[redacted]

Committee on the Internal Market and Consumer Protection
Mini Hearing on the Trade in Seal Products

Canadian Responses to Questions Posed by Members—

Once again, Canada would like to express appreciation to the Committee for providing the opportunity for us to participate in this hearing. We firmly believe that a mutually agreeable solution can be arrived at through international cooperation, and welcome this opportunity to share information.

Enforcement

Question: What are the new Canadian regulations?

(Text of the proposed amendments and licence conditions are attached in appendices 1 and 2.)

Canadian regulations reflect advice received from independent veterinarians, among others, and **provide improved clarity** with respect to each of the three steps in the humane killing of seals – striking, checking and bleeding. They include a prohibition on the use of a hakapik or club as the initial tool for killing a seal that is one year or older. Definitions are provided for the potentially ambiguous terms "crushed" and "palpate", with respect to checking the cranium of the seal. The checking process must be by palpation rather than corneal reflex. A bleed-out time is provided so the sealer knows when it is appropriate to begin to skin the animal. It should be noted that the Animal Welfare Committee of the Canadian Veterinary Medical Association has submitted comments on these amendments indicating their full support.

Question: Why are these regulations better and how do they improve humane aspects of the hunt?

The history of amendments and improvements to the regulatory framework governing the Canadian seal hunt attests to **Canada's on-going commitment to a humane hunt**. Canada seeks to implement new regulations and licence conditions for 2009 to **ensure that hunting practices reflect the very latest veterinary advice on humane hunting**. Together with the 2009 licence conditions, which will further mandate the timing and sequencing of the killing process, the proposed amendments clearly articulate the requirements for a humane kill. They provide the basis for a **shared understanding of requirements by sealers and Fishery officers**, supporting improved compliance and enforcement. It is also important to raise awareness among others monitoring or observing the hunt, who must distinguish good practice from bad practice when it comes to animal welfare.

On a more technical level, the European Food Safety Authority (EFSA) report acknowledged that the tools used in Canada (e.g., hakapik, rifle) are effective when used properly, and followed by monitoring for unconsciousness (within a "short" period of time), and bleeding ("as soon as possible"). The regulatory amendments address some of these concerns directly (e.g. prohibition on hakapik for adult animals, timing requirements for checking), or indirectly, by removing the impediments for implementing the three step process (e.g., timing requirements for bleeding) via licence condition. The regulations provide clear time bound requirements where possible (e.g. one-minute bleed out time, thus further ensuring that seals are never skinned alive). The one-minute time requirement was arrived at through consultation with Department of Fisheries and Oceans Canada (DFO) scientists as well as veterinarians, who advised that research indicates the average time for a seal to bleed out is twenty-one seconds.

Question: How is enforcement of the Canadian seal hunt carried out?

Canada's enforcement of its sealing regulations is thorough and comprehensive. Canadian Fishery officers have the powers of a peace officer for enforcing the *Fisheries Act* and its regulations. Fishery officers have the primary responsibility for Monitoring-Control-Surveillance (MCS) activities and enforcement of the regulations governing the hunt. Other police forces, including the Royal Canadian Mounted Police (RCMP) and the Quebec Provincial Police, may also be involved in monitoring the seal hunt.

Generally, Fishery officers conduct surveillance of sealers and sealing activities using aerial surveillance (both fixed-wing aircraft and helicopters); vessel monitoring systems (VMS = satellite tracking); at-sea patrols and inspections; dockside/landing site patrols and inspections; and inspections at buyer/processor sites/facilities. The integration of different tools and surveillance methods are necessary for a well-balanced enforcement program.

As part of ongoing initiatives to enhance program delivery, DFO has reviewed its strategies for seal hunt MCS activities. As a result of the review, the general seal hunt MCS strategy has evolved to a two-phase approach which continues to be enhanced.

The first phase is a continuation of the traditional regional MCS activities, whereby the Fishery officers in the local detachments are engaged in the daily monitoring of seal hunt activities through land, sea and air based monitoring. These efforts are coordinated by the respective regions.

The second phase of the MCS is the deployment of an inter-regional Fishery officer MCS team. This team is a highly mobile force that maintains a 24 hour/7 day enforcement presence at the ice floes, and moves with the fleet as hunting activity changes. Fishery officers are deployed on a Canadian Coast Guard icebreaker which is **dedicated to the seal hunt enforcement program**. The utilization of a fully equipped icebreaker on site at the seal hunt **increases efficiency**. It minimizes transit times and delays in reaching fishing vessels for inspection and/or responding to complaints or detected irregularities.

Independent at-sea fishery observers are randomly deployed to individual sealing vessels. It is **mandatory** for a sealing captain to take an observer on board when requested by DFO, permitting DFO to obtain a balanced distribution throughout the sealing fleet. Observers are fully trained professionals and are deployed full-time in other

ensuring/verifying the continuity of the evidence and/or that the video has not been altered. While in the past charges have resulted based on visual (video) evidence, we have not been successful in prosecution when there has not been other corroborating information.

The changes in the regulations and the investment into enhanced camera technologies will improve our capabilities to conduct surveillance from a distance. This is particularly useful for verifying compliance with the three-step process and, because Fishery officers will be on site, they will be able to collect the appropriate evidence in the manner necessary to conform to the evidentiary requirements for the judicial process.

Traditional livelihood

Comment: Rural coastal communities depend on seal hunting for their livelihood. Many of Canada's rural and remote coastal communities each conduct small hunts.

The coastal peoples of Canada have survived for hundreds of years on what nature provides. Sealing is still an essential part of that way of life.

The current harp seal harvest is conducted as an **economically sustainable activity**. It can make an important contribution to the annual income of people living in rural coastal communities, which also favours support for the traditional family and social ties and reduces outmigration to large urban centres. The loss of economic opportunities resulting from a ban would have an important impact on people in these small communities.

In Newfoundland and Labrador in 2006, at least seven coastal communities derived between 15% and 35% of their total earned income from sealing activities. Over thirty-seven coastal communities obtained more then 5% of their earned income from sealing. In communities with few economic opportunities, this income is vital. The seal hunt provides direct employment for over six thousand people on a part-time basis per year. Some sealers have stated their income from sealing can represent as much as 25-35% of their total annual income. There are also many secondary economic benefits derived from the seal industry. While the seal hunt contributed approximately C$30 million to harvesters' incomes in 2006, it also contributed approximately C$55 million to the provincial economy. (Source: Government of Newfoundland and Labrador/ http://www.fishaq.gov.nl.ca/sealfactsheet/eco.htm)

Seal hunting is practiced throughout the four Inuit regions. Given the importance of seal hunting, twenty-five of the twenty-six Inuit communities in Nunavut are located along the coastline to facilitate easy access to the Arctic Ocean and seal habitat.

For Inuit, the selling of seal skins is a by-product of the hunt, as the meat is the primary reason for harvesting the animals. Nevertheless, the sale of seal products represents a **very important source of income** in regions where economic opportunities are very limited. Skins for garments and arts and crafts and the production of meat currently contributes about $1 million annually to Nunavut's economy.

Economics

Question: What is the value of seal culls [sic] that come into the EU, the total value of their trade, and what the Canadian Government predict it to be this coming year?

The answer is complex. Firstly, the statistical codes used to track exports/imports of fur products do not always differentiate between seal and other fur products, so the data set is incomplete. Secondly, most of Canada's exported seal products go directly to Norway, and it is not known what portion ends up on the EU market. Thirdly, the majority of Canadian seal products shipped to EU countries are in fact trans-shipped "in bond", and the values are not recorded by Eurostat; however when the goods are shipped to their final destination, their point of origin is listed as the port of trans-shipment. COWI noted this complexity and provided, as an example, "Canadian sealskins destined [for] the Italian market but actually entering Finland - are registered as import from Finland by Italy (not transit), while the import from Canada by Finland is registered as transit trade." (p.104). This reality makes it difficult to get a firm handle on the total value of trade in seal products that come into the EU.

Furs are a commodity. That means that prices can shift, sometimes dramatically. The benchmark is mink; as mink prices fluctuate, so do prices of other furs. The year 2006 was probably the best year ever for seal prices, with prime pelts earning up to C$100. They have been considerably lower in subsequent years; the average was about C$33-35 last year. Another factor in the equation is the actual number of pelts sold. If many are sold, the figures are higher.

Statistics Canada data reveal that 79% of Canada's exports of **raw** seal skins in 2007 went to Norway (C$6.8m.) and 20.6% to the EU market (C$1.8m). These figures do not include dressed seal skins or garments. Figures for 2008 have not been received.

Export figures only tell part of the story of the value of this fishery to the Canadian economy. The industry provides part-time employment for up to 6000 people. It generates employment in processing, ship-building and related industries, transportation etc. It also provides work for fishers at a time when there is no other work available, and it provides them with cash income at a time when they need it to gear up for the fishing season. These figures are not calculated in the aggregate, but rather by region. Using the data we have available, a conservative estimate would put the value of the hunt at C$35-40 million annually.

Sustainability

Question: If there was a ban that resulted in the end of a hunt would this have an impact on the fish stocks?

Seals are **important predators** within the Northwest Atlantic and Gulf of St. Lawrence ecosystems, and the development of ecosystem management approaches must take into account the role that seals play in the ecosystem. In 1996, the last year total consumption was examined, it was estimated that seals consumed **four million tonnes** of food, with harp seals responsible for 82% of the total consumption. Of this total only about 20% was made up of commercial species, but seals also consume forage species that are important prey for many commercial groundfish.

respondents versus those respondents who participate as a result of campaigns mounted by special interest groups.

With regard to the poll conducted by COWI using the European Commission's Interactive-Policy Making Tool, there is not sufficient time allowed at present to obtain the questionnaire for analysis purposes. COWI itself **expressed reservations** about the results.

Canada's reservations include:

- The fact that the poll was only presented in English.
- That of the 73,153 responses received, less than half (32,061) were EU residents. This figure represents approximately .01% of the population of the European Union.
- The knowledge gap displayed by the respondents is quite large.
- In addition, possibly the most disturbing of all, COWI noted "...a number of organisations have encouraged their members to participate in the consultation process and even provided guidelines to members/supporters on how to fill in the questionnaire." (p. 125)

DFO conducted public opinion research on this subject in 2000 and again in 2005. The results of both polls indicated that a majority of **Canadians do not object** to the seal hunt if it is conducted in a humane manner.

Humaneness

Question: Should seals be treated differently than other animals?

Canada believes seals should be treated with the same care as other wildlife. Many people who are opposed to the seal hunt believe, as Dr. Lavigne indicated, that seals should be treated as if they are a domestic pet rather than a wild animal. Seals are beautiful creatures but so are most wildlife and like other animals used by humans such as deer, boars and moose, they deserve our respect and to be treated humanely.

Question: How does the efficiency of killing standards for the Canadian seal hunt compare to efficiency of killing standards in European slaughterhouses? Comparison between controlled killing and wild hunts.

Slaughterhouses are designed for the processing of domestic animals. These **animals are raised for the sole function of food production**. They are raised under a human view of what is best for them, and have rarely enjoyed a natural environment. Once they reach a particular size or stage, they often **endure unnatural and stressful transport conditions** to other housing facilities or to slaughterhouses. On the way to the slaughterhouse they can undergo the stress of unknown environments, and once at the slaughterhouse they may undergo the trauma of being led to slaughter. Thus, the stress from holding facility to slaughterhouse may last from hours to days before the animals are put out of their misery. Even within this context, the EFSA report identified that there was a miss-stun rate of up to 6.6% within European slaughterhouses.

The EFSA working group reviewed Dr. Butterworth's study in detail and indicated some areas where they noted inconsistencies and questioned the interpretation presented in his written report. (This is the interpretation that he presented at the IMCO hearing.) For example, although Butterworth stated at the hearing that a significant proportion of seals responded to stimuli after being shot, in his report he states "*...it was not possible to differentiate unequivocally between conscious responses and unconscious reflex activity.*"(EFSA 2007)

Dr. Butterworth has based many of his conclusions on the assumption that the only standard for a humane kill is one that occurs with the first shot or hit. However, as the EFSA report points out, Daoust et al (2002) observed that "when seals were shot from vessels, sealers commonly struck them with their hakapik as soon as they reached them on the ice whether or not these seals showed any evidence of life" (EFSA 2007) Also, previous Canadian regulations required sealers to strike a seal three times regardless of the efficacy of the first blow and many sealers still do so. However, Dr Butterworth considered this to be a violation of animal welfare while the EFSA panel states, "*A series of blows can be used as a method of killing and does not imply that the first blow was ineffective.*" As a result, the EFSA study group concluded, "*the proportion of seals that were not killed by the first shot in the study of Butterworth et al. (2007) remains unclear.*" (EFSA 2007)

Based upon the examination of seventeen skulls Dr. Butterworth and colleagues concluded that only a small percentage was killed humanely. However, the EFSA report points out that "*Based on this evidence, however, it was not possible to determine what may have been the state of consciousness of these animals following the blow(s).*" (EFSA 2007) and therefore the inhumaneness of the Canadian hunt cannot be determined. They also noted that Daoust et al (2002) concluded that the vast majority (>90%) of a much larger sample of seals (two hundred and twenty five) were killed in an acceptably humane manner. EFSA also reported the results of the examination of two hundred and twenty eight skulls by Canadian Fishery officers who found that 89.5% had extensive damage while the remainder was characterized as moderate. This is consistent with veterinary recommendations for damage that will cause irreversible unconsciousness or death. Over the past three years, Fishery officers have examined more than three thousand seals annually with similar results.

Dr. Butterworth based many of his conclusions on the examination of video tape provided to him by HSUS and the International Fund for Animal Welfare (IFAW). However as the EFSA panel points out, because of the difficulties inherent in evaluating what they observe, "*varying interpretations among experts examining the same evidence are to be expected*" and that interpretation of inhumane activities "*is, however, an issue that is often difficult to resolve on video. Daoust et al. (2002) provide an example where a group of observers, examining video sequences different from those viewed by Burdon et al. (2001), came to different conclusions about animals being skinned alive.*"

Dr. Butterworth also indicated that bleeding of seals was not observed. It should be noted that at the time of the study, bleeding was not a requirement in the regulations. The bleeding of seals is now a legal requirement in Canada.

In the opinion of the experts on the EFSA working group, small scale studies such as the one described by Dr. Butterworth "*were derived from what amounts to opportunistic, as*

Canada disagrees with a number of points made by Mr Bourgeois in his remarks before the Committee.

First, Mr Bourgeois seemed to suggest that if the ban on seal products was found to be inconsistent with one of the obligations in the TBT Agreement, it would be possible to rely on one of the exceptions in GATT Article XX to justify the violation. This is not correct; a violation of one of the obligations in the TBT Agreement could not be justified under those exceptions.

Second, Mr Bourgeois seemed to assume that the ban on seal products, if found to be inconsistent with a GATT obligation, would fall within the scope of the Article XX(a) exception. That exception applies to measures taken to "protect public morals". However, it is far from clear whether an EC ban on seal products can or should be characterized as an issue of protecting public morality, as that term is used in the GATT.

Third, Canada takes exception to Mr Bourgeois' facile and inappropriate comparison of trade in seal products with trade in child pornography. To equate the two, as Mr Bourgeois seemed to do, is deeply insulting to the men and women who work in the sealing industry, and it risks trivializing the very serious nature of the problem of child pornography.

Fourth, Mr Bourgeois seems to suggest that public pressure is sufficient to justify a ban on trade in seal products under the GATT exceptions; however, he presents no evidence, nor does he refer to any WTO jurisprudence to substantiate this claim. This is not surprising. If it were the case that public pressure, by itself, could justify banning any product, it would wreak havoc with the rules-based trading system.

6. Éléphant de mer

6. These Regulations come into force on the day on which they are registered.

APPENDIX 2

SEAL LICENSES CONDITIONS FOR 2009 – DRAFT (JANUARY 20, 2009)

1.	**DEFINITIONS**			
"**bleed**" means the severing of the two axillary arteries located under the front flippers.				
"**cranium**" means the part of the skull enclosing the brain.				
"**directed movement**" means coordinated movement of head and/or flippers, including such activities as head movement and escape behaviour. It is also characterized by any immediate movement that reflects an instantaneous response to external stimuli.				
2.	**KILLING METHOD**			
	(1)	**Where a hakapik or club is used to strike a seal:**		
		a)	Every person that strikes a seal with a club or hakapik shall immediately palpate the cranium in accordance with section 28(2) and 28(4) of the MMR then bleed it as soon as possible.	
		b)	Every person that takes a seal that has not been bled on board a vessel shall ensure that it is bled as soon as possible.	
	(2)	**Where a firearm is used to shoot a seal:**		
		a)	Every person that shoots a seal shall observe that seal for directed movement and if such movement is observed shall immediately re-shoot it until no directed movement is displayed before shooting another seal.	
		b)	Every person who disembarks onto the ice to retrieve a seal that has been shot shall:	
			(i)	Proceed to the seal without delay;
			(ii)	Palpate the cranium in accordance with section 28(3) and 28(4) of the MMR immediately upon reaching it; and
			(iii)	Bleed the seal as soon as possible.
		c)	Every person that takes a seal that has not been bled on board a vessel shall ensure that it is bled as soon as possible.	
		d)	Every person who, without disembarking onto the ice, retrieves a seal that	