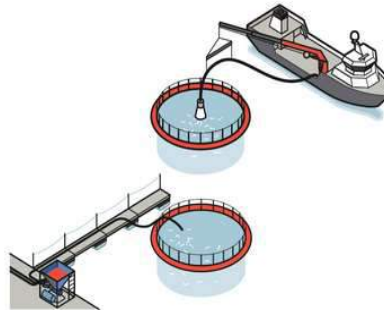
3



SMOLT

This stage is when the fish undergo a physiological change that enables them to move from fresh water to seawater and become young adult salmon. The smolts are kept in net pens in the sea until they mature into adult salmon.

4

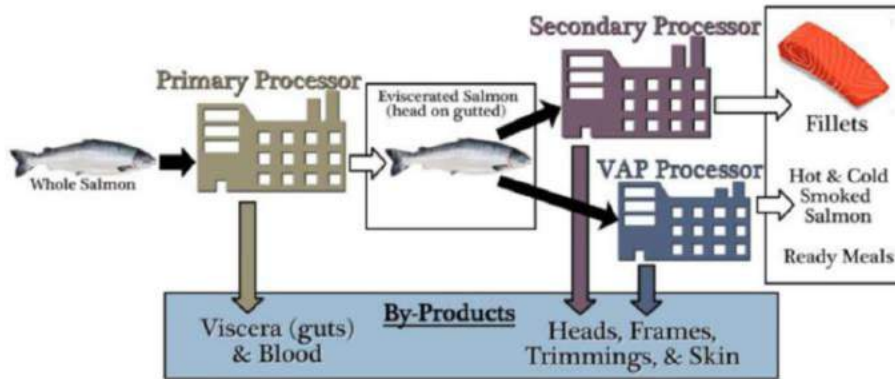


HARVEST

After just over a year in the sea the fish will have reached market weight (4.5 to 5.5kg) and are then harvested – in a variety of ways depending on the region.

¹⁵⁰ See *Seafood Value Chain*, Mowi.com, <https://www.mowi.com/product/seafood-value-chain> (last visited Aug. 16, 2019).

151. A report commissioned by the EU titled “Developing Innovative Market Orientated Prediction Toolbox to Strengthen the Economic Sustainability and Competitiveness of European Seafood on Local and Global markets” further depicts how salmon is processed:¹⁵¹



152. Thus, production of farmed salmon is capital intensive, and the development of marketable fish is a lengthy process—both of which operate as a barrier to entry.

153. Atlantic salmon is viewed as a separate product distinct from other types of salmon. The EC, in approving Mowi’s acquisition of Morpol, a salmon processor, noted that there is a separate product market for the farming and processing of farmed Atlantic salmon.¹⁵²

154. Mowi’s 2018 Investor’s Handbook notes that there are relatively few locations in the world that provide the right mix of oceanic conditions for salmon farming and a political environment willing to allow the practice. Moreover, even if new entry could occur in the right geographic location, no additional salmon supply could be brought online in the short run:¹⁵³

¹⁵¹ See *European Union Horizon 2020 research and innovation program, Deliverable No. 3.4 - Report on evaluation of industry dynamics opportunities and threats to industry*, EUROPEAN COMM’N, <https://ec.europa.eu/programmes/horizon2020/en/newsroom/546%20547>.

¹⁵² Case No. COMP/M.6850, *Marine Harvest/Morpol*, ¶ 68 (Sept. 30, 2013), http://ec.europa.eu/competition/mergers/cases/decisions/m6850_20130930_20212_3315220_EN.pdf.

¹⁵³ See MOWI SALMON INDUS. HANDBOOK 2019, *supra* note 101, at 27.

Salmon Supply

4.3 Few coastlines suitable for salmon farming



The main coastal areas adopted for salmon farming are depicted on the above map. The coastlines are within certain latitude bands in the Northern and Southern Hemisphere.

A key condition is a temperature range between zero and 18-20°C. The optimal temperature range for salmon is between 8 and 14°C.

Salmon farming also requires a certain current to allow a flow of water through the farm. The current must however be below a certain level to allow the fish to move freely around in the sites. Such conditions are typically found in waters protected by archipelagos and fjords and this rules out many coastlines.

Certain biological parameters are also required to allow efficient production. Biological conditions vary significantly within the areas adopted for salmon farming and are prohibitive in certain other areas.

Political willingness to permit salmon farming and to regulate the industry is also required. Licence systems have been adopted in all areas where salmon farming is carried out.

155. Mowi explains that “[i]n all salmon producing regions, the relevant authorities have a licensing regime in place. In order to operate a salmon farm, a license is the key prerequisite. The licenses constrain the maximum for each company and the industry as a whole.”¹⁵⁴

¹⁵⁴ See *id.* at 76.

156. Moreover, wild caught salmon cannot reasonably constrain prices for farm-raised salmon. National Public Radio summarized the breeding and cost advantages that farm-raised salmon have over wild caught salmon in an August 29, 2017 article:

Why Are Atlantic Salmon Raised In The Pacific Northwest?

Atlantic salmon are not native to the Pacific Northwest. For years, they have been bred to become easier to farm — they’re more “highly domesticated,” according to the Washington Department of Fish and Wildlife. Most commercial fish farms raise Atlantic salmon.

The WDFW says Atlantic salmon is a “favored species” to farm in cold marine waters because the species grows quickly and consistently, is resistant to disease, and is something people like to eat. Farmed Atlantic salmon are more docile than wild fish.

Atlantic salmon also have been bred to more “efficiently turn feed into flesh,” says Michael Rust, the science adviser for NOAA’s office of aquaculture.

What used to cost several dollars per pound to grow, worldwide, now costs about \$1.25, Rust says. That makes for higher profits.

In the U.S., Washington and Maine are the two largest Atlantic salmon producing states, but they’re small beans compared to salmon farms in Canada, Norway and Chile.

Atlantic salmon today, Rust says, probably grow twice as fast as when aquaculture first started.¹⁵⁵

157. Wild caught salmon is generally up to twice as expensive per pound as farm-raised salmon.

¹⁵⁵ See Courtney Flatt, *Why Are Atlantic Salmon Being Farmed In The Northwest?* NAT’L PUBLIC RADIO (Aug. 29, 2017, 7:00 AM), <https://www.npr.org/sections/thesalt/2017/08/29/546803147/why-are-atlantic-salmon-being-farmed-in-the-northwest>.

3. **Farm-Raised Salmon Is A Commodity Product And Prices Are Correlated Across The Globe.**

158. Mowi explains that salmon production is a “commodity” business. A report issued in 2018 by the EU confirms this point: “[t]he output of most salmonid aquaculture, and Atlantic salmon in particular, is highly commoditised [sic] *i.e.*, there is little differentiation between farms and competition is based purely on price. These products, mostly head-on gutted fresh fish, serve as raw material for further processing. In that situation, large enterprises which can reduce costs of production through economies of scale and offer the lowest price, have a competitive advantage.”¹⁵⁶ Commodity products are fungible and consumers and other purchasers have a variety of supply options which makes raising prices by any one supplier difficult in the absence of a conspiracy.

159. Atlantic salmon is also viewed as a commodity product by third parties. NASDAQ maintains a commodity price index for farmed Atlantic salmon.¹⁵⁷ Market analysts have also recognized that farmed salmon is a commodity.¹⁵⁸

160. Furthermore, according to Grieg, salmon prices are linked across the globe, and the Defendants and others closely follow these prices: “[t]here are several reference prices for salmon available. In Norway, Fish Pool ASA provides historic price information as well as future salmon derivative prices FCA Oslo. In the US, Uner Barry provides reference prices for North American

¹⁵⁶ See EUROPEAN COMM’N, *supra* note 151, at 4.

¹⁵⁷ NASDAQ SALMON INDEX, <https://salmonprice.nasdaqomxtrader.com/public/report;jsessionid=820D4389ED92CEF09633BA4FC20BC06D?0> (last visited Aug. 16, 2019).

¹⁵⁸ See Neil Ramsden, *Marine Harvest aims to be ‘Coca-Cola’ of salmon*, UNDERCURRENT NEWS (Apr. 4, 2019, 5:21 PM), <https://www.undercurrentnews.com/2018/11/13/marine-harvest-aims-to-be-coca-cola-of-salmon/>.

salmon in Seattle, and Chilean salmon in Miami. *Market prices are correlated across regions . . .*¹⁵⁹ (emphasis added). Likewise, Mowi says in its 2018 Handbook that “[c]omparing FCA Oslo, FOB Miami and FOB Seattle, there is a clear indication of a global market as prices correlate to a high degree.”¹⁶⁰ (“FCA” is a trade term indicating that a seller is responsible for the delivery of goods to a specific destination; “FOB” is an acronym for “Free on board,” which indicates whether the seller or the buyer is liable for goods that are damaged or destroyed during shipping).

161. Mowi also recognizes that “price correlation across regional markets is generally strong for Atlantic salmon.”¹⁶¹ Accordingly, price-fixing of salmon prices in one market will affect prices globally.

¹⁵⁹ See GRIEG SEAFOOD ANNUAL REPORT 2018, *supra* note 34, at 123.

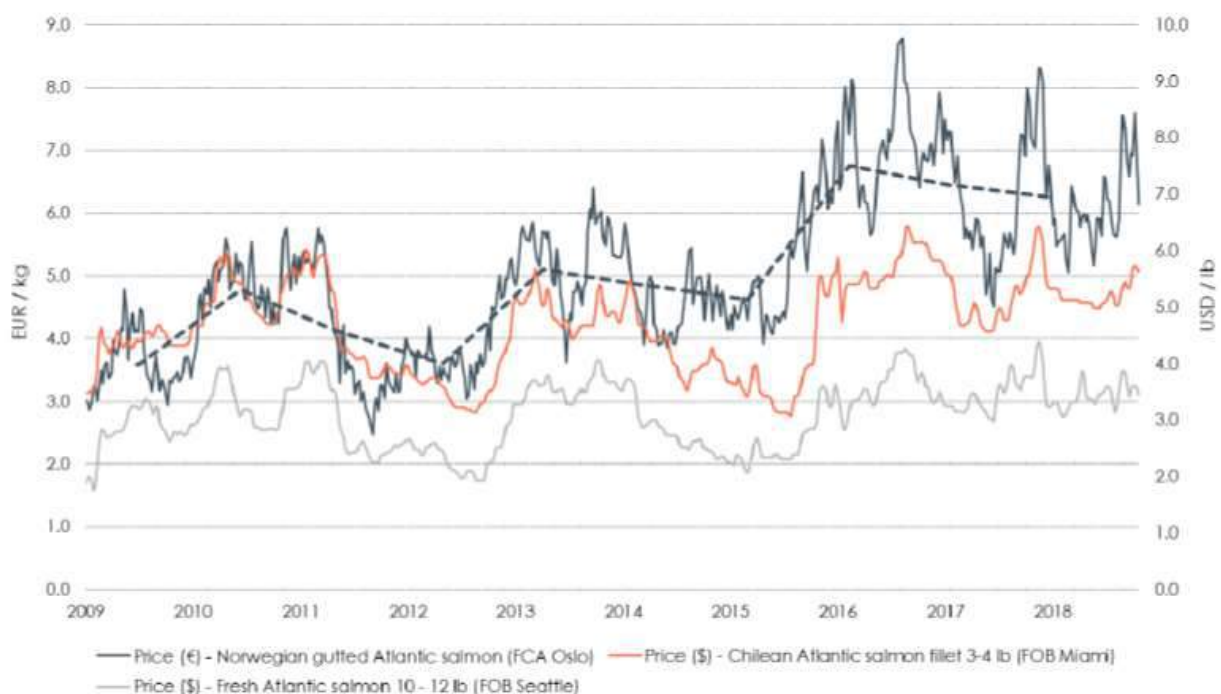
¹⁶⁰ See MOWI SALMON INDUS. HANDBOOK 2019, *supra* note 101, at 41.

¹⁶¹ See *id.* at 40.

162. In fact, Mowi tracks the correlation of salmon prices globally in the normal course of its business.¹⁶² The company illustrates this graphically in its 2018 Investor's Handbook:¹⁶³

Salmon Markets

6.5 Historic price development



163. This point was also recognized in a 2016 report issued by the Fish Pool and DNB Foods & Seafood (which is part of Norway's largest financial services organization) entitled "World market for salmon: pricing and currencies."¹⁶⁴ The report pointed out that Norwegian farmed salmon gate prices are "strongly linked" and that the collusion by Defendants on those

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ See *World market for salmon: pricing and currencies*, FISH POOL (2016), <http://fishpool.eu/wp-content/uploads/2016/04/final-dag.pdf>.

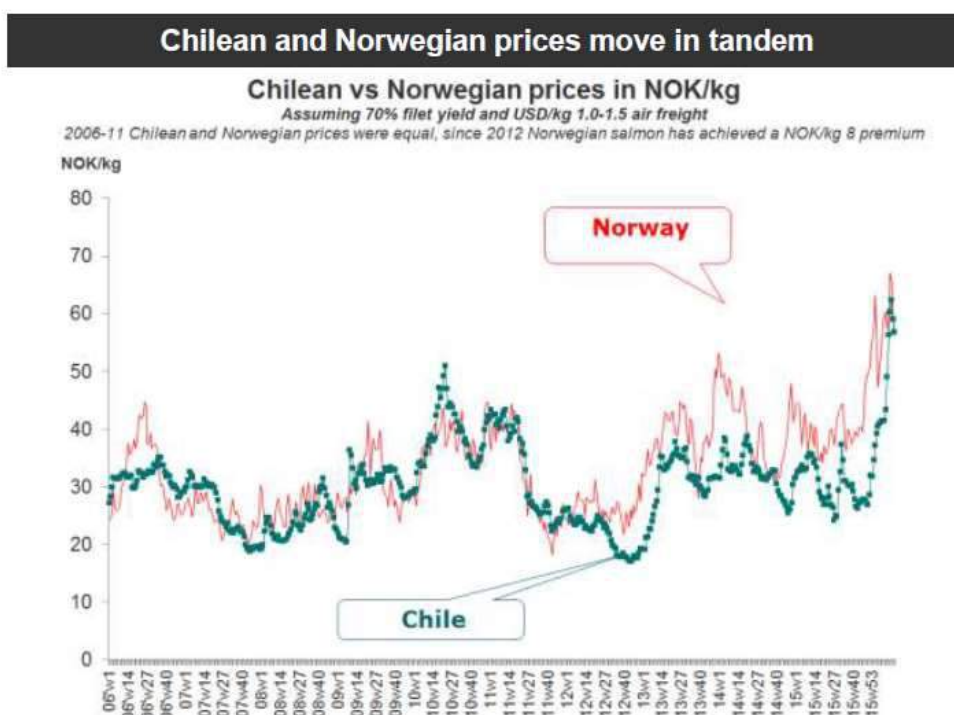
Norwegian prices directly affected prices for farmed salmon raised elsewhere pursuant to the “law of one price.”¹⁶⁵

164. Indeed, the 2016 report also noted that:¹⁶⁶

Norwegian and Chilean farm gate prices strongly linked

The data supports the “law of one price”

- Norwegian prices and Chilean were in line until 2012; then a NOK/kg ~7 discount on Chilean product. But movements still in sync. After the algal bloom the gap has closed.



¹⁶⁵ As explained below, Mowi operates salmon farms in Chile as well as Norway.

¹⁶⁶ See FISH POOL, *supra* note 164.

165. The 2016 report further elaborates on the economic principle of the “law of one price” as it relates to the farm-raised salmon market in the United States:¹⁶⁷

The law of one price

Norwegian and Chilean prices are linked

- Price US = Norwegian farm gate price + air freight cost Atlantic
- Price US = Chilean farm gate price + air freight cost Americas
- Chilean farm gate price = Norwegian farm gate price + difference in freight cost Atlantic vs Americas

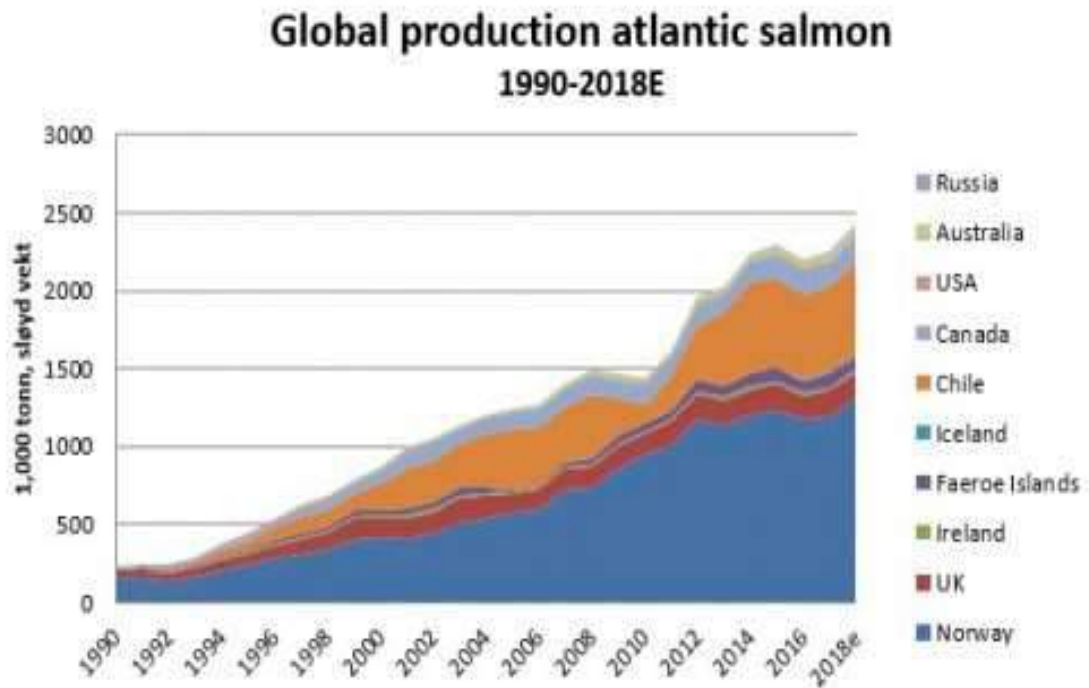


4. Norwegian Companies Dominate The Production Of Farm-Raised Salmon And The Defendants Are The Largest Global Producers.

166. A January 3, 2018 article in SalmonBusiness.com—an industry publication—illustrates Norway’s dominance in the salmon industry in the following graphic, with about 52% of supply:¹⁶⁸

¹⁶⁷ See *id.*

¹⁶⁸ See Berge, *supra* note 98.



5. **Farmed Salmon Production Is Highly Inelastic And The Product Is Perishable.**

167. Mowi acknowledges that:

Due to the long production cycle and the short shelf life of the fresh product (about 3 weeks), the spot price clears on the basis of the overall price/quantity preference of customers. As salmon is perishable and marketed fresh, all production in one period has to be consumed in the same period. In the short term, the production level is difficult and expensive to adjust as the planning/production cycle is three years long. Therefore, the supplied quantity is very inelastic in the short term, while demand also shifts according to the season. This has a large effect on the price volatility in the market.¹⁶⁹

168. Accordingly, in the absence of coordinated conduct among producers, Defendants are price-takers and cannot control the price of their product. They are unable to reduce the supply of salmon in the short term to raise prices unilaterally, and they must sell during a very short

¹⁶⁹ See MOWI SALMON INDUS. HANDBOOK 2018, *supra* note 112.

window while their product is fit for human consumption. In the long term, Defendants would have limited incentives to restrict supply when prices are high, thus creating an oversupply in the market that would depress prices in the absence of collusion. These market constraints make the market more susceptible to collusion than markets where goods are not perishable and production levels can be rapidly modulated. As Mowi has noted in its 2018 annual report, “[a]lthough the market price of salmon is established through supply and demand for the product, in the short term, salmon producers are expected to be price takers. The long production cycle and a short time window available for harvesting leave salmon farmers with limited flexibility to manage their short-term supply.”¹⁷⁰ As claimed price takers, Defendants had every incentive to collude to ensure that the price they took in the market was as high as they could collectively get it.

E. The Alleged Conspiracy Adversely Affected Direct Purchasers In The United States, Which Is A Substantial Market For Farm-Raised Salmon.

169. The activities of Defendants, including those undertaken overseas, impact direct purchasers in the United States of farm-raised salmon and products derived therefrom. The United States is the second largest global market for salmon behind only the EU, as Mowi reports in the graphic below:¹⁷¹

¹⁷⁰ See MOWI ANNUAL REPORT 2018, *supra* note 3, at 248.

¹⁷¹ See Q4 2019 PRESENTATION, MOWI (2019), <http://hugin.info/209/R/2234685/879436.pdf>.

Global volume by market

Markets	Estimated volumes		Compared to Q4 2017		Est. volumes Q3 2018	12 month comparison		
	Q4 2018	Q4 2017	Volume	%		LTM	PTM	%
EU	274 900	268 100	6 800	↑ 2.5%	247 600	955 700	921 200	3.7%
Russia	24 300	23 200	1 100	↑ 4.7%	22 000	87 200	69 800	24.9%
Other Europe	22 900	24 500	-1 600	↓ -6.5%	20 200	81 900	79 500	3.0%
Total Europe	322 100	315 800	6 300	↑ 2.0%	289 800	1 124 800	1 070 500	5.1%
USA	107 700	103 000	4 700	↑ 4.6%	102 200	427 900	397 700	7.6%
Brazil	24 000	21 800	2 200	↑ 10.1%	21 600	69 400	79 900	11.9%
Other Americas	38 600	31 000	7 600	↑ 24.5%	29 500	122 700	108 300	13.3%
Total Americas	170 300	155 800	14 500	↑ 9.3%	153 300	640 000	585 900	9.2%
China / Hong Kong	25 800	27 300	-1 500	↓ -5.5%	24 700	101 700	86 000	18.3%
Japan	16 300	15 900	400	↓ 2.5%	12 800	53 900	57 700	-6.6%
South Korea / Taiwan	15 600	12 100	3 500	↑ 28.9%	12 700	56 000	45 500	23.1%
Other Asia	22 200	21 400	800	↑ 3.7%	15 100	73 100	83 500	-12.5%
Total Asia	79 900	76 700	3 200	↑ 4.2%	65 300	284 700	272 700	4.4%
All other markets	32 900	30 400	2 500	↑ 8.2%	29 400	116 000	108 800	6.6%
Total	605 200	578 700	26 500	↑ 4.6%	537 800	2 165 500	2 037 900	6.3%
Inflow to US from Europe	25 700	25 100	600	↑ 2.4%	22 000	93 800	95 300	-1.6%
Inflow to EU from Chile	8 400	12 200	-3 800	↓ -31.1%	7 600	37 700	38 300	-1.6%

Source: Kontali

- Strong demand globally
- Europe: Increased consumption at higher prices
- US: Convenient and consumer friendly pre-packed products drive growth
- Asia: Increased consumption. Lack of available large sized fish and certain trade restrictions temporarily impacted consumption in China/Hong Kong

Page 26

Source: Kontali
Note: Atlantic Salmon (GWT), LTM: Last Twelve Months, PTM: Previous Twelve Months*

MQWI

170. A December 12, 2018 article from *Intrafish* further explains:

Salmon import volumes into the United States through October rose 10.5 percent, reaching 272,676 metric tons, according to new figures released by the National Marine Fisheries Service (NMFS).

The value of Atlantic salmon imports rose as well, by 9.5 percent, to reach \$2.9 billion (€2.6 billion), up from \$2.6 billion (€2.3 billion) during the same period last year.¹⁷²

¹⁷² See *US imports of fresh salmon fillets spike*, INTRAFISH, <https://www.intrafish.com/marketplace/1654239/us-imports-of-fresh-salmon-fillets-spike> (last visited Aug. 16, 2019).

CLASS ACTION ALLEGATIONS

171. Plaintiffs bring this action on behalf of themselves and as a class action under Rules 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following class (the “Class”):

All persons and entities in the United States who purchased farm-raised Atlantic salmon and/or products derived therefrom directly from Defendants, any current or former subsidiary or affiliate of Defendants, or any co-conspirator, between July 1, 2015 and the date on which a class is certified in this case. Excluded from the Class are Defendants, Defendants’ parent companies, subsidiaries, affiliates, officers, directors, employees, assigns, successors, agents, or co-conspirators, and the Court and its staff.

172. While Plaintiffs do not know the exact number of Class members, Plaintiffs believe the class size is so numerous that joinder is impracticable given Defendants’ substantial nationwide presence.

173. Common questions of law and fact exist as to all members of the Class. This is particularly true given the nature of Defendants’ unlawful anticompetitive conduct, which was generally applicable to all the members of the Class, thereby making relief to the Class as a whole appropriate. Such questions of law and fact common to the Class include, but are not limited to:

- (a) Whether Defendants and their co-conspirators engaged in a combination and conspiracy among themselves to restrict output and fix, raise, maintain, or stabilize the prices of farm-raised salmon and products derived therefrom;
- (b) The identity of the participants in the alleged conspiracy;
- (c) The duration of the alleged conspiracy and the acts carried out by Defendants and their co-conspirators in furtherance of the conspiracy;
- (d) Whether the alleged conspiracy violated Sections 1 and 3 of the Sherman Act;

- (e) Whether the conduct of Defendants and their co-conspirators, as alleged in this Consolidated Amended Complaint, caused injury to the business or property of Plaintiffs and the members of the Class;
- (f) The effect of the alleged conspiracy on the price of farmed salmon and products derived therefrom during the Class Period;
- (g) The appropriate injunctive and related equitable relief for Plaintiffs and the Class; and
- (h) The appropriate class-wide measure of damages.

174. Plaintiffs' claims are typical of the claims of the members of the Class, and Plaintiffs and undersigned counsel will fairly and adequately protect the interests of the Class. Plaintiffs and all members of the Class are similarly affected by Defendants' unlawful conduct in that they paid artificially inflated prices for farm-raised salmon and products derived therefrom from Defendants and/or their co-conspirators.

175. Plaintiffs' claims arise out of the same common course of conduct giving rise to the claims of the other members of the Class. Plaintiffs' interests are coincident with, and not antagonistic to, those of the other members of the Class. Plaintiffs are represented by competent counsel who are experienced in the prosecution of antitrust and class action litigation.

176. The questions of law and fact common to the members of the Class predominate over any questions affecting only individual members, including legal and factual issues relating to liability and damages.

177. Class action treatment is a superior method for the fair and efficient adjudication of the controversy, in that, among other things, such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently,

and without the unnecessary duplication of evidence, effort and expense that numerous individual actions would engender. The benefits of proceeding through the class mechanism, including providing injured persons or entities with a method for obtaining redress for claims that might not be practicable to pursue individually, substantially outweigh any difficulties that may arise in management of this class action.

178. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications, establishing incompatible standards of conduct for Defendants.

INTERSTATE TRADE AND COMMERCE

179. Hundreds of millions of dollars of transactions in farm-raised salmon and products derived therefrom are entered into each year in interstate commerce in the United States and the payments for those transactions flowed in interstate commerce.

180. Defendants' manipulation of the market has a direct, substantial, and foreseeable impact on interstate commerce in the United States.

181. Defendants intentionally targeted their unlawful conduct to affect commerce, including interstate commerce within the United States, by combining, conspiring, and/or agreeing to fix, maintain, stabilize, and/or artificially inflate prices for farm-raised salmon and products derived therefrom.

182. Defendants' unlawful conduct has a direct and adverse impact on competition in the United States. Absent Defendants' combination, conspiracy, and/or agreement to manipulate the market for the sale of farm-raised salmon and products derived therefrom, the prices of farm-raised salmon and products derived therefrom would have been determined by a competitive, efficient market.

PLAINTIFFS AND THE CLASS SUFFERED ANTITRUST INJURY

183. Defendants' antitrust conspiracy had the following effects, among others:

- (a) Price competition has been restrained or eliminated with respect to the pricing of farm-raised salmon and products derived therefrom;
- (b) The prices of farm-raised salmon and products derived therefrom have been fixed, raised, maintained, or stabilized at artificially inflated levels;
- (c) Purchasers of farm-raised salmon and products derived therefrom have been deprived of the benefits of free and open competition; and
- (d) Purchasers of farm-raised salmon and products derived therefrom paid artificially inflated prices.

184. The purpose of the conspiratorial and unlawful conduct of Defendants and their co-conspirators was to fix, raise, stabilize, and/or maintain the price of farm-raised salmon and products derived therefrom.

185. The precise amount of the overcharge impacting the prices of farm-raised salmon and products derived therefrom paid by Plaintiffs and the Class can be measured and quantified using well-accepted models.

186. As a result of Defendants' violations of the antitrust laws, Plaintiffs and the members of the Class have sustained injury to their businesses or property, having paid higher prices for farm-raised salmon and products derived therefrom than they would have paid in the absence of Defendants' illegal contract, combination, or conspiracy, and, as a result, have suffered damages in an amount presently undetermined. This is an antitrust injury of the type that the antitrust laws were meant to punish and prevent.

COUNT 1

**Violation of Sections 1 and 3 of the Sherman Act (15 U.S.C. §§ 1, 3)
(Conspiracy in Restraint of Trade)**

187. Plaintiffs repeat the allegations set forth above.

188. From at least July 1, 2015 until the date that the effects of Defendants' unlawful conduct cease, Defendants and their co-conspirators entered into and engaged in a contract, combination, or conspiracy with regards to farm-raised salmon and products derived therefrom in unreasonable restraint of trade in violation of Sections 1 and 3 of the Sherman Act (15 U.S.C. §§ 1, 3).

189. The contract, combination or conspiracy consisted of an agreement among the Defendants and their co-conspirators to fix, raise, stabilize, or maintain at artificially high levels the prices they charged for farm-raised salmon and products derived therefrom in the United States and elsewhere.

190. In formulating and effectuating this conspiracy, Defendants and their co-conspirators accomplished those things that they combined and conspired to do, including:

- (a) exchanging competitively sensitive information among themselves, with the aim to fix, increase, maintain, or stabilize prices of farm-raised salmon and products derived therefrom in the United States and elsewhere;
- (b) participating in meetings and conversations among themselves during which they agreed to charge prices at certain levels and otherwise to fix, increase, maintain, or stabilize prices of farm-raised salmon and products derived therefrom in the United States and elsewhere;
- (c) participating in meetings and conversations among themselves to implement, adhere, and police the agreements they reached; and

- (d) engaging in conduct designed to raise and stabilize the prices of farm-raised salmon sold on the spot market and pursuant to contracts.

191. Defendants and their co-conspirators engaged in the actions described above for the purpose of carrying out their unlawful agreements to fix, maintain, raise, or stabilize prices of farm-raised salmon and products derived therefrom.

192. Defendants' conspiracy had the following effects, among others:

- (a) Price competition in the market for farm-raised salmon and products derived therefrom has been restrained, suppressed, and/or eliminated;
- (b) Prices for farm-raised salmon and products derived therefrom provided by Defendants and their co-conspirators have been fixed, raised, maintained, and stabilized at artificially high, non-competitive levels throughout the United States and elsewhere; and
- (c) Plaintiffs and members of the Class who purchased farm-raised salmon and products derived therefrom from Defendants and their co-conspirators have been deprived of the benefits of free and open competition.

193. Plaintiffs and members of the Class have been injured and will continue to be injured in their business and property by paying more for farm-raised salmon and products derived therefrom purchased from Defendants and their co-conspirators than they would have paid and will pay in the absence of the conspiracy.

194. The alleged contract, combination, or conspiracy is a per se violation of the federal antitrust laws.

195. Plaintiffs and members of the Class are entitled to treble damages and an injunction against Defendants, preventing and restraining the violations alleged herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the Class respectfully request the following relief:

A. That the Court determine that this action may be maintained as a class action under Rule 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure, appoint Plaintiffs as representatives of the Class and the undersigned law firms as Class Counsel, and direct that reasonable notice of this action, as provided by Rule 23(c)(2) of the Federal Rules of Civil Procedure, be given to each and every member of the Class;

B. The Court adjudge and decree that the acts of the Defendants are illegal and unlawful, including the agreement, contract, combination, or conspiracy and acts done in furtherance thereof by Defendants and their co-conspirators be adjudged to have been a *per se* violation of Sections 1 and 3 of the Sherman Act (15 U.S.C. §§ 1, 3);

C. The Court permanently enjoin and restrain Defendants, their affiliates, successors, transferees, assignees, and other officers, directors, agents, and employees and all other persons acting or claiming to act on their behalf from in any manner continuing, maintaining, or renewing the conduct, contract, conspiracy, or combination allege herein or from entering into any other contract, conspiracy, or combination having a similar purpose or effect and from adopting or following any practice, plan, program, or device having a similar purpose or effect;

D. That Judgment be entered against Defendants, jointly and severally, and in favor of Plaintiffs and members of the Class for treble the amount of damages sustained by Plaintiffs and the Class as allowed by law, together with costs of the action, including reasonable attorneys' fees, and pre- and post-judgment interest at the highest legal rate to the extent provided by law;

E. That each of the Defendants and their respective successors, assigns, parent, subsidiaries, affiliates, and transferees and their officers, directors, agents, and representatives and all other persons acting or claiming to act on behalf of Defendants or in concert with them, be

permanently enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining, or renewing the combinations, conspiracy, agreement, understanding, or concert of action as alleged herein; and

F. That the Court award Plaintiffs and members of the Class such other and further relief as the case may require and the Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, on all issues so triable.

Dated: August 19, 2019.

Respectfully submitted,

PODHURST ORSECK, P.A.

By: */s/ Peter Prieto*

Peter Prieto, FBN 501492

John Gravante, III, FBN 617113

Matthew P. Weinshall, FBN 84783

Alissa Del Riego, FBN 99742

SunTrust International Center

One S.E. 3rd Ave, Suite 2300

Miami, FL 33131

Tel: (305) 358-2800

pprieto@podhurst.com

jgravante@podhurst.com

mweinshall@podhurst.com

adelriego@podhurst.com

*Interim Co-Lead Counsel for Direct
Purchaser Plaintiff Class*

HAUSFELD LLP

Michael P. Lehmann (*pro hac vice*)

Christopher L. Lebsock (*pro hac vice*)

600 Montgomery St. #3200

San Francisco, CA 94111

Tel: (415) 633-1908

mlehmann@hausfeld.com

clebsock@hausfeld.com

HAUSFELD LLP

Reena A. Gambhir (*pro hac vice*)
1700 K Street, N.W., Suite 650
Washington D.C. 20006
Tel: (202) 540-7200
rgambhir@hausfeld.com

*Interim Co-Lead Counsel
for Direct Purchaser Plaintiff Class*

**KOPELOWITZ OSTROW FERGUSON
WEISELBERG GILBERT**

Robert C. Gilbert, FBN 561861
Daniel E. Tropin, FBN 100424
2800 Ponce de Leon Boulevard, Suite 1100
Coral Gables, FL 33134
Tel: (305) 384-7269
gilbert@kolawyers.com
tropin@kolawyers.com

Direct Purchaser Plaintiffs' Liaison Counsel

**FREED KANNER LONDON &
MILLEN, LLC**

Kimberly A. Justice, (*pro hac vice*)
923 Fayette Street
Conshohocken, PA 19428
Tel: (610) 234-6487
kjustice@fklmlaw.com

**FREED KANNER LONDON &
MILLEN, LLC**

Steven A. Kanner, (*pro hac vice*)
Douglas A. Millen, (*pro hac vice*)
Brian M. Hogan, (*pro hac vice*)
2201 Waukegan Road, Suite 130
Bannockburn, IL 60015
Tel: (224) 632-4500
skanner@fklmlaw.com
dmillen@fklmlaw.com
bhogan@fklmlaw.com

**PRETI, FLAHERTY, BELIVEAU
& PACHIOS, LLP**

Gregory P. Hansel, FBN 607101
Randall B. Weill (*pro hac vice*)
Michael S. Smith (*pro hac vice*)
One City Center
P.O. Box 9546
Portland, ME 04112-9546
Tel: (207) 791-3000
ghansel@preti.com
rweill@preti.com
msmith@preti.com

**STEYER LOWENTHAL
BOODROOKAS ALVAREZ & SMITH,
LLP**

Allan Steyer (*pro hac vice*)
Jill M. Manning (*pro hac vice*)
D. Scott Macrae (*pro hac vice*)
235 Pine Street, 15th Floor
San Francisco, CA 94104
Tel: (415) 421-3400
asteyer@steyerlaw.com
jmanning@steyerlaw.com
smacrae@steyerlaw.com

WOLLMUTH MAHER & DEUTSCH LLP

Ronald J. Aranoff (*pro hac vice*)
Ryan J. Keenan (*pro hac vice*)
Scott C. Ferrier (*pro hac vice*)
500 Fifth Avenue, 12th Floor
New York, NY 10110
Tel: (212) 382-3300
raranoff@wmd-law.com
rkeenana@wmd-law.com
sferrier@wmd-law.com

*Members of Direct Purchaser Plaintiffs'
Executive Committee*

CERTIFICATE OF SERVICE

I hereby certify that on August 19, 2019, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify the foregoing document is being served this day on all counsel of record via transmission of notice of Electronic Filing generated by CM/ECF.

By: /s/ Peter Prieto
Peter Prieto, FBN 501492

APPENDIX A




City of New York, State of New York, County of New York

I, Yanelle Strich, hereby certify that the document "Review of Financial Reporting Grieg Seafood ASA - Finanstilsynet.no" is to the best of my knowledge and belief, a true and accurate translation from Norwegian into English.


Yanelle Strich

Sworn to before me this
August 13, 2019


Signature, Notary Public

AURORA ROSE LANDMAN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01LA6380858
Qualified in New York County
My Commission Expires 09-17-2022

Stamp, Notary Public

[logo](#)

[Search](#)

[FRONT PAGE](#)

[NEWS ARCHIVE](#)

Letter

Review of Financial Reporting Grieg Seafood ASA

PUBLISHED JUNE 8, 2015

To the Board of Grieg Seafood ASA

Postboks 234 Sentrum
5804 BERGEN

Case managers: Unni Persson Moseby
Morten Barstad
Our reference 14/8442
Date: 06.01.2015

1. Introduction

The Financial Supervisory Authority has reviewed certain aspects in the financial reporting for Grieg Seafood ASA (Grieg/the company), cf. Securities Trading Act (STA) § 15-1 third paragraph. Please refer to previous correspondence, most recently the Financial Supervisory Authority's decision notice dated March 25, 2015 and the company's reply letter of April

23, 2015.

The review primarily covered Grieg's assessment of Ocean Quality AS (OQ/the sales company) in accordance with IFRS 11 *Joint Arrangements* and IFRS 10 *Consolidated Financial Statements*. IFRS 10 and 11 supersede IAS 27 and 31, respectively, effective no later than for accounting periods beginning January 1, 2014. Under previous and current accounting rules, Grieg assessed the investment in OQ to be a joint venture and not a subsidiary, and recorded ownership interest in the consolidated financial statements under the equity method.

In 2010, Grieg and Bremnes Seashore AS (Bremnes) established the sales company OQ, which was to handle all sales of the aquaculture companies' production in Norway. Grieg also later sold its aquaculture production in Shetland and Canada to OQ. Last-minute sales of fish have not been consolidated into Grieg's consolidated financial statements.

Grieg owns 60% of OQ and, according to the shareholder agreement, has the right to appoint 3 out of 5 directors, while Bremnes owns 40% and has 2 out of 5 directors.

In the Financial Supervisory Authority's assessment, OQ is not a joint arrangement, since the relevant activities that significantly affect OQ's return do not have to be decided on unanimously by the owners, but can be made by the board or the management of the company. In the assessment of the Financial Supervisory Authority, Grieg, with a majority of the board, has control over OQ, and the company must recognize OQ as a subsidiary. The company has taken note of the Financial Supervisory Authority's assessment, and in the first quarterly report for 2015 presented OQ as a subsidiary and restated the comparative figures in accordance with IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*. In the quarterly report, Grieg presented note information that is assumed to be of significant importance to the Group's financial reporting and which was not disclosed in the 2014 financial statements. Financial Supervisory Authority is taking this into consideration.

In addition, the review included note disclosures on concessions and the useful life of asset classes, as well as restatement of comparative figures in connection with the change of class division.

2. Summary information on IFRS 11 and IFRS 10

"Joint control" is defined as the contractually agreed division of control over a joint arrangement, which exists only when decisions on relevant activities require unanimous consent between the parties sharing the control, cf. IFRS 11.7. "Relevant activities" are defined as activities in the company in which it is invested, which significantly affects the return on the company in question. All the parties or group of the parties, control the arrangement collectively when they must act together to direct the relevant activities, c.f. IFRS 11.8.

It is further stated in IFRS 11 B9 that if the requirement for unanimous consent applies only to decisions granting a party protective rights and not decisions on the relevant activities of an arrangement, that party is not a party with joint control over the arrangement. There is no joint control over the arrangement unless the parties to the arrangement can prevent a party from making unilateral decisions on the relevant activities alone without the consent of the other parties.

Under IFRS 10.7, an investor controls an company if the investor has power over the company in which it is invested, the investor is exposed to, or has rights to variable returns from the commitment, and the investor has the opportunity to exercise its power over the company it is invested in, to influence the amount of its return. Power is defined as existing rights that currently allow to direct the relevant activities. When it comes to assessing power, only substantive rights and rights that are not protective rights are to be considered, cf. IFRS 10 B9.

3. Presentation of OQ

The purpose of establishing OQ was to coordinate the sales efforts between the owners and create added value at the sales stage. Overall, the owner-producers would have facilitated the achievement of sufficient size and professionalism at the sales stage. As part of the establishment, separate sales agreements were concluded between the owner-producers and OQ, where the owners have undertaken to supply all their Norwegian-produced fish to OQ. The sales company shall also conduct profitable trade in seafood products from third parties.

Every week, Grieg and Bremnes sell produced fish to OQ, which hires transportation and collects the fish from the owner-producers' slaughter facilities. At this point, OQ assumes ownership and risk of the fish. The price OQ pays is linked to the Nasdaq Oslo public weekly price quotation. A preliminary settlement is made between the parties, but the final price only becomes clear once the price quotation is determined 1 1/2 weeks later. OQ therefore sells the goods on at a given price without knowing the exact purchase price.

OQ pays the owner-producers based on the volume, size and quality specified by each manufacturer. There is no quality control of the fish at the risk transfer between the producer and OQ. Deviations from the specifications are directly charged to the producer who supplied the fish, and complaints therefore do not affect the profits in OQ.

Under the shareholder agreement and the sales agreement, 50% of the annual profit in OQ shall be paid as a bonus to the owner-producers. The individual producer thus gets a share of the profits from the sale of its products and helps to reduce the need for ongoing price negotiation. The sales agreements with the owner-producers mean that OQ does not have to continuously operate in the purchasing market to meet its customer commitments, and the cost savings this entails shall legitimately accrue to the producers through a bonus. According to the sales agreement, the bonus is determined based on the cash margin per product group.

If the owner-producers do not deliver quantity in accordance with the estimated slaughter plan, OQ must either make a third-party cover purchase or dump excess volume in the market, reducing OQ's return. Since the costs associated with the cover purchase/dumping are allocated directly to the product group and producer, low delivery precision from one owner-producer will result in a proportionally lower share of the bonus from the product group, and the other owner-producer will in general be indemnified.

Dividends are distributed in the same way as the bonus and are not distributed according to ownership interest, but in relation to revenue generated by the individual owner.

4. Summary of the company's assessments

Relevant activities

In Grieg's assessment, the requirement of unanimous consent of the Board of Directors applies to most decisions that can significantly affect the company's profits. The decisions mentioned in the shareholder agreement and where unanimous consent is required are: Sale of a subsidiary or business if revenue/profit constitutes more than a certain percentage of the Group's revenue/profit, the conclusion of agreements between the Group and shareholders or related parties, the appointment of the CEO and the election of the chairman of the board, the raising of loans that entails a loan balance exceeding a stipulated amount, guarantees over a certain intragroup amount, as well as all guarantees on behalf of others, investments that exceed a stipulated amount, decision on a redemption by a shareholder, and change of location and company name.

Furthermore, the company has pointed out that the OQ results vary primarily as a result of variation in the cost margin achieved, and decisions around this have to be the most relevant activities. The cash margin is affected by the delivered quality and delivery precision, and these factors are controlled by the individual owner-producer for its own volume. The incentive for the owners to deliver quality is embodied in the basic agreement, and is not directly influenced by decisions made by the board or the administration in OQ. Determining and amending the contractual arrangement, including the terms of bonus and dividends, requires unanimous consent between the owners.

Decision-making body

The company has referred to the fact that in addition to board meetings, owners' meetings also take place, where the owners are equally represented and where unanimous consent is required in the decisions. The same persons who negotiated the cooperation agreement, meet in the owner's meeting and sit together in board meetings. The board is therefore not independent in the usual sense and there are no clear limits on when the owner's meeting ends and the board meeting begins. The board's work has also been characterized by reciprocity and consensus and no voting on matters requiring a decision has occurred.

Furthermore, the company has emphasized that subcommittees are used for case preparation in the board's work. Such subcommittees have been set up with equal representation from the two owners.

The company is of the opinion that the overall principles of unanimous consent embodied in the shareholder agreement are the guiding principle for all decisions on relevant activities that can significantly affect the return, regardless of whether the decisions were formally made at the shareholders' meeting or in board meetings.

5. The Financial Supervisory Authority's assessments

In assessing whether joint control under IFRS 11 or control under IFRS 10 exists, it is crucial in both cases to identify which activities significantly affect the return on OQ and who makes decisions on these activities.

Section 5.1 describes relevant activities in OQ, as well as who is the decision maker. Section 5.2 discusses the decisions that require unanimous consent under the shareholder agreement are only the protective rights for Bremnes. The corporate bodies the board of directors and the owner's meeting are discussed in Section 5.3. Section 5.4 discusses whether Grieg has control in accordance with IFRS 10.

OQ is a company that carries risk and performs return-generating activities. The sales company is therefore not merely an agent for the suppliers.

5.1 Relevant activities

Marketing, customer development and sales

The goal of setting up the sales company OQ has been to create added value for the owner-producers beyond sales to a Norwegian wholesaler. OQ has a sales organization that works actively to create added value by establishing customer relationships and concluding contracts with major players in the retailer, VAP and the HORECA segment. These are customers who demand high delivery security. The Financial Supervisory Authority considers that decisions related to activities aimed at realizing this extra profit margin have the greatest impact on the return on OQ. These can be activities related to everything from general marketing at trade shows to identification and sales promotion to potential customers, and to the conclusion of binding sales agreements. There is no requirement that decisions on sales activities must be taken unanimously by the owners.

OQ also aims to buy and sell third-party volumes. Developing such third-party volume has been considered very profitable and something the board has made decisions on and the administration has attempted to realize. Decisions to buy and sell fish from suppliers other than the owner-producers are activities that affect the return on OQ and are made by the administration and the board, and which do not require unanimous consent between the owners.

Purchasing

Decisions related to the purchase of goods for resale are regarded as relevant activities that affect the return on the sales company. Decisions to change the purchase agreement require unanimous consent. However, these agreements appear to be a prerequisite for cooperation.

Delivery uncertainty

Poor delivery precision from the owner-producers significantly affects the cash margin and profit in OQ. This is due to the negative effect it has on returns when OQ either has to dump surplus volume at less favorable prices, or buy volume in the open market to meet its customer obligations. The Financial Supervisory Authority considers that it is not only the owner-producers who have control over how often imbalances between delivered and sold quantities will occur. OQ has control and overview of other elements in the volume balance; outgoing volume in the form of commitments to customers, and incoming volume from suppliers, both registered quantity from the owner-producers and planned purchases from third parties.

OQ has delivery obligations to the customers, and it is OQ's administration and board that identify and develop new customer relationships. OQ wants to enter into long-term sales agreements since this is favorable, but fixed delivery commitments can entail costs associated with shortfalls. Delivery security can be increased by entering into third-party purchasing contracts, which will reduce both the frequency and extent of shortfalls when the owner-producers fail to deliver on schedule. These are decisions that the administration and the board make, and where there is no requirement of unanimous consent.

Logistics/Transportation

OQ hires transport services to ship the fish from the owner's slaughter facilities to the individual customer. Decisions on managing the flow of goods in the most efficient and rational way are decisions that affect the return on the sales company. These decisions are made by the administration in OQ and there is no requirement of unanimous consent among the owner-producers.

Other operating costs and budgeting

The company has stated that added value arises, among other things, as a result of the professionalization of the sales chain. A professional sales team is established through human resource development and staffing activities. These are activities that are subject to management and control by the administration and the board. When it comes to hiring and remuneration of key executives other than the CEO, this is not regulated in the shareholder agreement by a joint resolution requirement.

Operating and capital decisions, including budgeting, are cited as examples of decisions on relevant activities in IFRS 10 B12. OQ's board approves budget proposals and no unanimous consent is required.

Risk management and hedging strategy

Decisions related to financial risk management, including price, currency and credit risk, must be considered as relevant activities. The choice and execution of hedging strategy, such as the use of financial Fish Pool contracts, affects the return on OQ. Similarly, the choice of currency exposure strategy and currency hedging decisions on individual sales will affect OQ's return both in the short and long term.

Credit assessment prior to sales as well as the determination of strategy and credit framework will also have an effect on the return on OQ. These are assessments that do not require unanimous consent.

Activities that affect the owners' profit share vs QO's return

Grieg has pointed out that their profit share consists of bonuses and dividends, and it is the quality of the fish and delivery precision that determine the owner's profits. These are activities that OQ has no control over.

The Financial Supervisory Authority would like clarify that when relevant activities are to be identified, consideration must be given to what affects the return on the arrangement (OQ) and not the owners' return on the fish produced, cf. IFRS 11.8. The Financial Supervisory Authority agrees with Grieg that only the individual owner-producer can make decisions that affect the quality of the fish that the owner produces. On the other hand, the Financial Supervisory Authority does not consider this relevant in the assessment, as the complaint arrangement means that poorer quality affects Grieg's return on what the company has produced, but not the return on OQ. Poor delivery precision from the owner-producers, however, can affect the return on OQ, but as mentioned above, it is not only the owner-producers that have control over how often such imbalances occur. In the Financial Supervisory Authority's assessment, the management of OQ has control over the other elements of the volume balance.

In the assessment of the Financial Supervisory Authority, activities related to marketing, customer development and sales generate the most value at the sales stage.

5.2 Decisions requiring unanimous consent - protective rights

The shareholder agreement requires unanimous consent on certain decisions. If the unanimous consent requirement applies only to decisions giving a party protective rights and not decisions on the relevant activities of an arrangement, that party is not a party with joint control over the arrangement, cf. IFRS 11 B9. The following is the Financial Supervisory Authority's discussion of the points in the shareholder agreement requiring unanimous consent:

- ***The sale of a subsidiary or business, if revenue or profit constitutes more than a certain percentage of the group's revenue or profit, requires unanimous consent.*** The Financial Supervisory Authority assumes that this will occur infrequently and to the best of the Financial Supervisory Authority's knowledge, it has not as yet occurred. Such decisions are therefore a protective right.

- ***The conclusion of agreements between the Group and shareholders or related parties must be decided jointly.***

This means that changes to the sales and distribution agreement require unanimous consent. The Financial Supervisory Authority is of the opinion that this agreement is a prerequisite for the establishment of OQ and for the cooperation between the two aquaculture companies. Once the sales agreement is in place, it is assumed that it will remain in place for an extended period. The Financial Supervisory Authority's understanding is that adjustments to the sales agreement rarely occur. If changes occur, such a decision can significantly affect the return on OQ.

Other agreements have also been concluded between OQ and Grieg, including for the leasing of premises and sharing of various functions (IT, accounting, finance, currency functions). The fact that such decisions must be made jointly prevents one shareholder from benefiting at the expense of the other and is a protective right.

- Financial Supervisory Authority considers the requirement of ***unanimous consent in the hiring of the CEO*** as a type of protective right in that none of the owners shall place their candidate in the driver's seat. The same reasoning is, in the opinion of the Financial Supervisory Authority, the basis for the requirement of ***unanimous consent in the election of the chairman of the board***.
- When it comes to requirements of ***unanimous consent in raising loans and investments above a certain threshold value***, these are not necessarily relevant activities that significantly affect returns, as a sales company such as OQ does not have significant investments. Given the company's business, including the stipulated due date for payment to the producers and payment from customers, and the conclusion of a factoring agreement, the amount does not constitute a real limitation under normal conditions. The unanimous consent requirement for these decisions can be seen as a form of protective right.

The Financial Supervisory Authority has further recorded that the start-up costs incurred in establishing in new countries (UK/Shetland and Canada) have been financed by Grieg and the size of the threshold value has therefore not been an actual limitation.

- In situations where OQ provides ***guarantees over a certain intragroup amount, or all guarantees on behalf of*** others, a joint decision is required. In the assessment of the Financial Supervisory Authority, these are not decisions that can be referred to as activities that significantly affect the return on OQ. These decisions can, however, be regarded as rights that apply in exceptional cases.
- A decision on ***redemption by a shareholder*** can be regarded as a protective right, cf. analogous understanding of IFRS 10 B28 b) where the right to approve the issuance of equity or debt instruments is mentioned as an example of protective rights.

- **Change of location and company name** do not appear to be decisions that significantly affect the return on OQ, but which only occur in exceptional cases, cf. IFRS 10 B26.

With the exception of any changes in the sales and distribution agreement, the Financial Supervisory Authority is of the opinion that other decisions in the shareholder agreement are protective rights. That any change to one agreement requires a joint decision is not sufficient to say that it is a joint arrangement. In the Financial Supervisory Authority's assessment, there are several decisions that have a greater impact on OQ's return.

5.3 Decision-making body

The role of the owners' meeting is not defined or described in the articles of association of OQ or in the shareholders' agreement. Nor is the owners' meeting authorized as a governing body by Norwegian company law. The Financial Supervisory Authority cannot see that there is an overall principle of unanimous consent in the sales company's and owner-producers' agreements and articles of association. The shareholder agreement requires only unanimous consent in a few decisions, and the agreement and the articles of association otherwise refer to the Companies Act.

Nor does the owners' meeting appear to be a decision-making body where, prior to the board meetings, decisions have already been made by unanimous consent on the relevant activities in OQ. During the period 2010-2014, approx. seven times as many board meetings than owners' meetings have been held and the board of OQ has had approx. 50 items on the agenda. The items in the owners' meetings appear mainly to relate to the matters between the owners, as well as some informational matters regarding OQ.

Furthermore, the Financial Supervisory Authority considers that the requirement for unanimous consent between the parties in connection with the relevant activities in OQ must arise from a contractual agreement, cf. IFRS 11.7. According to IFRS 11.B2, there is no explicit requirement that such a contractual agreement be in writing, but most commonly in joint arrangements is that the requirement of unanimous consent arises from a cooperation agreement between the parties. There is no such cooperation agreement between Grieg and Bremnes, nor are there guidelines for the owners' meeting.

Minutes from board and owners' meetings confirm that the establishment of the company is based on a concept of equality, but also indicate that Grieg uses its majority position to get its views through in various decisions. The minutes also state that Grieg has explicitly stated that it has had an interest in maintaining majority representation on the board, and so far has not been willing to give this up.

The Financial Supervisory Authority agrees that the minutes do not show evidence of divisive voting, but although experience shows that they have voted the same, Grieg has a majority on the board. The Financial Supervisory Authority agrees would like to point out that joint control exists only when it is contractually agreed that decisions on relevant activities require unanimous consent. Although the parties can demonstrate from past experience that they vote the same even in the absence of such a contractual agreement, it is the assessment of the Financial Supervisory Authority that this is not sufficient to satisfy the requirement for joint control.

5.4 Control assessment according to IFRS 10

The provisions of IFRS 10.6 and 7 list criteria that must be met for an investor to have control over a company. It is clear that Grieg is exposed to variable returns from OQ through bonus and dividend distribution. The question is whether Grieg has the power and, in addition, the opportunity to use this power, to influence the return.

In accordance with IFRS 10.10, power is defined as existing rights that allow to control of relevant activities. Relevant activities are similarly defined in IFRS 10 and 11 and are discussed above. In the opinion of the Financial Supervisory Authority, decisions on activities that significantly affect the return on OQ are made by the company's board. With the current ownership structure and under the existing shareholder agreement, Grieg will always have three out of five directors in OQ. The Financial Supervisory Authority is therefore of the opinion that, by having a majority of the board, Grieg has existing rights to control the relevant activities in OQ. Relevant activities that the board of OQ can influence include sales activities, purchases from external third parties, hedging of claims, currency and price risk, and other daily operations. The board seems to have an active role based on the scope of board meetings and matters that come up for discussion. Based on this, the Financial Supervisory Authority considers that Grieg has had control of OQ since its establishment in 2010.

The shareholder agreement gives Bremnes certain rights, but these are regarded as protective rights as the agreement does not allow Bremnes to block decisions on the relevant activities. In the absence of a contractual agreement between Grieg and Bremnes that requires unanimous consent, decisions on the relevant activities can be made by Grieg alone through a majority of the board.

IFRS 11 requires companies to continuously assess whether joint control exists. It may be that the owners originally wanted a joint arrangement, but that changes in facts and circumstances have meant that joint control nevertheless does not exist, cf. IFRS 11.13.

The matter has been submitted to the Accounting Expert Committee, which has delivered the attached opinion.

6. Other factors

Concessions

Grieg has been asked to provide more note information on the assessments that support that concessions have indefinite useful lives. The company has taken note of this and provided more information in the 2014 financial statements.

Property, plant and equipment

In 2013, the company undertook a re-grouping of property, plant and equipment and changed the expected useful life of property, plant and equipment. The net effect of changed useful lives is stated as a reduction of annual depreciation of approx. NOK 40 million. In the opinion of the Financial Supervisory Authority, the company should have disclosed more in the note about both the regrouping of tangible fixed assets and the useful live adjustment. Information that should have been provided includes the reasons for the changes and their effect. Particularly for useful live adjustments, information is lacking on which parts of property, plant and equipment are affected by the useful live adjustment, what the expected useful live is before and after, and the effect of the adjustment. Furthermore, the company has not restated the comparative figures for 2012 in connection with the change of class division.

Grieg agrees that more information should have been provided in the 2013 financial statements and will in future reports ensure that correct information about the useful life is included, and that adequate information is provided for changes in estimates and classifications, and that correct comparative information is incorporated when it is required.

It should be noted that the Financial Supervisory Authority is working on a report that discusses some relevant areas for the aquaculture industry. This applies, among other things, to disclosures on licenses and fixed assets. The Financial Supervisory Authority may have further recommendations in the report than is stated in this letter.

7. Conclusion

The Financial Supervisory Authority has not considered whether the matters described above are covered by the securities legislation's rules on information obligations, cf. the Securities Act § 5-2, first paragraph, cf. § 3-2. The Financial Supervisory Authority points out that this must be assessed on an ongoing basis by the company.

A copy of this letter has been sent to the company's auditor and to the Oslo Stock Exchange.

For the Financial Supervisory Authority

Gaute S. Gravir

Section Manager

Unni Persson Moseby

Senior Advisor

Attachments

[Uttalelse fra det regnskapsfaglige ekspertutvalget.pdf \[Statement from the Accounting Expert Committee.pdf\]](#)

Did you find what you were looking for?

Share this page:

Yes

No

[Press](#)

Revierstredet 3,
Postboks 1187 Sentrum
0107 Oslo

[Contact Us](#)

Tel: 22 93 98 00
Fax: 22 63 02 26

[Work for us](#)

Email: post@finansstilsynet.no
Org. no: 840 747 972

[Privacy and cookies](#)

[Notification to the Financial Supervisory Authority](#)

[RSS](#)

APPENDIX B

Filing # 54854101 E-Filed 04/10/2017 12:52:28 PM

**IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA**

**CIVIL DIVISION
CASE NO.**

Ocean Quality North America, Inc.,

Plaintiff,

vs.

COMPLAINT

The Ocean Group and Seafood
Distributors Inc.,

Defendant.

_____ /

Plaintiff, Ocean Quality North America, Inc., sues Defendant, The Ocean Group and Seafood Distributors Inc., and alleges:

1. This is an action for damages in excess of \$15,000.00.
2. The Plaintiff is a foreign corporation engaged in interstate commerce and is not doing business within the State of Florida as defined by F.S. 607.1501(i).
3. Defendant is and was at all material times a Florida Corporation with its principal place of business located in Miami-Dade County, Florida.

COUNT I
(Open Account)

4. Plaintiff repeats Paragraphs 1 through 3, as if fully stated herein.
5. Defendant, The Ocean Group and Seafood Distributors Inc., owes Plaintiff \$87,947.15, that is due with interest since June 19, 2016, according to the attached account hereto annexed as Exhibit "A".

WHEREFORE, Plaintiff demands judgment for damages against Defendant in the sum of \$87,947.15 plus interest and costs.

COUNT II
(Unjust Enrichment)


6. Plaintiff repeats Paragraphs 1 through 3, as if fully stated herein.
7. The Defendant has been unjustly enriched at the expense and detriment of the Plaintiff by knowingly accepting a benefit conferred to it by requesting and using the goods and

services described in Exhibit "A" attached hereto and failing to pay the same, in the sum of \$91,447.15, of which \$3,500.00, has been paid, although duly demanded. These circumstances are such that it would be inequitable for Defendant to retain the benefit without paying the value thereof to Plaintiff.

8. That this action has been brought in a county in which venue is proper, pursuant to Chapter 47, Florida Statutes.

WHEREFORE, Plaintiff demands judgment in the amount of \$87,947.15, plus interest, costs and any other relief this Court deems just and proper.

ROSENFELD STEIN BATTA, P.A.
Attorneys for Plaintiff
21490 West Dixie Highway
Aventura, FL 33180
primary e-mail: ravi@rslawpa.com
secondary e-mails: allan@rslawpa.com
and erin@rslawpa.com
Phone: (305) 895-6680
Fax: (305) 895-6682


By: Ravi Batta, Esq.
Florida Bar No. 0075167

17010051

EXHIBIT "A"



Open invoice statement

Page Page 1 of 1
 Print date 2/6/2017

Customer
 The Ocean Group And Seafood Distributors,
 Inc.
 743 Nw 23rd Street Warehouse
 Miami, FL 33127
 USA

Remit to
 Ocean Quality North America Inc.
 500-4445 Lougheed Highway
 Burnaby, BC V5C 0E4
 CAN

Customer account 10169
 Terms of payment Net due 14 days

Open invoice statement

As of 2/6/2017

Date	Invoice	Due date	Currency	Invoice Balance
4/28/2016	107229	5/12/2016	USD	1,623.14
5/19/2016	107611	6/2/2016	USD	25,670.58
5/26/2016	107750	6/9/2016	USD	21,621.15
5/27/2016	107777	6/10/2016	USD	2,860.01
6/2/2016	107908	6/16/2016	USD	11,324.68
6/12/2016	108119	6/26/2016	USD	9,917.53
6/19/2016	108265	7/3/2016	USD	14,930.06
Total due			USD	87,947.15

**** DAYS OVERDUE ****

Currency	Current				
USD	0.00	0.00	0.00	0.00	87,947.15

PLEASE CONTACT US IMMEDIATELY IF ANY INVOICE COPIES ARE REQUIRED

Contact e-mail address accounting@oceanquality.com
 Contact phone +1 778 379 4242

Invoice



The Ocean Group and Seafood Distributors, Inc.
 743 NW 23rd st.
 Miami FL, 33127
 USA

Customer No : 10169
 Sales Invoice No : 107611
 Invoice Date : 5/19/2016
 Our ref. : Saxona, Prashant
 Cust Po NO : Petr Kubis
 Page : 1 of 1

Shipping address:
 The Ocean Group and Seafood Distributors, INC.
 743 NW 23rd St
 Miami, FL 33127

Shipping Date : 5/19/2016
 Info :
 Shipping Agent : Blue Trans Logistics Inc
 Terms of delivery : DDP Miami, FL
 (EKSKL. VAT/TVA) Incoterms 2010

Items	Units	Net weight LBS	Price USD	Total USD
Order: 7972 Order date: 5/19/2016 (Saimo Salar:)				
Fresh Atlantic Salmon Premium 50lbs 8-10 lbs	84	4,498.85	4.250	19,107.36
Fresh Atlantic Salmon Select 50lbs 10-12 lbs	16	870.65	4.350	3,787.33
Fresh Atlantic Salmon Select 50lbs 8-10 lbs	12	653.15	4.250	2,775.88
	112	6,019.65	Total USD	25,670.58

All products of Canadian origin

Terms of payment: 14 days Due date: 6/2/2016
 Any shortages or damage claims must be reported within 24 hours.
 15 % interest per annum is charged on past due accounts. Please pay from invoice - no statements are issued.
 Electronic Funds Transfer preferred. Checks to be sent to: (OQ office address - see below)

Bank: Nordea Bank Finland PLC - New York Branch SWIFT: NDEAUS3N
 Address: Account No: [REDACTED] (USD)

Ocean Quality North America Inc. Canada Revenue Agency Business Number
 4445 Lougheed Highway, Suite 500 Phone: +1 778-379-4242 Web: 83811 0989 RT0001
 Burnaby, British Columbia V5C 0E4 Fax: +1 778-379-4243 www.oceanquality.com
 Canada

Invoice



The Ocean Group and Seafood Distributors, Inc.
743 NW 23rd St.
Miami FL, 33127
USA

North America
Customer No : 10169
Sales Invoice No : 107777
Invoice Date : 5/27/2016
Our ref. : Saxena, Prashant
Cust Po NO : Petr
Page : 1 of 1

Shipping address:
The Ocean Group and Seafood Distributors, INC.
743 NW 23rd St
Miami, FL 33127

Shipping Date : 5/27/2016
Info :
Shipping Agent : Blue Trans Logistics Inc.
Terms of delivery : DDP Miami, FL
(EKSKL, VAT/TVA) Incoterms 2010

Items	Units	Net weight LBS	Price USD	Total USD
Order: B178 Order date: 27/05/2016				
<i>(Salmo Salar)</i>				
Fillets All Salmon Prem D-trim PBO 30lbs 3-4 lbs	19	500.65	5.500	2,753.58
Fillets All Salmon Select D-trim PBO 30lbs 3-4 lbs	2	19.35	5.500	106.43
	21	520.00	Total USD	2,860.01

All products of Canadian origin

Terms of payment: 14 days		Due date: 6/10/2016	
Any shortages or damage claims must be reported within 24 hours.			
15 % interest per annum is charged on past due accounts. Please pay from invoice - no statements are issued.			
Electronic Funds Transfer preferred. Checks to be sent to: (OQ office address - see below)			
Bank: Nordea Bank Finland PLC - New York Branch	SWIFT: NDEAUS3N		
Address:	Account No: [REDACTED] (USD)		
Ocean Quality North America Inc.		Canada Revenue Agency Business Number	
4445 Lougheed Highway, Suite 500	Phone: +1 778-379-4242	Web:	83811 0989 RT0001
Burnaby, British Columbia V5C 0E4	Fax: +1 778-379-4243	www.oceanquality.com	
Canada			

Invoice



The Ocean Group and Seafood Distributors, Inc.
743 NW 23rd st.
Miami FL, 33127
USA

Customer No : 10169
Sales Invoice No : 108119
Invoice Date : 6/12/2016
Our ref. : Saxena, Prashant
Cust Po NO : Petr K
Page : 1 of 1

Shipping address:
The Ocean Group and Seafood Distributors, INC.
743 NW 23rd St
Miami, FL 33127

Shipping Date : 6/12/2016
Info :
Shipping Agent : Blue Trans Logistics Inc
Terms of delivery : DDP Miami, FL
(EKSCL. VAT/TVA) Incoterms 2010

Items	Units	Net weight LBS	Price USD	Total USD
Order: 8506 Order date: 12/06/2016				
(Salmo Salar)				
Fresh Atlantic Salmon Premium 50lbs 10-12 lbs	28	1,526.60	3,550	5,426.53
Fresh Atlantic Salmon Premium 50lbs 8-10 lbs	28	1,497.00	3,000	4,491.00
	56	3,025.60	Total USD	9,917.53

All products of Canadian origin

Terms of payment: 14 days Any shortages or damage claims must be reported within 24 hours. 15 % interest per annum is charged on past due accounts. Please pay from invoice - no statements are issued. Electronic Funds Transfer preferred. Checks to be sent to: (OQ office address - see below)	Due date: 6/26/2016
Bank: Nordea Bank Finland PLC - New York Branch Address:	SWIFT: NDEAUS3N Account No: ██████████ (USD)

Ocean Quality North America Inc. 4445 Lougheed Highway, Suite 500 Burnaby, British Columbia V5C 0E4 Canada	Phone: +1 778-379-4242 Fax: +1 778-379-4243	Web: www.oceanquality.com Canada Revenue Agency Business Number 83811 0989 RT0001
---	--	---

Invoice



The Ocean Group and Seafood Distributors, Inc.
 743 NW 23rd st.
 Miami FL, 33127
 USA

Customer No : 10169
 Sales Invoice No : 108265
 Invoice Date : 6/19/2016
 Our ref. : Saxena, Prashant
 Cust Po NO : Petr
 Page : 1 of 1

Shipping address:
 The Ocean Group and Seafood Distributors, INC.
 743 NW 23rd St
 Miami, FL 33127

Shipping Date : 6/19/2016
 Info :
 Shipping Agent : Blue Trans Logistics Inc.
 Terms of delivery : DDP Miami, FL
 (EKSCL VAT/TVA) Incoterms 2010

Items	Units	Net weight LBS	Price USD	Total USD
Order: 8573 Order date: 19/06/2016				
(Salmo Salar.)				
Fresh Atlantic Salmon Premium 50lbs 10-12 lbs	26	1,553.50	3.550	5,514.93
Fresh Atlantic Salmon Premium 50lbs 8-10 lbs	54	2,911.40	3.100	9,025.34
Fresh Atlantic Salmon Select 50lbs 10-12 lbs	2	109.80	3.550	389.79
	84	4,574.70	Total USD	14,930.06

All products of Canadian origin

Terms of payment: 14 days Due date: 7/3/2016
 Any shortages or damage claims must be reported within 24 hours.
 15 % interest per annum is charged on past due accounts. Please pay from invoice - no statements are issued.
 Electronic Funds Transfer preferred. Checks to be sent to: (OQ office address - see below)

Bank: Nordea Bank Finland PLC - New York Branch SWIFT: NDEAUS3N
 Address: Account No: [REDACTED] (USD)

Ocean Quality North America Inc. Phone: +1 778-379-4242 Web: Canada Revenue Agency Business Number 83611 0989 RT0001
 4445 Lougheed Highway, Suite 500
 Burnaby, British Columbia V5C 0E4 Fax: +1 778-379-4243 www.oceanquality.com
 Canada

Invoice



North America

The Ocean Group and Seafood Distributors, Inc.
 743 NW 23rd st.
 Miami FL, 33127
 USA

Customer No : 10169
 Sales Invoice No : 107229
 Invoice Date : 4/26/2016
 Our ref. : Saxena, Prashant
 Cust Po NO : Petr
 Page : 1 of 1

Shipping address: The Ocean Group and Seafood Distributors, INC. 743 NW 23rd St Miami, FL 33127	Shipping Date : 4/26/2016 Info : Shipping Agent : Blue Trans Logistics Inc. Terms of delivery : DDP Miami, FL (EKSKL, VAT/TVA) Incoterms 2010
---	---

Items	Units	Net weight LBS	Price USD	Total USD
Order: 7568 Order date: 4/26/2016 (Salmo Salar.)				
Fresh Atlantic Salmon Select 50lbs 10-12 lbs	28	1,543.40	3,850	5,942.09
	28	1,543.40	Total USD	5,942.09

All products of Canadian origin

Terms of payment: 14 days	Due date: 5/12/2016
Any shortages or damage claims must be reported within 24 hours.	
15 % interest per annum is charged on past due accounts. Please pay from invoice - no statements are issued.	
Electronic Funds Transfer preferred. Checks to be sent to: (OQ office address - see below)	
Bank: Nordea Bank Finland Plc - New York Branch	SWIFT: NDEAUS33
Address:	Account No. [REDACTED] (USD)

Ocean Quality North America Inc. 4445 Lougheed Highway, Suite 500 Burnaby, British Columbia V5C 0E4 Canada	Phone: +1 778-379-4242 Fax: +1 778-379-4242	Web: www.oceanquality.com	Canada Revenue Agency Business Number 83611 0989 H10001
---	--	---------------------------	--

Invoice



The Ocean Group and Seafood Distributors, Inc.
 743 NW 23rd st.
 Miami FL, 33127
 USA

Customer No : 10169
 Sales Invoice No : 107750
 Invoice Date : 5/26/2016
 Our ref. : Saxena, Prashant
 Cust Po NO : Petr Kubis
 Page : 1 of 1

Shipping address:
 The Ocean Group and Seafood Distributors, INC
 743 NW 23rd St
 Miami, FL 33127

Shipping Date : 5/26/2016
 Info :
 Shipping Agent : Blue Trans Logistics Inc.
 Terms of delivery : DDP Miami, FL
 (EKSCL VAT/IWA) Incoterms 2010

Items	Units	Net weight LBS	Price USD	Total USD
Order: 8131 Order date: 26/05/2016				
<i>(Salmo Salar.)</i>				
Filets All Salmon Prem D-Trim PBO 30lbs 2-3 lbs	113	2,919.75	5.500	16,058.63
Filets All Salmon Prem D-Trim PBO 30lbs 3-4 lbs	18	424.10	5.500	2,332.55
Filets All Salmon Select D-Trim PBO 30lbs 2-3 lbs	15	336.30	5.500	1,860.65
Filets All Salmon Select D-Trim PBO 30lbs 3-4 lbs	15	344.80	5.500	1,896.40
Filets All Salmon UTL D-Trim PBO 30lbs 3-4 lbs	1	11.50	5.500	63.25
Fresh Atlantic Salmon Premium 50lbs 8-10 lbs	56	3,017.45	5.500	16,595.98
	218	7,055.90	Total USD	36,807.46

All products of Canadian origin

Terms of payment: 14 days **Due date:** 6/9/2016

Any shortages or damage claims must be reported within 24 hours.
 15% interest per annum is charged on past due accounts. Please pay from invoice - no statements are issued.
 Electronic Funds Transfer preferred. Checks to be sent to: (OOQ office address - see below)

Bank: Nordea Bank Finland PLC - New York Branch SWIFT: NDEAUS3N
 Address: Account No: [REDACTED] (USD)

Ocean Quality North America Inc. Canada Revenue Agency Business Number
 4445 Lougheed Highway, Suite 500 63611 0989 RT0001
 Burnaby, British Columbia V5C 0E4 Phone: +1 778-379-4242 Web:
 Canada Fax: +1 778-379-4243 www.oceanquality.com

Invoice



The Ocean Group and Seafood Distributors, Inc.
 743 NW 23rd st.
 Miami FL, 33127
 USA

Customer No : 10169
 Sales Invoice No : 107908
 Invoice Date : 6/2/2016
 Our ref. : Saxena, Prashant
 Cust Po NO : Petr
 Page : 1 of 1

Shipping address:
 The Ocean Group and Seafood Distributors, INC.
 743 NW 23rd St
 Miami, FL 33127

Shipping Date : 6/2/2016
 Info :
 Shipping Agent : Blue Trans Logistics Inc.
 Terms of delivery : DDP Miami, FL
 (EKSCL. VAT/TVA) Incoterms 2010

Items	Units	Net weight LBS	Price USD	Total USD
Order: 8284 Order date: 02/06/2016 (Salmo Salar)				
Fillets All Salmon Premi D-Inrm PBO 30lbs 3-4 lbs	73	1,689.93	5.500	9,294.62
Fillets All Salmon Select D-Inrm PBO 30lbs 3-4 lbs	4	91.06	5.500	500.83
Fresh Atlantic Salmon Premium 50lbs 8 10 lbs	56	2,998.35	3.500	10,494.23
	133	4,779.34	Total USD	20,289.68

All products of Canadian origin

Terms of payment: 14 days Due date: 6/16/2016
 Any shortages or damage claims must be reported within 24 hours.
 15 % interest per annum is charged on past due accounts. Please pay from invoice - no statements are issued.
 Electronic Funds Transfer preferred. Checks to be sent to: (OQ office address - see below)

Bank: Nordea Bank Finland PLC - New York Branch SWIFT: NDEAUS3N
 Address: Account No. (USD)

Ocean Quality North America Inc. Canada Revenue Agency Business Number
 4445 Lougheed Highway, Suite 500 Phone: +1 778-379-4242 Web: 83811 0989 R110001
 Burnaby, British Columbia V5C 0E4 Fax: +1 778-379-4243 www.oceanquality.com
 Canada

APPENDIX C

8/12/2019

Shipment results for "leroy seafood" miami | US Imports — Panjiva

WEBINAR REPLAY: The Trade War's Global Impact and Road Ahead for Supply Chains

[Watch to learn more](#) about the US-China trade war's impact on corporate supply chains, how we got to this point, and how companies are reacting.



"leroy seafood" miami United States Import records Search

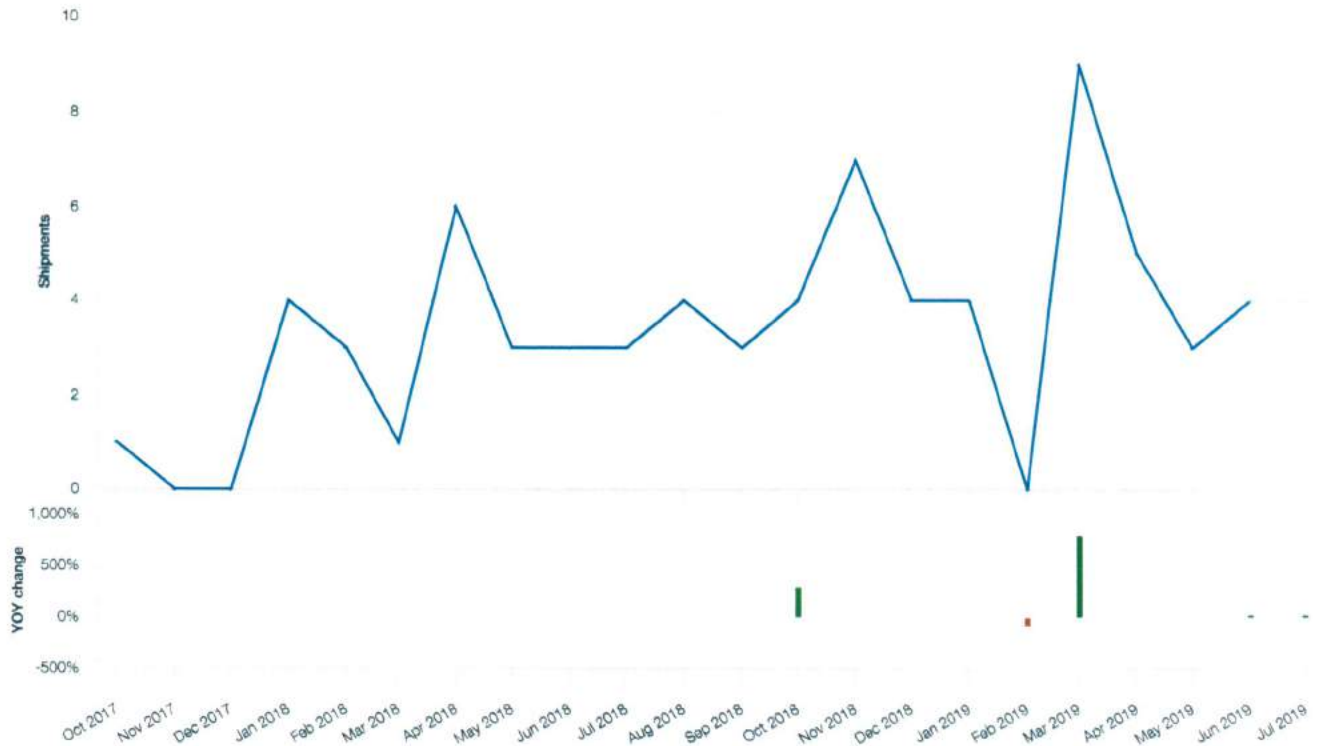
Shipments Report

SHIPMENTS: 75
WEIGHT (KG): 2.4M

Unit: Shipments

Shipments

Date unit: Month
Download as: Select...



Arrival Date	Matching Fields	Consignee	Shipper	Quantity	Weight (kg)	Number of
Arrival Date	Matching Fields Notify party addresses: 2801 Nw 74 Th Ave Ste 214	Consignee Leroy Usa Inc. • 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA	Shipper Seafood As • Bontelabo 2, 5003 Bergen, Norway	Quantity	Weight (kg) 23,690 2,389,117	Number of

8/12/2019

Shipment results for "Leroy seafood" miami | US Imports — Panjiva

Arrival Date	Notify party addresses	Supplier name	Notify party addresses	Supplier name	Quantity	Weight (kg)	Number of
	Miami 33122 Fl, Us	Leroy Seafood As		Leroy Seafood As	2900 CAS	23,690	1
Jul 26, 2019	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer	Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile	2900 CAS	23,690	1
Jul 5, 2019	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer	Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile	1800 CAS	27,052	1
Jul 5, 2019	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer	Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile	4000 CAS	20,325	1
Jun 28, 2019	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer	Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile	680 CAS	27,143	1
Jun 7, 2019	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer	Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile	4000 CAS	20,325	1
Jun 7, 2019	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer	Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile	2900 CAS	23,688	1
Jun 7, 2019	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer	Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile	1800 CAS	27,052	1
May 17, 2019	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer	Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile	1800 CAS	27,052	1
May 17, 2019	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer	Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile	4000 CAS	20,325	1
May 7, 2019	2801 Nw 74 Th Ave Suite 214 Miami Fl 33122 United States	Leroy Seafood As	900 East M Street, Wilmington, CA 90744, USA gcampbell@pfs.com Phone 1: +1 323 263 8811 preferredfreezer.com company profile Trade Roles: Logistics, Wholesale	Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile	1600 BOX	21,200	1
Apr 26, 2019	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile	Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile	4000 CAS	20,325	1
					Quantity	Weight (kg)	Number of
						2,389,117	

8/12/2019

Shipment results for "leroy seafood" miami | US Imports — Panjiva

Arrival Date	Supplier name:	Notify party addresses:	Supplier name:	Notify party addresses:	Supplier name:	Quantity	Weight (kg)	Number of
Apr 26, 2019	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2900 CAS	23,670	1
Apr 9, 2019	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	1800 CAS	27,052	1
Apr 9, 2019	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	4000 CAS	20,325	1
Apr 9, 2019	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	3450 CAS	22,010	1
Mar 25, 2019	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	1800 CAS	27,519	1
Mar 25, 2019	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2900 CAS	23,988	1
Mar 25, 2019	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	4000 CAS	20,477	1
Mar 25, 2019	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	4000 CAS	20,463	1
Mar 8, 2019	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	6081 CAS	160,130	6
Mar 7, 2019	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	4000 CAS	20,325	1
Mar 7, 2019	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	1800 CAS	27,052	1
Mar 7, 2019	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	2900 PCS	2,389,117	1

8/12/2019

Shipment results for "leroy seafood" miami | US Imports — Panjiva

Arrival Date	Notify party addresses	Supplier name	Notify party addresses	Supplier name	Quantity	Weight (kg)	Number of
Nov 30, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	2900 CAS	22,890	1	
Nov 30, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	4000 CAS	20,325	1	
Nov 9, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	1800 CAS	27,052	1	
Nov 9, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	2900 CAS	23,690	1	
Nov 6, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami Fl 33122 Usa</p> <p>Supplier name: Leroy Seafood As</p>	<p>Preferred Freezer Services</p> <ul style="list-style-type: none"> 900 East M Street, Wilmington, CA 90744, USA gcampbell@pfs.com Phone 1: +1 323 263 8811 preferredfreezer.com company profile Trade Roles: Logistics, Wholesale 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	1600 PCS	25,860	1	
Oct 13, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	4000 CAS	20,325	1	
Oct 13, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	2900 CAS	23,700	1	
Oct 13, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	1305 CAS	19,613	1	
Oct 13, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	4000 CAS	20,325	1	
Sep 28, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	4000 CAS	20,325	1	
Sep 28, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	1800 CAS	27,052	1	
	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	Quantity	Weight (kg)	Number of	
					2,389,117		

8/12/2019

Shipment results for "leroy seafood" miami | US Imports — Panjiva

Arrival Date	Notify party	Supplier name	Consignee	Shipper	Quantity	Weight (kg)	Number of
Sep 28, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	Leroy Seafood As	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	4000 CAS	20,325	1
Aug 10, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	Leroy Seafood As	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	1800 CAS	27,234	1
Aug 10, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	Leroy Seafood As	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	3450 CAS	21,953	1
Aug 10, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	Leroy Seafood As	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	4000 CAS	20,248	1
Aug 10, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	Leroy Seafood As	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	4000 CAS	20,325	1
Jul 20, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	Leroy Seafood As	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	4000 CAS	20,325	1
Jul 20, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	Leroy Seafood As	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	4000 CAS	20,325	1
Jul 13, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	Leroy Seafood As	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	130 CAS	6,172	1
Jun 14, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	Leroy Seafood As	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	3450 CAS	22,010	1
Jun 14, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	Leroy Seafood As	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	3450 CAS	22,010	1
Jun 14, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	Leroy Seafood As	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	1800 CAS	27,052	1
May 18, 2018	<p>Notify party addresses: 2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us</p> <p>Supplier name: Leroy Seafood As</p>	Leroy Seafood As	<p>Hallvard Leroy Usa Inc.</p> <ul style="list-style-type: none"> 1289 Fordham Boulevard, Chapel Hill, NC 27514, USA Phone 1: +1 919 967 1895 company profile Trade Roles: Manufacturer 	<p>Leroy Seafood As</p> <ul style="list-style-type: none"> Bontelabo 2, 5003 Bergen, Norway Phone 1: +47 55 21 36 50 company profile 	2900 CAS	2,389,117 25,680	1

8/12/2019

Shipment results for "leroy seafood" miami | US Imports — Panjiva

addresses: 2801 Nw
74 Th Ave Ste 214
Miami 33122 Fl, Us

Supplier name:
Leroy Seafood As

- 1289 Fordham Boulevard,
Chapel Hill, NC 27514, USA
- Phone 1: [+1 919 967 1895](tel:+19199671895)
- [company profile](#)
- Trade Roles: Manufacturer

- Bontelabo 2, 5003 Bergen,
Norway
- Phone 1: [+47 55 21 36 50](tel:+4755213650)
- [company profile](#)

May 18, 2018

Notify party
addresses: 2801 Nw
74 Th Ave Ste 214
Miami 33122 Fl, Us

Supplier name:
Leroy Seafood As

- Hallvard Leroy Usa Inc.**
- 1289 Fordham Boulevard,
Chapel Hill, NC 27514, USA
 - Phone 1: [+1 919 967 1895](tel:+19199671895)
 - [company profile](#)
 - Trade Roles: Manufacturer

- Leroy Seafood As**
- Bontelabo 2, 5003 Bergen,
Norway
 - Phone 1: [+47 55 21 36 50](tel:+4755213650)
 - [company profile](#)

4000 CAS 20,325

1

May 4, 2018

Notify party
addresses: 2801 Nw
74 Th Ave Ste 214
Miami 33122 Fl, Us

Supplier name:
Leroy Seafood As

- Hallvard Leroy Usa Inc.**
- 1289 Fordham Boulevard,
Chapel Hill, NC 27514, USA
 - Phone 1: [+1 919 967 1895](tel:+19199671895)
 - [company profile](#)
 - Trade Roles: Manufacturer

- Leroy Seafood As**
- Bontelabo 2, 5003 Bergen,
Norway
 - Phone 1: [+47 55 21 36 50](tel:+4755213650)
 - [company profile](#)

542 CAS 25,386

1

Apr 27, 2018

Notify party
addresses: 2801 Nw
74 Th Ave Ste 214
Miami 33122 Fl, Us

Supplier name:
Leroy Seafood As

- Hallvard Leroy Usa Inc.**
- 1289 Fordham Boulevard,
Chapel Hill, NC 27514, USA
 - Phone 1: [+1 919 967 1895](tel:+19199671895)
 - [company profile](#)
 - Trade Roles: Manufacturer

- Leroy Seafood As**
- Bontelabo 2, 5003 Bergen,
Norway
 - Phone 1: [+47 55 21 36 50](tel:+4755213650)
 - [company profile](#)

2900 CAS 23,680

1

Apr 27, 2018

Notify party
addresses: 2801 Nw
74 Th Ave Ste 214
Miami 33122 Fl, Us

Supplier name:
Leroy Seafood As

- Hallvard Leroy Usa Inc.**
- 1289 Fordham Boulevard,
Chapel Hill, NC 27514, USA
 - Phone 1: [+1 919 967 1895](tel:+19199671895)
 - [company profile](#)
 - Trade Roles: Manufacturer

- Leroy Seafood As**
- Bontelabo 2, 5003 Bergen,
Norway
 - Phone 1: [+47 55 21 36 50](tel:+4755213650)
 - [company profile](#)

2900 CAS 23,680

1

Apr 27, 2018

Notify party
addresses: 2801 Nw
74 Th Ave Ste 214
Miami 33122 Fl, Us

Supplier name:
Leroy Seafood As

- Hallvard Leroy Usa Inc.**
- 1289 Fordham Boulevard,
Chapel Hill, NC 27514, USA
 - Phone 1: [+1 919 967 1895](tel:+19199671895)
 - [company profile](#)
 - Trade Roles: Manufacturer

- Leroy Seafood As**
- Bontelabo 2, 5003 Bergen,
Norway
 - Phone 1: [+47 55 21 36 50](tel:+4755213650)
 - [company profile](#)

5470 CAS 125,465

5

Apr 6, 2018

Notify party
addresses: 2801 Nw
74 Th Ave Ste 214
Miami 33122 Fl, Us

Supplier name:
Leroy Seafood As

- Hallvard Leroy Usa Inc.**
- 1289 Fordham Boulevard,
Chapel Hill, NC 27514, USA
 - Phone 1: [+1 919 967 1895](tel:+19199671895)
 - [company profile](#)
 - Trade Roles: Manufacturer

- Leroy Seafood As**
- Bontelabo 2, 5003 Bergen,
Norway
 - Phone 1: [+47 55 21 36 50](tel:+4755213650)
 - [company profile](#)

3450 CAS 21,945

1

Apr 6, 2018

Notify party
addresses: 2801 Nw
74 Th Ave Ste 214
Miami 33122 Fl, Us

Supplier name:
Leroy Seafood As

- Hallvard Leroy Usa Inc.**
- 1289 Fordham Boulevard,
Chapel Hill, NC 27514, USA
 - Phone 1: [+1 919 967 1895](tel:+19199671895)
 - [company profile](#)
 - Trade Roles: Manufacturer

- Leroy Seafood As**
- Bontelabo 2, 5003 Bergen,
Norway
 - Phone 1: [+47 55 21 36 50](tel:+4755213650)
 - [company profile](#)

3450 CAS 21,945

1

Apr 5, 2018

Notify party
addresses: 2801 Nw
74 Th Ave Suite 214
Miami Fl 33122
United States

Supplier name:
Leroy Seafood As

- Gold Star Smoked Fish Corp.**
- 570 Smith Street, Brooklyn, NY
11231, USA
 - goldstarusa.com
 - [company profile](#)

- Leroy Seafood As**
- Bontelabo 2, 5003 Bergen,
Norway
 - Phone 1: [+47 55 21 36 50](tel:+4755213650)
 - [company profile](#)

922 CTN 25,083

1

Mar 10, 2018

Notify party
addresses: 2801 Nw
74 Th Ave Ste 214
Miami 33122 Fl, Us

Supplier name:
Leroy Seafood As

- Hallvard Leroy Usa Inc.**
- 1289 Fordham Boulevard,
Chapel Hill, NC 27514, USA
 - Phone 1: [+1 919 967 1895](tel:+19199671895)
 - [company profile](#)
 - Trade Roles: Manufacturer

- Leroy Seafood As**
- Bontelabo 2, 5003 Bergen,
Norway
 - Phone 1: [+47 55 21 36 50](tel:+4755213650)
 - [company profile](#)

4029 CAS 102,779

4

Feb 11, 2018

Notify party
addresses: 2801 Nw
74 Th Ave Ste 214
Miami 33122 Fl, Us

Supplier name:
Leroy Seafood As

- Hallvard Leroy Usa Inc.**
- 1289 Fordham Boulevard,
Chapel Hill, NC 27514, USA
 - Phone 1: [+1 919 967 1895](tel:+19199671895)
 - [company profile](#)
 - Trade Roles: Manufacturer

- Leroy Seafood As**
- Bontelabo 2, 5003 Bergen,
Norway
 - Phone 1: [+47 55 21 36 50](tel:+4755213650)
 - [company profile](#)

4000 CAS 20,325

1

Feb 11, 2018
Arrival Date

Notify party
addresses: 2801 Nw
74 Th Ave Ste 214
Miami 33122 Fl, Us

- Hallvard Leroy Usa Inc.**
- 1289 Fordham Boulevard,
Chapel Hill, NC 27514, USA
 - Phone 1: [+1 919 967 1895](tel:+19199671895)
 - [company profile](#)

- Leroy Seafood As**
- Bontelabo 2, 5003 Bergen,
Norway
 - Phone 1: [+47 55 21 36 50](tel:+4755213650)
 - [company profile](#)

4000 CAS
Quantity Weight (kg)
2,389,117

1

Number of

8/12/2019

Shipment results for "leroy seafood" miami | US Imports — Panjiva

Date	Supplier name	Notify party addresses	Supplier name	Trade Roles	Company Name	Product	Quantity	Value	Count
Feb 11, 2018	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	Manufacturer	Hailvard Leroy Usa Inc.	Leroy Seafood As	1022 CAS	26,691	1
Jan 27, 2018	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	Manufacturer	Hailvard Leroy Usa Inc.	Leroy Seafood As	3307 CAS	76,633	3
Jan 27, 2018	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	Manufacturer	Hailvard Leroy Usa Inc.	Leroy Seafood As	12644 CAS	287,264	11
Jan 19, 2018	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	Manufacturer	Hailvard Leroy Usa Inc.	Leroy Seafood As	1910 CAS	27,052	1
Jan 3, 2018	Leroy Seafood As	2801 Nw 74 Th Ave Suite 214 Miami Fl 33122 United States	Leroy Seafood As	Manufacturer	Gold Star Smoked Fish Corp.	Leroy Seafood As	818 CTN	23,380	1
Oct 6, 2017	Leroy Seafood As	2801 Nw 74 Th Ave Ste 214 Miami 33122 Fl, Us	Leroy Seafood As	Manufacturer	Hailvard Leroy Usa Inc.	Leroy Seafood As	2328 CAS	52,513	2

APPENDIX D

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 30 July 1992

relating to a proceeding under Article 85 of the EEC Treaty (Case No IV/33.494
— Scottish Salmon Board)

(Only the English text is authentic)

(92/444/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Whereas :

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Article 3 thereof,

Having regard to the Commission's decision of 21 June 1990 to initiate proceedings in this case,

Having given the undertakings concerned the opportunity to make known their views on the objections raised by the Commission, pursuant to Article 19 (1) of Regulation No 17 and Commission Regulation No 99/63/EEC of 25 July 1963 on the hearings provided for in Article 19 (1) and (2) of Regulation No 17⁽²⁾,

Having heard the undertakings concerned in accordance with Article 19 (2) of Regulation No 17 and Regulation No 99/63/EEC,

After consultation of the Advisory Committee on Restrictive Practices and Monopolies,

I. THE FACTS

A. Subject-matter of procedure

- (1) This procedure concerns a price-fixing agreement in respect of farmed salmon concluded between Fiskeoppdretternes Salgslag A/L (the Norwegian Fish Farmers' Sales Organization) and the Scottish Salmon Growers' Association Limited, the Scottish Salmon Farmers' Marketing Board Limited and the Shetland Salmon Farmers' Association. The agreement came into effect at the end of 1989.

B. The product

- (2) The product is farmed salmon. Farmed salmon are reared in pens or cages and the farmer controls the production factors such as farm size, stocking and feeding of fish. The production cycle for farmed salmon is a period of one to two years in a brood-stock farm where the smolts (young salmon) develop before being transferred to grow-out farms where they are harvested when they reach a weight of between 1 and 5 kg.

Farmed salmon are sold gutted or round. The distribution chain extends from growers, usually through wholesalers and exporters, to processing outlets and the retail and catering sectors.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No 127, 20. 8. 1963, p. 2268/63.

In Europe the principal producers of farmed salmon are located in Norway, Scotland, Ireland, the Faroes and Iceland.

C. The parties

- (3) The parties in this case are :
- Fiskeoppdretternes Salgslag Organization (FOS),
 - The Scottish Salmon Growers' Association Limited (SSGA),
 - The Scottish Salmon Farmers' Marketing Board Limited (SSB),
 - The Shetland Salmon Farmers' Association (SSFA).
- (4) FOS was established in 1978. Membership was open to licensed fish farmers. Under an Act of 14 December 1951 (Råfiskloven) and a Royal Decree of 28 July 1978, amended by a Royal Decree of 29 June 1990, FOS was given certain exclusive rights. These included the right to issue purchase licences and set minimum prices for farmed fish. All first hand sale of farmed fish had to go through or be approved by FOS.

FOS was financed by an operational fee on every transaction between a fish farmer and a first hand buyer of farmed fish. Each party paid 1,5 % of the amount of the sale to FOS.

FOS first introduced a minimum price system for farmed salmon in 1978. Minimum prices were established annually after negotiations between FOS and Norges Ferskfiskomsetnings Landsforening (the Norwegian Fresh Fish Trade Association) (the NFOL), which represents exporters. The minimum price was intended to correspond to the expected market price. That price was obligatory and sales below it infringed Norwegian law. On 13 November 1991, FOS was declared bankrupt. As a result, its minimum price system was brought to an end.

- (5) The SSGA was incorporated in 1982 to represent the interests of Scottish salmon growers. Its objects include the promotion of the profitable sale of Scottish salmon, the maintenance and improvement of the quality of Scottish salmon and the compilation and dissemination of salmon industry statistics. Membership is voluntary and currently stands at 61, accounting for approximately 80 % of total Scottish salmon production.

Since May 1987 the SSGA has operated a price information system based on weekly returns by participating members. A recent review of the system resulted in the issue on a weekly basis of more comprehensive reports which include infor-

mation not only on average prices for gutted and round salmon by weight categories but also high and low price information, volume of fish sold, Norwegian minimum prices, and production forecasts of SSGA members for the coming week, month and quarter. According to the SSB, the main objective of the price information system is to provide accurate average industry prices and Norwegian delivered minimum prices at actual exchange rates to strengthen members' negotiating position with the trade. A fax dated 19 April 1989 stated in relation to the new system: 'As a result, from 1 May, the SSB will be able to monitor trade prices better in the future and hopefully be able to motivate Scottish suppliers thereafter to sell at market or above market prices.'

- (6) The SSB was incorporated in 1988 to represent the marketing interests of both the SSGA and the SSFA. The company's objects include the maintenance of a premium price level for Scottish farmed salmon. Until the end of 1989 SSB membership consisted of 80 % SSGA members and 20 % SSFA members. In December 1989 the SSFA withdrew from the SSB.
- (7) The SSFA was formed in June 1985. It represents, on a voluntary basis, the interests of the 59 salmon farms currently operational in the Shetland Islands.

D. The market

- (8) Salmon farming began in the 1960s. The industry developed slowly at first but advances in fish husbandry and factory-farming techniques have revolutionized the industry over the last decade. Norway plays a leading role in the production of farmed salmon. Norwegian farmed salmon production grew from 601 tonnes in 1974 to 45 675 tonnes in 1986 and 114 866 tonnes in 1989. Norway's share of the Community market for farmed salmon amounted to approximately 58 % in 1986 and 1987 and increased to 65 % in 1988 and an estimated 70 % in 1989. Scottish production grew from 250 tonnes in 1978 to 28 000 tonnes in 1989. Of this, Shetland farmed salmon production increased from 700 tonnes in 1985 to 6 731 tonnes in 1989. Scotland's share of the Community market is 26 %. Ireland's production, 69 % of which is exported to the EC, increased from 1 000 tonnes in 1987 to 6 000 tonnes in 1989. From 1986 to 1989 the combined Irish and Scottish shares of the Community market remained stable at around 32 %, while Community consumption increased by nearly 190 %. However, in 1989 Community producers saw their market share fall by 2,3 % on the previous year, their sales having risen by only 31,59 % against an increase in Community consumption in 1989 of 40,98 %.

- (9) Consumption of fresh and chilled salmon in the Community rose from 36 500 tonnes in 1986 to an estimated 106 000 tonnes in 1989, an increase of some 190 %. The major Community markets are France, the United Kingdom and Germany.

France is the largest Community market for farmed salmon. In 1987 it imported 46 000 tonnes, of which the bulk was fresh salmon mainly from Norway but which significant quantities from Scotland and Ireland. Imports of farmed salmon into France in 1987 included :

(in tonnes)

Country	Fresh gutted	Frozen	Smoked
Norway	9 868	2 152	150
United Kingdom	2 681	234	341
Ireland	1 116	31	48

French imports of salmon increased by 250 % over the period 1980 to 1987.

The United Kingdom is the second largest salmon market in Europe after France, consuming approximately 16 000 tonnes in 1987. It is a major producer and exporter of farmed salmon with a large domestic market. Scottish farmed salmon now represents nearly 60 % of United Kingdom supplies, having risen from negligible proportions in 1980. The United Kingdom also imports farmed salmon from Norway.

Germany imported 11 000 tonnes of salmon in 1987. Seventy percent of salmon imports are fresh chilled, the remainder is mainly smoked. Germany imports from Denmark substantial quantities of smoked salmon of Norwegian origin. Imports into Germany in 1987 included :

(in tonnes)

Country	Fresh gutted	Frozen	Smoked
Norway	4 566	423	94
United Kingdom	267	5	14
Denmark	751	397	1 978

- (10) Despite the significant increase in consumption of farmed salmon in the Community, an analysis of salmon prices shows a decline over recent years. The cif price of imported salmon fell by 17 %

between 1986 and 1989. The impact of price competition on the French, Dutch and German markets coupled with the effect of volume forced Community producers to cut the price of sales on the Community market. Scottish trade prices fell by 25 % over the period 1988 to 1989. There was a drop of 18 % in weighted average sale prices during the second half of 1989.

However, a comparison of the prices reported in the SSGA price information system for the last 12 weeks of 1989 with those for the first 12 weeks of 1990 show that the prices of Scottish salmon exported to Europe increased by nearly 25 % on average for gutted fish. The figures for 1 to 2 kg gutted fish show an even greater price increase, 30 % on average. SSGA records show that prices within the United Kingdom rose by between 9 to 16 %. Norwegian prices reported by the SSGA to its members show average increases of around 13 to 14 % for this period.

E. Price-fixing agreement

- (11) The decline in salmon prices in 1989 was attributed to a combination of over production of farmed salmon by Norwegian producers and breaches of the Norwegian minimum price system which set the bench-mark for the industry. Following the implementation in 1985 of legislation liberalizing smolt production in Norway the number of smolt-production licences increased from 152 in 1985 to 692 in 1988. This resulted in an over production of smolts, some 20 million of which were put in sea cages on a temporary basis in 1988. Following the growth cycle of 16 to 18 months these smolts came on the market in 1989 adding a surplus 30 000 tonnes of farmed salmon to available supplies. As a result of this oversupply, farmed salmon was being sold at prices below the established minimum prices. On 8 June 1989, in the face of intense pressure from Norwegian exporters who claimed that Norwegian minimum prices were not competitive, the FOS was forced to reduce its minimum prices by an average of 15 %.

Despite this measure, prices for farmed salmon did not stabilize. A fax sent to the FOS on 22 November 1989 by the chairman of the SSB states, 'Since we spoke about two weeks ago, all producers and sellers in Scotland have seen a further drastic reduction in prices in all markets but particularly in France and Germany. I am sorry to report that on each occasion, heavy supplies of Norwegian salmon are cited as being the cause. In addition, all sectors of the trade report that the minimum prices are being consistently breached and to all extents and purposes do not exist.'

- (12) On 13 December 1989 the SSB, acting on behalf of the SSGA and the SSFA, and the Irish Salmon Growers' Association (ISGA) lodged a complaint with the Commission in respect of the alleged dumping in the Community of Norwegian salmon. On 2 February 1990 the Commission announced the initiation of an anti-dumping proceeding concerning imports of Atlantic salmon originating in Norway. Contacts were made between the Commission and the Norwegian Government during the course of the investigation involved. The investigation resulted in a finding that Norwegian salmon was being sold in the Community with a dumping margin of 11,3 %, causing in a drop in prices in the Community and causing financial difficulties for Community producers. During the course of the investigation the Norwegian fish farming industry took action to try to restore the effectiveness of its minimum price scheme. Concurrently, the Norwegian Government adopted a series of measures aimed at restricting the volume of salmon supplied to the market. Further, it offered to enter into consultations with the Commission, upon notification of a market problem causing an abnormal development of prices, with a view to finding appropriate solutions to these problems in conjunction with the Norwegian industry and exporters. Having regard to these circumstances, together with the fact that salmon prices on the Community market had stabilized in 1990, and despite the finding of a dumping margin of 11,3 %, the Commission considered that it was unnecessary to impose anti-dumping measures in respect of farmed salmon originating in Norway. Accordingly, the anti-dumping proceeding was terminated without the imposition of trade protection measures. Commission Decision 91/142/EEC to this effect was adopted on 15 March 1991⁽¹⁾.

- (13) The Norwegian salmon farming industry was in difficulties at this time. The combined pressure of severe market conditions affecting its members and complaints from other producers, culminating in the initiation of anti-dumping proceedings, resulted in FOS taking steps to improve the situation.

It reviewed its minimum price system and drew up concrete plans to restore its effectiveness. The new plan, which was to take effect from 2 January 1990, proposed the introduction of a freezing programme for fresh salmon which producers could not sell on

the market at the minimum price level. FOS would pay farmers the full minimum price for such fish. In order to finance the freezing storage, FOS would levy on all fresh fish sales a Nkr 5 surcharge. This in effect meant that an exporter would need to pay the fish farmer at least Nkr 5 above the current minimum prices in order for the fish farmer to deliver fresh fish to the exporter rather than to FOS for freezing. These measures were expected to result in higher prices for Norwegian salmon. The Commission was notified of these measures on 13 December 1989.

- (14) Before implementation of the new measures, however, FOS contacted SSB on 14 December 1989 to advise them of the details. A letter dated 15 December 1989 from SSB to its members attaching a circular outlining the new measures stated, referring to the pressure brought to bear against the Norwegians by other salmon growers, 'The attached paper indicates this pressure has had a material effect. It is hoped that the Norwegian action will improve the position considerably, i.e. by maintaining the official minimum prices and increasing them by Nkr 5 per kilo for fresh and chilled salmon. There is still some way to go by the Norwegians before we would be convinced that the action would be 100 % effective, and this will not be evident until January.' The circular dated 15 December 1989 stated, 'We were contacted yesterday by the Norwegian Fish Farm Sales Organization (FOS) who advised us of their new proposals to introduce stability into the market and to improve prices.' Details of the proposals were then outlined. The circular continued, 'The effect of this proposal will be dramatic since the integrity of the minimum price system will be re-established and will in effect be increased for fresh fish by Nkr 5 per kg.' It concludes, 'This is clearly a most welcome move by the Norwegian Fish Farm Sales Organization and one which should have an enormous impact on our own pricing.'

On 19 December 1989 FOS sent faxes to the SSB, the ISGA, the SSFA, and representatives of salmon producers in The Faroes and Iceland stating, 'The Fishfarmers Sales Organization and the Norwegian exporters have agreed upon a plan to stabilize and improve the salmon prices. To introduce this plan, we should like to arrange a telephone meeting at 9.30 hrs (Norwegian time) Wednesday 20 December.'

Hand-written notes of this telephone conference, taken from an office at SSB premises, recorded details of the proposed Norwegian plan and

⁽¹⁾ OJ No L 69, 16. 3. 1991, p. 32; Corrigendum OJ No L 75, 21. 3. 1991, p. 64.

included the comments 'no benefit to fish farmer, benefit to Scots, Irish, Faroes, Iceland. Norwegian fish farmers paying the burden. Support from others ... little competition ... will follow suit ... test period for first half of year ...'.

Following this telephone conference the SSB sent a circular dated 20 December 1989 to its members stating :

- '1. We are confident that the Norwegian proposals will be effective in stabilizing and improving prices.
2. The speed with which the proposals are implemented will be affected by the response of other producing countries.'

It then cited proposed Norwegian minimum prices and Scottish minimum prices adding a premium of 5 to 10 % which Scottish salmon has traditionally achieved over Norwegian prices.

The circular continued, 'These Norwegian proposals are perhaps the most dramatic event in the history of the salmon farming industry.'

On 21 December 1989, following the telephone conference, the SSFA sent a circular to its members stating: 'The Norwegian initiative is extremely welcome and should, with effect from 2 January 1990 be instrumental in dramatically increasing prices for fresh salmon to at least Nkr 5 per kg above Norwegian minimum prices. However, in order to succeed, the United Kingdom and Irish industries must give their complete and immediate support. ... In particular, therefore all sales companies and members who sell independently are strongly urged to ensure that they at least bring their prices into line with Norway from 2 January 1990 onwards.'

The SSB circulars dated 15 and 20 December 1989 were faxed to FOS on 22 January 1990 with the comment, 'Please find attached the letters put out to all our members, which explained the effects of FOS proposals. It is in the interests of all salmon farmers to adhere to these levels.'

The Commission has further evidence of communication between the Scottish organizations and FOS to clarify the situation before the introduction of the new minimum prices.

- (15) The new minimum price scheme took effect on 2 January 1990 and in the first week the scheme resulted in the freezing of 35 000 tonnes of Norwegian farmed salmon. Following the introduction of the new scheme communication continued between the parties to ensure coordination of their pricing strategies.

In a circular to its members dated 1 February 1990 the SSB quotes Norwegian minimum prices in the market and continues, 'we made contact with the Norwegian Fish Farm Sales Organization (FOS) to ascertain why their system did not appear to be taking effect on the smaller sizes of fish. The response was as follows :

1. They were not aware that Norwegian fish were being generally quoted at these price levels. They undertook to investigate any particular case which was brought to their attention ...'

A copy of this letter was faxed to FOS on 2 February 1990 with the comment :

'As promised, I attach a copy of my letter to all SSGA members and sales groups. I hope this will help quell the rumours which are so damaging.'

The Commission has other communications between FOS and the SSB exchanging price information and drawing attention to breaches of the agreement.

On 18 April 1990 FOS sent a fax to the SSB stating 'FOS' plan to increase and to stabilize the salmon prices is carried out with only small deviations from the original plan.' It then outlined quantities and prices and expressed the frustrations of the Norwegian fish farmers in the following terms,

'They are feeling little support in their attempt to increase the prices. We experience from time to time unbelievable low Scottish prices ... The Norwegian fish farmers' willingness to cooperate seems to meet increasing difficulty.

I feel sure that the less intelligent way to solve the temporary problems we are in, is to fight each other.

A cooperation as in "good old days", is a much better way to go.'

The SSB replied to this fax by letter dated 20 April 1990 in which it states, '... the members present at our meeting yesterday wished me to convey to you their strong appreciation of the efforts of your organization and its members which have reversed the price declines in the marketplace.' The suggestion is made for the visit of a delegation to Norway and the hope that the visit will be of value 'in maintaining and strengthening the dialogue between our two industries.'

A circular dated 24 April 1990 from the SSB to its members concludes, 'In summary then the new Norwegian minimum prices are now very well established and have raised general market price levels throughout the world.'

In a FOS memorandum entitled 'current situation sales of salmon in Norway' dated 27 April 1990 and sent to SSB on 3 May 1990, the comment is made, 'Today, in late April, the plan has been successfully implemented and we are pleased to observe that the positive effects exceed our sober forecast in most areas Prices are improving and are approaching a level corresponding to the objective of the measures introduced in 1990.'

- (16) On 2 October 1991, the SSB sent to all members of the SSGA and the SSB letters in which it stated that 'it is not the function of the SSGA or SSB to make recommendations about the prices you charge or about any aspect of your pricing policy or in any way whatsoever to influence your decisions about the prices you charge'. The communications to members dated 15 and 20 December 1989, which referred to Norwegian minimum prices, were formally withdrawn. On the same date a letter was sent to FOS advising them of this action.

II. LEGAL ASSESSMENT

A. Article 85 (1) of the EEC Treaty

- (17) Article 85 (1) prohibits as incompatible with the common market all agreements between undertakings and concerted practices which may affect trade between Member States and which have as their object of effect the prevention, restriction or distortion of competition, and, in particular, those which directly or indirectly fix prices.

1. Undertakings

- (18) The Norwegian Fish Farmers' Sales Organization (FOS), the Scottish Salmon Farmers' Marketing Board Limited (SSB), the Scottish Salmon Growers' Association Limited (SSGA) and the Shetland Salmon Farmers' Association (SSFA) are associations of undertakings within the meaning of Article 85 (1).

These organizations act on behalf of their members who are producers of farmed salmon and, therefore, undertakings. An agreement between such associations of undertakings which has as its object or effect the restriction of competition within the common market between their members who are undertakings falls within the type of conduct which is prohibited by Article 85 (1).

2. Agreement

- (19) It is considered that during the course of a series of communications, both written and verbal, between FOS, the SSB, the SSGA and the SSFA, an agreement was reached. The object of the agreement was to fix minimum prices for farmed salmon. The Commission considers that there were two elements in this agreement:

- FOS measures on the one hand, minimum prices backed by a freezing scheme,
- on the other, supporting measures taken by the SSB, the SSGA and the SSFA to ensure price discipline on the part of their members.

Prior to the implementation of the new minimum price system, FOS contacted the SSB on 14 December 1989 to advise them of its plan to introduce stability into the market and to improve prices. Following this, on 20 December 1989, FOS held a telephone conference with representatives of farmed salmon producers in Europe, including the SSB and the SSFA. It is the Commission's view that the purpose of this telephone conference was, in exchange for FOS's commitment to price discipline through its minimum price system, to secure the support of the other producers for the new measures and to ensure price discipline on their part by maintaining, on the basis of the Norwegian minimum price, the traditional price differential between Scottish and Norwegian farmed salmon.

Following the telephone conference, the SSB and the SSFA sent circulars to their members in which they outlined details of the FOS measures, cited the new Norwegian minimum prices and gave new Scottish prices based on the Norwegian minimum prices plus the traditional Scottish premium of 5 to 10 %. They strongly urged their members to comply with the new minimum prices. The SSB later faxed copies of its circulars to FOS, thus demonstrating its implementation of the agreed supporting measures.

In its defence to the statement of objections FOS stated that the purpose of the telephone conference was to inform the British and Irish salmon farmers of the new measures and to persuade them to withdraw the anti-dumping complaint. In this regard, it is noted that the SSB had had this information since 14 December. Furthermore, this defence does not explain the follow-up measures taken by the SSB and the SSFA. It is also noted that salmon producers not party to the anti-dumping proce-

dings, such as those from the Faroes and Iceland, were invited to participate in the telephone conference. FOS has stated that the new measures were taken unilaterally. Even if those measures were unilateral at the outset, this does not prevent them from also being part of the object of the agreement.

Taking all these elements together it is considered that the measures implemented by FOS on 2 January 1990 were used as the basis of a coordinated plan to stabilize and increase salmon prices. The SSB, the SSGA and the SSFA contributed to this plan by assuring FOS that they had urged their members to exercise price discipline in support of the Norwegian action. Thus, any uncertainty on the part of FOS as to the reaction of SSGA and SSFA members to the Norwegian measures was substantially reduced, if not eliminated.

The cooperation between the organizations continued after the implementation of the new measures. The SSB provided FOS with the confidential volume and price statistics reported by SSGA members for the first quarter of 1990 and requested a comparison with prices being achieved by FOS members. The SSGA price information system was one of the instruments used to implement the agreement.

The regular contacts to exchange price information provided the parties with an opportunity to monitor the success of their agreement. There is evidence that details of producers selling below the minimum price were exchanged between the parties and undertakings given to investigate breaches by their respective members of the agreed pricing system.

3. Restriction of competition

- (20) The agreement had as its object and effect the restriction or distortion of competition within the common market. An agreement to fix prices *per se* limits competition within the meaning of Article 85 (1). The agreement between FOS and the SSB, the SSGA and the SSFA to fix minimum prices was intended to ensure price discipline and thus eliminate competition.

The agreement enabled the parties to coordinate their pricing strategies in order to stabilize and increase market prices for their produce. The agreement thus reduced uncertainty on the part of each organization as to the activities of the other.

The economic context in which the agreement was made also provides further evidence of its restrictive object and nature. At that time the farmed salmon industry had considerable surplus capacity and, as a result, prices were falling. The Norwegians were held responsible for this situation by their competitors. As a result of international pressure culminating in the initiation of an anti-dumping proceeding by the Commission upon notification of a complaint by the SSB and the ISGA, the Norwegians undertook a review of their minimum price system. It is in this context that the agreement between FOS and the SSB, the SSGA and the SSFA to fix minimum prices was made. FOS, the major supplier in the market, could unilaterally have put into effect controls to stabilize prices. FOS, however, required discipline from its competitors. The Scottish producers of farmed salmon agreed to comply with Norwegian measures to increase prices and took the steps outlined above to implement the agreement.

By planning common action on price initiatives the producers has as their object the elimination of the risks which would be involved in any unilateral attempt to increase prices.

There is evidence to prove that the effect of the agreement between FOS and the SSB, the SSGA and the SSFA was an increase in the price of farmed salmon in the Community. Prices of farmed salmon from Norway and Scotland rose significantly in the weeks following the introduction of FOS' minimum price system. An increase was noticeable within weeks of the telephone conference of 20 December 1989 and the introduction of the new minimum prices on 2 January 1990.

4. Effect on trade between Member States

- (21) The agreement between the producers was likely to have an appreciable effect on trade between Member States by increasing the market price for farmed salmon within the common market.

Producers in Norway and Scotland account for over 90 % of farmed salmon supplied to the Community. Their agreement to fix prices at an artificial level was designated to, and did, restrict price competition throughout the Community. It was likely to have an appreciable effect on trade, in particular, between the continental Member States, which are the major consumers of farmed salmon, and those Member States which are producers of farmed salmon.

B. Inapplicability of Council Regulation No 26

- (22) Regulation No 26⁽¹⁾ provides for the exemption from the application of Article 85 (1) of certain agreements which form an integral part of a national market organization or are necessary for the attainment of the objectives set out in Article 39 of the Treaty.

For Article 2 (1) of Regulation No 26 to apply, the agreement must relate to a product listed in Annex II to the Treaty. Fish is a product which is listed in this Annex.

However, it is considered that the agreement between FOS and the SSB, the SSGA and the SSFA cannot be exempted from the application of Article 85 (1) by the provisions of Article 2 of Regulation No 26 for the following reasons :

1. Provision has been made for the establishment within the Community of a common organization of the market in fishery products by Council Regulation (EEC) No 3796/81⁽²⁾. Given the existence of the common organization of the market, there is no scope for a national market organization. For that reason, the agreement which is the subject of this procedure cannot be considered to form an integral part of a national market organization.
2. The agreement cannot qualify for the exemption contained in Regulation No 26 since it was not necessary for the attainment of the objectives set out in Article 39 of the Treaty. It was not necessary because Community law provides procedures aimed at redressing economic difficulties such as that described above. In this case an anti-dumping procedure was availed of. Following a complaint in December 1989 by the ISGA and the SSB the Commission initiated an anti-dumping proceeding in respect of imports of farmed salmon from Norway. Concurrently, however, and without awaiting the outcome of that proceeding, the SSB, the SSGA and the SSFA entered into a private price-fixing agreement with FOS, the organization representing Norwegian producers of farmed salmon.

A further possible remedy available under Community law was the safeguard clause contained in Regulation (EEC) No 3796/81.

This clause specifically provides for the granting, in certain circumstances, of compensation to producers of salmon in order to safeguard their income level.

Regulation (EEC) No 3796/81 also provides for the establishment of a minimum import price for fish.

Accordingly, having regard to the procedures available under Community law, it was not necessary, within the terms of Article 2 of Regulation No 26, for the parties to enter into an agreement to fix prices.

Even if these procedures resulted in unilateral measures by the Commission resolving the problem, the parties could in no way justify taking supplementary supporting measures in contravention of Article 85.

3. The agreement could not qualify for the exclusion provision in the second sentence of Article 2 (1) of Regulation No 26 since it is not an agreement of farmers, farmers associations or associations of such associations belonging to a single Member State.

C. Article 85 (3)

- (23) The agreement between FOS and the SSB to fix minimum prices does not qualify for an exemption under Article 85 (3) since it was not properly notified in accordance with Article 4 of Regulation No 17.

Nor was the agreement exempt from notification under paragraphs 1 and 2 of Article 4 (2) of Regulation No 17.

Even if the agreement had been properly notified, it could not have been exempted since, given the remedies provided by Community law, the restrictions imposed on the undertakings concerned were not indispensable to the attainment of the objectives outlined in Article 85 (3) and, in particular, could not allow consumers a fair share of the resulting benefit.

D. Article 3 of Regulation No 17

- (24) The Commission considers that the infringement has now ended. In October 1991, the SSB and the SSGA wrote to members withdrawing the circulars referring to Norwegian minimum prices. In November 1991, the bankruptcy of FOS brought the Norwegian minimum price system to an end.

⁽¹⁾ OJ No 30, 20. 4. 1962, p. 993/62.

⁽²⁾ OJ No L 379, 31. 12. 1981, p. 1.

However, it is the Commission's practice to issue a decision establishing an infringement, even in cases where the infringement has ended, if the decision might clarify a point of law and thus prevent the same or similar infringements from being committed in the future, as stated in Commission Decision 75/497/EEC⁽¹⁾. Such a practice makes for legal certainty and has been endorsed by the Court of Justice (see ground 25 of the Court's judgment in Case 7/82 GVL v. Commission [1983] ECR 483).

In this case the point of law requiring clarification is that undertakings or associations of undertakings, when confronted by a situation requiring the intervention of the Community by way of procedures such as an anti-dumping proceeding or safeguard clauses, are not permitted under Regulation No 26, either in addition to or instead of such procedures, to enter into a restrictive private agreement in order to remedy the situation,

HAS ADOPTED THIS DECISION :

Article 1

Fiskeoppdretternes Salgslag A/L, the Scottish Salmon Growers' Association Limited, the Scottish Salmon Farmers' Marketing Board Limited and the Shetland Salmon Farmers' Association infringed Article 85 of the

EEC Treaty by entering at the end of 1989 into an agreement to fix minimum prices for farmed salmon.

Article 2

This Decision is addressed to :

- The Scottish Salmon Growers' Association Limited, Drummond House, Scott Street, UK-Perth PH1 5EJ,
- The Scottish Salmon Farmers' Marketing Board Limited, Drummond House, Scott Street, UK-Perth PH1 5EJ,
- The Shetland Salmon Farmers' Association, 18 Alexandra Buildings, Lerwick, UK-Shetland ZE1 0LL,
- The Fiskeoppdretternes Salgslag A/L, Pir-Senteret, N-7005 Trondheim.

Done at Brussels, 30 July 1992.

For the Commission
Leon BRITTAN
Vice-President

⁽¹⁾ OJ No L 228, 29. 8. 1975, p. 3.