

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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In the Matter of: )  
 )  
CERTAIN FROZEN OR CANNED ) Investigation Nos.:  
WARMWATER SHRIMP AND PRAWNS ) 731-TA-1063-1068 (Final)  
FROM BRAZIL, CHINA, ECUADOR, )  
INDIA, THAILAND, AND VIETNAM )

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 FROM BRAZIL, CHINA, ECUADOR, )  
 INDIA, THAILAND, AND VIETNAM )

Wednesday,  
 December 1, 2004

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

The hearing commenced, pursuant to notice, at  
 9:28 a.m. before the Commissioners of the United States  
 International Trade Commission, the Honorable STEPHEN  
 KOPLAN, Chairman, presiding.

## APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

STEPHEN KOPLAN, CHAIRMAN  
 DEANNA TANNER OKUN, VICE CHAIRMAN  
 MARCIA E. MILLER, COMMISSIONER  
 JENNIFER A. HILLMAN, COMMISSIONER  
 CHARLOTTE R. LANE, COMMISSIONER  
 DANIEL R. PEARSON, COMMISSIONER

APPEARANCES: (cont'd.)

Staff:

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JAMES MCCLURE, SENIOR INVESTIGATOR  
ELIZABETH HAINES, INVESTIGATOR  
ROGER COREY, INTERNATIONAL TRADE ANALYST  
JOHN BENEDETTO, ECONOMIST  
JOHN ASCIENZO, AUDITOR/ACCOUNTANT  
MARC BERNSTEIN, ATTORNEY

Congressional Witness:

THE HONORABLE THAD COCHRAN, United States Senator,  
State of Mississippi

State Government Witnesses:

THE HONORABLE JOHN ROUSSEL, Assistant Secretary,  
Louisiana Department of Wildlife and Fisheries,  
State of Louisiana  
THE HONORABLE BURTON P. GUIDRY, Assistant Attorney  
General, Louisiana Department of Justice, State  
of Louisiana  
THE HONORABLE DAVID J. CAMARDELLE, Mayor, Town of  
Grand Isle, Louisiana; and President and  
Director, Grand Isle Independent Levee Board  
THE HONORABLE KEVEN BELANGER, CEO, South Central  
Planning & Development Commission, Houma,  
Louisiana  
THE HONORABLE DON SCHWAB, Terrebonne Parish  
President, Houma, Louisiana  
THE HONORABLE CHARLOTTE A. RANDOLPH, Lafourche  
Parish President, Thibodaux, Louisiana

APPEARANCES: (Cont'd.)

In Support of the Imposition of Antidumping Duties:

On behalf of Ad Hoc Shrimp Trade Action Committee;  
Versaggi Shrimp Corporation; and Indian Ridge Shrimp  
Company:

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Foods  
ANDREW BLANCHARD, President, Pearl, Inc.  
KIMBERLY CHAUVIN, Owner, Mariah Jade Shrimp  
Company  
SAL VERSAGGI, Owner, Versaggi Shrimp Company  
DAVID COOK, Vice President, Specialty Seafood  
Trade, Bumble Bee Seafoods  
PATRICK STAVES, Assistant General Manager and  
Controller, Bumble Bee Seafoods  
RICHARD GOLLOT, Secretary and Treasurer, Golden  
Gulf Coast Packing Company, Inc.  
PHOUNG DANG, Commercial Shrimp Fisherman, Biloxi,  
Mississippi  
SCOTT ST. PIERRE, Commercial Shrimp Fisherman,  
Golden Meadows, Louisiana  
CRAIG WALLIS, Commercial Shrimp Trawler Owner and  
Operator, Palacios, Texas  
SUSAN HESTER, Economist, Dewey Ballantine, LLP

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APPEARANCES: (Cont'd.)

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On behalf of National Chamber of Aquaculture (Ecuador)  
and American Seafood Distributors Association:

GEORGE CHAMBERLAIN, President, Global Aquaculture Alliance

RUSS MENTZER, President and CEO, King & Prince Seafood Corporation

BILL HERZIG, Vice President, Seafood Purchasing, Darden Restaurants, Inc.

PETER REDMOND, Vice President/Divisional Merchandising Manager, Deli/Seafood, Wal-Mart Stores, Inc.

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LARS LIABO, General Manager, Kontali Analyse AS  
JOHN WENDT, President, Seatech Corporation

THOMAS V. VAKERICS, Esquire  
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Washington, D.C.

On behalf of Xian-Ning Seafood Co., Ltd.:

JOHN J. KENKEL, Esquire  
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APPEARANCES: (Cont'd.)

In Opposition to the Imposition of Antidumping Duties:

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ALEXANDER W. SIERCK, Esquire  
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On behalf of Seafood Exporters Association of India (SEAI):

NAGESH MOTAMARRI, Finance Director, Nekkanti Seafoods, Ltd.

K. SHIVAKUMAR, Independent Consultant

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P R O C E E D I N G S

(9:28 a.m.)

1  
2  
3 CHAIRMAN KOPLAN: Good morning. On behalf  
4 of the United States International Trade Commission, I  
5 welcome you to this hearing on Investigation Nos.  
6 731-TA-1063-1068 (Final), involving Certain Frozen or  
7 Canned Warmwater Shrimp and Prawns from Brazil, China,  
8 Ecuador, India, Thailand and Vietnam.

9 The purpose of these investigations is to  
10 determine whether an industry in the United States is  
11 materially injured or threatened with material injury  
12 by reason of less than fair value imports of subject  
13 merchandise.

14 Schedules setting forth the presentation of  
15 this hearing, notice of investigation and transcript  
16 order forms are available at the Secretary's desk.  
17 All prepared testimony should be given to the  
18 Secretary. Do not place testimony directly on the  
19 public distribution table.

20 As all written material will be entered in  
21 full into the record, it need not be read to us at  
22 this time. All witnesses must be sworn in by the  
23 Secretary before presenting testimony. I understand  
24 the parties are aware of the time allocations. Any  
25 questions regarding the time allocations should be

1 directed to the Secretary.

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

6 Madam Secretary, are there any preliminary  
7 matters?

8 MS. ABBOTT: No, Mr. Chairman.

9 CHAIRMAN KOPLAN: Thank you. I have one  
10 preliminary matter.

11 It is with great pleasure that I want to  
12 state for the record that finally at long last the two  
13 Commissioners sitting to my right, Commissioners Lane  
14 and Pearson, have been confirmed by unanimous consent  
15 by the U.S. Senate. It has been a long road. When it  
16 finally got done, it took seconds. If you blinked you  
17 would miss it, but I didn't miss it, and I'm delighted  
18 to have them as permanent colleagues.

19 Thank you. I just wanted to acknowledge  
20 that.

21 (Applause.)

22 CHAIRMAN KOPLAN: That's what I was waiting  
23 for. Now we can proceed.

24 Very well. Madam Secretary, will you please  
25 call our first public witness?

1 MS. ABBOTT: The Honorable John Roussel,  
2 Assistant Secretary, Louisiana Department of Wildlife  
3 & Fisheries, State of Louisiana.

4 CHAIRMAN KOPLAN: Good morning. Your  
5 microphone?

6 SECRETARY ROUSSEL: Excuse me. Mr.  
7 Chairman, members of the Commission, my name is John  
8 Roussel. I'm the Assistant Secretary of the Louisiana  
9 Department of Wildlife & Fisheries, and I want to  
10 thank the Commission for providing the opportunity for  
11 me to appear here and participate in this hearing.

12 My appearance here today is on behalf of the  
13 State of Louisiana, and it is in support of the  
14 petition filed by the Ad Hoc Shrimp Trade Action  
15 Committee on December 31, 2003. As part of my  
16 testimony, I will read into the record a letter of  
17 support signed by Louisiana Governor Kathleen Blanco.

18 All of the quantitative information provided  
19 in my comments were derived from federal and state  
20 published documents and unpublished license data  
21 that's collected by my department.

22 The U.S. shrimp fisheries has historically  
23 been the most valuable commercial fishery in this  
24 nation. However, for the most recent year, for the  
25 first time on record, shrimp ranked second in value

1 nationally.

2           Four years ago, the shrimp fishery accounted  
3 for approximately one-fifth of the total value of all  
4 commercial seafood products produced by this country.  
5 In the most recent year, shrimp accounted for  
6 approximately one-eighth of the value.

7           The State of Louisiana has historically been  
8 the leading producing state in this country, and for  
9 the last four years we have produced approximately 36  
10 percent of the total production in the U.S. The  
11 shrimp fishery in Louisiana is clearly the most  
12 important commercial fishery with an average dockside  
13 value of approximately \$179 million annually over the  
14 last four years.

15           Using data published in federal and state  
16 published documents, Department of Wildlife &  
17 Fisheries economists estimate that these landings on  
18 an annual basis contribute to the creation of \$1.2  
19 billion in final goods and services at the retail  
20 level, produce economic benefits of \$1.5 billion to  
21 the state and directly support 17,805 full-time job  
22 equivalents.

23           Now, these estimates are based only on  
24 Louisiana's landings, only on our share, and they are  
25 estimates of the impact on our economy at the state

1 level and not at the national level. You would expect  
2 those estimates to be substantially larger if applied  
3 to the national economy.

4 This segment of the Louisiana and the U.S.  
5 domestic economy has a long history and until recently  
6 has been very stable. It's been providing fresh  
7 products to American consumers, jobs to its citizens  
8 and a cultural imprint to coastal Louisiana and other  
9 shrimp producing areas of the nation.

10 In recent years, depressed dockside prices  
11 have severely undermined the financial stability of  
12 this industry, the jobs and wages it supports and a  
13 way of life. Beginning in 2000, the dockside prices  
14 in Louisiana have continued on an annual decline with  
15 the total reduction between 2000 and 2003 equaling 38  
16 percent on a per pound basis.

17 To illustrate the effects of these reduced  
18 dockside prices, if we assume that the dockside value  
19 of the fishery is equally distributed among all the  
20 licensed participants in Louisiana, four years ago the  
21 10,969 Louisiana licensed commercial shrimpers had an  
22 average gross income from the sale of shrimp of just  
23 over \$23,000. In the most recent year, 9,436 licensed  
24 commercial shrimpers had an average annual gross  
25 income of just under \$14,500.

1           Even with the 14 percent reduction in the  
2           number of participants, the remaining participants  
3           still experienced a 38 percent reduction in their  
4           gross income from the sale of shrimp. The decrease in  
5           dockside value from 2000 to 2003 represents a decrease  
6           in economic benefits to the State of Louisiana of \$1  
7           billion, a reduction in the gross value of final goods  
8           and services at the retail level of \$801 million.  
9           Again, these estimates are at the state level only and  
10          would be expected to be substantially higher if viewed  
11          from the national level.

12           When I testified at the initial hearing on  
13          this petition in this very room on January 21, 2004,  
14          it was the day after President Bush delivered his  
15          state of the union address, and I made this statement.  
16          I said unlike what President Bush reported the  
17          previous night, the state of the domestic shrimp  
18          industry was not good.

19           Frankly, in hindsight that was a gross  
20          understatement. Now with the benefit of another year  
21          of information and a more detailed view of the  
22          financial situation of this industry, I can't see how  
23          it can be characterized as anything short of imminent  
24          peril.

25           The state fully and strongly supports this

1 petition against the dumping of imports into the U.S.  
2 market, and the very survival of the domestic shrimp  
3 industry I think is at stake.

4 I do have a letter from Governor Kathleen  
5 Blanko, a short letter that I'd like to read into the  
6 record. It's addressed to The Honorable Marilyn  
7 Abbott, Secretary of the U.S. International Trade  
8 Commission, and is as follows:

9 "I'm writing in support of the antidumping  
10 trade petition filed on December 31, 2003, against the  
11 imports of frozen and canned warmwater shrimp and  
12 prawns from Brazil, China, Ecuador, India, Thailand  
13 and Vietnam.

14 "For decades, the shrimp industry has made  
15 important economic and cultural contributions to  
16 Louisiana and the rest of the nation. There is clear  
17 evidence that this industry has been under severe  
18 economic stress due to dumped shrimp from other  
19 countries being imported into the United States.

20 "I urge the U.S. International Trade  
21 Commission to exercise its full powers under the law  
22 to prevent illegal trade and to allow the United  
23 States shrimp industry the opportunity to fairly  
24 compete with shrimp imports.

25 "I also urge the U.S. International Trade



1 Commission to make a final determination that  
2 recognizes the important role harvesters play in the  
3 domestic industry by including fresh warmwater shrimp  
4 as a like product.

5 "Thank you for your attention and assistance  
6 with this important matter."

7 Also, just prior to leaving Louisiana to  
8 attend this hearing I was requested by a number of  
9 state legislators to carry a letter up here, which I  
10 provided to the staff prior to the hearing. It was  
11 authorized by seven Louisiana state senators and 10  
12 Louisiana state representatives who collectively  
13 represent the entire coast of Louisiana.

14 I will not read that letter, but I'd like it  
15 to be part of the record.

16 CHAIRMAN KOPLAN: Without objection.

17 SECRETARY ROUSSEL: Thank you. In closing,  
18 again I want to thank you for the opportunity to  
19 appear here on this important issue, and I'd be happy  
20 to answer any questions you may have at your  
21 convenience, either now or at some time in the future.

22 CHAIRMAN KOPLAN: Thank you very much for  
23 your testimony.

24 Let me see if any of my colleagues have  
25 questions.

1 (No response.)

2 CHAIRMAN KOPLAN: Seeing that they have  
3 none, we very much appreciate your testimony, and  
4 you're excused.

5 SECRETARY ROUSSEL: Thank you.

6 CHAIRMAN KOPLAN: Thank you.

7 MS. ABBOTT: The Honorable Thad Cochran,  
8 United States Senator, State of Mississippi.

9 CHAIRMAN KOPLAN: Welcome, Mr. Chairman.

10 MR. COCHRAN: Mr. Chairman, thank you very  
11 much for this opportunity to come before the  
12 Commission to let you know how serious the State of  
13 Mississippi feels about this petition and how strongly  
14 we urge the Commission to confirm its temporary and  
15 intermediate findings in this case and make the  
16 decision a permanent one that would find that there's  
17 been illegal dumping of shrimp in the markets of the  
18 United States to the gross detriment of those involved  
19 in this important industry in the United States.

20 In our State of Mississippi, we can't  
21 compete with the numbers that the distinguished  
22 gentleman from Louisiana pointed out were applicable  
23 in the case of the State of Louisiana, but we do have  
24 a substantial number of Mississippians involved in  
25 shrimping, in processing and selling shrimp not only

1 in our state, but throughout the United States.

2 It's an industry that has grown and  
3 developed over 75 or 80 years in our state. The  
4 people who are involved in it have become some of the  
5 most important and influential citizens in our state.  
6 They have a great impact on the economy of our state.

7 I've prepared a statement, which I've  
8 submitted to the Commission, and hope that it will be  
9 printed in the record. Just to summarize the impact  
10 of this on our state, in Mississippi we've had this  
11 industry generate more than \$200 million in direct  
12 economic activity for our state.

13 The impact of the dumping has been that  
14 we've seen prices received at the dock by the  
15 fishermen cut almost in half over the last four years.  
16 The number of commercial shrimp license holders has  
17 decreased by 20 percent since the year 2000. We  
18 calculate the losses to the fishermen themselves at  
19 almost \$42 million over the last four years.

20 The impact in our state is quite serious,  
21 and unless the Commission acts we're going to see this  
22 entire industry collapse in our state. It is in the  
23 process of collapsing now, and the peril, as the  
24 gentleman from Louisiana said, is imminent.

25 Without effective enforcement of our laws,

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1 the prices of these imports and the survival of our  
2 shrimping industries are clearly in serious danger.  
3 We hope that the Commission will act. We appreciate  
4 your having this hearing. Those who will follow me  
5 from our state, Richard Gollot in particular, has all  
6 the details and the specific facts that would support  
7 the conclusions that are contained in my statement.

8 I'm here to thank you for your careful  
9 attention to the petition and hope that you will be  
10 able to resolve this in favor of those who are hurt  
11 the most, the shrimping industry throughout our  
12 nation.

13 Thank you very much.

14 CHAIRMAN KOPLAN: Thank you, Senator. The  
15 full text of your statement will be included as part  
16 of the record.

17 Let me turn to my colleagues and see if they  
18 have any questions. Commissioner Pearson?

19 COMMISSIONER PEARSON: Could I just offer a  
20 personal greeting?

21 CHAIRMAN KOPLAN: Absolutely.

22 COMMISSIONER PEARSON: Mr. Chairman, it's a  
23 great pleasure to see you again. I recall it was 21  
24 years ago that I first had the opportunity to be with  
25 you in a hearing room, along with Wayne Boutwell and

1 then after that David Graves and then Mark Keenam and  
2 so on.

3 It's just great to see you again. You  
4 haven't changed a bit.

5 MR. COCHRAN: You're very kind. Thank you.  
6 Thank you very much, Mr. Chairman.

7 CHAIRMAN KOPLAN: Thank you for coming.  
8 Appreciate your testimony.

9 Madam Secretary?

10 MS. ABBOTT: The Honorable Burton P. Guidry,  
11 Assistant Attorney General, Louisiana Department of  
12 Justice, State of Louisiana.

13 MR. GUIDRY: Good morning, ladies and  
14 gentlemen. I appreciate the opportunity to come  
15 before you this morning on behalf of the Attorney  
16 General of the State of Louisiana.

17 My name is Burton Guidry. My title is  
18 Assistant Attorney General for the State of Louisiana.  
19 I am here today representing both the state, the  
20 Louisiana Department of Justice, my Attorney General  
21 Charles C. Fotey, Jr., and many other elected  
22 officials statewide and local. Along with those  
23 officials, the Attorney General appears before you  
24 today in support of the Trade Action Committee  
25 petition filed on December 31, 2003.

1           Along with our Governor, Kathleen Blanko,  
2           and other elected officials who have voiced their  
3           support for this action, I come before you with hat in  
4           hand literally requesting that you do justice for us  
5           in this particular matter.

6           Now, you may ask why do you bring this hat  
7           in hand, Mr. Guidry? This hat is a special hat. It  
8           is the hat of some of our greatest Presidents --  
9           Truman, Roosevelt, LBJ, both Bushes, Ronald Reagan.  
10          It is a hat that symbolizes the last land-based open  
11          frontier.

12          Much like the hat of Stetson fame, shrimpers  
13          are the last bastions of an open frontier. In some  
14          ways the shrimper, the American shrimper, is much like  
15          this hat. The shrimper has to face elements and  
16          forces of nature no one else in any other business has  
17          to face.

18          However, unlike the Stetson and the farmers,  
19          ranchers, cattlemen of the great American frontier,  
20          the shrimper has no solid ground whatsoever to observe  
21          the process of the growth of his product. Unlike the  
22          farmer and cattlemen, the shrimper has no proprietary  
23          interest in any fertile area that he can observe and  
24          alter to improve crop production. He has no legal  
25          protection from the intrusion into his area where he's

1       shrimping from anyone else.

2                   Unlike the rancher or the farmer, he has no  
3       ability to know where or when his next crop will  
4       appear or what the quality of that crop may be. To  
5       the shrimper, weather is but one factor. He cannot  
6       control the salinity level of the sea. He cannot  
7       control the temperature and all the contents of the  
8       sea. In the end, as a businessman, whether or not he  
9       does his best he is still subject to so many  
10      contingencies.

11                   Despite his best effort, the American  
12      shrimper has survived through increases in cost,  
13      liability issues, et cetera. Until the issue of  
14      price, that American shrimper has been able to  
15      survive. Since the actions that are complained of in  
16      this petition, the industry has made a dramatic  
17      downturn.

18                   Unlike his land-based counterparts, American  
19      shrimpers' fate is constantly dependent upon all of  
20      the factors that I've discussed before. At least  
21      during the times before this dumping occurred the  
22      American shrimper could always depend on at least one  
23      thing. He was going to receive a fair and reasonable  
24      price at the dock for whatever product he could take  
25      from the sea. Despite the fluctuations in fuel,

1 despite all the regulatory requirements you people in  
2 Washington, D.C. and other states have visited upon  
3 them, the American shrimper was able to survive.

4 Today, for reasons beyond his control, he is  
5 faced with global economic forces that are not his  
6 doing at all, yet he still endures the same risks, he  
7 still makes the same expenditures and he still faces  
8 the same elements. It's the price.

9 The domestic shrimp industry, much like the  
10 rest of the nation, has been under what I believe is  
11 an insidious attack, much like that of 9-11, but much  
12 more quieter and much more dangerous and much more  
13 deadly. Obviously it's not something that the media  
14 picks up. It's not something that sometimes even our  
15 regulatory scheme and our legal scheme picks up, but  
16 it is still insidious nevertheless.

17 Our state, the State of Louisiana, will  
18 obviously be much more affected than any other.  
19 Therefore, you see before you today a great number of  
20 folks from our home. The Attorney General of  
21 Louisiana, on behalf of the citizens, implores you to  
22 make a decision in the favor of the petition.

23 He requests that in your deliberations that  
24 you review the testimony and evidence presented and  
25 you take into account the unique and very special



1 nature of the American shrimpers' business in making  
2 this decision.

3 We ask you to please fashion a ruling to be  
4 as broad as possible and as complete as possible.  
5 Ultimately, we hope that you, like the great American  
6 wearers of this hat, will protect us from  
7 international attack. We ask you to hang your hat  
8 with us.

9 Like my friend, James Carville from  
10 Louisiana, would say, it's the price. It's the price,  
11 stupid. That's the issue.

12 Thank you for your time, and we appreciate  
13 all of your considerations. I'll answer any questions  
14 if you can, but more than likely I'd like to just  
15 thank you on behalf of the Attorney General and the  
16 Governor of Louisiana for your time and efforts in  
17 this matter.

18 CHAIRMAN KOPLAN: Thank you very much for  
19 your testimony.

20 MR. GUIDRY: Thank you, sir.

21 CHAIRMAN KOPLAN: Do we keep that hat as an  
22 exhibit?

23 MR. GUIDRY: If it helps in your decision,  
24 you can have it.

25 MS. ABBOTT: The Honorable David J.

1 Camardelle, Mayor, Town of Grand Isle, Louisiana, and  
2 president and director, Grand Isle Independent Levee  
3 Board.

4 CHAIRMAN KOPLAN: Welcome.

5 MR. CAMARDELLE: Good morning. Many  
6 American flags hang in my grandfather's home. I never  
7 realized the significance until my mother explained  
8 the meaning of those flags. She stated that at the  
9 end of the year the shrimper who hauled the most  
10 shrimp received the American flag for that year. My  
11 grandfather showed his pride for those flags by  
12 hanging them in his home.

13 In those days, a commercial fisherman's  
14 family could survive off of a single salary. Today I  
15 hold a commercial fishing license, a king mackerel  
16 federal permit, an elected official seat, a position  
17 on the Levee Board, am a small business owner and my  
18 wife has a job in order to provide for a family of  
19 four. My grandfather supported his wife and seven  
20 children only on a commercial fisherman's income.

21 I was born in 1956. I graduated in 1976  
22 from Grand Isle High School. I then completed a  
23 course in air conditioning/refrigeration in Baton  
24 Rouge Trade School in 1976. From the age of nine  
25 until I graduated, I shrimped or crabbed during the

1 weekends, throughout the holidays and proceeded  
2 throughout the summer.

3 After I received my degree, my father gave  
4 me a 45 foot shrimp boat. It was in the blood. Once  
5 you're a commercial fisherman, it stays in the blood.  
6 I was proud to carry the fishing tradition. I worked  
7 only as a commercial fisherman until the late 1980s.

8 At that time, a gallon of paint to keep my  
9 boat up was \$8 to \$10. Two 40-foot nets ran about  
10 \$800. To put your boat up on dry dock, it would cost  
11 you \$400 or \$500. Boats were kept well and  
12 maintained.

13 Eventually the price of the wholesale shrimp  
14 decreased while the cost of living increased. Today  
15 the same gallon of paint costs about \$26. The two  
16 nets to run, the 40-foot nets, run about \$1,600 to  
17 \$1,800, and the dry dock costs several thousand  
18 dollars.

19 I was forced to seek other avenues of income  
20 because of the increasing cost of maintenance and the  
21 decreasing cost of shrimp. Years ago, commercial  
22 fishermen could purchase groceries and supplies on  
23 credit from several local businesses, especially in my  
24 town, and their debts could be paid as their catch  
25 would permit.

1                   Today most of the stores went out of  
2                   business in my town due to the price of the shrimp not  
3                   being the fair market value. The price of shrimp is  
4                   decided on the amount of dumped imported shrimp on the  
5                   market.

6                   I was elected mayor of the Town of Grand  
7                   Isle in 1997. Since 2001, I've been personally  
8                   watching many of the local fishermen not be able to  
9                   make ends meet. As a member of the fishing community,  
10                  I know firsthand the effects of struggling to pay  
11                  necessary bills. In many instances, I have taken into  
12                  consideration their circumstances and allowed  
13                  extending their due dates for payments on their  
14                  utility accounts.

15                  I came here yesterday morning. I left Grand  
16                  Isle at 2:00 in the morning, got in a plane in New  
17                  Orleans at 6:00 to come to try to save my fishermen  
18                  and my community. There's 1,253 of us in my little  
19                  town. Just yesterday evening I got a phone call in  
20                  Washington. I was notified that 52 families were not  
21                  able to pay their water bills. Out of the 52, 37 were  
22                  commercial fishermen. They're like brothers and  
23                  sisters of mine.

24                  As a man who was born and raised as a  
25                  commercial fisherman, this has been very hard for me

1 to deal with since I've been elected. I've been on  
2 the council in Grand Isle since 1989. My fishermen  
3 put me there. I'm on my sixth term, three terms as a  
4 councilman, and I just got reelected to my third term  
5 as mayor. These are my people.

6 In closing, looking back the times were  
7 hard, but getting by was easier for my grandparents.  
8 With today's technology, the work is less difficult,  
9 yet it's harder to make an honest living in the sea  
10 due to the dump of imports.

11 It is very important to stop imports so that  
12 the fishermen can be proud to show the flags as  
13 Americans. I want to thank you all, and I'm going to  
14 get on a plane and go deal with these utility bills,  
15 but I can promise you I'm not going to cut them off.

16 Thank you very much. I also have a letter  
17 of support from Senator Landrieu and Senator John  
18 Breaux.

19 Thank you very much. Any questions?

20 CHAIRMAN KOPLAN: Thank you for your  
21 testimony. That letter will be made a part of the  
22 record.

23 MR. CAMARDELLE: Thank you.

24 CHAIRMAN KOPLAN: I see there are no  
25 questions from the dais. Thank you very much.

1 MR. CAMARDELLE: Thank you.

2 MS. ABBOTT: The Honorable Kevin Belanger,  
3 CEO, South Central Planning & Development Commission,  
4 Houma, Louisiana.

5 MR. BELANGER: Thank you, Mr. Chairman,  
6 other members of the International Trade Commission.  
7 My name is Kevin Belanger. I am the CEO of South  
8 Central Planning & Development Commission.

9 We are a regional planning commission  
10 situated in south central Louisiana. We have been  
11 recognized by the United States Department of Commerce  
12 for over 32 years as the liaison for economic  
13 development inside of our region.

14 I have a prepared statement that I'd like to  
15 read to you, and hopefully it will clarify some of the  
16 things that you may hear today a little further.

17 The south central region of Louisiana is  
18 comprised of six parishes -- we call them parishes;  
19 you call them counties -- including the coastal  
20 parishes of Lafourche and Terrebonne. The economy of  
21 our communities is tied to the petroleum industry,  
22 waterborne commerce and fisheries. The shrimp  
23 industry is the largest fishery in our region. In  
24 Lafourche and Terrebonne Parishes along, 47 million  
25 pounds of shrimp were harvested in 2001.

1                   According to the Louisiana Department of  
2                   Agriculture, the total number of shrimp producers that  
3                   year was at 3,825. In the year 2002, there were 3,372  
4                   producers, and 32.8 million pounds of shrimp was  
5                   harvested. It is estimated that the Gulf Coast shrimp  
6                   industry supports 138,000 jobs and is a \$9 billion  
7                   industry.

8                   For the last three years, the United States  
9                   has suffered a negative balance of trade with shrimp.  
10                  In 2002, the balance of trade was a negative \$3.28  
11                  billion; in 2003, a negative \$3.6 billion; and for the  
12                  first nine months of 2004 a negative \$2.3 billion.

13                  A report of the Southern Shrimp Alliance  
14                  dated May 14, 2004, notes that compared to the  
15                  previous year, shipments from foreign countries rose  
16                  significantly in March of 2003 -- 22 percent for  
17                  India, 40 percent for Vietnam, 62 percent for Ecuador  
18                  and 279 percent for China.

19                  This enormous surplus of foreign farm raised  
20                  shrimp is driving the price of domestic shrimp down.  
21                  Our shrimp industry is suffering from heavy  
22                  operational costs already as fuel and insurance costs  
23                  have risen. The lowering of shrimp prices due to what  
24                  we perceive as dumping is stressing this local  
25                  industry.

1           Aquaculture is said to be less expensive and  
2 more predictable for markets selling shrimp products  
3 than wild caught shrimp. We're not here to emphasize  
4 that wild or pond grown shrimp are any better than the  
5 other, but what we are aware of and what we are trying  
6 to tell you today is that dumping is causing our  
7 industry to decline.

8           Shrimp farming has been difficult in the  
9 United States due to the cost of land and  
10 environmental restriction. Foreign shrimp farming  
11 techniques are not governed by strict environmental  
12 compliance and land use restrictions that are imposed  
13 on our wetlands.

14           Construction of shrimp farms has been  
15 subsidized by governments without regard to  
16 environmental impacts on wetlands and coastal areas.  
17 Foreign shrimp farms have grown rapidly, displacing  
18 miles of vast coastal wetlands in the process of  
19 ruining other fishery industries by taking out nursery  
20 grounds.

21           The farming process has brought with it  
22 other problems, including disease, pollution. Disease  
23 can spread through the ponds in which the shrimp are  
24 raised in a matter of days, wiping out the whole  
25 product. We understand that Thailand's shipments have



1       dropped by 20 percent this year for that very reason.

2               Use of pesticides and other chemicals like  
3 chlorophenocal to counter the rapid spread of disease  
4 through the ponds and keep the product predictability  
5 desired by import corporations has led to the banning  
6 of shrimp in the European Union.

7               We have banned the use of chlorophenocal for  
8 agricultural purpose due to its harmful effects, but  
9 are still allowing shrimp treated with this  
10 antibacterial to be imported. This has resulted in an  
11 exceeding amount of surplus shrimp raised from the  
12 maraud of foreign farms designed to meet the market  
13 area being dumped into our country, hurting our  
14 industry.

15              There has been much written about the  
16 impacts that tariffs will have on processors,  
17 restaurants and others that sell the imported shrimp.  
18 We hear how they impact consumers with higher prices.  
19 On the other side, we are told that even though the  
20 price of shrimp is dropping, the consumer is already  
21 paying more at the register for shrimp products.

22              We know that you have a very complicated  
23 issue to debate and decide upon. We ask that you give  
24 heavy consideration to the plight of a traditional  
25 industry that has supported our communities and

1 families for over 200 years.

2 The loss of the shrimp industry would be a  
3 devastating blow to our culture and local economies.  
4 We understand that the native shrimp industry needs to  
5 adjust itself in order to continue to thrive and to be  
6 sustainable.

7 We believe our shrimp industry can change to  
8 meet the demands of becoming more suitable in the  
9 global economy, but that will not happen if we  
10 continue to allow inexpensive, mass produced and  
11 environmentally unsound farmed shrimp to be imported  
12 en masse into our country to the demise of a treasured  
13 way of life.

14 Thank you for your time and your  
15 consideration.

16 CHAIRMAN KOPLAN: Thank you very much for  
17 your testimony. Seeing that there are no questions  
18 from the dias --

19 MR. BELANGER: Thank you.

20 CHAIRMAN KOPLAN: -- you're excused.

21 MS. ABBOTT: The Honorable Don Schwab,  
22 Terrebonne Parish President, Houma, Louisiana.

23 CHAIRMAN KOPLAN: Good morning.

24 MR. SCHWAB: Good morning. Ladies and  
25 gentlemen, thank you for allowing me to speak

1 regarding the possible imposition of tariffs on  
2 imported shrimp.

3 I am the president of Terrebonne Parish  
4 consolidated government, a parish of approximately  
5 106,000 people. Terrebonne Parish covers 1,255 square  
6 miles, much of which are inland lakes, waterways and  
7 estuaries. We have a strong cultural heritage tied to  
8 fishing and agricultural industries.

9 As we speak today, our shrimpers back home  
10 are in the midst of the fall inland shrimp season,  
11 which closes in mid December. Our people are very  
12 concerned about what is transpiring in the shrimp  
13 industry, a mainstay of our local economy since the  
14 time the first Arcadian settlers to Louisiana  
15 immigrated in the late 1700s.

16 We are very close to this industry, as it is  
17 part of our heritage. The shrimp industry is subject  
18 to many natural phenomenon that are beyond the control  
19 of the shrimper, just like other fishers and farmers.  
20 We cannot control the weather or the Gulf tides. We  
21 cannot know from one year to the next what the shrimp  
22 harvest will be.

23 The Gulf of Mexico shrimper does not have  
24 any control over the rise in insurance costs or what  
25 the fuel costs will be in any given year. He is bound

1 to follow federal environmental and regulatory  
2 practices, pay taxes and purchase licenses to comply  
3 with the law. His livelihood is bound by these  
4 factors.

5 Many of our Terrebonne Parish shrimpers and  
6 processors are struggling to stay afloat already  
7 during these difficult economic times. The flooding  
8 of our traditional market with much cheaper foreign  
9 shrimp could very well be the end of a culture and  
10 industry.

11 A report prepared by Nichol State University  
12 noted that in Terrebonne Parish there are some 3,100  
13 jobs associated with the shrimp industry. This is not  
14 surprising as one industry calculates 20 jobs for  
15 every one shrimper. Terrebonne is the home of many  
16 shrimpers, but also shrimp buyers, packers, shrimp  
17 processors, shrimp canners, boat and equipment sales,  
18 icehouses and so forth.

19 We understand the concerns that something  
20 needs to be done to improve our local shrimp industry  
21 and keep it viable in the changing global economy. We  
22 feel, however, that consideration should also be given  
23 to the nature of what is being imported. Yes,  
24 Louisiana and other coastal states should be more  
25 aggressive about developing a shrimp agriculture

1 program to compete with foreign imports.

2 Let us look for a moment at the  
3 environmental compromises that other countries make to  
4 deliver their industries. Other countries have all  
5 but ruined local coastal environments by converting  
6 vast amounts of wetlands to shrimp farms. Coastal  
7 Louisiana has suffered too much in the past from such  
8 wholesome destruction of wetlands from industrial  
9 activity.

10 We cannot afford to return to outdated  
11 environmental practices, and we would urge our foreign  
12 counterparts to consider the ramifications of their  
13 actions. We are asking that you consider the numerous  
14 adverse impacts that foreign shrimp imports will have  
15 on our culture and tradition.

16 Our domestic shrimp industry needs time to  
17 adjust to global competition that is based on  
18 government subsidies and farming techniques that are  
19 not considered reliable or viable in our area. We ask  
20 that you carefully consider the impact of imported  
21 shrimp on our culture and industry as you debate  
22 whether to place tariffs on imported shrimp.

23 Please consider how the growth in imports is  
24 affecting the traditional Gulf of Mexico industry that  
25 is struggling to survive in the face of adverse

1 conditions. We need your support to help the shrimp  
2 industry sustain itself in our communities well into  
3 the future.

4 Thank you for your consideration.

5 CHAIRMAN KOPLAN: Thank you, Mr. Schwab.

6 Seeing that there are no questions from the  
7 dais, you're excused.

8 MS. ABBOTT: The Honorable Charlotte A.  
9 Randolph, Lafourche Parish president, Thibodaux,  
10 Louisiana.

11 CHAIRMAN KOPLAN: Welcome.

12 MS. RANDOLPH: Good morning. Thank you.

13 Ladies and gentlemen, I first want to express my  
14 appreciation to all of you for allowing me to testify  
15 here today on behalf of the fishermen in our parish.  
16 I speak on behalf of the 90,000 residents of Lafourche  
17 Parish, a 100 mile stretch of land located in  
18 southeastern Louisiana.

19 I would be remiss in my duty if I didn't  
20 take an opportunity with the microphone and an  
21 audience to also mention that we have grave concerns  
22 in south Louisiana about coastal erosion, and,  
23 therefore, I just wanted to point that out that this  
24 country should recognize the importance of our parish  
25 and that we feed our nation with our sugar and our

1 seafood, and we fuel it with 25 percent of the energy  
2 needs. We must stem the loss of our land with  
3 restoration efforts soon.

4 Lafourche Parish was founded by two diverse  
5 groups of people who recognized its rich natural  
6 resources. Farmers all, one reaped the benefits of  
7 the land while the other farmed the sea. Some of the  
8 descendants of those farmers have diversified in the  
9 almost 200 years of our existence.

10 Land farmers still plant sugarcane, while  
11 others have developed the property into subdivisions  
12 and commercial sites. Sea farmers continue to ply the  
13 waters for the bountiful seafood, while others  
14 discovered oil and gas beneath the waters of the Gulf  
15 of Mexico. Today you'll hear from the fishermen of  
16 our parish who continue to represent a significant  
17 part of our regional economy.

18 A study of the value of the fishing industry  
19 conducted by Nichol State University in 2002 revealed  
20 some startling statistics. In five short years, if  
21 the fishing industry was removed from our economy  
22 annual sales attributed to those associated with the  
23 industry in our region would plummet from \$69 million  
24 to just below \$7.5 million.

25 The impact on our school systems, our law

1 enforcement agencies and our ability to provide  
2 adequate drainage and roads would be immeasurable with  
3 the loss of that revenue. Banks, shipyards,  
4 contracting firms and clothing stores and employees of  
5 those companies would feel the loss.

6 Our shrimpers and processors are not alone  
7 in their fight against unfair prices on imported  
8 shrimp. As representatives of the people, the  
9 Lafourche Parish Council has unanimously supported  
10 their effort with an official resolution. We  
11 acknowledge the tradition they represent and their  
12 important contribution to our economy.

13 When I left beautiful bayou Lafourche on  
14 Monday, I drove past the gleaming white boats which  
15 were moored on the bayou side as the captains and  
16 crews spent time with family over the Thanksgiving  
17 holidays. The scene of the boats and the bayou best  
18 depicts Lafourche to its residents and to visitors.

19 The For Sale signs in the cabin windows are  
20 not an acceptable part of the landscape. We cannot  
21 allow dumped imports to decimate an industry which is  
22 so valuable to our economy, as well as to our culture  
23 and our history.

24 Thank you for your consideration.

25 CHAIRMAN KOPLAN: Thank you for your



1 testimony.

2 MS. RANDOLPH: Thank you.

3 CHAIRMAN KOPLAN: Seeing that there are no  
4 questions from the dais, you're excused. Thank you so  
5 much for coming.

6 Madam Secretary, we're up to the first  
7 panel?

8 MS. ABBOTT: No. Opening remarks on behalf  
9 of the Petitioner will be by Bradford L. Ward, Dewey  
10 Ballantine.

11 CHAIRMAN KOPLAN: Good morning.

12 MR. WARD: Mr. Chairman, Commissioners, my  
13 name is Bradford Ward of Dewey Ballantine, LLP, on  
14 behalf of the domestic industry harvesting and  
15 processing warmwater shrimp.

16 This morning you've heard from government  
17 officials who have explained the importance of this  
18 industry to the nation, their states and their  
19 communities. You've heard the very real and harmful  
20 impacts dumped imports from the six countries under  
21 investigation have had on this industry and these  
22 communities.

23 You will also hear from members of the  
24 domestic industry compelling firsthand accounts of the  
25 material injury suffered by the domestic industry. In

1 fact, these cases present a textbook example of  
2 material injury by reason of subject imports. The  
3 unfair trade laws and the Commission's practice make  
4 clear that the Commission must issue a final  
5 determination of affirmative in this case.

6 The fundamental and incontrovertible facts  
7 presented in these cases are that the volume of dumped  
8 imports from these six countries has risen  
9 dramatically over the period of investigation at the  
10 same time that the prices of that merchandise has  
11 plummeted.

12 The increase in low-priced subject imports  
13 has outpaced any increase in demand for frozen or  
14 canned warm water shrimp. As would be expected under  
15 such circumstances, the market share of subject  
16 imports has significantly increased over the period of  
17 investigation.

18 The record shows that the growth in the  
19 subject import volume and market share was won through  
20 substantial underselling. Thus, the volume of subject  
21 imports is significant, and the evidence clearly  
22 establishes that subject imports had a depressing and  
23 suppressing effect on the domestic industry's prices.

24 As a direct result of the increasing volume  
25 of subject imports and ever declining prices, the

1 financial condition of the domestic industry has  
2 suffered dramatically. The substantial adverse impact  
3 on the domestic industry is clear in the data  
4 collected by the Commission and from the testimony  
5 that has been and will be presented today.

6 In short, the record in these investigations  
7 establishes that the domestic industry has suffered  
8 material injury by reason of subject imports.  
9 Respondents cannot change these facts. Instead,  
10 Respondents desperately attempt to distract the  
11 Commission from the fact by offering a myriad of  
12 purported alternative causes for the injury that's  
13 plainly evident.

14 These supposedly alternative causes are  
15 often contradictory, but all are ultimately  
16 irrelevant. Respondents assert, for example, that the  
17 domestic industry is structurally unsound and cannot  
18 be profitable despite a long and largely consistent  
19 history of profitability until the surge of dumped  
20 subject imports began.

21 Respondents, in an effort to support the  
22 claim that the domestic industry sells a poor quality  
23 product, offer the testimony of an individual who  
24 admits that his job is to "source the lowest cost  
25 product day in and day out."

1                   In an effort to support the claim that  
2                   farmed shrimp is superior to wild caught shrimp,  
3                   Respondents also claim that the domestic industry has  
4                   failed to market domestic shrimp as a specialty  
5                   product, and that failure is an alternative cause of  
6                   injury.

7                   In support of this latter contradictory  
8                   claim, Respondents offer testimony of retailers and  
9                   restaurants who control the marketing of shrimp to the  
10                  ultimate consumers, retailers and restaurants who do  
11                  not identify the source of the shrimp and who benefit  
12                  substantially by consumers' misperceptions that they  
13                  are consuming domestic shrimp.

14                  Respondents do not grapple with certain  
15                  inconvenient facts. If foreign farmed raised shrimp  
16                  were superior, there would be no need to sell at ever  
17                  greater discounts in the United States, but plainly  
18                  prices of subject imports have fallen dramatically  
19                  since 2000.

20                  Further, depending on the audience,  
21                  Respondents contend that relief from unfair trade will  
22                  either deprive American consumers of shrimp or simply  
23                  be replaced by non-subject imports such as wild caught  
24                  warmwater shrimp from Guyana.

25                  The simple facts of these investigations are

1 that subject imports have had a substantial adverse  
2 impact on the domestic industry. While these dumped  
3 imports devastated the domestic industry,  
4 distributors, restaurants and retailers got rich.

5 Respondents' desire to reap the benefits of  
6 dumped imports cannot disguise the causal link between  
7 subject imports and the domestic industry's material  
8 injury. In short, the antidumping statute was devised  
9 with factual situations precisely like these cases in  
10 mind.

11 An industry producing a commodity product  
12 inundated by immense volumes of ever cheaper dumped  
13 imports is a classic instance of injury caused by such  
14 imports. Alternative theories of injury abound, but  
15 do not comport with the evidence and do not explain  
16 away these fundamental facts.

17 Thank you.

18 CHAIRMAN KOPLAN: Thank you.

19 MS. ABBOTT: Opening remarks on behalf of  
20 the Respondents are by Warren E. Connelly, Akin, Gump,  
21 Strauss, Hauer & Feld.

22 CHAIRMAN KOPLAN: Good morning, Mr.  
23 Connelly.

24 MR. CONNELLY: Good morning. Good morning.  
25 Can you hear me? Okay.

1                   CHAIRMAN KOPLAN: Yes.

2                   MR. CONNELLY: We are going to discuss today  
3 five fundamental aspects of the shrimp marketplace  
4 that we think provide the factual basis for a negative  
5 determination.

6                   First, it costs far less to farm shrimp than  
7 to fish for it. Moreover, the cost of farming has  
8 declined, and output has increased as farmers around  
9 the world have gained more experience with production  
10 techniques. As a result, domestic shrimp fishermen  
11 and processors face a very serious cost disadvantage  
12 that they cannot overcome. The Petitioners have never  
13 denied this fact.

14                   Second, the most important consideration of  
15 shrimp purchasers by far is quality, which they define  
16 in several ways that you'll hear about today.  
17 Independent experts have consistently found imported  
18 farm raised shrimp to be of much higher quality than  
19 domestic wild caught shrimp.

20                   That helps to explain why demand for  
21 imported shrimp has grown while demand for domestic  
22 shrimp has fallen. Experts have concluded that  
23 imported shrimp sets the new standard by which  
24 domestic shrimp is now judged, and all too often  
25 domestic shrimp is found wanting.

1           Third, Petitioners contend that shrimp is a  
2 commodity sold entirely on the basis of price.  
3 However, the record shows that price competition is  
4 attenuated because purchasers perceive domestic and  
5 imported shrimp as highly differentiated products.

6           Many purchasers never even consider or they  
7 reject domestic products due to quality and taste  
8 differences, limited availability and lack of  
9 consistent sizing. The lack of a single confirmed  
10 instance of a lost sale or lost revenue in an industry  
11 this size we think is telling, strong evidence of  
12 attenuated price competition.

13           Fourth, the domestic industry has failed to  
14 take any steps over the past 20 years to improve its  
15 competitiveness or capitalize on the inherent taste  
16 difference and advantage of wild caught shrimp. They  
17 have repeatedly disregarded or ignored the advice of  
18 experts who have told them that they had to change in  
19 order to meet the growing challenge of farm raised  
20 shrimp.

21           Fifth, a major problem that the domestic  
22 industry faces is its highly fragmented nature.  
23 Thousands and thousands of individual entrepreneurs  
24 had no ability to act collectively for the common  
25 good. This leads to excessive competition for a

1 finite resource.

2 Overcapacity, excessive per unit costs and  
3 low operating margins are a permanent feature of the  
4 domestic shrimp industry. This is not our opinion.  
5 This is the official position of NOAA Fisheries in its  
6 authoritative new report.

7 You're going to hear today from three of the  
8 most significant purchasers of shrimp in the United  
9 States -- Darden Restaurants, Wal-Mart and King &  
10 Prince. Each of these companies has made a concerted  
11 effort to buy more domestic shrimp, as have many other  
12 members of the American Seafood Distributors  
13 Association. Each is willing to pay a premium for  
14 domestic ship that meets its standards. However, they  
15 cannot find this shrimp in anywhere near the  
16 quantities they need.

17 Now, we're not here today to attack the  
18 Petitioners or their witnesses. Some of the answers  
19 that shrimpers have provided in their questionnaire  
20 responses are moving in terms of the hardships they've  
21 suffered, but the shrimp industry is not the first to  
22 find itself threatened by technological change and,  
23 unfortunately, it won't be the last.

24 Some dislocation is perhaps inevitable, but  
25 again ASDA is not calling for it. Rather, it's NOAA



1 Fisheries that has found that none of the available  
2 business options it has considered can succeed until  
3 the current level of fishing effort is reduced.

4 Before closing, I want to mention briefly  
5 canned shrimp, which is a separate like product under  
6 the rationale the Commission has employed in  
7 distinguishing different forms of other agricultural  
8 products.

9 Bumble Bee is the only canned shrimp  
10 producer in the United States, and it's trying to  
11 hitch a free ride here. If you look closely at its  
12 financial and trade data, we think you'll agree that  
13 Bumble Bee is not deserving of relief.

14 Finally, antidumping margins overall are  
15 likely to be relatively low, as we learned yesterday,  
16 for Vietnam. These margins won't materially inhibit  
17 access to the U.S. market. Non-subject imports are  
18 also a significant and growing factor and a permanent  
19 condition of competition.

20 Far better marketing and promotion  
21 activities are essential for the domestic industry. A  
22 few domestic producers understand this.  
23 Unfortunately, most still don't and that is the real  
24 problem here.

25 Thank you.

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1                   CHAIRMAN KOPLAN: Thank you, Mr. Connelly.  
2                   Now, Madam Secretary, are we ready for the  
3 first panel?

4                   MS. ABBOTT: The panel in support of the  
5 imposition of antidumping duties, please come forward  
6 and be seated.

7                   The witnesses have been sworn.

8                   (Witnesses sworn.)

9                   CHAIRMAN KOPLAN: You may proceed.

10                  MR. DEMPSEY: Good morning, Chairman Koplan,  
11 members of the Commission. For the record, I am Kevin  
12 Dempsey of Dewey Ballantine, and I would like to begin  
13 today by providing an overview of the domestic  
14 industry's case in this proceeding.

15                  The volume of imports of frozen or canned  
16 warmwater shrimp from the six subject countries has  
17 grown dramatically over the period of investigation  
18 from just over 579 million pounds in 2001 to over 795  
19 million pounds in 2003, an increase of over 37  
20 percent. In the interim period, subject imports  
21 increased further, growing by 10 percent in the first  
22 six months of 2004 over the same period in 2003.

23                  Subject imports have also gained significant  
24 market share, growing from 58 percent in 2001 to  
25 almost 66 percent in 2003, before declining slightly

1 after the filing of the petitions in these  
2 investigations.

3 Not surprisingly, domestic producers have  
4 lost market share throughout the POI as subject  
5 imports surged into the U.S. market. Domestic  
6 producers' market share began the POI in 2001 at 15.3  
7 percent and ended at 8.6 percent in interim 2004.

8 While we discuss a number of conditions of  
9 competition in our brief, I would like to highlight  
10 just one. As the president of the American Seafood  
11 Distributors Association has himself admitted, shrimp  
12 is a commodity product. Competition in the  
13 marketplace does exist principally on the basis of  
14 price at any given count size.

15 Indeed, prices for subject imports have  
16 steadily declined as import volumes have grown, with  
17 average unit values dropping by almost 25 percent over  
18 the POI. This is, of course, an aggregate of a range  
19 of count sizes and processed forms of frozen or canned  
20 shrimp. However, if you look at narrower product  
21 subcategories such as shell on, peeled, cooked and  
22 peeled, and canned, you see similar declines in prices  
23 over the period of investigation for each product.

24 The decline in subject import prices is even  
25 more dramatic when compared to the year 2000, the

1 first year of the POI and the preliminary phase of  
2 these investigations. In that year, subject imports'  
3 AUV was \$5.12, meaning subject import prices on  
4 average have dropped by almost 39 percent in three and  
5 a half years.

6 This next slide compares the average  
7 domestic prices for 41-50 count shell on Gulf white  
8 and brown shrimp as reported by Urner Barry to the  
9 landed imported AUV reported by Census for the subject  
10 countries for the same product. The fall in subject  
11 import AUVs over the POI is remarkable, a drop of  
12 almost 50 percent, and that declining import price has  
13 steadily pulled down the price for the domestic  
14 product.

15 In fact, in terms of underselling, whether  
16 examined by volume, by quarter or by country, the  
17 result is the same. Imports of frozen or canned  
18 shrimp undersold the domestic like product throughout  
19 the period of investigation causing domestic prices to  
20 fall dramatically.

21 The continuously declining subject import  
22 prices are depressing domestic ex-vessel shrimp  
23 prices, reducing the average price obtained by  
24 commercial shrimp fishermen by over 42 percent since  
25 2001.

1                   The declining revenues caused by import  
2 driven price depression have resulted in a precipitous  
3 drop in the financial condition of commercial shrimp  
4 fishermen who have now been losing money for almost  
5 three years straight. In order just to survive in the  
6 short term, some shrimp fishermen cut back on  
7 insurance, maintenance and repairs in a desperate  
8 effort to cut costs.

9                   While this may have reduced their losses in  
10 the short term, it is hardly a long-term survival  
11 strategy. In fact, in 2004, these costs returned to  
12 2001 levels, suggesting that fishermen had put off  
13 these costs as long as possible and were once again  
14 forced to spend money on boat maintenance and fishing  
15 gear.

16                   The data collected by the Commission are  
17 confirmed by industry wide data published by the  
18 National Marine Fisheries Service showing relatively  
19 steady volumes of domestic shrimp landings, but  
20 sharply declining revenues.

21                   As a result of constantly declining prices,  
22 the NMFS reports that the total value of the domestic  
23 warmwater shrimp catch fell from \$549 million in 2001  
24 to \$409 million in 2003, a drop of almost 26 percent.  
25 Less revenue means less money for boat owners and

1 their crews, making it increasingly hard for many  
2 shrimp fishermen and their families to make ends meet.

3 Responses to the Commission's questionnaire  
4 support public reports of disinvestment in this  
5 segment of the domestic shrimp industry. In 2001,  
6 presumably based on adequate operating terms for the  
7 previous year, commercial shrimp fishermen made  
8 capital investments equivalent to 45 cents per pound  
9 of landings. By 2003, capital investment plummeted to  
10 a mere nine cents per pound and almost disappeared  
11 completely in interim 2004.

12 The next two slides present an analysis of  
13 the income and expenses of a boat owner, as well as  
14 the wages received by the captain and crew members for  
15 an actual shrimp trip made in October of 2004. The  
16 first slide details the shrimp landed by type, count  
17 size, weight, price and total value in 2004, compared  
18 to the value this same shrimp would have generated at  
19 the prices that existed in the year 2000. You can see  
20 that the value of this catch was almost \$27,000 in  
21 2000 versus a little more than \$13,000 in October of  
22 this year.

23 This next slide shows the trip expenses of  
24 \$6,300 for 2004 subtracted from the 2004 income. Then  
25 these same expenses, the 2004 level of expenses, are

1 applied to the income which would have been received  
2 for the same catch in October of 2000. The contrast  
3 could hardly be more dramatic. At 2004 prices, the  
4 owner of the boat received \$4,300, in contrast to the  
5 \$12,400 which would have been his share at 2000  
6 prices.

7 The captain's share, \$1,100 in 2004, is the  
8 equivalent of \$3.17 per hour, down from the equivalent  
9 of \$9.16 at 2000 price levels. It is not hard to see  
10 why it is increasingly difficult to attract crew  
11 members on shrimp boats when their share in this  
12 analysis is a mere \$2.38 per hour at 2004 shrimp  
13 prices.

14 As a result, shrimpers are making fewer  
15 trips to sea to harvest warmwater shrimp in the Gulf  
16 and south Atlantic. Indeed, you will hear today from  
17 several fishermen who have had to tie up their boats  
18 at the dock because shrimp prices were simply too low  
19 to cover the cost of making a trip.

20 It is worth noting that the decline in crew  
21 share is in no way reflective of the decline in effort  
22 on the part of the crew members. Data collected by  
23 the Commission suggested in fact quite the contrary is  
24 true.

25 The average daily harvest increased every

1 year of the POI for a total gain of 17 percent. At  
2 stable prices, this would have meant higher wages for  
3 more productivity, but at sharply falling prices the  
4 increased harvest could not compensate, and revenue  
5 and wages continued to decline.

6 Dumped frozen or canned warmwater shrimp  
7 from the subject countries are causing similar damage  
8 to the domestic shrimp processors. As outlined in our  
9 brief, we urge the Commission, as it did in the  
10 preliminary phase, to exclude a number of companies  
11 that submitted processor questionnaires from the  
12 domestic industry on the grounds that they are not  
13 engaged in production of the domestic like product,  
14 are related parties or have submitted unusable data.

15 As a result, the specific data for this  
16 segment of the domestic industry are treated as  
17 confidential in this prehearing staff report.  
18 However, the trends for the processor segment are  
19 clear. Prices obtained by domestic processors have  
20 declined, and net sales values have dropped. Capacity  
21 utilization has likewise fallen, while processor  
22 inventories are growing.

23 The number of workers employed by domestic  
24 processors has declined, as have capital expenditures.  
25 In summary, these negative processor trends mirror



1 those of the commercial shrimp fishermen.

2 In analyzing the material injury caused to  
3 the domestic industry, the Commission should continue  
4 to define the domestic like product to be a single  
5 like product inclusive of fresh warmwater shrimp and  
6 all frozen or canned warmwater shrimp. Respondents in  
7 the final phase of these investigations have dropped  
8 all of their like product arguments from the  
9 preliminary phase other than with respect to canned.

10 The record in these investigations continues  
11 to establish that no clear dividing lines exist  
12 between frozen warmwater shrimp and canned warmwater  
13 shrimp. Specifically, there is a substantial overlap  
14 in the physical characteristics and uses,  
15 interchangeability, channels of distribution,  
16 production processes and customer perceptions of both  
17 frozen shrimp and canned shrimp.

18 Significantly, eight of 14 purchasers  
19 reported to the Commission that the price of frozen  
20 shrimp usually or sometimes affects the price of  
21 canned shrimp. The domestic like product, therefore,  
22 consists of both canned warmwater shrimp and frozen  
23 warmwater shrimp.

24 One Respondent also claims that shrimp  
25 scampi is a separate like product, but no clear

1 definition of this product is provided, which is not  
2 surprising as the term scampi is used to describe  
3 various forms of shrimp products within the scope of  
4 the investigations. Thus, there is no clear dividing  
5 line separating scampi from other shrimp products.

6 The test for mandatory cumulation of imports  
7 from all subject countries are clearly met in these  
8 investigations. Indeed, Respondents have conceded  
9 this point.

10 The subject imports also threaten  
11 significant additional injury to domestic shrimp  
12 fishermen and processors. The volume of shrimp  
13 capacity in the subject countries has grown  
14 significantly over the POI and by Respondents' own  
15 estimates is projected to grow even larger in 2005,  
16 fueled by extensive government promotion of shrimp  
17 aquaculture in these countries.

18 Foreign producers and exporters in the  
19 subject countries by their own report have massive  
20 excess capacity available to increase exports to the  
21 U.S. market. In the latest period for which the  
22 Commission collected data, only half the capacity to  
23 produce shrimp was being utilized by the subject  
24 countries.

25 I will now turn it over to Brad Ward to

1 continue.

2 MR. WARD: Respondents have alleged that the  
3 material injury suffered by the domestic industry is  
4 not attributable to subject imports. I will address  
5 some of these purported alternative causes of injury.

1 For example, one claim is that the domestic  
2 industry suffers from structural problems that prevent  
3 it from being profitable. This slide shows net income  
4 ratios from 1965 through interim 2004. It  
5 demonstrates that the industry has been generally  
6 profitable prior to surge in subject imports. In  
7 fact, the 30-year average profit is 12 and a half  
8 percent.

9 This slide replicates the net profit data  
10 and adds the volume of imports. It's obvious that as  
11 dumped subject imports have surged into the U.S.  
12 market, the financial performance of the industry has  
13 dropped precipitously. Also note that nonsubject  
14 imports have been relatively stable for many years.

15 Respondents have argued that rising fuel  
16 prices are causing injury to the domestic industry.  
17 This slide shows, however, that average fuel prices  
18 were virtually identical in 2003, at \$1.45 per gallon,  
19 to those in 2000, at \$1.44 per gallon. In fact, the  
20 Commission's own data show that the domestic

1 industry's fishing expenses, including fuel,  
2 maintenance, and insurance costs, have generally  
3 fallen substantially over the period of investigation.  
4 However, these significant reductions in expenses have  
5 been exceeded by even greater declines in prices that  
6 fishermen are paid at the dock. The result, as you've  
7 seen before, is the dismal financial performance of  
8 the commercial shrimp fishing industry.

9           These very difficult economic conditions are  
10 driving many fishermen to leave the industry  
11 altogether, as is demonstrated by the dramatic decline  
12 in the number of commercial shrimp licenses from 2000  
13 to 2003 for four Gulf states. It's important to note  
14 that each fisherman will likely have two or more  
15 permits, one for each state that he fishes in.

16           Also note this the steady downward trend is  
17 not reflected in NMFS shrimp business plan. NMFS has,  
18 in fact, estimated the same number of boats in the  
19 shrimp fishery every year since 1989, and even though  
20 warmwater shrimp is our nation's largest and most  
21 valuable fishery, NMFS admits that its methods to  
22 track the number of boats are not comprehensive and of  
23 limited purpose.

24           Respondents have also alleged that subject  
25 farm-raised imports are of inherently higher quality

1 than domestic shrimp. This is inaccurate. The record  
2 evidence shows that farm shrimp is no more uniform in  
3 size than domestically harvested shrimp. The record  
4 shows that lower-quality product is exported to the  
5 United States than is exported to other major export  
6 markets. Moreover, there is a public record of low-  
7 quality, subject imports as shown by frequent FDA  
8 refusals of entry for reasons such as filth,  
9 decomposition, or unsanitary conditions. Finally, the  
10 record shows that there continues to be a significant  
11 problem with the use of banned antibiotics in  
12 aquacultured shrimp.

13 Respondents also claim that the domestic  
14 industry is materially injured because of its alleged  
15 failure to separately market domestic, wild-caught  
16 shrimp as a specialty niche product. The record shows  
17 that there are significant obstacles to such a plan.  
18 Marketing to the ultimate consumer is controlled not  
19 by the domestic industry but by retailers, such as  
20 grocers and restaurants. These retailers create the  
21 impression for consumers that they are purchasing  
22 domestic, wild-caught shrimp.

23 ASDA has already identified a laboratory  
24 experiment to test its claim regarding niche  
25 marketing: the experience of Mexico during the period

1 of investigation. As shown in this slide, in a market  
2 saturated with dumped imports, marketing a supposedly  
3 premium product has not prevented a decline in Mexican  
4 sales and shipments into the U.S. market.

5 In short, this is a textbook case of injury.  
6 Import volumes are rising steeply while import prices  
7 are falling sharply. Material injury to the domestic  
8 industry is plain. The purported alternative causes  
9 of injury suggested by Respondents cannot be  
10 reconciled with these simple and compelling facts.

11 Thank you. We will now begin our industry  
12 witness testimony with Mr. Sal Versaggi.

13 MR. VERSAGGI: Good morning. My name is Sal  
14 Versaggi, and I'm the president of Versaggi Shrimp  
15 Corp., located in Tampa, Florida. With three  
16 brothers, I own six shrimp boats and an offloading  
17 facility within the port of Tampa. As I explained at  
18 the preliminary conference, my family has been in the  
19 shrimp business since 1912. I began working in the  
20 business as a young boy, helping to do the menial  
21 tasks around the packing house, such as making boxes  
22 and icing shrimp for shipment. I officially entered  
23 the business full time in 1963, when I graduated from  
24 college.

25 The crews of our boats work very hard all 12

1 months of the year, and our boats are on the water  
2 shrimping nonstop from January to December. In the  
3 past couple of years, however, we have not been able  
4 to work year round. Last year, for the first time, we  
5 had to tie up our boats for a 45-day period because  
6 the price of shrimp was too low to cover fuel and  
7 other costs. I have been forced to put off trips,  
8 reduce maintenance expenses, and cut my insurance  
9 coverage in half.

10 Now, we hear from the American Seafood  
11 Distributors Association, better known as "ASDA," and  
12 the foreign shrimp exporters that the reason that  
13 shrimp fishermen are currently suffering is that there  
14 are too many boats on the water, our fuel costs are  
15 too high, and our nets are equipped with TEDs and  
16 BRDs. TEDs, for those that don't know, are turtle  
17 excluder devices, and BRDs are by-catch reduction  
18 devices. These are instruments that are put in the  
19 net.

20 I say nonsense. Our shrimp boats have  
21 always been, and our still, on the technological  
22 cutting edge. We are so efficient that foreign  
23 shrimpers still get their shrimp boats made in the  
24 United States. We not only have the best equipment,  
25 but our techniques are imitated and emulated around

1 the world. Our boats have pulled TEDs since the  
2 1980's and BRDs since the mid-1990's, and we didn't  
3 have any problem making a profit. In fact, we have  
4 become increasingly more efficient at using these  
5 devices each year as we have become more familiar with  
6 them. And more and more boats our taken out of the  
7 shrimp fishery every month in Florida. The loss of  
8 these boats has done nothing to improve the bottom  
9 line for our boats, and fuel costs go up and down.

10 In the past, when fuel prices have spiked,  
11 we have been able to deal with it and wait until the  
12 costs fell again. This is not true today. We face a  
13 market that is flooded with dumped frozen shrimp  
14 imports, and those imports have pushed prices to a  
15 level so low that it has become impossible to survive.  
16 The boat owners can't cover their costs, and the  
17 crews' shares are too small to support the fishermen's  
18 families. The amount of the crews' share is limited  
19 by what the market will pay for their catch, and  
20 prices have been falling now for so long that  
21 everybody's take has decreased that no one is making  
22 enough to survive. Approximately 90 percent of our  
23 crews are currently below the poverty level now in  
24 terms of wages.

25 We also hear that our shrimp is inferior to



1 that of dumped imports. More nonsense. Consumers  
2 really like our product. After processing our large-  
3 sized, Florida pink shrimp, processors sell it to more  
4 sophisticated supermarket chains, such as Whole Foods,  
5 because it is a natural, healthy, high-quality  
6 product. This high-quality supply is threatened  
7 because the price is not there for us any longer. The  
8 simple truth is that people don't buy our product at  
9 fair prices because imports are priced lower, not  
10 because the imports are any better than the shrimp we  
11 catch.

12           Having been in this industry all my life, I  
13 know the shrimp business has always been a fluid and  
14 dynamic industry. I am accustomed to people moving in  
15 and out, but for some time now, I have not seen anyone  
16 coming in, and I personally have discouraged others  
17 from going into this business as long as we continue  
18 to have to compete with dumped imports.

19           But if this industry collapses, we will see  
20 ghost towns in coastal communities around the  
21 Southeast, and the Tampa shrimp industry is already in  
22 crisis. I do not believe that I am exaggerating when  
23 I tell you that the entire future of this industry  
24 depends on your decision in this case. There is no  
25 hope unless something is done about imports.

1           As shrimpers, we can only produce what  
2 nature provides, and we know we cannot supply the  
3 entire domestic market. We do not want to stop all  
4 imports; all we want is a fair price for our product.  
5 We will continue to provide high-quality shrimp to the  
6 market for as long as we can, but the way prices  
7 continue to decrease, we will not be able to do so for  
8 much longer. Thank you kindly for your consideration.

9           MR. DEMPSEY: Thank you. Next, we'll hear  
10 from Mr. Scott St. Pierre.

11           MR. ST. PIERRE: Good morning. I'm Scott  
12 St. Pierre. I'm a commercial fisherman from Golden  
13 Meadows, Louisiana.

14           I married into the shrimp business 20 years  
15 ago. Since then, I have been making a hard-working,  
16 honest living catching shrimp off the coasts of  
17 Louisiana and Texas. I own and am captain of a 72-  
18 foot-long, iron, trawler ice boat. I normally take my  
19 trawler out to sea for week-long trips. I also make  
20 longer trips up to 17 days when the shrimp are very  
21 large in size. While at sea, we sort the shrimp into  
22 two different grades: large and small. Large shrimp  
23 are deheaded as they are brought onto the deck and are  
24 iced. Smaller shrimp are always iced head on.

25           As boat owner and captain, I keep 60 percent

1 of what the dock gives me to pay for fuel,  
2 maintenance, gear, and repairs, and the crew gets the  
3 remaining 40 percent. The crew pays for the ice and  
4 groceries. In the past, I used to hire two men. Now,  
5 with prices this bad, I can only afford to hire one.  
6 This year was awful. At times, I could only get \$1.85  
7 a pound for 16/20-count shrimp, which is the best  
8 shrimp I can catch and is only a small part of my  
9 yearly harvest. Prices like these are impossible to  
10 bear.

11 It wasn't always like that. In 2000, prices  
12 were good, and we worked very hard because we knew we  
13 had to save for a rainy day. That year, I spent money  
14 in the economy. I bought spare parts, ropes, extra  
15 nets, and paid for some boat maintenance. Over the  
16 past three years, prices have been so low that the  
17 money I'm making is to pay for fuel, and very little  
18 is left. As a result, I have been forced to cut all  
19 costs. I reduced my insurance costs by upping my  
20 deductible, so now I'm only insured in case of total  
21 loss, and also contemplating dropping my insurance  
22 altogether and neglecting badly needed maintenance so  
23 I can pay my mortgage.

24 You just can't make a living and feed your  
25 family with these prices. What's worse is that I

1 don't have a choice. I have to go out, keep fishing.  
2 In the past, I've stopped fishing in the winter months  
3 to do yearly maintenance, which is a must to maintain  
4 my vessel in safe working condition, and I'm trawling  
5 much later in the year than before just to keep things  
6 going.

7           We know more than anybody else that we  
8 cannot supply all of the shrimp the market wants, but  
9 the amount of shrimp is not the central issue. Prices  
10 paid for shrimp are the problem. At the docks, they  
11 say the reason the price is down is because there are  
12 too many low-priced imports. The whole point of this  
13 case is to stop foreign shrimp producers from dumping  
14 and allow prices to rise to where people can make a  
15 decent living.

16           I would like to say a couple of more things,  
17 that I'm proud of supporting my family with my honest  
18 work, but it is demoralizing to go out, work hard, and  
19 not be able to even cover all of the costs. I'm proud  
20 of being a shrimper. Shrimping gives you a sense of  
21 accomplishment, and it makes you feel alive because  
22 you are independent, determined, and proud.

23           People are eating imported shrimp, but they  
24 are still paying the same high prices. Distributors,  
25 supermarkets, and restaurants are taking all of the

1 profits. To me, this trade is not benefitting the  
2 consumer and is destroying Americans who work hard,  
3 day in and day out. I, myself, buy foreign products,  
4 but if we cannot make a living, we won't be able to  
5 buy anything.

6 I live in a small community of about 4,000  
7 people. There, the number of shrimp boats has  
8 dwindled in recent years, and there is only about half  
9 as many boats as in 2000. I, for one, know that I  
10 cannot go out there, work harder, and catch more  
11 shrimp to compensate for these lower prices. I am at  
12 the limit already, and I am not alone. We need some  
13 help to bring these prices back to sustainable levels,  
14 and we need it quick. Our families, entire  
15 communities, and parishes are suffering. Thank you  
16 very much.

17 MR. DEMPSEY: Next, we would like to hear  
18 from Mr. Craig Wallis.

19 MR. WALLIS: Good morning. My name is Craig  
20 Wallis, and I began working in this business as a  
21 teenager, crewing on one of my dad's trawlers. In  
22 1979, my brother and I bought a facility in Palacios,  
23 Texas, and began our business together.

24 At the beginning, we had a dock and four  
25 boats. We built our business slowly over the years,

1 and today we operate an 80-ton ice facility and own 10  
2 boats. In addition, we manage another five boats and  
3 do maintenance on the trawlers we own and manage, as  
4 well as other boats in our area. We sell fuel and ice  
5 to the boats and then unload the shrimp boats when  
6 they come in from sea. In all, we service a total of  
7 24 boats.

8 The crews of these boats work very hard  
9 during the high season and average 250 working days a  
10 year. In past years, we have worked as many as 290  
11 days, but in 2003 we worked less than 200 days. Our  
12 crews will log only 200 days this year as well.

13 The reason for the decline in the number of  
14 days worked is simple: The price of shrimp has fallen  
15 so low that we cannot cover our expenses. It costs  
16 over \$20,000 for a freezer boat to go out for 45 to 50  
17 days. If the price of shrimp is less than \$4 a pound,  
18 we can't cover costs, and the crews' shares are too  
19 small to support an individual, much less a family.  
20 In 2003, prices got so low that we tied up boats in  
21 December, and they did not go out again until mid-June  
22 of this year.

23 What bothers me the most about the current  
24 state of our industry is what I see happening to the  
25 people who depend on shrimping for a living. I am

1 really close to the people who work for me. Some of  
2 them have been with me for 20 years. We have done  
3 everything we can to help our crews survive, but we  
4 have run out of corners to cut. A couple of years  
5 ago, we cut the dock's handling fee from 30 cents a  
6 pound to 22 cents a pound in order to give the crew  
7 more money.

8 The crew's wages are based on initial price  
9 after their catch is weighed at the dock. After we  
10 get a final price from the processor for the catch, we  
11 give the crew an extra above and beyond the initial  
12 estimate as a bonus. However, with the price of  
13 shrimp so low, the bonus has all but disappeared.

14 We used to make two trips in January and  
15 February, which we could not afford to do this year,  
16 so my crews had no income for those months. We hired  
17 some of the captains at minimum wage to help with  
18 maintenance, but we didn't have jobs for the rest of  
19 our crews, and some left in search of jobs to support  
20 their families. By the time we sent our boats out  
21 again in June, we had lost 25 percent of the men who  
22 crewed for us.

23 Since we do not send out our boats in  
24 January, February, March, April, or May, we cut our  
25 expenses by canceling the insurance in December for

1 the six boats that are paid for. We used this money  
2 for maintenance and upkeep, but we also delayed  
3 maintenance for some of our boats because we just  
4 didn't have the money this year.

5           It is not just the boats that are  
6 desperately trying to survive. For example, our local  
7 processor closed down completely last winter.  
8 Normally, the processor would have stayed open in the  
9 winter months, completing necessary maintenance with  
10 shrimp in inventory and to process and sell, but the  
11 market was so bad that he had to shut down completely  
12 and attempt to limit losses so he could reopen for the  
13 next shrimp season.

14           When our boats went out this year in June,  
15 he opened and began processing the shrimp from our  
16 dock. I don't know what he will do this winter.  
17 Whether he stays open will depend on, in large part,  
18 the price of shrimp and whether our boats will be  
19 fishing.

20           I worked for 25 years to build this  
21 business, and everything I have is on the line. My  
22 retirement is floating in the water. Sixteen boats  
23 are now tied up at our dock. All have been  
24 repossessed. No one wants to buy those boats or my  
25 business when they can see no way to making a living



1 in the face of the dumped imports. In fact, most of  
2 the boats tied up have been put up for auction and  
3 have received no bids.

4 My 24-year-old son wanted to join the  
5 business after graduation from college, but I told him  
6 I couldn't see a future, and he needed to get a job  
7 somewhere else. Always a way of life for him, he  
8 hasn't given up hope and works with me doing  
9 maintenance whenever he has time off.

10 It wasn't always this way. In 2000, when we  
11 averaged \$6 a pound for shrimp, we were able to pay  
12 our crew a living wage and invest in our business. At  
13 today's price, \$4 a pound, we can do neither. The  
14 only reason we have survived as long as we have is we  
15 have been conservative over the years and reluctant to  
16 take on very much debt. Half of our boats are paid  
17 for, as are the docks and facilities.

18 Shrimping is the only industry in my  
19 community, so I come here today on behalf of others in  
20 my community who depend on shrimping for a living,  
21 either directly or indirectly.

22 We need fair trade and fair prices for our  
23 shrimp. Many have already lost their boats and their  
24 livelihoods. I'm still in business, but I don't know  
25 how much longer I can continue without relief with

1 unfair trade. We need action, and we need action and  
2 your help now. Thank you.

3 MR. DEMPSEY: Next, we'll hear from Ms.  
4 Kimberly Chauvin.

5 MS. CHAUVIN: Good morning. My name is  
6 Kimberly Chauvin. I own the Mariah Jade Shrimp  
7 Company and am part owner, along with my husband, of  
8 the Mariah Jade, a 73-foot, steel-hulled trawler.

9 I have been in the business for 18 years,  
10 and my husband is a fourth-generation fisherman.  
11 Actually, it's more accurate to say that I've been  
12 connected to the industry my whole life. My  
13 grandfather and my father trawled in the Gulf. My  
14 daughter and two teenaged sons are learning this  
15 business from their parents, just as we did from ours,  
16 and will grow up in the commercial shrimping industry,  
17 if it survives. My husband is trawling 12 months a  
18 year. To spend time with him, my boys and my daughter  
19 go out with him every chance they get and are on the  
20 boat throughout the summer.

21 Our business involves our whole family.  
22 Everyone pitches in. The entire family comes down to  
23 help us unload the boat when it returns from the Gulf.  
24 This type of family help is an absolute necessity, as  
25 we cannot afford to hire extra workers.

1           We have tried to improve every aspect of our  
2 product, improving quality, getting it to market  
3 faster, and creating a niche market for our catch. We  
4 did so at the suggestion of Mr. Wally Stevens, who  
5 told us what we needed to do to be competitive in this  
6 market.

7           For example, we requested and obtained  
8 information from specialists on how to handle our  
9 shrimp, what was needed to be done with our freezer  
10 system aboard our vessel so that we could harvest the  
11 highest-quality shrimp possible. We installed a brine  
12 tank on the boat so that we could quick freeze at sea  
13 and laid concrete foundations in our yard so that  
14 trucks can access our vessel, letting us act as our  
15 own dock and getting our product to market in a manner  
16 that would keep the product in top-quality conditions.  
17 We also purchased a walk-in freezer to store and sell  
18 our bigger-sized, quality, retail shrimp.

19           In the end, we produced a high-quality  
20 product in an efficient way and have tried everything  
21 suggested by Mr. Stevens to better our business at a  
22 great cost to ourselves. But neither Mr. Stevens nor  
23 any other large seafood distributor has bought from  
24 us. The reason is simple: At the end of the day when  
25 we unload our catch from the Mariah Jade, we still

1 have to sell in a market flooded with cheap, dumped  
2 imports.

3           Even though the specific advice of Mr.  
4 Stevens hasn't worked, I and the rest of my family  
5 have continued searching for solutions to our  
6 industry's problems. I have written my congressional  
7 representatives, along with the editor of our local  
8 paper and seafood.com, trying to educate people on the  
9 state of our industry. I have also met with our state  
10 and parish officials, educating them. My family  
11 participated in a study on netting design to reduce  
12 drag and conserve fuel and educated fisherman about  
13 what types of permits and licenses are needed for them  
14 to sell their own catch. I have worked with state and  
15 local legislators and federal regulatory agencies,  
16 attempting to better our industry.

17           Basically, we have done everything that we  
18 could possibly think of to arrive at a solution to our  
19 industry's problems, but none of it has worked. No  
20 matter what we do, it all revolves around the price of  
21 the cheap, dumped imports.

22           There is a very real human toll of this  
23 crisis for both fishermen, their families, and the  
24 communities they live in. The financial pressures put  
25 serious strain on families who are now struggling just

1 to get by. For example, my family has not health  
2 insurance nor any boat insurance because these are  
3 luxuries we can no longer afford.

4 We have also little-to-no retirement funds,  
5 as the industry's decline has made our one major  
6 asset, our vessel, into something that is basically  
7 worthless. Although it was appraised at between 600  
8 and \$700,000 in 2000, we could barely get \$100,000 for  
9 it today because there is no one who would be willing  
10 to buy, given the state of our industry. And there  
11 are many other hard-working American families just  
12 like us. There are many boats in our area that have  
13 "for sale" signs and are tied to the dock with no  
14 prospective buyers.

15 This crisis has also affected many local  
16 communities, turning some, like Dulac, Louisiana,  
17 which is close to our home, into virtual ghost towns.  
18 Many other communities depend upon fishermen and the  
19 money they spend or on our shrimp processors and the  
20 jobs they provide. With fishermen and processors  
21 going out of business, these communities will not  
22 survive. I've seen what they are saying is hurting  
23 the shrimp industry, apart from low prices, but none  
24 of these so-called matters like the price we're  
25 getting for our product.

1           The idea that fewer boats on the water would  
2 mean better times for those of us left is laughable as  
3 this has been happening. The number of vessels that  
4 have been repossessed and the number of vessels that  
5 have been tied to the dock just blows that theory out  
6 of the water.

7           When the Mariah Jade docks, it is filled to  
8 capacity with shrimp. The real problem is price.  
9 Although we have plenty of high-quality shrimp to  
10 sell, we get almost nothing for it because of the  
11 prices of the imports.

12           And my final point: The idea that something  
13 other than depressed prices caused by these imports is  
14 at the heart of the shrimp industry's problems just  
15 isn't true. It angers me to hear people suggest that  
16 fishermen and processors need to somehow pull  
17 themselves out of this mess because my family has done  
18 everything possible just to do that, and it's not  
19 going to work as long as our market is flooded with  
20 these imports. Thank you.

21           MR. DEMPSEY: Next, we'll hear from Mr.  
22 Phoung Dang.

23           MR. DANG: Good morning. My name is Phoung  
24 Dang, and I'm here this morning on behalf of my  
25 father, my brother, and many others in my extended

1 family who are also shrimpers in the Vietnamese  
2 community to ask for your help.

3 My family immigrated to the U.S. in 1982.  
4 We originally settled in California where my father  
5 took up work as a handyman, and my mother worked as a  
6 maid. But my father had been a shrimp fisherman in  
7 Vietnam, and in 1985 he moved to Mississippi to join a  
8 cousin who was already shrimping in the Gulf of  
9 Mexico. When he got down to Mississippi, he bought a  
10 steel-hull, worked on it, worked to get the boat into  
11 shape, and returned to pressing his trade off the  
12 coast of Mississippi. We joined him in Biloxi in  
13 1986. Since then, I have been shrimping with my  
14 father and brother every summer since I was 12 years'  
15 old, and even as a student at the University of  
16 Southern Mississippi, I continue to spend summers away  
17 from school on our boat.

18 Shrimping has been good to our family. My  
19 father worked very hard on his boat for over a decade  
20 and was eventually able to acquire three more shrimp  
21 boats. The shrimp those boats caught put three of his  
22 children, including myself, through college. While  
23 one of my brothers still shrimps with him, my father  
24 had discouraged me from joining them. He wants me to  
25 go into another line of work, one that has better

1 prospects for the future.

2           This was not always the case. Just a few  
3 years ago, you could make a good living shrimping.  
4 You were not going to be rich, but you could take good  
5 care of your family. Times have changed. Imports  
6 have driven prices so low that my father is struggling  
7 just to pay the notes on his boats. The whole family  
8 has pitched in just to make sure those payments are  
9 kept up.

10           We are all very aware of the consequences of  
11 falling behind in Biloxi. Many shrimp boats have been  
12 repossessed in our part of the country, including one  
13 that belongs to my cousin. My father has worked very  
14 hard for almost 20 years to build his business and  
15 help our family to establish a new life in the United  
16 States. Everything he has worked for is now  
17 threatened by the prices in the market created by  
18 dumped imports.

19           Shrimping has been my father's life. While  
20 he will work hard to take care of his family,  
21 regardless of what happens, unless the shrimp industry  
22 is granted some relief, I don't believe that he will  
23 be able to hang onto everything he has worked so hard  
24 to acquire. This proceeding is very important to my  
25 family and to all of the shrimping families whose



1 livelihood depends on a viable, U.S. shrimp industry.  
2 Thank you for giving me the opportunity to speak with  
3 you this morning.

4 MR. DEMPSEY: Next, we'll hear from Mr.  
5 Richard Gollot.

6 MR. GOLLOT: Good morning. I am Richard  
7 Gollot, secretary and treasurer and part owner of  
8 Golden Gulf Coast Processing Company in Biloxi,  
9 Mississippi. My family has been in the seafood  
10 processing business for three generations. Currently,  
11 my son, three brothers, and three sisters are in the  
12 business.

13 I have been personally involved in the  
14 seafood business since I was 13 years' old. I began  
15 in the shrimp industry by acquiring a dock in 1984 in  
16 Biloxi. We began unloading shrimp and selling them to  
17 a processor in Tampa. In 1986, we built a processing  
18 facility in Biloxi and began processing the shrimp we  
19 were unloading ourselves.

20 There are two parts to the shrimp processing  
21 business that we run in Biloxi. The first part is the  
22 processing facility itself. Golden Gulf grades,  
23 sorts, cleans, peels, and freezes shrimp that come  
24 into our facility. The second part of the business is  
25 the dock that we operate through a separate company.

1 We have very close relationships with the boats that  
2 tie up at our docks. We depend on them, and they  
3 depend on us, and we are there for them if they need  
4 us.

5 When I appeared before the Commission at the  
6 preliminary conference, I said that I was not sure  
7 whether we would be able to continue processing and  
8 selling shrimp in the current market. After  
9 preliminary determinations came out, prices have  
10 stabilized, albeit at much lower price levels. The  
11 price in the market stabilizing when importers had to  
12 start posting bonds tells you what is happening to our  
13 industry.

14 Before duties, dumped imports flooded the  
15 market and decreased prices and pulled our prices down  
16 with them. Unfortunately, the market stabilized at  
17 prices so low that margins had been squeezed to the  
18 point where without bank deferments, we would have  
19 lost a great percentage of our industry. None of us  
20 know whether duties are going to bring prices back to  
21 where they were before the dumped imports flooded the  
22 market, but what we do know is that if prices had to -  
23 - that we pay to the fishermen. I set those prices  
24 knowing that every day I had that shrimp, its value  
25 would decrease. I also had to predict how far --

1                   CHAIRMAN KOPLAN: Excuse me. Our lights  
2 have gone out. Okay. The light is back on.

3                   MR. GOLLOT: I also had to predict how far  
4 prices would fall when building up my inventories, and  
5 so the prices we paid to the fishermen declined as the  
6 market fell.

7                   Now, for the first time in several years, I  
8 can look at the market and think it's not going to get  
9 worse. For the first time in a while, I've been able  
10 to pay higher prices to the shrimpers, although still  
11 well below historic levels, without worrying that it's  
12 going to put me out of business six months from now.

13                   It is too late for some of the industry.  
14 When I last testified, we had 95 boats that unloaded  
15 at our docks. Since then, our fleet has shrunk 33  
16 percent, and just last month we lost four large  
17 freezer boats that were repossessed for nonpayment.

18                   This is not a new story. I've seen a lot of  
19 boats leave the industry as a result of the price  
20 declining brought about by dumped imports, and when  
21 those boats left, it didn't get any better for the  
22 boats that were left behind. They did not catch more  
23 shrimp, and the prices they got for the shrimp kept  
24 declining.

25                   It is not the boats in the Gulf of Mexico

1 that determine the price I pay for my shrimp. It's  
2 determined by the dumped import prices. The shrimping  
3 industry is not dead in America. We've been put  
4 through the wringer because of dumped imports, but  
5 these proceedings have given us some hope. I think we  
6 still matter, considering just our processing facility  
7 and the boats we offload. Our business represents the  
8 livelihoods of 150 families, and if any of the owners  
9 of the other eight processors in Biloxi were here  
10 today, they could tell you the same story.

11 In Mississippi alone, the shrimp fishery  
12 produces \$612 million in economic output annually,  
13 accounting for 10,000 jobs and constituting \$26  
14 million a year in business taxes. In a small state  
15 like Mississippi, and in the City of Biloxi, where the  
16 seafood industry actually built the city, shrimping is  
17 a way of life for a lot of families, and it's a way of  
18 life we are not willing to give up.

19 I strongly believe that the case before you  
20 is clear: Dumped imports are injuring the State of  
21 Mississippi and the entire shrimping industry. Our  
22 fishing industry has been victimized by some greedy  
23 American importers beating down the prices they pay to  
24 shrimp farmers overseas only to line their own  
25 pockets. We really need your intervention in this

1 case. Thank you.

2 MR. DEMPSEY: Next, we'll hear from Mr.  
3 Andrew Blanchard.

4 MR. BLANCHARD: Good morning. I am Andrew  
5 Blanchard. I began working in shrimp plants when I  
6 was 17 in September of 1974. I worked as a dock hand  
7 for a plant and eventually became the plant manager in  
8 1981.

9 Within two years, the plant was sold to  
10 ConAgra, and I worked for ConAgra for 11 years. In  
11 1994, ConAgra wanted to get out of the business of  
12 processing shrimp in Louisiana, and they offered me  
13 the chance to buy the plant. I was able to pull  
14 together the financing and bought the plant in 2000.  
15 I purchased a second processing plant --

16 CHAIRMAN KOPLAN: Excuse me. The lights are  
17 out again. This is what happens when you operate  
18 under a continuing resolution.

19 MS. ABBOTT: We can continue, and I can time  
20 and pass, if I need to.

21 CHAIRMAN KOPLAN: Okay. Thank you. I'm  
22 sorry to interrupt. It assists us in being able to  
23 see where you are. Proceed.

24 MR. BLANCHARD: All right. I was able to  
25 pull together the financing and bought the plant in

1 2000. I purchased a second processing plant. Today,  
2 I am president of Pearl, Incorporated. Until very  
3 recently, Pearl operated the two shrimp processing  
4 facilities located on the same bayou in Chauvin,  
5 Louisiana: Triple T Enterprises, which I purchased  
6 from ConAgra, and Indian Ridge Shrimp Company, which I  
7 purchased in 2000.

8           Since I testified before the Commission in  
9 January, I've been dealing with the most serious  
10 challenges I've ever faced in the shrimp industry.  
11 Triple T has closed down and no longer processes  
12 shrimp. On July 6th, our bank pulled our \$2.2 million  
13 line of credit for Indian Ridge's operations and  
14 called our loan. Since that day, we have been looking  
15 for other financing, but every bank we talk to has  
16 rejected us. The story has been the same: No one  
17 wants to finance the shrimp industry in a market  
18 controlled by dumped, imported shrimp.

19           We have tried every avenue available and  
20 have worked with our local, state, and federal  
21 government to find some way to keep our operations  
22 running. While they are sympathetic, unless we find a  
23 bank to back us, there is nothing our representatives  
24 can do.

25           Right now, Pearl is in a cash business. At

1 the end of every month, our receipts have to match our  
2 expenses, and this has drastically changed the way we  
3 do business. At Indian Ridge, we have substantially  
4 reduced production and now only process shrimp that we  
5 have a specific order from a customer. Our business  
6 consists primarily of selling down the inventory we  
7 built up before July, and we have been forced to sell  
8 the shrimp we offload from the boats to other  
9 processors just to keep some cash coming in.

10 We have laid off almost all of the 100  
11 production workers at Indian Ridge and currently have  
12 about 40 part-time employees and others who we call  
13 back in on an as-needed basis.

14 We are getting about 50 cents on the dollar  
15 for the shrimp we are selling out of the inventory,  
16 but we have to generate cash to survive. We went into  
17 August with \$800,000 in inventory and now have about  
18 \$300,000 in inventory left.

19 When I last testified, I said the shrimpers  
20 and the shrimp processors are joined at the hip. One  
21 cannot survive without the other. If the boats cannot  
22 go out, we do not have any supply. If the processors  
23 are not operating, the boats have no one to sell their  
24 shrimp to. Today, we purchase shrimp from  
25 approximately 30, down from 120, boats just recently.

1 Because of the state of Pearl, the fishermen are  
2 running scared and have done everything that they can  
3 to keep us afloat because we are the only processor in  
4 Chauvin. They have even helped to identify potential  
5 sources of credit, although we have not yet been  
6 successful.

7 Further, beyond Pearl, our workers, and the  
8 fishermen, the shrimp processing is very important to  
9 our buyer. We operate one of the few manufacturing  
10 plants in the area and provided good jobs to the  
11 people in the community. Our operations impact about  
12 1,800 people in my corner of the state. The impact of  
13 closing of Pearl on our community is so significant  
14 that Terrebonne Parish has offered \$100,000 to help  
15 get a line of credit.

16 My point is that we are not giving up. We  
17 can't until there is absolutely no hope. Because too  
18 many people are depending on us to be able to get  
19 through this, if we can get some discipline on dumped  
20 imports in this market, it will be an important step  
21 for us and should help to show that there is a future  
22 for shrimp processing in the United States. I  
23 sincerely believe that we can survive and compete with  
24 imports, but I have no doubt that we cannot survive if  
25 we have to compete with dumped imports.



1                   Those who are making all of the money off of  
2 these dumped imports have complained that any import  
3 relief might force them to pay a few cents more for  
4 the shrimp they buy. They have complained that  
5 without dumped imports, jobs might be lost. The  
6 reality is that with dumped imports flooding our  
7 market, jobs are being lost, communities are being  
8 destroyed, and the middlemen peddling dumped imports  
9 are getting richer. Thank you.

10                   MR. DEMPSEY: We'll next hear from Mr. David  
11 Cook.

12                   MR. COOK: Good morning. I'm David Cook,  
13 vice president of Specialty Seafood of Bumble Bee  
14 Seafoods, the producer of canned, warmwater shrimp.  
15 I've been in the seafood marketing business for --

16                   CHAIRMAN KOPLAN: Could you move your  
17 microphone a bit closer?

18                   MR. COOK: Thanks. Sorry about that.

19                   I've been in the seafood business for over  
20 32 years, starting with Arlene Seafood Company in 1972  
21 and ultimately becoming one of the owners until the  
22 company was sold to Bumble Bee in 1997. My experience  
23 in the seafood business is focused primarily on the  
24 market for canned, warmwater shrimp.

25                   I also have this morning one of my

1 colleagues, Mr. Patrick Staves, the general manager of  
2 our shrimp packing facility in Violet, Louisiana, just  
3 in case I am asked a question that could be better  
4 answered by someone in our production department.

5 All of Bumble Bee's canned shrimp is  
6 produced at our processing facility in New Orleans.  
7 We are the only canner of warmwater shrimp in the  
8 United States. The shrimp we can is all caught  
9 domestically, and we buy from fishermen from Alabama  
10 to Texas. After we buy the shrimp, it is loaded in  
11 trucks and delivered to our facility in southeast  
12 Louisiana and processed the same day it is received.

13 Once the shrimp enters our plant, we weigh  
14 it, count it, and then load it onto our peeling  
15 machines. After the shrimp is put through the  
16 peelers, we clean the meat, and it is sent to the  
17 deveining machine or directly to our blancher.

18 Once the shrimp is blanched or cooked, we  
19 grade the shrimp by size and then seal the shrimp in  
20 cans. Up until this stage where the shrimp is canned,  
21 our process and the process employed by someone  
22 producing frozen, cooked, and peeled shrimp is the  
23 same. The only difference is we package the shrimp  
24 differently.

25 While the frozen producer will freeze the

1 shrimp and bag it or box it up, we simply put the  
2 shrimp in a can. With the exception of our employees  
3 dedicated to the actual canning of the shrimp, the  
4 employees that we have on the production line are  
5 using the same skill set as employees at a frozen  
6 shrimp facility.

7           The close relationship between production of  
8 frozen and canned shrimp is even more pronounced with  
9 our foreign competitors. The leading foreign  
10 producers of canned shrimp also produce frozen shrimp  
11 and can easily switch back and forth between  
12 production of frozen and canned shrimp, depending on  
13 market conditions.

14           Not only do the production processes for  
15 canned shrimp and frozen shrimp have much in common;  
16 the products also compete directly in the U.S. market.  
17 In particular, we are finding it more and more  
18 difficult to sell our shrimp in this market in the  
19 face of incredibly low prices for dumped frozen  
20 shrimp. The smaller-sized frozen shrimp and the  
21 imported, cooked-and-peeled shrimp which is dumped in  
22 the United States directly compete with our product.  
23 Consumers can easily substitute frozen cooked shrimp  
24 for our product in a variety of uses, such as shrimp  
25 cocktails, dips, salads, gumbos, and casseroles. We

1 know that the consumer is going to switch from canned  
2 to frozen if there is a price advantage, and we are  
3 painfully aware that we have lost significant canned  
4 shrimp sales to imported frozen shrimp for this  
5 reason.

6           If you were to look at the market for shrimp  
7 over the past few years, you would see increases in  
8 the volume of frozen and canned shrimp being exported  
9 to this country. You would also see the prices for  
10 those imported shrimp declining, and that has been  
11 consistent. The volume of the material increases, and  
12 the prices go down. Any chance for a recovery in our  
13 market is limited by the fact that as sales for canned  
14 shrimp begin to recover, firms overseas will switch  
15 their production to canned and drive prices back down  
16 again with the additional volume.

17           The result of the loss of market volume for  
18 our business has been substantial. For the past few  
19 years, our sales have been cut in half. Much of the  
20 productive capacity in our plant is underutilized and  
21 goes unused. For example, while we have 12 peelers in  
22 our plant, only five or six of those peelers are  
23 typically in use.

24           But we have not ceded this market to  
25 imports. Bumble Bee continues to bring high-quality

1 product to the marketplace. We have responded to  
2 import competition every way we know how. When dumped  
3 product first flooded our market, we dropped our  
4 prices on certain sizes and fought to keep our market  
5 share. No matter how hard we fought, imported frozen  
6 prices kept falling and our volume declining.

7 So we've learned that we can't compete on  
8 price with dumped imports, and we are competing the  
9 only way we can. We continue to sell a quality  
10 product but do so in smaller volumes. At this point,  
11 absent relief from dumped imports, I'm not sure how  
12 long this will be a viable strategy to keep our plant  
13 operating. Thank you.

14 MR. DEMPSEY: Next, we'll hear from Mr.  
15 Jonathan Applebaum.

16 MR. APPLEBAUM: Good morning. I am Jonathan  
17 Applebaum, president of Penguin Frozen Foods, a frozen  
18 seafood distributor based in Northbrook, Illinois. My  
19 family has been in the shrimp distribution business  
20 for three generations. I have been directly involved  
21 in shrimp distribution for approximately 20 years and  
22 have been president of the company since 1997.

23 Penguin is a buyer and wholesale distributor  
24 of frozen, warmwater shrimp. In a normal market, we  
25 sell between 18 to 20 million pounds of frozen,

1 warmwater shrimp annually. Roughly 80 to 85 percent  
2 of our shrimp is sold to the food service/restaurant  
3 market, and the remainder is sold to the retail  
4 market. The warmwater shrimp distributed by our  
5 company is sold in shell-on and peeled form, either  
6 individually quick frozen or frozen in blocks.

7           The warmwater shrimp purchased by Penguin is  
8 predominantly shrimp landed in Texas and Louisiana.  
9 We purchase shrimp directly from shrimp boats and have  
10 the shrimp processed for a fee by processors in the  
11 Gulf, and so we have direct relationships both with  
12 shrimp harvesters and shrimp processors. We purchase  
13 Gulf shrimp during the season and hold inventory for  
14 sale to our customers throughout the year. In  
15 addition, we import a small amount of shrimp from Sri  
16 Lanka, Vietnam, and Honduras.

17           Over the last three years, the U.S. market  
18 has seen an unprecedented surge in the volume of very  
19 low-priced, imported shrimp. This has led to a  
20 dramatic collapse in prices for both imports and  
21 domestically caught shrimp which began about three and  
22 a half years ago and is showing no signs of  
23 improvement. For example, virtually every size of  
24 imported, headless, white shrimp from China has sold  
25 between \$2 and \$2.70 a pound all year.

1           Although domestic shrimp prices have  
2           stabilized somewhat, they are still below historic  
3           lows, and this, as the domestic season is winding  
4           down. Currently, we are forced to sell domestic  
5           headless and peeled shrimp at approximately 15 to 20  
6           percent below historic lows experienced in the last 20  
7           years. We have virtually all of this season's  
8           domestic production already purchased and packed.

9           The market continues to be simply flooded  
10          with inventory of cheap, dumped, imported shrimp, and  
11          there is very little opportunity to sell any product  
12          with imported shrimp continuing to be offered at  
13          ridiculously low prices.

14          During this current season, Penguin reduced  
15          the inventory levels that we would normally carry at  
16          this time of the year by about 30 percent, not only  
17          because there is less fishing effort to supply  
18          Penguin, but also because our potential market for  
19          products has been greatly diminished by dumped  
20          imports. Ultimately, our sales for this year will be  
21          off by 30 percent for the same reasons.

22          The impact of the dumped imports on prices  
23          is widespread. The prices that we can pay the boats  
24          for shrimp are a function of what we can sell the  
25          shrimp for, and for the last 40 months, we have seen

1 the prices for what we can sell decline, and as a  
2 result, the prices we can pay for shrimp have gone  
3 down, and our margins have been compressed. The  
4 declining prices are death for the boats, as fewer can  
5 afford to go out with a promise of even lower returns  
6 on each trip.

7 In a normal year, prior to 2001, the entire  
8 Gulf fleet would be out trawling between Thanksgiving  
9 and Christmas for the large Gulf shrimp that is  
10 caught at this time of the year. Today, however,  
11 approximately 35 percent of those boats are tied up at  
12 the dock.

13 Although much of the Gulf's fleet has been  
14 unable to shrimp this season due to their inability to  
15 cover costs and, at the same time, compete against  
16 low-priced imports, those that have fished have  
17 steadfastly ramped up their commitment to improve the  
18 quality of domestic shrimp.

19 Penguin serves over 250 food service and  
20 seafood distributors, restaurant chains, and retailers  
21 across the nation. I can tell you that the  
22 overwhelming feedback we have received this year is  
23 that the quality of domestic shrimp has improved from  
24 an already excellent product to an even better one.  
25 There are large national retailer chains and further



1 processors, such as breaders, committed to using  
2 domestic shrimp for some or, in a few cases, all of  
3 their needs. Some of these national chains and  
4 further processors are represented here today.

5 On behalf of the shrimpers and the  
6 processors of the domestic industry, I want to thank  
7 them for their support, but, as we all know too well,  
8 the key driver to demand is price, and ultimately if  
9 the domestic shrimper is forced to compete much longer  
10 with dumped imports, there won't be a domestic  
11 industry left.

12 I have heard the argument that the consuming  
13 public is better served by being able to purchase  
14 lower-cost shrimp. On its face, I would agree with  
15 this statement, but it also warrants further analysis.  
16 Eighty to 85 percent of shrimp continues to be  
17 consumed in restaurants. With the exception of the  
18 shrimp promotions of a few large restaurant chains,  
19 how often do any of us see restaurants lower the price  
20 of shrimp dishes on their menu to reflect lower cost?  
21 From my experience, the answer is almost never.  
22 Wholesale prices can most certainly be higher, and not  
23 only can consumption levels be maintained; they will  
24 grow.

25 In reality, the benefit to the consumer of

1 lower wholesale shrimp prices is negligible at best.  
2 The idea of delivering lower-cost shrimp to the  
3 consumer must be balanced against the survival of the  
4 domestic shrimp industry and the livelihoods of the  
5 tens of thousands of people who have made the domestic  
6 shrimp business their life's work.

7 As I have previously testified, we are not  
8 asking that all imports of shrimp be blocked. There  
9 is not a person at this table who is arguing that we  
10 should stop shrimp imports from coming into this  
11 country, nor that free trade should be unreasonably  
12 restricted. Foreign shrimp is a big part of the U.S.  
13 market, but shrimp being imported into this country  
14 must be sold at a fair price and not a dumped price.

15 I see the price for imports in the market as  
16 both a purchaser and seller of shrimp. Importers and  
17 foreign exporters make me the same ridiculously low-  
18 price offers that are made to my customers. Penguin's  
19 longstanding relationship with the boats and the  
20 processors means that we will continue to do our best  
21 to sell domestic shrimp, but if this current trend  
22 continues, we may not be in the domestic shrimp  
23 business much longer. Thank you.

24 MR. DEMPSEY: Mr. Chairman and members of  
25 the Commission, in the few seconds we have left, I'll

1 just wrap up by commenting very quickly on Mr.  
2 Connelly's points.

3 If it costs so much less to farm shrimp than  
4 to harvest it, there should be no need to dump that  
5 shrimp in this market. The Commerce Department has  
6 found, and will continue to find, dumping margins. If  
7 quality was the most important fact for purchasers,  
8 there would be no need for the imported shrimp to  
9 consistently undersell the domestic shrimp and drive  
10 down domestic prices.

11 Fundamentally, this is a case about price.  
12 A number of the purchasers have stated outside this  
13 litigation that shrimp is a commodity. Price is the  
14 most important factor, and at this point, we will stop  
15 and be happy to answer your questions.

16 CHAIRMAN KOPLAN: Thank you very much, Mr.  
17 Dempsey. I want to thank each of the members of the  
18 panel for their presentation this morning. It's been  
19 extremely helpful. I would ask, in response to our  
20 questions, if each of you could re-identify yourselves  
21 for the record when you speak. That's because we have  
22 a very large number of you at the tables, and it will  
23 be much easier for the reporter to be able to identify  
24 as the transcript goes along, so if you would all  
25 remember to do that.

1 Thank you again, and with that, we'll begin  
2 the questioning with Commissioner Pearson.

3 COMMISSIONER PEARSON: Good morning.  
4 Welcome. It's been a very interesting panel. I  
5 appreciate everyone being here. I know a number of  
6 you are small businesspeople, and it's a considerable  
7 personal sacrifice to take time off to come here.  
8 That is noted.

9 Just as an opening question, this morning,  
10 some of the government witnesses mentioned a study by  
11 Nichols University. My understanding is that that  
12 study is not yet on the record. Is anyone able to  
13 provide it for the record?

14 MS. RANDOLPH: We may have it, sir.  
15 Charlotte Randolph. We may have a portion of it here,  
16 but I don't know that we have the entire study, but we  
17 could provide it to you shortly.

18 COMMISSIONER PEARSON: Okay. Right. If you  
19 could provide the full study as soon as it's  
20 convenient.

21 MS. RANDOLPH: Yes, sir.

22 COMMISSIONER PEARSON: Thank you.

23 The statutes direct us to consider the  
24 dumping margin as one factor in our decision-making  
25 process, and what I'm trying to figure out at the

1 moment is how to do that in this case because, you  
2 know, we have seen the final margins just recently for  
3 China and Vietnam, and they range from de minimis to  
4 over 100 percent. So if these margins went into  
5 effect, what impact would they have on the price of  
6 shrimp?

7 MR. DEMPSEY: Commissioner Pearson, Kevin  
8 Dempsey for the record. We have final determinations  
9 for just two countries. Certainly, China, which is a  
10 very large exporter to the United States, has very  
11 high margins for most of the producers, and that  
12 would, I think, I have a very significant impact on  
13 import prices.

14 Obviously, it can vary some from company to  
15 company, to the extent that there are differing  
16 margins, but obviously for every company that is found  
17 to be dumping, they face not only that current margin,  
18 but they also face the reality of an administrative  
19 review at the end of the first year, and they know  
20 that if they continue to engage in aggressive pricing,  
21 even if the initial margin is low, that it could be  
22 much larger later. So I think the mere imposition of  
23 antidumping liability will have a very significant  
24 effect on the pricing behavior of those subject  
25 producers.

1                   COMMISSIONER PEARSON: This wouldn't be  
2 possible to do now in the panel, but for the post-  
3 hearing, could you perhaps calculate a trade-weighted  
4 average margin, given Commerce's final dumping  
5 margins, and apply it to imports for 2003 perhaps to  
6 give some idea of, had the margins been in effect in  
7 that year, what the trade-weighted, import duty would  
8 have been.

9                   MR. DEMPSEY: Commissioner Pearson, Kevin  
10 Dempsey. We'll be happy to look at that data, and for  
11 the countries where we have final determinations, try  
12 to provide some analysis on that.

13                   COMMISSIONER PEARSON: Okay. Because any  
14 guidance that you could give on how we might consider  
15 the margins in this case would be helpful because, to  
16 me at the moment, it's not at all clear. Let me just  
17 clarify. I understand that once the margins are in  
18 place, you wouldn't have the same trade flows that you  
19 had in 2003. Something will change, but that would  
20 kind of give the high end duty that might be applied  
21 across a range of imports, and it might be a useful  
22 starting point.

23                   MR. DEMPSEY: Again, Kevin Dempsey. We will  
24 be happy to provide that analysis and see what we can  
25 come up with to provide assistance to the Commission

1 in considering how to account for the dumping margin  
2 in your analysis.

3 COMMISSIONER PEARSON: Okay. Shifting  
4 gears, Akin, Gump's Exhibit No. 6 -- it's the Texas  
5 A&M paper, "Status of the World and U.S. Shrimp  
6 Markets -- on Table 1, and you don't even need to dig  
7 it out now if you don't want, but Table 1, it's the  
8 worldwide production of tropical shrimp, and it  
9 provides data up through about 1999, and then there is  
10 nothing that carries us into the period of  
11 investigation. The data that are available show  
12 rather robust increases in global production of  
13 shrimp, and I'm wondering, is there any source  
14 available where we could determine if that trend has  
15 continued.

16 MR. DEMPSEY: Let me just ask my colleagues.  
17 This is Kevin Dempsey.

18 MS. HESTER: Susan Hester for the record.  
19 I'm not looking at that exhibit, but I believe the  
20 data is available through 2002 for farm versus wild  
21 caught. Is that what you're asking for, world  
22 production?

23 COMMISSIONER PEARSON: Right. This was  
24 farmed plus wild caught.

25 MS. HESTER: Right. So we'll be happy to

1 put that on the record.

2 COMMISSIONER PEARSON: Okay. I think the  
3 message that price is down is very clear. There is no  
4 doubt about that. What I'm trying to figure out is  
5 why is price down, and is price down just in the  
6 United States, or is it down globally? Is there any  
7 price data available for globally traded shrimp, any  
8 market, either futures market or cash market, anywhere  
9 in the world that would provide us information on  
10 shrimp prices?

11 MR. DEMPSEY: I'm not aware of any data  
12 beyond the U.S., but we'll certainly look to see if  
13 there is anything, and I'll check with my colleagues.  
14 We'll make an effort to see if there is any other data  
15 to provide, but I'm not aware of that at this time.

16 COMMISSIONER PEARSON: Roughly a decade ago,  
17 the Minneapolis Grain Exchange established a contract  
18 for trading shrimp. I don't believe that contract is  
19 currently active, although I haven't followed it.  
20 Does anyone have knowledge of why that contract is not  
21 being traded?

22 MR. APPLEBAUM: John Applebaum. I believe  
23 that they discontinued the trading of futures in  
24 shrimp there because of lack of activity, very few  
25 participants and almost no activity.



1                   COMMISSIONER PEARSON: Shrimp has been  
2 described as a commodity market, and commodities, if  
3 they are commodities, they tend to welcome or to  
4 encourage the development of markets where you can buy  
5 them and sell them. We see that across the range of  
6 agricultural food products, metals, currencies, you  
7 name it, so I'm trying to figure out why, on the  
8 record, do we have so little or no information about  
9 shrimp prices other than just the very specific price  
10 data here in the United States.

11                   MR. APPLEBAUM: John Applebaum again. I  
12 observed the beginning of the trading of the futures  
13 in Minneapolis and talked on several occasions with  
14 the people that had organized it, and this is my  
15 personal opinion, my personal belief. I feel that  
16 they did a very poor job of structuring the way in  
17 which the futures would be traded, and when asked for  
18 input from industry, from people that were really  
19 doing the buying and selling of the shrimp, the people  
20 running the exchange really didn't respond and make  
21 the correct adjustments. It was not set up in such a  
22 way that it encouraged participation and involvement.

23                   As far as -- I believe that I can help Kevin  
24 and Brad find pricing information through various  
25 sources, publications from other countries as well,

1 for the final report.

2 MR. DEMPSEY: Commissioner Pearson, just to  
3 clarify, there are certainly statements from a number  
4 of major purchasers describing shrimp as a commodity.  
5 Darden Restaurants, in its 2000 annual report, refers  
6 to, you know, commodities such as coffee, soybean oil,  
7 and shrimp. Outback Steakhouse refers to commodity  
8 cost decreases for beef and shrimp. Various other  
9 seafood restaurants do.

10 There is certainly a view, I think, in a  
11 number of publications about shrimp as a commodity,  
12 and there is a lot of pricing data through, for  
13 instance, Urner Barry, which we have provided in our  
14 brief and can provide more on, about the fluctuations  
15 in prices in the United States. Why there isn't more  
16 pricing information on other markets; one factor, I  
17 think, to take into account is the U.S., in terms of  
18 exported, internationally traded shrimp, the U.S. is,  
19 by far, the largest market for that shrimp, and so the  
20 focus on pricing data and following data that changes  
21 prices is particularly focused on the United States.  
22 There is simply not as much of a market in other parts  
23 of the world.

24 COMMISSIONER PEARSON: Well, I have to  
25 confess, I'm much more familiar with commodities such

1 as soybeans than I am with shrimp. In soybeans, the  
2 United States is closely connected to the global  
3 market. If there happens to be good rain in Brazil,  
4 Argentina, Paraguay, and they have a large crop, the  
5 price of every soybean in the United States declines.  
6 For every soybean in the world, the price declines,  
7 and I'm wondering if we aren't in a somewhat similar  
8 situation in shrimp, where if global production has  
9 continued to increase, and we may be seeing a price  
10 decline that is described as an increase in supply  
11 along a relatively fixed demand curve, thus, price is  
12 just sliding down, and that could be happening without  
13 any particularly insidious intent on anyone's part.  
14 My time has expired, so let me stop there.

15 CHAIRMAN KOPLAN: Thank you, Commissioner  
16 Pearson.

17 I'll begin my questioning with Ms. Hester,  
18 if I may. What I'm going to refer to is an exhibit to  
19 the Akin, Gump brief on behalf of the National Chamber  
20 of Aquaculture, Ecuador, and the American Seafood  
21 Distributors Association, and that is Exhibit 10 to  
22 the brief that was prepared by Dr. Chad Bown, an  
23 economist, and it's entitled "An Economic Analysis of  
24 Certain Frozen or Canned Warmwater Shrimp and Prawns:  
25 The U.S. Industry and the Role of Imports," and it's

1 dated November 21st.

2 Ms. Hester, that analysis makes several  
3 assertions concerning the conclusions that are the  
4 result of his research. First, and I'm quoting at  
5 page 6, it states: "First, there is overwhelming  
6 evidence from the surveys of shrimp purchasers that  
7 confirms U.S.- and foreign-produced shrimp are not  
8 interchangeable products." It goes on to say on that  
9 page that "imported shrimp from subject countries is  
10 superior to the U.S. shrimp in virtually every  
11 product-quality-attribute category that is important  
12 to the U.S. purchaser."

13 Then on page 7, he states that, second,  
14 using empirical techniques to measure the injury  
15 experienced by the domestic shrimp industry during the  
16 2001-to-2003 period and then separating the injury  
17 across the various potential explanatory causes, he  
18 comes up with this. He states, and I quote: "My  
19 estimates suggest that over four-fifths of the injury  
20 to the domestic shrimp industry has resulted from a  
21 reduction in demand for U.S. processed shrimp that is  
22 not related to increased subject import competition.  
23 This evidence is consistent with my other results.  
24 Demand for U.S. shrimp decreases as potential  
25 purchasers are continually offered an inferior U.S.

1 product."

2 I'm also going to note, there is a table on  
3 page 59 called "Kelly Models Predictions," and I'm  
4 having trouble reconciling the numbers for myself that  
5 appear in the five columns in the middle of that page.

6 Now, what I would like to do is -- I assume  
7 you've had a chance to look at this before coming in  
8 today, and I would like you to respond to the portions  
9 that I have quoted, if you could, for me. I know I'll  
10 be hearing from him this afternoon.

11 MS. HESTER: Well, the first comment I was  
12 going to make was that we would obviously give you a  
13 detailed response in our post-hearing brief.

14 CHAIRMAN KOPLAN: I appreciate that. I  
15 thought you would, but --

16 MS. HESTER: There is an enormous amount of  
17 things to say about the study. First of all, he has  
18 used information from your purchasers' questionnaires  
19 in doing his analysis, and I think it stretches the  
20 imagination to think that those purchasers are  
21 unbiased. Nine out of the 10 shrimp that are  
22 purchased, more than nine, are imported shrimp. It's  
23 not in their self-interest to say anything but what  
24 they have said, for the most part, although some of  
25 the purchasers have not said what is consistent with

1 the Respondents' story.

2 In terms of the loss of share or volume, the  
3 public data for the entire industry shows basically  
4 that landings have been steady in 2000. They dipped a  
5 little in 2002. They were back up in 2003. The vast  
6 majority of that shrimp -- no one has questioned our  
7 estimate that at least 90 percent of that shrimp is  
8 further processed in the United States. That shrimp  
9 was processed by someone. Your survey of processors  
10 is not a complete survey of the entire industry.

11 So the first thing I would say is that that  
12 shrimp was processed by someone in the United States.  
13 We don't know the details of it, but it was processed.  
14 So there hasn't been a decline in demand for U.S.  
15 product. Every shrimp that is caught is processed and  
16 sold in our market.

17 I have fundamental issues with his use of  
18 the data. He has used the data from the pricing  
19 products to do his first analysis. We feel that's a  
20 very inappropriate use of that data. I've forgotten  
21 the other points you have made here.

22 He has made certain assumptions about the  
23 data that just simply don't hold up with the data.  
24 For instance, on this pricing data, if your staff  
25 excluded one quarter's data from an importer or

1 processor for some reason, which they do on occasion  
2 after they have investigated it, that would totally  
3 skew the results. These models which he has used have  
4 too few observations in them. A rule-of-thumb is that  
5 a data set fewer than 20 observations or 10  
6 observations per independent variable will not produce  
7 robust results. Given the number of independent  
8 variables he has and the dummy variables, they just  
9 simply aren't reliable.

10 His elasticities are based on having market  
11 shares, and he has used your data for the specific  
12 products and assumed that those are representative of  
13 import versus processor market shares, and that's not  
14 a reasonable assumption.

15 He has used the SUR techniques, and he says  
16 it's appropriate when --

17 CHAIRMAN KOPLAN: Can you help me out and  
18 tell me what an "SUR technique" is?

19 MS. HESTER: I'm drawing a blank.

20 MR. DEMPSEY: It's a seemingly unrelated  
21 regression, for the record.

22 MS. HESTER: Yes. Thank you, Kevin.

23 CHAIRMAN KOPLAN: I'm impressed with that,  
24 Mr. Dempsey, coming from a lawyer.

25 MS. HESTER: He says it's appropriate when

1       there is a high correlation in error terms, but he  
2       hasn't shown us that calculation. I'm expecting that  
3       your staff will ask for the data, as they always do.

4               His elasticities are so different -- you  
5       probably know that we often take exception to your  
6       staff's elasticity estimates, but this is one time --

7               CHAIRMAN KOPLAN: I'm aware of that.

8               MS. HESTER: -- one time when I have to say  
9       that they look very reasonable compared to the study.  
10       I mean, the staff report suggested a domestic supply  
11       elasticity of 4 to 8, and he estimates it at .25, you  
12       know. I just think it's a huge stretch because --

13               CHAIRMAN KOPLAN: That's their Kelly  
14       prediction on page 59.

15               MS. HESTER: The data is the data, and it's  
16       such a reach.

17               CHAIRMAN KOPLAN: I thank you for that, and  
18       I look forward to whatever else you will provide.

19               MS. HESTER: We'll be happy to give you the  
20       details.

21               CHAIRMAN KOPLAN: Thank you.

22               Now, if I could turn to some of the domestic  
23       witnesses, Mr. Cook and Mr. Staves, Petitioners'  
24       prehearing brief asserts, on page 18, that, and I  
25       quote, "in the final phase of these investigations,



1 the record continues to indicate that both canned and  
2 frozen warmwater shrimp are sold to distributors and  
3 retailers." You cite the processors' questionnaire  
4 responses to Questions II-9 and V-3.

5 In contrast, Chicken of the Sea argues, at  
6 pages 9 and 10 of its prehearing brief, that at least  
7 80 percent of domestically produced frozen shrimp is  
8 sold to food service distributors, whereas, and I  
9 quote, "virtually all canned shrimp is sold directly  
10 to grocery stores and supermarkets. Further, when  
11 frozen shrimp is sold to grocery stores, it's to  
12 different departments." Do you sell canned product  
13 directly to grocery stores and supermarkets? What  
14 department do you typically sell your canned shrimp  
15 to?

16 MR. COOK: David Cook. We sell to basically  
17 the shelf-stable area, but shrimp is found basically  
18 in three different departments in the store, -- in the  
19 canned fish department, in the meat case, and in the  
20 frozen food case -- so it's found throughout the  
21 store.

22 CHAIRMAN KOPLAN: Thank you. I see that my  
23 yellow light is on, so I'll save the rest for my next  
24 round, and I'll turn to Vice Chairman Okun.

25 VICE CHAIRMAN OKUN: Thank you, Mr.

1 Chairman, and let me join my colleagues in welcoming  
2 all of you here this morning. Your testimony has been  
3 very helpful, all of the information you have provided  
4 and filling out questionnaires and in the briefs. We  
5 have, I think, a lot of claims and counterclaims to  
6 work through today, which is why a hearing is always  
7 helpful. It's also one where I think we have an  
8 extraordinary amount of expert reports, I guess I  
9 would call them, which, I think, also need some  
10 discussion.

11 Let me start, I think, with Mr. Applebaum,  
12 as a distributor, and then maybe the processors in  
13 trying to understand conditions of competition and how  
14 it relates to some of the claims regarding price, and  
15 let me start with this question, which is one of the  
16 arguments made by Respondents and included by Dr.  
17 Stern in their report is that, in essence, the  
18 importers are filling a new demand, a new market, and  
19 part of that is talking about what I think we'll hear  
20 from Darden Restaurants and, I assume, from Wal-Mart  
21 and the others about the large increase in demand and  
22 that they can only get it from imports because of size  
23 and quality, and they have gone through some of these  
24 allegations.

25 And I wanted to hear from you and from the

1 processors, if you could help me out a little bit in  
2 understanding historic relationships on that. In  
3 other words, are any of these folks that you sold to  
4 with domestic product in the period of investigation,  
5 prior to the period of investigation, and what's  
6 changed over time, if you can help me understand it.  
7 I'm just trying to understand whether this is really a  
8 new demand, new segment, however you want to describe  
9 it, or is it just a shift in who these big players are  
10 purchasing from.

11 MR. APPLEBAUM: Shrimp demand and  
12 consumption is certainly growing, and without imports,  
13 we could not address that growing demand. Ten, 15, 20  
14 years ago, our sales were not just to food service  
15 distributors and retail chains, but they were also to  
16 further processors and some of the larger chains  
17 represented here today. What we've seen in the last  
18 four or five years is that this real surge, increase  
19 in imports, as a consequence, at much lower prices,  
20 has caused a number of larger users to focus on these  
21 imports. Again, we need the imports for the level of  
22 consumption we have in the States, but it needs to be  
23 at fairly traded pricing.

24 VICE CHAIRMAN OKUN: Is it your experience,  
25 and I'll go to the processors next, if they have any

1 experience or not, that they were coming to you to say  
2 we need to have X quantity, a much larger quantity  
3 than the U.S. market could supply, and we have to have  
4 it all at once, and we have to have it at this price?  
5 I'm just trying to understand whether the domestic  
6 industry was filling a portion of that demand, and  
7 they were looking elsewhere to fill the other portion,  
8 or was it they wanted one source, and they wanted a  
9 large source, and you're telling them you couldn't get  
10 that?

11 MR. APPLEBAUM: No. My experience is that,  
12 you know, that most large purchasers have always had  
13 to, and continue to, have to buy from multiple  
14 sources, and I don't believe that there is any single  
15 buyer in the United States who focuses on one supplier  
16 of shrimp. It wouldn't be feasible. I don't think  
17 they have in the past, and I don't think that they are  
18 now.

19 VICE CHAIRMAN OKUN: Okay. Mr. Gollot or  
20 Mr. Blanchard, I'm not sure, given how the industry is  
21 set up, whether you can talk to that, but since it's  
22 been a major charge by the Respondents, I wondered  
23 whether you could add anything to that in terms of who  
24 you sell your product to, whether it's going to be any  
25 of the folks we're going to hear from later this

1 afternoon, and what changed.

2 MR. GOLLOT: Richard Gollot, and I do supply  
3 domestic shrimp to large breaders and large chains  
4 that also use imported shrimp, and I have lost  
5 business because importers have cut the price on a  
6 certain size shrimp, and they will tell me, "We have  
7 to switch to imported shrimp because they are just  
8 cheaper."

9 VICE CHAIRMAN OKUN: Okay. I'll turn to the  
10 other folks, but in that instance, is this one where  
11 they come back to you and say, "Your quality is not  
12 that good. I'm looking at an import which is better  
13 quality," or has it been price?

14 MR. GOLLOT: No. I have actually cut  
15 against some importers, and my product was better than  
16 the imported product that they were buying. The  
17 imported product was acceptable, so they used it  
18 instead of the higher-quality, domestic shrimp.

19 VICE CHAIRMAN OKUN: Okay. Let me ask Mr.  
20 Blanchard the same question, in terms of whether you  
21 can give me your experience in selling into this  
22 market whether you've seen the growth being in a  
23 section of the market with these large restaurants or  
24 large -- the Wal-Marts, Darden Restaurants, where you  
25 offered product previously and either lost business or

1 were told quality wasn't good, price wasn't good.

2 MR. BLANCHARD: We attempted, several years  
3 ago --

4 VICE CHAIRMAN OKUN: Mr. Blanchard, if you  
5 can move your mike just a little bit closer.

6 MR. BLANCHARD: We attempted, several years  
7 ago, to sell to Wal-Mart, and we had enough volume to  
8 produce, we felt, for them for the southeast region,  
9 and price was the issue, and it wasn't quality or  
10 anything. We were underpriced. Imports were  
11 underpriced. We couldn't produce it for the price  
12 that they wanted it for.

13 VICE CHAIRMAN OKUN: Okay. Just, again, I'm  
14 trying to understand your industry and how prices are  
15 set and how it's perceived by the industry in these  
16 cases. This isn't a case where we have a lot of lost  
17 sales, lost revenue, and there was a description, both  
18 in your brief, on why that may be the case.

19 But I guess, Mr. Dempsey, the one thing I'm  
20 trying to understand is trying to make a connection  
21 between the allegations I hear about the section of  
22 the market where the Respondents are claiming that the  
23 U.S. just can't supply the quantity and then also the  
24 quality allegations, but the quality being the size,  
25 as I understand it. Anything else that can be done on

1 that? Yes, Mr. Applebaum?

2 MR. APPLEBAUM: I wanted to try and clarify  
3 my comment a little earlier. The domestic industry  
4 has always satisfied a certain portion of all of these  
5 various segments, but it's this crush of imports at  
6 low prices that has caused us to lose, you know, a  
7 significant portion in each of those segments.

8 You know, consumption is going up, but the flow,  
9 the rate of the imports has gone up much faster.

10 MR. DEMPSEY: Just to follow up on that,  
11 Kevin Dempsey, I think it's important that, as you've  
12 heard from the processors, they are, in fact, engaged  
13 in competition with the imports for sales to the same  
14 purchasers. No one purchaser is going to rely on one  
15 source for their shrimp. You're going to buy it from  
16 many different sources, as Mr. Applebaum indicated.  
17 But we're not talking about some sort of segmented  
18 part of the market that's only being served by  
19 imports.

20 There is competition, but because the  
21 imports can come in at such a low price because they  
22 are coming in faster than the increase in demand and  
23 pressing down the price, the domestic producers are  
24 finding it increasingly difficult to compete for those  
25 sales to those same purchasers on the basis of price.

1 Purchasers say it's all about quality, but, again, if  
2 it was about quality, there would be no need for the  
3 imports to be underselling the domestic product.

4 The domestic product, we believe, is of  
5 equivalent, if not greater, quality. Obviously, there  
6 is variation from any one supply to another, but there  
7 is no segmentation of this market like there has been  
8 in some other cases. It's all the same purchasers  
9 that are buying from domestic producers as well as  
10 importers.

11 VICE CHAIRMAN OKUN: Okay. For post-  
12 hearing, one of the cases that was cited in the  
13 Coalition of Shrimp Exporters and Producers was Fresh-  
14 cut Roses from Colombia and Ecuador, where the  
15 Commission reached a negative determination, raising  
16 some of the issues that have been raised that I talked  
17 about already in terms of growing demand and who was  
18 buying and at market where the U.S. was unable to  
19 supply the full demand. So for purposes of post-  
20 hearing, if you could look at that case, I would  
21 appreciate that.

22 CHAIRMAN KOPLAN: If I could just interrupt  
23 one second, because our lights aren't working, the  
24 secretary is notifying me when there is a minute left.  
25 We have to do it manually.



1 VICE CHAIRMAN OKUN: Is there a minute left?

2 CHAIRMAN KOPLAN: There is a minute left.

3 VICE CHAIRMAN OKUN: (Laughter.) Okay.

4 MR. DEMPSEY: Vice Chairman Okun, for the  
5 record, we would be happy to provide that analysis. I  
6 would point out just one very obvious distinction  
7 between Roses and this case. If you look at Roses,  
8 and you look at the domestic prices, the Commission  
9 found no evidence of price depression. While there  
10 was some variability from quarter to quarter for  
11 seasonality reasons, prices overall, the domestic  
12 shipment AUVs, were relatively stable in that case  
13 over the entire period of investigation. So the  
14 increased imports were not depressing domestic prices.

15 Here, you see a very, very different story  
16 where those increased imports are having a very  
17 significant depressing effect on domestic prices.

18 VICE CHAIRMAN OKUN: Okay. I appreciate  
19 that. Is my one minute up?

20 CHAIRMAN KOPLAN: I'll leave that to your  
21 judgment.

22 VICE CHAIRMAN OKUN: Okay. Let me make one  
23 post-hearing request, and that is it's somewhat along  
24 these lines, which is if you could provide for us  
25 cases where the Commission has been faced with markets

1 where the U.S. industry supplies a small portion, 15  
2 percent or less, of market share and how the  
3 Commission has analyzed that in terms of both volume  
4 price impact and conditions of competition.

5 In this case, if you could take a particular  
6 look at -- because nonsubjects are so large, I know  
7 we'll have a chance to talk about that, but I want to  
8 make sure that I have this request in for post-hearing  
9 that I want a legal analysis of when the Commission  
10 has looked at similar markets and how we've analyzed  
11 it.

12 MR. DEMPSEY: Kevin Dempsey for the record.  
13 We will be happy to provide that.

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

16 CHAIRMAN KOPLAN: I think you got the most  
17 out of that minute. Commissioner Hillman?

18 COMMISSIONER HILLMAN: Thank you very much,  
19 and I, too, would like to join my colleagues in  
20 thanking you all very much for taking the time to be  
21 with us today and for all of the information that was  
22 provided in the prehearing brief as well as in your  
23 statements.

24 I would like to follow a little bit along  
25 the lines of the questions that the vice chairman was

1 asking because, as you said it, Mr. Dempsey, you  
2 regard this as a price case. And so obviously one of  
3 the things that, at least, I'm struggling with is to  
4 make sure we understand exactly what is moving prices.  
5 I don't think there is any doubt that prices have gone  
6 down and gone down fairly significantly over this  
7 period. Obviously, the big question for us is, you  
8 know, what's driving what in terms of total supply of  
9 the product and all of that?

10 So let me, if I could, first start with  
11 perhaps you, Mr. Applebaum, to just try to understand  
12 from your perspective how prices get set at your end  
13 in terms of your selling product to your purchasers,  
14 and what are the factors? Again, I'm trying to very  
15 specifically to understand the kind of competition  
16 among product. How much does shell on versus shell  
17 off compete? How much does veined versus deveined,  
18 cooked versus not cooked? What are the factors that  
19 are really setting those prices and describe for me,  
20 from your perspective, how prices get set.

21 MR. APPLEBAUM: I would be happy to. John  
22 Applebaum. It's purely supply and demand. With 88  
23 percent of the shrimp that's consumed in the United  
24 States imported and only 12 percent produced out of  
25 our domestic waters, prices are truly established

1 based on the supply and demand of imported shrimp. In  
2 the domestic industry, I don't think that any one  
3 participant could be considered more than 7 to 10  
4 percent of the domestic market, and truly we are  
5 really pawns of the imported shrimp market.

6 COMMISSIONER HILLMAN: But how does that  
7 happen? Again, I'm trying to understand. Just pick a  
8 purchaser, for example, and describe to me how your  
9 price negotiations work.

10 MR. APPLEBAUM: A particular purchaser, a  
11 known purchaser, would have a number of either  
12 suppliers or potential suppliers calling that buyer  
13 with specific quantities at a specific price, and --

14 COMMISSIONER HILLMAN: So you're calling  
15 them; they are not calling you.

16 MR. APPLEBAUM: Yes.

17 COMMISSIONER HILLMAN: Okay.

18 MR. APPLEBAUM: That's correct. And this  
19 particular buyer would analyze these various  
20 offerings, and in a market where the buyer is aware  
21 that there are rising inventories relative to demand,  
22 then the buyer will, more often than not, for like  
23 product, determine to take the lowest price.

24 COMMISSIONER HILLMAN: When you say "for  
25 like product," again, I'm trying to understand the

1 degree to which these features of veining, deveining,  
2 cooking, --

3 MR. APPLEBAUM: Right.

4 COMMISSIONER HILLMAN: -- peeling, tail on,  
5 tail off -- how do they affect it? Do they only  
6 compete really with the exact same form of the shrimp?

7 MR. APPLEBAUM: No, no. Where you get to  
8 the issues of the various methods of value adding, --  
9 peeling and deveining, P&D tail-on, P&D tail-off -- it  
10 depends on what the particular customer's application  
11 is and, first, their ability to possibly do further  
12 processing on their own, but, second, balancing their  
13 cost of doing that processing against having it done  
14 for them. And generally, the markets for -- there may  
15 be some lag, and, again, there are some issues based  
16 on supply and demand in particular categories, but for  
17 the most part, those markets have some reflection back  
18 to the raw material, you know, the head-on shrimp or  
19 the headless shrimp, you know. They have some  
20 reflection back to the raw material.

21 Now, in a short time frame, there may be  
22 some imbalance in supply and demand that may cause  
23 those market share to move a little bit independently,  
24 but that's a very short time frame.

25 COMMISSIONER HILLMAN: Okay. Mr. Blanchard,

1 from your perspective, again, describe for me how you  
2 see the price competition, and, again, I'm trying to  
3 understand, how do you even know what the import price  
4 is, much less how does it come into your price  
5 negotiations with your purchasers?

6 MR. BLANCHARD: Right now, like Mr.  
7 Applebaum said, we're calling the customers, and in  
8 return, we are trying to sell our merchandise, and the  
9 customers are pretty much telling us, this is what  
10 your product is worth because I can get it for X  
11 amount on the imported side. We find out about the  
12 imported prices from the customer. The customer, or  
13 the buyer, should I say, of that customer is telling  
14 us, we can buy this product for \$2 a pound, and we  
15 might be trying to sell it for \$2.25, and we have a  
16 choice.

17 COMMISSIONER HILLMAN: And when they say  
18 "this product," again, is it specific to whether it's  
19 peeled, not peeled, deveined, not deveined, cooked,  
20 not cooked? It's very specific on those qualities.

21 MR. BLANCHARD: The buyer knows what he  
22 wants. If he is going to buy peeled or shell-on or  
23 P&D or PUD, he will specifically let you know that  
24 this is what I'm looking for.

25 COMMISSIONER HILLMAN: Okay. All right. I

1 appreciate that.

2 Mr. Applebaum, you had mentioned that you  
3 are basically purchasing shrimp off the dock and then  
4 having it processed at a toll rate. How do you  
5 determine the margin between what you're paying at the  
6 dock and your toll fee, and has that changed over  
7 time? Has your toll fee changed?

8 MR. APPLEBAUM: Our toll fee to further  
9 process?

10 COMMISSIONER HILLMAN: Yes.

11 MR. APPLEBAUM: It has, over the last five  
12 years, it has gone up, I would say, probably 1 to 2  
13 percent a year.

14 COMMISSIONER HILLMAN: And is it specific?  
15 You're going to pay X amount to do X function. In  
16 other words, if all I want you to do is take the peel  
17 off, I'm going to pay you X per pound or per whatever.

18 MR. APPLEBAUM: Yes.

19 COMMISSIONER HILLMAN: Describe it.

20 MR. APPLEBAUM: For each process, the toll  
21 fee is very, very specific, and it is established, or  
22 it is set by the processor generally on an annual  
23 basis. But again, because shrimp is very, very mobile  
24 and can go from one port to another, the processor  
25 cannot -- you know, because there is so much

1 competition in the sales end, any individual processor  
2 couldn't just unilaterally raise their rates to cover  
3 their costs.

4 COMMISSIONER HILLMAN: Back it out. Then  
5 how does it go back to the shrimp price, to the price  
6 you're paying for the shrimp coming off the boat?  
7 You're looking at your final sales price and doing  
8 what to it to determine the boat price?

9 MR. APPLEBAUM: Okay. We look at what we  
10 can sell the product for now. You know, 10 years ago,  
11 we would know that in the off-production months that  
12 there would be some market appreciation, and that  
13 would allow us to perhaps pay prices at any given time  
14 that were not necessarily reflective of what we could  
15 sell it for right at that moment. Those out-of-season  
16 appreciations in the last few years, with these dumped  
17 imports, that potential for appreciation has  
18 evaporated.

19 So at any given time, we can only pay for  
20 shrimp based on what we believe we can sell it for,  
21 you know, right now in the marketplace, and as the  
22 prices have come down, our margins -- you know, I  
23 would say, five to 10 years ago, we could experience  
24 average gross margins running between 4 and 6 percent,  
25 and today we're lucky if we're getting 3 or less, and



1 that's on current sales. That's not taking into  
2 account if this market goes down due to imports, and  
3 we're looking at product that's sitting in our freezer  
4 that we've already bought and paid for, then we're in  
5 the red.

6 COMMISSIONER HILLMAN: Mr. Gollot, from your  
7 perspective, how do you determine the prices? How do  
8 you set prices at your facility? How do you determine  
9 what you're going to pay for shrimp coming off the  
10 boat?

11 MR. GOLLOT: I think Mr. Applebaum described  
12 it pretty well. It's a negotiation thing with the  
13 customers, and then you try to back it up and figure  
14 what your cost is to produce the stuff and what you  
15 can pay the boats.

16 COMMISSIONER HILLMAN: Is there a fairly  
17 standard markup? If you're able to sell it for \$3 a  
18 pound, you're going to pay, coming off the boat, \$3  
19 minus what? Is there a standard sort of margin there?

20 MR. GOLLOT: Not really because it's a  
21 negotiated price that you're selling on, so you just  
22 sometime -- I have sold stuff and not made any money  
23 on it, or I have sold stuff and made -- you know, it  
24 depends on the volume that you have in the freezer and  
25 how bad you need to sell it.

1                   COMMISSIONER HILLMAN: For the record, if  
2 any of this, on these processing fee margins, could be  
3 put on the record, -- I understand that it would  
4 involve confidential numbers -- I think that would  
5 help explain this a little bit better.

6                   MR. DEMPSEY: Yes. Commissioner Hillman,  
7 Kevin Dempsey for the record. We will be happy to try  
8 to provide that to you.

9                   COMMISSIONER HILLMAN: Thank you very much.

10                  CHAIRMAN KOPLAN: Thank you, Commissioner.  
11 I know the lights are working again temporarily.  
12 Commissioner Lane?

13                  COMMISSIONER LANE: Good afternoon. I'm not  
14 sure which is going to be the biggest challenge, my  
15 asking questions or determining whether the lights are  
16 going to continue working, but we shall try.

17                  Mr. Wallis. The first question I have is  
18 you said that you had to cancel your insurance. Is it  
19 a condition of licensing in your state or the states  
20 that you do business in that you have to keep  
21 insurance on your boats?

22                  MR. WALLIS: No, you are not required to  
23 have insurance. It's just a big chance that you take  
24 liability wise for personal injury and other things  
25 that may happen on a boat and also the loss of your

1 vessel due to what can happen out in the Gulf.

2 This is the first time I've ever taken that  
3 chance. Like I said in my testimony, the six boats  
4 that I do have paid for, there's nobody pressuring me  
5 to do that. Like the banks, they will require you to  
6 have insurance on your boats. So I just chose to drop  
7 that insurance to try to save that money in the six  
8 months that they were tied up at the dock.

9 COMMISSIONER LANE: Is this apparently a  
10 trend in the industry to save money that a lot of  
11 owners are dropping their insurance?

12 MR. WALLIS: Yes, ma'am. There's a number  
13 of vessels now that are operating out in the Gulf of  
14 Mexico with no insurance at all.

15 COMMISSIONER LANE: Thank you.

16 Some of the testimony that we have heard  
17 talks about the difference in quality between the  
18 domestic industry and the shrimp that is imported.  
19 I'm just curious as to whether or not the ordinary  
20 consumer can taste shrimp and determine whether or  
21 not it is foreign shrimp or domestic shrimp.

22 MR. BLANCHARD: Andrew Blanchard.

23 Right now, I think with domestic shrimp  
24 unless you are a professional that has just eaten  
25 domestic shrimp, you're going to go ahead and you're

1 going to taste the sweetness of it, but the average  
2 consumer in this country cannot taste it because it's  
3 imitated with artificial flavorings and seasonings and  
4 everything else. When they eat shrimp, it's just  
5 shrimp.

6 MR. ST. PIERRE: Scott St. Pierre. I'm a  
7 commercial fisherman.

8 Unless you are in the day-to-day business of  
9 the product when you get it, you know, we would tell  
10 the difference but most people, depending on the sauce  
11 that you put it in. They keep saying that their  
12 quality is much better. You put them on the table,  
13 you can't tell the difference in the quality because  
14 they're both superior quality I believe and they're  
15 both very well packed. But when you want to come to  
16 taste it, it depends on what you cook it in. And it's  
17 the sauce that makes the difference. That's all I can  
18 tell, when you come into a restaurant.

19 COMMISSIONER LANE: Thank you.

20 MS. CHAUVIN: Kimberly Chauvin.

21 I've had people from different states in our  
22 home, we take them aboard our boat to show them what  
23 we do and how it goes on, and we've made it kind of a  
24 thing where we cook for people who come down from all  
25 over.

1           The ones that I've had, we've had imported  
2 shrimp and we've had domestic shrimp and they notice a  
3 difference in the taste. They know what they're used  
4 to eating but they ask questions about what's the new  
5 stuff? What is that? Why are we not getting that?

6           That's brought a bit of sales to me because  
7 now they're wanting the domestic shrimp compared to  
8 the imported because there are distinctive tastes in  
9 our domestic shrimp. That's brought them home back,  
10 to get that product.

11           MR. DEMPSEY: Commissioner Lane, Kevin  
12 Dempsey.

13           I think there's, on this quality issue  
14 there's some confusion. I think what you actually, if  
15 you listen carefully to the statements on the other  
16 side a lot of it has to do less with the taste or the  
17 freshness. It has to do more with what I would call  
18 weights and measures, sort of count size, consistency  
19 of count size.

20           I wanted to ask Mr. Applebaum if he wanted  
21 to comment on that.

22           MR. APPLEBAUM: John Applebaum.

23           Mr. Dempsey is correct. When talking about  
24 quality there are sort of two aspects. There's  
25 quality and freshness and flavor, and then there are

1 weights and measures issues. And personally I would  
2 say, and we do a substantial volume in domestic  
3 shrimp. We don't have problems with weights and  
4 measures if that is the issue that the other side is  
5 complaining about.

6 COMMISSIONER LANE: There was a gentleman in  
7 the back that wanted to answer. Mr. Versaggi?

8 MR. VERSAGGI: Sal Versaggi with Versaggi  
9 Shrimp Corp.

10 Even the opposition in this particular  
11 petition has admitted that the best thing we have  
12 going for us is the taste, and I think that was your  
13 question.

14 You take a boiled, cooked shrimp without any  
15 seasonings, compare it to a foreign imported shrimp  
16 cooked the same way, the taste difference is just,  
17 there's no comparison. They've told us that. They've  
18 told us that's your niche market. That's what you  
19 have to up-sell and that is the salvation of your  
20 industry. So even the other side admits that the  
21 taste is one of the biggest factors we have going for  
22 us.

23 COMMISSIONER LANE: Meaning that the  
24 domestic shrimp taste better.

25 MR. VERSAGGI: That's correct.

1                   COMMISSIONER LANE: Thank you.

2                   Now I think there has been an issue raised  
3 as to like product, and whether or not canned shrimp  
4 should be a separate product and there's an issue  
5 relating to shrimp scampi. Mr. Dempsey, do you want  
6 to start and discuss that issue a little bit and maybe  
7 you can direct me to who else might want to answer  
8 that.

9                   MR. DEMPSEY: Sure. Let me begin with  
10 canned because I think that's the most serious issues.  
11 Kevin Dempsey for the record.

12                   On canned we believe that analysis into the  
13 Commission's traditional six factor like product test  
14 would show that canned and frozen shrimp are part of  
15 the same like product just as the Commission found in  
16 the preliminary determination. And let me just pick  
17 off a few of those things and then I'll ask Mr. Cook  
18 if he wants to comment further.

19                   Physical characteristics. When you drain,  
20 take the shrimp out of the can it's a cooked and  
21 peeled shrimp. You compare that to a cooked and  
22 peeled frozen shrimp that's been thawed, you're really  
23 going to see no difference in physical  
24 characteristics. It's the same shrimp.

25                   In fact coming for the domestically canned

1 shrimp, that shrimp is coming off the same boats as  
2 the frozen shrimp. One day it may go to a freezer,  
3 the next day it may go to a canner, but there's really  
4 no difference in the physical characteristics of that  
5 product.

6           There's been some arguments made by the  
7 other side that there are various ingredients added to  
8 canned shrimp that are not added to frozen, but  
9 actually we believe if you check the labels you'll see  
10 that a lot of the same ingredients are found in a lot  
11 of frozen shrimp. So there is generally across the  
12 board similar physical characteristics. It's also been  
13 suggested that canned shrimp is always smaller shrimp.  
14 I think Mr. Cook can testify that they sell canned  
15 shrimp in a range of sizes up to what are large  
16 shrimp as part of their canning operation. So there's  
17 really no physical characteristic difference.

18           In terms of interchangeability, both canned  
19 and frozen shrimp are used for the same ultimate  
20 purpose, for consumption. We've submitted some  
21 recipes with our pre-hearing brief that identify  
22 either frozen or canned shrimp could be used to  
23 provide the shrimp protein for a particular product.  
24 So there's no question about interchangeability.

25           Channels of distribution. It is true that I



1 think most frozen shrimp goes to distributors and  
2 directly to restaurants and then a smaller share to  
3 supermarkets directly. Whereas more canned goes to  
4 supermarkets, but some canned is also distributed and  
5 some canned is sold to restaurants, for example, in  
6 putting on pizza. So there is an overlap there. I  
7 wouldn't say it's a perfect overlap, but there is an  
8 overlap in the channels of distribution.

9 Production processes --

10 MR. BISHOP: One minute remaining,  
11 Commissioner.

12 MR. DEMPSEY: Production processes. As Mr.  
13 Cook indicated in his testimony, up to the point of  
14 the canning the production process for canned shrimp  
15 and a frozen shrimp, a cooked and peeled shrimp is  
16 exactly the same. It goes through the same grading  
17 process, the same cleaning, the same cooking. And in  
18 terms of consumer and producer perceptions, again as I  
19 said it either can be used and they're recognized as  
20 interchangeable, the same product.

21 I've probably gone on too long. Let me ask  
22 Mr. Cook if he wants to comment on any of that before  
23 we've run out of your time.

24 MR. COOK: Dave Cook.

25 First off on the sizes of shrimp. We pack

1 various sizes all the way from tiny cocktail with  
2 about 90 to 120 shrimp per can, up to jumbo which has  
3 less than 20 shrimp per can. So those cans, those  
4 products have a variety of uses.

5 One of the biggest parallels, to demonstrate  
6 the interchangeability of the two products is the  
7 seasonality of sales. If you take a chart of  
8 unbreaded, frozen shrimp and put it up against a chart  
9 of canned shrimp on seasonality, on four-week periods,  
10 you will see an exact mirror image of those sales. We  
11 can provide that A.C. Nielsen data to you later.

12 COMMISSIONER LANE: Thank you. I'm sure my  
13 time is about up.

14 MR. BISHOP: Your time has expired.

15 COMMISSIONER LANE: Thank you.

16 CHAIRMAN KOPLAN: Let the record show that  
17 the lights are gone now and Mr. Bishop will be timing  
18 for us. This beats technology, obviously.

19 Commissioner Pearson?

20 COMMISSIONER PEARSON: I would just note  
21 that at this holiday season it's particularly  
22 surprising to see the colored lights gone, but well --

23 Back to price if I could. It was stated I  
24 think that basically all domestically produced shrimp  
25 are getting consumed. There's not domestically

1 produced shrimp are getting consumed. There's not  
2 domestically produced shrimp that are sitting around  
3 looking to someone to buy them.

4 So in that context what are the implications  
5 for our analysis? If we conclude that global prices  
6 for shrimp have fallen in response to growth in supply  
7 exceeding growth in demand, and then that lower world  
8 price has been reflected into the U.S. market in the  
9 form of a lower price here, and that that lower price  
10 in the United States has, in effect, slid down the  
11 U.S. demand curve, thus leading to an increase in  
12 domestic consumption. And that increased consumption  
13 has had the effect of drawing in more imports because  
14 the imports are the shock absorber that are able more  
15 easily than domestic production can meet the increase,  
16 the imports can meet the increase.

17 So in this case if it's domestic demand  
18 drawing in more imports, what are the implications for  
19 our analysis? This is very different from some of the  
20 cases we see where you're looking at a manufactured  
21 product with aggressive pricing and clear price  
22 undercutting. Help me through this, please.

23 MR. DEMPSEY: Commissioner, Kevin Dempsey.

24 In your analysis the point where I would  
25 quarrel with you is about demand pulling in the

1 imports because then you would see imports increasing  
2 approximately equivalent with the level of increase in  
3 consumption. Here imports, subject imports -- and  
4 it's important to distinguish. The subject imports  
5 have been increasing faster than the increase in  
6 demand and gaining market share. Not only at the  
7 expense of the domestic industry, but up until the  
8 point when the petitions were filed the subject  
9 imports were gaining share at the expense of the non-  
10 subject imports. So it's not sort of some general  
11 global phenomenon. It is imports from these six  
12 subject countries that are coming in more aggressively  
13 at lower prices, gaining market share in the United  
14 States and driving down prices in this country, and  
15 pulling down the prices not only for the domestic  
16 industry but also pulling down prices and costing  
17 market share for non-subject imports.

18 So it is not a purely global phenomenon. I  
19 think it is related to these subject countries.

20 Mr. Applebaum, do you want to --

21 MR. APPLEBAUM: John Applebaum.

22 I think the other observation to make is  
23 that just as the increase in imports has far out-  
24 surpassed the increase in consumption, so too have the  
25 cold storage holdings in the United States.

1           Earlier this year it was, the cold storages  
2           have been bursting at the seams this year. I mean the  
3           product is coming in, but the consumption is not  
4           keeping up with the rate that it's coming in. And  
5           yes, more people are consuming shrimp, but again, we  
6           can't produce any more than nature gives us so at a  
7           lower level we can still, even if there's -- at a  
8           lower price level even if there's more consumption we  
9           can only produce what nature brings.

10           MR. DEMPSEY: Commissioner Pearson, Kevin  
11           Dempsey.

12           One additional point. If you go back and  
13           you look at year 2000, the first year in the  
14           preliminary phase of POI, when there were till  
15           substantial imports. It's not that, there have been  
16           substantial imports for many years, but those imports  
17           were much higher priced and therefore the domestic  
18           price was also much higher. So it was, and the  
19           domestic industry made money.

20           What has changed is not that suddenly we've  
21           had imports where before we didn't have imports. It's  
22           the nature of the level of increase, the degree of  
23           increase, and the decline in price of those imports,  
24           the dramatic decline in price that has changed the  
25           nature of this market. It's not -- The domestic

1 industry survived for many years in the '80s and the  
2 '90s with a significant level of imports to meet  
3 domestic demand. But the prices were not being  
4 depressed to the level where the industry was losing  
5 money. That changed with the shift in the rapid  
6 increase in imports from the subject countries and the  
7 rapid decline in prices beginning, the shift from 2000  
8 to 2001 and that has continued through the POI.

9 COMMISSIONER PEARSON: Do you have any  
10 thoughts on whether the current low prices are a  
11 permanent structural, reflect a permanent structural  
12 change in the global market? Or are they more a  
13 temporary phenomenon that may adjust over time?

14 MR. APPLEBAUM: They certainly seem to be  
15 permanent, and with the expected growth in capacity  
16 overseas and the United States being the primary  
17 recipient of the product, it seems that if something  
18 isn't done, it isn't going to get better, and more  
19 likely it's going to get a lot worse.

20 MR. DEMPSEY: Kevin Dempsey again.

21 Absent antidumping relief, then there's no  
22 sign of any slowdown in the level of imports at dumped  
23 prices from the subject countries, especially when you  
24 look at their rapid increase in capacity and their low  
25 capacity utilization. What we have is we have export

1 oriented industries being developed in these countries  
2 to supply ever-increasing amounts of shrimp focused on  
3 the U.S. market. That is the source of the increased  
4 capacity that is driving down the domestic price. And  
5 absent antidumping relief there's no sign that that  
6 phenomenon is going to change.

7 COMMISSIONER PEARSON: Along that same line,  
8 this is a question that I will ask the Respondent  
9 panel this afternoon, but I would like to give you a  
10 chance to address it. That is how significant have  
11 the reductions been in production costs for farm-  
12 raised shrimp given the adoption of the improved  
13 technologies? Obviously we'll learn more about that  
14 but I'd be very happy to hear thoughts from this  
15 panel. That would go to the question of whether the  
16 global price is permanently lower or whether it's just  
17 cyclically over-supplied.

18 MR. WARD: What we do know is -- Brad Ward.  
19 What we do know is that there is a substantial amount  
20 of dumping. What we don't have anywhere is real hard  
21 evidence of the purported benefit of farming shrimp.  
22 There are claims that it's cheaper, but I believe the  
23 record is lacking, desperately lacking in any support  
24 for such statements, and desperately lacking of any  
25 evidence that would suggest that there's clear

1 evidence of a revolution that would correlate, a  
2 revolution in the efficiency that would correlate with  
3 the decline in prices seen in the United States.

4 COMMISSIONER PEARSON: I would note that the  
5 Texas A&M study I reference earlier does state among  
6 other things that technological advances in the  
7 culture of marine shrimp have reduced both the risk of  
8 crop failure and the cost of production, then it goes  
9 on to give some examples. So we have at least  
10 something on the record that is asserting that cost  
11 reduction.

12 MR. RICKARD: Commissioner Pearson?

13 COMMISSIONER PEARSON: Yes.

14 MR. RICKARD: This is Nathaniel Rickard.

15 I'd also just draw your attention to the  
16 submissions that have come in from the other side, the  
17 Respondents. You said you were going to ask this to  
18 the other panel. But particularly in the Vietnam  
19 submission, in their addressing of the potential  
20 threat that the country brings, they've talked a lot  
21 about while production costs are generally  
22 unsustainable and how they've shifted away from those  
23 things that they talk about in an efficiency to  
24 different types of things that will cut down the  
25 amount of production and cut down the efficiency of



1 their product.

2 So at least the record is mixed from the  
3 things that come in from Respondents' own submissions.

4 COMMISSIONER PEARSON: Thank you.

5 Any other comments on this topic?

6 MR. DEMPSEY: Again, Commissioner Pearson,  
7 Kevin Dempsey. I would -- The light is now on.

8 I think in terms of, from the Commission  
9 standpoint, the extent to which the farm shrimp may be  
10 able to be cheaper to produce really goes to the  
11 question of whether they're dumping. Whether they're  
12 selling below fair value. If it's cheaper to produce  
13 and they can sell it cheaper abroad and therefore sell  
14 it cheaper in the United States, there should be no  
15 dumping.

16 The fact of the matter is the Commerce  
17 Department has found and will find dumping margins.  
18 So that is the most important factor to take into  
19 account with respect to the relative cost of  
20 producing, and the Commission takes the industry as it  
21 finds it in the United States, but with the production  
22 costs it faces. With those same production costs in  
23 2000 with large amounts of subject imports coming in  
24 at much higher prices in 2000, the industry was able  
25 to make money. It is the change in the relative

1 pricing in subject imports from 2000 to today when  
2 presumably there hasn't been, I don't think there's  
3 any substantial change in their farming production  
4 techniques in the last few years. It's the increase  
5 in the dumping that has led to the decline in pricing  
6 in the United States. If they truly can sell at a  
7 cheaper price because of the cheaper costs, there  
8 should be no dumping.

9 COMMISSIONER PEARSON: Thank you. I see  
10 that I have again a light and it's telling me to pass  
11 the baton, so I'm done. Thanks.

12 CHAIRMAN KOPLAN: I consider it passed,  
13 thank you.

14 Thank you, Commissioner.

15 This is a follow-up to a question that  
16 Commissioner Lane asked that Mr. Dempsey and Mr.  
17 Applebaum responded to in her first round regarding  
18 the physical characteristics of canned shrimp and  
19 frozen shrimp.

20 I'd like to hear from Mr. Applebaum, Mr.  
21 Gollot and Mr. Versaggi. Are there any purchasers,  
22 meaning retailers or distributors, that buy canned and  
23 frozen shrimp interchangeably based on price?

24 MR. APPLEBAUM: John Applebaum.

25 I don't know the answer to that question.

1 The processors that we work with in Texas and  
2 Louisiana are specifically graders and freezers of  
3 shrimp. They don't have canning operations. Our  
4 sales and marketing efforts thus are focused on frozen  
5 shrimp. So I don't have the answer for you.

6 CHAIRMAN KOPLAN: Thank you.

7 Mr. Blanchard, you were reaching for the  
8 microphone?

9 MR. BLANCHARD: At our plant we're one of  
10 the few, in fact we're the only processor left in the  
11 United States that cooks product that freezes it in a  
12 can. There is no one else. Where Mr. Cook and them  
13 sell their product in a processed tin that's for  
14 shelf, we sell ours in a can that's got to go into a  
15 refrigerated case. And yes, our product ranges, as a  
16 jumbo we can get from 40-50 count shrimp, to a salad  
17 which is 150 plus shrimp in it.

18 Now our process is, it's interchangeable  
19 with anything. We take the fresh product from the  
20 Gulf and we boil it and put it into a can. After it's  
21 boiled it goes into a can, it's vacuum packed and then  
22 it's frozen, then it goes out onto the market.  
23 Unfortunately, today we do very very little of it, but  
24 we still do it.

25 Back in the 1950s I guess when refrigeration

1 was first introduced into this country, that was the  
2 only way that there was to eat shrimp. People didn't  
3 know up in the North how to prepare shrimp or  
4 anything. As time went on the industry started to  
5 change and everything else.

6 But I can remember back in the '70s when we  
7 had our, we were taking shrimp and hand-peeling it and  
8 deveining it and going into the cooker and freezing it  
9 in our freezers and it was coming up to Washington,  
10 D.C., New York, Chicago, every market that they had.  
11 That was the way.

12 Then in I guess 1978, I had a boss that  
13 thought he could make a fortune with imported  
14 Australian shrimp. He brought imported Australian  
15 shrimp to our plant, and we knew what was going to  
16 happen as the founders of the company back in the  
17 1920s knew what was going to happen, but we didn't  
18 have a choice. We cooked Australian shrimp, put it  
19 into our tins, and we ruined the label and never was  
20 able to recover from it because the customers that  
21 were getting that particular shrimp were so accustomed  
22 to the domestic boiled product that when they saw the  
23 difference, that label never did recover and we went  
24 out of business with it.

25 Now that was before I owned it. I was just

1 working for these individuals.

2 CHAIRMAN KOPLAN: Thank you.

3 Mr. Gollot or Mr. Versaggi, did you have  
4 anything you wanted to add?

5 MR. VERSAGGI: Sal Versaggi with Versaggi  
6 Shrimp.

7 Mr. Koplan, I'm really not qualified to  
8 answer that question because I'm a harvester.

9 CHAIRMAN KOPLAN: All right.

10 MR. GOLLOT: I'm not qualified, sir, we only  
11 do frozen shrimp.

12 CHAIRMAN KOPLAN: All right.

13 Let me come back to Mr. Versaggi and Mr.  
14 Applebaum. The ASDA pre-hearing brief states on page  
15 seven that, and I quote, "In addition, fast-growing  
16 quantities of excluded breaded shrimp imports compete  
17 with domestic in-scope products."

18 If antidumping duties are imposed on frozen  
19 shrimp but not breaded shrimp, how easy would it be  
20 for producers in the subject countries to switch over  
21 to breaded shrimp? And could you estimate the share  
22 of all U.S. consumption of shrimp products that are  
23 now accounted for by breaded shrimp?

24 Mr. Applebaum?

25 MR. APPLEBAUM: John Applebaum.

1           There's only so much market in the United  
2 States for breaded shrimp. There are so many other  
3 preparations and the way people like to eat shrimp and  
4 with the movement towards a more healthy diet in the  
5 United States there is less and less breaded shrimp  
6 consumption.

7           CHAIRMAN KOPLAN: What I'm trying to  
8 understand, though, how difficult would the process be  
9 to switch over to breaded shrimp? Mechanically. From  
10 a production standpoint.

11           MR. APPLEBAUM: I think one of the  
12 processors would probably be better able to answer  
13 that.

14           CHAIRMAN KOPLAN: Yes.

15           MR. GOLLOT: Richard Gollot.

16           I both freeze and I'm also a breeder. A  
17 very small portion of my business is breading. It  
18 would be impossible. It takes completely different  
19 equipment -- batterers and breaders to do breaded  
20 shrimp.

21           CHAIRMAN KOPLAN: Can you estimate in any  
22 way what the share of all U.S. consumption of shrimp  
23 products is now accounted for by breaded shrimp?

24           MR. GOLLOT: No, sir, but I do know it's two  
25 different products. It goes into two different

1 distribution channels and it's completely different.

2 CHAIRMAN KOPLAN: Thank you.

3 The pre-hearing brief on behalf of Chicken  
4 of the Sea states on page 20, and I quote, "Bumblebee  
5 is the only domestic producer of shelf-stable canned  
6 shrimp."

7 Mr. Blanchard, in your declaration attached  
8 in Exhibit 2 of Petitioner's pre-hearing brief you  
9 state that your companies, under the umbrella of Pearl  
10 Incorporated, produce both frozen and canned warm  
11 water shrimp. Can you describe the canned product you  
12 produce? What is the difference between canned shelf-  
13 stable and other canned shrimp? Is yours a shelf-  
14 stable product? Does it differ from the canned shrimp  
15 commonly sold in grocery stores?

16 MR. BLANCHARD: The product that we are  
17 cooking and putting in cans is a completely different  
18 animal than what they're talking about on the  
19 processed side. Theirs can be put up in the shelves in  
20 a dry storage state. Ours has to be kept frozen.  
21 Once you put it in the refrigerator overnight you can  
22 just pop the can, open it up and, it's ready.

23 CHAIRMAN KOPLAN: What's the definition of  
24 shelf-stable? How does that work?

25 MR. BLANCHARD: Ours has to be remained at

1 zero degree temperature to have it, to be shelf-  
2 stable. And his can be at room temperature. But he  
3 retorts his through a process of retort. What we do,  
4 we just boil our product. It's not going through a  
5 retort process. We boil it, we take it, we peel it,  
6 take it in heads on. We peel it, we devein it. It  
7 goes through our boiler. And then it goes through a  
8 sequence of graders. Then it's inspected and put into  
9 a one pound can, put a vacuum on it, then it's brought  
10 into a blast freezer and it's cased out for  
11 distribution.

12 CHAIRMAN KOPLAN: Thank you very much.

13 Mr. Cook, at the staff conference you  
14 stated, and it's in the transcript at page 48, that  
15 prior to 2000 you had significant sales of what you  
16 referred to as private label customers, customers that  
17 take your cans and put their own labels on it for  
18 resale. But that business has completely evaporated  
19 as imports have taken over that market. You say these  
20 customers are now buying product from Asia.

21 The Chicken of the Sea pre-hearing brief  
22 states on page 21 that the reason that Bumblebee lost  
23 its private label business is because it acquired  
24 Chicken of the Sea's domestic supplier Ruther's  
25 Seafood in 1997, and that as a result of that



1 acquisition Chicken of the Sea became Bumblebee's  
2 largest private label customer.

3 The brief goes on to explain that in 2000  
4 Chicken of the Sea terminated its supply relationship  
5 with Bumblebee and turned to foreign sources because  
6 there were no other domestic producers of canned  
7 shrimp.

8 Is it true that with the acquisition of  
9 Ruther's Seafood, Chicken of the Sea became your  
10 largest private label customer?

11 MR. COOK: I'd like to clarify some of the  
12 chronology here.

13 I used to be with Chicken of the Sea. I  
14 left Chicken of the Sea with another gentleman and we  
15 purchased along with Ruther's Seafood Company, the  
16 Orleans brand in 1993.

17 Prior to that time I had set up Ruther's  
18 Seafood as a supplier for domestic shrimp. So  
19 therefore when we acquired the Orleans business in  
20 '93, we were competing with Chicken of the Sea at that  
21 time and we were supplying them with private label  
22 shrimp at that time because we were part of Ruther's  
23 Seafood.

24 So for them to say that they left us because  
25 we were a competitor, why did it take them eight years

1 to determine that? They left in 2000. We were  
2 supplying them in 1993.

3 There are further details that I can supply  
4 separately if you'd like to hear them.  
5 Confidentially.

6 CHAIRMAN KOPLAN: Thank you.

7 Vice Chairman?

8 VICE CHAIRMAN OKUN: Thank you, and thank  
9 you again for all the responses we've heard this  
10 afternoon.

11 Let me ask, and I don't know Mr. Dempsey or  
12 Mr. Ward or Ms. Hester, who it should go to but the  
13 question is with regard to the NMFS report. The  
14 Respondents, in particular Akin Gump, have talked a  
15 lot about the relevance of the NMFS report to this  
16 industry and to our analysis and our evaluation.

17 I wondered if you could, because I think  
18 it's not something you spent a lot of time in your  
19 brief on, talk a little bit more about it. The one  
20 part that I'm particularly interested in trying to  
21 understand is what it says about what's going on with  
22 the U.S. fleet. I understand it's saying if you  
23 reduce the licenses it would help and it makes them --  
24 the other findings, one of which says that there's a  
25 weakness, the current price of the economics of the

1 U.S. industry are not viable, which the Respondents  
2 acknowledge, but then go on to make I think what is  
3 their major point which is if there's no causation if  
4 you find there are other reasons why the industry is  
5 in trouble, which is how I read that.

6 So I wanted to have the opportunity to hear  
7 you both now and in particular in your post-hearing  
8 brief, respond more specifically. But if there's  
9 anything you wanted to say here.

10 MR. DEMPSEY: Yes, Vice Chairman Okun, Kevin  
11 Dempsey.

12 We think there's a lot of problems with the  
13 NMFS business plan, as it's called. We can go into  
14 this in much greater detail.

15 As was indicated in our opening statement,  
16 for instance they suggest that one of the problems is  
17 there are too many boats or that there should be a  
18 buy-out of boats and that will help the domestic  
19 industry. Yet as we indicated in our opening  
20 presentation, as far as we can tell NMFS has no idea  
21 how many boats there are in the commercial fishery.  
22 They have reported one number, 18,200 in various  
23 publications since 1989. So for 15 years they've been  
24 saying it's exactly the same.

25 They have given other numbers at other

1 times, a 13,000-some-odd number.

2 The fact of the matter is there is no  
3 scientific survey of the number of shrimp boats in the  
4 shrimp fishery. Different states have commercial  
5 licensing requirements so you can gather as we did  
6 state commercial license information. But as we also  
7 indicated, you're going to have some overlap because  
8 the same boat may have a commercial shrimp fishing  
9 license from more than one state.

10 The federal government does provide now for  
11 licenses for the exclusive economic zone, the federal  
12 waters further out, although there are only a couple  
13 of thousand boats that have licenses for that. It's  
14 clearly not representative.

15 So there is frankly what is really  
16 speculation on the part of NMFS as possible ways to  
17 help the shrimp industry that they've included in this  
18 report, sort of cobbled together from various experts  
19 with either old data or speculation and with very  
20 little input from the domestic industry. So we don't  
21 think it's a study that you frankly should give much  
22 weight to.

23 It does acknowledge, it's frankly internally  
24 inconsistent so it cites a number of things. It does  
25 acknowledge the role of imports which we think is at

1 least a step in the right direction that recognizes  
2 the role of imports in driving down prices, but  
3 there's a lot of other stuff in there that frankly we  
4 don't think has a lot of basis.

5 Some of our industry folks here have had  
6 some dealings with NIMPs on this over time and may  
7 want to make some comments about it as well, and we'll  
8 provide more in our post-hearing brief.

9 VICE CHAIRMAN OKUN: Ms. Chauvin?

10 MS. CHAUVIN: Kimberly Chauvin.

11 One of the things that we had a problem with  
12 before NMFS even met with the domestic industry, the  
13 option paper which you call the business plan which  
14 was presented to us as an option paper, was already  
15 drafted up. That was not our opinions or any of our  
16 advice.

17 The other thing, it states in NMFS' option  
18 plan that our problem is imported shrimp. Now they  
19 also had told us at the meeting that they weren't sure  
20 how effective any of these options would work unless  
21 there was something done with the imported shrimp,  
22 with the dumped shrimp.

23 They also acknowledged that the data was  
24 old. That they would now have to go back and reassess  
25 with new data.

1           The other thing we had dealt with is, they  
2           keep saying if they can get rid of some of the boats,  
3           25-35 percent of the boats, we've already done that.  
4           That's been done through a process of elimination  
5           because those who cannot survive with the price cuts  
6           had to opt out through repossessed boats or boats  
7           being tied up and going to get another job. That's  
8           done.

9           When we went to that meeting, I specifically  
10          asked them okay, it was old data that you were going  
11          from. We've cut in half. Are you going for another  
12          half or are you okay with the half that's been there?  
13          There was no answer. They could not answer it because  
14          they just simply do not know.

15          It was easy to put this stuff on paper and  
16          this is what I told them. Walk in our shoes and do  
17          what we do and you'll see your plan belongs in the  
18          garbage can. That's as simple as I can put it.

19                   VICE CHAIRMAN OKUN: Mr. Applebaum?

20                   MR. APPLEBAUM: John Applebaum.

21           I also, along with Kim, was involved in the  
22           industry through a series of shrimp summits, through  
23           the industry's review of the NMFS plan, and again,  
24           they did, just echoing what Kim said, they did fail to  
25           take into account the drastic reduction in fishing

1 effort that has already occurred in the last few  
2 years.

3 VICE CHAIRMAN OKUN: Mr. Versaggi, did you  
4 want to add something?

5 MR. VERSAGGI: Yes, we had a meeting in  
6 Tampa, Florida on this options paper. That's  
7 technically what it's called, an options paper. It's  
8 not really a business plan. And these are more or  
9 less just trial balloons that they were sending up in  
10 terms of what will resonate with the industry. They  
11 talked about buyouts, they talked about fractional  
12 licenses, they talked about permitting, they talked  
13 about many aspects of the domestic harvesting sector  
14 of the industry.

15 However, one things they did not talk about  
16 was the impact of imports. They mention it briefly,  
17 but on the very first page it says that the imports  
18 have certainly have a big impact on the domestic  
19 industry.

20 So during that meeting I asked Dr. Hogarth  
21 who is the administrator of National Marine Fishery  
22 Service, if he could do a like study in terms of  
23 imports. What happens if you stop imports by 35  
24 percent? What happens if you just have permitted  
25 importers that can only import from certain places,

1 and things like that?

2 The same characteristics they want to saddle  
3 us with, put it on the importers in terms of these  
4 scenarios and then put it in your computer model and  
5 tell us what it says. That's what these were. These  
6 were nothing but scenarios that they put into an  
7 economic model and based on that model they said if  
8 you do this, this and this will happen. If you do  
9 this, this and this will happen.

10 So there was no concrete definite conclusion  
11 as to whether or not it was good or bad for the  
12 industry. It's a draft paper, it's still a draft  
13 paper and they said we'll continue to be a draft paper  
14 until the industry gets back to them with some  
15 recommendations.

16 VICE CHAIRMAN OKUN: Okay. I may have some  
17 further questions on that, but let me move to another  
18 topic. That's what you can tell me about what  
19 happened after the petition was filed, in terms of  
20 what that might mean for what's going on in the  
21 industry, what happened during the period of  
22 investigation.

23 In your brief, Mr. Dempsey and Mr. Ward, you  
24 say that it was not surprising in the first six months  
25 of 2004 after the filing of the case non-subject



1 imports increased their share at the expense of both  
2 subject imports and domestic producers. And in fact  
3 it was a 4.1 percent in non-subject imports.

4 When I first read that I thought well, if  
5 the domestic industry didn't capture anything then,  
6 are subject imports really the problem if non-subjects  
7 are going to fill the void and not the domestic  
8 industry?

9 Then I tried to look at the financial data  
10 to make sense of what happened when subject imports  
11 were lower and there seems to be a variation between  
12 what happened for the fishermen and what happened for  
13 the processors. I wondered if you can kind of help  
14 put that in context for me in the one minute I have  
15 left and perhaps for post-hearing. Why don't you  
16 start on that and I'll have time to go back to it.

17 MR. DEMPSEY: Yes, Commissioner Okun. Kevin  
18 Dempsey.

19 I think what you saw most immediately was,  
20 as was in some of the testimony, that what the impact  
21 was, some stabilization on price at low levels, but  
22 some stabilization. That has had a disparate impact  
23 because of course that price effect has the most  
24 immediate impact first with processors who are selling  
25 directly against the imported material and therefore

1 might have some stabilization in their situation.  
2 They of course have had to predict, try to predict  
3 where prices were going and have paid their shrimpers  
4 earlier and again, looking at the last several years  
5 have had to take into account the steady decline in  
6 the value of their inventories. So you don't  
7 necessarily see that stabilization that might benefit  
8 the processors transmitted immediately through to the  
9 shrimpers. But our hope is that with antidumping  
10 relief you will see the stabilization in pricing  
11 throughout the industry and then the opportunity for  
12 some slow return in market share.

13 But you are correct, there was not an  
14 immediate bump-up in market share. I relate that  
15 partially, if you look at the data, you also see that  
16 the number of landings is way down in the interim  
17 period. I think that's frankly a reflection of the  
18 injury that's been suffered by the domestic industry.  
19 There are a lot fewer boats going out. So your market  
20 share is down because the amount of landings are down.

21 VICE CHAIRMAN OKUN: Okay. My red light has  
22 come on. I'll have a chance to come back to it  
23 because I also did have some questions about the  
24 landings and how much might be hurricane related as  
25 well.

1 With that, I'm done.

2 VICE CHAIRMAN OKUN: Commissioner Hillman?

3 COMMISSIONER HILLMAN: Thank you.

4 Let me, I hope, close out a few questions I  
5 had on the canned side. Mr. Cook, just so I  
6 understand it, in your facility in New Orleans, do you  
7 also freeze shrimp?

8 MR. COOK: Dave Cook.

9 No, we do not.

10 COMMISSIONER HILLMAN: In your New Orleans  
11 facility you are only canning product.

12 MR. COOK: Only canning.

13 COMMISSIONER HILLMAN: Do you freeze shrimp  
14 anywhere else in the United States or are you only a  
15 canner?

16 MR. COOK: No we do not.

17 COMMISSIONER HILLMAN: Okay.

18 Do any canned shrimp get sold in larger  
19 number ten industrial or whatever you want to call it  
20 food service size cans, or is it all canned in  
21 smaller, retail-ready cans?

22 MR. COOK: There used to be but there hasn't  
23 been in several years.

24 COMMISSIONER HILLMAN: Okay.

25 On the shrimping side of it. I noted in

1 your brief you stated that a shrimp boat may harvest  
2 shrimp for going into the freezing industry one day  
3 and another day may be harvesting shrimp that would be  
4 going into the canning side of it.

5 As I had understood the record it was pretty  
6 clear that the majority of the canned product is a  
7 much smaller shrimp in terms of the size. Is that the  
8 case?

9 MR. COOK: About half of our shrimp is of  
10 the smaller sizes, and then half of it is larger  
11 sizes, medium, large, jumbo.

12 COMMISSIONER HILLMAN: That would be equally  
13 suitable for freezing?

14 MR. COOK: Yes. A boat can come to our  
15 place one day and then go to a freezing facility the  
16 next day with the same type of shrimp, the exact same  
17 kind of shrimp.

18 COMMISSIONER HILLMAN: How about the smaller  
19 shrimp? The 50 percent of your product that's  
20 smaller, where do you get that from?

21 MR. COOK: The same areas.

22 COMMISSIONER HILLMAN: Same shrimp  
23 fishermen?

24 MR. COOK: Same shrimpers.

25 COMMISSIONER HILLMAN: Do any of the

1 shrimpers out here typically harvest shrimp, the  
2 smaller shrimp that are being sold to Mr. Cook? Ms.  
3 Chauvin?

4 MR. ST. PIERRE: Scott St. Pierre, for the  
5 record.

6 We're seasonal, so sometimes you're going to  
7 have a small shrimp season, a large shrimp season.  
8 Your shrimp vary in sizes. We pull up to the  
9 processor and he buys our shrimp and he sends them on  
10 their way. He can pack them, he can peel them, he can  
11 freeze them, he can put them in a can, and the end  
12 result is when it gets to the consumer if you take it  
13 out of a box or you take it out of a can it's all  
14 consumed the same way. It just depends what Mother  
15 Nature gives us. We start out --

16 COMMISSIONER HILLMAN: Do you typically  
17 harvest a fair amount of these much smaller shrimp?

18 MR. ST. PIERRE: Yes, ma'am. In Louisiana  
19 our May season which we start off as our brown shrimp  
20 season, is typically a smaller shrimp. Right now you  
21 see how the cold fronts are coming in, we're pushing  
22 the last of our younger shrimp out of the estuaries  
23 into the Gulf and again, they become smaller again.  
24 They have to be peeled to be frozen or put in a can.

25 COMMISSIONER HILLMAN: Mr. Cook, do you can

1 in this New Orleans facility any cold water shrimp?

2 MR. COOK: No, we do not.

3 COMMISSIONER HILLMAN: Okay. I think I  
4 understand a little bit more on the canning side,  
5 thank you.

6 If I can come back I guess to this issue of  
7 again trying to make sure I understand from  
8 everybody's perspective how it is that prices get set  
9 and where do I see in the record this kind of direct  
10 understanding of where imports affect it. For the  
11 fisherman, describe for me your understanding of how  
12 prices get set for your product and how you understand  
13 how the price processors' prices are set. You're  
14 pulling up to the dock. Tell me again how you see  
15 prices getting better.

16 MR. VERSAGGI: Sal Versaggi with Versaggi  
17 Shrimp Corp.

18 The price is usually set by the buyer. The  
19 buyer usually --

20 COMMISSIONER HILLMAN: The buyer in this  
21 instance is almost always a --

22 MR. VERSAGGI: Usually a processor. He will  
23 determine what that price is from what he receives,  
24 what feedback he receives from the rest of the market.  
25 The global market, the New York market, he shops it

1 around. He finds out what's going on.

2 COMMISSIONER HILLMAN: Does he tell you  
3 this?

4 MR. VERSAGGI: Well no, he won't tell me  
5 exactly what it is but I have access to the same  
6 information. I can call the same people and find out.  
7 So he knows basically what he can sell it for.

8 Then he's going to have to figure in what  
9 his processing costs are. He's going to have to  
10 figure in whatever other overhead he may have. So  
11 he's going to take that let's say \$5 a pound is the  
12 New York price. He's going to give up a dollar for  
13 processing and whatever the miscellaneous charges he  
14 might have. That means he's got \$1.25 he's got to  
15 come off just to break even. Then he's got to have a  
16 profit so then he's going to have to back into a price  
17 to offer the boat to lock in a profit. That's  
18 basically the way it works. I mean it changes, it  
19 fluctuates, it's seasonal.

20 In the Texas season, like John Applebaum  
21 buys a lot of shrimp in Texas. The price will change  
22 every day sometimes. Then he's got to --

23 COMMISSIONER HILLMAN: And over our period  
24 of investigation have you see that, as you described  
25 it as \$1.25. Again, I understand you're

1 hypothetically using that number.

2 MR. VERSAGGI: Correct.

3 COMMISSIONER HILLMAN: But I'm trying to  
4 understand over this period of investigation has that  
5 \$1.25 number, if that's in the ball park of a number,  
6 has that changed over time? Have you seen it change?

7 MR. VERSAGGI: That will stay fairly  
8 constant. The thing that changes is the wholesale  
9 price. So the wholesale price is just dragging the  
10 market down all the time. You still have to deduct  
11 that \$1.25 to cover your overhead and offer a price to  
12 the vessel.

13 COMMISSIONER HILLMAN: So the \$1.25 part  
14 hasn't changed. It's just --

15 MR. VERSAGGI: It's been pretty stable.

16 COMMISSIONER HILLMAN: Thank you.

17 Mr. St. Pierre?

18 MR. ST. PIERRE: On my end of the scope,  
19 being a fisherman, some years we have more shrimp than  
20 others and it all boils down to supply and demand.  
21 When we have an abundance of supply, and let's say the  
22 demand out there is not as great and the price goes  
23 down, we compensate by catching more. We try to catch  
24 more because our prices are never the same. They go  
25 up and they go down. It's always supply and demand.



1                   Since I've been in here, seeing what I see,  
2 when the influx of the imported shrimp came, you've  
3 got so many buyers out here. He calls one buyer, he  
4 says I'll sell it to you for this. The next buyer  
5 says I'll sell it today. The next price could go down  
6 to us, the boat at the end, saying well look, I can't  
7 sell your shrimp for \$1 a pound, I'm going to have to  
8 well it for 75 cents, therefore right there while I'm  
9 standing talking to the man, he says I'm only going to  
10 give you 75 cents today. Tomorrow if he can find  
11 another buyer that's willing to pay the \$1 then maybe  
12 you'll get, our prices just fluctuate. It's always  
13 been here because the supply, there's just so much on  
14 the market that you can get it anywhere you want it  
15 and then competition starts setting in. The other guy  
16 says I'm going to underbid you and I'm going to  
17 underbid you. It always trickles down to the --

18                   COMMISSIONER HILLMAN: If there had not been  
19 this volume of subject imports in the market, could  
20 you all out there have increased, would you have, I  
21 mean do you think we would have seen a significant  
22 increase in the harvesting of shrimp in the U.S. if  
23 there was not this volume of subject imports?

24                   MR. ST. PIERRE: We have been steadily  
25 building our fleets. They keep saying we over-fished.

1 I've been in it for 20 years, my father-in-law for the  
2 past 40 years. They keep saying we've got too many  
3 boats. When we had this so-called too many boats I  
4 made an extraordinary good living. Now the boats are  
5 dwindling, I can't make a living. There's less boats  
6 and I'm making less money. You had more boats, I made  
7 more money. I don't believe that has anything to do  
8 with it. It all boils down to supply and demand and  
9 too much shrimp on the market creates too much  
10 competition, therefore they drop the price and  
11 undersell people. It's just a matter of economics.

12 COMMISSIONER HILLMAN: Any of the rest of  
13 the fishermen? If there had been no significant  
14 amount of imports in the markets, would we have seen a  
15 significant increase in the amount of shrimp harvested  
16 in the U.S.?

17 MR. ST. PIERRE: Again, I say yes because we  
18 have increased efficiency and we have learned to catch  
19 more shrimp. That's what I feel. But I'm just a  
20 fisherman.

21 COMMISSIONER HILLMAN: Ms. Chauvin?

22 MS. CHAUVIN: Kimberly Chauvin.

23 My husband works quite a bit now, which he's  
24 had to do. Had it been like it used to be, he  
25 wouldn't have to work as hard, therefore he would not

1 be on the water as many days, therefore he would not  
2 need to catch as much shrimp. But he would still have  
3 made the money that we needed to make as a family to  
4 survive.

5 He works harder now because he has to in  
6 order to keep our boat up. But before that --

7 COMMISSIONER HILLMAN: Is the volume that  
8 he's catching purely a function of how many days he's  
9 out on the water or --

10 MS. CHAUVIN: Yes. It's how many days he's  
11 out on the water.

12 COMMISSIONER HILLMAN: With less boats on  
13 the water, does each boat catch more?

14 MS. CHAUVIN: My husband has always been  
15 blessed in catching capacity on our boat. We've not -  
16 - He couldn't fish any harder than he does to this  
17 date to catch more. There's not enough room in the  
18 boat to do that sort of thing. He already lives out  
19 there pretty much now for the last four years.  
20 There's no way for him to make more days in a year.

21 COMMISSIONER HILLMAN: But you're saying it  
22 is purely a function of how many days you're on the  
23 water.

24 MS. CHAUVIN: Right.

25 COMMISSIONER HILLMAN: It isn't this issue

1 or because there are so many other boats you're out  
2 there trawling the same waters for the same shrimp --

3 MS. CHAUVIN: In 2000, I think he trawled  
4 maybe six months out of the year and he did excellent.  
5 But there were other years before that that he could  
6 trawl six months out of the year and he did great.

7 Now if he would trawl six months out of the  
8 year we wouldn't have a house, nor would we have  
9 vehicles.

10 COMMISSIONER HILLMAN: That's a function of  
11 price or a function of the volume of --

12 MS. CHAUVIN: That's a function of price.

13 COMMISSIONER HILLMAN: Mr. Wallis?

14 MR. WALLIS: We operate around 25 boats that  
15 work out of our facility. I really can't say over the  
16 last 20 years that the volume has changed that much  
17 over the years, other than the time fishing. We have  
18 cut down on our fishing time because the price has not  
19 been there for us to go out there and actually fish  
20 during those other times.

21 When the price dropped where we could not  
22 work at a profit we had to stop, so the volume did go  
23 down because there was less fishing time.

24 COMMISSIONER HILLMAN: I appreciate those  
25 answers, thank you.

1                   CHAIRMAN KOPLAN: Thank you, Commissioner,  
2                   Commissioner Lane?

3                   COMMISSIONER LANE: I want to go back to the  
4                   subject of shrimp scampi. Somebody explain to me that  
5                   particular issue.

6                   Mr. Dempsey, do you want to start?

7                   MR. DEMPSEY: Commissioner Lane, yes, Kevin  
8                   Dempsey for the record.

9                   We are somewhat perplexed by this shrimp  
10                  scampi as a separate like product because frankly, we  
11                  don't know what it is. I've asked everyone I could  
12                  find, is there a product called shrimp scampi?  
13                  Everyone says shrimp scampi is when you cook shrimp in  
14                  garlic and butter and you can use any shrimp and  
15                  that's, you can buy it at a restaurant. But nobody  
16                  sells a product out there in the market that I've been  
17                  able to find called shrimp scampi, other than now we  
18                  have one Respondent who's claiming they have the  
19                  separate product. They tried to make an argument that  
20                  it was a separate class or kind at the Commerce  
21                  Department and failed in that effort. Now they're  
22                  trying to claim it's a separate like product here.

23                  Let me ask people who buy and sell shrimp  
24                  for a living about shrimp scampi.

25                  MR. APPLEBAUM: John Applebaum.

1                   It's pretty much what Kevin said, it's  
2                   garlic and butter and it's delicious.

3                   In my 20 years experience, honestly I don't  
4                   know of a wholesaler specifically marketing a shrimp  
5                   scampi product as a separate product. It's going to  
6                   use the same raw material, no matter what.

7                   COMMISSIONER LANE: Maybe the Respondents  
8                   will enlighten us this afternoon.

9                   Let's go now to another issue. On page 67  
10                  of the American Seafood Distributors Association pre-  
11                  hearing brief, the Respondents allege that foreign  
12                  producers have become more efficient and more  
13                  competitive since the beginning of the period of  
14                  investigation.

15                  Are you aware of any new technology or  
16                  production methods instituted since the beginning of  
17                  the period of investigation in these investigations  
18                  that would assist foreign producers in becoming more  
19                  efficient and more competitive?

20                  MR. DEMPSEY: Commissioner Lane, Kevin  
21                  Dempsey.

22                  We are not aware of any new technology that  
23                  would make them more competitive over the period of  
24                  investigation.

25                  I would note that the period of

1 investigation at the Commerce Department for  
2 determining dumping was calendar year 2003. So that's  
3 a pretty recent period as part of the Commission's  
4 period of investigation and it was using that 12 month  
5 period that the margins of dumping were calculated,  
6 the amount of selling either below cost or below home  
7 market price or, whichever calculation was used for a  
8 particular country.

9 COMMISSIONER LANE: Thank you.

10 Respondents contend that the high volume of  
11 subject imports does not entitle Petitioners to an  
12 affirmative volume determination because the volume  
13 did not have a significant affect on the domestic  
14 industry. To support this argument, Respondents  
15 assert that the record shows that the domestic  
16 industry cannot control the level of its output and  
17 that the domestic warm water shrimp industry is  
18 producing at its maximum capacity.

19 Do you agree with the assertion that the  
20 domestic industry cannot control its output because  
21 they are producing at maximum capacity?

22 MR. DEMPSEY: Commissioner Lane, Kevin  
23 Dempsey again.

24 As we've indicated, the number of boats is  
25 definitely down, going out to sea is definitely down

1 over the period of investigation. So I think it is  
2 definitely our position that the domestic industry is  
3 not currently operating at full capacity.

4 We do not claim that we could supply the  
5 entire U.S. market. If we sent out enough fish boats  
6 we would come up with 1.2 billion pounds of shrimp.  
7 We're not claiming that.

8 There is a role, there is a significant role  
9 for imports in this market. What has changed was the  
10 rapid increase in imports supplied from the subject  
11 countries beginning in 2001 at very low prices that  
12 has depressed domestic prices and led to a decrease in  
13 the number of boats going out into the water.

14 So we're not at full capacity, we could  
15 produce more. We couldn't produce enough to serve the  
16 entire market, but at fair prices we could produce  
17 enough for the fishermen and the processors to make a  
18 reasonable profit as they did back in 2000 and the  
19 industry wouldn't be injured.

20 COMMISSIONER LANE: I'm not sure if I  
21 dreamed this issue up or not. It's possible that I  
22 could have. But if a boat goes out and stays out  
23 longer because it needs to stay out longer to get more  
24 shrimp, does the longer that a boat is out in the  
25 water before it comes back to shore affect the quality



1 of the shrimp?

2 MR. DEMPSEY: I'll ask the fishermen if they  
3 want to respond to that.

4 MS. CHAUVIN: Kimberly Chauvin.

5 We have freezer boats, so no, it does not  
6 affect the quality. The only thing affecting the  
7 quality would be educating your deckhands or not  
8 educating your deckhands as the case may be. Most of  
9 us I think have educated our deckhands enough to know  
10 how to handle shrimp, how to size, how to sort, how to  
11 freeze, and what to do with it. So it does not affect  
12 the quality or the freezer vessel.

13 MR. WALLIS: It does affect, there are some  
14 ice boats left in the industry -- very small  
15 percentages left. That's one of the improvements  
16 that's been made in the last two years is mostly  
17 freezer systems. The freezer systems are all set up  
18 that you can hold shrimp, we have boats that spend 40  
19 to 50 days at sea. They are frozen in a state that  
20 they can be held at good quality for that length of  
21 time. The iceboats, we educate our crews even more  
22 so, in less towing time and also less time at sea for  
23 them to come back in to keep our quality up.

24 But the percentage of ice boats left in the  
25 industry is very minute now. Thank you.

1                   COMMISSIONER LANE: That's all the questions  
2 I have right now.

3                   CHAIRMAN KOPLAN: Thank you Commissioner.  
4 Commissioner Pearson?

5                   COMMISSIONER PEARSON: Thank you, Mr.  
6 Chairman. I have one more topic that I don't think  
7 has been addressed yet. I have heard something about  
8 a wild shrimp marketing initiative. Is this a concept  
9 with which this panel would be familiar? Can you  
10 explain what it is and what it might mean?

11                   MR. DEMPSEY: Yes, we are, just to determine  
12 who should start.

13                   MR. GOLLOT: Richard Gollot, sir. I'm on  
14 the WASI Board, Wild American Shrimp. It's something  
15 we just started. It is an attempt to start marketing  
16 our shrimp and educating the consumer as to our  
17 quality and the availability of good wholesome  
18 domestic Gulf-caught shrimp as the wild salmon people  
19 have done in Alaska.

20                   COMMISSIONER PEARSON: Mr. Applebaum?

21                   MR. APPLEBAUM: John Applebaum.

22                   I am also on the WASI Committee with Richard  
23 and I just would like to say too that the marketing of  
24 our product has got to go hand in hand with the  
25 recently required country of origin labeling.

1           We find all too often that our product is,  
2           or that foreign product is misrepresented as product  
3           of the USA because, we believe the reason that's done  
4           is because the perception is that the consumer would  
5           prefer to buy product of the USA. Just as a few  
6           restaurant chains and retail chains on the other side  
7           of this argument have opposed these dumping petitions,  
8           so also has there been great opposition to country of  
9           origin labeling. I feel very strongly, along with  
10          everybody at these tables, that marketing must, it  
11          must go hand in hand with the requirement of country  
12          of origin labeling.

13                 MR. DEMPSEY: Commissioner Pearson, just to  
14          follow up on those industry comments.

15                 I think what's important to note about WASI,  
16          it is an effort by the industry just underway to try  
17          to see if it can develop some greater consumer  
18          awareness. It is in its infancy.

19                 I would also note that it's important to  
20          remember that 80 percent of the shrimp sold in the  
21          United States is sold to a distributor or to a  
22          restaurant chain, not to the ultimate customer. So  
23          the importers, the distributors, the large restaurant  
24          chains, they control the distribution and the  
25          marketing channels for the shrimp. If they're not

1 interested in buying domestic product at a price that  
2 would allow the domestic industry to make money, they  
3 can continue to buy the imported product and sell it  
4 at the restaurants, sell it through their food service  
5 establishments, and it's going to be very difficult  
6 for the ultimate consumer to know whether they're  
7 getting domestic shrimp or an imported shrimp,  
8 especially when you go into, the menu shows a shrimp  
9 boat on it and it says harvest shrimp and it looks  
10 like it's domestic shrimp. In fact the restaurant  
11 staff probably doesn't even know whether it's imported  
12 or not.

13 So the education efforts of a marketing plan  
14 can only go so far so long as those who control the  
15 marketing channels have an interest in being able to  
16 buy the dumped imported shrimp and pass it off as  
17 domestic shrimp.

18 COMMISSIONER PEARSON: Ms. Chauvin?

19 MS. CHAUVIN: Kimberly Chauvin.

20 One of the things that we've seen and I've  
21 come across is recently in Wal-Mart in our area, in  
22 Houma, Louisiana, I walked into the store because I  
23 constantly go check on shrimp prices to see what it is  
24 in the retail sector. I came across, there were some  
25 really beautiful boat pictures but when you looked in

1 the case, and because I know what I'm looking for, you  
2 know you look at the shrimp, you pick it up, you turn  
3 it over, and it might have processed in the USA, but  
4 if you pull it just a little bit back about something  
5 this big and about this wide has farmed wherever  
6 shrimp, wherever it's coming from. But when you're  
7 talking to people as I did in the Wal-Mart section and  
8 they came up to me and I'm like where do you think  
9 this shrimp came from? Oh, it came off the boats, and  
10 it hadn't. It was farmed. This is what we're trying  
11 to do, this is why COOL is so important -- country of  
12 origin labeling. This is why our WASI Board is now  
13 extremely important because we have to find a way to  
14 dispel this theory that the farmed shrimp is coming  
15 from the same place as domestic.

16 When I approached Wal-Mart, I asked them why  
17 wouldn't you put a picture of a nice big open water  
18 farmed area? Well, it doesn't attract the customer.  
19 That was their answer to me.

20 COMMISSIONER PEARSON: Mr. Applebaum?

21 MR. APPLEBAUM: John Applebaum.

22 I just wanted to follow up on Kevin's  
23 comments. The country of origin labeling requirements  
24 as enacted only apply to retail. It would be great if  
25 they applied to restaurants, but unfortunately we're

1 not there yet.

2 COMMISSIONER PEARSON: So is a wild shrimp  
3 also an organic shrimp or is that a different concept?

4 MR. VERSAGGI: It can't be classified as an  
5 organic shrimp because the standards have not been set  
6 for organic in terms of a shrimp product. It can be  
7 called a natural product, a wild product, but not  
8 organic.

9 COMMISSIONER PEARSON: Is there any effort  
10 underway to try to develop an organic classification  
11 or -- The reason I ask, of course, is that's an  
12 established market in the United States for quite a  
13 variety of products. I'm just wondering whether  
14 there's an opportunity there for shrimp.

15 MR. VERSAGGI: It is being worked on but I  
16 don't know to exactly what extent. I haven't been  
17 involved in it real seriously.

18 MS. HESTER: Susan Hester.

19 I believe part of the issue with organic is  
20 certifying what the beef or chicken has been fed.  
21 Obviously with the shrimp it would be impossible to do  
22 that because it's raised in the wild.

23 I think there's some effort made to develop  
24 a chemical-free shrimp and get it certified that it's  
25 had no antibiotics, no chemicals whatsoever added to

1 it, and to market that as sort of an equivalent of an  
2 organic because the feed can't obviously be controlled  
3 with wild shrimp.

4 COMMISSIONER PEARSON: Thank you.

5 The purpose behind the wild initiative, I  
6 assume it's to try to get a price premium because  
7 you're unlikely to sell any more shrimp, whether it's  
8 wild or labeled as wild or not.

9 What type of price premium might it be  
10 possible to achieve? Maybe you can't comment on the  
11 record? If not, that's fine, but I'm curious. How  
12 much will the market bear here?

13 MR. APPLEBAUM: That's what we'd like to  
14 find out.

15 This is going to be a very very long  
16 process, I mean years and years, to really determine  
17 what kind of an impact we can make.

18 But given where the industry is at this  
19 moment, we're reaching for, we're reaching for things  
20 that are going to take time and we need some  
21 assistance through this commission to give us the time  
22 to see if we can really make something work with this  
23 marketing program.

24 COMMISSIONER PEARSON: There also was some  
25 assistance from Congress recently, I believe, in terms

1 of funding for this initiative. Will that be ongoing?

2 MR. DEMPSEY: As with everything with  
3 Congress and funding, it's hard to predict. I think  
4 the industry is hoping to maintain some government  
5 support. It's a very low level. And as Mr. Applebaum  
6 indicated, this is a long term effort and unless the  
7 dumping is stopped I'm afraid there won't be any  
8 industry left to benefit from that effort when it  
9 finally reaches fruition.

10 COMMISSIONER PEARSON: Has the industry  
11 organized a checkoff or some other type of system for  
12 contributions by members of industry to help support  
13 the initiative?

14 MR. APPLEBAUM: John Applebaum.

15 They go hand in hand. The certification  
16 program and the marketing are something that's  
17 evolving as we sit here today. But it's going to take  
18 some time.

19 COMMISSIONER PEARSON: Any other comments on  
20 this issue

21 MS. CHAUVIN: Kimberly Chauvin.

22 I would think our biggest thing that we're  
23 working with also is the educational process to the  
24 consumer about what he is now consuming.  
25 Differentiate between imported and what we have now.



1 But like Mr. Applebaum said, it does take time.

2 I've taken a business trip where I traveled  
3 eight days to try and educate people and also on a  
4 customers' basis, and people are not aware of the  
5 situation outside of our coastal communities where we  
6 shrimp.

7 So all this just takes the time to lay the  
8 platform and lay the foundation and build up from  
9 there.

10 COMMISSIONER PEARSON: But it's fair to say  
11 this initiative has not had an influence on the  
12 conditions of competition in the industry during the  
13 period of investigation?

14 MR. DEMPSEY: Commissioner Pearson, it's  
15 Kevin Dempsey. That's exactly right. I mean this is  
16 a very very new initiative and has not had any  
17 influence on the conditions of competition during the  
18 POI.

19 COMMISSIONER PEARSON: Thank you very much.

20 CHAIRMAN KOPLAN: Thank you, Commissioner.

21 I do have a number of matters left that I'd  
22 like to inquire about. Let me start with a request.

23 Mr. Cook, you're going to supply details for  
24 me post-hearing with regard to the acquisition of  
25 Ruther's Seafood and when you do that if you would

1 include in your post-hearing submission, if you could  
2 tell me whether with the acquisition of Ruther's  
3 Seafood, Chicken of the Sea became your largest  
4 private label customer.

5 The second thing I want to make sure you  
6 include is if you can tell me in the post-hearing  
7 prior to the year 2000 what share of your private  
8 label sales of canned shrimp and what share of your  
9 overall sales of canned shrimp were accounted for by  
10 private label sales to Chicken of the Sea. Could you  
11 include those things in your post-hearing?

12 MR. COOK: Yes we can, and I would like to  
13 comment that we are now selling Chicken of the Sea  
14 private label now.

15 CHAIRMAN KOPLAN: I couldn't hear that.  
16 You're what?

17 MR. COOK: We are now selling Chicken of the  
18 Sea private label.

19 CHAIRMAN KOPLAN: Thank you.

20 Let me come back to the issue of the role of  
21 non-subjects as follow-up to Vice Chairman Okun's  
22 question on the last round.

23 The brief filed on behalf of the National  
24 Chamber of Aquaculture and the American Seafood  
25 Distributors Association argues at pages one and two

1 that non-subject countries can and will fill any void  
2 left by a decline in subject imports. I'm quoting  
3 from there. They say, "As a result, prices have not  
4 moved up and they are not going to move up as a result  
5 of an affirmative final determination. This is  
6 because there are far too many countries with far too  
7 much aquaculture capacity and growth potential  
8 including many subject producers with minor dumping  
9 margins."

10 The state at page two that "Shrimp  
11 aquaculture is a far superior production method  
12 compared to fishing for shrimp in the Gulf of Mexico  
13 and the South Atlantic."

14 I know that both the quantity and market  
15 share of non-subject imports increased during the six  
16 month interim period. The quantity went up by 33.3  
17 percent during that period and the market share of  
18 non-subjects by approximately four percent during that  
19 period.

20 So I'd like you to respond to the arguments  
21 that they're making, if you would, Mr. Dempsey.

22 MR. DEMPSEY: Yes, Chairman Koplan. I'll  
23 start and see if others want to comment as well.

24 We don't believe that the non-subject  
25 imports can totally replace the subject imports. They

1 just don't have the additional capacity to fully  
2 replace them. Will there be some increase from non-  
3 subject imports, duties on subject imports? Yes,  
4 we've already seen that and we expect there will be  
5 some.

6 A number of the non-subject --

7 CHAIRMAN KOPLAN: Do you expect this trend  
8 to continue?

9 MR. DEMPSEY: I think that current return of  
10 the non-subject imports to about the market share  
11 level they had back at the beginning of the POI, sort  
12 of back to the stability there, I think they'll  
13 probably stay. It's not surprising that they would  
14 stay at that level. But at current trend upwards, I  
15 think there's a limit to that. You will not see,  
16 first of all you will not see subject imports  
17 completely leave this market. What you will see with  
18 the imposition of antidumping duties is higher prices.  
19 Is an increase in the import price from subject and as  
20 a result I think from non-subject. The price leaders  
21 in this market have been the subject countries.  
22 They're the ones that they drove down the price and  
23 they brought non-subject prices down with them. With  
24 an increase in prices from the subject imports I think  
25 we'll see all boats rising and see some increase in

1 prices from non-subject. There will be some shifting  
2 in market share but I wouldn't say there will be a  
3 dramatic change.

4 CHAIRMAN KOPLAN: Ms. Hester, can you add  
5 anything to that in terms of any estimate that you  
6 might be able to do?

7 MS. HESTER: I agree -- Susan Hester, for  
8 the record.

9 I agree with Mr. Dempsey on that. I think  
10 Jonathan made the comment that China was really the  
11 one that was dominating the market. The other subject  
12 countries had to follow if they wanted to sell in the  
13 market.

14 I think the closeness of the AUVs just  
15 supports the fact that all these shrimp are the same.  
16 If you want to sell in our market this is the price  
17 you're going to sell in the market for.

18 CHAIRMAN KOPLAN: I appreciate that. What  
19 I'm wondering is whether there's any way to estimate  
20 how much of a shift there might be. Any kind of ball  
21 park that you could do.

22 MS. HESTER: I think we'd need to know the  
23 margins on the other four countries before we could do  
24 that, and then I suppose you could run some sort of a  
25 model and do an estimate, but we would need to know

1       how large those margins would be.

2                   Clearly there will be substitution for China  
3       at the margins that we saw yesterday.

4                   CHAIRMAN KOPLAN:  Mr. Applebaum?  You seem  
5       to be nodding a lot in agreement with Mr. Dempsey.  
6       Was there something you wanted to add here?

7                   MR. APPLEBAUM:  John Applebaum.

8                   I think Mr. Dempsey and Ms. Hester said it  
9       very very well.  These countries, and even  
10      specifically within these six countries, there are the  
11      price leaders and also the volume producers and  
12      explorers to the United States of product.  And  
13      because of the commodity nature of these products,  
14      everyone else, because these are the volume producers,  
15      all the other countries' prices are forced to follow  
16      in suit to sell product.

17                  CHAIRMAN KOPLAN:  Thank you.

18                  Let me stay with you and Mr. Gollot for my  
19      next question.

20                  The ASDA pre-hearing brief argues on page  
21      six, referring to domestic processes, and I quote,  
22      "Value added processes which are the larger processes,  
23      far much better because they have responded to a  
24      greater extend to what the market demands.  Primary  
25      processes, that is those that merely dehead and block

1 freeze shrimp, produce the same basic shrimp commodity  
2 that they have produced for decades."

3 Looking at the pre-hearing staff report  
4 which is Table Roman Numeral 5, number 2, it does  
5 appear that there are more instances of underselling  
6 by subject imports in those products that are all  
7 deheaded, unpeeled, and block frozen products as  
8 opposed to those that are value added. I'm referring  
9 to products six, seven, eight and nine. This is  
10 public.

11 There are more instances of underselling  
12 with respect to those products. Do you see more price  
13 competition for these deheaded, unpeeled, block frozen  
14 products than for products with more value added?

15 Mr. Applebaum?

16 MR. APPLEBAUM: John Applebaum.

17 I see as much price competition in the value  
18 added products as I do in the raw materials.

19 CHAIRMAN KOPLAN: You do?

20 MR. APPLEBAUM: Yes.

21 CHAIRMAN KOPLAN: Is there anything that you  
22 can submit post-hearing that might document that?

23 MR. APPLEBAUM: I'll see what I can do.

24 CHAIRMAN KOPLAN: I'd appreciate that.

25 Mr. Gollot?

1                   MR. GOLLOT: Yes, sir. I do further  
2 process, I do some breeding, and I see as much  
3 competition in the breeding business as I do anything  
4 else.

5                   CHAIRMAN KOPLAN: Could you provide some  
6 documentation in that post-hearing --

7                   MR. WARD: Yes, sir.

8                   CHAIRMAN KOPLAN: I'd appreciate that.

9                   Let me stay with you if I might. the ASDA  
10 pre-hearing brief at page ten notes the capacity  
11 utilization of the domestic shrimp processing industry  
12 was 56.2 percent in 2000 and asserts that, and I  
13 quote, "The domestic industry was far more profitable  
14 in 2000 than it had been historically with an  
15 operating profit margin of 2.6 percent, thus it is  
16 clear that the domestic processing industry has an  
17 equally serious, over-capacity problem caused by the  
18 fact that there are still far too many processes with  
19 each possessing far too much capacity."

20                   The brief then states in footnote ten that,  
21 and I quote, "The seasonal nature of landings means  
22 that domestic processors will always operate at less  
23 than capacity, especially in the winter months when  
24 harvests are small."

25                   I note that capacity utilization for



1 domestic processes in 2003 was only 40.9 percent.

2 That's a public figure.

3 How should the Commission evaluate data on  
4 capacity utilization? What would be considered a good  
5 capacity utilization figure in this industry?

6 Mr. Dempsey?

7 MR. DEMPSEY: Chairman Koplan, we'll expand  
8 on this in the post-hearing brief, but I think that we  
9 have some questions about whether all the Respondents  
10 to the questionnaire interpreted capacity the same  
11 way. Since the same pound of shrimp can be processed  
12 several times over and can be deheaded, graded,  
13 peeled, cooked. There has been a number of domestic  
14 processors who frankly had done less and less value-  
15 added processing as more and more imports have come in  
16 with a value added nature at low prices.

17 So how you calculate that capacity for that  
18 processor, whether you count the cooking capacity and  
19 the peeling capacity and the grading capacity  
20 separately and therefore have perhaps some double or  
21 triple accounting, or whether you count it just once.

22 It's not clear to us that there has been a  
23 standard formula for people in responding because I  
24 don't think the questionnaires frankly focused on  
25 that. It didn't occur to us until we were looking at

1 the data.

2 So I'm not sure how representative the  
3 capacity utilization figures are. The particular  
4 percentages are for what is really going on in the  
5 industry. What I think is important is the trend  
6 which is definitely downward over the POI and shows  
7 decreased capacity utilization as prices have declined  
8 and there's less processing going on.

9 But what the correct number is, what's good  
10 capacity utilization for this industry, given this  
11 potential double or triple accounting issue is one  
12 that we don't have a clear answer on right now, but  
13 will work on that and try to get you something for the  
14 post-hearing brief.

15 CHAIRMAN KOPLAN: Mr. Gollot, was there  
16 anything you wanted to add to this?

17 MR. GOLLOT: No, sir. I agree with him.

18 CHAIRMAN KOPLAN: All right. I'll look  
19 forward to getting as much detail as you can provide  
20 post-hearing on that point.

21 Thank you.

22 Vice Chairman Okun?

23 VICE CHAIRMAN OKUN: Thank you. I do have  
24 some more questions.

25 One, I guess, a follow-up in listening to

1 your exchange with Commissioner Person regarding the  
2 marketing of wild shrimp. Having worked for an  
3 Alaskan senator who is now an Alaskan governor I heard  
4 a lot about the marketing of Alaska salmon which is  
5 something there have been a number of attachments on  
6 in the briefs. I know that was a long process and  
7 they fought some of the same issues of big restaurants  
8 saying they liked farm salmon because it was the same  
9 size and you can get it. But they've been very  
10 successful.

11 I hope you have as good a luck and since you  
12 have a Mississippi Senator who will soon be the  
13 chairman of the Appropriations Committee. I hope that  
14 will help in your dealings with Congress on what you  
15 need.

16 But on a serious question, Mr. Dempsey I  
17 think the reason that the Respondent's spent so much  
18 time on it, I didn't think of, well I guess maybe a  
19 condition of competition, but also again to try and go  
20 back to their point that you know, whatever your  
21 volume price is in this market if the domestic  
22 industry is causing its own injury and one of its own  
23 reasons for judging inquiry to itself is because  
24 everyone's identified that they needed to be a niche  
25 player. You can't find causation.

1                   So I guess I wanted to have a little more  
2 response on that particular legal argument of is the  
3 lack of the industry having come to this idea of  
4 marketing wild shrimp a reason for the Commission to  
5 believe you can't find a causal link with subject  
6 imports?

7                   MR. DEMPSEY: Thank you, Vice Chairman Okun.  
8 Kevin Dempsey for the record.

9                   We strongly disagree that the fact that the  
10 domestic industry didn't come up with this I guess 20  
11 years ago is an alternative cause of the domestic  
12 industry's injury. Frankly as we indicated, the  
13 industry as profitable up through the year 2000 and  
14 was able to, in competition with imports, fairly  
15 traded imports, was able to make a reasonable profit  
16 and do reasonably well.

17                   What has changed is not that suddenly  
18 there's been a need to develop this niche market, but  
19 what has changed is the volume and price of the  
20 imports.

21                   Now the domestic industry is making every  
22 effort it can and it's pursuing the development of  
23 that but again, given the fact that the marketing  
24 channels are controlled by the distributors who have  
25 every incentive to buy the dumped imported product.

1           It is going to be hard, there is a limit to  
2           how much control the domestic industry would ever have  
3           over the ability to develop a niche market for its  
4           products. So I don't think you can blame the industry  
5           for its current situation because frankly the big  
6           change is in the imports, in the volume and the price,  
7           since 2000.

8           I've just been passed a note, I'm going to  
9           let Ms. Chauvin speak about what's been going on in  
10          Louisiana.

11          MS. CHAUVIN: Kimberly Chauvin.

12          We have been having a marketing promotion  
13          board since the 1980s in which our fishermen have on a  
14          license fee, have put into this. We also have  
15          internet, a web page with this. Now with changing  
16          times, because some of us, as myself, have moved into  
17          the retail sector, they are adding places for  
18          fishermen to also be able to retail to different  
19          customers on a smaller basis than our processors, but  
20          we work hand in hand with our processors and our  
21          fishermen. But that's been there and it still has had  
22          no effect. When the dumped imports came in, I really  
23          believe that you can market all you want and when  
24          you're going to have some consumers that are looking  
25          at price and only price, and I know this from dealing

1 with the retail sector, that there are not many ways  
2 you can change that person's mind on price basis  
3 because I can't meet the price.

4 But when you're dealing, on the other side  
5 of it you'll have a few that you will change the mind  
6 of because they're looking for the taste, the quality,  
7 just a different thing. Those you may change their  
8 mind. But like I said, we've been having Louisiana  
9 promotion and marketing board for some time now.  
10 They've been promoting for years, but it's not helped  
11 in this current situation.

12 VICE CHAIRMAN OKUN: Thank you. I might  
13 have a chance to come back here but let me move on to  
14 price which is what I did want to be sure that I came  
15 back to.

16 One of the things, Mr. Dempsey, and I know  
17 there have been a number of questions about price and  
18 if I'm covering something that's been covered let me  
19 know and we can shorten things.

20 In your brief at Chart 11 and in the slides  
21 today at page six, you have the subject import prices  
22 that are depressing, suppressing domestic shrimp  
23 prices. In here and in your brief you use the Urner  
24 Barry as a source for that.

25 I've looked at that, and then if I look at

1 the pricing data that we gathered from our quest  
2 years, the do present different pictures. I want to  
3 try to make sure that I understand how you urge us to  
4 reconcile what we see here, what Urner Barry does,  
5 because it does combine some species, some counts  
6 versus what we have in terms of what you think is the  
7 best pricing data and why. Some of this can be done  
8 post-hearing, but I did want to have an opportunity to  
9 note that I think there is a difference.

10 MR. DEMPSEY: Vice Chairman Okun, Kevin  
11 Dempsey.

12 I think that fundamentally the data from the  
13 Commission's questionnaires collected on underselling  
14 and the data we've presented from Urner Barry are  
15 consistent in that they show an overwhelming amount of  
16 underselling by the subject imports.

17 There may be some variation from one  
18 particular count-sized product to another, but overall  
19 it's quite significant. But we'll be happy to analyze  
20 it further in the post-hearing brief.

21 VICE CHAIRMAN OKUN: Mr. Applebaum?

22 MR. APPLEBAUM: John Applebaum.

23 I just wanted to say that Urner Barry is a  
24 real-time reflection of what ex-wholesale prices are  
25 in an active buying and selling market. Those prices

1 are reported twice a week and because they're what  
2 actually the first receiver of the shrimp is selling  
3 the shrimp for in the United States, it seems to me  
4 that those are probably the closest thing we have to  
5 an accurate reflection to what the prices are and then  
6 what impact it's having.

7 VICE CHAIRMAN OKUN: Okay.

8 MS. HESTER: Commissioner Okun?

9 VICE CHAIRMAN OKUN: Yes, Ms. Hester.

10 MS. HESTER: Susan Hester.

11 Could I ask for clarification? I know the  
12 pricing is very confusing because I've had a lot of  
13 questions within the firm about it. Could you give us  
14 a little clarification, which Commission data are you  
15 talking about?

16 VICE CHAIRMAN OKUN: Let me walk through a  
17 couple of things. One looks like a product one, which  
18 again, in looking at how the Commission collected its  
19 pricing data, product one is where we have the most  
20 U.S. concentration. I want to make sure that I've  
21 heard from the industry whether they believe product  
22 one is a very representative or maybe the most  
23 representative product to look at, and again, product  
24 one is frozen, warm water shrimp or prawns, all  
25 species, 71 to 90 count; raw, headless, peeled,



1 whether or not deveined, peel off, block frozen, cut  
2 or not cut. That's where we got a lot of the pricing  
3 data.

4 Combined with that, in that pricing one  
5 data, you've got significant overselling of imports.  
6 So again, I can look at Urner Barry and say you've got  
7 all this, where the prices are, but I can also look  
8 and find instances of overselling for a number of the  
9 countries, and in particular in this product where you  
10 have a lot of U.S. product.

11 So I'm trying to reconcile how to look at it  
12 and in particular when there's data, Urner Barry  
13 combines, at least in this chart you've combined I  
14 guess the Gulf white and the Gulf brown, and I'm just  
15 trying to make sure I understand what they're doing  
16 and how that links up with where we do have some  
17 overselling, how you account for that. Is it just  
18 because you think Urner Barry is better data than our  
19 pricing data? Usually, again, does the commission  
20 look outside its own pricing data to say we really  
21 think Urner Barry is what we should be looking at in  
22 this cart. It's the most relevant even though it's  
23 not what we would normally look at in our -- Our tape  
24 weights, which is our normal pricing data.

25 MR. GOLLOT: Commissioner, I'll try.

1 Richard Gollot. I'll try to answer that for you.

2           When our season starts, we start out with  
3 small shrimp. Usually when this particular sizes of  
4 shrimp come in we're starting to get a lot of shrimp  
5 in inventory and a lot of people are undercapitalized  
6 and they have to start selling the stuff quicker so  
7 they can turn the money. A lot of times it is just a  
8 question of getting squeezed. They have to sell the  
9 stuff and they have to go out and sell it at whatever  
10 the market will bear.

11           VICE CHAIRMAN OKUN: Mr. Applebaum?

12           MR. APPLEBAUM: John Applebaum.

13           I think to take one size out of the entire  
14 complex of sizes kind of distorts the picture because  
15 as Richard said, domestically we only produce 70-90s  
16 for a specific period of time. Conversely, as far as  
17 foreign prawn production goes, they may raise their  
18 shrimp to 70-90 size and harvest; they may raise them  
19 to larger sizes and harvest.

20           I think really to get an accurate reflection  
21 the whole complex has to be looked at in its entirety.

22           VICE CHAIRMAN OKUN: My red light's on. I  
23 may have a chance to come back or I might submit  
24 something post-hearing to further clarify some of the  
25 things that troubled me about the pricing data. Thank

1 you.

2 CHAIRMAN KOPLAN: Do you want to continue?

3 Commissioner Hillman?

4 COMMISSIONER HILLMAN: Thank you.

5 To some degree I'd like to continue along  
6 the lines that Vice Chairman Okun was just exploring  
7 because I share the curiosity or the concern that  
8 she's raising which is if I look at our pricing data  
9 and I look at the highest volume product, it is  
10 product one, this 71-90 count, raw, headless, peeled,  
11 whether or not deveined, tail on, block frozen. That  
12 from the data that we've collected that's the highest  
13 U.S. volume product and yet it is one of three  
14 products or four products in which we have more  
15 imports overselling the U.S. price than we do  
16 underselling. We have the same phenomenon of more  
17 overselling than underselling in a couple of the other  
18 products. And it turns out that when you look at it  
19 the products where you have more overselling than you  
20 do underselling by the imports, so more of the imports  
21 are coming in priced above the U.S. product, are in  
22 these more value added products. In other words if I  
23 look at all the products that are blocked, frozen,  
24 raw, headless, shell on, not very processed, we see  
25 more underselling. But when we go to the more value

1 added processed product we see imports overselling the  
2 U.S. product more than you do in the, more often than  
3 not.

4 So I'm asking for anything that you want to  
5 say about why do I see that phenomenon. Why is there  
6 more overselling than underselling in the more value  
7 added products?

8 MR. DEMPSEY: Commissioner Hillman, Kevin  
9 Dempsey. As Mr. Gollot said, I think, certainly with  
10 respect to Product 1, it may have more to do with  
11 count size than it has to do with the level of  
12 processing and the nature of the companies that may do  
13 more of the processing in that count size. We will  
14 explore that further in our post-hearing brief.

15 COMMISSIONER HILLMAN: Then let me ask --  
16 again, I'm wanting a response because clearly, among  
17 the many arguments the Respondents are making is that  
18 part of the issue of the competition between the  
19 imports and the domestic industry and part of the  
20 reason why the imports are gaining share are, and I  
21 would like to specifically ask you to speak to three  
22 issues. One is that the imports are better able to  
23 serve the large-volume, consistent-count requests for  
24 purchasers, the argument being made that as Wal-Mart  
25 and others that are big buyers have gone into this

1 business, they want large volumes of consistent counts  
2 and that that is harder for the U.S. industry to fill.

3 Now, Mr. Blanchard, in response to one of  
4 the earlier questions, you commented that you had  
5 tried to serve Wal-Mart. I'm wanting you to maybe  
6 expound a little bit on how that went. You said it  
7 all came down to price, but I'm just trying to make  
8 sure I understand whether there is any difficulty in  
9 serving, again, a large-volume, consistent-count  
10 request. Again, can any one processor produce at the  
11 level of, again, this large-volume, consistent-count  
12 demand?

13 MR. BLANCHARD: When we went to Wal-Mart, it  
14 was back in early 1995, '96, and we went with what we  
15 were producing. It was an IQF, small, raw, salad  
16 product at the time, and at that time, that product  
17 was readily available in the U.S. market to supply  
18 them.

19 COMMISSIONER HILLMAN: Okay.

20 MR. BLANCHARD: And that's why we went to  
21 them.

22 COMMISSIONER HILLMAN: Then let me  
23 understand -- so you're saying, at that point, volume  
24 was not the problem. Providing a consistent, large-  
25 volume, consistent count of this smaller salad shrimp

1 was not a problem.

2 MR. BLANCHARD: Right.

3 COMMISSIONER HILLMAN: Okay. Now, the other  
4 argument, though, that's clearly being made is that  
5 the U.S. industry is not capable of supplying, again,  
6 this large volume on the cooked side and on the  
7 peeled, deveined, tail-on side. Again, I'm just  
8 wanting to get your response to this argument in terms  
9 of the U.S. industry's ability to provide these more  
10 value-added products. Mr. Gollot?

11 MR. GOLLOT: Yes, ma'am. I think it all  
12 goes back to economics. The tail-on stuff; they can  
13 get it done so much cheaper overseas. We used to do  
14 it in the United States, and a lot of the large people  
15 who do this have moved their production lines and  
16 everything overseas where they can get the stuff hand  
17 peeled at slave labor prices. And I've had large  
18 importers buy domestic shrimp from me, ship it  
19 overseas, have it processed, peeled and leave the tail  
20 on it, and ship it back to the United States, and I  
21 ask them, "What's going on? Is the freight cheaper?"  
22 The freight over there and back is cheaper than having  
23 it hand peeled in the United States.

24 COMMISSIONER HILLMAN: Okay.

25 MR. GOLLOT: And to respond to another one

1 of your questions, I do supply a very large chain of  
2 restaurants in the United States, a specific-sized,  
3 peeled and deveined shrimp, top-quality shrimp, and I  
4 have no problems in supplying them, and they love the  
5 product.

6 COMMISSIONER HILLMAN: Okay. Mr. Applebaum?

7 MR. APPLEBAUM: John Applebaum. When we  
8 first started talking about this count size, I  
9 mistakenly heard you to say "shell on." I didn't hear  
10 about the peeled aspect of that. But the 70-90 count,  
11 in particular, is either the largest, greatest size of  
12 production, or it's in the top one or two of domestic  
13 production, and we carry year-round inventories of 70-  
14 90 peeled shrimp to take care of our customers on a  
15 consistent basis, and we would be happy to service  
16 more customers and buy more product from the fishermen  
17 if there was, you know, if there was a desire for it.

18 COMMISSIONER HILLMAN: Okay. So you're  
19 saying you have no problem getting enough of the raw  
20 shrimp that would fit this 70-90 count, and you have  
21 no trouble finding enough processing capacity to peel  
22 it. That's not your problem.

23 MR. APPLEBAUM: That's correct.

24 COMMISSIONER HILLMAN: Okay. I appreciate  
25 those answers.

1 MS. HESTER: Commissioner Hillman?

2 COMMISSIONER HILLMAN: Yes.

3 MS. HESTER: Susan Hester. Could I make a  
4 couple of comments? This issue of count size; I think  
5 it's important to realize that the count, when it goes  
6 through a processing plant, it's all sorted by count  
7 size, so a processor can obviously provide sufficient  
8 count size, control of count size. That's part of  
9 what the service is they provide, so that's a kind of  
10 nonsensical argument. That's the processor's role.

11 Obviously, if you take somebody like Wal-  
12 Mart, China is about the only country that can supply  
13 all of their needs in certain products. The domestic  
14 industry has a limited supply. That's obvious. And  
15 also, I think it's good business not to have one  
16 customer. So even if you could supply, say, a large  
17 chain as a processor, you wouldn't want to do that  
18 anymore than the large people who are buying all of  
19 the shrimp only source from one country. My guess is  
20 they have multiple sources as well, just because  
21 that's good business practice.

22 COMMISSIONER HILLMAN: Okay. Then to the  
23 extent that there is this issue, as Mr. Gollot just  
24 said, in terms of, price-wise, the ability to do all  
25 of the further value-added processing, do U.S.



1 shipments of shell-on shrimp compete with peeled,  
2 imported shrimp? Is there competition across shell-on  
3 versus peeled product?

4 MR. GOLLOT: Richard Gollot for the record.  
5 I've had customers that I've been selling peeled  
6 shrimp, large numbers of peeled shrimp, and then the  
7 price of shell-on shrimp drops so much that they  
8 switch over and go to shell-on shrimp because they can  
9 peel them in their restaurants at a cheaper price than  
10 we can produce them with the machines.

11 COMMISSIONER HILLMAN: And how big does that  
12 differential have to be in price before they will  
13 switch over and buy the shell-on?

14 MR. GOLLOT: It depends on the customer.

15 COMMISSIONER HILLMAN: Ball park? What  
16 cents or percentage difference would it have to be?

17 MR. GOLLOT: Different customers, different  
18 amounts, you know.

19 COMMISSIONER HILLMAN: Okay. If there is  
20 anything that could be added on the record, just so I  
21 understand this issue, I think it would be helpful.

22 MR. DEMPSEY: Kevin Dempsey for the record.  
23 We'll try to provide some more detail that may be  
24 business confidential in our post-conference brief on  
25 that.

1                   COMMISSIONER HILLMAN: How about the issue  
2 of machine peeled versus hand peeled? Do machine-  
3 peeled shrimp compete with hand-peeled shrimp?

4                   MR. APPLEBAUM: John Applebaum. Yes, they  
5 do. Obviously, the cost in the United States to  
6 machine peel is lower than to hand peel in the United  
7 States, but either way, for the most part, customers  
8 will use both.

9                   COMMISSIONER HILLMAN: Is there a premium  
10 paid for hand peeling?

11                  MR. APPLEBAUM: Sometimes, but I would say  
12 it's more the exception than the rule.

13                  COMMISSIONER HILLMAN: Okay. And to the  
14 extent that -- everyone paid, how significant is it?  
15 Do you have a sense of how much more people will pay,  
16 percentage more, for hand peeling?

17                  MR. APPLEBAUM: Not enough to cover the  
18 incremental cost of hand peeling in the United States,  
19 no.

20                  COMMISSIONER HILLMAN: Again, if there is  
21 anything -- Mr. Gollot?

22                  MR. GOLLOT: I haven't experienced any of  
23 that.

24                  COMMISSIONER HILLMAN: No premium at all for  
25 hand peeling?

1 MR. GOLLOT: No premium at all on peeled  
2 shrimp.

3 COMMISSIONER HILLMAN: Okay. I appreciate  
4 those answers.

5 Mr. Dempsey, I had neglected in my previous  
6 round, in terms of understanding this issue of canned  
7 shrimp, to ask -- I note, in your brief, you have  
8 briefed all of the issues in terms of the like  
9 product, but if the Commission were to decide that  
10 canned shrimp is a separate like product, I wondered  
11 if you could brief the basic issues of volume, price,  
12 and impact, the basic injury issues, if we are looking  
13 at canned shrimp as a separate like product.

14 MR. DEMPSEY: Kevin Dempsey for the record.  
15 We will be happy to do that for our post-hearing  
16 brief.

17 COMMISSIONER HILLMAN: I appreciate that.  
18 Thank you.

19 CHAIRMAN KOPLAN: Thank you, Commissioner.  
20 Commissioner Lane?

21 COMMISSIONER LANE: I would like somebody or  
22 several of you to discuss the issue about the foreign  
23 shrimp that's coming in and the additives that perhaps  
24 are in that farm-raised shrimp and what kind of  
25 inspections are done, and just how big an issue is

1 that, and are there any studies or data to show to  
2 back up this issue so that we could take a look at it?

3 MR. DEMPSEY: Kevin Dempsey. I'll start,  
4 and others probably have more detail than I do. It  
5 is, we think, of significant concern. The GAO has  
6 estimated that the FDA inspects only about 1.2 percent  
7 of all imported shipments of seafood, and in that very  
8 small sampling there is a significant number of  
9 refusals for contamination with drugs that are not  
10 permitted like antibiotics, chloramphenicol, and the  
11 like, as well as other reasons, and there having  
12 studies done. I know there was a study done, I think,  
13 in Louisiana where it found about 9 percent of the  
14 shrimp tested was contaminated with illegal  
15 antibiotics, imported shrimp, yes.

16 The other side has suggested that this is  
17 all a thing of the past, but while we don't have  
18 complete data, there is enough -- we think there are  
19 some serious concerns that these chemicals, the  
20 antibiotics, in particular, continue to be added for  
21 pond-raised shrimp to control viruses, and it is of  
22 concern, we know, to FDA and a concern in the European  
23 Union as well. You could ask Mr. Applebaum to  
24 probably elaborate on that.

25 MR. Applebaum: A group of us met with Food

1 and Drug yesterday on this issue, and we learned that  
2 for 2004 the target is to approximately triple the  
3 number of samples on imported shrimp that they take to  
4 test for veterinary drugs, antibiotics. I think that  
5 would take it from somewhere in the 150 range  
6 approximately to 400 or 450. However, that probably,  
7 I think, won't take up the percentage of total  
8 shipments to the United States. It probably won't  
9 take it up above 2 percent, if that.

10 The data that Food and Drug shared with us  
11 thus far for this year indicates that there is a  
12 slight reduction in the percentage of samples found to  
13 have illegal drugs, although it is only slight, and  
14 for the amount of attention that has been given to  
15 this issue, it's amazing to me that that number has  
16 not dropped more.

17 COMMISSIONER LANE: Yes, sir.

18 MR. GOLLLOT: Ms. Lane, Richard Gollot. I  
19 have a little personal experience because, from time  
20 to time, I do step in and buy a few imports to process  
21 myself.

22 A few weeks ago, I was looking for some  
23 wild, imported shrimp to fill a little market, and the  
24 person trying to sell it to me, a very large importer  
25 trying to sell it, he says, "Why do you want wild?"

1 He says, "I have Chinese." I said, "Because I want to  
2 make sure the shrimp I process doesn't have any  
3 chloramphenicol." He said, "Well, I'll send you the  
4 papers." He says, "It only has a small, minute amount  
5 of chloramphenicol in it." And I said, "You don't  
6 understand. We're at zero tolerance. I don't want  
7 any chloramphenicol."

8 It's still a fact, a very big fact, that  
9 they can't raise shrimp in ponds at the concentrations  
10 they are raising them in without putting antibiotics  
11 in those ponds to keep the disease down.

12 MR. DEMPSEY: Kevin Dempsey. Just one other  
13 thing I would note. There is a difference in practice  
14 between what typically happens with a shipment  
15 imported into the United States that's been found to  
16 have an adulteration, a veterinary drug. Generally,  
17 at the border, when that happens in the United States,  
18 it's returned to the importer, and what the importer  
19 does with that is not completely clear, but there are  
20 some indications that there may be some port shopping  
21 where then they try to import it into another port  
22 where it might not be inspected.

23 In Europe, by contrast, when shipments are  
24 found to have contamination, they are generally seized  
25 and then destroyed. The deterrent effect, we believe,

1 is much more significant because of that different  
2 practice in Europe than in the United States with  
3 respect to imports.

4 COMMISSIONER LANE: Mr. Applebaum, I think  
5 you were talking about 150 and 400. What did those  
6 numbers represent?

7 MR. Applebaum: Those are the number of  
8 import shipments from which samples were taken, from  
9 2003 to their target for 2004.

10 COMMISSIONER LANE: Okay. Thank you.

11 Mr. Chairman, that's all the questions I  
12 have.

13 CHAIRMAN KOPLAN: Thank you, Commissioner.  
14 Commissioner Pearson?

15 (No response.)

16 CHAIRMAN KOPLAN: Thank you. I have just a  
17 request. Mr. Dempsey, when you and Ms. Hester were  
18 responding to the questions that you've been asked  
19 about the overselling and underselling in Chapter 5,  
20 and I had inquired on Products 6 through 9 in my  
21 previous round, when you do that, post-hearing, if you  
22 would factor into your discussion Appendix H, and I'm  
23 referring to that part of Appendix H that has the  
24 details with respect to overselling and underselling  
25 of these products. That's all BPI, so I cannot get

1 into it here, but I'm talking about -- I guess it  
2 begins on page H-3 and runs through H-42, and that's  
3 covering the 10 products for the overselling and  
4 underselling. So if you could give as much detail in  
5 your analysis, taking that into account, I would  
6 appreciate it.

7 I would also welcome any discussion that Mr.  
8 Connelly might want to provide post-hearing on this  
9 point as well. Mr. Connelly, will you follow up with  
10 that?

11 MR. CONNELLY: Warren Connelly. Absolutely,  
12 Mr. Chairman.

13 CHAIRMAN KOPLAN: Thank you.

14 MR. DEMPSEY: And, Mr. Chairman, for the  
15 record, Kevin Dempsey, we will do so as well.

16 CHAIRMAN KOPLAN: Thank you very much, and  
17 with that, I have nothing further. Vice Chairman  
18 Okun?

19 VICE CHAIRMAN OKUN: There may be more  
20 issues and more questions out there, but I really  
21 appreciate all of your patience in answering the  
22 questions. There may be other things to cover after  
23 listening to this afternoon's panel, so I will wait  
24 for that, but, again, I really want to thank you, and  
25 the further price questions I had at the end of my



1 round were covered by Commissioner Hillman, so I  
2 appreciate that.

3 CHAIRMAN KOPLAN: Commissioner Hillman?

4 COMMISSIONER HILLMAN: Just one request, if  
5 I could, and I would, too, join my colleagues in  
6 thanking you all. This has been a long morning into  
7 the afternoon, and you have been extremely patient,  
8 and we very much appreciate all of those answers.

9 For the record, Mr. Dempsey, if you could,  
10 in your post-hearing brief, and, again, this is going  
11 back to this issue of making sure I understand  
12 everything I need to about how and why price  
13 competition occurs, in their brief, in the brief for  
14 the seafood distributors, in the Akin, Gump brief,  
15 they go through maybe four or five specific grocery  
16 stores, as well as, I think, about four or five  
17 restaurants and a couple of distributors, and  
18 specifically talk about these issues of quality versus  
19 price in terms of what's driving the purchasing.

20 Given that most of that data is BPI, I would  
21 ask you to respond if there is anything that you can  
22 tell us specifically with respect to each of those  
23 specifically listed supermarkets, restaurants, and one  
24 major distributor, anything that you would say in  
25 response to the allegations that are made in this

1 brief on pages 27 onward, 26, 27 onward, in their  
2 brief. Again, it's more I'm wanting your response,  
3 but because they do involve confidential names and  
4 data, I think it's best under the post-hearing brief.

5 MR. DEMPSEY: Commissioner Hillman, we will  
6 be happy to provide that in our post-hearing brief.

7 COMMISSIONER HILLMAN: I thank you for that,  
8 and, again, I thank all of our witnesses. You've been  
9 extremely patient with us. Thank you.

10 CHAIRMAN KOPLAN: Any other questions from  
11 the dais? If not, Mr. McClure, does staff have  
12 questions?

13 MR. McCLURE: Jim McClure, Office of  
14 Investigations. Staff is hungry and has no questions.

15 CHAIRMAN KOPLAN: (Laughter.) I don't know  
16 whether that's a suggestion, but, Mr. Connelly, do you  
17 have any questions of this panel before they are  
18 released?

19 MR. CONNELLY: No questions. I'm hungry,  
20 too.

21 CHAIRMAN KOPLAN: Okay. Well, with that, I  
22 want to thank all of you for your contribution to this  
23 hearing this morning, and we will break for one hour  
24 for lunch. I would remind you that the room is not  
25 secure, so any business-proprietary information that

1 you have with you, you should take with you during the  
2 break. I'll see you all back at 3 o'clock.

3 (Whereupon, at 2:00 p.m., a luncheon recess  
4 was taken.)

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1 distribute to our members.

2 For the last five years, I also have been  
3 co-owner of a company in Malaysia called Black Tiger  
4 Aquaculture which consists of 170 ponds plus an  
5 associated processing plant, hatchery, nursery, and  
6 diagnostic laboratory.

7 During the course of my career, I have  
8 visited hundreds of shrimp farms in over 30 countries.  
9 From my perspective, the crisis facing U.S. shrimp  
10 fishermen is neither new nor unexpected. I recall  
11 working in the early 1980's on shrimp trawlers in the  
12 Texas bays and Gulf when I gained enormous respect for  
13 fishermen, their character, their proud way of life.  
14 However, one could sense even then the downward  
15 economic spiral underway in terms of bankruptcies,  
16 immigration of labor, and deterioration of facilities.

17 The first economic crisis actually arose in  
18 the late 1980's, when surging production from shrimp  
19 farming began impacting international prices. During  
20 that period, a fellow Texas A&M graduate student, John  
21 Lambrooks, and his professor, Dr. Wade Griffin in the  
22 Department of Agricultural Economics, published a  
23 study entitled "Supply Relations and Costs of Shrimp  
24 Mariculture and Shrimp Fisheries." Their economic  
25 models showed that shrimp farms in Thailand, Malaysia,

1 and Ecuador produce shrimp for \$1.62 a pound while  
2 offshore vessels in the Gulf of Mexico produce for  
3 \$3.99 a pound.

4 The authors concluded that increased  
5 production from farming would cause prices to decline  
6 and the fishing sector to become smaller in both a  
7 relative and an absolute sense. They also projected  
8 that the exit of any boat from the fishery would  
9 improve the economic viability for those remaining.

10 U.S. fishermen were spared that first  
11 impending crisis of rising production of farm shrimp  
12 when a devastating new disease called white spot  
13 syndrome virus struck the farming sector in 1992. It  
14 began in China, where production immediately plummeted  
15 from 220,000 metric tons to 50,000 metric tons. The  
16 disease spread quickly throughout Asia and eventually  
17 to the Americas in 1999. This led to a plateau in  
18 production of farm shrimp and a stabilization of  
19 prices throughout the 1990's as shrimp farmers around  
20 the world struggled to understand and control the  
21 pandemic disease.

22 However, before the right controls were  
23 understood, many unorthodox and ineffective approaches  
24 were tried. One of these was the use of antibiotics  
25 such as chloramphenicol. A cottage industry developed

1 in Asia to supply the thousands of small, family-owned  
2 shrimp farms with a range of products to control white  
3 spot syndrome virus. While most were harmless  
4 mixtures of vitamins, minerals, and immunostimulants,  
5 some concoctions contained antibiotics such as  
6 chloramphenicol, often without listing them on the  
7 label.

8           When the presence of banned antibiotic  
9 residues was revealed, government regulators and  
10 industry embarked on a massive education and testing  
11 campaign. This has been highly effective in ending  
12 the use of chloramphenicol, which was useless in  
13 treating the viral diseases anyway.

14           In 1999, my U.S. partner and I purchased a  
15 farm in Malaysia that had failed due to white spot  
16 syndrome virus. We applied techniques for controlling  
17 carriers and screening out infected post-larvae and  
18 were successful in managing the disease without using  
19 antibiotics either in the hatchery or ponds. Soon  
20 farmers around the world learned to use those basic  
21 procedures for managing white spot syndrome virus, and  
22 global production began to surge as it had a decade  
23 earlier.

24           Production was augmented by the availability  
25 of specific pathogen-free, or SPF, white shrimp

1 developed by the U.S. Marine Shrimp Farming  
2 Consortium. Not only are SPF shrimp free of white  
3 spot virus but also several other viral diseases which  
4 affect shrimp growth and performance. The shift from  
5 infected Black Tiger shrimp to SPF white shrimp  
6 dramatically increased production and reduced costs.

7 In Indonesia, farmers reported increasing  
8 from 4.2 to 10.1 metric tons per hectare, and the cost  
9 of production dropping from \$3.57 per pound for whole,  
10 31-35 count Black Tiger shrimp to \$1.37 per pound for  
11 whole 36-40 count white shrimp. The industry quickly  
12 adopted this more cost-effective technology. In  
13 Thailand, the percentage of production based on white  
14 shrimp jumped from 4 percent in 2002 to 61 percent in  
15 2003.

16 Several groups, including our farm, are now  
17 developing SPF technology for Black Tiger shrimp,  
18 which yield larger, more valuable sizes than white  
19 shrimp. This year, our farm will produce about 3  
20 million pounds of large, Black Tiger shrimp, which  
21 represents an increase of about 50 percent over our  
22 best previous year. Pond productivity increased from  
23 3 to 4.8 metric tons per hectare per cycle, and direct  
24 operating expenses for post-larvae feed and  
25 fertilizers declined from \$1.19 to \$1.00 per pound of



1 shrimp produced.

2 Why is farming a more flexible and  
3 profitable way to do business? According to that 1992  
4 economic analysis by Lambrooks and Griffin, the major  
5 costs in offshore fishing are fuel, 30 percent; repair  
6 and maintenance, 27 percent; crew shares, 24 percent;  
7 capital, 16 percent; and ice, 3 percent. There is  
8 little prospect for reducing these expenses. Indeed,  
9 fuel costs are considerably higher today.

10 In shrimp farming, the important costs are  
11 feed and post-larvae, which are steadily declining.  
12 At our farm in Malaysia, feed prices were about 45  
13 cents per pound when we started operations in 1999,  
14 but they are about 36 cents per pound today. Earlier  
15 this year, we tested a new type of feed processed by  
16 extrusion. It delivered the same performance as  
17 conventional pelleted feeds but at a price of 30 cents  
18 per pound. Further reductions in feed cost are on the  
19 horizon due to greater use of vegetable protein rather  
20 than fish meal. Post-larval costs are also declining.

21 I read the Petitioners' prehearing brief and  
22 saw that they stress that the quality of shrimp that  
23 farmers export to Japan and Europe is somehow higher  
24 than the quality of shrimp that they export to the  
25 United States. While it is true that Japanese and

1 European buyers set demanding specifications, the  
2 differences would be imperceptible to most consumers.  
3 It's misleading for the Petitioners to suggest that  
4 imported shrimp sold in the U.S. has lower, inferior  
5 quality.

6 In conclusion, I feel that the recent surge  
7 of shrimp imports in the United States is neither new  
8 nor unexpected. It is the continuation of the growth  
9 of shrimp farming that began in the 1980's but was  
10 paralyzed for a decade by a devastating epidemic.  
11 More bio-secure and efficient production systems are  
12 now in place to assure sustainable growth. Production  
13 is expected to continue to increase, and technological  
14 advances will continue to drive down costs.

15 Shrimp is becoming an affordable food that  
16 benefits consumers worldwide as well as producers in  
17 developing tropical nations. It would be a mistake to  
18 apply tariffs to protect a less-competitive  
19 technology. That completes my testimony.

20 MR. HERZIG: Good afternoon. My name is  
21 Bill Herzig, and I am the vice president of seafood  
22 purchasing for Darden Restaurants. We own and operate  
23 over 1,300 restaurants, including 650 Red Lobster  
24 Restaurants.

25 Red Lobster is the largest casual-dining

1 seafood chain in the United States. Last year, we  
2 served over 140 million guests, and shrimp was our  
3 most popular menu item. Every day, Red Lobster guests  
4 will find many shrimp entrees and appetizers on our  
5 menu that appeal to their tastes. For example, we  
6 offer coconut shrimp, shrimp and lobster caesar salad,  
7 fried popcorn shrimp, shrimp scampi, and garlic  
8 Alfredo shrimp pasta. All told, we offer about 25  
9 separate shrimp dishes.

10 Our guests also enjoy limited-time  
11 promotions. For example, this fall, we launched a  
12 very successful promotion called "Endless Shrimp" for  
13 as little as \$14.99. The public responded so  
14 positively that Red Lobster experienced a significant  
15 increase in restaurant sales in October.

16 To meet consumers' shrimp needs, we have  
17 found that three ingredients are essential: quality,  
18 consistency of sizes, and year-round availability.  
19 The price we pay is not nearly as important as  
20 quality, consistency, and reliability. We believe  
21 that's true for most, if not all, successful  
22 restaurants.

23 Our experience has shown that the domestic  
24 shrimping industry cannot meet these critical  
25 requirements in more than minimal volumes; and,

1       therefore, domestic, wild-caught shrimp is not a  
2       viable replacement for farm-raised shrimp. I would  
3       like to give you an example to explain this point.

4               Red Lobster needs a large volume of 41-50  
5       count shrimp. We meet this requirement because our  
6       foreign suppliers work with farmers to plan production  
7       cycles that ensure a consistent, year-round, and  
8       adequate production volume of the specific size.  
9       However, we have found it impossible to work out  
10      similar arrangements with domestic shrimp suppliers  
11      for large volumes of specific sizes such as 41-50  
12      count. Domestic suppliers can only catch 41-50 count  
13      shrimp at certain times of the year, and they cannot  
14      inventory nearly enough to meet our year-round  
15      demands. Even during their narrow harvest window,  
16      domestic fishermen also catch shrimp that are either  
17      smaller or larger. Then the processors ask us to also  
18      buy sizes that don't meet our guests' needs.

19              Domestic suppliers may not realize how  
20      important consistent size is to our guests. It is  
21      critical that we serve them the same shrimp size each  
22      time they order the same menu entree or appetizer. If  
23      we don't, our guests will lose confidence in Red  
24      Lobster as a trusted brand.

25              Count size is not the only product

1 specification that domestic suppliers can't meet  
2 consistently. Peeled and deveined shrimp with the  
3 tail left on is a very popular form for us. Our  
4 suppliers of farm-raised shrimp have no difficulty  
5 providing products to this specification in the  
6 volumes necessary to meet our needs. The tail-on  
7 feature is very important to us and our guests. It  
8 sends a quality message and enhances the shrimp's  
9 appearance on the plate. It also shows that careful  
10 attention was paid to its preparation.

11 The problem we encounter with suppliers of  
12 domestic shrimp is that they are not able to provide  
13 us with the volume and consistent quality of tail-on  
14 product which we require. This is a very important  
15 quality consideration when presentation is a key  
16 feature.

17 I've worked for Darden Restaurants for seven  
18 years and the shrimp industry for more than 30 years,  
19 all told. I have been in dozens of domestic and  
20 overseas shrimp processing plants and have seen  
21 firsthand how shrimp is transported, handled,  
22 processed, frozen, and packed. This experience and  
23 the experience of the others on my purchasing team  
24 helps to ensure that the quality of shrimp that we buy  
25 meets our guests' needs.

1           We have very detailed specifications that  
2 every processor must meet to get on our approved  
3 supplier list. These specifications cover every  
4 aspect of food safety, food quality, and percentage of  
5 allowable defects. Our total quality team must  
6 inspect and approve every single plant before Darden  
7 will buy from it. Quality is a nonnegotiable  
8 commitment that each supplier must make to us.

9           While we do business with several domestic  
10 shrimp suppliers, our overseas processors of shrimp do  
11 a far better, overall job in meeting our  
12 specifications. On average, farm-raised shrimp  
13 exhibit virtually zero defects while domestic shrimp  
14 does not. That is the reason that despite our ongoing  
15 efforts to work with the Gulf shrimp industry to  
16 purchase more shrimp, we have, in fact, reduced our  
17 domestic purchases and increased our import purchases  
18 over the last several years.

19           Quality defects have a direct effect on Red  
20 Lobster's bottom line. Poor quality means product  
21 that we will have to discard but still pay for. For  
22 example, we will not sell our guests broken shrimp,  
23 shrimp that has been treated with excessive amounts of  
24 STPP, or shrimp that is off odor or has black spots,  
25 even though many domestic packers still sell product

1 with these characteristics.

2 This is not to say we refuse to buy shrimp  
3 from domestic sources; quite the contrary. We have  
4 aggressively sought out domestic suppliers to expand  
5 our shrimp offerings to our guests. For example, just  
6 this fall, we have engaged in two market research  
7 trials of domestic shrimp. We sought potential  
8 domestic suppliers for small PUD shrimp that is  
9 breaded and sold as fried popcorn shrimp, and we also  
10 sought large shrimp for sale as shrimp cocktails.

11 We had mixed results on these two tests.  
12 Our guests did not score the domestic shrimp as well  
13 as farm-raised shrimp that we currently use for our  
14 popcorn shrimp. However, the results for the cocktail  
15 shrimp were encouraging. Our guests scored the  
16 domestic cocktail shrimp higher for taste and  
17 appearance. As a result, we will offer domestic  
18 cocktail shrimp in many of our Gulf coast restaurants  
19 with distinctive branding to highlight its domestic  
20 origin.

21 If guests continue to respond, we will  
22 increase domestic purchases of cocktail shrimp if the  
23 quality of the product offered by the domestic  
24 suppliers translates into a superior menu item. We  
25 are willing to pay a premium for this particular

1 shrimp over comparably sized, farm-raised shrimp. So  
2 here again, quality, not price, guides our ultimate  
3 buying decision.

4           The Southern Shrimp Alliance has also  
5 claimed that restaurants have not been passing along  
6 lower imported shrimp prices to guests. Again, the  
7 evidence suggests otherwise. I know that Red Lobster  
8 has shared lower prices with our guests in many ways,  
9 including the recent "Endless Shrimp" promotion that I  
10 mentioned earlier. Red Lobster has offered consumers  
11 18, all-you-can-eat or other low-cost shrimp  
12 promotions over the last five years, and, in fact,  
13 strong competition among many casual dining chains  
14 that feature shrimp promotions prevents large margins  
15 Petitioners suspect.

16           Probably the best evidence of the consumer  
17 benefit of the lower-priced shrimp is that it is no  
18 longer considered a luxury food. At Red Lobster, we  
19 have seen our shrimp sales increase by over 40 percent  
20 since 1997.

21           Let me close by making two points. First,  
22 Darden supports efforts by domestic suppliers to  
23 improve quality and to carve out a niche market for  
24 branded domestic shrimp. It is these actions that we  
25 believe offer real promise. We also prefer to



1 continue to do business with our existing suppliers in  
2 countries targeted by Petitioners. However, our  
3 experience suggests that suppliers from nontargeted  
4 countries are prepared, willing, and capable of  
5 filling any gaps that may appear. In fact, the supply  
6 of high-quality, farm-raised shrimp has increased  
7 dramatically over the last three to five years.

8 We urge the Commission to take a decision  
9 that recognizes the market realities. Shrimp imports  
10 have created new markets and reached new customers in  
11 the United States. They have not harmed the domestic  
12 industry. Thank you.

13 MR. REDMOND: Good afternoon. My name is  
14 Peter Redmond, and I am Wal-Mart's vice president and  
15 divisional merchandise manager for seafood and deli  
16 products.

17 I've been with Wal-Mart since 1991, having  
18 started as an hourly assistant with the company. My  
19 major job now is to supervise Wal-Mart's purchases for  
20 seafood in the U.S. for the supercenter division,  
21 which is approximately 1,800 stores. We sell almost a  
22 half a billion dollars' worth of seafood each year.  
23 That makes us the largest seafood retailer in the  
24 country. Shrimp sales constitute about one-third of  
25 our total seafood sales.

1           What I would like to tell you about today is  
2           what our seafood marketing strategy is and,  
3           specifically, how shrimp falls into that strategy. To  
4           understand how we market seafood, I first need to  
5           explain our corporate philosophy. We aim to be an  
6           integral part of every community that we serve. We  
7           want each of our stores to have a hometown feel. That  
8           means, amongst other things, trying to feature local  
9           products and American products wherever we can.

10           We give our stores a great deal of latitude  
11           to buy local products on their own. Local products  
12           are almost always more successful than equivalent  
13           products that we distribute nationwide.

14           We've found tremendous and growing demand  
15           for domestic seafood, especially when we can market it  
16           as coming from the locality or region where the stores  
17           are located. For example, last year, we sold 13  
18           million pounds of domestic catfish. One hundred  
19           percent of our catfish sales are domestic. We  
20           promoted them as Arkansas-raised catfish or  
21           Mississippi-raised catfish, depending on which locale  
22           you're in. I think we also have a printout of one of  
23           the bags in there, and the green box on there shows  
24           how we delineate that product.

25           We don't just deal with big suppliers

1       either. We'll do business with anyone that can meet  
2       our standards. We have no exceptions to this. For  
3       example, we buy catfish from a Mississippi farmer who  
4       owns just four ponds.

5               We've always sold domestic shrimp, but for  
6       years it wasn't a very exciting item, and it didn't  
7       appeal to very many of our customers. We thought  
8       about what the problem was, and we figured out that  
9       what we had to stress was the local nature of the  
10      product. So in May of 2003, we started using a  
11      special plastic bag with a label that prominently  
12      reads "Gulf shrimp" emblazoned across the front of it.  
13      Then over the clear portion on the front of the bag  
14      where you can see the actual shrimp was an outline of  
15      the United States of America. We marked "Made in the  
16      USA" across the front of it, and now you can find this  
17      package in 1,600 of our stores right now, clearly  
18      emphasizing the fact that it's Gulf shrimp.

19             Once we saw how well this product was doing,  
20      we created new bags to separately feature Florida pink  
21      shrimp, Louisiana shrimp, and Texas-sized shrimp. I  
22      believe you also have color copies of what those bags  
23      look like. We've brought samples of each of these  
24      bags so you can see how we emphasize the silhouette of  
25      the state on the front of the package, which, again,

1 allows the consumer or the customer to see the shrimp  
2 that we're offering.

3 We've also put the flags of Texas and  
4 Louisiana on their bags, and for Florida we're using a  
5 flamingo, a palm tree, and a sun to help catch the  
6 customer's eye. In each of these three state bags, we  
7 are packing shrimp caught only in the waters of this  
8 state. These packages are found in many of our stores  
9 in each of these three states, and, once again, demand  
10 has risen considerably for the shrimp now that we are  
11 emphasizing its local origin.

12 We are taking advantage of the consumer's  
13 natural desire to purchase goods with which he or she  
14 is familiar and wants to support. By the end of 2004,  
15 I expect that our domestic shrimp sales will have  
16 increased 60 percent over our 2003 sales as a result  
17 of this new marketing program, and that data is in the  
18 questionnaire that we submitted.

19 Our shrimp promotion program has been so  
20 successful that earlier this year we adopted the same  
21 approach to market wild Alaskan salmon. The product  
22 is flying out of the stores, even though there is  
23 about a 30 percent cost differential between farm  
24 raised and wild. Through our promotions, we have been  
25 able to convince the consumer that there is a

1 difference in taste and appearance between wild and  
2 farm salmon that's worth paying for. As a result, we  
3 also expect to double our sales of Alaskan salmon this  
4 year.

5           The major difference in salmon marketing and  
6 our shrimp marketing is that the Alaska Seafood  
7 Marketing Institute, better known as "ASMI," which the  
8 State of Alaska established, is putting promotional  
9 dollars behind this product. We have in-store  
10 promotions, we have signage, and we have advertising,  
11 things that draw attention to the consumer, point out  
12 the difference, and the customer is identifying with  
13 it.

14           One problem we are encountering with the  
15 domestic shrimp marketing program is that we cannot  
16 nearly get enough of the shrimp that we need. We only  
17 have one supplier for domestic shrimp, and even this  
18 supplier is having trouble providing us with the size  
19 counts that we order from him. We originally sought  
20 the supplier out to help us with our Gulf coast and  
21 state bags. He did not seek us out. And we have  
22 never been approached by any domestic shrimp processor  
23 seeking our business or offering a program which would  
24 help us help them to sell their product. So it cannot  
25 be the price that we might offer to pay that is

1 keeping companies from trying to do business with us.

2 Even if domestic plants were brought up to  
3 date, they still could not supply our largest-volume  
4 product, which is cooked shrimp. Shrimp rings are our  
5 biggest-selling, cooked shrimp item. A shrimp ring is  
6 a ring of shrimp that usually encircles a plastic bowl  
7 and contains a portion of cocktail sauce in the  
8 middle. There is no real U.S. production of this  
9 item. Therefore, imposition of antidumping duty on  
10 shrimp is going to increase the cost and our  
11 customers' cost of cooked shrimp without providing any  
12 benefit.

13 In 2004, about \$98 million was sold in our  
14 stores of cooked shrimp alone, close to 2 million  
15 pounds. Our total shrimp ring business this year will  
16 be \$26 million. Four million units will go out of our  
17 front doors into the consumers' hands this year. We  
18 are not aware of any domestic capability. We need  
19 four million units. We doubt we can get 400. So then  
20 I ask you where we get this product. If we put a  
21 tariff on this product, -- there is no domestic  
22 equivalent for it -- the only thing that will happen  
23 is the price of the item will go up. Therefore, the  
24 price that the consumer pays will go up.

25 I understand and I feel for the four states

1 that we've heard on, but I feel you have to  
2 understand, too, we sell in another 46 states. Those  
3 consumers, over time, have gotten very used to this  
4 product. People on fixed incomes buy shrimp that  
5 couldn't have done it seven years ago.

6 In summary, our experience has been that  
7 wild-caught shrimp can earn a premium if it is  
8 properly processed, handled, and marketed. Our  
9 customers are proving this to us every day, but we are  
10 only in the very early stages of being able to take  
11 full advantage of the preference for wild-caught  
12 shrimp. Too many processors seem uninterested in  
13 taking advantage of this opportunity. Many others  
14 just cannot meet the quality standards that we and  
15 other retailers are insisting upon. That is a shame  
16 because there is a terrific opportunity out there for  
17 the domestic shrimp industry.

18 At Wal-Mart, we are constantly challenged to  
19 maximize the opportunities that present themselves.  
20 As it happens, it is the shrimp importers and their  
21 overseas processors that are doing this far better  
22 right now. That completes my testimony. Thank you.

23 MR. MENTZER: Good afternoon. My name is  
24 Russ Mentzer, and I'm the president and CEO of King &  
25 Prince Seafood Corporation.

1           We operate a shrimp processing plant in  
2 Brunswick, Georgia, that employs over 525 people. We  
3 have been in business for over 50 years, and we are  
4 one of the largest shrimp processors in the country.  
5 In fact, we employ more people in Georgia than all  
6 other shrimp harvesters and processors combined that  
7 do business in our state. Some of our better-known  
8 customers are Applebee's, Cracker Barrel, Golden  
9 Corral, Captain Dee's, which is a major seafood  
10 restaurant chain with over 600 restaurants; and Sysco,  
11 which is the nation's dealing food service  
12 distributor.

13           We make all kinds of value-added shrimp  
14 products, including breaded shrimp, cooked shrimp,  
15 marinated shrimp, popcorn shrimp, stuffed shrimp,  
16 shrimp cakes, and just about everything else that we  
17 can find to market. On the two questionnaires that we  
18 have responded, there are over 140 separate products  
19 that we sell that contain shrimp.

20           In 2003, we purchased mainly farm-raised  
21 shrimp from all six targeted countries, as well as  
22 from six other countries, including Indonesia,  
23 Venezuela, and Honduras. Over 50 percent of our total  
24 purchases come from sources that are not covered by  
25 the antidumping petition. Our supply arrangements are



1 flexible enough that we have been able to buy adequate  
2 volumes of nonsubject, farm-raised imports with the  
3 same quality and at comparable prices to the subject  
4 imports.

5           The main reason I am here today is to tell  
6 you that the only reason, not just the main reason,  
7 that we buy imported shrimp is we cannot buy enough  
8 domestic shrimp to meet customer demands. We cannot  
9 buy sufficient domestic shrimp, regardless of the  
10 price that domestic suppliers charge. Last year,  
11 domestic shrimp accounted for 2.2 percent of our total  
12 shrimp purchases. This is not for a lack of trying on  
13 our part. Rather, domestic suppliers cannot produce  
14 the types of shrimp or the quality of shrimp that we  
15 need, and this problem is, by no means, isolated or  
16 sporadic, and I will give you a few examples to prove  
17 my point.

18           The first example concerns a procurement  
19 this year by the United States military of peeled and  
20 deveined, round, tail-off shrimp. Under a law called  
21 the Barry Amendment, the Department of Defense is  
22 required to purchase food and many other items that  
23 are produced in the United States by U.S. companies.  
24 So domestic suppliers like us have a monopoly on the  
25 DoD's shrimp business, but to get the business, we

1 have to use domestic-origin raw material.

2           When we saw this procurement, we thought  
3 that if we could get enough raw material, we could  
4 sell up to 2.2 million pounds to the DoD. The raw  
5 material that we needed was 61-70 count, block-frozen,  
6 peeled and deveined, tail-off shrimp. This is a very  
7 common product, widely available overseas. Domestic  
8 processors don't make a lot of P&D product, but we  
9 were still able to purchase over 400,000 pounds from  
10 domestic sources.

11           However, as we got that product to our  
12 plant, we randomly tested 28 lots and found that 27 of  
13 them failed one or more of our specifications. On  
14 average, each lot failed two of our specifications.  
15 These are not complicated or difficult to meet.

16           For example, eight lots failed because the  
17 supplier short-weighted us. Six lots failed because  
18 the supplier provided the wrong count size. Eleven of  
19 the lots failed because of excessive broken pieces or  
20 a failure to remove the tails. Eleven more lots  
21 failed because of incomplete or improper deveining.  
22 Ten lots failed because the shrimp was curled tightly  
23 and not round in shape. Seven lots failed due to  
24 excessive moisture.

25           The second example involves our attempt to

1 buy domestic, butterfly shrimp in 2003. Butterfly  
2 shrimp is shrimp that has been cut vertically and  
3 opened up so as to change its appearance and increase  
4 the surface area that can be breaded or coated. We  
5 have another military customer that requires this  
6 product.

7           The first problem was that we got less raw  
8 shrimp from our domestic supplier than we paid for.  
9 We ordered the shrimp packed in five-pound boxes.  
10 However, when we thawed and weighed the shrimp, we  
11 found that the boxes only contained 4.85 pounds of  
12 shrimp, not five pounds. So right away, we incurred  
13 an extra cost because we didn't get what we paid for.  
14 An import supplier providing a virtually identical  
15 product for a nonmilitary use packed exactly to our  
16 spec, meaning that they did not short-change us by  
17 weight by short-weighting the packages.

18           Second, the supplier certified the shrimp as  
19 being 65-69 count, but it was actually smaller than  
20 that and averaged 70 shrimp to the pound, not 65 to 69  
21 as was ordered. If we supply the wrong count size,  
22 then the customer is likely to return the product to  
23 us. Then we have to rework it to make it compliant,  
24 which again costs us money. The comparable import  
25 supplier packed exactly to the count size ordered.

1           Third, we specified that the packages could  
2 contain no more than 3 percent by weight of broken  
3 pieces or damaged shrimp. Broken and damaged shrimp  
4 are waste products that we cannot use. This also  
5 increases the per unit cost of our good products.  
6 Here, the domestic supplier met our spec, in that only  
7 0.8 percent of the package contained defective shrimp.  
8 However, the comparable importer supplier packed the  
9 product with absolutely no defects.

10           Fourth, we specified that there could be no  
11 extra shells, specifically no more than 2 percent by  
12 weight. Excess shell presents a critical food safety  
13 issue because it increases the likelihood of life-  
14 threatening choking hazards. Here again, the domestic  
15 supplier exceeded our spec. Once again, the import  
16 supplier's product had no excess shell whatsoever; it  
17 was perfect.

18           Fifth, we specified that the visual  
19 uniformity of each shrimp, meaning the difference in  
20 size between the largest shrimp and the smallest  
21 shrimp in each package, vary by no more than 10  
22 percent by weight. The size of the domestic  
23 supplier's shrimp in this test varied by 4.6 percent  
24 between the largest and the smallest size in the  
25 package, which was acceptable. However, the

1 importer's shrimp varied by only 0.3 percent, again,  
2 almost perfect.

3 Sixth, we specified that there would be no  
4 visual signs that the shrimp had been treated with  
5 excess quantities of STPP. Shrimp that has been  
6 oversoaked in STPP, as a result, has retained  
7 excessive amounts of water. It's translucent in  
8 appearance and gives an undercooked appearance.  
9 Excess STPP creates serious problems for our  
10 restaurant customers whose patrons object to shrimp  
11 that look undercooked. The domestic supplier failed  
12 this spec. The import supplier's shrimp was again  
13 perfect with no visible signs of excess moisture.

14 Seventh, we specified that the shrimp  
15 contain no more than 5 percent by weight of improper  
16 cuts when the butterflying is performed. The domestic  
17 supplier's products contained 2 percent improper cuts.  
18 The import supplier's products contained no defects.

19 So the domestic supplier's product failed  
20 seven of our key specifications and was rated  
21 substantially inferior to the imported product on the  
22 other three. All of these defects cost us money  
23 because the product is unsuitable for its intended  
24 use. Moreover, if we continue to try to supply  
25 defective products, our customers are eventually going

1 to stop doing business with us.

2 In 2003, we bought a little over 300,000  
3 pounds of domestic shrimp from 10 different domestic  
4 processors. However, upon inspection, we found that  
5 69,000 pounds of it, or 22 percent, was defective.  
6 When we repeatedly encounter such pervasive failures  
7 on so many specifications, it makes no business sense  
8 to continue to buy domestic shrimp. I might add that  
9 at least two of the named Petitioners are among the  
10 group that have supplied us with the defective  
11 products.

12 My last example also involves events of  
13 2003. We had a major order for a customer for popcorn  
14 shrimp. We needed very small, 150-200 count, tail-  
15 off, PUD to make the product. Our own customer is a  
16 major U.S. restaurant chain, and they wanted to  
17 feature domestic popcorn shrimp on their menu. We  
18 contacted 30 domestic suppliers to see if they were  
19 interested in selling us this product. Only one of  
20 the 30 companies ever responded to our inquiry, and  
21 this was before we even began discussing price.

22 In closing, my company could not exist  
23 without imported shrimp. We could not employ 525  
24 people without imported shrimp, and we could not  
25 generate an enormous economic benefit to our community

1 without imported shrimp. This is not a question of  
2 price. This is not a situation where we buy imported  
3 shrimp because it's cheaper. Domestic shrimp is not  
4 available to us in the quantities and the quality that  
5 we need at any price. Thank you.

6 MR. BOWN: Good afternoon. My name is Chad  
7 P. Bown, and I am an assistant professor of economics  
8 at Brandeis University. I received my Ph.D. in  
9 economics from the University of Wisconsin at Madison,  
10 and my published academic research has focused on the  
11 economics of international trade and trade laws.

12 In my testimony today, I will describe an  
13 empirical economic study that I undertook that  
14 investigated three questions that are critical to the  
15 issue of whether subject imports caused injury to the  
16 domestic shrimp industry. These three questions are,  
17 first, do U.S. purchasers really treat U.S. and  
18 imported shrimp as substitute products; second, what  
19 economic factors are responsible for any injury  
20 experienced by the domestic shrimp industry; and,  
21 third, what is the likely impact of proposed  
22 antidumping duties on the future of the domestic  
23 shrimp industry?

24 To answer the first question, I first  
25 analyzed quarterly data collected by the Commission on

1 domestic and import shipments of shrimp, as well as  
2 the corresponding domestic and import prices. I then  
3 used standard statistical techniques to estimate what  
4 economists in the Commission refer to as the  
5 "Armington elasticity of substitution" between  
6 domestic and subject imports of processed shrimp.

7           The idea behind this approach is to use the  
8 data to tell us whether low import prices lead  
9 purchasers to buy imports as opposed to domestically  
10 produced shrimp. If subject imports and domestic  
11 shrimp are easily substitutable products so that they  
12 are identical for all other reasons aside from their  
13 price, I would have found an estimate for the  
14 Armington elasticity of substitution to be a very  
15 large number.

16           In my estimation results that are reported  
17 in Table 2.1 up on the slide, I found that the  
18 elasticity of substitution was actually quite small.  
19 Specifically, I found the range of non-negative  
20 estimates to be between 0.4 and in no cases higher  
21 than 2.7. Based on the median, non-negative  
22 estimates, my most-educated response for a single-  
23 point estimate for the elasticity of substitution for  
24 a shrimp product category is that it is likely to be  
25 between 1.2 and 1.3



1                   Another approach I used to address the  
2 question of whether domestic shrimp and subject  
3 imports of shrimp are substitute products was to  
4 examine the responses to three different questions  
5 posed in the purchasers' questionnaires.

6                   The first is Question 3-19, which asks each  
7 purchaser, "How often does your firm purchase a  
8 certain frozen or canned warmwater shrimp and prawns  
9 that is offered at the lowest price?" None of the  
10 surveyed purchases responded that they always purchase  
11 the lowest price. In fact, 60 percent responded that  
12 they either never or only sometimes purchase shrimp at  
13 the lowest price. The implication is that if they  
14 were not purchasing shrimp at the lowest price, then  
15 there must be other nonprice product attributes  
16 driving purchasing decisions.

17                   Question 4-2 of the Commission's survey  
18 asked each purchaser to address the question, "Are  
19 certain frozen or canned warmwater shrimp and prawns  
20 produced in the United States and in other countries  
21 interchangeable?" The answer that came from the  
22 responses is essentially no. In each direct  
23 comparison of the U.S. and one of the four subject  
24 countries that I have highlighted in Table 3.3, also  
25 up on the slide, over 70 percent of the respondents

1 found domestic and imports of shrimp to be either  
2 never or only sometimes interchangeable. Again, this  
3 indicates that purchasers treat U.S. and subject  
4 imports as differentiated products.

5 To address the question of why purchases  
6 consider domestic and subject imports of shrimp to be  
7 different for reasons other than price, I examined  
8 purchaser responses to Questions 3-18 and 4-6, which  
9 essentially asks, what product characteristics are  
10 important to purchasers, and how do U.S. and imported  
11 shrimp compare in these different, important product  
12 categories? From the responses to Question 3-18,  
13 purchasers identify seven out of these 18 possible  
14 categories as being very important.

15 The panels in my Figure 3.1 illustrate how  
16 the U.S., then, stacks up against the subject  
17 countries for those seven, very important product  
18 attributes. For time and space limitations, I've only  
19 put two of the subject country comparisons up on the  
20 slide, and they are representative of the other as  
21 well.

22 The top panel, for example, compares the  
23 U.S. products to imports from Ecuador. The black  
24 bands in the panel refer to the share of responses for  
25 which the subject countries' shrimp was rated by

1 purchasers as being superior to the U.S. product.  
2 Purchasers more frequently rated the Ecuadoran product  
3 as superior to the U.S. product for each one of these  
4 seven different product characteristic categories, and  
5 in each case it was superior by a sizable margin.

6           The second panel illustrates purchasers'  
7 direct comparison of the U.S. product to imports of  
8 Chinese shrimp. The basic pattern of results holds,  
9 with one exception. In this comparison, the U.S.  
10 shrimp is ranked as having a superior taste/flavor  
11 profile relative to the Chinese product. I also found  
12 this to be true of the taste of shrimp from Thailand  
13 and Vietnam. The taste/flavor profile is thus the one  
14 very important product characteristic category where  
15 purchasers consistently gave high marks to the U.S.  
16 product. Nevertheless, this is a limited exception,  
17 and my overall conclusion, based on the vast majority  
18 of responses and the very important, nonprice product  
19 attribute categories, is that U.S. and subject imports  
20 of shrimp are differentiated products because  
21 purchasers view the subject imports as being superior.

22           The next area of empirical analysis in my  
23 report is an examination of the question, what  
24 economic factors are responsible for any injury  
25 experienced by the domestic shrimp industry? I

1       adopted a methodological approach developed and  
2       published in a 1988 paper by Kenneth Kelly. To  
3       implement the approach, I use volume and price data  
4       collected by the Commission, as well as elasticities  
5       derived from the academic literature and my own  
6       estimation to determine how much of the injury  
7       experienced by the domestic industry is due to  
8       alternative economic components.

9               The Petitioners point to an increase in the  
10       supply of imports as the only relevant cause of injury  
11       to the domestic industry. While this is, indeed, one  
12       potential explanation and one that I empirically  
13       evaluate, economic theory indicates that alternative  
14       credible explanations exist, including the higher  
15       costs of fuel, higher insurance premiums to vessels,  
16       or losses imposed by natural disasters such as  
17       hurricanes. Furthermore, another possible explanation  
18       for injury is a decrease in demand for the U.S.  
19       product perhaps because of growing consumer concerns  
20       over quality.

21               I, thus, used the Kelly model to empirically  
22       separate these alternative potential causes. My  
23       results indicate that if there had only been the  
24       increase in the import supply during the POI, as the  
25       Petitioners allege, the Kelly model predicts that U.S.

1 commercial shipments of shrimp would have fallen by  
2 0.8 percent, at most, as shown in Table 4.1, also on  
3 the slide. This translates, at most, to a 2.2  
4 million-pound reduction in domestic landings over the  
5 three-year POI, which is particularly small in light  
6 of the fact that even the quantity supplied of raw  
7 shrimp landings fluctuates by an average of 29.9  
8 million pounds away from its mean on a year-to-year  
9 basis, and this is using data in the NMFS report over  
10 the 1982-to-2001 period.

11 Instead, the Kelly model attributed most of  
12 the injury experienced by the domestic shrimp industry  
13 to a reduction in demand for the U.S. product that is  
14 not related to imports of shrimp. This is consistent  
15 with my earlier empirical evidence that the domestic  
16 product and imported shrimp are not interchangeable  
17 for reasons of quality.

18 A simple supply-and-demand graph for  
19 domestic shrimp can be used to explain the basic  
20 economic implications of this decrease in demand for  
21 the domestic industry's product, as I show on the next  
22 slide. My reading of the academic literature and the  
23 2004 National Marine Fishery Service report on data  
24 for U.S. landings suggests that the U.S. supply of  
25 shrimp is very inelastic.

1           With the U.S. supply being very inelastic,  
2           suppose that consumers of U.S. shrimp, such as the  
3           purchasers surveyed by the Commission, changed their  
4           tastes and preferences so that for a given price, they  
5           do not want as much U.S. shrimp as they used to. On  
6           the graph, this would be reflected by an inward shift  
7           of the demand curve from D-0 to D-1. This change in  
8           tastes and preferences leads to virtually no change in  
9           the equilibrium quantity consumed of U.S. shrimp, as  
10          it remains at  $Q^*$ .

11           However, the change leads to a dramatic  
12          decrease in the equilibrium market price from P-0 to  
13          P-1. This deterioration in price has nothing to do  
14          with any increase in imports or low-priced imports.  
15          The existence of an alternative product, such as farm  
16          shrimp, may be one of the reasons why consumers decide  
17          to reduce their willingness to pay for the U.S. shrimp  
18          product, but this is separate from any effect on U.S.  
19          price caused by an increase in the import supply of  
20          shrimp.

21           Finally, I note that each of these market  
22          outcomes on what happens to price, consumption, and  
23          output are consistent with the facts of what has taken  
24          place in the U.S. shrimp industry during the POI.

25           Finally, in the last empirical component to

1 my report, I used the COMPAS model developed by the  
2 Commission to investigate my third question, which  
3 relates to an issue that Commissioner Pearson raised  
4 this morning: What is the likely impact of imposing  
5 antidumping duties? As I show in Tables 5.1 and 5.2,  
6 also up on the slide, I considered weighted average  
7 duties on subject imports in the range of 5 percent to  
8 25 percent, and I found that such duties would only  
9 lead to a 1-to-4.3 percent increase in the domestic  
10 price of shrimp. To provide some perspective on how  
11 small this impact is, the 2004 NMFS report indicates  
12 that it would take a 30 percent increase in price to  
13 make U.S. vessels profitable.

14 The details of my study are contained in the  
15 prehearing brief as Exhibit 10. I should also state  
16 that I'll be happy to take any questions from the  
17 Commission or the staff on my work. Thank you.

18 MR. VAKERICS: My name is Thomas Vakerics of  
19 Sandler, Travis & Rosenberg. Our next witness is Mr.  
20 John Wendt, who will focus on canned shrimp as a  
21 separate like product.

22 MR. WENDT: Good afternoon. My name is John  
23 Wendt. I am the president of Seatech Corporation, an  
24 importer of canned shrimp. Through a joint venture  
25 company in China, I've been involved in the production

1 and imported canned shrimp for the past 10 years.  
2 Based on my experience and my understanding of the  
3 Commission's like product criteria, canned and frozen  
4 shrimp are separate like products.

5 MR. BISHOP: Mr. Wendt, could you move your  
6 microphone closer, please?

7 MR. WENDT: Oh, sorry. Before explaining  
8 why they are distinct, I first want to clarify a  
9 misleading assertion from the preliminary conference  
10 and from today. Bumble Bee has testified that it lost  
11 its private label business to dumped imports. The  
12 fact is that Bumble Bee's primary private label  
13 customer was Chicken of the Sea. Chicken of the Sea  
14 became Bumble Bee's customer when Bumble Bee bought  
15 Chicken of the Sea's supplier, Ruether's Seafood, in  
16 1997. This acquisition meant that Chicken of the  
17 Sea's main competitor became its principle supplier of  
18 small- and medium-sized canned shrimp. Chicken of the  
19 Sea soon found that delivery times and product quality  
20 worsened and that is why it shifted its private label  
21 business to Seatech in the year 2000. We did not  
22 lower our prices to get the Chicken of the Sea  
23 account.

24 Canned and frozen shrimp are physically  
25 different for several reasons. First, canned shrimp



1 contain many additional ingredients that preserve the  
2 shrimp and maintain its color, flavor, and firmness.

3 Second, frozen shrimp has a superior taste  
4 and texture.

5 Third, canned shrimp is necessarily sold in  
6 the cooked and peel form, while frozen shrimp is sold  
7 in many other forms.

8 Fourth, canned shrimp consists predominantly  
9 of tiny 300-500 count shrimp or broken shrimp pieces.  
10 Frozen shrimp is generally sold in much larger count  
11 sizes and is almost exclusively sold as whole shrimp.

12 Fifth, canned shrimp is purchased for use in  
13 the indefinite future, because it is a shelf stabled  
14 product that can last for years at room temperature.  
15 Frozen shrimp is purchased for more immediate use  
16 given its perishability.

17 The products have limited interchangeability  
18 because of their differing end uses. Canned shrimp is  
19 best suited as an ingredient in dishes where shrimp is  
20 not the primary component, such as dips and soups.  
21 Frozen shrimp can be used in a wide range of  
22 standalone dishes or eaten out of hand.

23 Producers also perceive canned and frozen  
24 shrimp to be different products. The diagram in the  
25 staff report suggests that the manufacturing processes

1 for canned and frozen shrimp are essentially  
2 identical. In fact, they are very different. Canned  
3 shrimp production requires substantial investment in  
4 facilities and equipment necessary to cook the shrimp,  
5 fill and hermitically seal the cans, and perform  
6 thorough processing to sterilize the shrimp. The  
7 yield loss in the canning process is twice the yield  
8 loss in the freezing process, which contributes to the  
9 much higher cost of manufacturing.

10 Frozen shrimp is sold through every  
11 conceivable distribution channel. Canned shrimp is  
12 sold virtually exclusively to retail grocery stores,  
13 where it is stocked only in the dry good section along  
14 with other canned seafood, meats, and produce. It is  
15 not sold at the chilled seafood counter or frozen food  
16 section like frozen shrimp.

17 Finally, the retail price per pound of  
18 canned shrimp is two to four times higher than the  
19 price of frozen shrimp.

20 We urge the Commission to recognize these  
21 significant and indisputable differences by finding  
22 that canned shrimp is a separate like product. Thank  
23 you.

24 MR. VAKERICS: Our next witness appears on  
25 behalf of the Coalition of Shrimp Exporters and

1 Producers of South China, Mr. Lars Liabo, general  
2 manager of Kontali Analyse, a company that specializes  
3 in statistical analysis of shrimp and aquaculture  
4 industries. And Mr. Liabo has flown here today from  
5 Norway to present his views to the Commission.

6 MR. LIABO: Thank you. Based upon my 20  
7 years of experience and familiarity with the  
8 interaction between farmed and wild-caught seafood,  
9 U.S. wild-caught shrimp properly marketed can earn  
10 premium prices in competition with vast quantities of  
11 farmed shrimp imports. This just to support the  
12 testimony from the Wal-Mart stores representative.

13 Modern aquaculture represents a revolution  
14 in the seafood industry that must continue to grow in  
15 order to meet future demand for seafood on a global  
16 basis. According to the United Nations Food and  
17 Agriculture Organization, a sustainable fishery have  
18 to stay at the level of 90 million tons a year, the  
19 growing world population. FAO estimates that  
20 aquaculture has to supply 120 million tons of seafood  
21 in the year 2030.

22 Overcapacity, as in the U.S., destroys the  
23 profitability in many fisheries. Many fishermen have  
24 not yet discovered the value of having access to a  
25 limited resource; in this case, U.S. wild-caught

1 shrimp. As a limited resource, wild-caught shrimp  
2 presents a huge opportunity for shrimp fishermen.

3 I will now review four actual case studies  
4 involving turbot in Spain, wild-caught salmon in North  
5 America, sea bass and sea bream in the Mediterranean,  
6 and line-caught versus other wild-caught sea bass, all  
7 showing the effect of niche marketing of the wild-  
8 caught product.

9 My first case covers turbot. At the  
10 wholesale market in Barcelona, Spain, Mercabarna, wild  
11 turbot has a premium price of 10 Euro per kilo  
12 compared to the farmed. The blue curve shows prices  
13 for farmed turbot; the red, wild-caught turbot prices.

14 And then, a case from California from the  
15 salmon fisheries there. During the 1990s, farmed  
16 salmon became a challenge for the North American  
17 salmon fisheries. From the beginning, prices for  
18 farmed chinook or king salmon were higher than for the  
19 wild-caught. Blue line indicate wild chinook or king;  
20 red, the farmed specie. But when starting the  
21 marketing campaign for wild-caught king salmon back in  
22 year 2000, it soon became a price leader.

23 My third case is about sea bass and sea  
24 bream. Sea bass and sea bream farming took off 10  
25 years ago and today, less than 10 percent of the

1 species offered are wild-caught. In all the  
2 Mediterranean countries, wild and farmed sea bass and  
3 sea bream are marketed as separate products and the  
4 wild receives a huge premium. Blue line for farmed  
5 sea bream, and red, wild sea bream. And we had the  
6 same development for sea bass.

7 My last case is about line-caught sea bass.  
8 In France, we have an example of how a group of  
9 fishermen, by niche marketing and branding, managed to  
10 get a considerable higher price for their catch.  
11 Quotations from the Paris wholesale market Rungis show  
12 clearly the effect of niche marketing. Farmed sea  
13 bass, representing the mainstream product, the blue  
14 line; trawler-caught and line-caught, the two niches,  
15 red and green curve. And remember, a niche market  
16 always needs a mainstream product; in this case,  
17 farmed shrimp.

18 U.S. shrimpers should devote every resource  
19 possible to making wild American shrimp marketing a  
20 great success. Niche marketing, focus on: wild,  
21 origin, sustainable catch and special taste. Thank  
22 you.

23 MR. VAKERICS: Our next witness appearing on  
24 behalf of the China Coalition, as a former member of  
25 this Commission and former Chairwoman needs no

1 introduction, Dr. Paula Stern.

2 MS. STERN: Thank you. Good afternoon. I'm  
3 pleased to be here. Back in 1985, when I chaired the  
4 Commission, we were asked to come to New Orleans to  
5 hear from the shrimpers, processors, and their elected  
6 representatives in Congress, and we issued a 332  
7 report on the industry's competitive conditions. At  
8 that time, the Commission cautioned the domestic  
9 industry that it faced a technological revolution in  
10 the form of aquaculture.

11 Petitioners argue the domestic problems  
12 derive from dumped imports. Instead, subject imports  
13 have succeeded because they are farmed at lower costs  
14 than trawled shrimp and because there are very  
15 different farmed product benefits from irrefutable  
16 non-price advantages that domestic wild-caught shrimp  
17 inherently lack.

18 The Commission faced similar circumstances  
19 in roses from Columbia and Ecuador and voted no  
20 material injury. Subject imports enjoyed lower  
21 growing expenses, because Columbia and Ecuador were  
22 some of the best locations in the world for growing  
23 roses. Hereto, the United States is geographically  
24 disadvantaged. Aquaculture is ideally suited to the  
25 climbs of subject countries and has replaced trawling

1 as the most competitive means of production. Farmed  
2 shrimp benefits further from crucial non-price  
3 advantages in the marketplace, including consistent  
4 quality, reliability, and year round availability.

5 Now, in spite of the aquaculture revolution  
6 and the cost disadvantage of trawling, domestic  
7 producers still sell their shrimp as just another  
8 commodity. This, despite the fact that their wild-  
9 caught catch from the waters of the good old U.S.A.  
10 have unique natural attributes.

11 NOAA'S 2004 report offers an authoritative  
12 assessment of the U.S. industry. These U.S.  
13 government experts have encouraged the domestic  
14 industry to define and establish standards for an  
15 effective niche marketing program for a premium priced  
16 product. A quality management system with  
17 unimpeachable certification processes is needed to  
18 establish the quality distinctions and sorting  
19 standards. Only then can the domestic industry define  
20 a premium grade to enhance its profitability.

21 As the domestic industry executes its newly  
22 launched wild American shrimp niche marketing plan,  
23 imports will continue to benefit the domestic industry  
24 by expanding the U.S. market and multiplying the  
25 number of niches and opportunities to premium price.

1 In this sense, U.S. wild caught and farmed shrimp  
2 imports are complementary.

3 The rates of both per capita consumption and  
4 shrimp imports have increased, while since 1980, the  
5 U.S. industry's annual average production is 267  
6 million pounds. Nature dictates that the U.S. catch  
7 cannot meet U.S. demand. Had imports not increased,  
8 U.S. consumption would have rested at the same level  
9 and the potential to premium market U.S. wild-caught  
10 shrimp wouldn't exist. By providing mass  
11 merchandisers and chain restaurants with steady, high-  
12 quality farmed shrimp, imports have whetted the  
13 appetite of consumers and filled the intractable void  
14 in the domestic industry's ability to meet this robust  
15 demand.

16 The Commission has seen imports make and  
17 expand a market before. In roses, imports expanded  
18 consumption and didn't significantly displace domestic  
19 fresh cut roses. This is the case here, where the  
20 record is notably lacking in evidence of confirmed  
21 loss sales and revenue.

22 In roses, the Commission adopted the  
23 position that subject imports helped to make the  
24 market, because they met the needs of that growing  
25 consumer demand. It's appropriate for the Commission



1 to come to the same negative determination in this  
2 case, too. Blame it on mother nature. In fact, we  
3 heard one of the domestic witnesses this morning say,  
4 we cannot produce what nature doesn't provide.

5           Levying dumping duties would only exacerbate  
6 the domestic industry's problems by suppressing  
7 consumer demand. Short-term, raising prices would  
8 lead to an influx of new domestic shrimpers, add to  
9 the industry's long-term over capacity problem, and  
10 pull in non-subject imports to fill the void that  
11 subject imports had occupied. By issuing a negative  
12 determination, the Commission will provide incentive  
13 to the domestic industry to focus its efforts on  
14 positive, effective marketing, creating a wild  
15 American shrimp brand selling at premium prices.

16           Its working in other U.S. branded products:  
17 Vidalia onions, Angus beef, wild salmon. The fact  
18 that the WASI, the Wild American Shrimp program was  
19 belatedly launch this summer is, I think, an admission  
20 of the industry's failure to do so during the period  
21 of investigation and it's indicative of the real  
22 problems of injuries and the real solutions to this  
23 industry's problems. I thank you so much for hearing  
24 me out.

25           CHAIRMAN KOPLAN: Thank you. And it appears

1 that Respondents have used all of your time. I very  
2 much appreciate the testimony that you have provided  
3 this afternoon. Let me just say before I start the  
4 questioning that we have an APO release in the  
5 Secretary's office that will be there and available  
6 through 5:15 this afternoon.

7 I'll begin the questioning. Let me start  
8 with Dr. Bown. Dr. Bown happens to be a professor at  
9 the University that I graduated from. I missed his  
10 course by several decades.

11 (Laughter.)

12 CHAIRMAN KOPLAN: But, I have been there on  
13 a couple of occasions and opened myself up to  
14 questions from the staff about the workings of the  
15 Commission, the procedures of the Commission. Now,  
16 it's my turn to ask you some questions, Dr. Bown.

17 Welcome. Your analysis, attached as Exhibit  
18 10 to Respondent's brief, finds that, and I quote and  
19 I mentioned this, this morning, "imported shrimp from  
20 subject countries is superior to the U.S. shrimp in  
21 virtually every product quality attribute category  
22 that is important to the U.S. producer." That's at  
23 page six. And that, "over four-fifths of the injury  
24 experienced by the industry can be attributed to a  
25 reduction in domestic demand for the U.S.-processed

1 shrimp." You get into that on page seven and also on  
2 page 61.

3 Your testimony this afternoon is drawn from  
4 that exhibit. You've heard the response of Ms. Hester  
5 this morning to some of the questions I asked about  
6 your exhibit and for purposes of the post-hearing, I'd  
7 appreciate your commenting on that in the post-hearing  
8 submission. But, I have a few questions I'd like to  
9 ask you myself this afternoon.

10 In your opinion -- first of all, in your  
11 opinion, is the decrease in demand for the domestic  
12 product due to comparisons with the subject imports?

13 MR. BOWN: Can I ask you to clarify? Sir,  
14 what do you mean by "comparison with subject imports?"

15 CHAIRMAN KOPLAN: When you estimated the  
16 decrease in demand for the domestic product, how did  
17 you arrive at that?

18 MR. BOWN: So to answer the question,  
19 basically, I let the data in the model tell me what  
20 the answer to the question was. So, I used the  
21 economic model structure to pose the question and --

22 CHAIRMAN KOPLAN: No, I understand. But,  
23 I'm trying to understand what were the inputs of the  
24 model

25 MR. BOWN: Okay. So the inputs of the

1 model, the data was the data on imports and process  
2 shrimp sales.

3 CHAIRMAN KOPLAN: Subject imports?

4 MR. BOWN: For the --

5 CHAIRMAN KOPLAN: Or for total imports?

6 MR. BOWN: For the Kelly model, it was for  
7 total imports. It was for subject and non-subject, so  
8 it was total.

9 CHAIRMAN KOPLAN: So, you didn't separate?

10 MR. BOWN: I didn't separate, no. The one  
11 limitation of that model, and I note this in the  
12 report, itself, is that this model was developed to  
13 think about the question of injury for Section 201  
14 cases, where there's no distinction between subject  
15 and non-subject.

16 CHAIRMAN KOPLAN: That's what I thought.

17 MR. BOWN: But, yes. And my motivation for  
18 using it in this case was I didn't have the data and  
19 resources to be able to use a more complicated  
20 statistical regression techniques to be able to  
21 address similar sorts of questions and so this was the  
22 next best alternative to doing that.

23 CHAIRMAN KOPLAN: So, you're not able -- you  
24 weren't able to do that?

25 MR. BOWN: I was not able to do a regression

1 analysis, correct.

2 CHAIRMAN KOPLAN: Thank you. Now, what is  
3 the significance of the finding that in head-to-head  
4 comparisons, subject imports undersold the comparable  
5 domestic product, as I calculate, in 413 out of 663  
6 possible comparisons? That's in Table V-2 at page 5-  
7 10 of the public version of our staff report. That  
8 amounts to 62.3 percent of comparisons.

9 MR. BOWN: I didn't address the issue of  
10 overselling or underselling in my report.

11 CHAIRMAN KOPLAN: Right.

12 MR. BOWN: I can ask my colleague, Daniel  
13 Klett, if he cares to respond. But, otherwise, I  
14 don't have a comment on that.

15 CHAIRMAN KOPLAN: Mr. Klett?

16 MR. KLETT: Well, I'd like to make a couple  
17 of comments. Number one, the same data that you're  
18 referring to with respect to the underselling analysis  
19 are the data that Dr. Bown used for his elasticity  
20 substitution estimates. So, in terms of consistency  
21 with Dr. Bown's analysis, you're right, that in terms  
22 of looking just at the nominal instances of  
23 overselling and underselling, there was more  
24 underselling based on that data.

25 CHAIRMAN KOPLAN: Substantially more.

1                   MR. KLETT: Yes. But, I think the  
2 Commission has not found underselling based just  
3 counting the instances of underselling to be  
4 significant from a commercial perspective. It, also,  
5 looks at what does that underselling mean. And I  
6 think Dr. Bown's analysis, using the same data, found  
7 that the relative prices and changes in those relative  
8 prices did not result in a significant change in  
9 relative volumes.

10                   CHAIRMAN KOPLAN: My point is that he did  
11 not factor this into his analysis, correct?

12                   MR. KLETT: I think implicitly he did. He  
13 was using the same data to look at the relationships  
14 between changes in price and whether those had an  
15 affect on changes in volume.

16                   CHAIRMAN KOPLAN: Did he have access to  
17 Appendix H, which has the breakout, the APO -- the BPI  
18 information?

19                   MR. KLETT: Yes. I, basically, provided Dr.  
20 Bown with the data from that appendix. It was those  
21 data that he used for his estimates of the  
22 elasticities of substitution.

23                   CHAIRMAN KOPLAN: Okay.

24                   MR. KLETT: And I'd like to make, if I may,  
25 just a couple of other points, in terms of the

1 underselling. Petitioners found that a significant  
2 volume of imports undersold domestic production. You  
3 can turn that around and say, well, what was the  
4 volume of domestic production that was undersold by  
5 imports and you get quite a different story in terms  
6 of the significance of the underselling, looking at it  
7 from that perspective.

8 CHAIRMAN KOPLAN: Thank you. Let me come  
9 back to you now, if I could, Dr. Bown. Your Table IV-  
10 1 presents the results of the model's predictions.  
11 And according to that table, the observed two-and-a-  
12 half percent decline in domestic production, two  
13 percent is due to a domestic demand shift and 0.8  
14 percent is due to an import supply shift. Am I  
15 correct, then, that this model estimates that  
16 approximately 30 percent of the decline in domestic  
17 production is due to the increased volume of imports?

18 MR. BOWN: Yes, that's what the model  
19 predicts.

20 CHAIRMAN KOPLAN: All right.

21 MR. BOWN: And in terms of the testimony  
22 that I gave earlier, that translates to, in the data,  
23 actually, a really small number, in terms of landings,  
24 2.2 million pounds reduction of landings, which is  
25 fairly small, at least relative to the fluctuation in

1 landings that we see on a year-to-year basis over the  
2 time period of data that we had.

3 CHAIRMAN KOPLAN: Thank you. I look forward  
4 to the post-hearing submissions on these points that  
5 will further detail what I'm interested in, in this  
6 regard.

7 Mr. Herzig, if I could turn to you. Let me  
8 ask you, can restaurants like Red Lobster substitute  
9 canned shrimp for frozen shrimp in entrees like  
10 butterfly shrimp and shrimp scampi? For what end uses  
11 are frozen shrimp and canned shrimp interchangeable?

12 MR. HERZIG: Quite candidly, I can't think  
13 of any uses where frozen shrimp and canned shrimp are  
14 interchangeable in a restaurant context.

15 CHAIRMAN KOPLAN: Okay. Mr. Connelly, the  
16 ASDA pre-hearing brief states on page seven that ASDA  
17 does not assert at the final stage that breaded shrimp  
18 should be included within the like product definition.  
19 However, you state that you'll show in detail that  
20 domestic processes have never been able to supply  
21 domestic breaders with the large volume of raw peeled  
22 shrimp imports that they need and, thus, from a  
23 causation standpoint, the very significant volumes of  
24 imported peeled shrimp, that bread is consumed in the  
25 breading process, have had no effect whatsoever in the



1 domestic industry. And that in addition, fast growing  
2 quantities of excluded breaded shrimp imports compete  
3 with domestic in-scope products.

4 How can imports of breaded shrimp compete  
5 with domestic in-scope products, but imports of raw  
6 peeled frozen shrimp for breading have not effect on  
7 the domestic industry?

8 MR. CONNELLY: One at a time -- let's take  
9 them one-by-one. And so, let's talk about each one.

10 CHAIRMAN KOPLAN: Right.

11 MR. CONNELLY: With respect to the breaders,  
12 the eight or so companies in the United States that  
13 need imported peeled shrimp for breading, as to that  
14 segment, which is a half-a-billion-dollar business  
15 according to the NMFS data, those companies buy one  
16 percent of their inputs domestically. That's not our  
17 opinion. That's from a study, which I believe we  
18 provided in our exhibits to our brief; and, if not, it  
19 was in exhibits to our post-conference brief last  
20 January. So, as to that segment, and as Mr. Mentzer  
21 testified earlier, what we're saying is that there is  
22 no ability, no ability on the part of the domestic  
23 breading industry to get domestic supply. And,  
24 therefore, the claim by the Petitioners that imports  
25 have hurt them is at least not true with respect to

1 the imported peeled products that breaders need.

2 Now, let's talk about imported breaded  
3 shrimp.

4 CHAIRMAN KOPLAN: One second. If my  
5 colleagues will indulge me, I will let him finish his  
6 answer. Go ahead.

7 MR. CONNELLY: So, that piece of it, Mr.  
8 Chairman. Now, with respect to imported breaded  
9 shrimp, that shrimp is competing with the breaders,  
10 who rely on the imported peeled shrimp. The imported  
11 breaded shrimp is obviously competing with domestic  
12 breaded shrimp. That is a non-subject product that is  
13 increasing rapidly, particularly from China, but other  
14 countries as well. And so what we were trying to do  
15 in discussing that aspect of it, is to show that  
16 Petitioners have developed this very contorted  
17 definition of what is a subject product and what is a  
18 not subject product and have, thereby, ignored the  
19 effect of one more non-subject import. Obviously,  
20 non-subject imports is a very important part of our  
21 case and this is just one more non-subject imports  
22 that we wanted to point out to the Commission, as  
23 having an important impact, to the extent that the  
24 domestic industry is claiming that they supply peeled  
25 shrimp to breaders. I hope that's clear.

1                   CHAIRMAN KOPLAN: Thank you, very much, and  
2 I thank my colleagues for indulging me. Vice Chairman  
3 Okun?

4                   VICE CHAIRMAN OKUN: Thank you, Mr.  
5 Chairman, and let me join in welcoming all the  
6 witnesses for being here this afternoon; those of you,  
7 who have traveled to be with us; and Mr. Liabo, who  
8 has traveled a long distance to be here . We  
9 appreciate your willingness to be here and to answer  
10 questions.

11                   Well, let me start with Mr. Herzig and Mr.  
12 Redmond. I found your testimony very interesting and  
13 something that I'm trying to understand as I look  
14 through this case. And I guess the question, I heard  
15 what you were saying about the quantity and Mr.  
16 Redmond talking about where you would market a U.S.  
17 product. And I guess, I wondered if you could talk  
18 to me a little bit about your experience about prices  
19 in the market, because the one thing that -- you know,  
20 again, when we hear this supply limited from domestics  
21 and some of the quality concerns that Mr. Mentzer  
22 raised, I look at the record and say, okay, where's  
23 the premium for the quality and if it's not that  
24 there's a premium, you can just get a lot of this  
25 farmed stuff in and they have this comparative

1 advantage. We talked about that separately. But, if  
2 prices are going down -- what's your experience with  
3 prices? I mean, why are prices going down in this  
4 market, if quality is so good and -- let's start with  
5 you, Mr. Herzig.

6 MR. HERZIG: Ms. Vice Chairman, there is no  
7 question that the cost of production of imports is  
8 helping with pricing. But, in terms of the quality  
9 aspect, what we look for in our business and people  
10 will call us and offer us shrimp, people that we do  
11 business with on a regular basis and people that don't  
12 do business with us will call us and solicit our  
13 business and they will offer prices to us on a routing  
14 basis, product and pricing to us. And what we always  
15 gravitate towards is who are the people that can give  
16 us reliable delivery and the kind of quality that we  
17 look for, that we know is going to consistently pass  
18 our quality team screen. And if we do get product  
19 from people, regardless of what price they offer it to  
20 us, that repeatedly fails our quality screen, we just  
21 simply don't do business with them. It's a waste of  
22 our time and it's a waste of their time.

23 VICE CHAIRMAN OKUN: Well, let me ask you,  
24 in the negotiations, is it you, as a large purchaser,  
25 demanding price decreases from the folks you're buying

1 from? Over the last -- I'm looking at our period --  
2 the last three years, when someone has come to you and  
3 said I have a lot of quantity, I can meet your  
4 quantity needs. Have you gone back to them, to a  
5 subject producer and said, I need a lower price?

6 MR. HERZIG: What we typically do is, again,  
7 we will -- in the case of any of our vendors that we  
8 kind of look and say, do they have the ability to  
9 supply us quantity; do they have the ability to supply  
10 us quality. We get our quality people inside their  
11 plants, look at what capabilities they have, what's  
12 the condition of their facilities, can they meet asset  
13 requirements. And once they kind of pass that basic  
14 screen, we'll start doing business with them. If they  
15 have a compelling enough story, in terms of why we  
16 should work together or from our own view, there's a  
17 reason why we should work together, then we start a  
18 business relationship.

19 And for us, what we want to be is within the  
20 market. We don't want to be -- it's not about the  
21 lowest price. I guess one of my old professors in  
22 school said that the sweetness of low price is  
23 forgotten long after the bitterness of the taste of  
24 poor quality and that's kind of how we operate on a  
25 consistent basis. If we can't get quality from

1 anybody, regardless of what price they offer, we just  
2 simply stop doing business with them. And --

3 VICE CHAIRMAN OKUN: Okay. Well, can Red  
4 Lobster offer the promotional deals, you know, \$14.99,  
5 all you can eat? Can you offer -- can you do that if  
6 you were paying four dollars per pound, as opposed to  
7 \$2.50 a pound?

8 MR. HERZIG: I didn't understand your  
9 question, ma'am.

10 VICE CHAIRMAN OKUN: Well, in other words, I  
11 mean, some of what I heard you talk about was a  
12 promotional and that --

13 MR. HERZIG: Right.

14 VICE CHAIRMAN OKUN: -- the demand has  
15 grown. And my question is, could you be paying more?  
16 In other words, can you still offer that to your  
17 consumers, if you were paying -- to your customers if  
18 you were paying more than what I now see is -- you  
19 know, I don't know what your particular prices are,  
20 but just using averages here, the prices have gone  
21 down. If prices go up, are you going to be able to  
22 make the same promotion offers?

23 MR. HERZIG: Well, clearly --

24 VICE CHAIRMAN OKUN: Or is it based on  
25 price? What's driving demand for you?

1           MR. HERZIG: Clearly price is a component of  
2 being able to sell product to more people. I mean,  
3 again, in my own testimony, I talked about shrimp kind  
4 of going from being a luxury product to something  
5 that's available to everybody. The lower prices, it  
6 clearly helped build demand in the product. They've  
7 helped us take shrimp consumption on a per capita  
8 basis from under three pounds per capita to over four  
9 pounds per capita this year. So, there's no question  
10 that price allows us to put television advertising,  
11 put plates together, put promotions together, staff  
12 our restaurants up to offer these dishes to people  
13 that build customer count and build interest in shrimp  
14 as a product for us. So, there's no question that the  
15 lower prices have helped us build business.

16           VICE CHAIRMAN OKUN: Okay. Mr. Redmond, if  
17 I can turn to you.

18           MR. REDMOND: Sorry, Peter Redmond. I would  
19 probably add the sentiments down there of Mr. Herzig.  
20 We typically -- the way that we contract our business  
21 is we'll go out and we'll lock up six months to a year  
22 at a time in the future. That gives us several  
23 advantages. It gives our suppliers the ability to go  
24 out -- they know what they're going to be supplying to  
25 us. Therefore, they have a tremendous advantage.

1 They can plan their business. They know when to seed  
2 their ponds; they know when to reap their harvest; and  
3 they know the time constraints that we're all working  
4 under.

5 I would never profess to be an expert of a  
6 wild-caught business, but I would imagine you can't  
7 guarantee what's nature going to deliver next summer.  
8 An importer shrimp farm, with the exception of a  
9 forced majeure or something like that, can. So, it  
10 gives us the advantage of going out, consolidating a  
11 lump piece of our business. And clearly when you  
12 consolidate a lump piece of business, you get an  
13 efficiency of run out of it. An efficiency of run  
14 will help reduce your costs of goods.

15 So, the best of it, which we actually go  
16 through and we procure our product is, we will bring  
17 everybody that we know in supply. We will put a sheet  
18 out that gives all of our volumes. And typically what  
19 we will do, when we get the results of that back, we  
20 typically kick the lowest one, purely because we're  
21 not in the business of garbage in gets garbage out.  
22 We don't want to buy the lowest cost product.  
23 Typically, a lower cost -- the lowest cost product for  
24 us is usually going to be a low ball offer to get  
25 business or inferior quality. So, typically, we will



1 kick the lowest cost that comes in on an item. And  
2 so, then, what we end up doing is we look at the  
3 quality of the product and the price of the product to  
4 give us the value of the product. We buy on value.

5 I would be naive to sit here and tell you  
6 that cost isn't a factor for us. We're pretty well  
7 known for being a low-cost operator. So, cost is  
8 important to us. But so is the quality of products we  
9 sell. And if we can't deliver value day in, day out,  
10 we wouldn't be in the business we're in and we  
11 certainly wouldn't be gaining some of the success that  
12 we have. So, the value of the product is how we do  
13 assess the volumes that we award to whatever.

14 And incidentally, the domestic business that  
15 we do, we keep that part out of that specific tender.  
16 We don't want that business going anywhere but  
17 domestic. So, we treat that as a totally separate  
18 animal and we use it only for domestic product,  
19 regardless of the size and count of the shrimp.

20 VICE CHAIRMAN OKUN: Has that always been  
21 your practice, to separate the domestic out from -- or  
22 I guess you can't say, I don't mean all, but give me a  
23 sense of --

24 MR. REDMOND: The issue is -- I mean, if you  
25 look at five or 10 years ago -- I mean, we had a

1 comment this morning that we buy only the lowest cost  
2 product. Well, that happened to be 1995. Today, we  
3 do it totally differently than that. Now, I can't  
4 speak to what we did in 1995, but I can guarantee you,  
5 we've never been in the business of buying the lowest  
6 cost product, period.

7 VICE CHAIRMAN OKUN: Well, two things maybe  
8 for post-hearing, because I don't remember it exactly  
9 in your questionnaire response. Do you have any  
10 examples of kind of the tender offer you just said,  
11 where you have everyone now --

12 MR. REDMOND: I can get that.

13 VICE CHAIRMAN OKUN: If you could submit  
14 that --

15 MR. REDMOND: I don't know how we do it, but  
16 I'll get it to Warren.

17 VICE CHAIRMAN OKUN: And then if you could  
18 demonstrate how you would do it vis-a-vis the domestic  
19 product, how that would be done separately. And then  
20 can I ask you, does the domestic product -- then,  
21 you're saying you keep them separately, because you  
22 give the domestic product a higher price than what  
23 you're paying for a similar product or are they not  
24 comparable, because you're talking about --

25 MR. REDMOND: We wouldn't look at them as

1 comparables. We don't look at it as a commodity  
2 issue, in that what we perceive to be domestic  
3 product, we don't perceive to be comparable to our  
4 importer product. We treat it as a different -- we  
5 treat it as a niche-type market for us. So, we would  
6 -- and, typically, we'll pay a forty- to fifty-cent  
7 per pound premium for domestic product. But, that's  
8 okay with us, because our stated position has been,  
9 and you've seen the examples that we have gone out on  
10 our own and developed, we're trying to grow a market  
11 that will return to our country, the type of product  
12 that we think our customer is looking for. And we've  
13 met with success for that. But, there is a premium  
14 attached to it.

15 VICE CHAIRMAN OKUN: Okay. So in that  
16 information, if you could just make sure that it's  
17 clear what product --

18 MR. REDMOND: Yes.

19 VICE CHAIRMAN OKUN: -- we're talking about,  
20 so I can tell. And just -- my yellow light is on --  
21 but in terms of when you're determining what price you  
22 pay for the subject product, do you look at any prices  
23 outside the United States? Are you looking only at --

24 MR. REDMOND: For clarity, are you talking  
25 about domestic product?

1                   VICE CHAIRMAN OKUN: I'm now talking about  
2 when you're talking about the subject import, are you  
3 looking at any other prices?

4                   MR. REDMOND: And you'll understand it  
5 better when I submit the data, but what we look at is  
6 we'll specify, for example, that we want a black tiger  
7 shrimp maybe from Thailand; but, we'll also then say  
8 for a fully-cooked item, it could be a -- the bottom  
9 line is, typically, we will put a country of origin  
10 that we are looking for that we currently have. And  
11 the point behind that is, we need to get, as been  
12 echoed here, we need to get consistency in our  
13 product. We can't change a black tiger for a Vanna  
14 Mae for something else. Our customers expect to see  
15 the same thing.

16                   VICE CHAIRMAN OKUN: Okay. I appreciate  
17 those answers. I have some follow-ups, but I'll wait  
18 for the next round.

19                   CHAIRMAN KOPLAN: Thank you. Commissioner  
20 Miller?

21                   COMMISSIONER MILLER: Thank you, Mr.  
22 Chairman. And thank you and welcome to the panel. We  
23 appreciate -- or I appreciate your willingness to be  
24 here and to help us. And belatedly, let me say the  
25 same to the Petitioners' panel. I apologize for

1 having to leave over the noon hour for another  
2 commitment. I didn't think I'd miss my entire  
3 questioning opportunity the way I did, but I also know  
4 my colleagues did a really good job and by how long  
5 you went. I'm quite sure they did a really good job.  
6 I will read the transcript to make sure I understand  
7 any questions they asked and answers that the domestic  
8 industry gave.

9 CHAIRMAN KOPLAN: We can bring the first  
10 panel back if you'd like.

11 COMMISSIONER MILLER: I'm sure you all would  
12 like that. I'm sure they would love it, too. But,  
13 again, my apologies for having to leave. I didn't  
14 think it would prevent me from asking questions.

15 So, in any event, the testimony here has  
16 been very interesting. And I like Vice Chairman Okun  
17 sort of focusing and wanting to ask some questions  
18 about the price declines and what explains the price  
19 declines that we've seen in our period and, as best I  
20 understand it from the volumes of information, the  
21 price declines that other government agencies have  
22 also spoken to. All the studies seem to speak to it.

23 So, let me start, Mr. Chamberlain, I thought  
24 your description of the global aquaculture industry  
25 rather interesting and helpful, too, and the little

1 bit of the history of shrimp, in particular. Help me  
2 understand, because when I hear your discussion of the  
3 aquaculture industry, to me, that does offer a lot of  
4 the explanation for the price declines that we've  
5 seen. You're talking about the cost of aquaculture  
6 being much lower. And so, maybe you can help me a  
7 little bit just if you want to amplify any further in  
8 your testimony, how you see aquaculture as having  
9 played into the price declines that we've seen in the  
10 later 1990s and through our period of investigation,  
11 it's in our record, how aquaculture has contributed to  
12 that.

13 MR. CHAMBERLAIN: Yes. The point I tried to  
14 make is the huge impact of the disease situation,  
15 which I think has been overlooked a lot. If you look  
16 at the worldwide aquaculture production curve over  
17 time, you'll see a steep upward curve during the  
18 1980s. And around 1990, China was producing almost 50  
19 percent higher yields every year. The production was  
20 just soaring. And it was definitely affecting prices.  
21 Global prices were being affected by aquaculture  
22 production. But then -- and that was really a warning  
23 sign to the domestic fishery, I think.

24 But what happened was this unexpected new  
25 viral disease hit, which was extremely virulent and it

1 basically punished the industry for some poor  
2 management practices that existed: poor biosecurity,  
3 no quarantine procedures, not really respecting  
4 diseases incidents enough. And that epidemic swept  
5 through the whole world of shrimp farming. And  
6 consequently, global production of shrimp plateaued.  
7 This upward increase stopped and it plateaued for a  
8 full decade and that gave an opportunity for prices to  
9 rebound. And that's why we had some of our higher  
10 prices at the beginning of this period of  
11 investigation 2001 was right at the end of that  
12 period.

13 But, technology, basically, saved the day.  
14 New gene technology for the same kind of techniques  
15 used to diagnose HIV are used to diagnose white spot  
16 virus in shrimp. Same gene amplification technology  
17 allows us to pick up just a few viral particles of  
18 white spot and know that that shrimp is infected. And  
19 that technology allows us to develop shrimp that are  
20 free of all viral diseases and use those as breeding  
21 populations. And with that foundation population, one  
22 can develop a breeding program. And with breeding, we  
23 can have a 10 or 15 percent growth improvement every  
24 year through genetic selection. It just -- we've just  
25 begun to tap what is the strength of animal husbandry

1 that works for chickens and pigs and cattle and  
2 everything else. It's now working for shrimp.

3 And the same could be said on the on the  
4 feed side of the business. In the early days, the  
5 feeds consisted of exotic things like squid meal and  
6 creel meal and anything that would make the feed  
7 highly attractive. We can't afford those anymore.  
8 So, now, we use mainly soybean meal and they're now  
9 synthetic attractants that can replace some of these  
10 marine proteins at a much lower price. We use  
11 crystalline amino acids, same as the poultry guys. We  
12 use lycene and methionine, so we don't require as much  
13 animal protein in the feed.

14 And there are new processing methods. The  
15 shrimp feed has to hold up under water and so there  
16 are new methods that gelatenize the starch, that keep  
17 the pellets stable under water, so we don't lose it to  
18 leaching and losses dissolving in the water. So, the  
19 shrimp actually eats the feed, so food conversion is  
20 much better.

21 Just lots of technological advances on so  
22 many different fronts. In the hatchery, there's a lot  
23 of them. Now, there are new larval diets. We don't  
24 have to use brine shrimp like we used to, not so much.  
25 Now, they're encapsulated dry foods. There are



1 encapsulated liquid feeds. It's just become quite a  
2 sophisticated business. And as it grows, more  
3 science, more technology can be justified to devote to  
4 it. And it's becoming, you know, an agribusiness.

5 COMMISSIONER MILLER: Now, at the same time,  
6 it's had some setbacks, hasn't it? I mean, perhaps  
7 not in the shrimp area, but we've all heard and read  
8 of some of the problems with aquaculture and the  
9 salmon concerns and such. I mean, there's no -- is  
10 there no mixed bag as far as --

11 MR. CHAMBERLAIN: Oh, no, definitely, lots  
12 of issues. And one of the big issues that I think the  
13 Petitioners mentioned this morning was environmental  
14 issues. In the early days of shrimp farming, the  
15 early farmers, you have to understand, they began by  
16 scooping up baby shrimp in the bay and putting them  
17 into a makeshift pond. There were no hatcheries. And  
18 in the early days, they thought the best location to  
19 build shrimp ponds was where the shrimp were found.  
20 And a lot of mangrove area was destroyed. And perhaps  
21 three of four percent of the world's mangroves were  
22 destroyed by shrimp farming. But once that issue was  
23 understood, standards were set, regulations were set,  
24 and shrimp farms don't locate in those sensitive areas  
25 anymore. In fact, we know now that those are very

1 poor areas for shrimp farms: the soils are wrong;  
2 they are acid sulfate soils; the ph is very low in  
3 those mangrove areas. And farmers build their farms  
4 upland from those. So, there were environmental  
5 issues related to mangroves.

6 Another one is effluence. In the early  
7 days, a lot of water was pumped through ponds to try  
8 to flush out waste products and, consequently, there  
9 were discharge nutrient levels, effluence, problems  
10 with that. But that kind of solved itself when the  
11 diseases came along and there was a recognition that  
12 the carriers are found in that water and farmers  
13 couldn't afford to pump waters into their ponds,  
14 because it carried disease. So, new technology was  
15 developed where the ponds don't require water  
16 exchange. Instead, they are aerated with mechanical  
17 aerators.

18 So, there have been problems, but then in  
19 almost every case, a solution has been developed. And  
20 the end result is that it's better than it was before  
21 and more sustainable.

22 COMMISSIONER MILLER: Okay. Now, as far as  
23 what that means for costs of the product and the  
24 prices that we see in the U.S. -- the yellow light is  
25 on, but since that sort of what I was --

1 MR. CHAMBERLAIN: Yes.

2 COMMISSIONER MILLER: -- telling your  
3 education, to help me understand.

4 MR. CHAMBERLAIN: Sure.

5 COMMISSIONER MILLER: You want to make just  
6 a short comment, because the yellow light is on?

7 MR. CHAMBERLAIN: Well, as I mentioned --

8 COMMISSIONER MILLER: You're giving me a  
9 good education on aquaculture and that's what I was  
10 looking for.

11 MR. CHAMBERLAIN: Thank you, very much.

12 Well, all of these things drive down costs. So, the  
13 cost of post-larvae has come down. Maybe, it used to  
14 be \$10 a thousand, now it's two dollars a thousand.  
15 The cost of feed has come down. Most importantly, the  
16 survival rates, because of the disease control has  
17 gone up. At our farm, we used to get 45 to 50 percent  
18 survival. Now, we get 85 percent survival, because we  
19 use shrimp that don't carry disease. And we get  
20 bigger sizes, because they don't have the disease,  
21 they grow faster. And those things all reduce the  
22 cost of production.

23 COMMISSIONER MILLER: Okay. I'll go on in  
24 the next round to ask more questions about prices. I  
25 appreciate your answers.

1 MR. CHAMBERLAIN: Thank you, very much.

2 COMMISSIONER MILLER: Thank you.

3 CHAIRMAN KOPLAN: Thank you. Commissioner  
4 Hillman?

5 COMMISSIONER HILLMAN: Thank you. And I  
6 would join my colleagues, as well, in thanking you all  
7 for being here and for all of the information that was  
8 provided in the fairly lengthy, one would say  
9 voluminous pre-hearing briefs. But, we very much  
10 appreciate it. It's extremely helpful to helping us  
11 understand this.

12 Maybe if I could follow along a little bit,  
13 Mr. Chamberlain, just to understand your -- you have  
14 obviously a very good historical perspective. During  
15 this 1980s period, when you said there was also this  
16 big sort of run up in the supply or increase in the  
17 supply, what was happening to prices during that time?

18 MR. CHAMBERLAIN: They were definitely being  
19 affected. Prices were coming down, especially in the  
20 late 1980s, early 1990s.

21 COMMISSIONER HILLMAN: Okay. So, you saw  
22 supply going way up and prices coming way down, okay.  
23 Then, you say you have this decade of the 1990s, when  
24 supply is flat?

25 MR. CHAMBERLAIN: Right.

1                   COMMISSIONER HILLMAN: It's not down, but  
2 it's flat.

3                   MR. CHAMBERLAIN: Exactly.

4                   COMMISSIONER HILLMAN: And prices are doing  
5 what?

6                   MR. CHAMBERLAIN: Prices were, I would say,  
7 basically flat, at that time. In other words, there  
8 was no decline in prices --

9                   COMMISSIONER HILLMAN: Okay.

10                  MR. CHAMBERLAIN: -- during that period.  
11 And I think I'm sure we can find data that would show  
12 exactly what they did during that period, but there  
13 was no distinct upward or downward pattern. As I  
14 recall, during the late 1980s, prices were dropping on  
15 the order of about three percent a year.

16                  COMMISSIONER HILLMAN: Okay.

17                  MR. CHAMBERLAIN: And then during the 1990s,  
18 they were stable. And then beginning with this  
19 decade, they began dropping again.

20                  COMMISSIONER HILLMAN: Okay. Then, I guess,  
21 I'm -- I think as you heard from the questioning this  
22 morning, I'm still trying to make sure I understand  
23 everything we can about this issue of -- because,  
24 obviously, we're looking at a case in which we're  
25 seeing a huge increase in the volume of imports; we're

1 seeing a big decline in prices; and we're seeing an  
2 industry that is not doing well financially. So, you  
3 know, your argument, as I hear it, is fundamentally is  
4 what is causing the price declines and whether or not  
5 it's being driven by competition from importers, as  
6 the Petitioners would have it, or whether it's being  
7 driven by these other things. So, I really do want to  
8 make sure I understand exactly what you're telling me,  
9 in terms of what is driving the prices down. There's  
10 no question they're going down. They've gone down  
11 very rapidly and what is driving that.

12           Maybe, I could start with you, Mr. Herzig,  
13 and/or you, Mr. Mentzer. Mr. Redmond, in his  
14 testimony, in response to Vice Chairman Okun, said  
15 that they basically segregate, Wal-Mart, as I  
16 understand it, to some degree segregates its price --  
17 request for prices between domestic product and  
18 imported product. Do you do the same? I mean, I  
19 understand from your testimony, Mr. Herzig, you're  
20 selling at least some of your domestic product  
21 marketed as a domestic product on the menu  
22 differentiated. I'm just trying to make sure if  
23 that's true for all of the U.S. product that you sell  
24 and do you bid for the two, import versus domestic, in  
25 the same request for prices?

1                   MR. HERZIG: There are some products which  
2 we buy domestically that are used as a substitute for  
3 some of our imported products.

4                   COMMISSIONER HILLMAN: Okay. When you say,  
5 "some," can you give me some sense of how much?

6                   MR. HERZIG: Relatively small quantities.

7                   COMMISSIONER HILLMAN: Okay. And typically,  
8 is it a certain kind of product?

9                   MR. HERZIG: Yes. It typically is a small  
10 quantity of some tail-on product that we are able to  
11 get from one processor in the U.S. that can meet our  
12 quality standards. We typically pay them more money  
13 for it. They have limited capacity to services. So,  
14 we take what they can give us. What we have been  
15 trying to do with them, as well as a couple of other  
16 processors, is to try to find some unique products  
17 that we can put into the marketplace at a premium, but  
18 they have to be premium quality to be able to charge a  
19 premium price for.

20                   COMMISSIONER HILLMAN: Okay. So, there's  
21 some product where you're using either U.S. or  
22 imported product interchangeably?

23                   MR. HERZIG: That's correct. But, we're  
24 only able to get a very small quantity of it that  
25 meets our quality standards.

1                   COMMISSIONER HILLMAN: Okay. And then is  
2 there some U.S. product that you are not using  
3 interchangeably, that you are -- for which only U.S.  
4 product will do?

5                   MR. HERZIG: Some of the products that I  
6 talked about in my testimony this morning are intended  
7 to be marketed as domestic products, as niche  
8 products.

9                   COMMISSIONER HILLMAN: Okay. And as a  
10 percentage of your shrimp, do you have a sense of how  
11 significant that U.S. niche product is?

12                  MR. HERZIG: Well, I would say -- we're in  
13 the early stages of developing it, but I would say  
14 that the market potential is, we believe, is  
15 reasonably substantial based on market research that  
16 we've done. The market research that we've done  
17 indicates some people actually prefer farm-raised  
18 shrimp; some people, particularly in the gulf states,  
19 have a preference for, as Peter mentioned, shrimp  
20 produced in their local area, you know, either in  
21 their specific state or their specific area, and  
22 that's what we believe, again, will be the secret of  
23 success for the domestic industry.

24                  COMMISSIONER HILLMAN: And it will be those  
25 products where you would obviously not be even



1 looking? Or how would import prices -- would the  
2 import prices have any effect on what you ask for, in  
3 terms of prices for this domestic product?

4 MR. HERZIG: I wouldn't say that we're going  
5 to pay \$100 for one and three dollars a pound for the  
6 other --

7 COMMISSIONER HILLMAN: Right.

8 MR. HERZIG: -- so, I wouldn't completely  
9 disconnect them. But, the product that we worked on,  
10 the most recent product we worked on is a three-dollar  
11 a pound price differential, which we've accepted, for  
12 the domestic product. So --

13 COMMISSIONER HILLMAN: Right, I understood  
14 that. Okay. Mr. Mentzer, how about you? You've  
15 obviously have spoken about the government contracts.  
16 But for non-government contracts, things that are not  
17 subject to any barrier, any other restriction, do you  
18 typically, again, look at sourcing either U.S. and  
19 foreign for the same product?

20 MR. MENTZER: Typically, our business is one  
21 of developing signature seafood items for restaurant  
22 chains and our R&D department and our culinary staff  
23 work with the R&D departments of the restaurant chains  
24 to develop custom products for them, which we make  
25 exclusively for them. Part of that process generates

1 our product specification. And if the product  
2 specification calls for domestic, then we'll certainly  
3 fill the order with the domestic product. If it does  
4 not, we purchase the majority of our products from  
5 vetted suppliers, who we've had long-term  
6 relationships with. Those relationships are developed  
7 over years, with inspections from our quality team  
8 going out to their processing locations around the  
9 world. So, we really purchase most of it for offshore  
10 from a limited group of suppliers.

11 COMMISSIONER HILLMAN: Now, do you mix? I  
12 mean, would you -- for a given product line, would you  
13 be mixing shrimp from different countries into that  
14 same, whatever that labeled product is?

15 MR. MENTZER: For large restaurant chains  
16 and large restaurant chain promotions, we most likely  
17 would have to mix product from more than one country.

18 COMMISSIONER HILLMAN: Okay. Now, how about  
19 would you mix domestic product within that, if it were  
20 price comparable?

21 MR. MENTZER: Probably not, because of the  
22 quality issues that I identified in my testimony  
23 previously.

24 COMMISSIONER HILLMAN: Okay. I appreciate  
25 those answers. And when you're setting these prices,

1 I mean, Mr. Redmond, you're basically describing it as  
2 you're putting it out for bid. So, you're determining  
3 price is, as I understood your testimony, really based  
4 on a bid price of what has come in, in terms of your  
5 doing a request for a quote for x amount of volume,  
6 for x amount of price. Are the rest of you looking at  
7 any sort of -- is there any sort of pricing data out  
8 there that you typically -- that the industry looks  
9 to, to figure out what's the prevailing price?

10 MR. REDMOND: Peter Redmond. Before they  
11 answer that, I'd like to clarify. We don't set any  
12 price. We let our suppliers set the price, because,  
13 invariably, if we put it out to 10 or 12 suppliers,  
14 they'll be a mainstream of them that will come back  
15 within a few cents of each other and that would be  
16 where we look at price. But, then, it all becomes --  
17 the overriding factor is, then, we get the samples of  
18 the product and we look at the product. And that is  
19 the overriding factor. If they're all in a 10 or 15  
20 cent barrier range, then the product quality is going  
21 to be the driver without any shadow of a doubt.

22 COMMISSIONER HILLMAN: No, I understood that  
23 you basically put it out for bid and you see what the  
24 prices come in at --

25 MR. REDMOND: Yes.

1 COMMISSIONER HILLMAN: -- as opposed to  
2 looking just at some sort of market --

3 MR. REDMOND: Oh, absolutely.

4 COMMISSIONER HILLMAN: -- data out there.

5 MR. REDMOND: We don't -- I mean, there is  
6 the Urner Barry, but we don't use that for what we're  
7 doing.

8 COMMISSIONER HILLMAN: Okay. Mr. Herzig or  
9 Mr. Mentzer, do you all look at some sort of external  
10 source to figure out what's going on, in terms of  
11 prices?

12 MR. HERZIG: We typically are -- we're in  
13 the market 365 days a year in discussions, ongoing  
14 discussions with our suppliers, and we do look at  
15 Urner Barry from time to time. But, it's more about  
16 what our suppliers are saying the market is and we're  
17 able to compare between suppliers. And so, that's  
18 kind of how we look at it.

19 COMMISSIONER HILLMAN: Okay. Mr. Mentzer?

20 MR. MENTZER: And I would agree with Mr.  
21 Herzig. We might follow Urner Barry a little closer  
22 than what Mr. Herzig does, but we are also in the  
23 market 365 days a year.

24 COMMISSIONER HILLMAN: Okay. Mr. Connelly,  
25 more a question, again, for the lawyers. And here, I

1 was sort of intrigued by the third question that you  
2 had Mr. Bown answer or, you know, talk to, which is  
3 this issue of the impact of the proposed antidumping  
4 duties on the future of the domestic industry. And  
5 I'm wondering if you could brief for us, and other  
6 counsel are invited to, as well, the issue of the  
7 legal relevance of that question. I can certainly  
8 understand some people from a policy perspective might  
9 think that we should be looking at whether or not the  
10 antidumping duties would be effective, however we  
11 would measure that. But, I have to say, in my view,  
12 that is not what the law is today. There's nowhere in  
13 the statute that it's asking the Commission to do any  
14 kind of assessment and if we do this, what will happen  
15 to the state of the domestic industry. It's not there  
16 in the statute. So, I would ask you to just sort of  
17 brief, as a legal matter, what is the relevance of  
18 this question. I mean, why ask it, if it doesn't have  
19 a legal relevance on it. And sort of secondly, if the  
20 answer to the question is it wouldn't really help the  
21 domestic industry come up to a profitable position,  
22 can that be a legal basis for rendering a negative  
23 determination.

24 So, again, it's a purely legal question for  
25 sort of where do you see any legal basis for making

1 this relevant inquiry within the terms of the current  
2 statute. As I said, I can understand policy  
3 arguments. I'm not asking for that. I'm asking for a  
4 direct statutory reading for where is this question  
5 relevant.

6 MR. CONNELLY: We'll be happy to do that,  
7 Commissioner Hillman.

8 COMMISSIONER HILLMAN: Okay.

9 MR. CONNELLY: And your red light is on.

10 COMMISSIONER HILLMAN: My red light is on.

11 MR. CONNELLY: Is my red light on, too?

12 COMMISSIONER HILLMAN: Yes, I'm afraid it  
13 is. But, I will come back, Mr. Connelly. I will come  
14 back.

15 CHAIRMAN KOPLAN: Nice try. Thank you.  
16 Commissioner Lane?

17 COMMISSIONER LANE: Good afternoon. We've  
18 heard lots of issues today about the different kinds  
19 of standards and the different quality of shrimp. And  
20 I've heard several of you talk about that the subject  
21 imports more readily meet your standards. Does the  
22 record contain written specifications as to what those  
23 standards are that you all judge the subject imports  
24 to the domestic shrimp?

25 MR. CONNELLY: Warren Connelly.

1 Commissioner Lane, I think it does, but I have to  
2 confess, I'm not recalling exactly where in the record  
3 it is now. We certainly can give you -- I think maybe  
4 in the -- in our post-conference brief last January,  
5 we put in some descriptions of specifications of  
6 specific buyers. But, we can certainly give you more  
7 of those. I'll go back and check them, but we can  
8 most definitely give you some.

9 COMMISSIONER LANE: Let me ask specifically,  
10 like does Red Lobster and Wal-Mart have written  
11 specifications that when you go out and are looking to  
12 buy shrimp and you have these written specifications  
13 and you look at the subject imports and you look at  
14 the domestic shrimp and you decide which ones meet  
15 your specifications? Do you have those written  
16 standards?

17 MR. REDMOND: Peter Redmond. Yes, we most  
18 definitely do and that's what we use to govern our  
19 tenders.

20 MR. HERZIG: And, Ms. Lane, we, also, have  
21 written specifications for every single SKU that we  
22 purchase and our quality team or some subset thereof  
23 inspects every single purchase that we make against  
24 those specifications on a straight up or down  
25 pass/fail and measures and kind of graphs and tracks

1       how we do against various purchases with various  
2       suppliers.

3               COMMISSIONER LANE:   And so if those are not  
4       already in the record, you will be able to provide  
5       those to us?

6               MR. CONNELLY:   We can do that.   They are  
7       obviously extremely proprietary, but we can certainly  
8       submit them as APO information.

9               COMMISSIONER LANE:   Okay, thank you.   Now,  
10       the subject imports, I understand that there used to  
11       be a problem with -- I don't know whether you call  
12       them chemicals or whether you call them additives or  
13       whatever you call them, and that only certain number  
14       of the shrimp that come in from foreign sources are  
15       inspected.   Now, aside from what the government does,  
16       do you all inspect the shrimp, to make sure that it  
17       meets the same specifications as domestic shrimp?

18              MR. HERZIG:   Ms. Lane, Bill Herzig.   Yes, we  
19       do.   We have a statistical sampling program for,  
20       again, every single container that we buy and we  
21       sample against illegal antibiotics, just like we  
22       sample for all of the other quality attributes that we  
23       look for.   And we -- frankly, we do not see a problem  
24       with our imports from our suppliers.

25              COMMISSIONER LANE:   Okay.   Do you do much



1 testing of subject imports as the United States  
2 Government does for the domestic industry?

3 MR. HERZIG: Well, the domestic industry is  
4 not tested for chloramphenicol or some of the other  
5 things, because they do not have to import into the  
6 U.S. They've already landed in the U.S. So, in some  
7 ways, the foreign sources are already tested for  
8 things that domestic sources are not. They still have  
9 to meet all of the basic quality standards: filth,  
10 salmonella, decomp, all of those things that FDA  
11 requires for any imported shrimp. And we test, as  
12 well.

13 COMMISSIONER LANE: Okay, thank you. Now,  
14 Mr. Chamberlain, as I understand it, you have 170  
15 ponds. Have you ever tried to farm shrimp in the  
16 United States?

17 MR. CHAMBERLAIN: I, personally, have not.  
18 But in my earlier part of my career, I worked with  
19 Texas A&M with some of the farmers in the State of  
20 Texas and some of my good friends also work in Florida  
21 and in Hawaii. So, I'm familiar with some of the  
22 domestic farming activities.

23 COMMISSIONER LANE: Okay.

24 MR. REDMOND: Ms. Lane, Peter Redmond.

25 COMMISSIONER LANE: Yes?

1           MR. REDMOND: I'd like to go back to your  
2 prior question, too. From the point of how we police  
3 our own product coming in --

4           COMMISSIONER LANE: Yes.

5           MR. REDMOND: -- we use the USDC to inspect  
6 our product for specifications, both at the source  
7 site of packing overseas and at the point of entry in  
8 the U.S. So, we feel very comfortable that we're  
9 getting our right product. Now, we don't -- and we do  
10 the same thing, also, for domestic product.

11           COMMISSIONER LANE: Okay, thank you. Now,  
12 Mr. Redmond, this will lead into my next question.  
13 The exhibit that you provided, that says Louisiana  
14 shrimp, Florida shrimp, Texas shrimp, now, I guess  
15 it's the cynical lawyer coming out in me, does this  
16 really mean that this shrimp is coming from those  
17 states, as advertised?

18           MR. REDMOND: Contrary to some rumors I'm  
19 beginning to hear, we can trace it back to the boat it  
20 comes off. So, yes, if there's ever a day out and  
21 we're challenged on it, and I had this conversation  
22 yesterday with our producer, we can prove it. And  
23 it's a shame, because that comment does come up. And  
24 from our point of view, we're trying to do a very good  
25 thing here. But, invariably, we'll get the question.

1 I do think we've got to work on this bag a little bit.  
2 The Florida one is a little on the loopy side.

3 COMMISSIONER LANE: How much of your shrimp  
4 do you sell -- how much of it percentage-wise is  
5 domestic and how much is subject imports?

6 MR. REDMOND: Is that for me?

7 COMMISSIONER LANE: Yes.

8 MR. REDMOND: Peter Redmond. I would  
9 approximate that a little over nine percent of the  
10 shrimp that we sell is domestic and obviously the rest  
11 import. But, I would go further than that to say that  
12 60 percent of the shrimp that we sell is cooked. We  
13 can't get that product here. So, the question becomes  
14 a loaded question, in that, you know, if we were able  
15 to get a 26-30 count cooked peeled and deveined  
16 shrimp, actually are frozen, then maybe we'd be able  
17 to buy more domestic shrimp. But as of right now,  
18 those three or four million pounds, let alone three or  
19 four million rings, that we can't get here. So, the  
20 number is inflated naturally, because there's really  
21 no other recourse for us, other than to go abroad to  
22 get that. Would that we could.

23 COMMISSIONER LANE: Okay. Mr. Herzig, you  
24 stated that your customers want the same size shrimp  
25 all the time. How do you know that?

1                   MR. HERZIG: From market research that we  
2 do. If we offer a plate of shrimp and it says 30  
3 shrimp and they come in one week and it's 26-30s and  
4 the next week they come in and it's 41-50s, they're  
5 going to feel like we basically baited and switched.  
6 I mean -- and we do -- we are rigorous about market  
7 research. And it's been clear to us from all of our  
8 research, in terms of plate configurations, in terms  
9 of getting value scores, guest satisfaction scores  
10 back, on all of the plates that we put forward, that  
11 consistency of those plates is an absolute basic  
12 requirement for success with our guest, Ms. Lane.

13                   COMMISSIONER LANE: Maybe I missed  
14 something. If your customers want 30 shrimp, isn't  
15 that in Red Lobster's control?

16                   MR. HERZIG: Well, it is. Ms. Lane, it is,  
17 but, again, if I go to the supermarket and somebody  
18 says, Black Angus beef this week and I go in and it's  
19 -- you know, it's a great product, it's tender and it  
20 taste goods and it's a value, and then I go back the  
21 next week and it says, Black Angus beef and it's tough  
22 and, you know, may be undersized or whatever, I'm not  
23 going to be very happy with that store that sold me  
24 that. And it's exactly the same thing with our guest  
25 with shrimp. They expect -- when we tell them 30

1 shrimp, they don't expect 30 tiny shrimp one time and  
2 30 large shrimp the next.

3 COMMISSIONER LANE: Okay. Now, I understand  
4 what you're saying. I guess I'll wait until the next  
5 round. Thanks.

6 CHAIRMAN KOPLAN: Thank you, Commissioner.  
7 Commissioner Pearson?

8 COMMISSIONER PEARSON: Thank you, Mr.  
9 Chairman, and welcome from me to the panel. I  
10 appreciate, very much, your patience. I want to go  
11 back and touch on a couple of issues that I raised  
12 with Petitioners. The first for Mr. Connelly,  
13 following up on Commissioner Hillman's question, you  
14 know, the statute does guide us to take into account  
15 the dumping margins. How ought we to do that in this  
16 case? And I had asked the Petitioners if they could  
17 give me some sense of what the weighted average  
18 dumping margin would have been on 2003 imports, based  
19 on final margins, as they've become available. Since  
20 I invited them to provide their perspective, I invite  
21 you, also.

22 MR. CONNELLY: Well, thank you, and we do  
23 have the luxury of a final factual submission, which  
24 is due, unfortunately, the week after Christmas, but  
25 it's also fortunately due after the final margins are

1 announced. So, we will be able to provide you that  
2 analysis using the actual margins, the final margins  
3 for all six countries.

4 Now, as to the other question and, also, to  
5 Commissioner Hillman's question, our basic  
6 proposition, which I think is clearly a proposition  
7 that is relevant to the statutory analysis, is are  
8 dumped imports the problem or are farmed imports the  
9 problem. Now, our view is that the issue is farmed  
10 imports are what are coming in here. It is not  
11 dumping; that is, the cause of any difficulties that  
12 the domestic industry is suffering and when we say  
13 that these margins, if they are in the range that say  
14 the Vietnamese margins were yesterday or non-subject  
15 imports, what we are saying is, there is not going to  
16 be a material change in the condition of the domestic  
17 industry or the domestic marketplace, because of the  
18 revolution in the attitudes of buyers in the United  
19 States with respect to their preference for farmed-  
20 raised imports. These are, I hope our testimony is  
21 crystal clear on this, differentiated products;  
22 differentiated products.

23 The notion that the Petitioners are trying  
24 to convey here, that this is a single commodity, that  
25 you can't separate a farmed product of a type that

1 these companies that are here today are buying and  
2 what the Petitioners and the domestic industry are  
3 producing, the notion that you can't tell those two  
4 apart is not supported by the record. It is simply  
5 not accurate. You cannot make that conclusion. If  
6 you define a commodity as a product that is  
7 undifferentiated, and that is the definition of a  
8 commodity, a commodity is an article of merchandise  
9 that is sold on the basis of price, because there is  
10 no differentiation other than price or a little  
11 differentiation, that is not the shrimp market.

12 What I think all of our witnesses have tried  
13 to say, in one way or another, is that they look at  
14 farmed shrimp differently from wild-caught shrimp.  
15 The problem is the Petitioners don't. That's the  
16 problem. That is the perception we heard this morning  
17 from them. It is still all the same to them. The  
18 fact, for example, that they would say, they are  
19 unaware of any technological changes in farming shows  
20 you that they really don't understand what is going on  
21 around the world. I hope that's an answer.

22 COMMISSIONER PEARSON: Thank you. Another  
23 question that I raised was why do we have relatively  
24 so little price data of shrimp in the world market? I  
25 mean, why is there no Singapore shrimp experience?

1 Perhaps, several of you would have thoughts on that.

2 MR. CONNELLY: I've got to look around and  
3 see if anybody has an answer to that one. I guess  
4 not. But, I think we can get some proxies for price  
5 information, because I think we can get some import --  
6 average import values from various customs  
7 authorities, I think, to try to answer your question.  
8 That's what we're going to first start looking for and  
9 then we'll have to talk and see if there are any other  
10 market data like Urner Barry. There may well be. Let  
11 me ask and see if anybody else is aware of that.

12 COMMISSIONER PEARSON: In the back, we have  
13 a hand up.

14 MS. LEVINSON: Liz Levinson, representing  
15 the Seafood Exporters Association of India.

16 COMMISSIONER LANE: Yes. Can you get closer  
17 to a microphone, please?

18 MS. LEVINSON: Liz Levinson, Garvey,  
19 Schubert, Barer, representing the Seafood Exporters  
20 Association of India. I'm going to introduce Mr.  
21 Shivakumar, who is here principally to answer  
22 questions, and I think that he does -- he can relate  
23 to you some sources for the kind of data you're  
24 looking for.

25 MR. SHIVAKUMAR: I'm Shivakumar. You were



1 asking about availability of pricing information in  
2 other parts of the world. There are two institutions  
3 based in Malaysia and Europe, both are affiliates of  
4 the Food and Agriculture Organization. One is called  
5 Infofish, based on Malaysia, which covers the Asian  
6 markets, including Japan. They provide fortnightly  
7 pricing information of the products sold in various  
8 markets, originating from different countries around  
9 the world, mostly Asian countries. Similarly, there's  
10 another entity called Globefish, based in Europe,  
11 which gives the prices prevailing in the European  
12 market. We can make that information available to  
13 you, along with our post-conference brief.

14 COMMISSIONER PEARSON: Thank you, very much.  
15 Given that there may be not a lot of world price  
16 information available, is the U.S. import price for  
17 shrimp perhaps the best proxy? After all, the United  
18 States is the largest importer. So, is that the best  
19 reflection of relatively transparent and publicly-  
20 available price?

21 MR. CONNELLY: Warren Connelly.  
22 Commissioner Pearson, I don't know frankly. That's  
23 something we're going to have to take a look at.

24 COMMISSIONER PEARSON: Okay. And as you're  
25 looking for that, if you run across any more recent

1 production and consumption data, that, also, would be  
2 useful. Because, I kind of assumed that production  
3 has continued to go up, but I don't believe we have  
4 anything on the record now that makes that clear. And  
5 if production is going up and prices going down, at  
6 least that would tie together. If production happens  
7 to be going down and prices also going down, then  
8 we've really got an interesting situation to ponder.

9 MR. CONNELLY: I think for sure production  
10 is going up and I think what Petitioners want you to  
11 focus on is the fact that production is possibly going  
12 up in the six countries they've targeted. But, in  
13 fact, production is going up around the world.

14 COMMISSIONER PEARSON: Okay. Shifting gears  
15 again, Mr. Chamberlain, I enjoyed, very much, your  
16 discussion of shrimp aquaculture. Are there efforts  
17 to develop hybrid shrimp? Are you going to becoming  
18 out with white tigers instead of the black tigers?

19 MR. CHAMBERLAIN: We have actually produced  
20 hybrids, but it turns out that the crosses are not  
21 very viable and only a very small number of naplee-I,  
22 the first larval stage, are produce from the cross.  
23 So, at this point, it hasn't really been effective.  
24 But, academically speaking, it has been achieved, but  
25 it hasn't been commercially viable.

1                   COMMISSIONER PEARSON: And you mentioned the  
2 specific package and free production. Do you have  
3 entire hatcheries that are devoted to SPF production?

4                   MR. CHAMBERLAIN: Absolutely, absolutely.  
5 Just to take a moment on that, the U.S. Government  
6 actually sponsored the -- the Department of  
7 Agriculture sponsored that program and the U.S. Marine  
8 Shrimp Farming Consortium, which is a group of  
9 universities and institutes in the U.S., with the  
10 intention of developing a U.S. shrimp farming industry  
11 to reduce imports, developed a screened populations of  
12 shrimp throughout the Americas to find animals that  
13 were free of disease. It's quite a difficult process.  
14 And they developed animals and then began breeding  
15 those. And then they sold them to U.S. hatcheries to  
16 stimulate the U.S. business. But, actually, those  
17 U.S. hatcheries found their best markets to be selling  
18 brood stock to China and to Taiwan and to Thailand and  
19 to Indonesia and it resulted in the SPF program  
20 essentially being transplanted to Asia. Now, that  
21 species of white shrimp, which is only indigenous to  
22 the Americas, has more production from China than all  
23 of the Americas combined.

24                   COMMISSIONER PEARSON: Okay. Well, I see my  
25 light is against me, so I thank you for that and then

1       come back to you in a little while. Thank you.

2                   CHAIRMAN KOPLAN: Thank you, Commissioner.  
3       Mr. Connelly, you heard me this morning inquire of Mr.  
4       Cook about the acquisition by Bumble Bee of Ruether's  
5       Seafood and he's going to supply me some information  
6       post-hearing. Let me ask you this, though: can you  
7       tell me prior to the acquisition of Ruether's Seafood  
8       by Bumble Bee, what share of Chicken of the Sea's U.S.  
9       sales of canned shrimp were produced by Ruether's?

10                  MR. CONNELLY: Mr. Chairman, we don't have  
11       that information. I don't have that with me today.  
12       But, we will most certainly get you that information  
13       for the post-hearing brief.

14                  CHAIRMAN KOPLAN: Great; thank you. Mr.  
15       Herzig, if your restaurants typically purchase a  
16       particular size of shrimp, for example 26-30 count per  
17       pound, peeled and deveined, individually quick frozen,  
18       at what price difference would you be willing to  
19       switch to a slightly smaller size, let's say a 31-40  
20       count?

21                  MR. HERZIG: Quite candidly, Chairman  
22       Koplan, there is no size at which I know of or no  
23       price of which I know of that we would be willing to  
24       switch that size. The only way we would consider such  
25       a thing -- again, we are a very consumer research

1 oriented organization -- is to go out, maybe look at  
2 the price difference, if it were big enough, say maybe  
3 a dollar a pound, and research it. But, that's  
4 typically not something that we do. Most of the  
5 plates that we have that are configured a certain way  
6 virtually stay that way into perpetuity.

7 CHAIRMAN KOPLAN: Now, let me turn that  
8 around. I want to see if your answer is the same. If  
9 you normally purchase a 31-40 count peeled and  
10 deveined IQS shrimp for a recipe, at what price would  
11 you be willing to switch to a 26-30 count product?  
12 Same answer? Same answer.

13 MR. HERZIG: Yes, sir.

14 CHAIRMAN KOPLAN: Okay.

15 MR. CONNELLY: Mr. Chairman, could I just  
16 add something? There is a questionnaire response in  
17 the record, and I'll tread delicately here, but  
18 essentially this particular Respondent answers your  
19 question by saying that they haven't changed their  
20 specification for the product they buy for 12 years.  
21 They're in the restaurant business.

22 CHAIRMAN KOPLAN: Do you want to point that  
23 out in your post-hearing?

24 MR. CONNELLY: We will do so.

25 CHAIRMAN KOPLAN: Okay, so that you don't

1 get involved in the BPI of it. Thank you. Let me  
2 stay with you, if I could, then, Mr. Connelly. The  
3 ASDA pre-hearing brief cites a report by the National  
4 Marine Fishery Service and states at page four, "the  
5 NMFS report extensively documents that the overriding  
6 cause of the problems that the domestic industry now  
7 faces is that there are too many shrimp boats chasing  
8 essentially a fixed volume of shrimp." The executive  
9 summary of that report states on page two that "the  
10 surge in imports is most likely the primary cause of  
11 the decline in the domestic price of shrimp, in the  
12 face of increased consumption."

13 You do not comment on that finding in your  
14 pre-hearing brief. Could you comment now on its  
15 bearing on my present injury analysis?

16 MR. CONNELLY: Yes. We didn't comment  
17 directly on the NMFS finding, but I think the thrust  
18 of our brief and the thrust of our testimony today is  
19 certainly a direct comment on it. So, let me respond  
20 directly to that portion of the report you referred  
21 to. First of all, the report --

22 CHAIRMAN KOPLAN: It's in the executive  
23 summary.

24 MR. CONNELLY: Yes, sir.

25 CHAIRMAN KOPLAN: I was quoting from the

1 executive summary.

2 MR. CONNELLY: Yes, sir. First of all, the  
3 report talks about imports. It doesn't talk about  
4 imports from the six countries here. It talks about  
5 all imports. That's number one.

6 Number two, it really doesn't go into why it  
7 is people are buying imports. It just simply says  
8 that there are two trends that they've observed:  
9 imports have increased and prices have declined.  
10 That's the observation there. But, we don't think the  
11 two add up to causation, because the reason that the  
12 imports have gone up is embodied in all the reasons  
13 that we've given you with respect to what we call  
14 quality for short, but it's all those non-price  
15 attributes.

16 CHAIRMAN KOPLAN: What I don't understand is  
17 if this is all about quality, the domestic product is  
18 inferior, then why do I have underselling? Why isn't  
19 overselling? I'm confused by that. Why am I seeing  
20 such a substantial amount of underselling, over 62  
21 percent? I would think I'd find it the other way.

22 MR. CONNELLY: Well, let's -- there are  
23 several responses to that observation. First of all,  
24 the staff, itself, recognizes that the comparisons  
25 have problems. There are various reasons. One of

1       them, for example, is that the price data involves all  
2       species of shrimp, even though species of shrimp have  
3       different prices. White shrimp from the Gulf sells  
4       for a different price than brown shrimp from the Gulf.  
5       Black tigers sell for a different price than white  
6       shrimp. So, you start off with a data problem.

7               However, let's just take -- let's put that  
8       to one side and let's just assume that the number of  
9       instances is accurate. It's mixed, albeit weighted,  
10      when you just count up the number of instances. What  
11      we've done, however, and we'll put this in our post-  
12      hearing brief --

13              CHAIRMAN KOPLAN: I got into this with you  
14      this morning, actually, when I asked you about  
15      Appendix H.

16              MR. CONNELLY: Right, Appendix H. And so  
17      when you look at the volumes of domestic products that  
18      have been undersold, it is lower than the volume of  
19      domestic products that has been oversold. And so,  
20      that's one response.

21              Another response is you have a vast majority  
22      of sales that are made for which there is no domestic  
23      competition. So you're having prices put into a chart  
24      and the underselling analysis assumes that those  
25      products are in competition, but they aren't. They're



1 being purchased for a different reason by buyers who  
2 have no access to domestic shrimp or don't want it  
3 because it doesn't meet their quality standards.

4 So, frankly, if there was a high degree of  
5 competition so that you could rely on this count of  
6 underselling, then why is there not a single  
7 allegation of a lost sale or lost revenue? To me,  
8 that's the most remarkable thing about the pricing  
9 data.

10 Now, this morning, a couple of instances  
11 were raised in the testimony. That's not in the  
12 questionnaire responses. We never heard that before.

13 Now, Dewey Ballentine sure as heck knows  
14 about the importance of lost sale and lost revenue  
15 allegations and the commission's view of that and the  
16 commission's view about the significance of  
17 underselling analysis without lost sale and lost  
18 revenue allegations.

19 So that's kind of a long response,  
20 Mr. Chairman, and, frankly, we just don't think that  
21 that count of underselling instances is really very  
22 significant.

23 MS. STERN: May I just add something to  
24 that, Mr. Chairman?

25 CHAIRMAN KOPLAN: Yes, Ms. Stern.

1 MS. STERN: One of the things that the  
2 pricing data doesn't capture is the cost to customer  
3 who buys a product that they then have to either  
4 remediate, re-sort, throw out, and so there is such a  
5 differentiated product here between the consistent  
6 product from the farmed sources versus what has been,  
7 as we've heard today, inconsistency. I don't think  
8 that's captured, if you will, in the pricing data. It  
9 can't be, but it needs to be taken into account by the  
10 commission when it assesses and looks at what the  
11 staff has said about the shortcomings in the pricing  
12 data as exists and also in the context as Mr. Connelly  
13 pointed out.

14 CHAIRMAN KOPLAN: Are you able to quantify  
15 that?

16 MS. STERN: You cannot quantify it, but it's  
17 a cost in terms of time, management, by the customer  
18 after he or she has made that purchase. It slows  
19 things down, it adds to the complications and it's not  
20 something which the staff has gone out and tried to  
21 quantify.

22 CHAIRMAN KOPLAN: I understand the arguments  
23 you're making. I'm wondering how you provide numbers  
24 on something like that. I hear the assertion, but I'm  
25 trying to get the backup for it.

1 MS. STERN: Well, Chad, you had your hand up  
2 and I would appreciate a chance at some other time  
3 also to talk about this.

4 CHAIRMAN KOPLAN: My red light is on, so  
5 I can come back.

6 MS. STERN: Okay. Fine.

7 CHAIRMAN KOPLAN: Unless you've got a very  
8 quick response.

9 MR. BOWN: Chad Bown for the record.

10 This is, I think, one of the benefits of  
11 using the Armington elasticity approach, to be able to  
12 address this sort of question, the substitutability of  
13 the products, as opposed to just counting up the  
14 instances where there's overselling or underselling.  
15 If this low price were really driving the decisions  
16 that purchasers would make, then we would see these  
17 big elasticity of substitution estimates in the table  
18 that I have, but unfortunately that's not what the  
19 data is telling us. So that's an alternative way,  
20 I think, of addressing the same sort of question that  
21 you're interested in looking at by looking at the  
22 overselling and underselling.

23 CHAIRMAN KOPLAN: I will just make one quick  
24 comment. But you indicate that I wouldn't be seeing a  
25 drop in production, that's in your study, but I see a

1 drop in production of 21 million pounds over the  
2 period '01 to '03 and almost another 4 million pounds  
3 of a drop in domestic production in the interim  
4 period, so I'm struggling with that a bit, but my time  
5 is up and we can come back to that later.

6 Vice Chairman Okun?

7 VICE CHAIRMAN OKUN: Thank you.

8 Let's see. This will be a post-hearing  
9 request, but it's in reference to the discussion you  
10 were having earlier and, in particular,  
11 Mr. Chamberlain, with, I think, Commissioner Miller  
12 about what prices have done over the years and what we  
13 might have seen in relation to farming and I will ask  
14 our staff, which has pulled this NMFS data for 20  
15 years on average annual ex-vessel dockside price of  
16 shrimp in the Gulf Coast states to put it in the staff  
17 report and then if you can take a look at that for  
18 counsel post-hearing and also, Mr. Dempsey, for you as  
19 well and comment on whether it supports what we've  
20 heard today and I don't want to characterize it since  
21 you don't have it in front of you, so I will just  
22 leave it for post-hearing to do that, but we do have  
23 that 20-year history now.

24 I guess this goes to Mr. Dempsey, which is  
25 Mr. Mentzer had talked about the quality problems that

1 they've had with domestic producers, including two of  
2 the petitioners, if I understood what you said this  
3 morning, and I don't know if it was part of  
4 Commissioner Hillman's request at the end of her round  
5 to the domestics to specifically address those  
6 questions, so if it was included in that, do it as  
7 part of that, Mr. Dempsey, if not, if you can just  
8 make sure that you respond to what he said after  
9 talking to your clients.

10 MR. DEMPSEY: We'll be happy to do so.

11 VICE CHAIRMAN OKUN: Okay. Then, Dr. Stern,  
12 let me go to you on the roses case, which you've cited  
13 and I had an opportunity to talk to petitioners about  
14 this morning and while I haven't read the whole cases,  
15 I have looked through it and the comment that  
16 Mr. Dempsey had made this morning is one of the  
17 distinctions that he would point us to is the  
18 difference in what was happening with regard to  
19 pricing. And, again, I think I would have to read  
20 more carefully but it doesn't seem like you saw big  
21 price climbs with roses. I mean, maybe it's  
22 different, but I wanted to have a chance to have you  
23 tell me why it's on point with respect to what we see  
24 in prices in this case.

25 MS. STERN: Well, in the roses case, you did

1 have a revolution in the fact that you had made  
2 available year round roses, and not just a spike at  
3 Valentine's Day, and so you were able to also have a  
4 huge increase in demand. They made a market that  
5 simply did not exist. Only at Valentine's Day could  
6 some rich guys in those days be able to afford a dozen  
7 roses, in effect, and that's where the money got made.  
8 Whereas once you had year round availability from  
9 Colombia and Ecuador because it was sitting on the  
10 equator and because it was such a geographically  
11 advantaged area and you had airlift, which was the  
12 other technological breakthrough, you could mass  
13 merchandise and people could go to the grocery store,  
14 of all things, and buy roses, which were never  
15 available before.

16 There was a price decline and it made an  
17 enormous demand, it made a market which simply did not  
18 exist before. And that is, I think, extremely similar  
19 to the situation here.

20 VICE CHAIRMAN OKUN: Okay. Well, I will  
21 take a look at the facts of that as we go through  
22 there.

23 Mr. Connelly and other counsel as well, talk  
24 about non-subjects for a moment. I know in your brief  
25 and talking about, I guess I'll put them as an

1 alternative causes of injury type section, you talked  
2 about non-subjects and if you look at the record  
3 during the period of investigation and what  
4 happened -- and I guess I'm assuming from what I've  
5 also read that these purchasers think that  
6 non-subjects and subjects are pretty good substitutes  
7 for each other, so let me make sure if that's correct,  
8 that we're talking about -- I mean, I've heard what  
9 you said, you're distinguishing the wild versus the  
10 farmed, but if we're talking about all these farmed  
11 imports out there, would the purchasers here think  
12 that non-subjects and subjects are fairly good  
13 substitutes for each other?

14 Mr. Mentzer, I see you're shaking your head.

15 MR. MENTZER: Yes, we agree with that.

16 VICE CHAIRMAN OKUN: Okay.

17 Mr. Redmond? Please use your microphone.

18 MR. REDMOND: I believe we would agree with  
19 it, but, not only that, we are also beginning to see  
20 that move, too.

21 VICE CHAIRMAN OKUN: Okay.

22 Mr. Herzig?

23 MR. HERZIG: Vice Chairman Okun, the  
24 non-subject countries, the product and the pricing, is  
25 very comparable from our experience.

1                   VICE CHAIRMAN OKUN: And, Mr. Chamberlain,  
2 did you have any comments? Can you comment on that  
3 based on your experience?

4                   MR. CHAMBERLAIN: I'm not really qualified  
5 to comment in that area. Thank you.

6                   VICE CHAIRMAN OKUN: I wanted to make sure  
7 that I didn't leave you out if you were qualified to  
8 comment on that.

9                   MR. CHAMBERLAIN: Thank you very much.

10                  VICE CHAIRMAN OKUN: Okay. So if that's the  
11 case and they're priced similarly, why during this  
12 period of investigation did we see the large increase  
13 in subject imports versus non-subject imports?  
14 I mean, why were they able to take market share? Why  
15 were subjects able to take market share from  
16 non-subjects in addition to the domestic industry?

17                  MR. CONNELLY: Well, I'm not sure we know  
18 the answer to that, but I do know --

19                  VICE CHAIRMAN OKUN: You don't think it's  
20 price?

21                  MR. CONNELLY: I don't think it's price  
22 because I don't think there's any evidence that the  
23 prices were any different. It could be more  
24 aggressive marketing. That's certainly possible. But  
25 what we do know is that the non-subject imports have



1 started to replace subject imports at the same price  
2 levels this year.

3 VICE CHAIRMAN OKUN: And I did have a chance  
4 to talk to petitioners about that and I'm not sure we  
5 got through all that discussion, but one of the things  
6 I took out of that conversation and out of the  
7 petitioners brief is while you did see non-subjects  
8 taking some of the market share from domestics, you  
9 also saw a stabilization in price that then translated  
10 into the processors doing better and then that would  
11 be indicative of what you'd see if you had margins in  
12 place and so you'd have subject imports, so what's  
13 your response to that?

14 MR. CONNELLY: Well, I think we take issue  
15 with their characterization of what has happened in  
16 the market this year. Certainly, there was a little  
17 bump up in the price, which is pretty much automatic  
18 when a case is filed, but basically conditions in the  
19 U.S. market have not changed at all this year.

20 We've seen simply a shift in sourcing and  
21 I think as you look down the road that's also  
22 possible. In fact, I think I heard one of their  
23 witnesses acknowledge that that was certainly a likely  
24 outcome here.

25 VICE CHAIRMAN OKUN: Okay. I was interested

1 in the question that Commissioner Hillman had posed to  
2 you about the legal relevance of whether or not the  
3 antidumping duties would help the industry and I think  
4 you maybe had an opportunity also to respond to that  
5 in response to Commissioner Pearson, I didn't hear all  
6 that, but I will look for it post-hearing as well.

7 Another legal argument that I wanted to have  
8 you address has to do with comparative advantage and  
9 this issue of if aquaculture is comparative advantage,  
10 what that really means for our analysis here because  
11 I guess I think of it more as being a commerce issue.  
12 I mean, Commerce came back with margins, so I have to  
13 take the margins into account,

14 Commissioner Pearson asked you some  
15 questions about that, but it also means there's  
16 dumping. So what does comparative advantage mean for  
17 the ITC in evaluating injury to the domestic industry  
18 here?

19 MR. CONNELLY: Well, I guess we think of it  
20 as causation, what is the cause, what is driving the  
21 increase in volume, what is driving the decrease in  
22 price. And what we are saying is what's driving both  
23 of these things is basically two things: certainly  
24 rapid cost declines for all the reasons that George  
25 explained and at the same time an education of the

1 U.S. purchasing industry, whether it's the restaurants  
2 or the supermarkets or the distributors, that  
3 farm-raised shrimp is a product that is indeed a  
4 higher quality product that can be marketed and sold  
5 in a way different from wild caught shrimp and people  
6 taking advantage of it.

7 Why can they take advantage of it? Why can  
8 they increase consumption so much? Because it's  
9 available and it's available, frankly, at a much lower  
10 price than ever before.

11 Now, think about it. Let's just look at  
12 Vietnam, just because that's the one that's out and  
13 it's a final margin. The margin is 4 percent. The  
14 price, as we heard this morning, has dropped by 40 or  
15 50 percent in the last three years or so. Is dumping  
16 the reason for that? If a 4 percent increase in price  
17 were implemented tomorrow, is farm-raised shrimp going  
18 to be less available in the United States from  
19 Vietnam? No, because purchasers want this product and  
20 they can get it.

21 VICE CHAIRMAN OKUN: My red light has come  
22 on. I would invite counsel to address it  
23 post-hearing, taking into account the volume, we have  
24 to assume that it's unfairly traded product for this  
25 large volume, and how you relate that vis-a-vis what

1 you said. So do that for post-hearing. I would  
2 invite petitioners to do that as well.

3 Particularily, Mr. Ward, I was struck, this  
4 will be brief, Mr. Chairman, you had made the comment  
5 that it wasn't very well documented that aquaculture  
6 was that efficient or maybe that it had this  
7 comparative advantage. I heard that comment and it  
8 made me think so if these guys document that it's  
9 efficient somehow that changes our analysis.

10 So I think, Mr. Dempsey, you then went on to  
11 make a different argument, but I would appreciate you  
12 briefing this post-hearing with regard to comparative  
13 advantage.

14 MR. DEMPSEY: Kevin Dempsey. We'd be happy  
15 to do that.

16 VICE CHAIRMAN OKUN: Okay. Thank you very  
17 much.

18 Thank you, Mr. Chairman.

19 CHAIRMAN KOPLAN: Thank you.

20 Commissioner Miller?

21 COMMISSIONER MILLER: Thank you,  
22 Mr. Chairman.

23 This is an interesting discussion and both  
24 of the last questions posed by the vice chairman and  
25 the chairman were along some price questions that

1 I wanted to ask and I'm going to there a little bit  
2 more.

3 Let me ask one question of you, Mr. Redmond.  
4 If you said this, I apologize, I can't quite remember.  
5 Do these state shrimp promotions that you have in the  
6 stores, how does the retail price of this product in  
7 your stores compare to the price of your other bagged  
8 imported shrimp?

9 MR. REDMOND: Peter Redmond. I think  
10 I stated earlier there's usually around a 40 to 50  
11 cent per pound premium to a domestic product over a  
12 similar size product that's imported.

13 COMMISSIONER MILLER: Okay. So this sells  
14 at a bit of a premium.

15 MR. REDMOND: Yes, it does. And we see  
16 varying success. In Louisiana, it's by far and away  
17 our best performing area, but if you go to Texas, for  
18 example, we've just deleted our Texas one until we do  
19 something that tries to get a little bit more  
20 ingrained into the Texans. They're not accepting it  
21 right now.

22 COMMISSIONER MILLER: Okay. Okay. I have  
23 to admit there are moments I'm feeling like either  
24 this panel is a little schizophrenic or I am because  
25 on the one hand you're telling us at some moments that

1 U.S. shrimp prices are down because no one wants them,  
2 I mean, Dr. Bown's studies suggest that, and the next  
3 minute you're talking to us about, well, the solution  
4 for the U.S. shrimper is a niche product and it's a  
5 premium, we're going to sell it as a premium product.  
6 Mr. Herzig talks about the premium. Now you're  
7 talking about this selling at a premium.

8 I keep jumping back and forth between these.  
9 Now, which is it?

10 MR. REDMOND: Peter Redmond. It's not that  
11 we're going to sell it as a premium, we have to sell  
12 it as a premium. I think it creates an unfair  
13 competition if we arbitrarily decide we're just going  
14 to take a lower gross profit on this item and match  
15 the retail that's out there of the domestic and an  
16 imported item. There is a cost associated with this  
17 item and that has to be in our business, as an  
18 everyday low cost provider, that has to be reflected  
19 in the cost of goods and therefore the retail that's  
20 attached to it.

21 COMMISSIONER MILLER: Okay. Then what  
22 you're saying is you have to sell it at a premium  
23 because you're buying it at a premium.

24 MR. REDMOND: Correct.

25 COMMISSIONER MILLER: Okay. But I still

1 have my same problem. I don't think that really takes  
2 away my problem here.

3 MR. CONNELLY: Commissioner Miller, let me  
4 give it a shot.

5 There are all kinds of ways to compete. One  
6 way is to compete on the lowest common denominator  
7 basis, compete on a commodity basis, purely on the  
8 basis of price.

9 Now, if you look at Dr. Bown's report, what  
10 he found when he did this analysis of the purchaser  
11 questionnaire responses is he found that the people  
12 who are most interested in the price of the product  
13 buy the domestic product. They buy the domestic  
14 product. Why? Because they are not as interested in  
15 the features of the product, they are not as quality  
16 driven as the foreign farm-raised purchasers are.

17 Now, I don't think we're being  
18 schizophrenic. I think what we're trying to convey to  
19 the commission is that's a mistake. That's a big  
20 mistake because you can't compete on a commodity basis  
21 if you have a product that costs more to produce. You  
22 can't compete on a price basis in that instance. You  
23 have to find a different way to compete.

24 Now, there are companies who have figured  
25 out that's their problem and there is one domestic

1 processor, one only, who is doing business with  
2 Wal-Mart and getting more for its product because it's  
3 not competing on a commodity basis and there are  
4 others who are doing business with Red Lobster on the  
5 same basis. And what we're saying is that's available  
6 to a lot more people. That is what the NMFS report  
7 says is a very viable business option. That's what  
8 the commission said in 1985.

9 MS. STERN: Can I just --

10 COMMISSIONER MILLER: Well, let me finish  
11 and then I would like to hear what you have to say.

12 The NMFS report, a moment ago in response to  
13 the chairman, you talked about -- well, the NMFS  
14 report you're saying says we've got to do these things  
15 to be competitive. The NMFS report also consistently,  
16 it seems to me, as I've read it, attributes the  
17 decline in domestic prices to imports. It doesn't  
18 just say imports are up and prices are down, it says  
19 prices are down because of imports.

20 MR. KLETT: Commissioner Miller, this is Dan  
21 Klett. The same paragraph that Chairman Koplan read  
22 in the NMFS report attributing price declines to  
23 imports, if you read the prior paragraph to what  
24 Chairman Koplan read, it says, "Equally important to  
25 recognize that the increased trade flow reflects not



1 just increased production in total but also the source  
2 of the increased output, i.e., farm production versus  
3 wild production. First, farm-raised product has  
4 greater consistent quality; second, farm product is  
5 less seasonal in nature and more reliable; third,  
6 species and sizes can be controlled better in the  
7 farm-based system than wild-based; and, fourth, the  
8 current trend toward vertical integration in the  
9 farming system lends itself to better adaptation to  
10 consumer needs. These factors have led to a surge in  
11 shrimp imports into the U.S. over the last five  
12 years."

13 So I think the point we're making is that  
14 the NMFS report does say imports are a problem, but  
15 it's not because of the price of imports, it's the  
16 non-quality attributes of farm-raised shrimp that have  
17 led to the increase in imports and that's the source  
18 of the problem. And I don't think -- if the increase  
19 in imports can't be related to price competition, then  
20 I don't think that warrants an affirmative  
21 determination.

22 COMMISSIONER MILLER: Okay. Dr. Stern?

23 MS. STERN: Dan was good enough to address  
24 the same point that I would like to drive home, if  
25 I can. When we talk about subject imports, usually,

1 we think of subject imports of products where there  
2 has been dumping found and we assume that the dumping  
3 is what is, if you will, explaining if there is a  
4 nexus between the imports and the injury, that it's  
5 the dumping that's helping do the explanation.

6 What we're trying to drive home here is that  
7 the subject imports are different in that they are  
8 farmed and that what is driving the differences is  
9 that cost of production that comes from farming which  
10 is the most competitive way to get shrimp on the table  
11 in the United States. And that is more competitive  
12 than trawled shrimp.

13 That being said, that is the reason why  
14 looking at the dumping margins and the dumping duty  
15 help not just as a legal matter, Commissioner Hillman,  
16 when you said I think this is a legal matter, whether  
17 we should be looking at the dumping duties and whether  
18 it really makes a difference, it's an analytic tool to  
19 help you check your analysis that the reason why the  
20 subject imports that are farmed are so successful is  
21 because they're farmed, not because it has anything to  
22 do with a dumping duty. And it's just a check on that  
23 analysis.

24 When I first thought to come and testify,  
25 I wanted to say every time you hear the word subject

1 imports, think farmed imports because that is such a  
2 critical difference between, if you will, the subject  
3 imports and the domestic product and that helps you on  
4 the entire analysis. And what Chad has done is not  
5 that is it an effective remedy, you're right, that's  
6 not the question. But it's an analytic check on  
7 whether there's any causal nexus between the subject  
8 imports that are farmed and what's happening to the  
9 domestic industry.

10 MR. VAKERICS: If I could add just one  
11 comment. I can understand the concerns expressed by  
12 the commission, if we had the typical case before the  
13 commission, which is you have wild caught shrimp  
14 competing against wild caught shrimp. You don't. You  
15 have U.S. wild caught shrimp competing against farmed  
16 shrimp. You have really two different industries and  
17 that in terms of a legal assessment also comes into  
18 play under the other economic factors involved in a  
19 causation analysis.

20 The U.S. shrimp is not competing against  
21 wild imported shrimp and that's just a huge difference  
22 in this case.

23 Thank you.

24 COMMISSIONER MILLER: I appreciate all your  
25 answers.

1 MS. STERN: And if I may have a chance at  
2 some point just to talk about the other concern about  
3 the schizophrenia, if you will, because I think I can  
4 help analyze that as well.

5 COMMISSIONER MILLER: Okay. Thank you.  
6 On my next turn, I'll give you that opportunity.

7 Thank you.

8 CHAIRMAN KOPLAN: Thank you, Vice Chairman.  
9 Commissioner Hillman?

10 COMMISSIONER HILLMAN: Thank you,  
11 Mr. Chairman. I'll just follow-up.

12 Mr. Chamberlain, in response to my earlier  
13 questions about what was happening in the '80s and the  
14 '90s and then 2000, you mentioned what was going on in  
15 prices. I just want to be clear. Were you talking  
16 about U.S. market prices or were you talking about  
17 global prices?

18 MR. CHAMBERLAIN: U.S. market prices,  
19 Commissioner Hillman.

20 COMMISSIONER HILLMAN: I just wanted to be  
21 clear.

22 MR. CHAMBERLAIN: Yes.

23 COMMISSIONER HILLMAN: Mr. Redman. In  
24 response to Commissioner Miller's question about this  
25 issue of the premium, I just want to be clear, if

1 I walked into a Wal-Mart store in Louisiana or  
2 whatever, would I see this raw peeled product, I can't  
3 tell from here exactly what the count would be, but a  
4 raw, peeled product selling with the bag sort of next  
5 to it of imported raw peeled same count shrimp? In  
6 other words, so consumer could do a direct comparison?

7 MR. REDMOND: Peter Redmond. Yes. We sit  
8 on the shelf right in line with everything else.  
9 I don't know if anyone makes a direct comparison with  
10 it, but if you wanted to, it's right there.

11 COMMISSIONER HILLMAN: Okay. I just wanted  
12 to make sure that it's not that the imported is a  
13 cooked, de-veined, peeled, something different from  
14 what you're selling domestically.

15 MR. REDMOND: Our assortment will vary by  
16 market. For the most part, we have a somewhat  
17 competiary item.

18 COMMISSIONER HILLMAN: Okay. Okay. I just  
19 wanted to clarify that. Thank you very much.

20 Mr. Connelly, on this issue you were talking  
21 about a couple of rounds of questions ago about the  
22 breaded issue, I just wanted to make sure I'm putting  
23 this in the right perspective. You were commenting on  
24 the large increase in the imports of a breaded product  
25 and whether that's a circumvention issue or whatever.

1 Help me understand. Of the total amount of shrimp  
2 consumed, how much is consumed in breaded form?

3 MR. CONNELLY: Can I defer that to Russ  
4 Mentzer?

5 COMMISSIONER HILLMAN: Absolutely.  
6 Absolutely.

7 Mr. Mentzer?

8 MR. MENTZER: I don't know if I can give you  
9 the exact number today in pounds. We can submit it to  
10 you in a post-conference brief.

11 COMMISSIONER HILLMAN: Just kind of a  
12 ballpark sense of it.

13 MR. MENTZER: I think we estimate that  
14 there's \$500 million worth of breaded shrimp sold in  
15 the United States. I can't, because of the various  
16 sizes and the various breading percentages, relate  
17 that to actual pounds here today.

18 COMMISSIONER HILLMAN: Okay. I appreciate  
19 that. I was just trying to get a sense of where the  
20 breaded product fits in the big scheme of everything  
21 else.

22 Mr. Bown, if I can go back to you, on this  
23 issue of your model and how appropriate it is in this  
24 case, if the commission were to reach the decision to  
25 use the staff's suggested Armington elasticities of

1 substitution, which is this 2 to 5 range, so median in  
2 the 3.25 area, would you still say that that suggests  
3 a differentiated product, if the elasticity is 2 to 5,  
4 a median of 3.25? Does that suggest to you a  
5 differentiated product?

6 MR. BOWN: Chad Bown, for the record. Five,  
7 I think, you would find you're getting a lot closer to  
8 perfect substitutes. Two, it's a judgment call,  
9 I would guess. In my mind, what I call a  
10 differentiated product, given the standards of other  
11 estimates out there in the literature, perhaps. But I  
12 think at least what's important from what I tried to  
13 provide as value added to this was to not just guess  
14 at what these numbers are, but to actually go out and  
15 compute them from the underlying data that is  
16 available and it's there.

17 COMMISSIONER HILLMAN: I understand that's  
18 what you've done, I'm just trying to make sure  
19 I understand. Okay. If we were to decide that we're  
20 more comfortable with the staff estimate and end up at  
21 a median number closer to 3.25, again, I'm just  
22 looking at the title here, I haven't actually going  
23 into this Kelly model in enough detail, but this Kelly  
24 differentiated products model, if in fact the  
25 elasticity is more in this 3, 4 range, is it

1 appropriate to use this model?

2 MR. BOWN: Yes.

3 COMMISSIONER HILLMAN: In other words, if  
4 it's not a differentiated product, is the model still  
5 appropriate?

6 MR. BOWN: Yes. You just -- the way to  
7 change it, in that table there's a list of all the  
8 different elasticity numbers that you would need and  
9 the one that I have in there now, I believe, is 1.5,  
10 which is the number I used. You would just substitute  
11 whatever number you choose to use, 3.5 or 5 or  
12 whatever you want to use, for that number and you  
13 would still be able to use the model.

14 COMMISSIONER HILLMAN: Okay. Fine. So the  
15 fact that it's a differentiated products model doesn't  
16 necessarily mean you use it only for differentiated  
17 products.

18 MR. BOWN: No.

19 COMMISSIONER HILLMAN: All right. Okay.  
20 Fair enough.

21 Going back again, always, to this pricing  
22 issue, I'm just trying to understand. I had walked  
23 through this without getting any real numbers with the  
24 petitioners, but from your perspective, this issue,  
25 I'm trying to understand whether the degree of



1 processing affects either the price or, again, the  
2 competition. In other words, if you're pricing a  
3 product, do you only price it in the form that you  
4 actually want it, peeled, de-veined, tail on or tail  
5 off, or would you ever purchase a product -- if what  
6 you want to sell in the end is a peeled, de-veined  
7 product, would you buy, Mr. Herzig, a product that  
8 isn't that and do that processing yourself?

9 MR. HERZIG: Ms. Hillman, the answer to that  
10 is an unequivocal no. We buy products just for  
11 specific applications, for specific plates, to meet  
12 specific end user requirements.

13 COMMISSIONER HILLMAN: So from your  
14 perspective, it wouldn't make any difference what the  
15 differential is between the shell on versus the peeled  
16 product, if what you want is peeled product, you don't  
17 care what the shell price is because you're not going  
18 to buy it no matter what.

19 MR. HERZIG: No. No, ma'am.

20 COMMISSIONER HILLMAN: Okay.

21 Mr. Redmond?

22 MR. REDMOND: Peter Redmond. From our point  
23 of view, it's a little different in that we actually  
24 sell the spectrum. So whereas we may have five  
25 different sizes of cooked shrimp, we may have some of

1       them as shell on and some shell off, so within that  
2       range of products we would probably assimilate most of  
3       those products.

4                COMMISSIONER HILLMAN: In your view, is  
5       there sort of a standard mark-up, if you will? If  
6       I start with a raw shrimp is it sort of you get a  
7       certain amount, peeling is worth X, de-veining is  
8       worth Y, cooking is worth something else?

9                MR. REDMOND: I would tell you one that  
10       I think is fairly standard is the cooked versus raw is  
11       usually around a dollar a pound difference, so if you  
12       were to buy a raw 26-30, it should be about a dollar.

13               COMMISSIONER HILLMAN: How about peeling and  
14       de-veining?

15               MR. REDMOND: I'm sorry?

16               COMMISSIONER HILLMAN: Is there a similar --

17               MR. REDMOND: Yes, there's a difference, but  
18       I couldn't tell you accurately what that number is,  
19       but there is a difference between peeled and  
20       de-veined, head on/head off. All of those will have a  
21       cost associated with it.

22               COMMISSIONER HILLMAN: And that's sort of a  
23       pretty standard kind of mark-up for each item that you  
24       add value, each one of these steps, if you will, adds  
25       more to the value?

1 MR. REDMOND: Yes.

2 COMMISSIONER HILLMAN: Okay.

3 Mr. Mentzer, do you have a sense of that?

4 MR. MENTZER: Russ Mentzer, for the record.  
5 I don't have a percentage mark-up for various levels  
6 of processing, but I could state that we would not  
7 purchase, for example, green headless shrimp and then  
8 attempt to further process it ourselves before running  
9 it through our production system, so we would only buy  
10 the specified product, we would never trade down,  
11 shall we say, the value scale.

12 COMMISSIONER HILLMAN: Okay. So you're not  
13 thinking, oh, I can peel for X and therefore if the  
14 differential is more than a certain amount I'll go  
15 ahead and buy the unpeeled product and peel it because  
16 you can peel cheaper than somebody else can.

17 MR. MENTZER: We would never do that.

18 COMMISSIONER HILLMAN: Okay. All right.  
19 That's interesting to know.

20 All right. I think at that point, those are  
21 all the questions that I have right now, Mr. Chairman.  
22 Thank you.

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

25 COMMISSIONER LANE: I'm not sure who is the

1 best person to answer this question, but in many of  
2 the subject countries, the home market for shrimp is  
3 very small compared to the U.S. market for the subject  
4 shrimp from that country and in the petition,  
5 petitioners submitted newspaper articles detailing how  
6 some subject country governments have assisted the  
7 development of their shrimp producing industry.

8           Doesn't this combination of government  
9 assistance, growing production and the small home  
10 market indicate that shipments of subject country  
11 shrimp to the United States will only continue to  
12 grow?

13           MR. CONNELLY: I guess that's probably best  
14 directed to me, Commissioner Lane.

15           COMMISSIONER LANE: Okay.

16           MR. CONNELLY: Let me start by saying I read  
17 that discussion, I found it vague in the extreme,  
18 unspecific in the extreme, certainly a nice mish-mosh  
19 of newspaper articles. So we wouldn't credit that at  
20 all.

21           Having said that, I think it is fair to say  
22 that most of the subject countries have small home  
23 markets. China, however, has a large and growing  
24 internal market.

25           COMMISSIONER LANE: Okay. Thank you.

1                   Mr. Connelly, I think maybe this might be  
2                   for you, too. Petitioners assert that the United  
3                   States is a more attractive market for shrimp  
4                   exporters than the European Union and Japan.  
5                   Petitioners argue that both the European Union and  
6                   Japan, unlike the United States, impose tariffs on  
7                   most shrimp imports and that the European Union has  
8                   taken a much more aggressive approach than the United  
9                   States to inspecting shrimp imports for certain banned  
10                  antibiotics, often destroying contaminated shipments.

11                  Given these factors, how do you respond to  
12                  the petitioners argument that the United States is a  
13                  much more attractive market for shrimp exporters than  
14                  the European Union or Japan?

15                  MR. CONNELLY: On the issue of tariffs,  
16                  first, this tariff issue only to my knowledge pertains  
17                  to Thailand, the reason being that in 1999, Thailand  
18                  lost its GSP status, it's duty preference, in the  
19                  European Union. This happened in 1999. So, in other  
20                  words, there has been no change during the period of  
21                  investigation with respect to the tariff structure in  
22                  Europe. However, yesterday, a European Union official  
23                  said that they were going to restore Thailand's GSP  
24                  status in the middle of next year. So if anything, it  
25                  means that the European Union will be much more open

1 for exports from Thailand than it has been in the  
2 past.

3 Now, with respect to inspections, I regard  
4 this challenge that they have raised as scurrilous.  
5 I think it is shameful that they have tried to claim  
6 that chloramphenicol is a major problem in the United  
7 States.

8 Why do I say that? Because the policy of  
9 the United States Government and the policy of every  
10 single shrimp purchaser in the United States and  
11 around the world is zero tolerance. There is no  
12 tolerance whatsoever, no one wants to buy, intends to  
13 buy or will buy products that have been treated with  
14 chloramphenicol.

15 The suggestion that this use is widespread  
16 is outdated and outmoded and I think that George  
17 Chamberlain explained this. So we totally reject  
18 this. The National Fisheries Institute, despite its  
19 name, is a private trade association of American  
20 seafood interests. It has taken a position that there  
21 is zero tolerance for chloramphenicol and every one of  
22 these companies has absolutely no interest in buying  
23 shrimp with chloramphenicol. It's a dangerous charge  
24 and it's an irresponsible charge, quite frankly.

25 Last, on the subject of whether the U.S. is

1 the most attractive market, the U.S. is the largest  
2 single market, the largest single country market, but  
3 it is not the largest market. Less than half of the  
4 shrimp produced in the world comes to the United  
5 States, there are very significant markets elsewhere  
6 around the world and those markets are growing. So we  
7 reject that charge, too.

8 MR. VAKERICS: Commissioner Lane, if I might  
9 comment. This is Tom Vakerics, Sandler Travis. In  
10 terms of the relative openness and attractiveness of  
11 the U.S. versus the E.U., I think it's also worth  
12 noting that the FDA has intensified its analysis of  
13 imported shrimp. I think at the time the shrimp were  
14 redirected, the FDA tested to five parts per billion  
15 for the substance in question. Their current standard  
16 is down to one part per billion, they're heading for  
17 .3, and you compare that to the E.U., which is now  
18 0.1. So, that, I think is an old issue that just  
19 doesn't exist anymore.

20 COMMISSIONER LANE: Thank you.

21 MR. CONNELLY: May I interrupt just one  
22 second here?

23 COMMISSIONER LANE: Yes.

24 MR. CONNELLY: Mr. Herzig has to get a plane  
25 here in about ten minutes or so, so I'd ask the

1 permission of the chair if he may be excused at that  
2 time. I'm sorry, but he's got to go.

3 CHAIRMAN KOPLAN: If there's no objection  
4 from the dias, I have no problem with that.

5 Do you want to leave now?

6 MR. CONNELLY: No, I don't want him to leave  
7 now, I want him to stay. I'll let him leave in ten  
8 minutes, if it's okay with you.

9 CHAIRMAN KOPLAN: Well, I note that I don't  
10 have to inquire of petitioners, because they don't  
11 have any time left for rebuttal, so it really  
12 depends -- unless staff had a question of Mr. Herzig  
13 before he left, but I see the staff is indicating they  
14 don't have any questions of Mr. Herzig, unless he does  
15 something right now to raise a question.

16 Commissioner Pearson. I think he has an  
17 extensive line of questioning.

18 COMMISSIONER LANE: Does that mean that  
19 I have to give up my time now?

20 CHAIRMAN KOPLAN: No. No.

21 COMMISSIONER LANE: So what are we doing  
22 here?

23 CHAIRMAN KOPLAN: None of this counts  
24 against your time.

25 COMMISSIONER LANE: Okay. But we're going



1 to let him go now?

2 CHAIRMAN KOPLAN: After you.

3 COMMISSIONER LANE: No, he can go now.

4 No. Go ahead, go now.

5 COMMISSIONER PEARSON: Am I recognized,  
6 Mr. Chairman?

7 CHAIRMAN KOPLAN: You're recognized.

8 COMMISSIONER PEARSON: Okay. Good.

9 CHAIRMAN KOPLAN: He has the time -- how  
10 much time?

11 MR. CONNELLY: He's got at least ten  
12 minutes.

13 CHAIRMAN KOPLAN: Okay. How much time is  
14 left on Commissioner Lane?

15 MR. BISHOP: She's got four minutes  
16 remaining.

17 CHAIRMAN KOPLAN: We've got the time for you  
18 to finish and for him to inquire.

19 COMMISSIONER LANE: Okay. Mr. Connelly,  
20 you're going to have to answer this question now for  
21 getting me completely --

22 MR. CONNELLY: I apologize.

23 COMMISSIONER LANE: On page 18 of the ASDA's  
24 pre-hearing brief, it is argued that the techniques  
25 used by the domestic shrimping industry to harvest and

1 process most domestic wild caught shrimp are inferior  
2 and lead to a lower quality product.

3           Could you please specifically explain what  
4 inferior harvesting and processing methods lead to the  
5 poor quality shrimp and what alternative harvesting  
6 and processing methods would help improve the quality  
7 of wild caught domestic warm water shrimp?

8           MR. CONNELLY: Sure. And I'm actually going  
9 to ask Mr. Herzig to help out on this question,  
10 because we've talked about it, but I want to say at  
11 the start that's not our opinion. That is the opinion  
12 of independent experts and I particularly refer you  
13 to -- I think it's Exhibit 1 in our brief, which is  
14 what we call the TAA study. If it's not Exhibit 1,  
15 it's the TAA study.

16           That study, as well as others, have reached  
17 this conclusion, that overall, the imported shrimp is  
18 superior in quality.

19           Let me ask Bill to maybe --

20           COMMISSIONER LANE: Okay. Let me just put  
21 you on the spot here. That is not your opinion, but  
22 do you agree or disagree with that study?

23           MR. CONNELLY: We must certainly agree.

24           COMMISSIONER LANE: Okay.

25           MR. HERZIG: Commissioner Lane, the nature

1 of processing for most of the production out of the  
2 wild fishery in the U.S. is freezer boat production  
3 and in freezer boats it depends on how long the  
4 captain leaves his nets in the water. A really good  
5 captain will keep his nets in the water only maybe a  
6 couple of hours and will get the product up on the  
7 deck of the boat, sort through it carefully, get it  
8 into the brine freezer.

9           There are times when maybe there are  
10 shortages of labor and they may leave the nets in the  
11 water for six hours. Well, the shrimp that was caught  
12 in the first hour of that trawl is not going to be in  
13 very good shape by the time you get six more hours or  
14 seven more hours of harvesting activity, shrimp  
15 banging against it in the nets.

16           The second issue is in the case of freezer  
17 boats, virtually all of the production is twice frozen  
18 and by that I mean it is frozen on board the boat,  
19 kept on board, they stay out for 30 to 45 days, then  
20 they'll come to the shore and then the product is sold  
21 to a processor.

22           The processor will thaw the shrimp out  
23 again, process it, sort it out for broken pieces,  
24 black spot, that sort of thing. And, frankly, the  
25 more time the shrimp spends in the water, on the deck,

1 the more the risk of black spot, broken pieces, other  
2 defects to occur with the shrimp.

3 In the case of aquaculture, what you  
4 basically have is many farms sited very close to the  
5 processing plants. The processing plants are big,  
6 large volume facilities with significant handling and  
7 processing technologies that are, frankly, better than  
8 the quality of the smaller, more regional, low volume  
9 processing facilities that don't operate year round in  
10 the U.S.

11 All of that product is once frozen. It  
12 comes out of the farm, goes into a water and ice slush  
13 and then it's taken straight into the processing  
14 facility and converted into a finished product,  
15 whether it's a peeled and de-veined tail-on product,  
16 right away. So at the very least, you have a once  
17 frozen versus a twice frozen product and most of you  
18 in working in the kitchen, if you take something home  
19 and you freeze it a second time, thaw it and freeze it  
20 a second time, it doesn't do anything to enhance the  
21 quality, so that very basic aspect of the business is  
22 detrimental, but then you enter in all of the other  
23 variabilities, like how long the captain leaves the  
24 nets in the water, how long the shrimp stays on the  
25 deck of the board during the peak of the summer

1 harvest season in high temperatures, all of those  
2 things introduce a level of quality variability that  
3 you just simply do not find in farm-raised shrimp.

4 COMMISSIONER LANE: Okay. Thank you.

5 CHAIRMAN KOPLAN: Thank you, Commissioner  
6 Lane.

7 Commissioner Pearson?

8 COMMISSIONER PEARSON: Mr. Herzig, and some  
9 of the others who are involved in marketing shrimp  
10 might want to answer this, too, but let me start with  
11 you.

12 What needs to happen for the wild shrimp  
13 marketing initiative to be successful and to maintain  
14 a viable wild caught U.S. shrimp industry?

15 The reason that I ask this is that I'm just  
16 wondering whether there's some potential for symbiotic  
17 marketing efforts by shrimpers together with U.S.  
18 retailers and restaurateurs.

19 MR. HERZIG: Commissioner Pearson, I'm glad  
20 you asked that question because there's something that  
21 we proposed to several members of the domestic  
22 industry and the SSA several years ago.

23 We need to come together and Wal-Mart has  
24 reached its hand out, Darden has reached its hand out,  
25 to sit down and talk about the things like quality

1 standards.

2           If you look at Mr. Bown's study, it shows  
3 that taste is a preference. If you have a natural  
4 advantage like taste and you can market it in a niche,  
5 wild caught shrimp, and it's a little bit -- I'm a  
6 wine drinker, so I love fine cabernets and I'm willing  
7 to pay extra money for those. That is the marketing  
8 strategy that needs to be taken and it has to be done  
9 in partnership between the folks on the boats, the  
10 folks in the processing plant and the people who take  
11 the product to market, like Red Lobster, like  
12 Wal-Mart, like King & Prince. It can be done if we  
13 sit down and work together. It's very difficult to do  
14 it when we're kind of arguing over dumping duties.

15           The bottom line is that wild caught shrimp  
16 has a unique niche and if we can sit down together and  
17 work on quality standards that make that product  
18 achieve the value that the taste should achieve in the  
19 marketplace with a niche marketing program, I think  
20 that is the solution. I think that's what NMFS has  
21 said, that's what we've said all along and ultimately  
22 I hope that that is the solution that we as an  
23 industry can collectively come together around.

24           MR. REDMOND: Commissioner Pearson, I'd like  
25 to respond to that, too.

1           Clearly, in our business, we've seen the  
2 results from what we've done with Asmean salmon as a  
3 textbook scenario of how we can really grow business  
4 and point out a differential. We're merchants. If  
5 you look at our designs, we're not marketeers, I'll  
6 give you that, but at the end of the day, we implore  
7 people that we can do this, we can create a niche  
8 market for this. Our U.S. shrimp, if you look at our  
9 questionnaire, we have a 68 percent increase over last  
10 year so far, we have a 12 percent increase in Thai  
11 imports, so we are gaining traction with what we are  
12 doing. We're not experts in this field, but I agree  
13 with Bill, there's got to be a way that we can all  
14 come together and make great product sell great in our  
15 stores. And I think I'm no different than a retailer  
16 out there. We all are trying to find a way to sell  
17 domestic product and to point out domestic product,  
18 but we don't have the cohesive nature that we need  
19 yet.

20           COMMISSIONER PEARSON: Okay. Thanks.

21           Mr. Mentzer, did you have anything to add?

22           MR. MENTZER: I agree with the two previous  
23 spokesmen and I would also say that we have attended  
24 some of the meetings in the Gulf area where we have  
25 attempted to outreach to the community and talk about

1 what our needs are and we generally have been met not  
2 with what our needs are as the customer, but what  
3 their needs are as the producing industry. And I  
4 think that we really need to kind of come together,  
5 that we both need to share information about each  
6 other's needs in order to make this work.

7 COMMISSIONER PEARSON: Okay. Thank you.

8 Did anyone else have a question for  
9 Mr. Herzig?

10 (No response.)

11 MR. HERZIG: Thank you very much and I'm  
12 sorry it was controversial.

13 COMMISSIONER PEARSON: You're a free agent.

14 MS. STERN: Commissioner Pearson, I would  
15 love on to add on at this point --

16 COMMISSIONER PEARSON: This is Ms. Stern,  
17 just for the record.

18 MS. STERN: Thank you. I'd like to add on  
19 to the point, if I might, and it relates to the  
20 schizophrenia question. It's not that we're saying  
21 that one product, this niche product of wild caught  
22 American shrimp, is tasting better necessarily, it's  
23 that it's going to taste different. It does taste  
24 different and we have surveys where that has shown to  
25 be the case.



1                   These are non-price attributes that if  
2 properly niche marketed the attributes of taste, the  
3 attributes that it is natural, that it's eco friendly,  
4 that it's from a sustainable catch environmentally, if  
5 you look at Whole Foods, for example, people will pay  
6 more for that and that's where the premium comes, that  
7 it's different, not that it's better. And like a  
8 better wine, people are willing to pay for those  
9 difference.

10                   Likewise, people are willing to pay more if  
11 it's marketed as a U.S. product. Now, the other side  
12 earlier today said, well, wild caught didn't catch on,  
13 as it were, when it was Mexican wild caught. Well,  
14 what we're saying is if it's U.S. wild caught, that  
15 makes a difference and, again, we have surveys that  
16 show that people will pay more for a U.S. product.

17                   These are all non-price attributes and they  
18 all help explain how, from a schizophrenic point of  
19 view, how if you say there's a quality conformance  
20 problem, it's not just a quality problem, it's really  
21 a quality conformance problem. They're not conforming  
22 to specs when it comes to the domestic industry's  
23 trawled shrimp.

24                   That is one aspect of the differentiation  
25 between farmed and trawled, but it is these additional

1 non-price attributes which allow them to premium  
2 market in spite of the fact that up until now they  
3 have not conformed to quality management programs, but  
4 given that, and that's what NMFS says, you have to  
5 have that conformance to specs for any customer to be  
6 successful. If they reach that bar, and they have  
7 started now, belatedly, to set standards and set their  
8 own within the industry standards, and there are  
9 standards which the U.S. Government has which if  
10 you're an imported product you're not even able to get  
11 that grade, so that there are these attributes that  
12 come with being U.S., with being wild, and that come  
13 with being eco friendly that can fetch that premium  
14 and that's if they reach the bar on conforming to  
15 quality specifications of their customer. That,  
16 I think, I hope, explains the schizophrenia, if you  
17 will. Thank you for listening.

18 COMMISSIONER PEARSON: Thank you. My time  
19 is about to expire, so allow me to pass.

20 CHAIRMAN KOPLAN: No, you've still got time,  
21 actually. You're green.

22 COMMISSIONER PEARSON: They're lined up.  
23 I'm sorry, I can't see it completely from here. Good.

24 Mr. Chamberlain, let me take advantage of  
25 the fact that you're here to ask some farming

1 questions again because it's not every day I get this  
2 opportunity.

3           You had mentioned both some things that have  
4 been going on nutritionally with shrimp and some  
5 things on the environmental side. Has the industry  
6 taken steps to optimize the amino acid profile of the  
7 feed so that there won't be non-digestible nitrogen  
8 that ends up in an effluent flow?

9           MR. CHAMBERLAIN: George Chamberlain,  
10 Commissioner Pearson, for the record. I wish I could  
11 say that we had enough nutritional information to have  
12 the ideal protein ratios worked out for shrimp. We  
13 really don't. We do know what the essential amino  
14 acid requirements are for the key amino acids, but we  
15 don't understand the ratios very well. We do balance  
16 amino acids. There are some complications. For  
17 example, crystalline amino acids are highly soluble in  
18 water, so if you put them in a shrimp feed and throw  
19 it in the water, they're prone to leeching out and  
20 they won't end up in the gut of the shrimp. There has  
21 to be an effort to protect those, to encapsulate  
22 those. But all those things, we are making progress  
23 in that area. It's not perfect, there's a lot of room  
24 for improvement.

25           COMMISSIONER PEARSON: So the technological

1 change that you've described over the period of  
2 investigation, has it been a bigger factor in  
3 increasing global output than has the construction of  
4 new ponds? Do you have a sense for that?

5 MR. CHAMBERLAIN: I think the biggest  
6 factor, once again, is the disease issue. It's having  
7 a solution to the viral diseases. That's the  
8 overwhelming factor. It means the difference between  
9 20 percent survival and 70 percent survival and huge  
10 bonuses in production by switching to SPF animals.  
11 That's by far the most important factor.

12 COMMISSIONER PEARSON: Then given these  
13 changes that you've discussed and the fact that you  
14 don't necessarily need to be right on the coast now to  
15 produce shrimp, should we expect to see an increase in  
16 shrimp aquaculture in the United States or is labor  
17 costs such an issue that that doesn't work either?

18 MR. CHAMBERLAIN: It's not only labor, it's  
19 the seasonality of the situation. Shrimp prefer warm  
20 temperatures, they need to grow fastest a temperature  
21 over 30 degrees Centigrade and you only get that in  
22 the southern part of the U.S. and you only get it for  
23 six or seven months of the year, so they're a one crop  
24 a year system. In most of the tropical countries in  
25 Asia and the Americas, you can get at least two cycles

1 a year; in some cases, three, so we're at a real  
2 disadvantage in the U.S. in terms of the climate we  
3 operate with, not just labor and environmental issues,  
4 it's climate, number one.

5 COMMISSIONER PEARSON: Thank you very much.  
6 My time has expired.

7 CHAIRMAN KOPLAN: Thank you, Commissioner  
8 Pearson.

9 I need to walk through this with you. I'm  
10 having a struggle here. This is what I'm hearing.  
11 First of all, the Commerce Department has made a  
12 finding that with respect to the PRC and Vietnam, the  
13 final determination is that product is being sold at  
14 less than fair value. Now, we don't have the final  
15 margins with respect to the other countries yet, but  
16 let's assume hypothetically that they make a similar  
17 finding with respect to those other countries.

18 So then what I have on the one hand is  
19 Commerce making a finding of less than fair value and  
20 we are precluded from going behind that finding. We  
21 have to accept the margins as they come to us.

22 I see that Ms. Stern is nodding in the  
23 affirmative and agreeing with that much of what I have  
24 started to say.

25 CHAIRMAN KOPLAN: On this side, what I'm

1 hearing collectively from you all is that this  
2 industry, this domestic industry is suffering injury.  
3 Dr. Bown in his analysis has conceded that there is  
4 material injury being suffered by the domestic injury  
5 but what this is coming down to is causation. Then  
6 what I'm hearing is it's all about quality.

7 Let me just walk through this with you.  
8 It's not the on-subject imports that are doing this.  
9 The domestic industry is suffering injury and it's the  
10 subject imports that we're looking at. What the  
11 statute says is if we find material injury and it's by  
12 reason of imports of that merchandise, then we proceed  
13 on from there to a final determination.

14 Now in our preliminary we found a  
15 substantial increase in volumes of subject imports at  
16 significant price-depressing effects. Those trends of  
17 substantial and increasing volumes of subject imports  
18 have continued during our period of examination,  
19 including the interim period. Those trends are  
20 continuing.

21 If that's the case I don't understand where  
22 it says that if there is a distinction in quality  
23 we're supposed to go the other way. Where is that in  
24 the statute? If I've got less than fair value product  
25 coming in and I've got injury on the part of the

1 domestic injury, non-subject or not, the cause here.  
2 And the volumes have continued to increase during the  
3 rest of the period that we've looked at.

4 I'm not sure where you're coming from from a  
5 legal standpoint. I need to hear that. I'm  
6 struggling with that.

7 MR. CONNELLY: Mr. Chairman, we appreciate  
8 the question and we think that's obviously at the  
9 heart of the case.

10 CHAIRMAN KOPLAN: I think it goes to the  
11 core of the case.

12 MR. CONNELLY: It absolutely goes to the  
13 core of the case. I think we heard this morning from  
14 the Petitioners that this case is not about the volume  
15 of imports, it is about the price.

16 CHAIRMAN KOPLAN: I'm saying to you, though,  
17 that we made a finding that there was substantial and  
18 increasing volumes at the time of the prelim. At that  
19 time our opening year was 2000. Now the period is '01  
20 to '03 plus the first six months of this year. That  
21 trend is continuing. I'm talking about what we found.

22 I continue to see substantial and increasing  
23 volumes of the subject imports. The same thing that I  
24 saw at the time of the prelim.

25 Put aside what they've said. I'm talking

1 about what I'm reading in the statute and what I'm  
2 listening to here. I'm not hearing that it's non-  
3 subjects, I'm not hearing that it's some other  
4 country. I am being told to cast aside the subject  
5 countries because there's this quality argument that  
6 you're making, basically.

7 MR. CONNELLY: I'll give it my best shot and  
8 then we'll obviously give it a more detailed shot in  
9 our brief. I'll encourage others to answer after I  
10 do. Maybe this is repetitive and maybe this will be a  
11 different way of saying it.

12 It's a causation question.

13 CHAIRMAN KOPLAN: I agree with that.

14 MR. CONNELLY: We're right there with you on  
15 that. It's a causation question.

16 CHAIRMAN KOPLAN: Do you agree that it's a  
17 present injury question?

18 MR. CONNELLY: Yes, we do.

19 As we try and explain what is going on here  
20 in the industry and as you try and think through this  
21 under the statute, we think the question is why. Why  
22 is it that domestic purchasers have bought such a  
23 large volume of imports, a large and growing volume of  
24 imports? Is it because they are --

25 CHAIRMAN KOPLAN: Of subject imports.



1                   MR. CONNELLY: Subject imports. Let's leave  
2 it right there. We have arguments about non-subject,  
3 but let's just stick with subject. Why are they  
4 buying it? Is the attraction that these imports are  
5 dumped or is the attraction something else? Because  
6 if it's something else then less than fair value  
7 imports are not the cause. It is an attribute of  
8 these imports that they have that is what is creating  
9 this enormous demand. Assisted by the cost advantage.

10                   CHAIRMAN KOPLAN: But if Commerce had found  
11 that they're being fairly traded we wouldn't be here  
12 today, right?

13                   MR. CONNELLY: That's right. But you  
14 certainly have the discretion to consider the size of  
15 the market. It's not whether they're dumped. You  
16 have the discretion, in fact I think it's mandatory  
17 that you consider the size of the margin as well. And  
18 what we're saying, when all is said and done here,  
19 when you consider all these non-price attributes and  
20 then you consider what we believe will be the size of  
21 the margins, and I will say that the Chinese margins  
22 are screwy, but you've got to take them. But when you  
23 consider the size of the margins and the non-price  
24 attributes, what we think is the clear implication of  
25 what is going on in the market is that buyers are not

1 attracted to these products because of their price.

2 CHAIRMAN KOPLAN: Mr. Connelly, if you  
3 disagree with the size of the margin, although I can't  
4 go behind it, you have an opportunity to challenge  
5 that from your end. But not here.

6 MR. CONNELLY: We understand. That was an  
7 editorial comment.

8 CHAIRMAN KOPLAN: Okay.

9 MR. CONNELLY: That's basically it in a  
10 nutshell, Mr. Chairman.

11 I think if we look at those purchaser  
12 questionnaire responses, those purchaser questionnaire  
13 responses tell us a lot. They tell us more than the  
14 importer responses, quite frankly, they tell us more  
15 than the domestic processor responses. They I think  
16 traditionally have been where you have really looked  
17 to get your most insight about what's going on in the  
18 market and those purchaser responses tell you why  
19 these purchasers are buying imported, less than fair  
20 value shrimp. What they tell you is price is not by  
21 any means the most important factor. They tell you  
22 that quality is the most important factor. Not taste.  
23 That's not what they mean.

24 It's not even that they're farmed, although  
25 the characteristic is farmed. It's the whole bunch of

1 attributes that come with farming and processing of  
2 farm-raised imports. That's what the purchasers are  
3 saying. We think that is the cause. That is the  
4 cause of the increase in demand for shrimp. And there  
5 is no question that there are more competing suppliers  
6 of farm-raised shrimp. They're competing, yes they're  
7 competing, and it's probably true that that's part of  
8 the reason why the price has declined. As George  
9 explained, there's more shrimp out there now. High  
10 quality shrimp.

11 CHAIRMAN KOPLAN: Mr. Connelly, the vast  
12 majority of those people are purchasing the subject  
13 product.

14 MR. CONNELLY: That's what I'm talking  
15 about. Subject product.

16 CHAIRMAN KOPLAN: Purchasing the subject  
17 product. So they're getting it cheaper than they can  
18 buy domestic product. Are you saying you're  
19 completely neutral in this exercise?

20 MR. CONNELLY: What I'm saying is that they  
21 have told us why they buy the subject imports and they  
22 have said that they don't buy it because of the price.  
23 They have bought it for a set of attributes which they  
24 say are very important to them, five of them, which we  
25 identified the seven most important, the seven

1 attributes that the purchasers identify as very  
2 important. Then we looked at where imports compared  
3 to, subject imports compared to domestic product and  
4 it was always much higher on the quality scale, on  
5 those aspects of quality.

6 CHAIRMAN KOPLAN: I appreciate that. I  
7 thought my light just went from red to green.

8 (Laughter)

9 MR. CONNELLY: I think I banged the table.

10 CHAIRMAN KOPLAN: Let me just say this is a  
11 very important dialogue we're having for me, and I  
12 would appreciate your briefing it further for me. I'd  
13 appreciate hearing it from both sides for purposes of  
14 the post-hearing submission.

15 MR. CONNELLY: We will.

16 CHAIRMAN KOPLAN: I do feel this goes to the  
17 heart of what I'm struggling with.

18 Thank you very much.

19 Vice Chairman Okun?

20 VICE CHAIRMAN OKUN: Thank you, Mr.  
21 Chairman.

22 Again, as we came to the end of the first  
23 panel I felt the same thing, there are a lot of issues  
24 out there we may not have had a chance to ask  
25 questions about. I hope as good counsel you will

1 cover them in your brief including critical  
2 circumstances, threat factors, and other things that  
3 we haven't had time to get to today. But I think we  
4 have covered a number of very important issues and I'm  
5 not going to ask the rest of my questions because it's  
6 6:20 and I think we've heard a lot and I'm not sure I  
7 can process that much more.

8 But I would ask, I guess, Mr. Connelly, just  
9 as a final post-hearing. You've gotten a lot of legal  
10 questions and how we analyze this and I guess I would  
11 pose to you the same one I put to Petitioners' counsel  
12 this morning which is if you can take a look at  
13 Commission precedent regarding cases where we've had  
14 low domestic market share, large non-subjects, and how  
15 we've analyzed causation, volume/price impact, and put  
16 those into context of this case. I'd appreciate that  
17 as well.

18 MR. CONNELLY: Okay.

19 VICE CHAIRMAN OKUN: And thank you again.  
20 Thanks to all the witnesses for all the information  
21 you've given us and for your continued cooperation as  
22 we go forward in this investigation.

23 I have no further questions, Mr. Chairman.

24 CHAIRMAN KOPLAN: Thank you, Vice Chairman.

25 Commissioner Miller?

1                   COMMISSIONER MILLER: I think Dr. Stern  
2 already had the opportunity to give me the answer to  
3 my mental health question, so --

4                   (Laughter)

5                   COMMISSIONER MILLER: So I have no further  
6 questions at this point. I appreciate all the  
7 testimony. Thank you.

8                   CHAIRMAN KOPLAN: Commissioner Hillman?

9                   COMMISSIONER HILLMAN: I will ask only one  
10 quick further question for you, Mr. Connelly. That  
11 is, should the Commission decide that canned shrimp is  
12 a separate like product as you have advocated in your  
13 brief, would you just please brief for us the issue of  
14 negligibility and cumulation? If we were to treat it  
15 as a separate like product are any countries, would  
16 you view any of the countries as negligible and what  
17 would you suggest we ought to be doing on cumulating  
18 imports from any of the subject countries of canned  
19 shrimp alone.

20                   MR. CONNELLY: Okay, we will.

21                   COMMISSIONER HILLMAN: Two little issues  
22 there.

23                   The only last one I would ask, again, only  
24 if you disagree. You did not say anything in your  
25 pre-hearing brief about the Commission's analysis and

1 determination with respect to fresh product being  
2 included within the like product. If there is  
3 anything that you, if you have a disagreement with the  
4 Commission's analysis or conclusions on that I would  
5 again invite briefing on it. Otherwise you don't need  
6 to address it.

7 MR. CONNELLY: All right.

8 COMMISSIONER HILLMAN: With that, I too  
9 would join my colleagues in thanking this panel, if  
10 nothing else for your tremendous patience and your  
11 very thoughtful and informative answers. We really do  
12 thank you for the attention and the effort that has  
13 been put in in this very long day.

14 Thank you.

15 CHAIRMAN KOPLAN: Thank you.

16 Commissioner Lane?

17 COMMISSIONER LANE: One more question, Mr.  
18 Connelly. If people are buying subject imports, not  
19 because of the price, why don't the importers just  
20 raise the price then and avoid a less than fair value  
21 argument?

22 MR. CONNELLY: Well, I'm not sure I can  
23 answer that question very simply because you don't  
24 have to raise the price, first of all, to eliminate  
25 dumping. Another way is to reduce the price in the

1 comparison market. You can eliminate dumping that way  
2 too. So there are many rational ways to do business.

3 That would get into a whole philosophical  
4 discussion about whether dumping makes sense when you  
5 don't have a protected home market but you're doing  
6 business in Europe or Japan or somewhere else around  
7 the world.

8 But I think the issue will be eventually  
9 made clear when the final margins come out for the  
10 other countries and we see that they're relatively  
11 low. In fact the preliminary margins for the other  
12 countries were relatively low. Not across the board,  
13 but most of them were less than ten percent.

14 In the context of trying to do business on a  
15 day to day basis, that can happen without any  
16 intention in the nature of competition. And there  
17 certainly are more competitors. I'm not sure I can do  
18 a better job than that right now, Commissioner Lane.

19 COMMISSIONER LANE: Thank you.

20 CHAIRMAN KOPLAN: Ms. Stern wanted to  
21 respond as well.

22 COMMISSIONER LANE: I'm sorry. Go ahead,  
23 Dr. Stern.

24 MS. STERN: You've got competition among  
25 many suppliers. Just in the course of competition



1 there are reasons why you wouldn't raise your price,  
2 particularly if you don't think you're dumping.

3 But if I might address this big question of,  
4 that the Chairman put to us about the lack of, the  
5 question about causation.

6 It seems to me that once we get down to  
7 causation you have to have a nexus and the Commission  
8 generally can get a nexus between the LTFV imports and  
9 alleged injury if they have some lost sales or  
10 confirmed lost revenue. Then you see some connection.  
11 The reason why you're not getting a connection here is  
12 because the imports are not substitutes. The farmed  
13 product and the trawled product are complements. They  
14 complement each other in the marketplace. They are  
15 not interchangeable for all the non-price reasons that  
16 were here. That's the reason why you don't have the  
17 nexus. That to me is the critical path for why there  
18 is no injury here. Even though you may get dumping  
19 margins at the Department of Commerce, your job is not  
20 to go behind the Department of Commerce. Your job is  
21 to find whether there's any nexus between that volume  
22 of product, in this case which we say is a complement  
23 not a substitute, and any alleged injury. And lacking  
24 a nexus, that's the reason why there is a negative  
25 determination here.

1           Then when you look at the margins analysis  
2           as an analytic check on that, it just reinforces the  
3           negative conclusion that the farmed subject imports  
4           are not a material cause of injury.

5           COMMISSIONER LANE: Thank you. That's all  
6           the questions I have, Mr. Chairman.

7           CHAIRMAN KOPLAN: Thank you, Commissioner  
8           Lane.

9           Commissioner Pearson:

10          COMMISSIONER PEARSON: Following up on  
11          Commissioner Lane's question of why don't the  
12          importers raise their prices so they wouldn't be  
13          dumping, I had expected -- I've going to test a thesis  
14          of mine. I had expected somebody to stand up and say  
15          well my gosh, if we raised our price -- If I'm an  
16          Ecuadorian exporter and I raise my price the business  
17          will go to the Thai exporter and the competition that  
18          I deal with in the U.S. market is competition from  
19          other countries with low production costs. I don't  
20          see the domestic industry as a real competitor.

21          Now nobody said that so I think I must be  
22          wrong.

23          MS. STERN: That's what I was trying to say  
24          and I was very inarticulate. That's exactly what I  
25          was trying to say, that it's the nature of the

1 competition amongst the subject importers.

2 COMMISSIONER PEARSON: It must have been  
3 your previous experience as a Commissioner that  
4 brought about the inarticulateness --

5 MS. STERN: No, no. I have a lot of excuses  
6 on that.

7 (Laughter)

8 MS. STERN: But that's exactly what I was  
9 trying to say at first, and then I used that to then  
10 answer Chairman Koplan's answer.

11 COMMISSIONER PEARSON: I find that my  
12 experience here brings out that characteristic as  
13 well.

14 CHAIRMAN KOPLAN: You see why I'm glad he's  
15 confirmed?

16 (Laughter)

17 MR. CONNELLY: Can I try and answer that  
18 too?

19 COMMISSIONER PEARSON: Please.

20 MR. CONNELLY: Clearly you always try and  
21 charge as much as you can charge. Everyone is in  
22 business to charge the maximum that the market will  
23 permit. But let me turn the question around. Why  
24 hasn't the domestic industry improved its quality?  
25 Why are they content to continue to try and do

1 business in the same old way? Why is it that they've  
2 ignored the threat posed by farm-raised imports? Why  
3 are they still having these handling problems that we  
4 haven't provided on an anecdotal basis but NMFS and  
5 many other independent experts have identified? To me  
6 those are every bit as important if not more important  
7 questions that Petitioners ought to be answering, and  
8 I certainly didn't hear the answers today.

9 COMMISSIONER PEARSON: But we still have to  
10 deal with the industry as we find it.

11 Let me ask a question briefly of Mr. Liabo,  
12 and perhaps you would want to respond in post-hearing  
13 rather than now, at least if the answer is very long  
14 it would be best to have it in the post-hearing.

15 The question is, why should we assume that  
16 premiums received for wild caught seafood in some  
17 European countries would translate nicely to wild  
18 caught shrimp in the United States? It's kind of like  
19 saying why is Kansas City like Barcelona and why is  
20 shrimp like sea bass?

21 MR. LIABO: I think the customers they need  
22 to have a choice. As I learned today, they not always  
23 have this choice here in the U.S..

24 COMMISSIONER PEARSON: Are there some  
25 similar characteristics between wild caught shrimp and

1 these products in the United States? Or the market in  
2 the United States and the seafood markets in Europe?  
3 That's what I was more asking.

4 MR. LIABO: When we are talking about niche  
5 marketing and we see there is a mainstream product and  
6 this is farm in this case. Okay, it then is up to  
7 those producing or delivering less or a specific  
8 product of this is caught product, and a caught  
9 product, caught seafood should always be marketed in a  
10 special way -- not to be mixed with the farm born.

11 COMMISSIONER PEARSON: Okay.

12 MR. VAKERICS: Commissioner Pearson, if I  
13 might refer you to Mr. Liabo's report which is an  
14 attachment to our brief, but what he has found and he  
15 works on a global basis, is that there are many  
16 similarities in the sense that first, traditional  
17 fishermen respond very slowly to competition from  
18 aquaculture. Second, what he has found is that in  
19 industries where they have niche marketed, that these  
20 industries have been able to earn the premium price  
21 for a niche product. Third, we had to look to Europe  
22 because there are no examples here.

23 So my response to that is, as Mr. Liabo has  
24 observed, the traditional fisheries in this country  
25 still don't get it. But when we look at Europe where

1 the traditional fisheries have taken that step,  
2 they've been amazingly successful. There is no reason  
3 to believe that that would not transfer to the states.

4 COMMISSIONER PEARSON: Thank you.

5 MR. REDMOND: And if I might --

6 COMMISSIONER PEARSON: I'm sorry. Mr.  
7 Redmond?

8 MR. REDMOND: I might also add to that too  
9 that you do have evidence of it in the U.S.. Most  
10 retailers run dual salmon programs now. Wild caught  
11 and farm raised, and most if not all are very very  
12 successful at doing it. So there is precedent here.

13 COMMISSIONER PEARSON: I appreciate that.

14 I'm going to take advantage of my status as  
15 the most junior Commissioner and admit some confusion  
16 and go back, Mr. Connelly, to the basic issue that the  
17 Chairman was discussing with you.

18 Let me pose the question this way and if I'm  
19 off track just let me know. For causation, are you  
20 arguing that so much of the injury that we see over  
21 the period of investigation has been caused by lower  
22 prices worldwide, in other words the market dynamics  
23 taking the world price lower, that the portion of the  
24 injury caused by dumping is so modest that there is  
25 thus no causal nexus between that dumping and the

1 injury?

2 MR. CONNELLY: That's exactly our position.  
3 What we're saying, and I think what Chad Bown's  
4 analysis shows, is that the amount of injury caused by  
5 less than fair value is immaterial. We're not saying  
6 it's zero, we're saying it's immaterial.

7 COMMISSIONER PEARSON: In that case could  
8 you please cite some other instances in which the  
9 Commission has looked at this type of situation and  
10 reached the conclusion that you are asking us to  
11 reach?

12 MR. CONNELLY: We'll do our best.

13 COMMISSIONER PEARSON: Thank you.

14 MR. VAKERICS: Tom Vakerics. I apologize.  
15 I forgot to mention the salmon example and I want to  
16 correct the record. For niche marketing.

17 COMMISSIONER PEARSON: Anybody else want to  
18 comment on my ramblings?

19 MR. VAKERICS: At the risk of having  
20 everybody hate me, a point of order, nobody's asked  
21 about canned shrimp and there was a lot of confusion  
22 this morning. I don't know if anybody's interested in  
23 asking Mr. Wendt. You heard about frozen shrimp in a  
24 can, and there were a couple of issues that I think  
25 Mr. Wendt can be very helpful with if anybody's

1 interested in asking any questions.

2 COMMISSIONER PEARSON: Mr. Chairman, did you  
3 want to comment on my ramblings? I know I've gone on  
4 a bit.

5 CHAIRMAN KOPLAN: I look forward to the  
6 legal analysis that he's about to provide. I thank  
7 you for your contribution to that.

8 COMMISSIONER PEARSON: Great. I believe I  
9 have no further questions, Mr. Chairman. Thank you.

10 CHAIRMAN KOPLAN: Thank you, I have no  
11 further questions.

12 Are there any other questions from the dais?  
13 Commissioner Lane?

14 COMMISSIONER LANE: At the risk of having  
15 five people mad at me, I do think it would be fair to  
16 talk about the canned shrimp since I raised it this  
17 morning. So could we hear why it should be a separate  
18 like product or not a separate like product?

19 MR. WENDT: John Wendt, Ms. Lane.

20 I brought a can of shrimp here with me. I  
21 purchased it at a local grocery store. It happens to  
22 be Bumblebee shrimp. This shrimp is so different from  
23 any kind of frozen shrimp that it's just like a night  
24 and day difference, totally separate.

25 I brought a can opener with me too, if



1 anybody wants to try this. I don't think anybody here  
2 can eat this shrimp out of the can.

3 (Laughter)

4 It's full of chemicals and it has a metallic  
5 taste to it, and the only way you can eat this shrimp  
6 is in a shrimp dip or something like that. At one  
7 time this was the only way that shrimp was sold in the  
8 supermarkets here. Thirty years ago, like six million  
9 cases were sold. Today it's down to half a million  
10 and it's shrinking all the time. There's just no  
11 relation between frozen and canned shrimp, it's just  
12 not. And Bumblebee saw a chance to run me out of  
13 business. It's my only business in the United States,  
14 is selling Chicken of the Sea. They saw a chance to  
15 get on the coattails of this thing and get rid of me,  
16 and Mr. Cook said this morning that they're starting  
17 to sell the Chicken of the Sea again, and they are  
18 because I had to stop importing. I can't pay 112  
19 percent duty. Last June or July I had to stop  
20 bringing shrimp in. I'm out of business. But I don't  
21 think it's fair, because I think that it's truly a  
22 separate like product.

23 Thank you.

24 COMMISSIONER LANE: Thank you.

25 CHAIRMAN KOPLAN: Thank you, Commissioner.

1                   It seems that there are no other questions  
2 from the dais.

3                   Mr. McClure?

4                   MR. McCLURE: Jim McClure, Office of  
5 Investigations. We have no questions -- excuse me,  
6 I'm sorry. Ron?

7                   CHAIRMAN KOPLAN: Mr. Bernstein?

8                   MR. BERNSTEIN: This is Mark Bernstein,  
9 Office of General Counsel. I have a couple of quick  
10 things for the parties to address in their post-  
11 hearing briefs.

12                   First of all for Akin Gump, at pages eight  
13 to nine of the ASDA pre-hearing brief you're  
14 requesting the Commission to compare domestic  
15 producers' use of subject and non-subject imports in  
16 conducting an analysis of whether appropriate  
17 circumstances exist for exclusion of certain related  
18 party domestic producers. Inasmuch as this section of  
19 your pre-hearing brief contains no citations to either  
20 prior Commission investigations or judicial authority,  
21 please indicate in your post-hearing brief whether the  
22 Commission has ever previously conducted the type of  
23 analysis you advocate. And if you can't locate such  
24 authority, please indicate why you believe a departure  
25 from the Commission's past method of analyzing related

1 party issues is warranted.

2 The second request goes to those parties who  
3 have argued a country specific threat argument. Those  
4 occurred in the Willkie Farr and Sandler, Travis &  
5 Roenberg briefs. We'd just like clarification whether  
6 you have a position on cumulation for threat. The  
7 reason I ask this is several respondents did indicate  
8 in their preliminary phase briefs that they believe  
9 certain individual subject countries should not be  
10 cumulated for threat. I did not see any similar  
11 argument in the pre-hearing briefs so it would just  
12 aid us if you could state whether you have a position,  
13 just so we are aware of that.

14 Thank you.

15 CHAIRMAN KOPLAN: Thank you, Mr. McClure.

16 Not to worry about that alarm. It happens  
17 after a certain hour if somebody crossed the line.  
18 We're good for hours.

19 (Laughter)

20 Having said that, I hate to say this, but  
21 neither side has any time remaining for rebuttal or  
22 questions so that means that we're going to be going  
23 directly to closing arguments.

24 With that I want to thank this panel very  
25 much for participating this afternoon and answering as

1 best you could our questions. It's been extremely  
2 helpful and I'll take a moment to let the table clear.  
3 I see the alarm went off. We will start with  
4 Petitioners' closing argument as soon as the front  
5 rows are cleared.

6 (Pause)

7 CHAIRMAN KOPLAN: You may proceed, Mr.  
8 Dempsey.

9 MR. DEMPSEY: Good evening.

10 The Commissioners' questionnaire data showed  
11 that ex-vessel prices obtained by commercial shrimp  
12 fishermen dropped by 42 percent from 2001 to the first  
13 half of 2004. This decline in price closely mirrors  
14 published domestic prices by Urner Barry. As a result  
15 of this dramatic decline in price the financial  
16 condition of commercial shrimp fishermen and  
17 commercial shrimp processors has gone from healthy  
18 profitability in 2000 to a significant decline  
19 throughout the rest of the POI.

20 This material injury to the domestic  
21 industry is undisputed. The question then is what  
22 explains the collapse in domestic shrimp prices since  
23 2000. What has changed since 2000? Has the number of  
24 boats fishing in the Gulf increased such that domestic  
25 competition has driven down prices? No. The evidence

1 indicates that the number of boats in the shrimp  
2 fishery has declined since 2000 as measured by the  
3 number of commercial shrimp fishing licenses issued by  
4 four Gulf states.

5           What has changed is that the volume and  
6 price of subject imports, the volume has increased by  
7 37 percent from 2001 to 2003 and gained significant  
8 market share; and subject import prices have declined  
9 by 39 percent over the POI. These low price subject  
10 imports have consistently undersold the domestic like  
11 product by volume and 72 percent of the subject  
12 imports have undersold the comparable domestic like  
13 product, and this pattern was consistent throughout  
14 the POI.

15           And as we have shown in our brief, public  
16 data from Urner Barry confirms this pattern of  
17 consistent underselling by subject imports. This is  
18 clear evidence of causation between the ever-growing  
19 volume with ever-lower priced imports from the subject  
20 countries and the injury to the domestic industry.

21           The Respondents say that quality, not price,  
22 explains why prices for both domestic and imported  
23 shrimp from the subject countries have been declining  
24 so significantly over the POI, but this defies logic.  
25 If the subject imports are of so much better quality,

1 why do they need to undersell? Why do they need to  
2 decline in price? And if the quality of imported  
3 farm-raised shrimp is the driving force behind the  
4 increased sales of the subject imports, then why is  
5 the ultimate consumer not being told that the shrimp  
6 that is being sold in restaurants is farmed and  
7 imported? No one eating at a Red Lobster would ever  
8 know that the shrimp they're eating is farm-raised and  
9 imported.

10 And why did ASDA oppose country of origin  
11 labeling requirements on imported shrimp? A recent  
12 market research report done for the Southern Shrimp  
13 Alliance indicates that 94 percent of consumers think  
14 they are eating ocean caught American shrimp.

15 The Respondents have also told the  
16 Commission today that imported and domestic shrimp are  
17 differentiated products that don't compete with each  
18 other. That's not what they say elsewhere. Outside  
19 this litigation numerous Respondents refer to shrimp  
20 as a commodity product. Let me quote just a few  
21 sample statements.

22 Part of this I quoted earlier from Wally  
23 STEvens. It's in our pre-hearing brief at Exhibit 21.  
24 "Shrimp is a commodity product. Commodities are by  
25 definition indistinguishable with one another with

1 their price determined only by market forces of supply  
2 and demand."

3 Darden Restaurants in their 2000 annual  
4 report. "The company uses commodity hedging  
5 instruments including forwards, futures and options to  
6 reduce risk of price fluctuations related to future  
7 raw material requirements for commodities such as  
8 coffee, soybean oil, and shrimp."

9 Outback Steakhouse in its 2003 annual  
10 report, "Cost of sales consisting of food and beverage  
11 costs decreased in 2003 as compared to 2002. This  
12 decrease was attributable to commodity cost decreases  
13 for beef and shrimp."

14 So I think it's clear that outside this  
15 litigation they recognize this as a commodity product  
16 sold on the basis of price.

17 Finally, Respondents saying a marketing  
18 campaign to differentiate domestic shrimp from  
19 imported shrimp is what the industry needs. But this  
20 is ultimately an admission that right now and during  
21 the POI domestic shrimp has been and is competing with  
22 subject imports on the basis of price. And as Wally  
23 Stevens said in January of this year, "If the domestic  
24 industry continues to place itself in direct  
25 competition with the foreign product they are going to

1 get killed. It's all about price and it's competition  
2 between the subject imports and the domestic industry  
3 that is causing the injury to the domestic injury."

4 Thank you.

5 CHAIRMAN KOPLAN: Thank you, Mr. Dempsey.

6 Mr. Connelly?

7 MR. CONNELLY: Petitioners said at the start  
8 today this was a textbook case of injury. I would  
9 submit to you that this textbook has a very very shaky  
10 binding and a lot of dog-eared pages. Let's talk a  
11 little bit about what we didn't hear today or what we  
12 did hear.

13 The NMFS report. Their response to the NMFS  
14 report is we don't like it. They're the ones who  
15 requested it.

16 The purchaser questionnaires. They're  
17 biased. They say that because they don't like those  
18 either. They've got no answer to that.

19 The underselling analysis with respect to  
20 the value added products. No answer to that either.

21 The premium available to them. Mexican wild  
22 caught shrimp has earned it for years. It's the exact  
23 same shrimp. Same shrimp. Gets a premium. Why?  
24 It's high quality. They omitted a page from a  
25 document in their brief about Mexican shrimp to avoid



1 telling you about that. We'll go into that in our  
2 brief.

3 Quality. No answer to our showing of  
4 pervasive defects. No response whatsoever to our  
5 comments on that.

6 Cost of production They have no knowledge  
7 of technological improvements and yet you heard all  
8 about it.

9 The amount of fishing effort. I submit you  
10 should look at Table F-4 which lists the days fished  
11 reported by fishermen. They are virtually identical  
12 between 2001 and 2003, showing that the level of  
13 effort is just about the same.

14 They talk about the boats, they talk about  
15 the trips, but look at the number of days fished.  
16 It's virtually identical.

17 Now in almost every industry, whether it's  
18 agriculture, heavy manufacturing or high tech,  
19 competitors tried to out-perform each other. The race  
20 is always on to try and invent a new way of doing  
21 business, a new way to produce products more  
22 efficiently and to produce them in a better way. If  
23 you can't compete on a cost basis then you have to  
24 compete on some other basis. You have to make your  
25 product more attractive to the customer.

1           The shrimp industry, the domestic shrimp  
2 industry knew for years its day of reckoning was  
3 approaching as more and more shrimp producers around  
4 the world got better and better at their production  
5 techniques. Let's just think about what their options  
6 were as they became aware of farming.

7           Option one was to do nothing and hope for  
8 the best. People like their shrimp, they've always  
9 liked their shrimp, and they'll keep on liking it.

10          Option two, become more efficient, become  
11 more productive. That's pretty hard to do when you  
12 have no really control over your output. You can't  
13 increase your output and you have little control over  
14 your inputs.

15          Option three, try to improve quality because  
16 we know that Americans will always pay more for a high  
17 quality product.

18          Option four, try and distinguish wild caught  
19 shrimp from farm-raised shrimp. Stress the inherent  
20 taste difference. Emphasize that it's an American  
21 product.

22          Option five, mobilize the entire industry.  
23 Do things collectively. Do things better on a group  
24 basis. Don't have thousands and thousands of  
25 individual entrepreneurs.

1           Those are the five options I could think of  
2           that they had available to them. What option did they  
3           pick? They picked option one, the do nothing option.

4           That's why we're here today. The only thing  
5           that this industry, the domestic industry has managed  
6           to do is to mobilize to file a dumping case, but it's  
7           not mobilized to address the very real problems that  
8           are the cause of their injury.

9           Thank you.

10           CHAIRMAN KOPLAN: Thank you, Mr. Connelly.

11           Let me just say that I think the lateness of  
12           the hour attests to the quality of the presentations  
13           that both sides made today. You provided us with an  
14           opportunity for very exhaustive questioning on our  
15           part and I thank you all for that.

16           Post-hearing briefs, statements responsive  
17           to questions and requests of the Commission and  
18           corrections to the transcript must be filed by  
19           December 8, 2004.

20           Closing of the record and final release of  
21           data to parties, by December 27, 2004.

22           Final comments due by December 29, 2004.

23           With that, this hearing is concluded.

24           (Whereupon, at 6:47 p.m. the hearing was  
25           adjourned.)

**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Certain Frozen or Canned Warmwater  
Shrimp and Prawns from Brazil,  
China, Ecuador, India, Thailand,  
and Vietnam.

**INVESTIGATION NOS.:** 731-TA-1063-1068

**HEARING DATE:** December 1, 2004

**LOCATION:** Washington, D.C.

**NATURE OF HEARING:** Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 12/1/04  
SIGNED: LaShonne Robinson  
Signature of the Contractor or the  
Authorized Contractor's Representative  
1220 L Street, N.W. - Suite 600  
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez  
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Renee C.M Katz  
Signature of Court Reporter