Testimony of
Christopher D. Lischewski, President/CEO
Bumble Bee Foods, LLC
Before the
U.S. International Trade Commission
March 2, 2010

UNITED STATES—TRANS-PACIFIC PARTNERSHIP TRADE AGREEMENT

Bumble Bee Foods, LLC is an American owned and operated company that has provided quality self stable seafood products for over 110 years. Today, we have annual revenues of approximately $950 million and employ more than 1,000 people in the U.S. We operate two of the last three canned tuna production facilities in the U.S. in Santa Fe Springs, California and in Mayaguez, Puerto Rico. We own and operate one of the last two domestic canned clam facilities in Cape May, New Jersey. Our shrimp processing plant in Violet, Louisiana – the last shrimp canning plant in the U.S. – was destroyed by Hurricane Katrina but we have rebuilt it (without government funds) as a technology center.

As you can see, Bumble Bee Foods has invested heavily in U.S. production facilities. This has supported the Bumble Bee brand which is the leading brand of canned seafood in the U.S. and the second largest brand of canned tuna with a 27.3% market share (we are the leader in the albacore sub-segment with a 44.1% share). Despite a leadership position, we are continuously challenged to drive higher production efficiencies and lower operating costs in an intensely competitive global environment where foreign competitors benefit from lower wage rates (as low as $0.50/hour), do not provide health care benefits and are not subject to a number of other conditions that Bumble Bee, as a U.S. company, voluntarily supports (this includes providing a safe working environment, controlling environmental emissions, paying income and employee taxes, etc.).

Bumble Bee is extremely concerned about the impacts of the potential Trans-Pacific Partnership Trade Agreement (TPP Agreement), largely due to the addition of Peru and Vietnam to the initial P4 countries and the potential for other Asian countries to join. My comments will focus on Bumble Bee's support for the current U.S. tariff rates for canned tuna[1] (Harmonized Tariff Schedule 1604.14.10 to 1604.14.30) and the potential impacts on Bumble Bee and the U.S. tuna industry from the proposed TPP Agreement. At the outset I want to make it clear that Bumble Bee Foods is committed to its' U.S. operations and we will continue to do everything we can to maintain our U.S. processing facilities as long as we can maintain a competitive position. This is becoming more and more difficult as the U.S. government continues to negotiate "one-way" trade agreements that only benefit foreign countries – countries with significantly lower wage rates and employment/environmental regulations that fall far short of the requirements imposed on U.S. manufacturers.

I firmly believe that our company and the entire U.S. tuna industry will be destroyed if duties on canned tuna are eliminated. After reviewing my testimony, I hope you will agree that

[1] 35% for tuna in oil in airtight containers, 6% for tuna in airtight containers not in oil in quota (4.8% of apparent U.S. consumption of tuna in airtight containers previous year) and 12.5% for tuna out of quota in airtight containers; 2010 Revised Harmonized Tariff Schedule.

eliminating duties on canned tuna will result in the loss of thousands of good jobs in U.S. tuna processing plants, will not provide any significant benefits to U.S. consumers and should be rejected.

Existing Tariff Structure Allows U.S. Companies to Compete

The U.S. represents the single largest market for canned tuna consumption in the world (approximately 28%). Within the U.S. market the three major brands – Bumble Bee, StarKist and Chicken of the Sea – represent about 80% of U.S. tuna consumption (total consumption approximately 45 million cases). On average, U.S. companies produce approximately 30 million cases of canned tuna a year, with imports representing approximately 15 million cases. In 2008, the U.S. imported more than $660 million of canned tuna, while the U.S. pack was valued at $844 million. Due to the intense competitive environment caused by low cost foreign imports, retail prices for canned tuna in the U.S. are the lowest among all developed nations of the world. In fact, since the advent of canned tuna imports from low wage countries (e.g. Thailand, the Philippines and Ecuador), retail pricing of canned tuna, when adjusted for inflation, has dropped by more than 60% between 1980 and 2008.

The rise of low cost imports, particularly from Asia, has led to the demise of the U.S. processing industry. Since 1979, at least ten U.S. tuna processing plants have been closed and more than 20,000 cannery jobs lost. Within this competitive market, the remaining U.S. processors face significant wage disparities when compared with major tuna exporters. Average hourly rates in U.S. processing facilities in California, Puerto Rico and American Samoa are about $11.50, $7.50 and $4.75, respectively. Average hourly labor rates in the major tuna exporting nations of Thailand and Ecuador are approximately $0.88 and $0.69, respectively. More disconcertingly, foreign tuna processors are not required to comply with the same health, welfare, safety, regulatory and environmental standards imposed on U.S. processors. Indeed, the U.S. Department of Labor's *2008 Findings on the Worst Forms of Child Labor* has identified some of the TPP beneficiary nations as utilizing child labor or forced labor in the production of goods.

U.S. tuna processors have made tremendous changes in their ongoing operations in order to remain competitive. The Bumble Bee plants in California and Puerto Rico and the Chicken of the Sea plant in Georgia rely heavily on processing and canning imported frozen loins (fillets of cleaned fish), while American Samoa benefits from low fish costs (direct access to fishing vessels) and their exemption from certain U.S. laws (e.g. Nicholson Act, Jones Act). Our plants are now among the most technologically advanced in the world and Bumble Bee continuously strives to increase efficiencies and reduce waste to maintain our competitiveness.

Threats to Bumble Bee and the U.S. Tuna Industry from Low Cost Producers

The U.S. International Trade Commission (ITC) conducted Section 210 and Section 332 investigations in 1984, 1986, 1990 and 1992 to determine if canned tuna was an import sensitive product. In each of these cases you overwhelmingly concluded that canned tuna is "import sensitive". In 2002, while forming the Andean Trade Preferences Act (ATPA), your investigation on the impact of duty-free treatment for canned tuna found U.S. production would significantly decline if duties were dropped. The facts that made canned tuna an import sensitive product still apply today. The findings of the ITC have supported the existing tariff schedule which has helped maintain the U.S. tuna industry. Indeed, the single most important factor to the competitiveness of the U.S. tuna industry and the estimated 7,500 jobs it supports is the current duty structure for imported canned tuna. The modest[2] U.S. duties on tuna products, which average about 9.5%, help offset the tremendous cost disadvantages U.S. processors face when compared to lesser developed nations that do not abide by the employment, regulatory or environmental standards to which we adhere.

Bumble Bee operates around the world; making us familiar with the cost structures of various countries. For obvious reasons, our analysts have performed detailed unit cost estimates for virtually every major tuna processing facility and country. We know, for example, that Thailand has the lowest light meat production cost per unit of any major tuna processing country, with the Philippines, Indonesia and Vietnam not far behind. Vietnam is becoming a significant exporter of canned tuna to the U.S., ranking fifth (in value) in 2008. Vietnam's emergence as a major tuna producer is demonstrated by its increase of canned tuna exports to the U.S. by 568% between 2002 and 2008, according to the U.S. Census Bureau.

Even when the current U.S. duty is applied, Thailand's total cost of canned light meat delivered to the U.S. is lower than all other importers and lower than U.S. processing facilities. Vietnam's cost of production is close to that of Thailand, largely because of very low labor costs, easy access to abundant tuna stocks and highly efficient workers. The current duty, however, narrows the margin between the U.S. and production costs in Asia to a level that allows U.S. plants to remain reasonably competitive.

Peru is also well positioned both as a low labor country and with close proximity to excellent fishing grounds in the Eastern Tropical Pacific. These factors can be closely compared to their neighbor, Ecuador. Ecuador received one duty free item under the ATPA, pouched tuna. In just five years, Ecuador has risen to become the number two producer of pouched tuna imported into the U.S. If given duty free access on all tuna items, Peru's tuna exports could have a severe economic impact on the U.S. tuna processing industry.

The single largest reason for the disparity in cost models is the average labor rate. For U.S. companies, the average hourly labor rate ranges from approximately $4.75 in American Samoa and $7.50 in Puerto Rico to approximately $11.50 in California. Thailand, on the other hand, pays approximately $0.88 cents per hour, which is similar but higher than the cost in Vietnam, the Philippines and Indonesia. Bumble Bee has done everything possible in terms of plant modernization and innovation to close this gap. For example, we have switched to processing loins, as opposed to whole fish, in our Puerto Rico and California plants as a way of reducing labor costs. Even with all of these cost improving measures, if duties on canned tuna are eliminated or substantially reduced in the TPP Agreement, none of the U.S. facilities, including those in American Samoa, would remain economically viable.

<u>Bumble Bee's Position on TPP Agreement</u>

In promoting increased global trade through the reductions of tariffs, our government must take into consideration the investments and jobs that manufacturing companies like Bumble Bee Foods have made and generate. While we firmly believe that the duties on canned tuna should

[2] The EU imposes a 24% duty, Mexico and most of Latin America is 20% or more and these high duties provide an unfair trade advantage against U.S. processors.

remain in place, we understand that this may not be realistic. With the understanding that when duties on canned tuna are eliminated the entire U.S. tuna processing industry will be forced to move offshore, our positions are as follows:

(1) Longest Possible Phase-Out of Existing Duties - As an import sensitive product, canned tuna should be afforded the longest possible adjustment period. In previous trade agreements, such as CAFTA, USTR recognized the import sensitivity of canned tuna by creating a new category for canned tuna in water (1604.14.22 and 1604.14.30) that provided for a ten-year tariff linear phase-out schedule. This ten-year period would provide U.S. tuna producers time to gradually reduce production, jobs and phase out U.S. operations.

(2) Meaningful Base Rates – A ten-year phase-out period for duties on canned tuna is only effective if the base rate—the starting point from which duties are reduced—is the current duty rate. Unfortunately, in CAFTA the base rate was 1.2% in quota and 2.5% over quota making the ten-year phase out virtually meaningless. Setting the base rate at such low levels immediately disadvantages U.S. producers. Base rates in a TPP Agreement, especially for canned tuna in water, must begin with the current duty rates.

(3) Rules of Origin (ROO)—Trade agreements should benefit only those parties involved in the agreement. For this reason, Bumble Bee supports strong ROO, such as the one included in the ATPA. The ATPA requires that qualified tuna products be processed in the beneficiary nation from fish that is harvested by Andean-flag or U.S.-flag tuna vessels. These rules have ensured the benefits of the ATPA are realized not only by tuna processors but by Andean vessels owners and Andean fishermen and they have provided an alternative market for tuna caught by U.S.-flag fishing vessels. Since the ATPA, USTR has supported strong ROO, most recently in the U.S.-Peru Trade Promotion Agreement. In that Agreement USTR supported a new ROO that contained the following change to tariff classification rules for tuna:

1601-1603 – A change to heading 1601 through 1603 from any other chapter.
1604.11-1604.13 – A change to subheading 1604.11 through 1604.13 from any other chapter.
1604.14 – A change to subheading 1604.14 from any other heading, except from heading 0301 through 0304.
1605 – A change to heading 1605 from any other chapter.

Bumble Bee requests that this ROO be included in the TPP Agreement to ensure that only parties to the TPP Agreement, not third parties, benefit from it!

The letter of invitation I received also requests comments on the economic costs and benefits to U.S. producers of tariff reductions. Unfortunately for Bumble Bee and the other U.S. tuna producers there will be no benefits, only costs under a free trade situation. Today the U.S. canneries owned by Bumble Bee (Puerto Rico and California), Chicken of the Sea (Georgia) and StarKist (American Samoa) employ more than 5,000 workers. When the direct and indirect employment of fishermen, vessel owners and vendors is included the U.S. tuna industry supports an estimated 7,500 U.S. jobs. In addition, the direct capital investment of Bumble Bee and the other two producers in plants and facilities exceeds $300 million. All of this investment and all of the jobs associated with our industry will be destroyed if canned tuna is granted duty free status to any of the major Asian or Latin American tuna producers.

Possible Solution for the U.S. Tuna Industry to Remain Economically Viable Under the TPP Agreement

The overwhelming majority of production from the U.S. industry is in the form of canned tuna (airtight containers weighing with their contents not more than 7 kg each). Bumble Bee believes that a free trade policy emphasizing pouched tuna products (tuna in foil or other flexible container) could form an acceptable middle ground in this trade policy. Previously, in the Andean Trade Promotion and Drug Eradication Act of 2002 (ATPDEA), Congress developed a compromise position that provided duty free status on pouched tuna while maintaining the duties on canned product. As a result of the Agreement, Andean countries have significantly increased their exports of pouched tuna to the U.S. while U.S. companies have maintained canned production and related employment. We believe a similar policy would be appropriate for the TPP Agreement.

TPP Agreement Expansion

I understand that one of the U.S. Trade Representative's stated objectives is to expand the TPP Agreement to include other countries in the Asia-Pacific region. As you may be aware, countries in the Asia-Pacific region are already the largest exporters of tuna to the United States and they already have the capacity to satisfy the entire U.S. tuna market. Nothing could be more devastating to Bumble Bee than the expansion of the TPP Agreement to countries like Thailand, the Philippines, Indonesia, Vietnam, or Peru. Together these first three countries account for approximately 85% of all canned tuna imported into the U.S. Under a duty-free or low tariff schedule, imports from these countries would flood the market and eliminate the U.S. tuna processing sector in a very short period of time. Consequently, Bumble Bee would oppose the expansion of the TPP Agreement to these countries.

In the unfortunate event that these countries do become parties to the TPP Agreement in the future, the current duty rate must be used as the starting point for any tariff reductions for their tuna products, not the reduced level in effect for other members of the TPP Agreement. In other words, if the U.S. objective is to promote expansion of the TPP Agreement in the future, the USTR must adopt the position that new members start at the duty rate in effect for that country at the time of accession and not the reduced rate that may already be in effect for existing members of TPP Agreement.

The U.S. represents the single largest canned tuna market in the world and clearly Vietnam, Thailand, the Philippines, Ecuador, and other Asian/Latin American countries have had no difficulty, given the price structure discussed above, in selling their products in our market and expanding their market share. Even in the absence of a TPP Agreement, we believe these countries will continue to increase exports to the U.S. as they have done in the past. Notwithstanding this view, we recognize the reality that the U.S. is moving forward with eliminating duties on all products and have developed a mutually beneficial position that would foster growth in TPP Agreement countries while allowing the U.S. industry to remain viable, at least in the near future.

Summary

Today, our industry is just a fraction of what it was 30 years ago because of increased competition from low cost imports and declining prices (in real terms) of our products. Between 1979 and 1989, five canneries, which represented 40% of the industry workforce, shut down. Since 1990, another six canneries have closed. Because canned tuna is a global commodity in extremely competitive markets, those of us left in the industry have been forced to do everything we can to remain competitive. We have reduced the cost of production through automation, increased yields by using new technology, shifted to processing loins to reduce labor costs and invested in foreign sources of material. There is very little else we can do to reduce costs.

With respect to prices, no company is in a position to raise prices in a market accessible to low cost imports. In fact, with the advent of canned tuna imports from low wage rate countries, retail pricing of canned tuna, when adjusted for inflation, has dropped more than 60% between 1980 and 2008, according to Federal Trade Commission data. Retail prices of canned tuna in the U.S. are the lowest among all developed nations of the world. These facts reinforce the competitive nature of the canned tuna industry. We know, as do our competitors, that consumer buying choices are driven primarily by prices. Industry research has consistently shown that price, even more so than brand name, is the most important factor related to sales. No U.S. tuna processor is in the position to increase prices to compensate for higher production costs.

The first U.S. tuna cannery opened in 1903 and for more than 100 years the U.S. tuna industry has supplied America with a wholesome, inexpensive source of protein. Today, canned tuna remains a favorite of consumers as it is found in more than 85% of all households, according to A.C. Nielsen Homescan data. However, the elimination or reduction of the current duty structure, coupled with a weak rule of origin, could change all this. Our industry has already suffered from low cost foreign imports and we will continue to face intense competition from low wage producers. The current duty structure has allowed Bumble Bee and other U.S. processors to remain competitive while taking every action to reduce our costs. We need the Commission's and USTR's assistance to remain competitive and respectfully request that you embrace the recommendations contained in this testimony.

Thank you for the opportunity to provide Bumble Bee's comments on the proposed TPP Agreement and I would be happy to provide you with any additional information you may require.

Signed:

Christopher D. Lischewski