UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation Nos.:
FROZEN WARMWATER SHRIMP FROM	)	731-TA-1063, 1064,
BRAZIL, CHINA, INDIA,	)	1066-1068 (Final)
THAILAND AND VIETNAM	)	

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Tuesday,
February 1, 2011

Room 101
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

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

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

DEANNA TANNER OKUN, Chairman
IRVING A. WILLIAMSON, Vice Chairman
CHARLOTTE R. LANE, Commissioner
DANIEL R. PEARSON, Commissioner
SHARA L. ARANOFF, Commissioner
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Staff:

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MARC BERNSTEIN, Attorney
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APPEARANCES:

CONGRESSIONAL WITNESSES:

THE HONORABLE THAD COCHRAN, UNITED STATES SENATOR, MISSISSIPPI

THE HONORABLE MARY L. LANDRIEU, UNITED STATES SENATOR, LOUISIANA

STATE GOVERNMENT WITNESS:

THE HONORABLE JOSEPH A. HARRISON, STATE REPRESENTATIVE, DISTRICT 51, LOUISIANA

In Support of the Continuance of Antidumping Duties:

On behalf of the American Shrimp Processors Association, the Louisiana Shrimp Association, Dean Blanchard Seafood, Inc., Seafood Shed, and The Ad Hoc Shrimp Trade Action Committee:

E. RICHARD GOLLOTT, SR., Vice President, Golden Gulf Coast Packaging Co., Inc.

CLINT P. GUIDRY, JR., President, Louisiana Shrimp Association

JONATHAN MCLENDON, Controller, Biloxi Freezing & Processing, Inc.

TREY PEARSON, President, JBS Packing Company, Inc.

APPEARANCES: (Continued)

In Support of the Continuance of Antidumping Duties:

On behalf of the American Shrimp Processors Association, the Louisiana Shrimp Association, Dean Blanchard Seafood, Inc., Seafood Shed, and The Ad Hoc Shrimp Trade Action Committee:

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Asian Americans for Change

DAVID VEAL, Executive Director
American Shrimp Processors Association

JONATHAN D. APPELBAUM, President,
Penguin Frozen Foods, Inc.

JAMES BLANCHARD, President,
Big Grapes, Inc.

O. STEVEN BOSARGE, Chief Operations Officer,
Bosarge Boats, Inc.

NICOLE DUBBERLY,
Shrimper & Marketing Consultant

REGINA GARCIA PENA, Chief Executive Officer
Philly Seafood Company, Inc.

TERENCE P. STEWART, Esquire
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APPEARANCES: (Continued)

In Opposition to the Continuation of Antidumping Duties:

On behalf of Chinese, Indian, Thai, and Vietnamese Respondents":

ERIC BLOOM, President,
Eastern Fish Company

ANDREW KAELIN, Managing Director,
AIS Aqua Foods, Inc.

JEFF STERN, Vice President of Purchasing,
Censea, Inc.

STEPHEN WEITZER, CEO,
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I N D E X

I N D E X

P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN OKUN: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing, Investigation No. 731-TA-1063, 1064, and 1066 through 1068 review involving frozen warmwater shrimp from Brazil, China, India, Thailand, and Vietnam.

The purpose of this five year review investigation is to determine whether revocation of the antidumping duty orders covering frozen warmwater shrimp from Brazil, China, Indian, Thailand and Vietnam would be like to lead to a continuation and recurrence of material injured to an industry in the United States within a reasonably foreseeable time.

Schedules setting forth the presentation of this hearing, notices of investigation, and transcript order forms are available at the public distribution table. All prepared testimony should be given to the secretary. Please do not place testimony directly on the public distribution table. All witnesses must be sworn in by the secretary before presenting testimony.

I understand that the parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the secretary.

Speakers are reminded not to refer in their remarks or answers to questions to business proprietary information. Please speak clearly into the microphones and state your name for the record for the benefit of the court reporter.

If you will be submitting documents that contain information you wish classified as business confidential, your request should comply with Commission Rule 201.6.

Mr. Secretary, are there any preliminary matters?

MR. BISHOP: No, Madam Chairman.

CHAIRMAN OKUN: Very well. Will you please announce our first congressional witness?

MR. BISHOP: Our first witness is The Honorable Thad Cochran, United States Senator, Mississippi.

CHAIRMAN OKUN: Good morning, and welcome, Senator Cochran. You may proceed.

MR. COCHRAN: Good morning, Madam Chairman, Members of the Commission.

I, first of all, want to thank you for the opportunity to appear before you this morning. My purpose is to support our nation's seafood industry, in particular, warmwater shrimp.

The industry has had a very difficult time competing with the antidumping duties for frozen warmwater shrimp. This is an important industry in our state. It involves a lot of people in their boats fishing, traditions run deep in our state, as deep as the gulf, and we appreciate the fact that this is a very important part of our state and nation's economy.

So, I am here to urge the Commission to preserve the orders that are necessary to promote the long-term viability of the U.S. shrimp industry. The industry relies on the Commission to enforce our trade laws, to help our domestic workers and domestic industries as they endeavor to compete fairly in accord with international laws, and I urge the Commission to vote against revocation of the antidumping orders. Revocation could permanently destroy this nation's domestic shrimp industry.

In 2009, Mississippi produced over 10 million pounds of shrimp with a value of almost $13 million. Its total economic impact was about $115 million. Before imposition of the antidumping orders domestic prices for shrimp were in a state of free fall, trying to compete with unfairly priced imports. The domestic shrimp industry was also experiencing sharp declines in employment as well as workers' wages and sharp losses in revenues because of revenue declines. There was also a significant compounding decline in the number of shrimp fishing licenses being issued.

Fortunately, however, the antidumping duty orders imposed on shrimp from these five countries have been successful. Imports that are subject to antidumping duties have fallen to levels well below their 2003 levels. Moreover, the orders have imposed discipline on import prices, stabilizing the domestic industry.

In our state, just in 2009, 10 million pounds of shrimp were produced. That's a 26 percent increase when compared to 7.8 million pounds four years earlier. Due to the market discipline provided by the order, domestic shrimp processors had the confidence they needed to make important capital investments to strengthen the long-term capabilities of the industry.

These trends will be reversed if the orders are revoked. We can't ignore the fact that production from the year 2010 is down due to a blowout of the oil wells that devastated the industry in the area and many others across the south of our country. But the industry is fighting back, trying to survive, and it's committed to long-term survival.

Many fishermen and processors have lost a lot of money because of the damages from the blowout, but there is an encouraging commitment in the gulf of Mexico and in the states in the gulf to re-invest, to build back this very important industry. The domestic fishermen and processors create jobs in their communities, but they can't compete and continue doing that when fighting illegal dumping by huge foreign enterprises.

If they lose their businesses, they not only lose their income but their entire culture and way of life suffers. The totality of adversity of shrimpers in my state have endured, including hurricanes in recent years, the economic recession, then the oil spill have been truly devastating. I can't think of a more fragile situation for an industry than our shrimpers are facing.

I hope when you review the facts in this case the Commission would decide not to revoke the antidumping orders on frozen warmwater shrimp.

Thank you very much for the opportunity to be here and deliver these remarks this morning.

CHAIRMAN OKUN: Thank you for your testimony. Let me see if my colleagues have any questions for you, Senator.

Commissioner Pearson.

COMMISSIONER PEARSON: Thank you, Madam Chairman.

Senator Cochran, I would just like to reciprocate the warm greetings that you often had for junior staff members of other senators who worked in the agricultural committee back in the 1980s, and so now I have this opportunity to issue a warm greeting to you. Thank you for coming.

MR.COCHRAN: Thank you. Thank you very much.

CHAIRMAN OKUN: Thank you and thank you for your testimony.

MR. COCHRAN: Thank you.

MR. BISHOP: Our next witness is The Honorable Joseph A. Harrison, Louisiana State Representative, District 51, Louisiana House of Representatives.

CHAIRMAN OKUN: Good morning and welcome to the Commission.

MR. HARRISON: Good morning. Chairman Okun, Vice Chairman Williamson, Members of the Commission, thank you for giving me this opportunity to speak before you today.

I am here to proudly represent before the Commission the 51st district of the State of Louisiana, an area known in part for its vibrant seafood and shrimp industry. I applaud the Commission for its work in protecting the domestic industries that are under attack from unfairly priced imports and I stand before you today to respectfully ask the Commission to protect the shrimp industry in my state and across the United States from the impacts of unfair trade and continue the antidumping orders on shrimp from Brazil, China, India, Thailand and Vietnam.

The shrimp harvesters, processors and distributors who are part of an historic industry in Assumption, St. Mary's and Terrebonne Parishes as well as across the United States would be adversely affected if the antidumping orders on shrimp are revoked.

The shrimp industry in my district has a rich heritage that began in the Seventeenth Century with the creoles and acadians who settled in our regions. Many of the commercial fishing operations are family owned and have been handed down from generation to generation. These fishermen and the thousands of others employed by this industry are born and raised in the area, and for many this is the only life that they know.

While there is no doubt that this industry is historically significant, it is a huge source of revenue for the State of Louisiana. In 2009, Louisiana shrimpers brought in over 113 million pounds of shrimp at the landed value of over $120 million. As a whole, the shrimp industry brings in about $1 billion to the state annually.

I have always respected the efforts of the robust people and I have worked hard on behalf of the shrimp industry, and as the primary sponsor of legislation Act 290, which authorizes the Department of Wildlife and Fisheries to establish quality certification program for Louisiana's seafood industry, my hope is that we can eventually have a Louisiana brand and eventually an American brand for our seafood industry.

The difference in our products and they command premium prices that they have and should receive is something that we are truly concerned about in protecting our shrimp industry from the low quality dumped foreign imports. I also encourage the Louisiana Shrimp Task Force to advocate for federal price supports for shrimp and to consider ways to investigate allegations of false advertising of foreign shrimp as a Louisiana product.

Still, even with the work being done by my state to help support this sector, the shrimp industry is fragile and a revocation of orders will be an unnecessary blow to an already vulnerable group.

My district, like many others in the gulf, have been subject to the litany of trials with one of the most damage during the 2005 and 2008 hurricane season. We also have suffered the effects of a crippling economic recession, and most recently the industry has been ravaged financially by the gulf oil spill.

With all this devastation, the hard working men and women involved in the remarkable shrimp industry have refused to give up. We are a hearty people. For almost a decade our domestic shrimp industry has been fighting to survive against the flood of the underpriced imports. The shrimpers, the processors, and distributors worked tirelessly to become more efficient, but there is no way for them to compete against the artificially low prices of the subject imports.

Before the imposition of the orders domestic shrimp prices began to drop precipitously and in turn industry revenues began to decline, drops in employment and reducing wages for those who were still lucky to have their jobs. At the same time the industry struggled with the staggering decline in the number of shrimp fishing license in Louisiana and across the Gulf of Mexico. Many shrimpers could no longer afford to fish and I know many who have gone bankrupt in trying to compete with the low prices of imports.

Fortunately, the industry has been able to thrive because the antidumping orders have been successful in limiting the volume of the subject imports over the past five years, and since then the imports have remained significantly below the price to the petition. Shrimp prices are also no longer in a free fall as the orders have a declining effect on the import prices.

With the protection given by the orders over the past five years, the domestic shrimpers have also been able to increase production by 13 percent notwithstanding the massive revenue declines in 2010. Due to the gulf oil spill shrimp processors have been confident enough to market security provided by the orders to being re-investing in their businesses by purchasing new equipment and freezers to improve the efficiency, and increase production, and also the quality control procedures that they put in place knowing that their investments will not be in vain.

While many have temporarily had to stop fishing due to the oil spill, the shrimpers anxiously await the start of the new season and worry how to recoup their expenses and domestic prices are brought down again. The industry is doing everything it can to restore itself and absolutely imperative to the survival of -- that is not threatened with illegal dumping of imports again this year.

In conclusion, the celebrated shrimp industry in my district across the great State of Louisiana and across the gulf will almost certainly be permanently damaged if the subject countries are allowed to inundate the domestic market with the dumped products. Revocation of the orders will prevent the hard working American shrimp processors and distributors from generating any profit in the business and will likely also cause disinvestments in a sector which is still in the process of rebuilding.

This industry is an historic part and culture of the fabric of Louisiana, and I refuse to allow illegal trading practices to jeopardize an industry that provides an economic livelihood to so many in my home state. Thus, I respectfully ask the Commission to please continue the antidumping orders of shrimp from Brazil, China, India, Thailand and Vietnam. With the continued protection these orders provide, the American shrimp industry in my state and across the United States can flourish and once again will survive and thrive in an economy that we all struggling to bear.

Thank you again for the opportunity to share my views with you today.

CHAIRMAN OKUN: Thank you for your testimony. Let me see if my colleagues have questions.

Thank you again and have safe travels back to Louisiana.

MR. HARRISON: Thank you.

MR. BISHOP: The Honorable Mary L. Landrieu, United States Senator, Louisiana.

CHAIRMAN OKUN: Good morning, and welcome, Senator.

MS. LANDRIEU: Good morning, Madam Chair, Members of the Commission. I really appreciate the opportunity to testify before you this morning when I know I'm following one of our state representatives, Representative Harrison. Of course, Senator Cochran was here earlier this morning. So I'm going to add my voice, and I will try to just go through the opening of my remarks and then summarize because I know you have a long list of speakers, but this is a very important issue to our state.

I am here to make the case in favor of continuing the 2005 antidumping orders on shrimp from Brazil, China, India, Thailand and Vietnam. Revocation of these orders would, I believe, permanently damage our domestic shrimp industry and devastate the hard working people of Louisiana and the gulf coast in particular.

The shrimping industry has been a fundamental part of the Gulf of Mexico's culture for generations and it's especially important in Louisiana. We have at least 5,000 active shrimpers and thousands of other individuals that are employed in related activities. For most of these individuals, this is more than a job. It's a time honored way of life, and I want to stress the cultural aspects of this particular industry and what it means to the people of my state.

As a 12-year-old girl, I went down what we call "go down the Bayou from New Orleans", if any of you have traveled in Bayou LaFourche or any of the five fingers of the Terrebonne Bayous, meaning good land in Louisiana, and witness the blessing of the fleet where the priests get on the shrimping boats with incense and a great ceremony bless the boats. This has been going on for hundreds of years. This is the industry at risk when we fail to impose the common sense restrictions that keep this industry competitive internationally and stop the dumping.

Beyond it's cultural significance, Louisiana shrimp industry contributes over $1 billion annually to our state's economy. In 2009, Louisiana shrimpers harvested over 113 million pounds of shrimp at a landed value of over $120 million. Unfortunately, that was a very low record. Normally that price is, you know, obviously less than a dollar a pound. But normally the price of shrimp is much higher than that, and it has fallen considerably since 1980.

In Louisiana, the massive impact, economic impact is made by small businesses. In fact, across the country most of our domestic shrimp fishermen, processors and distributors are run through family operations. These are businesses, small businesses that are simply no match to these large foreign enterprises responsible for dumping significant amounts of underpriced shrimp, in many ways subsidized by their governments onto our markets. It's not fair, and it needs to be stopped.

Revocation of the order will surely have an adverse effect on each sector of the domestic shrimp industry, and if these businesses fail, believe me, entire communities in Louisiana will be devastated, and I don't need to remind this Commission this gulf coast industry has been now doubly hit, if not triply hit, by Katrina, which was five and a half years ago, Lena, that was three weeks later, Gustav and Ike, the combination of four devastating storms, and then the oil spill itself which took place just about eight months ago which we are still struggling from.

These fisherman, these shrimpers need a break, and they need this Commission to act on their behalf. Before these antidumping orders were put in place the domestic shrimp industry was under siege by dumped imports that pushed domestic prices down to unsustainable levels.

I'm going to submit the rest of my statement for the record. I would like to just add a couple of things just as an example.

Paul Piazza and his son, it's a shrimp processing facility located in the French Quarters was founded in 1892, not 1992, but 1892. It's a fourth generation of the founding family. Since the orders were put in place Paul Piazza has doubled both production and sales. The continuity of the orders that we have put in place that are up for revocation, which we hope you won't revoke, allows the family business to continue packing, maintaining inventory levels sufficient to remain profitability.

That's just one example, but we believe in this industry. We believe in it not only has an economic boost for our state and for the nation, but we believe in it as a way of life, an important cultural component. I hope that my grandchildren, my daughter is now 13, I hope her children will be able to witness the blessing of the fleet like I did when I was 12 years old. Thank you so much.

CHAIRMAN OKUN: Thank you, Senator. Your fill statement will be in the record. Let me see if my colleagues have any questions.

No. Thank you very much. Appreciate you being here.

MR. BISHOP: Madam Chairman, that concludes our congressional witnesses at this time.

CHAIRMAN OKUN: Very well. Let's turn to opening statements.

MR. BISHOP: Opening remarks on behalf of those in support of continuation will be by Elizabeth J. Drake, Stewart & Stewart.

CHAIRMAN OKUN: Good morning.

MS. STEWART: Good morning. Madam Chairman, Commissioners, my name is Elizabeth Drake of the law offices of Stewart and Stewart. I am here today on behalf of domestic shrimp fishermen and processors to ask the Commission to maintain these antidumping orders on frozen warmwater shrimp from Brazil, China, India, Thailand and Vietnam. These orders have dramatically tamed unfairly traded imports.

From 2001 to 2003, imports from the subject countries jumped 38 percent by volumes while the unit values plummeted by 20 percent. Since the petition was filed import volumes dropped by 20 percent and their market share contrasted. Since the orders were imposed import unit values rose each year until the recession hit in 2009. Even in the depths of the recession subject unit values were higher than they had been in 2005 and by interim 2010 imports were priced higher than they had been in any period going back to 2003.

As the order stabilized prices domestic producers were able to increase production in shipments, get better prices for their product, and improve their operating margins. Fishermen's margins, which suffered the most in the original investigation, also saw the most improvement under the order. Both crews and processing factory workers saw wages and hours go up as the industry regained its footing.

The newly stable market gave fishermen and processors the confidence to make needed investments in their boats and factories, many of which were damaged or destroyed by massive hurricanes. Even with the deep economic recession and the gulf oil spills domestic producers were able to operate at a much more sustainable level than in the period of the investigation, thanks to the orders.

Despite these improvements the domestic industry is highly vulnerable to injury if the orders are revoked. As was true in the original investigation, the conditions of competition offer domestic producers little safe harbors from surges in dumped imports. Domestic and imported products are highly interchangeable with the vast majority of sales being made on a spot market and short-term contract markets that are extremely price sensitive.

Contrary to Respondents' assertions, we will show that the most important driver of domestic prices is import pricing, affirming the causal link that underpinned the Commission's original injury determination. These conditions have been exacerbated by events over the period of review. Demand continues to be sluggish due to the slow economic recovery, and uncertainties regarding the impact of the oil spill on consumers' perceptions. Fuel prices, the largest single component of fishermen's costs, are expected to rise this year and next.

Producers who have rebuilt and expanded after successive hurricanes often took on large amount of debt in the process, betting that a market stabilized by the orders would permit them a reasonable return for their effort. If the market is destabilized by rising volumes of dumped imports, producers will be unable to make the returns they need to justify these investments and repay their debts.

If the orders are revoked growing foreign producers stand ready to once again inundate the U.S. market with low-priced imports. Foreign producers have massive and growing excess processing capacity and subject countries are rapidly adding shrimp farming capacity as well. As a result, subject country production is predicted to grow by nearly 700 million pounds from 2010 to 2012, and enabling them to nearly double the 2003 expert volumes by next year.

Foreign producers can also easily divert large volumes from other export markets back into the U.S., a capability they have demonstrated in the past. Moreover, there will be a big incentive to do so given the higher prices available in our market.

A renewed onslaught of dumped imports will pitch the domestic industry back into crisis. Processors must meet customers' demand to follow import prices down or lose sales. At a certain point falling prices become unsustainable if they do not permit fishermen to cover their costs of operations, including rising fuel costs. When this point is reached the industry begins to collapse from the bottom up as occurred in the original investigation. With the orders in place the industry has been able to survive repeated natural and manmade disasters.

As long as conditions of fair trade persists, the industry is committed to investing in its long-term survival and success, but if the market is once again thrown open to rampant and uncontrolled dumping the future of a vital domestic industry and the communities that depend on it is in jeopardy. For all of these reasons these orders must be maintained.

Thank you.

CHAIRMAN OKUN: Thank you.

MR. BISHOP: Opening remarks on behalf of those in opposition to the continuation will be by Warren J. Connelly, Akin Gump Strauss Hauer & Feld.

CHAIRMAN OKUN: Good morning and welcome.

MR. CONNELLY: Good morning, Madam Chairman, Members of the Commission.

Subject import volumes and prices had no material adverse effect on the domestic industry during the period of review nor will they have any such impact in the future regardless of whether the Commission revokes the orders. We ask you today to keep six critical facts in mind. All of these facts are amply documented in the record.

First, total imports have been stable throughout the period of review. This is remarkable when you consider the dramatic changes in domestic conditions over the last six years, including devastating hurricanes, a recession, dramatic increases in fuel prices and the BP oil spill. Yet the collective judgment of hundreds of shrimp exporters in the five subject countries, as well as many more in the 10 or more major producing nations, is that U.S. demand for imported shrimp has leveled off.

Second, subject producers have not saved significant traffic or non-tariff barriers in exporting to the U.S. during the POR, especially in the last four years, thus the claim that subject imports will soar after revocation is contradicted by actual events.

Third, the primary determinant of the prices that the domestic shrimpers and processors can charge and the primary determinant of the profits that they can earn is the volume of domestic shrimp landings. This has been true throughout the period of review.

Fourth, subject imports which declined significantly during the POR have not affected the volume of domestic production. Consider the following. Between 1970 and 2000 the average annual domestic shrimp harvest was 259 million pounds. Between 2001 and 2009 the annual harvest averaged 263 million pounds. So for the last 10 years the shrimpers have caught more shrimp than they caught in the three decades that preceded 2001.

Fifth, for six of the eight pricing products for which the staff gathered quarterly data domestic processor prices declined between 2005 and 2009. The domestic industry ignores this very telling point. It was only in 2010 that domestic prices registered a significant price increase which was entirely due to the supply shortage caused by the gulf oil spill and not to any behavior by imports.

Since domestic industry prices and AUVs did not improve during the POR, even though such AUVs increased by about 8 percent, the orders have not had the salutary effect that the domestic industry claims. Subject imports were replaced by non-subject imports including non-subject imports from subject countries. But these formerly subject imports do not sell at lower prices when the orders are removed, rather the Ecuadorian, the Indians, and the Thai companies for which the orders have been revoked have all sold at higher prices than subject imports from the same countries. We believe this fact disputes the domestic industry's claims that revocation will cause the remaining subject producers to drop their prices once they become non-subject.

Sixth and finally, subject imports have found alternative markets and those markets are growing. First and foremost is the Chinese internal markets where a vast and growing middle class has discretionary income it is increasingly spending on seafood and shrimp. U.S. purchasers have expressed concern to the Commission that they are not going to be able to source Chinese products for this reason or if they can the price is going to be much higher.

Second, subject countries have substantially increased their exports to EU and prices in the major EU markets have increased over the POR. This price incentive means that subject exporters have little incentive to retreat from those markets and instead resume shipping to the U.S.

High quality imports are here to stay, but not in a volume that will differ from the volume over the last six years. We believe that to find in favor of the domestic industry the Commission would have to disregard the overwhelming weight of the evidence.

Thank you.

CHAIRMAN OKUN: Thank you.

MR. BISHOP: Would the first panel in support of the continuation of the orders please come forward and be seated?

Madam Secretary, all of the panel witnesses have been sworn.

(Witnesses sworn.)

(Pause.)

CHAIRMAN OKUN: Looks like the panel is seated. You may proceed.

MS. DRAKE: Thank you, Chairman.

Chairman Okun, Vice Chairman Williamson, Commissioners, thank you for the opportunity to be here to testify on behalf of the American Shrimp Processors Association, the Louisiana Shrimp Association, Dean Blanchard Seafood, Inc. and Seafood Shed.

My name is Elizabeth Drake, and I am joined by my colleagues from Stewart and Stewart, Terence P. Stewart and Eric Salonen, as well as our co-counsel Mr. Edward Hayes of Leake & Anderson. We want to take a moment to thank the Commission staff for compiling a very strong staff report which was no small task given the large number of participants in this review.

Before turning to our witness panel, we want to review the record in this review on the conditions of competition, the benefits of the orders, the domestic industry's vulnerability, the likely volume and price effects of imports upon revocation, and the likelihood that injury will continue or recur if the orders are revoked.

The conditions of competition have not changed markedly since the original investigation; if anything, they are even more supportive of the need for these orders.

First, demand has been dampened by the recession, particularly in 2009. Second, while the oil spill hindered supply in interim 2010, landings since then have recovered and any lingering effects in 2011 and 2012 are expected to be within the normal range of annual landing fluctuations. Supply from other countries is growing rapidly as we will review later. Third, the degree of interchangeability between domestic and subject product appears to be as high, if not higher, than it was in the original investigation. Finally, competition continues to be based primarily on price.

About two-thirds of purchasers report U.S. product is frequently or always interchangeable with subject imports, depending on the country, the higher proportion than in the original investigation. Country of origin labeling and the Wild Shrimp Initiative have been unable to differentiate domestic products in the U.S. market. COL, Country of Origin Labeling does not apply to restaurants which accounts for about 80 percent of shrimp consumption, and it contains other loopholes that limit its effectiveness. WASI, the Wild American Shrimp Initiative, while supported by a number of processors, has lost its federal funding and have been unable to deliver enough of a price premium to be self-sustaining given the price sensitivity of the market. Thus, most consumers still cannot distinguish domestic from imported shrimp.

In addition, purchasers rate U.S. and subject product as comparable in the majority of ratings across 17 purchasing factories. If price were excluded, the comparability would be even stronger, and this comparability extends to quality with 70 percent of purchasers reporting that U.S. product is superior or comparable to subject product in its ability to meet or exceed purchaser specifications.

And the majority of purchasers also report that domestic and subject product usually or always meets minimum quality specifications. In fact, 77 percent report that U.S. product meets minimum specs while 68 percent report that subject products does. Thus, purchasers themselves directly refute Respondent's claims about the supposedly inferior quality of domestic shrimp.

In addition, the majority of market participants agree that non-price differences between subject and domestic product are never or only sometimes significant. Again, the record here is even stronger than it was in the original investigation.

Despite this strong record Respondents claim that competition is attenuated due to differences in taste, species, frozen form and cooking, but the majority of purchasers disagree. They report that shrimp in different forms and species either are or can be used in the same applications, depending on customer needs or on price. In addition, changes in the price for one form usually or always affects the price for the other form.

For example, 69 percent of purchasers report that changes in the price of individually quick frozen or IQF, usually always affects prices for block frozen shrimp and vice-versa. The record refutes Respondent's claims and demonstrates direct, not attenuated, competition between domestic and subject products of all forms and all species.

Given this high degree of interchangeability, it is no surprise that competition is based largely on price. Purchasers contact multiple suppliers before buying, and the majority of sales are spot sales. Respondents' claims about importers reliance on contracts does not hold up as the majority of both domestic processors and importers rely on spot sales. Moreover, purchasers overwhelmingly cite price as a very important factor in their purchasing decisions. In addition, the vast majority of purchasers report that they sometimes, usually or always buy the product offered at the lowest price.

In sum, the record under direct price competition between highly interchangeable domestic and subject product is as strong, if not stronger, than it was in the original investigation.

Despite this strong record Respondent's claim that domestic prices are driven by the volume of domestic shipments rather than price competition from imports. They base this claim largely on the price data for eight pricing products gathered by the Commission, but they fail to correct for the seasonality of such prices, which we will examine shortly. The fact that domestic prices are driven by import prices and not domestic volume is apparent when we examine public import data.

As our brief shows, the correlation between domestic prices and import prices is more than twice as strong as the correlation between domestic price and domestic shipment volume. This is only logical. Domestic producers account for about 12 percent of the volume in the market. The idea that annual fluctuations in their volume would drive prices rather than the prices of the products which account for more than 80 percent of the market defies economic sense.

Our producers compete with multiple suppliers for sales on the spot and contract markets, observing purchasers through equality of comparable and price differences as very important. These further conditions of competition that led the Commission to correctly find that import prices were driving down domestic prices in the original investigation, and these are the same conditions of competition that now make domestic producers so susceptible to renewed price suppression and depression and injury if the orders are revoked.

Next, I would like to review the important benefits the orders have had for the domestic industry. Respondents' briefs spends very little time reviewing the record of the original investigation, but it is, of course, a very relevant statutory factor for the Commission.

In the period of investigation imports from the five countries subject to this review jumped by 38 percent in just two years. Subject imports started dropping as soon as the petitions were filed at the end of 2003, and by 2009 they were 20 percent below their pre-petition peak. It should be noted that these numbers are based on public import statistics. They do not account for producers in the subject countries who are no longer subject to the orders as that information is business confidential, but that information is reviewed in the business proprietary version of our brief.

The orders impact on subject market share was just as dramatic. Subject imports grew from 52 to 59 percent of the market from 2001 to 2003. By the time the orders were imposed subject imports' market shares had dropped to 46 percent, and it stayed below pre-order levels throughout the period.

In the original investigation as volumes rose prices dropped by 20 percent from 2001 to 2003 alone. While the filing of the petition began to lower volume, prices did not improve until the orders themselves were imposed in February of 2005.

After imposition of the orders prices rose each year of the period until the recession hit in 2009, but even though subject unit values remained above the 2005 level thanks to the orders, but by interim 2010 subject values were back up and exceeded both 2005 and 2003 levels.

This price discipline is also apparent in a comparison between unit values for subject and non-subject countries, again public information which does not account for individual non-subject producers.

Even with the recession subject unit values in 2009 were still 12 cents a pound higher than they had been in 2005. Non-subject unit values by comparison were 20 cents a pound lower in 2009 than they had been in 2005.

As subject import prices rose, processors and fishermen were finally able to get better prices for their product. These bars show the percent growth in subject unit values, U.S. shipments and landings from 2005 to 2008 before the recession hit. While the recession hurt all prices, the orders have softened the blow and supported a recovery since then.

In interim 2010, domestic shipment unit values were back up, exceeding what they had been in both the 2005 and in 2003.

As Respondents mentioned in their opening statement, the staff report shows net declines in domestic prices for several of the pricing products selected for this review, including to the third quarter of 2010. However, we urge the Commission to compare pricing product data from one quarter in 2005 to the same quarter in 2010 as it did in the original investigation in order to eliminate the distortions due to seasonal price variation.

While there will be differences, depending on the quarters selected, comparisons between second quarter prices or third quarter prices reveal an increase in domestic unit values and often are quite significant increases. This slide only includes four out of the eight pricing products reviewed as consistent second or third quarter price information is not published for the other four products, but this does show, obviously, declines become increases as soon as the seasonal variations are accounted for.

Now we turn to the benefits of the orders for the domestic industry. In the original investigation domestic unit values fell by 20 percent, the same decline as subject imports. Landings unit values plummeted by 44 percent. As domestic production contracted and the domestic industry lost market shares, it was also forced to cut back on wages and capital expenditures. Even these measures were insufficient to stop the bleeding, especially by fishermen who saw their operating income before salaries dive.

The orders, by taming import volumes and putting a floor on import prices, stopped the hemorrhaging. As reviewed above, prices began to rise. Even with the recession, over the period the domestic industry saw production and market share go up, an increase in wages paid to both processing workers and boat crews, an increase in capital expenditures, and improvements in productivity.

All of these improvements occurred in spite of devastating hurricanes and the worst recession since the Great Depression. These improvements have also helped processors and fisherman survive the crippling Gulf oil spill.

As a result of these improvements, returns strengthened. Fishermen, who suffered the worst declines in operating income in the period of investigation, also saw the greatest operating income benefit from the orders. Processors have seen a less market improvement, though their operating income in 2009 was higher than any year back to 2001. Nonetheless, the processing segment of the industry has had only minimal returns for nearly a decade, indicating severe difficulties in meeting its costs of capital.

I will now hand over the rest of the presentation to my partner, Eric Salonen.

MR. SALONEN: Thank you, Elizabeth. Despite all of the improvements the orders have helped support, the domestic industry remains highly vulnerable to injury should the orders be revoked.

First, the successive hurricanes in 2005 and 2008 damaged and destroyed many boats and processing facilities, requiring the domestic industry to reinvest in order to rebuild.

Fortunately, the market certainty provided by the orders help justify investments to not only bring capacity back to pre-hurricane levels, but to improve and expand on that capacity. These investments need time to generate sufficient return. Indeed, many fishermen are still so indebted from these investments that their ability to make current debt obligations is in jeopardy if they cannot make consistent returns.

Second, the recession and the Gulf oil spill are both likely to continue to have dampening effects on demand. Recovery from the recession is predicted to be slow at best, with continued high levels of unemployment. Purchasers report that the oil spill had negative repercussions for demand for all shrimp, and it is unknown how long any such effects might linger.

Third, fuel prices are rising. Fuel costs account for up to 40 percent of fishing boats' operating expenses, and these costs are expected to rise this year and next. If the orders are revoked, fisherman will be especially vulnerable to declining prices that do not permit them to cover rising costs.

The Commission should assess the likely volume and price effects of subject imports on a cumulated basis. Each of the discretionary factors outline in the statute support cumulation. As reviewed above, U.S. and subject product are highly fungible. In addition, as in the original investigation, they are sold in the same channels of distribution, and through the same regions of the country.

Finally, subject imports are present in all months of the period of review, with the sole exception of Brazil, which largely exited the market.

Respondents claim that there is not a reasonable overlap of competition due to the fact that domestic producers ship more to distributors than importers do, and that domestic producers shipments are more concentrated in the Southeast than imports are.

The staff report, however, shows that both domestic and imported products are present in each of the channels of distribution. Moreover, the staff report concludes that both domestic producers and importers serve a national market. The statute requires only a reasonable overlap of competition, not 100 percent identical conditions, and that standard is more than met here, as it was in the original investigation.

In addition, none of the subject countries satisfies the likelihood of no discernible adverse impact test. As to the threshold factors, we have already established that there is a high degree of substitutability and that competition is based largely on price.

In addition, public data indicate that producers in each of the subject countries will respond to revocation with what the staff correctly characterized as large or modest to large changes in the volume of shrimp exported to the U.S. Each country for which public data are available have large and growing amounts of excess capacity.

Respondents correctly point out that this is processing capacity, not farming capacity. Our brief, however, details the steps being taken in each of the subject countries to increase farming capacity through expansions to aquaculture areas, the adoption of more efficient shrimp species, improvements in farming productivity, or a combination of the above.

Thus, processors with rising excess

processing capacity will also have growing farms production to rely upon to ramp up their exports upon revocation. As a result of these investments, farm shrimp production is expected to grow in each one of the subject countries from 2010 to 2012. The total volume of production is predicted to rise by 300 million pounds this year, and by nearly 400 million additional pounds next year.

The U.S. will be a highly attractive market for growing subject production if the orders are revoked. In 2009, subject countries could get a 23 percent premium for shrimp exported to the U.S. over the shrimp they exported to the EU, and a 7 percent premium in the U.S. over shrimp exported to other countries.

We hope the Commission will rely on these objective overall export data in evaluating the attractiveness of the U.S. market rather than selective statements from certain foreign producers. As well, the U.S. imposes less stringent health and safety standards on imported shrimp than other key markets, such as Europe and Japan.

Finally, subject producers have demonstrated their ability to quickly shift product from among markets. The entire 152 million pounds of shrimp they withdrew from the U.S. market in 2004 found its way into third country export markets that very same year, plus 100 million pounds more. Respondent's claims that they somehow lack the ability to move these same volumes back to the U.S. if the orders are revoked are simply not credible.

The volume of subject imports is likely to be significant if the orders are revoked. With cumulated exports of nearly 1.5 million pounds to the rest of the world in 2009, subject producers would only need to divert a fraction of that amount to the U.S. to far exceed the pre-petition peak achieved in 2003.

Separately, the increase in production expected to take place over the next two years would in and of itself see the 700 million pound increase in exports to the U.S. by next year, more than doubling our 2009 imports.

Finally, it appears this increase could occur simply by utilizing current excess processing capacity, which is at least 797 million pounds. Full utilization of this capacity and increased farming production would permit subject producers to double the peak volume of exports that the U.S. achieved in 2003.

The likely adverse price effects of these rising volumes of subject imports will be immediate and widespread. As reviewed above, there continues to be a strong correlation between import prices and domestic prices, just as there was in the original investigation. As the pricing discipline of the orders disappears and imports start to erode U.S. prices down to global levels, purchasers will demand that domestic processors either follow prices down or lose sales.

While underselling has moderated under the discipline of the orders, the continued presence of underselling indicates that importers will be highly price competitive if the orders are revoked. Moreover, after the discipline of the orders, this underselling will depress and suppress domestic prices, just as it did in the original investigation.

Rising volumes of subject imports are likely to lead to a continuation or recurrence of material injury in the reasonably foreseeable future. Processors will be forced to compete on price or lose sales if high volumes of low-priced imports rush back to the market. In the face of rising fuel costs, fishermen will have very little room to withstand a decline in prices without seeing their returns diminish and disappear, as they did in the original investigation.

The domestic industry will not be able to sustain such a vicious cycle for long as they continue to struggle to meet debt obligations and achieve a return on investments made in the wake of successive hurricanes. Once boats can no longer afford to fish, processors will no longer be able to acquire domestic supply, and the industry will begin to collapse from its foundation on up, eroding employment and wages, requiring production curtailments, deferring capital investments, and eventually jeopardizing the future of a vital American industry.

This outcome can be avoided only if these import orders are kept in place. I would now like to turn to our first witness, Mr. Richard Gollott of Golden Gulf Coast Packaging, Inc.

MR. GOLLOTT: Good morning. My name is Richard Gollott, Vice President of Golden Gulf Coast Packaging Company, Incorporated, which is located in Biloxi, Mississippi. I also sit on the board of directors for the American Shrimp Processors Association. My family has been in the seafood processing business for three generations. Today, my son, two brothers, and three sisters are all in the business.

I personally got started in the seafood business when I was 13 years old. In 1983, I acquired a dock in Biloxi and started unloading shrimp. We then built a facility to process that shrimp in 1984. When I last appeared before this Commission in December 2004, our industry, both fishermen and processors, had been overwhelmed by a surge of dumped imports. Subject imports were growing and gaining market shares at our expense.

Falling import prices drove down prices for our domestic product. The impact on the domestic industry was truly devastating. In the case of my company alone, between the time of the Commission staff conference and the hearings in the final phase investigation, the number of boats unloading at our dock fell from 95 to 64, a decline of 33 percent.

Since the petitions were filed in 2003, subject imports have dropped and remain well below the 2003 peak. Prices have stabilized. The domestic industry market share, as measured by landings, increased during the period of review. The increased subject import prices caused by the orders led directly to improved domestic prices.

Prior to the recession of 2009, domestic wholesale prices were above 2005 levels. In the case of Golden Gulf, the orders made it possible for us to add a freezer, additional processing capacity, and we are now currently adding even more equipment and making other improvements. All that said, our industry has nevertheless been severely harmed by other events since 2005.

Many processors' operations were completely wiped out by the hurricanes. The oil spill took large number of fishing boats out of operation, as fishing areas closed. Consumers' uncertainty about the impact of the oil spill affected demand for *all* shrimp. In short, while the industry was lucky to come back from these disasters, it remains in a fragile, vulnerable state.

If the orders are revoked, subject imports will be able to do what natural and manmade disasters have not, and that is destroy this industry. During the original investigation, this Commission found domestic shrimp and subject imports were sold to similar types of customers, for the same applications. Respondents from purchasers confirm that purchasers generally saw domestic and imported products as interchangeable, and that competition was based on priced.

Your prehearing staff report shows this is still the case today. What has changed is where subject producers are exporting their shrimp. Since 2003, exporters from these five countries to the U.S. declined by 86 million pounds, but increased to other countries by 585 million pounds. Redirections of just a fraction of that volume to our market would raise subject imports by volumes to 2003 peaks.

What has also changed is the foreign producers have large and growing excess capacity. And keep in mind that even with the orders in place, they still export sizable volumes of frozen shrimp to the U.S., showing their continuous strong interest in this market. If these orders are revoked, these countries will come storming back in with huge volumes of imports at dumped prices.

We, of course, recognize that this market needs imports, since the domestic industry cannot supply 100 percent of the demand. But if these orders are removed and imports are permitted once again to be sold at dumped prices, then the fishermen won't be able to afford to go out and harvest shrimp, and processors such as Golden Gulf will not have any shrimp to process. The boats will remain tied up at the docks, workers will be laid off, processors will simply close their doors, and a unique American way of life and culture will cease to exist.

As someone whose family has been in this business for three generations, and with the fourth generation taking over, I ask you not to let this happen. Thank you.

MR. GUIDRY: Good morning, Madame Chairman and commissioners. Thanks for having me here today. I am Clint Guidry, President of the Louisiana Shrimp Association, LSA. LSA is a state trade association. Our members include commercial shrimp fishermen, wholesale and retail seafood dealers, statewide merchants, and individuals who are concerned about imported shrimp and the harm it has caused our industry.

LSA reincorporated in 2002 in response to the surge in dumped imports starting in 2001. One of our top priorities was finding a way to address unfair import competition. I am a third generation fishermen. I started working on my family's boats as soon as I was old enough to do so, and worked every summer.

I got my first boat, a skip, when I was 14. Harvesting shrimp is not just a business. It's a way of life and a culture. I think that's probably why people continue to do it, even though they know they probably won't ever get rich. Depending on the size of your boat, you might go out and just harvest shrimp in the inter-waterways, or out deep in the Gulf. One outing can last from a couple of days to a couple of weeks.

Once your boat is full and you head in, you listen to your VHF radio. You learn which docks are offering what prices for shrimp. Sometimes I call ahead to a couple of different docks and see what they need and then what they're offering. And most fishermen, we share that information. They pick up with each other.

Once the dock has unloaded the shrimp, a check is made out to the boat's owner. The owner deducts his expenses for fuel, ice, groceries, and other supplies. Fuel, of course, is the single largest cost for any fisherman, putting aside the initial cost of the boat. In my experience, deck hands would get between 20 and 25 percent of the profits.

Before these orders, prices fishermen could get for their shrimp were falling sharply. Fishermen saw employment and wages drop and operating margins plummet. Fishermen cut back on repairs, maintenance, insurance, and fishing gear because they simply did not have the money to pay for them. The percentage of fishermen reporting net losses before salaries rose from 37 percent to an astonishing 84 percent.

Frankly, I don't know where our members would be without the orders. When before we were in a freefall and no end in sight, today there is a floor on prices because of the orders. As a result, fishermen who responded to your questionnaire saw their operating income before owner shares increase in each year from 2005 to 2008.

The recession in 2009 and the BP oil spill in 2010 turned these gains into losses. But there would have been no profits and much deeper losses without the orders. Even with these improvements, the industry remains highly vulnerable. We are still struggling to recover from the lingering effects of the hurricanes in 2005 and 2008, and the oil spill this past year.

Commercial fishermen who lost their boats because of the hurricanes had to go into debt and replace these boats. Many could barely qualify for loans and depend on consistent returns from their operations to service those loans. They simply would not be able to withstand the slide in dock prices that would result if the orders were revoked.

In addition, fuel costs are expected to climb this year and next, putting further pressure on fisherman. It's also unclear how long it would take for the industry to recover from the effects of the oil spill and the impact that it had on consumers' perceptions about shrimp. And, of course, the economy is recovering slowly, and unemployment remains high.

People who aren't collecting paychecks are also not buying a lot of shrimp. If the orders are revoked, foreign producers will return to this market with ever-increasing volumes of dumped shrimp. I firmly believe that most of our members would not be able to withstand such a renewed attack for very long.

Please keep these orders in place for the sake of the fishermen, their families, and their communities. Thank you so very much.

MR. McLENDON: Good morning. My name is Jonathan McLendon, and I am here today on behalf of Biloxi Freezing and Processing and M&M Shrimp, as well as the American Shrimp Processors Association.

My grandfather started processing shrimp in Biloxi in 1969. My parents carried on the tradition, and I have been in the family business for nine years. I see a bright future for the newest generation of shrimp processors, but only if we can maintain these orders and protect our market from the ravages of unfair trade.

In 2005, the plant my grandfather built was destroyed by Hurricane Katrina. This is our former processing facility a few days after the storm hit, viewed by the street. As you can see, the facility was destroyed nearly down to its foundation. It was a very challenging time for our company and for our family.

This is the rear view of our former facility. But we decided not only to rebuild the plant, but to start over with a whole new organization, to upgrade our equipment, and to invest in a 50 percent increase in peeling capacity. Now we have an automated feed system, headless grader, two deveining machines, and a sophisticated packaging machine.

This is the inside of our new facility prior to our grand reopening in May of 2006. You can see here a form-filled concrete mezzanine that elevates some of the equipment, and thus will make it easier to rebuild should we be hit again by storms in the future.

This picture also shows our new stainless steel processing equipment, which enhances product safety and quality. These are our new peeling machines. We now have six instead of the original four we had before the storm. Today, I am happy to say that our plant is not only up and running, it is operating more efficiently and producing more product than it was when Hurricane Katrina hit, and we are constantly looking for ways to further improve our operations.

We are in the planning stage to construct a new freezing facility that will allow us to produce individually quick-frozen shrimp. We have also acquired new state-of-the-art technology that will greatly increase our efficiency, lower our production costs, and enable us to continue to upgrade the quality of our product.

There is no way we would have made such a big bet on the future of the domestic shrimp industry if the antidumping orders had not been in place. By stabilizing prices in the U.S. market, the orders gave us the certainty that we needed to reopen our family business and transform it into a large cutting-edge facility. But these improvements were costly, and continued market stability is essential if we are going to be able to make the returns needed to justify these investments.

If these orders go away and imports begin to flood the market once again at dumped prices, the damage will be much worse than what Hurricane Katrina wrought. Revocation would force us to postpone and possibly cancel our expansion plans. As imports rise and prices drop, the impact on our business will be immediate.

While we do have some short-term contracts, most of our sales are on the spot market. Our customers regularly quote us import prices, and if we cannot be competitive with those prices, then we cannot sell our product. We are particularly vulnerable to falling import prices in the off-season when we make sales from inventory that has already been paid for.

I am proud to carry on this tradition my grandfather started, and I have faith that our business will continue to grow and thrive in the years to come. But this will only be possible if we can compete in a market where everybody plays by the rules. These orders have tamed unfair dumping and given our industry hope in its future. I urge the Commission to keep them in place. Thank you.

MR. PEARSON: Good morning. My name is Trey

Pearson. I'm the President of JBS Packing Company, a member of the American Shrimp Processors Association. Our plant is located in Port Arthur, Texas. It has been open for more than 22 years. Before that, we were in the fishing and unloading business for 15. My father-in-law founded the firm, and I run it with my two brothers-in-law.

Before the orders were imposed, prices were dropping so rapidly that we couldn't get rid of the inventory fast enough, and there were no bottoms in sight. And with the orders in place, the market has stabilized, and we gained enough predictability to ensure a plan for our future. Thanks to the orders, we were able to install a large new IQF machine in 2008, along with a new automatic scale and bagger, updated peeling equipment, and additional graders and washers.

I understand that foreign producers claim we domestic producers only have ourselves to blame for the problems that we have because we allegedly refuse to improve the quality and consistency of our product. In particular, they say that more processors should adopt the practice of one unnamed company that supposedly reduced the amount of lower tier product it handles from 20 percent to 14 percent. This is a meaningless example.

The type of process that they discuss are already common practice, and many major processors, including JBS, have much stricter tolerance levels than the company they highlight. We won't accept the load of shrimp if more than 5 percent of it fails to meet top quality specifications. A 14 percent tolerance level would be unthinkable.

We have put years of effort into working with our boats to ensure the shrimp we get is the best it can be. We have a very broad base of suppliers with boats coming into our docks from the entire Gulf, ranging from Florida to Texas. Our system permits the full traceability of each pound of shrimp we sell back to the boat that caught it. Each load comes into our dock and is marked with the boat name, count size, and date. And that information stays with the shrimp throughout the plant and all the way to the customer.

We installed an unloading monorail that carries shrimp from the boat into our plant with minimal handling, and we reorganized our plant's layout to reduce the time the shrimp is out of the freezer and being processed. We pay a full-time U.S. Department of Commerce inspector to inspect the majority of our shrimp before it leaves our plant. As a result, 98 to 99 percent of our product meets the highest quality specifications of our top customers. And this is not new or unusual. Most processors have to consistently meet these specs to stay competitive.

The Commission staff report shows that the vast majority of purchasers agree U.S. product usually or always meets the quality specifications. In fact, purchasers report that our product is slightly more likely to meet their specs than subject imports, exactly the opposite of what the foreign producers allege.

The steps our firm has taken have also benefitted our boats and get more per pound from us today than they did before these quality measures. It does cost more to do business this way, but we are able to justify these important investments thanks to the price discipline the orders have imposed.

If these orders are revoked, all the progress we have made will be in jeopardy. Our plant was hit by Hurricanes Rita and Ike, and we're just now starting to move the volumes we lost during the Gulf oil spill. Despite the industry's best effort, labeling and marketing initiatives like COOL and WASI have not been able to penetrate the broader restaurant market and deliver a consistent premium for our product.

Most Americans have no idea where the shrimp they eat comes from and how it was raised, and our customers know this. The import prices are always the ammunition they use in their negotiations. When the order steadied those prices, it allowed us to move forward with our quality plan and growth strategy. If those prices are thrown back into a downward spiral, we will never be able to reap the full benefit of these investments, and it will be difficult to justify additional investments in the future.

If prices fall steeply enough, we will be unable to support our fishermen, forcing us to contemplate layoffs and production cuts. Our family has overcome hurricanes and oil spills to stay in this business, and I'm committed to it for the long haul. All we ask is for a level playing field that will let us compete on our quality and ingenuity and hard work.

With the orders in place, we can survive and even thrive. Without them, our future is at risk. Thank you.

MS. TRUONG: Good morning, Chairman Okun, Vice Chairman Williamson, and commissioners. My name is Angel Truong, and I grew up in a shrimping family in Biloxi, Mississippi. I am the Vice Chairperson of

Asian-Americans for Change, a nonprofit organization that serves the Vietnamese-American community in the region.

Some people are surprised to learn that 30 to 50 percent of the Gulf region's commercial fishermen are Vietnamese. In fact, the Gulf region has the largest number of Vietnamese fishermen in the world outside of Vietnam.

My family started as typical of many in the community. My father came to the U.S. from Vietnam in 1984. He decided to settle in Biloxi because it would allow him to continue doing what he did in Vietnam, which was shrimping and fishing.

When I was growing up, my father would be away from home for months at a time during the shrimp season, and the money he made is what housed, fed, and clothed our family. My five brothers and sisters and I owe our education and our standard of living to shrimp. In our community, it is not unusual to see kids as young as seven or eight years old helping out on their family's shrimp boat. One of my brothers loved the work so much he is now following in my father's footsteps and shrimping like my father.

When dumped imports started driving down prices for shrimp, the pain it caused my family was immediate and real. My father often spent arduous weeks away from our family and out on his boat catching shrimp, and would come back to the dock and not be able to make enough money to cover his expenses.

Fortunately, the industry took action and antidumping orders that were imposed as a result have helped keep my father, my brother, and hundreds of fishermen like them in business. now they can earn a fair return for their hard work, support their families, and pass the culture of shrimping onto the next generation.

If these orders are revoked, our community would be extremely vulnerable to renewed injury from dumped imports. Many Vietnamese fishermen in our area were devastated by Hurricane Katrina in 2005. The storm not only destroyed people's homes and damaged their boats. For some, it took everything they had. Some of the more traditional members of our community keep their life savings secure in their houses instead of banks. The storm left them with nothing but the clothes on their back, just as they had originally arrived in this country.

We founded Asian-Americans for Change to help the community to help the community get back on its feet after Katrina, and we have been helping to rebuild lives one person at a time. The process has been difficult and costly, but the orders gave folks hope that the hard work would be rewarded. If the orders are revoked and dumped imports allowed to once again drive down prices, all the progress will be in jeopardy.

We have survived natural disasters, the worst recession in decades, and an unprecedented oil spill. We are dedicated to this industry for the long term, but we can only make it if the competition is fair. Every year in Biloxi, the Vietnamese community takes its place in the blessing of the fleet. We also participate in a shrimp pageant, where a shrimp queen is crowned, and we pray for a safe and prosperous season for our fishermen.

For us, shrimping is not just a way to make a living. It is a way of life. I ask you to keep these orders in place so we can pass down this rich heritage for many years to come. Thank you very much.

MR. O'CONNOR: Good morning. My name is Kevin O'Connor with the law firm Picard Kentz & Rowe, counsel to the Ad Hoc Shrimp Trade Action Committee. My colleague, Nathan Rickard, and I are here today to assist our witnesses, and will be available to assist them in answering any questions you may have following their prepared statement.

MR. APPELBAUM: Good morning. My name is Jonathan Appelbaum --

CHAIRMAN OKUN: I don't think your microphone is on.

MR. APPELBAUM: Good morning. My name is Jonathan Appelbaum, President of Penguin Frozen Foods, a 60-year old third-generation domestic shrimp marketer and distributor based in Northbrook, Illinois. This is the third time that I have appeared before this Commission to discuss the shrimp industry.

In the short time I have today, I want to focus my comments on two issues; one, how imports in domestic shrimp compete in the marketplace; and two, the domestic industry's commitment to quality.

Since I was last here in 2004, Penguin has concentrated a greater percentage of our sales in the retail segment of the shrimp market. The food service and restaurant segment of the market remains the largest part of our sales, but our overall reliance on that segment has diminished. We look at the retail segment as having good growth potential. Our sales have traditionally been concentrated east of the Rockies. But in developing the retail part of our business, we have added customers in California, Oregon, Colorado, and Washington.

The expansion of our retail efforts has to a great extent been made possible by the tariffs. At both food service and retail, the amount and price of imported shrimp impacts if and at what prices we are able to sell domestic shrimp. This is especially true at retail.

Prior to the antidumping duty orders, it was extremely difficult to be competitive on price with imports in the retail sector. As more and more low-priced imports kept coming in, prices kept falling. With trade relief, we have enjoyed stability in pricing, and that has once again opened up the retail segment to domestic product.

I see continued growth in the retail segment as critical support for the domestic shrimp industry. We will continue to make inroads, and as we do, the industry will develop a stronger foundation as consumers become even more aware of the great qualities of domestic wild-caught shrimp.

But for us, the continued development of the market depends on stopping a return to what things were like before the industry filed petitions for antidumping duties. A return to ever-increasing imports at ever-decreasing prices shuts us out of the retail market and leaves us scrambling for sales in the food service/restaurant segment.

The bottom line for Penguin and other marketers' ability to sell domestic shrimp is price. As U.S. production accounts for 10 to 15 percent of total U.S. consumption, and imports the other 85 to 90 percent, the price for shrimp in the marketplace is determined by the imports. There may eventually come a day when this is not true, but the reality for now is that if the duties go away, our ability to sell shrimp at price levels which will sustain the boats would be greatly diminished.

On quality, there is no question that a lot of attention has been paid to improving the quality of shrimp landed in the Gulf. I see the fruits of those efforts in our business. We carry two grades of shrimp. If something doesn't meet our base grade, we don't buy it. Six years ago, about 20 percent of what we purchased met only our base rate standard. The remaining 80 percent met our higher premium standard. Today, only about 2 percent of what we purchase meets just our base grade, while around 98 percent meets our premium.

This is not because we've lowered our

standards or that we have been forced to reject more shrimp. Instead, the boats continue to deliver better and better product, and they get higher prices in return. The end result is that the domestic shrimp we pack will stand up against any import.

Thank you for your time, and I look forward to answering any questions you might have.

MR. BLANCHARD: Good morning. My name is James Blanchard, a third generation commercial shrimper from Louisiana. I started shrimping with my father when I was 10 years old, and knew right away that was what I wanted to do.

Three of my brothers have shrimp boats, and my sister is married to a fisherman also. Shrimping has given me the opportunity to provide for my family and start my children on the road to their own success. I have a son who manages the supply company, a daughter who graduated from Yale Law School, and another daughter who is a child psychologist.

I have my own boat and shrimp year round. I have made several changes to keep costs down over the last several years, such as doing my own maintenance, installing a fuel efficient engine, and upgrading equipment, including nets, to improve fuel efficiency. Even with the help of the tariffs and cost reductions, the industry is not doing well these days. I have seen loading docks and processors disappear over the years, and the fleet keeps getting smaller.

Because of this decline, it is more difficult and costly for me to get supplies such as nets, ice, and experienced crew members. There are even fewer fish houses where I can unload my catch. I normally take 20 trips in a year, each lasting between a week and 10 days. In 2010, I made three trips before the oil spill, and only two after. Every day between May and September, I worked to clean up the oil through the Vessels of Opportunity program. After a month of cleaning up on the oil, I was finally able to go out shrimping.

I recently bought $9,000 worth of supplies and was ready to go. Then came word that the dock was not buying anymore shrimp at that time. I don't know why, but whatever the reason, I couldn't go out shrimping, and some of those supplies, like groceries and ice, will go to waste. If the tariffs are removed, things would be even worse for us. Prices would go down further, and more companies would disappear.

Right now, many fishermen are very worried about the long term impacts of this spill. We did everything we could to help clean up the oil and save our fishery, but we just won't know if there will be any long-term effects on our business until this spring or later.

I stay in the shrimping because it is what I love to do. Shrimping once flourished in Louisiana, and it should not become just another forgotten industry in this country. I ask the Commission to please keep these tariffs in place. Thank you.

MR. BOSARGE: Good morning. My name is Steve Bosarge I am a third generation fisherman. In 1976, I purchased my first shrimp boat after high school, and have been in the industry ever since. I am now own Bosarge Boats and operate four Gulf shrimp trollers out of Pascagoula, Mississippi.

I am also a commissioner appointed by Governor Barber with the Mississippi Department of Marine Resources, and serve on various Federal and State fishery panels. Shrimping has enabled me to enjoy a pretty good life.

I have put my three girls through college. One has finished a Ph.D. program in Pharmacy, and another in medical school training to be a dentist, and my oldest earned an MBA. She has put that MBA to good use by joining the family business after years in the financial sector, and is now in charge of business development and marketing for Bosarge Boats.

I want to talk about what it means to be a shrimper today. First, planning high quality shrimp and taking care of the product is how I have succeeded in this business. Paying attention to the type and style of nets that we use, controlling them into boat tows, and making sure that the shrimp brought on board is hauled and cleaned well, and assuring that our counts and weights are accurate, these are essential to how we operate.

This focus on quality allowed me to survive the flood of cheap imports that took place before the duties, and has allowed us to expand after the trade relief. We added a 95 foot boat to our fleet in 2006.

We pay just as much attention to making our operations more efficient. As fuel costs have increased, we have experimented with everything that might minimize our fuel usage, such as switching to steel V-shaded doors, and utilizing different types of webbing for our nets.

One of the most successful fuel conservation tools has come from the installation of fuel flow meters on our boats. These meters allow our captains to maximize fuel efficiency. The next generation of fuel efficiency will be to switch our vessels to operate on liquified natural gas.

This would require a large investment if we decide to move in that direction, but it would make a vast difference. But being efficient and producing high quality shrimp is not enough to guarantee our continued success.

Bosarge Boats has developed a website for the company that provides information on all of the other services that we now provide to supplement what we receive from the fishery. Our boats handle research work for universities, provides services to various marine-based industries, and perform endangered species relocation.

We remain first and foremost a shrimp fishing business, and that is where my heart is. By stopping the rapid decline in shrimp prices, the duties have relieved the pressure on our business, and allowed us to work on securing our future.

We have been able to invest back in our business and diversify largely because of the stability that the trade relief provided. Success has been the product of hard work, and future success will depend on us working just as hard.

For a business like mine, the tariffs remain as important today as they were six years ago, and I urge you to keep them in place. Thank you.

MS. DUBBERLY: Good morning. My name is Nicole Dubberly. I am a shrimper and marketing consultant. What started as my grandfather's hobby nearly 40 years ago has grown into Dubberly Seafood, a family owned and operated business in Savannah, Georgia.

My grandfather, Frank Dubberly, manages the company's day to day operations. My grandmother manages the company's retail shop. My father and uncle are both captains of two company-owned boats.

My brother and I serve as crew members on my dad's boat, and my mom and I work together on marketing the company's branded products, Sweet Savannah Shrimp. My desire to enter into the shrimp industry began in college.

And as part of my major, I enrolled in a marketing class. I remember my professor explaining how imports impacted American industries, and his experience working with shrimpers that quit. I realized that if I had a marketing degree, I could be helpful to the industry and the family business.

The anti-dumping orders have helped stabilize the market, and allowed Dubberly Seafood to explore new markets and marketing techniques. Prior to the orders, prices were extremely low, and few customers knew the difference between wild caught domestic and imported shrimp.

Since the orders prices have begun to rebound. Customers are not only receptive to learning the difference between domestic and imported shrimp, but also are willing to pay a premium for quality local shrimp.

My marketing efforts on behalf of Dubberly Seafood are focused on educating consumers about these differences, and selling the company's product to higher end markets, such as Farmers Markets and Food Co-Ops.

The response so far has been very positive. Dubberly Seafoods began attending local farmers markets nearly two years ago selling Sweet Savannah Shrimp. Given customers' enthusiasm for the product the company expanded in shrimp land area farmers markets. Sweet Savannah Shrimp has become so popular that our customers have started requesting shipments during these farmers markets off-season. Numerous e-mails and calls from our customers requesting Sweet Savannah Shrimp have prompted Dubberly Seafoods to begin shipping Sweet Savannah Shrimp directly to customers.

We used to sell the vast majority of our shrimp to processors at the wholesale level. However, with an emphasis on direct marketing, the company's sales have grown to farmers markets and now represent 10 percent of overall sales.

In addition, nearly 20 percent of our sales are made at the retail store. I am excited about the prospect of growing our direct sales further. But these sales still represent just a small amount of the shrimp that our family's boats land.

Developing new marketing efforts requires an investment of both time and money. Stopping the price declines and companies influx with imported shrimp allowed Dubberly Seafood to explore new markets and invest in developing new ways to sell.

Without the anti-dumping duties, we would face very difficult challenges. Imported products would once again increase downward pressure on prices, and prevent Dubberly Seafood from further exploring new markets.

All of our focus would be on cutting costs in order to retain even the smallest profits. I ask the Commission to please keep the orders in place. I will be more than happy to address any questions you may have. Thank you.

MS. PENA: Good morning. My name is Regina Garcia Pena, co-founder and CEO of Philly Seafood Company, a shrimp purchasing and distribution company based in Palacios, Texas. I grew up around the shrimp industry, and am honored to testify today.

My father bought his first boat in the 1950s, and today four of my brothers work in the seafood industry. Together, they run the largest family owned shrimp fleet in the country. We buy our shrimp from them and from others, and sell around the United States.

In the brief time I have, I would like to make a couple of points. First, domestic wild caught shrimp and foreign farm raised shrimp compete directly in the U.S. market. The determining factor is price.

I sell directly to restaurants, grocery store chains, and other regional distributors. I see on a regular basis that purchases are made on price. One of my customers, a large grocery store chain, does a fantastic job of marketing domestic product, but this chain's primary goal is to offer its customers the best value, and that comes down to price.

As a result our prices are measured against imports, and we must be competitive. Another example is that in 2009, a regional seafood distributor significantly increased its purchases of our shrimp because of the attractive price.

In 2010, as prices increased, the customers switched back to imports. They only purchased 25 percent of what they had bought the year before. The customer was candid about the fact that price drove his decision. Price is the bottom line.

I would also like to talk about quality. The domestic industry has increased its focus on quality. I personally inspect the shrimp as it comes off the boat. If it doesn't meet my strict standards, I will not buy it.

I also have a stringent specification for my processor that he must meet. We start with the premium shrimp that comes off the boat, and ensure that it is handled impeccably until sold. Due to the demand of purchasers like myself, quality has become a top priority for the boat.

My family's boats have their own specification on drag times and handling the shrimp, and there is severe economic consequences for these boats if they bring in inferior shrimp. Ironically, I started my business around the time the surge of shrimp imports hit its peak.

I have been able to crow my business in no small part due to the trade release that we are defending today. I am living proof that these orders have worked and helped the industry. I am optimistic about the future of the industry, and about my business. Demands for our shrimp has increased as more customers get to know our shrimp. We will be able to reach even more customers if the tariffs are left in place. Thank you.

MR. SALONEN: That concludes our presentation, Madam Chair.

CHAIRMAN OKUN: Thank you very much. Before we begin our questioning for this panel, I want to take the opportunity to thank all of you for being here, particularly the industry witnesses who have traveled to be here today to answer our questions and provide information on the shrimp industry. It is extremely helpful to us.

And we will begin our questions this morning with Commissioner Aranoff. There is a large group of you out there, and so if I could remind you that when you answer a question to just repeat your name for the benefit of the court reporter. Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you, Madam Chairman. I want to join the Chairman in welcoming all of the witnesses here this morning. We appreciate you taking time away from your businesses to answer our questions, and to traveling to Washington at this time of year when travel is not always assured.

Let me start by asking a question to -- well, I will address it to you, Mr. O'Connor, and then maybe you might want to address it to somebody else. Our Staff has informed me that we don't really have on the record the exact relationship between the Ad Hoc Shrimp Trade Action Committee and the Southern Shrimp Alliance, although a lot of your filings in this case include materials that were produced by the Southern Shrimp Alliance.

Can you just clarify that for us for the record, please?

MR. RICKARD: We can do that. This is Nathaniel Rickard. We can do that in the post-hearing brief, and actually in the history of this proceeding, we have I think filed documents that are on the record with the ITC shortly after the investigation, and explained the relationship between SSA and AHSTA, and we can resubmit that in post-hearing.

COMMISSIONER ARANOFF: Okay. We would appreciate that. I am also aware that the Ad Hoc Shrimp Trade Action Committee had filed a request at

Commerce for a change of circumstances review, along with the Thai Frozen Foods Association that was seeking revocation of the Thai order, retroactive to inception.

Can you tell me what the basis for that request was, and also what the status of that investigation is at Commerce?

MR. RICKARD: Again, we can -- this is Nathan Rickard. We can supply the information from SSA about that and backs up what the request was on the record of this review. The status of it continues to be open.

We have been asked to provide more information in support of the request that has been made by the Committee, and there was no definitive deadline provided.

COMMISSIONER ARANOFF: Okay. I understand that the domestic industry is divided with respect to the change of circumstances review, and I would like to ask those representing each point of view here to tell me briefly what you believe the impact of revocation of the Thai order alone would be on the domestic industry?

MS. DRAKE: Commissioner Aranoff, this is Elizabeth Drake on behalf of the American Shrimp

Processors Association, LSA, and others. The American Shrimp Processors Association, and other parties, oppose the request for a change of circumstances of the order on Thailand, and we believe it is extremely important.

We also submitted information to the Department of Commerce demonstrating that those supporting maintenance of the order on Thailand represented a majority of the industry, using Commerce's method for determining representation that they used in the original investigation.

And we continue, of course, to believe that is important, which is why we are here today.

MR. SALONEN: Commissioner Aranoff, Eric Salonen. Let me just augment my partner's comments, and by also noting that your own Staff report shows that there is virtually no support for that change of circumstances review from the questionnaire responses that you received.

COMMISSIONER ARANOFF: Okay. Mr. Richard, did you want to comment on that?

MR. RICKARD: I think that the information we are going to put on the record in post-hearing will be responsive to that.

COMMISSIONER ARANOFF: Okay. Thank you.

Let me turn another subject entirely. One of the things that is striking about the record in this review, and I think it was in the original investigation as well, is that capacity utilization has been consistently low, both for the domestic industry and also for the subject foreign industry.

The Respondents have argued to us that capacity utilization is a bad measure of the ability of subject producers to increase their shipments to the United States in the event of revocation, because the entire industry, both domestic processors and foreign processors, maintain excess capacity to handle seasonal peaks, and really are constrained by the shrimp harvests.

Would you agree with that assessment? I can open that up perhaps to some of the processors to answer. Does the fact that a processor has capacity, excess capacity, mean that they can upon revocation of the order send more shrimp to the U.S. market, or is capacity not -- the processing capacity, not the relevant constraint?

MR. MCLENDON: This is Jonathan McLendon. Yes, Ma'am Commissioner, I think it is extremely relevant.

MS. DRAKE: Commissioner Aranoff, I believe there is a bit of difficulty in answering because of the differences between the seasonality in the domestic industry, versus foreign producers. Our domestic processors do have very low capacity utilization rates because the shrimp harvest is very seasonal, and so they have to maintain a lot of capacity when they reach peak season.

Our understanding is that foreign producers are much less seasonal. They can have two to three crops of shrimp a year, rather than the single peak season that our processors tend to have.

And while, of course, supply of shrimp is an important component of the ability to produce, we have submitted information in our brief showing that not only is there excess capacity in the subject countries, but there is also increased farming capacity, and plans to further increase that farming capacity in the future.

So certainly excess capacity is something that you see throughout the industry. I think more so domestically due to the higher seasonality. But we have demonstrated that there is no limit on the shrimp supply that will be available in the subject countries, and that's why our production is expected to grow by 700 million pounds by next year.

COMMISSIONER ARANOFF: Okay. Well, I appreciate the answer, Ms. Drake, and you did anticipate my next question. So now I don't have to ask it. You showed us a graph in the opening that showed that the subject product that was displaced from the U.S. markets found other markets fairly quickly.

And did that include the shift in Chinese production from subject production to breaded production, or would that be in addition to what you showed on the chart?

MS. DRAKE: Are you talking about Slide 33, Commissioner, which showed the shift from the U.S. to other country markets after the filing of those petitions?

COMMISSIONER ARANOFF: Yes.

MS. DRAKE: And that is Comtrade Export data that is at the six digit level, which doesn't allow us to break out breaded shrimp or non-subject producers. So both the decline in U.S. volume and the increase in the volume to the rest of the world includes breaded shrimp.

COMMISSIONER ARANOFF: Okay. Now, to the extent that some subject production shifted to breaded shrimp, that is a value added product, and so I guess the question is that even if I were to accept your argument that with respect to the subject product that producers could get higher prices in the U.S. than they could in other markets that they shifted to.

Would that apply to breaded shrimp because of the value added product? Why would they want to shift back to the non-value added product?

MS. DRAKE: Breaded shrimp does have higher prices than other shrimp farms in general, but hopefully some of our industry panelists can talk about the extent of the market for breaded shrimp in the United States. It's certainly not a market that foreign producers can rely on to any great extent to replace the product that is subject to the orders.

COMMISSIONER ARANOFF: Did any of the processors want to talk about the size? There is a hand way back in the third row. Can you state your name for the reporter?

MR. APPELBAUM: Jonathan Appelbaum, Penguin Frozen Foods. Over the last 10 to 15 years, consumption of breaded shrimp in the United States has continued to climb, probably for health reasons. It is somewhat of a limited market, and if the countries under tariffs were able to ramp up their production because of a loss of tariffs, I don't think it would come into the United States, that additional shrimp would come in then in breaded form because that market is kind of relatively capped.

COMMISSIONER ARANOFF: Okay. I take your point about that, but I guess my question is would product that is coming in now as breaded switch back to unbreaded if these orders were revoked? Is the market demand shrinking at that rate?

MR. APPELBAUM: I don't think it is shrinking. It is not growing. I think the shrimp that is coming in now as breaded probably would continue to come in as breaded.

COMMISSIONER ARANOFF: Okay. All right. Does anyone else want to talk about the market for breaded shrimp?

(No response.)

COMMISSIONER ARANOFF: No? Okay. Well, thank you very much. My time is almost up, and I appreciate those answers. Thank you, Madam Chairman.

CHAIRMAN OKUN: Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Madam Chairman, and I thank all of you for being here today to help us understand what is happening in the industry, and what is likely to happen in the future.

I want to begin by asking a hypothetical question. Assuming that the orders are continued is wildcat shrimping a viable competitor to farm shrimping going into the future?

MR. GOLLOTT: Yes, Richard Gollott. I think it is a viable competitor. Yes, sir.

COMMISSIONER PINKERT: Is there any competitive advantage that the farm shrimper enjoys over the wildcat shrimper?

MR. GOLLOTT: Very cheap labor from these countries. There has got to be a reason why it is not feasible to raise shrimp in the United States, and a lot of it is the chemicals, and the antibiotics, and stuff like that, that they could use in these ponds to keep the stuff alive. It is illegal in the United States.

The FDA and different agencies has found different illegal antibodies in this product, and we have been told by the Gulf Coast Research Laboratory that these ponds cannot raise shrimp at the concentrations that they raise them if they couldn't use the antibiotics.

So, you know, I think with our government ramping up inspections, and tightening down on this stuff, and with the garrison life, I think we can compete with them.

MR. O'CONNOR: Commissioner Pinkert, Mr. Bosarge, I believe, has some comments that would be responsive to your question as well.

COMMISSIONER PINKERT: Yes, sir?

MR. BOSARGE: Thank you. Steve Bosarge. You asked if our industry, if our boats would be still in the fishery if the duties were in place. Yes, the boats -- well, we have continued to make the boats more efficient, and to work on our gear, and to work on our electronics, and to be able to compete with the farm raised product.

We see our market growing into the larger sized shrimp, and hopefully that will enable us to secure a future. We also are working with management, with NMFS, and Ashburn Fisheries to make management changes that would make our industry more efficient.

So, yes, we are continuing to work towards a sustainable future, and I believe it would be no problem. Thank you.

MR. SALONEN: Commissioner Pinkert, Eric Salonen. I would submit as well that far from being hypothetically, you have a record before you from the period of review which shows so long as you maintain conditions of fair trade that this industry is entirely viable and capable of competing with farm shrimp.

It has been able to quite successfully, notwithstanding natural disasters and an oil spill. So if the orders remain in place, and fair conditions of trade are continued, there should be no question that the industry will be able to continue to compete in the future.

COMMISSIONER PINKERT: Thank you. Now, in other fish industries, there is sometimes considered to be a health benefit from buying the wild caught product, as opposed to the farm raised product.

For example, you hear that about the omega-3's in salmon, for example, that you get more of that in the wild caught product than you do in the farm raised product. Is there a comparable situation in this industry with the wild caught product having some benefits to the consumer, as compared to the farm raised product?

MR. VEAL: David Veal, American Shrimp Processors Association. Omega-3's are not an issue with shrimp, but there are other things that make that a desirable product. One of those is that domestically caught shrimp have a taste that can't be achieved in ponds.

You simply get a marine taste that customers identify and like, and if you look at consumer preferences -- and in fact two studies out, as recently as this month, clearly show that the consumers prefer that type of product.

And as the case with Salmon and others, consumer preference is reality. If they believe that it is better for them, for whatever reason, they believe that, and then it is.

MR. SALONEN: Commissioner Pinkert?

COMMISSIONER PINKERT: Mr. Salonen.

MR. SALONEN: Thank you. The difficulty and the frustration I think that the industry faces is that notwithstanding the consumer preferences as Dr. Veal has pointed out for wild caught shrimp, they often can't tell imported shrimp from domestic shrimp.

The restaurants don't make that clear, and the efforts of country of origin labeling, and WASI, has simply not succeeded in helping to differentiate that. The industry is working on trying to improve that so that they would be able to have more of that advantage.

But until they are able to differentiate the product more successfully, they are just going to have to compete with the imports on price.

COMMISSIONER PINKERT: Thank you. Mr.

O'Connor.

MR. O'CONNOR: Yes, Commissioner Pinkert. As you address the issues of food safety here, and what is in the shrimp that is beneficial to consumers, I think one of the things that we have placed on the record and feel very strongly about is that it is not just what is in the shrimp. It is what is not in the shrimp.

In addition to a lot of the nitrofurans, farm fentacal, the antibiotics that are used in farming shrimp overseas, which have been found present in imports, we don't have that same problem with wild caught shrimp.

So as we look at house effects for the shrimp, that is certainly an issue that we should consider as well.

COMMISSIONER PINKERT: Would you agree with Mr. Salonen that the consumer is not typically aware of which kind of shrimp is being offered?

MR. O'CONNOR: I think that's right. I think so much of the shrimp in this country is consumed in the restaurant segment, where the country of origin labeling laws do not apply. We have smaller markets, and we have prepared shrimp products where there are exemptions for the country of origin labeling requirements.

In addition, we have seen fraud in the industry, where we have had some people reboxing imports as domestics. So, I think there is a -- it is a tough thing for consumers to really know where the shrimp consuming comes from.

COMMISSIONER PINKERT: Thank you. Now, I noted in the brief that Mr. Salonen and Ms. Drake submitted that there was a discussion of an improvement in domestic industry market share during the periods from 2005 to 2009.

And I am wondering if you average out the market shares for each year from 2006 to 2009, is there a significant improvement in market share, as compared to 2005, and then as compared to the period before the orders went into effect.

MS. DRAKE: Commissioner Pinkert, we would be happy to answer that in more detail post-hearing. Market share did go up in 2006, but you are correct that in both 2007 and 2008 that it was below the 2005 level.

And although there was an increase by 2009, it was not a major increase. It was an increase of .9 percentage points, and while there were certainly volume benefits of the orders for the domestic industry as reflected in this overall increase, I think the price effects of the order, as our witnesses testified, have really been what has enabled them to invest in the industry and stay in businesses that they have finally seen that freefall that happened in that period of investigation stop, and a bottom on prices.

COMMISSIONER PINKERT: That's helpful. Thank you. Now, you also note, I'm sure, that the Respondents have argued that total imports, if you add the subject and the non-subject imports together, the total imports have been very consistent from the period of 2003 to 2009.

I am wondering what I should do with respect to that point, because it may be that you disagree factually, or it may be that you disagree about the relevance of that observation.

MS. DRAKE: Commissioner Pinkert, there is a question as to relevance of what has happened with non-subject imports, but the Respondents tend to refer only to the combined volume of subject and non-subject during the period of review, when of course subject imports were disciplined by the orders.

And so it is really a sort of meaningless comparison to look at. We really need to go back and look at what was happening prior to the filing of the petitions, where we saw a huge increase in volumes from the subject producers, which was driving an increase in the overall volumes.

That is the situation we are likely to see if the orders are revoked. Merely referring to what has happened since the filing of the petitions doesn't give the Commission a meaningful guide post to look at what will happen upon revocation.

COMMISSIONER PINKERT: Thank you. My time is up for this round. Thank you, Madam Chairman.

CHAIRMAN OKUN: Thank you. It is now my turn to ask questions. I appreciate the responses thus far. Perhaps we will just continue from Commissioner Pinkert's question with respect to how we evaluate the volume and take the point, Mr. Drake, that pre-order volume is important for us to look at.

But again just trying to understand the market, and the impact of the order, I guess I would have you further explain on this record where -- and again we had non-subject imports increase during the period of review, and the bulk of this increase was either from non-subject sources in subject countries.

Or sources to which the orders were revoked, and there was not that much displacement of subject imports by domestic producers, or the other countries. So, I wanted to get your response to that, and from the processors and purchasers on what is going on.

Why can't the domestic industry get back any of that volume, and what does it say about the fact that those where the order is revoked have been able to compete successfully?

MS. DRAKE: Well, the fact that producers for whom the order has been revoked have been able to increase their imports provides a very clear picture to the Commission of what is likely to happen if orders are revoked for all producers in those countries.

And most of the details of that are presumed proprietary, and in our brief. Even including non-subject producers, imports from subject countries have fallen since 2003, and they are still below the peak pre-petition level in 2003, even including those non-subject producers.

So the volume disciplining effect are real. As to the second part of the question, in the period of investigation the Commission found that subject imports were taking market share both from domestic producers and from non-subject imports.

And that is what we are likely to see

reoccur if the orders are revoked. These producers still account for the majority of U.S. imports if you look at the official import statistics. They still have a significant share of the U.S. market. They have significant excess capacity, and significant production increases planned.

They continue to be highly export oriented, and so the kind of surge that we saw in imports that hurt both the domestic market share and volume, as well as eating into non-subject imports, is something that we are likely to see happen again.

Obviously, we would like our folks to have regained market share more quickly than they did, but the fact that the decline has stopped, and that there has even been a small net increase, we think shows the positive effect that the orders have had.

CHAIRMAN OKUN: Okay. And then let me turn to the processors and fishermen for a moment with respect to the impact of the Gulf Oil spill, and what you see going forward, and I know that in the record that you have put a lot of information on the record.

But I just wanted in a sense to talk to you about what do you think about, and do you have a good sense right now, of what things look like going forward.

There has been discussion about consumer perceptions of what happened in the Gulf, and whether they are buying again, and whether that has changed anything with regard to what your customers are asking you when you are selling your product.

Maybe I will start on the front row, and then just work back on anyone who would like to comment on that, and again looking in the reasonably foreseeable future, what do you see, and what indicators, or what should we place the most emphasis on when we are trying to figure out what demand is like?

MR. MCLENDON: This is Jonathan McLendon of Biloxi Freezing. I think what we are seeing mostly is that between some of the funds that the vessels have received from the Vessel of Opportunity payments, and from the Gulf Coast Claims Facility, I see a real positive outlook for the industry.

And I see them not taking those funds and running or retiring. I see them reinvesting that in the business, I think that is pretty much the most important thing that you can see.

CHAIRMAN OKUN: Okay. Others?

MR. GUIDRY: Yes, Clint Guidry, Louisiana Shrimp Association. We can see that on the bayou where I live. The gentlemen and the fishermen who participate in the Vessel of Opportunity bought bigger boats, new engines, more efficient engines, more efficient fishing gear.

You know, they are reinvesting that money, and I think it is going to be a -- you know, given that we can reinstate these orders, they have a future, and they are trying very hard to keep up their equipment and maintain.

CHAIRMAN OKUN: Comments from anyone on the other rows?

MR. VEAL: David Veal, American Shrimp Processors. If you look at landings this year alone after the spill, we are at 75 percent of our average landings over the past five years. So, clearly the spill itself didn't damage the resource, at least this year.

The market continues to move, and consumer resistance to buying Gulf product is waning very rapidly, and as I indicated earlier, in recent studies, you see only about 20 percent of the consumer buyers that have any concern whatsoever about that.

And those are occasional buyers of shrimp, not the heavy users of shrimp. If you separate those from groups who use it, and who buy seafood six times or more a year, or less, those who buy it six times or more a year have no resistance whatsoever to buying Gulf product now.

It is only the occasional buyers, and even though there are more of those, those also collectively don't make up a large share of the purchases. So, I think we are going to rapidly see the marketplace return to -- at least I hope that we will see the marketplace return to a normal marketplace for us, in spite of this.

CHAIRMAN OKUN: Okay. So you think that those studies are a good indicator of what you see from your customers?

MR. VEAL: Yes.

CHAIRMAN OKUN: Okay. Any other comments on that? Yes, in the back row.

MR. BOSARGE: Yes. This is Steve Bosarge, shrimp producer. As far as the BP oil spill, of course you can imagine that it pretty well rocked our world, stopping us from any production, but they did put us to work in the Vessels of Opportunity Program, which then paid us.

So there has been an influx of cash to most of the producers, and I see -- and myself included, and most of them putting that money back into the business, and getting ready for the next season, hoping that the marketing efforts, and all the testing that has been done on the seafood, will prevail, and we will be back to possibly close as normal next year.

Of course, with the spiel -- I mean, who knows what it is going to do, or what it has done, or what the future will be for the environment. We can only hope for the best. Thank you.

CHAIRMAN OKUN: On that note, Mr. Bosarge, I am not sure that I saw this in the exhibits, but it might have been there, but is there anything coming out from the government, in terms of the studies of the environment in the Gulf, and its impact on all the seafood products there.

Is there anything that you are expecting to come out in the near future that is going to assess that? I mean, there was a lot of discussion right after the spill, and I am must curious if there is anything else that you are aware of?

MR. BOSARGE: There are studies being done all the way from the President's Commission, down to each State level, including the Sea Grant offices. There is a lot of information being collected, and a lot of testing being done.

I don't know how accurate it will be in the short time that we have to look at what harm may or may not be done. We were actually involved in some of the pre-tows, where we went out just as soon as the spiel was over, to get baseline studies.

So the information is being compiled, the studies are being done. I can't say when they'll be finished or what the results will be, but yes, there is a lot of work being done.

CHAIRMAN OKUN: Okay. And so for now, I think you have all indicated that the shrimp that is being caught is being tested, and it all passes the tests. So it's all being marketed, and that's the information that you have available as of now.

MR. BOSARGE: Yes, Ma'am.

CHAIRMAN OKUN: Okay. I appreciate that. And then I think this next question, I believe the record and some of the comments from Mr. Gollott address it, but the industry going forward is going to continue to be a wild caught industry. There were I think in the original investigation some discussion of whether there were efforts to try to farm or start up some farming, but I don't see evidence of that on this record, and I just wanted to get any further comments you had with respect to farming versus wild caught for the domestic industry.

MR. GOLLOTT: No. I believe the industry is committed to wild caught shrimp. That's where all of our equipment, everything is set up for. In light of that, it's just not feasible to do farming in the United States.

CHAIRMAN OKUN: Okay. And then my yellow light has come on, but I just wanted to get any comments you might have with respect to global demand to the extent you might have information about it, and one of the arguments from Respondents is subject imports have all found very good markets around the world, and they're growing markets. What do you think the best indicators are of what global demand in the big markets, EU, Japan and the Asian market?

MS. DRAKE: Commissioner Okun, I don't know if any of our panelists have information to add, though of course I would welcome them to, but we'd be happy to put in something post-hearing on that.

CHAIRMAN OKUN: Okay. That would be very helpful. Well, if there are no other comments on that question, I will turn to Vice Chairman Williamson.

VICE CHAIRMAN WILLIAMSON: Thank you, Madam Chairman, and I too want to express my appreciation to all the witnesses who have come today. I was wondering, what factors influence the supply of live shrimp apart from disasters such as hurricanes or oil spills? Are there other major factors that you would mention?

MS. DRAKE: Perhaps Dr. Veal could address some of the factors that affect the supply of live shrimp.

MR. VEAL: I just want to be sure I understand the question. The supply of live shrimp?

VICE CHAIRMAN WILLIAMSON: Yes, and I guess in the U.S. is what we're really talking about, the wild caught supply.

MR. VEAL: So many things that I'm not sure we even understand all of them. When we look at the forecast for our shrimp season, we look at water temperatures, at salinities, at wind direction, fresh water, all sorts of things that govern that and allow the states to make a prediction of what a crop might be for each year. In fact, none of those things do we have any control of.

Oftentimes, we will see production that far exceeds what we might have forecast it to be and to be less than what might have been a forecast, so I'm not sure that anybody could tell you all of those things except that in general it is a set of environmental factors far beyond our control. I don't know if I've answered your question about that.

VICE CHAIRMAN WILLIAMSON: And I take it there are a number of them, but they may have small effects, but cumulatively --

MR. VEAL: Cumulative, they are, yes.

VICE CHAIRMAN WILLIAMSON: Yes, so there's nothing like El Niño that's going to make --

MR. VEAL: No, no.

VICE CHAIRMAN WILLIAMSON: Okay. That's helpful. Mr. Appelbaum?

MR. APPELBAUM: I just wanted to add to David's comment that a shrimp's life cycle is only one year, and so really every season stands on its own in terms of just whether it's going to be a good season or not a good season, and obviously rainfall and salinity and temperature all have an impact, but there are studies that have been done that tell us that shrimp trawlers only catch in any given year about four percent of the population. The rest of the shrimp are eaten by other marine life, or they just die, so anyway, I thought that would be pertinent to add.

VICE CHAIRMAN WILLIAMSON: Okay. So it must make it very difficult for you as a person who's marketing and distributing shrimp. How do you deal with that?

MR. VEAL: Well, how penguin deals with it, I'm sorry to be screaming into the microphone, is we buy and pack shrimp in a number of facilities across the Gulf coast so if one area of the Gulf isn't doing so well, hopefully another would be, and it would all balance out, but we definitely share in the seasonal and cyclical swings along with the fishermen and the processors because this is all we do for the most part.

VICE CHAIRMAN WILLIAMSON: Okay. Sticking with you, I was interested in your efforts to I guess expand sales in I guess grocery stores and outside of the restaurant market, and looking forward in the future, is there a shift towards more consumption of shrimp outside of restaurants, or is that steady?

MR. VEAL: I think it's gradually growing. I think people are becoming more comfortable with preparing not just shrimp but seafood in general at home as there's more information about the nutritional values of eating shrimp and seafood. People are preparing it more at home, and the other reason that I see the retailer as having the greatest potential for growth is that people do want to support domestic industries.

They do want to eat domestic product when they can identify it, and with country of origin labeling as a requirement, the consumer has the option to pick one or the other, and right now we only have that really for the most part at retail. Most restaurants want you to believe you're eating domestic shrimp. They don't go out of their way to tell you where it's coming from.

I've eaten in plenty of restaurants that have pictures of shrimp boats on the walls, and I know the shrimp's not up from the gulf, so I would say both at retail and at food service, but I think at food service we're more vulnerable to losing restaurant sales due to price than at retail because the retail shopper can see that's product of the U.S.A., and that's product of wherever. I'm not sure where I was going with that, but have I answered your question?

VICE CHAIRMAN WILLIAMSON: Yes, thank you. Ms. Dubberly, I was also interested in your efforts I guess to say "Buy Local," and I was wondering how far can you extend that from North Carolina? I mean, I have gone down to the fish market and seen North Carolina shrimp here.

MS. DUBBERLY: We're located in Savannah, Georgia, and the farmers --

VICE CHAIRMAN WILLIAMSON: Excuse me.

MS. DUBBERLY: I'm sorry?

VICE CHAIRMAN WILLIAMSON: I'm sorry.

MS. DUBBERLY: No problem. We're located in Savannah, Georgia, and the farmer's markets we participate in, the first ones that we tried were in Savannah, and we've expanded into Atlanta, Georgia, but now with the Buy Local movement and American consumers wanting to support the domestic industry and buy the wild caught product, we are shipping our shrimp as far as Louisiana, Connecticut, Massachusetts, Chicago, so I feel like we've been able to expand further out than just concentrating in our local markets.

VICE CHAIRMAN WILLIAMSON: Okay. That's what I was wondering about.

MS. DUBBERLY: Okay.

VICE CHAIRMAN WILLIAMSON: Okay. Good. Because I know there are a lot of shrimp here on the east coast. Thank you.

The panel's given some response to this, but I was looking for more. How do you respond to the Respondent's arguments about the high correlation between price and landing volumes, and you noted that the domestic production is such a small percentage of the total consumption, but if one of you wants to elaborate on the response?

MS. DRAKE: Well, I'll just reiterate that the correlation between price and volume is much weaker than the correlation between domestic price and import price. The domestic volume, which is 10 to 15 percent of the market might itself fluctuate 10 to 20 percent per year based on brandings and environmental factors and also based on the volume that's processed, which is largely everything that's landed, but any correlation between volume and price is just not even half as strong as the correlation between import price and domestic price.

When you have more than 80 percent of the market, the price is being driven by foreign producers, that is going to set the price against which you need to compete. Our panelists face import prices every day. Their customers quote import prices to them. They monitor import prices to figure out how to plan their businesses. That's what they look to, and volume is important, but they're not going to change their capacity expansion plans based on landings volume. They're going to change them based on what import price trends are, and that's why price is such an important driver of the market.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you. Mr. Salonen?

MR. SALONEN: Thank you, Mr. Vice Chairman. Just to add to my partner's comments and put this into perspective, when you consider that the domestic industry supplies at best 12 percent of apparent domestic consumption and that your average swing in landings would have been the range of about 20 percent from one year to the next, that would mean that that's affecting domestic supply by about what? Two percent?

The notion that a two-percent swing in supply for the overall market would be driving prices simply isn't a credible argument.

VICE CHAIRMAN WILLIAMSON: Okay. I guess I have to raise this question. What drives the price of the imported product, or should we say the export price of the --

MS. DRAKE: What drives the export price? Well, certainly relative demand in different markets. They have costs of production that they need to cover if they're not dumping. If they are dumping, hopefully they have tariffs or import duties that they need to pay to eliminate that margin of dumping, but it's really based like any other market on supply and demand. In 2009, when you saw both domestic and imported supply go up because of the recession and the decrease in demand, the prices plummeted, so apparent consumption isn't necessarily the best indicator of demand. I think you need to look both at the volume and the price, and numerous purchasers and numerous independent industry observers noted that when demand goes down, and especially in the shrimp industry, which is very dependent on people going to eat and is sometimes perceived as a luxury item, when there's an economic recession or a slow economic recovery, they get hit particularly hard, and that's what drives price.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you, and my time has expired.

CHAIRMAN OKUN: Commissioner Lane?

COMMISSIONER LANE: Thank you. I want to welcome all of you to this hearing. I can't believe it's been more than five years since we had the hearing, but welcome back to those of you who were here before. I would like to start with the assertion that the Respondents make that the distribution of domestic production is focused on the southwest and central southwest regions and that the subject imports have better distribution networks in the Pacific coast and mountain states. Could you please comment on that?

MR. SALONEN: Commissioner Lane, Eric Salonen. I think we'd just go back our presentation and your own staff report which reports that the domestic product and the imported product are both marketed nationally. The processors sell to distributors, and the distributors, and perhaps Mr. Appelbaum can speak to this as well, sell nationwide, so this notion that competition is attenuated by concentration in different regions of the country is simply not supported by the record.

COMMISSIONER LANE: You must have eyes in the back of your head because Mr. Appelbaum raised his hand. Mr. Appelbaum?

MR. APPELBAUM: I would say that perhaps those assertions, there might have been some truth to geographic distribution of preferences, 10 to 20 years ago, but I'd say over the last decade, domestic shrimp has come to be enjoyed all over the country and not just in those areas.

COMMISSIONER LANE: So the witnesses here would overwhelmingly reject that assertion that the Respondents have made? I see everybody nodding their heads yes. Thank you.

MR. SALONEN: Yes, that's correct,

Commissioner.

COMMISSIONER LANE: I'm not sure who to address this to, but what would you consider satisfactory operating performance for processors and for fishermen? Mr. McLendon, you're a controller, so that means that you know something about numbers, so why don't you take a stab at that?

MR. MCLENDON: Yes, ma'am, Ms. Commissioner. It would be my honor. You know, I think that every business is going to have rates of return that are agreeable to not only themselves but to their financial institution, so I think as long as you're meeting those returns, and you're obviously working, and, you know, paying your debts and continue to invest in the capital expenditures, you know, and the outlook right now is for a bright future in the hopes that these orders are not repealed.

COMMISSIONER LANE: Okay. So you don't want to hazard a ballpark figure as to what most people in the industry would be looking for in the way of an operating income?

MR. MCLENDON: I would say somewhere in the neighborhood of three to five percent.

COMMISSIONER LANE: Thirty-five percent?

MR. MCLENDON: No. Three to five. I'm

sorry.

COMMISSIONER LANE: Okay. Okay. Thank you. Anybody disagree with that? Okay. Thank you. Exhibit 21 of the Ad Hoc Shrimp Trade Association Committee pre-hearing brief is a newspaper article stating that many Gulf processors have switched to processing overseas shrimp when availability of domestically wild caught product was limited due to the Gulf oil spill. Could the processor witnesses indicate how easily they can switch their sourcing of raw materials from domestically wild caught shrimp to a farm-imported product?

MR. MCLENDON: Ms. Commissioner, if I may address that question again? I think that is relevant, and sometimes it does pay the bills, but it also goes to show that the import product would be coming in here and actually, you know, since price is so important according to the staff report, if we're going out and buying that import product, processing it and selling it to the end user, and we can do that cheaper than what we could a domestic item, it also would go to show, you know, that they can bring product in here cheaper at dump prices.

MS. DRAKE: Commission Lane, I think what you'll see from the questionnaire responses of domestic processors is that they process a very small volume of imports, and generally their supply is overwhelmingly domestic, and when they do rely on imports, it's to fill out a line or serve a particular order, but their business model is really based on their domestic sources, and they work very closely with their boats in that process.

COMMISSIONER LANE: Okay. But is it easy to go from a domestic shrimp to a subject shrimp from let's say Thailand?

MR. MCLENDON: Yes, Ma'am, Ms. Commissioner. The process and machinery is pretty much the same all over the world. It was started by Laitram Machinery Corporation in Harahan, Louisiana, and as far as I know of to date, it's still the only way to automatically peel shrimp in the entire world.

MR. SALONEN: Commissioner Lane?

COMMISSIONER LANE: Yes.

MR. SALONEN: I'm wondering whether we're getting to the heart of your question, so let me take a stab at it. The big difference of course is when the processors purchase domestically harvested shrimp, they're buying it off the docks.

They haven't had the value added that's been added by the processing into frozen warmwater shrimp that's been done by the foreign producers prior to export, so that there's definitely going to be I would think, and perhaps Mr. Gollott or Mr. McLendon can tell me if I'm wrong or not on this, that there's a distinct cost disadvantage to switching to imported frozen warmwater shrimp because you're going to be paying more for it than you would for the live-harvested product.

COMMISSIONER LANE: Okay. Can you tell me in detail the costs associated with product shifting in the industry?

MR. GOLLOTT: Commissioner Lane, Richard Gollott.

COMMISSIONER LANE: Yes.

MR. GOLLOTT: Can I go back to your question? I think what you're asking is can you lay a certain size shrimp, a white, domestic, vannamei white next to a Thailand vannamei white and look at it and tell the difference? No, they look the same.

COMMISSIONER LANE: Okay. And there probably wouldn't be any different cost except for the cost of the shrimp?

MR. GOLLOTT: Well, the cost, if you were looking at a headless 1660, there's the labor involved in taking the head off, processing it, freezing it, shipping it, so there's a lot of cost added to that product, but once it's processed, it's very hard, unless you're an expert, to look at it and tell the difference.

COMMISSIONER LANE: Okay. Do any of the witnesses have any personal knowledge to the extent that there was product shifting during the pendency of the Gulf oil spill? Mr. McLendon?

MR. MCLENDON: Yes, ma'am. Ms. Commissioner, this is Jonathan McLendon with Biloxi Freezing. Our company did process some imported product I guess during the vacant period during the Gulf oil spill. What we found though, you know, right when the oil spill happened, we were able to get product at a cheap price, but as soon as I guess the demand started increasing the actual prices of the product went up so much that within a matter of four to six weeks, it became economically unfeasible to continue to do so.

COMMISSIONER LANE: Okay. Thank you. On page 2-8 of the staff report, it paints a mixed picture of the cost to U.S. producers of regulations. The report states that five U.S. processors reported that the costs resulting from regulations were burdensome and added significantly to their overall costs while three reported that the costs were manageable. First, can you give me a rundown of the various costs we are talking about here, and then can you explain why or why not you view the costs as burdensome? All of that in 28 seconds. Yes, sir. I saw somebody raise their hand.

MR. BOSARGE: Yes, ma'am. Steve Bosarge from Bosarge Boats. The cost of regulation as far as from the producers' standpoint?

COMMISSIONER LANE: The processors.

MR. BOSARGE: Yes, ma'am. I thought that was the question. I can't answer that question because I'm a producer instead of a processor.

MR. MCLENDON: Yes, ma'am. Ms. Commissioner, Jonathan McLendon with Biloxi Freezing. We have a full-time HACCP coordinator, and we also have five individuals who are certified, and they're constantly looking out for the quality of shrimp that we purchase, the quality of shrimp that we produced, and we also follow a set of criteria of good management practices and safety standards and operating procedures, and the full-time individual that we have constantly monitors everything from pest control to freezing temperatures to ensure that the product that we put out is safe.

COMMISSIONER LANE: Okay. Thank you. I'll come back to that my next round.

CHAIRMAN OKUN: Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Madam Chairman. I also would like to welcome all of you. You're very brave to leave the Gulf at this time of year and come up to Washington, and I hope you all are able to return safely. Press reports relating to compensation following the BP oil spill indicated that many shrimpers and other fishermen were not eligible for payments because they had operated on a cash-only basis and had no financial records. How widespread is the practice of non-documented, cash-only transactions in the U.S. shrimping business? Mr. Guidry, please?

MR. GUIDRY: Clint Guidry, Louisiana Shrimp Association. I can personally testify to that. You know, years ago as did many, many industries, there was a lot of cash and a lot of cash sales, but basically most of that's gone away. I think that the BP disaster, I don't like to refer to it as an oil spill. A spill is when I just dump a half a glass of water. We had a gusher for almost 100 days, but, you know, the results of that brought out a lot of people who knew there was a lot of money in it, you know, in the process.

Consequently, some of the press that was used by BP claims and also GCCF claims process is that is a problem. It's not a problem. It's a problem if you give money to those kind of people, and that creates more people that "did not have documentation," but we have been documenting shrimp catches as per the Louisiana Department of Wildlife and Fisheries shrimp tickets since 1997, so our industry is documented. Any assertion that we're just a cash industry I think is false.

COMMISSIONER PEARSON: Yes. Well, no one has asserted that. This just arose as an issue, and I'm trying to understand how widespread a practice it is. I mean, when I was younger too, I remember it from the farming business, is there were more cash transactions, and I assume that's going away. Ms. Pena?

MS. PENA: Yes. As shrimp purchaser, in my business and the people I associate with, none of that. We do no cash sales. It is all documented on the books, and that's been my experience for the time that I've been in business.

COMMISSIONER PEARSON: Mr. Bosarge?

MR. BOSARGE: And to add to Mr. Guidry's testimony, you can imagine to be a legitimate business, it's hard to spend money if you can't show you made it, so therefore I think you'll find that's just a small percentage of mostly fishermen that probably shrimp as a sideline more than a livelihood, so maybe that answers your question?

COMMISSIONER PEARSON: Thank you. Mr. Blanchard?

MR. BLANCHARD: Yes, and I would like to add also that, I mean, no doubt some of it goes on, but from my personal experience, and the guys that I have fished with over the years, I think it's a very small percentage, and it's like Mr. Bosarge said, the ones that are truly an industry, to reinvest into your business, I mean, you have to show, you know, everything has to be on the up front. I'm not saying that it doesn't happen, and it may be the part-timers, but I think it's a small percentage.

COMMISSIONER PEARSON: Okay. So I would be correct then to understand that to the extent that this practice might take place, it is not a at a level that would have an influence on the financial information that's reported here in the staff report, for instance? We're quite comfortable with what we have in the staff report? Okay. Thank you. Many of you have spoken about the benefit that you've seen since the imposition of the orders.

A quick review of the public part of Table 1-1 shows that the average unit value of shrimp sold by U.S. processors was quite noticeably higher in the original period of investigation 2001 to 2003 than it has been since then in our current period of review. Just my simple math, not weighting it for the volume sold because I just did it here at the desk, but an average sales price of $5.12 in the original period of investigation and only $4.31 now in the last five years, so an 81-cent decline.

Looking at that, seeing lower prices since the orders have gone into effect, how have you experienced benefits from the orders?

MS. DRAKE: Commissioner Pearson, can I just address the data issue for a point and then turn to the panelists?

COMMISSIONER PEARSON: Please.

MS. DRAKE: Looking at the original and the public information from the original investigation and the staff report prepared for this review, the unit value of processors' U.S. shipments fell markedly by 20 percent from 2001 to 2003 when it was $3.27. In 2005, it was slightly below the 2003 level, but in 2007 and 2008, it had risen to above the 2003 level, went down again with the recession, but in the interim period was at 365, above what it had been in both --

COMMISSIONER PEARSON: We must be on different pages. I was looking at Table 1-1 on page 1-12.

MS. DRAKE: This is based on the National Marine Fisheries data, not on the questionnaire response data? You're looking at the top of the page?

COMMISSIONER PEARSON: Okay. How would you compare this data with the other data then? Is one more probative than the other?

MS. DRAKE: Well, you do see even from this data by 2008, prices had increased to above the level they were at in 2003. My understanding, and staff could correct us if we're wrong, is that this is based on a shipment quantity taken from landings multiplied by wholesale prices taken from a market research service, so while the trend is the similar to what you see in the questionnaire response in terms of by 2008 prices rising above what they had been before the orders were imposed, I think the questionnaire response data is also helpful in terms of giving a consistent picture of what the price trends have been.

Certainly, our processors would love for prices to be higher, but the precipitous decline we saw in the original investigation, and we've even been able to increase above those levels before the recession hit in 2009, and in the interim period were back above those levels.

COMMISSIONER PEARSON: Mr. Salonen?

MR. SALONEN: Thank you, Commissioner Pearson. I would also just note as was discussed in our presentation that you have to sort of take into account the fact that we had a recession in 2009, which depressed all prices. Looking at this table that you're referring to, from 2005 to 2008 you actually saw average unit values increase 14 percent, so that's certainly a very positive trend.

COMMISSIONER PEARSON: Still, there have been discussions about new investments and other things that have happened in response to the orders, and maybe this is too broad of a brush approach, but it's difficult looking at this record to see that things have materially improved for the domestic industry. I'm missing something here. It's as if there's some sort of a disconnect between what I hear you saying and what I think I'm seeing in the numbers.

MS. DRAKE: Well, there's no doubt that the processing industry continues to operate at very minimal margins as it has since 2001. Margins haven't exceeded two percent over the entire period, so folks aren't meeting the three- to five-percent target that Mr. McLendon laid out, and so that means the industry obviously continues to be vulnerable as it's struggling to get returns on its investment.

By 2009, even with the recession, they reached their highest operating margin since 2001, so while prices stopped declining, began to rise, domestic processors were also able to increase production, and in a volume business, that makes a difference. Even if your margins are low, if you're able to get sufficient volume, that can justify investments and improvements, so I think certainly the stability of the orders imposed has given folks confidence to invest in the future.

That doesn't mean that they're completely recovered or that they're now thriving at the levels they'd like to be at, but I think we've certainly seen a reversal of the declines we saw when subject imports were not controlled by the orders.

COMMISSIONER PEARSON: Right. Yes, and just in reference to the volume, looking again at the same table based I suppose on National Marine Fisheries data, it's difficult to see an increase in volume in the current period of review as compared to the original period of investigation as well, so we would see both prices being somewhat weaker on average and volumes being somewhat lower, so that's why I just mentioned a disconnect between some of the testimony and what I think I'm seeing in the numbers. My time is expiring, and did you have something very quickly, Mr. Appelbaum?

MR. APPELBAUM: You know, at the risk of echoing what's already been said, I don't think we can underappreciate the impact of the recession on the prices from 2008, mid-2008 through 2009. Demand at food service and at retail food service, restaurant sales went down by 10 to 25 percent, and it seemed like it didn't matter how low prices went, we couldn't get the demand to pick up, and that's what really drove the prices down between '08 and '09, and I think if you can take that data out and look at the period of time before and now in 2010, I'm sure you'd see prices would be a lot higher against 2001.

COMMISSIONER PEARSON: Okay. Thank you very much.

CHAIRMAN OKUN: Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Madam Chairman. Looking at the two different briefs that were filed by various parts of the domestic industry, different groups seemed to take different perspectives on the question of whether attempts to differentiate the domestically produced wild caught product from farm subject imports are likely to ever work, it sounded as though the American Shrimp Processors Association was taking the position that just didn't work about, that the wild American salmon effort didn't work out, and the ad hoc committee seemed to take a somewhat different view.

Can anyone here speak about what you think has and hasn't worked with the wild American salmon efforts and what might work better? I see that's Ms. Garcia Pena?

MS. PENA: Yes.

COMMISSIONER ARANOFF: Okay.

MS. PENA: Thank you. I was a member of the Wild American Shrimp --

COMMISSIONER ARANOFF: I said salmon, didn't I?

MS. PENA: Yes.

COMMISSIONER ARANOFF: That's terrible.

MS. PENA: That's okay.

COMMISSIONER ARANOFF: Sorry. Wild American Shrimp.

MS. PENA: I was a member of that, and like with any new program, we started from nothing, and there was a huge learning curve, and we've made some mistakes, but, you know, I think, you know, if we do some other things, you know, we can have a real impact. It was a fantastic idea, and I think it could be a spectacular program, but again, you have a learning curve, and you don't get it right on the first time especially starting from no experience. The shrimp industry had never had a national marketing campaign, and so, that being said, you know, I think it's where we start, and we need to look forward into doing more of that.

COMMISSIONER ARANOFF: Well, do you think the issue is that the federal funding ran out? Is the issue that there hasn't been enough time to get the message out, or is it the message itself that hasn't been perfected?

MS. PENA: No. I think the message itself is phenomenal. I think funding did run out. I think also we had just some other issues of controlling the program, checks and balances. I think that also needed to be covered. I think really it was we ran out of money. Had we had more money, more time, we could have worked through these issues, and I really think it was just such a new program, none of us had any experience with, and we were basically trying to feel our way through. Thank you.

COMMISSIONER ARANOFF: Does anyone else want to speak on this?

MR. VEAL: David Veal, American Shrimp Processors. I don't want you to have the impression that the shrimp processors don't support that. We, in fact, were actively involved. Many of the people here were actively involved in the board and in starting that and do wholeheartedly support Wild American Shrimp. The real issue for us is that we recognize that sooner or later we have to pick up the financial burden for these kinds of things.

If you look at the cost and returns that have been shown to you, there simply is not the cash, particularly when you look at hurricanes, the oil spill, the other things that have happened in this industry in the last 10 years, there is just not a dollar of surplus case to do that. These guys have struggled to stay alive, and we want and have talked many times about how to continue that effort. We do support it.

COMMISSIONER ARANOFF: Mr. Appelbaum, did you want to comment?

MR. APPELBAUM: As a continuation of Dr.

Veal and Ms. Pena's comments, organizing the participants in a very diverse industry proved to be a big challenge. I think we learned a lot from the experience of getting WASI going, and I think that would help us if we had another opportunity to begin to develop a marketing program. The other thing we'd have to do right from the beginning, as Dr. Veal sort of stated, was to work on making it self-sustaining.

In the beginning we were working with government grant money, and as it began to be used up, we began to make efforts at self-sustenance, but at that point, it was too little, too late. We'd have to focus on that right from the beginning.

COMMISSIONER ARANOFF: Do you think that one of the issues is the program in a way started too big? Because I noticed from what Ms. Dubberly is saying about her business that if you start small in markets that are receptive to local food and organic food and health concerns, you can sort of build from there instead of starting nationally and going into places, you know, in larger restaurant chains and things like that, where it's not thought that way.

MR. APPELBAUM: I think that's possible, but, you know, the need for marketing assistance, you know, has been so great, and the industry is, you know, stretched all the way across the Gulf Coast and from Florida up the Southeast that I don't know how we would pick where to start with, you know, with such a large industry needing help.

I also wanted to say, too, that along with what Ms. Pena said, the materials that were generated and the marketing programs devised were tremendous, and both our retail and food service end users really loved them. And in fact, now several years after the program has gone dormant, we still occasionally get requests for, you know, either certified wild American shrimp or the materials, the marketing materials, that were generated.

So I think there is a demand for a marketing program. We just need to work on the right one.

COMMISSIONER ARANOFF: Okay. Ms. Garcia Pena?

MS. PENA: I just want to add to what Jonathan said. I am on the Go Texan Shrimp Marketing Board, and being on that board, which is, you know, statewide, we also see a challenge with funding. And one of the problems I think we see on the state level and we saw with WASI is because it's a new program, it's hard to get your customer to want to pay for that additional five cents or whatever the cost might be in order to participate in, you know, the initial program because there are costs associated with it, whether it be having an inspection done or whatever.

So I think again because it was a new program, getting your customers to come on board and say, okay, I want to be a part of this, but I'm not sure I want to pay for it yet. I want to see some results, and then, yeah, I'll buy into it.

So, you know, I think that was a big challenge for us. Thank you.

MS. DRAKE: Commissioner Aranoff, if I could just comment for a moment, since you mentioned the discussion of this in our brief. And I agree with everyone's responses, that the real challenge is getting the premium for the marketed product to cover the costs. And that's the only way to make the program self-sustaining. And when you're in a market where product is highly interchangeable and price is a real driver, it's very hard to create that premium, and the processing industry is obviously committed to trying to develop marketing programs.

They supported WASI by and large, and many of them are working with their state governments and other bodies, especially since the oil spill, to try to re-establish that marketing. But always, the challenge is going to be how do you make it work in a market where price is a key driver.

COMMISSIONER ARANOFF: Well, that's actually a good segue to my next question. And we've touched on this a little bit. But the oil spill, from what we read, had an effect on demand for shrimp. But the various parties, both in the domestic industry and in the Respondent's brief, seem to disagree about whether the effect dampened demand for domestic shrimp or all shrimp.

What has been the experience of those on this panel? Did the oil spill make people in this country just stop eating shrimp for some period, or was it domestic shrimp that people stopped eating? Ms. Garcia Pena?

MS. PENA: Just in my own experience, I think it was just the domestic. I was actually in a grocery store observing the fish counter and saw a person asking about shrimp. And they had the wild-caught shrimp, and the customer said, oh, I can't eat that wild, you know, there might be oil on that shrimp. And so I think the consumer knew the difference.

MS. DRAKE: Commissioner, I think while that may be the case in the retail market, where there is some differentiation, some of the responses the Commission received and that are excerpted in the prehearing staff report, at least for the restaurants, where there isn't such differentiation, it seemed to indicate that there was a dampening of demand across the board for all shrimp, regardless of origin, due to consumers' confusion about origin and concerns about the oil spill.

COMMISSIONER ARANOFF: Is it everybody's sense that that has passed? Mr. Appelbaum?

MR. APPELBAUM: Yes.

COMMISSIONER ARANOFF: Okay. I don't see any disagreement on the panel. Thank you very much for those answers.

CHAIRMAN OKUN: Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Madame Chairman. I have another hypothetical question, although, Mr. Salonen, I admit that it may have a non-hypothetical answer. Assuming that the orders are revoked and the subject imports reenter the market in line with their historical behavior. Would nonsubject imports that have come in since the orders were imposed retreat from the market, or would we be looking at a situation where the nonsubjects that came in would be competing with the subjects that were reentering, all of which would be competing with the domestic industry?

MS. DRAKE: Commissioner Pinkert, if I could maybe add one fact that may be relevant, is the fact that in the original investigation subject imports were able to take a market share both from nonsubject and from -- imports and from domestic producers. So it seems there really was competition across the board, but subject product is so significant and so interchangeable that it would take away domestic market share and wouldn't be prevented from doing that by nonsubject imports.

COMMISSIONER PINKERT: A way of asking this question is whether the subjects and the nonsubjects are sort of like a teeter-totter, where one goes up, the other goes down, and vice versa. Is that the situation that we're dealing with in this case? Or is it a situation where there is no particular reason to think that the nonsubjects that have entered the market since the orders were imposed would leave if the orders were revoked?

MS. DRAKE: I don't believe there is any reason to expect that, when in the original investigation you saw subject imports rising, total imports are rising. There wasn't this sort of stasis of the market only demands X amount of imported shrimp, and every increase in subjects comes at the expense of nonsubjects. That's simply not how it works. Total imports increased due to the massive increase in subject imports, and that's what ate away so sharply at domestic market share, and that's what we are leery of allowing to happen again if the orders are revoked.

COMMISSIONER PINKERT: Thank you. Now, another phenomenon that may have occurred -- it's certainly alleged to have occurred -- is that subject producers have diverted exports from the United States to third-country markets after the imposition of the orders. Now again, if the orders were revoked, is there any particular reason to think that that process would reverse itself, and the exports that are now going to third-country markets would be diverted back to the U.S. market?

MS. DRAKE: Commissioner Pinkert, I think the reason we believe that would happen is on slide 31 of our presentation, showing that export unit values for subject producers are much higher to the U.S. than they are to other major markets, to Europe and to all other markets combined. And that will obviously be a very large incentive for subject producers to redirect and divert volumes that are currently going to other export markets back into the U.S. market, in addition to any differences in health and safety standards, as we have outlined in our brief.

COMMISSIONER PINKERT: Now, perhaps we can turn to other members of the panel to try to understand whether this diversion effect that we're talking about right now would be inhibited to some degree by the infrastructure that has been built up in exporting to these third-country markets. Is there some infrastructure that the subject producers have invested in that would keep them in those third-country markets, even assuming that the prices might be more attractive in the U.S. market?

MR. McLENDON: Mr. Commissioner, if I may, I think that the actual lower inspection rates of the U.S. market will make it more likely to quickly shift the product away from other markets and into our market, just because our inspection rate is so low compared to the EU. And I think in the original investigation, they showed the ability to quickly shift to those third-party markets, and it would make sense to think that they could turn around and ship them back to the U.S. just as easily.

COMMISSIONER PINKERT: Okay. Well, that

again goes to the incentive issue, and I'm wondering whether in addition to incentives to enter the U.S. market or reenter the U.S. market whether there are some barriers in terms of investment that might cause the exports to stay where they are.

MS. DRAKE: Commissioner Pinkert, not to monopolize this issue, but I think Mr. McLendon's point is relevant in the sense that while there may have been some investment in needing to meet the higher standards in other export markets, there is no such barrier to sending it to the U.S. market, given our lower level inspection. Also, we continue to have a significant presence from most of the subject countries in the U.S., which demonstrates their continued ability and desire to serve the U.S. market.

In addition, it's not like a lot of the sales in the U.S. market by importers are long-term contract sales that tie them into certain customers that they can't leave. Seventy percent of importer sales are spot sales. There is no reason to believe that's any different in any other export market, and thus it would be very easy for them to quickly divert large volumes.

COMMISSIONER PINKERT: Thank you. Now, turning to the subject of some of the other effects of the orders, should we be considering the Byrd Amendment distributions and/or any settlement payments as impacts that the orders have had in the context of analyzing the potential future behavior and effects of the orders? In other words, are they really just kind of independent of the analysis that we should be conducting in this case?

MS. DRAKE: Commissioner, I believe that in the Wooden Bedroom Furniture decision, the Commission rightly determined that the issue of settlement payments, to the extent they may have occurred, is not relevant to the sunset review inquiry under the statutory factors. As to the CDSOA distributions, those also haven't typically factored into the Commission's analysis, due to the fact they're not part of what the statute directs the Commission to look at.

Certainly our producers were -- felt benefits from the CDSOA distributions, but that wasn't the sole benefit of the orders. The price stability and the other effects had major benefits. And the other side, I think, has intimated that, you know, capital expenditures and other things only happened because of the CDSOA distributions and not for any other reason. But there is no restriction on CDSOA funds that requires you to reinvest it in your business. But our processors, to the extent that CDSOA increased their cash flow, decided to use that to reinvest in their businesses, and that was due to the other benefits the orders have had, the benefits that are relevant to the Commission's analysis, particularly the benefit in terms of stabilizing prices in the domestic market.

COMMISSIONER PINKERT: Mr. Stewart.

MR. STEWART: I can't help myself, Commissioner, sorry. It is of course the case that in the situation of CDSOA, those are monies that are collected because dumping continues, i.e., the relief that is intended by the law is not complete during the period that the reviews are taking place. So part of what CDSOA gives you an idea of is what -- in a situation like ours, where the presentation that my partners put on walked through the close correlation between import prices -- had import prices been even higher, as they should have been, to eliminate the dumping, domestic prices would have been even higher, and hence you would have seen the profitability above the line in operating income, which is what the law's original intent and purpose obviously is to achieve.

So from the Commission's point of view, it can obviously look at CDSOA as a proxy of what might have happened had the unfair trade practices in fact been totally neutralized, as opposed to simply offset through the collection of duties.

COMMISSIONER PINKERT: Thank you. A quick follow-up on Ms. Drake's answer. I take your point that the law doesn't require the distributions to be extended in a particular way. But the distributions are premised on qualifying expenditures. So how does that fit into your discussion of that issue?

MS. DRAKE: While that is the case, I don't believe that folks would have taken very risky and very large capital investments simply to slightly increase the amount of qualifying expenditures they could claim. Most producers, if you look at the CDSOA distributions, receive 1 percent or less of the amount that's there, given the large number of actors in the industry. So it simply wouldn't make economic sense to invest a million dollars in new equipment to increase your CDSOA distribution by a hundred dollars. So that's the economic reality.

COMMISSIONER PINKERT: Thank you. Thank you, Madame Chairman.

CHAIRMAN OKUN: Now, you've had the opportunity to several questions about the relationship between price and supply in the market. Just to make sure that I understand the nature of the industry and the impact of the order, if prices were higher, would we see more landings, or the landings just depend on what is going on out there?

And the reason I wanted to go back and ask that is I think it was one of the gentleman on the back row that talked about trying to sell something in 2009, and, you know, calling up, and them saying they're not buying anything. And so I'm just trying to understand the relationship between pricing and supply, domestic supply. Mr. McLendon, you look like you're ready to answer.

MR. McLENDON: Thank you, Madame Chairman. I think one big point, I guess, that maybe has left out some of the pricing issues that Commissioner Pearson mentioned earlier is that the fuel cost represents about a two-thirds input to the price of a wild-caught domestic shrimp. So what you're seeing in the price fluctuations, particularly in '09, is a reduction. You know, fuel went from $147 a barrel at its peak down into the 30s. And so that is -- you know, having that lower input cost would lead to some lower prices.

CHAIRMAN OKUN: And what about in terms of how many wild shrimp are landed, like who show up at your processing plant? If the prices are higher, is it --

MR. McLENDON: Well, any time there is that -- you know, I guess the profit difference in between what it is that your catch is versus your total fuel bill -- you know, any time that profit starts inching up, there is of course more incentive to go out and shrimp.

CHAIRMAN OKUN: Okay. And you and several others talked about, you know, how people know what is going on in prices and, you know, calling the dock and saying who is buying and that that's how people find out. Has any of that changed in the last several years, when you talked about many of the changes that have gone on. But is the pricing information available to a shrimper? Is it about the same as it has always been?

MR. McLENDON: Yes, ma'am, as far as I know of.

CHAIRMAN OKUN: Okay. Any other comments from -- yes, Mister --

MR. BOSARGE: Of course, there has been some change over the recent years as far as communications. With the advent of cell phones and the different electronics, news spreads a little faster. But as far as the pricing on the product, I guess if I could say you can set a bottom. You know, we kind of know now where the bottom is at, and it helps us as the producers to know that, okay, possibly our price won't go any further down than this. And that's a lot of the reason why we're here now, to see to it that it kind of stays that way. Thank you.

CHAIRMAN OKUN: Thank you, Mr. Bosarge.

Mr. McLendon, your comment about fuel had reminded me I know you talked a little bit about short-term contracts. I think it was you; it might have been someone else. But to the extent there are short-term contracts, do they have any fuel surcharge? Have you built anything in that reflects fuel?

MR. McLENDON: No, ma'am. Our distributors of course charge fuel surcharges when they deliver to their customers) and we pay fuel surcharges on the delivered freight. And I guess it just gets priced into the value of the goods, knowing that we have to pay for that fuel surcharge. But there is no direct submission of that fuel surcharge on the invoice to our customer.

CHAIRMAN OKUN: Okay. Does anyone else have any different practice with regard to fuel and how it is factored in? On the back row there.

MR. BLANCHARD: Yes. I think as the fuel prices rise, definitely the higher prices on the shrimp would make a difference and give a little more incentive for the fishermen. You know, there would be a cost benefit. If the prices of fuel is just way too high compared to the low prices on the shrimp, there would be a lot of guys that just would choose not to go.

CHAIRMAN OKUN: Is it Mr. Blanchard who just answered?

MR. BLANCHARD: Yes.

CHAIRMAN OKUN: Yes. Thank you. Well, thank you for that additional information on that. We've talked a little bit about pricing in other markets, and I know that in your overhead presentation you had the slide on U.S. prices compared to EU, and I believe it was the rest of the world.

There was also a specific argument made by Respondent about India's exports to Japan during the period, and that the value for those exports far exceed the value for export to the United States. And I wondered if you had anything specific with regard to Japan and India's exports to that market.

MS. DRAKE: Chairman Okun, I believe we do have information on that in the Comtrade data submitted in our Exhibit 3 to our prehearing brief, but we'd be happy to lay that out in more detail posthearing.

CHAIRMAN OKUN: Okay. If it's already laid out, just point me to that exhibit when you respond to the question posthearing. That would be helpful. And I don't know if you can comment on this information in the record, but another argument made by the Respondents is, you know, once the subject imports have shifted to other markets and have developed the relationships in those markets, that they have less incentive to move back here, that this is a relationship-based business. And again, I can look back to the original investigation and see what the volumes were, but I wondered if there was anything else that -- has there been any change in corporate relationships or anything else that would -- that I could look to to determine whether I think that the nature of exports to these other markets has changed rather than just if the price is attractive and if they have available capacity.

MS. DRAKE: Chairman Okun, it is a little bit difficult for us since there hasn't been a lot of sort of detailed information put on by Respondents about the nature of these relationships and how they've changed. We'd be happy to look for that information ourselves and see if we can provide information that's of assistance.

But again, the staff report shows that the vast majority of sales are on the spot market. We have continued presence in the U.S. market. We have now affiliated importers of a number of foreign producers who already have a lot of customer relationships in the United States. So whatever relationships they may have in third countries would not appear to be a barrier to diverting some product to the U.S.

And it's important to remember that we're not just talking about product diversion here, but also an overall increase in production by next year that is very significant, and enough on its own to double U.S. volume without diverting any product from third-country markets.

CHAIRMAN OKUN: Okay. And then in the U.S. itself, for those processors who are processing imported shrimp, any changes during the period of review that I should look at? Or is that change -- I mean, obviously there is still a good amount of product coming in.

MS. DRAKE: Perhaps Mr. McLendon can talk a little bit about changes in terms of inventory and who holds inventory in relationship between the processors and distributors.

CHAIRMAN OKUN: That would be helpful.

MR. McLENDON: Thank you, Madame Chairman. Of course, you know, we would buy the product, process the product, and hold the product, and sell it to our customers. But it's just, you know, I guess a limited product for us. You know, it pays some bills sometimes, but knowing that I have this domestic processing facility here, I don't feel anywhere near comfortable telling you that I could make a living processing nothing but imported shrimp. I just don't think it's feasible.

CHAIRMAN OKUN: Okay. I appreciate that. Ms. Truong, a question for you. In terms of the marketing -- and I know when I visited the Gulf during the original investigation -- and as you've noted, a large presence of Vietnamese-Americans who have made a living doing this. Have you seen any changes in terms of do you compete equally with -- you know, people buy shrimp no matter where it's coming in, doesn't matter whose boat its coming off of? Or is there a preference among boats? Are there good boaters out there, good captains, so that everyone says, yeah, I'll buy it from them, but I'm not going to buy it from someone else?

MS. TRUONG: I don't think there is a preference in which boat they buy from or the processors or buy from, or even the consumers buy from. We all bring it to the processors. We work together to make this happen.

CHAIRMAN OKUN: Okay.

MS. TRUONG: And one thing that I wanted to tell you was even with the oil spill, the fishermen are very eager to come back to work, and with this being in place, it would help them a lot.

CHAIRMAN OKUN: Okay. I appreciate those comments. I see that my light is about to come on, so I have a question, but I'll come back to it if my colleagues don't cover it. Vice Chairman Williamson.

VICE CHAIRMAN WILLIAMSON: Thank you, Madame Chairman. Respondents argue that imported shrimp can better meet purchasers' need for consistent supply. And I was just wondering, how can the wild-caught shrimp, with its seasonality and variability, meet the needs of major purchasers?

MR. McLENDON: Vice Chairman Williamson, if I may. Jonathan McLendon, Biloxi Freezing and

Processing. I think the majority of processors in this day and age have both the financing, the freezing, and the processing capacity to buy and sell inventory regardless of what is going on as far as the catch and the size. And everybody's operation, you know, it used to be a six or seven month business, and it's a year-round business right now.

Most of us keep inventory in the freezer year-round for sale and, you know, we'll sell right up until the day before the next shrimp season starts. And there is also, you know, two shrimp seasons available to us. We have both a brown shrimp season in Louisiana and Texas, and also a white shrimp season. So, you know, they are a different type of shrimp being caught in different times of the year and, you know, those usually compliment each other quite well.

VICE CHAIRMAN WILLIAMSON: Good. Is there a seasonality in demand? I assume that might be a peak. But having been in New Orleans for Jazzfest last year, I assume there is a peak in demand in Louisiana in late April and early May.

MR. McLENDON: Well, you may get, as far as, you know, any time around the Easter holidays, you know, it usually goes up. But you'll have a lot of buyers who may step in and buy at certain points and time of the year when they know that -- you know, to make sure that they have the product or the product may be around, or they think the product is a good value. So, you know, they make those decisions. But it just comes and goes, like anything else.

VICE CHAIRMAN WILLIAMSON: Okay. I'm sorry. Ms. Pena?

MS. PENA: Yes. Certainly the Christmas and New Years season is a big time for us. People tend to have parties and spend a little more money and buy shrimp.

VICE CHAIRMAN WILLIAMSON: Okay, thank you. I tried to contribute to that peak demand, I'll tell you. Okay. Another question. Mr. McLendon, you talked about, you know, getting new equipment. And I think you mentioned that I guess the best deveining equipment is made in Louisiana, and that people all over the world use that. Is that true for other equipment, processing equipment? In other words, are competitors in the Far East using mostly U.S.-made equipment to process their shrimp?

MR. McLENDON: Actually, I think the majority of products from the Far East, it would be my guess that they would be peeled by hand, peeled and deveined by hand.

VICE CHAIRMAN WILLIAMSON: Okay. So the investment is in the labor, not the --

MR. McLENDON: Correct.

VICE CHAIRMAN WILLIAMSON: Okay. Is that changing at all as costs go up there?

MR. McLENDON: I would imagine that any industrialized society is going to move to, you know, automatic processing at some point in time, you know, just the way that our country did also. Back when my grandfather got started, you know, that's how they used to process shrimp in Biloxi, Mississippi. You used to wave the boats on in and head them on table, peel them on the table, and pack everything by hand. And, you know, since then, from the invention of the peeling machine and our investments in technology, you know, we've migrated to a, you know, more efficient industry.

VICE CHAIRMAN WILLIAMSON: Okay. Mr. Gollott?

MR. GOLLOTT: Vice Chairman, with all due respect, when you've got 25 cents a day labor, or a week, you know, and you need to put these people to work, there is no reason to go to a laser peeling machine when you've got all this hand labor and people that you need to work.

VICE CHAIRMAN WILLIAMSON: Okay. I was just wondering because we were hearing about, you know, labor prices going up in some of the markets. But it's still a valid point. Thank you.

I was wondering about this demand for IQF versus block frozen shrimp. And what is the trend there, and what is the trend in the U.S. in terms of making that available compared to the imported product? Ms. Pena or Mr. Appelbaum might address that.

MR. APPELBAUM: The interest in IQF continues to grow, as the interest at retail does. And most of what we would provide retail is either a five-pound bag for a service counter or a two-pound or one-pound bag going into a freezer case. And I think as has been mentioned a couple of times today, a good number of processors across the Gulf Coast have moved to address the increasing interest in IQF by putting in new IQF systems.

VICE CHAIRMAN WILLIAMSON: Is that a competitive factor between the domestic and imported shrimp?

MR. APPELBAUM: Yes. I mean, both block frozen and IQF come in the imported session also, and they compete with domestic shrimp, both food service and retail. We're retailing the IQF.

VICE CHAIRMAN WILLIAMSON: So it's not as if one -- I mean, do the imports or the domestics have an advantage in terms of providing IQF? In other words, how important is IQF to sales of domestic shrimp?

MR. APPELBAUM: Oh, it's critical at retail. Retail for the most part is not interested in buying block frozen product.

VICE CHAIRMAN WILLIAMSON: Okay. What about the trend in terms of size of shrimp? Is there an increased demand for large versus smaller sizes, or is that pretty stable?

MR. APPELBAUM: I think over the years of increased, you know, farm shrimp production, both Vannameis -- particularly Vannameis, but Black Tigers as well. They grow to, you know, middle to smaller sizes of shrimp. I think that has kind of -- at least up until the dumping orders -- had eaten up a lot of demand for domestic shrimp in doing smaller sizes, particularly at retail.

I think I don't want to speak for the producers here. But I think over the years, there has been a greater -- they have made more effort to catch larger sizes of shrimp that would have more market value to them. But, you know, when you're out shrimping, you're bringing in what there is, and your catch is going to run all sizes. And, you know, when the shrimp were running middle and small, you'd catch middle and small. I have to buy middle and small, and I have to sell middle and small.

So, you know, even though there is -- I think there is more of an effort made at catching larger sizes of shrimp, you know, we have to work with what nature gives us.

VICE CHAIRMAN WILLIAMSON: Okay. Mr. Salonen?

MR. SALONEN: Commissioner Williamson, thank you. I'd like to just make sure we bring back -- bring all this discussion back to the point that is in the staff report, that block versus IQF, one size versus another, what have you, you know, wild caught versus farm raised, a change in the price of one, the vast majority of purchasers responded will impact the price of the other, so that there may be some shifts in trends here and there, but there is still that very direct price relationship.

VICE CHAIRMAN WILLIAMSON: Okay. So what you're saying is prices will adjust depending on supply. That's I guess how strictly the market is --

MR. SALONEN: I guess what my point simply was is that, you know, as Mr. Appelbaum has testified, we get both imports and domestic producers producing both block and IQF. My point simply was to not lose sight of the fact that the staff report has established that the change in price of one will have an impact in the price of the other, that there is not a disconnect between the two.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you. Are expert data in the UN Comtrade statistics reliable, and should these be included in our final staff report, since both sides have made reference to them?

MS. DRAKE: Commissioner Williamson, we think -- Vice Chairman Williamson, excuse me -- by and large they are, but we've made every effort to look at them very closely and eliminate any data that we believe is not reliable. Excuse me. Vietnam, for example, the volumes appear to be reliable, but the unit values don't make any sense. They're the same for every country. And I don't think the Vietnamese are able to achieve that. So we've excluded the Vietnamese Comtrade export data from our unit value data to other markets and used other sources, such as other markets' import data.

But we've tried wherever possible to correct for any potential unreliability.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you for that response. And since my time is about to run out, I'll ask my questions later. Thank you.

CHAIRMAN OKUN: Commissioner Lane.

COMMISSIONER LANE: Thank you. Our staff report states that 14 processors reported that they received compensation for damages relating to the Gulf oil spill in interim 2010. Do you know why more processors did not receive such funds?

MR. HAYES: Madame Commissioner, Eddie Hayes. I think early on, the process was bogged down. Initially, BP controlled the compensation process. That was then shifted to Mr. Ken Feinberg, as I'm sure you know. So there was a delay there. And if I remember correctly, the question only went to compensation during the period for which BP was governing the process.

COMMISSIONER LANE: So you think more processors have now received compensation?

MR. HAYES: Yes, ma'am. That would be my -- yes, ma'am.

COMMISSIONER LANE: And do you know or think that the compensation covered all of the losses for the processors that received it?

MR. HAYES: I don't know the answer to that question, Madame Commissioner. But I would suggest that to my knowledge a majority of the processors have received some basic interim emergency payments. I'm not privy to all of the details. But my understanding is that a majority of them have received some interim payments. They are not full and final payments. And so in other words, they have not yet been made completely whole. But certainly we're working very closely with Mr. Feinberg and his group to ensure that not just that the processing arm of the industry, but also the harvesting sector is made whole.

COMMISSIONER LANE: Okay. Thank you. The fisherman's economic interest is to receive the highest possible price for the harvest, and it's the processor's economic interest to maximize the difference between what the fisherman is paid and what the processor receives. So there appears to be a disparity between the economic interests of the fisherman and the processors.

How should the Commission take this into account when we analyze pricing and the financial performance data in the record?

MS. DRAKE: Commissioner Lane, perhaps some of our panelists can speak to this as well. But the processors do not have an interest in suppressing the prices paid to fishermen to such a point the fishermen cannot afford to fish. The processors will make available to their fishermen everything that they can to ensure that those fishermen can not only afford to fish, but have an incentive to fish, given whatever the level of fuel costs are.

So the interests of the industry are not in opposition to each other. There actually is a fair degree of confluence in interest of fishermen and processors. And as Mr. Pearson testified, with the quality improvements, he has been able to impose in concert with his boats -- that he has been able to increase what he is paying to his fishermen to ensure that he gets high quality product that his customers demand. So I would say that there is limits on what may traditionally be seen as that relationship.

COMMISSIONER LANE: Okay. Thank you. How would you address the Respondent's argument that that foreign processor could not capitalize on the Gulf oil spill and did not take advantage of the supply decrease by flooding the market with subject imports?

MR. MCLENDON: Commissioner Lane, Jonathan McLendon, Biloxi Freezing. I would disagree with that strongly. I would think that if there was -- that if data were available, and the data was looked at, not only did they flood the market four to six weeks later, which is about the time that it really took to get them from their current markets to the U.S., but they also took advantage of the price increase that was caused from the Gulf oil spill.

COMMISSIONER LANE: Okay. Thank you. Now, going back to the price of gasoline. I have been watching with interest, as I know everybody has, with the disruption in Egypt and the price of oil going up to a hundred dollars a barrel or over.

How long do you think that is going to take before your industry is starting to see that effect on its fuel prices?

MR. GOLLOTT: Commissioner, Richard Gollott. We are in an off-season right now. The Chinese New Year happens on February 3rd, and all of the boats in the Gulf just about died, because we are off-season right now.

We will have to wait until about May or June to really find out how the price in the oil and everything will effect the shrimp prices.

COMMISSIONER LANE: And in the past, when you have seen spikes in the fuel prices, you have been able to incorporate those increases into the price of your product?

MR. GOLLOTT: Well, I have personally, you know, tried to buffer the prices going up to the fishermen, and selling some of my fuel at below costs just to help my fishermen keep going, because without the fishermen, there is no shrimp industry.

COMMISSIONER LANE: Okay. Thank you. Now, a trend in both the staff report and in the Respondent's briefs, and some of the testimony, that there is this issue of quality versus price. I would like for you, some of you as people who are in the industry, explain to me how you view this issue?

Why would there be a difference in the quality of shrimp coming from the Gulf Coast, as opposed to the farm raised shrimp from Asia? I mean, are we talking taste, or are we talking the fact that they are all not perfectly symmetrical and the same length?

MS. DRAKE: Commissioner, I believe there are a variety of features that affect the quality of the product, some of which we are able to provide, in terms of taste, and some of which farm producers may be able to provide.

But the Staff report shows that the vast majority of purchasers agree that both subject and imported products meets minimum qualities specifications. So whatever minor differences the other side may try to highlight, I think the staff report confirms that purchasers don't see big differences in quality, and in fact see both subject and domestic product meeting their quality needs.

COMMISSIONER LANE: Yes, sir?

MR. SALONEN: Commissioner Lane, this is an argument that you often here in Sunset Reviews put forth by Respondents highlighting that quality is the most important factor rated by the purchaser, and what they take into account in making their purchasing decisions.

But as is also so often the case in these sorts of cases, where both all sources of supply are comparable in quality, then it becomes a non-factor, and that is what your staff report showed. So then the next factor that is the most important to be the purchaser is price.

COMMISSIONER LANE: Okay. When the recession is over, and unemployment comes down, do you expect the demand for shrimp to increase to its highest point that we have seen in the past?

MR. GOLLOTT: I would, Commissioner Lane, expect it to come back up.

COMMISSIONER LANE: Okay. Thank you. Madam Chair, that is all that I have.

CHAIRMAN OKUN: Commissioner Pearson.

COMMISSIONER PEARSON: Thank you, Madam Chairman. In the original investigation, I did something that I don't do very often. I wrote additional views, and I would not expect that very many of you would have taken time to read them. So don't feel bad about this, but perhaps counsel took a look at them.

The views amount to sort of a lament. I voted affirmative because I believed that was the correct vote under the law, but it was very difficult for me to see how good outcomes would come from putting orders in place.

There are two basic scenarios. On the one hand, if the duties went into effect -- well, let me just back up. At that time, there was a value of production of about $4 billion, and the trade weighted average duty was 25 percent, okay?

So if a duty at that level went into effect, and the market supported it, you would expect an additional billion dollars of consumer expenditure, but because the domestic industry had only a 15 percent market share, the domestic industry would get at the most $150 million.

A bigger benefit would have gone to the non-subjects, which at that time were 23 percent of the market. So they would have gotten $230 million. So, yes, there was a potential benefit from the order going to the domestic industry, but it was small relative to the other effects that it would have had.

Now, on the other hand, if the global market in shrimp and the domestic market were sufficiently flexible and fluid, such that shrimp would continue to enter the United States at average duty rates lower than 25 percent, which is what happened, then there potentially could be an abundant supply of imported shrimp in the domestic market, and no change in price, and no benefit for the domestic industry.

And I think that is pretty much what we have gotten here. So my question is are there reasons that I should be more optimistic about prospects for the domestic industry if we extend these orders?

After all, they no longer include Ecuador or non-subject producers from China, India, or Thailand. So how can we expect to see much benefit for the domestic industry if the orders are extended?

MS. DRAKE: Commissioner Pearson, if I may address a couple of points. First of all, imports from subject countries still are a major part of the market. I am not accounting for non-subject producers, which is BPI information. They were more than half of imports in 2009.

So when the orders disciplined prices on those subject imports, it leads to benefits in overall import prices. You can see this if you look at the average unit values of all imports, which were $3.33 in 2005, and rose up to $3.50 in 2008. That is including with non-subject and with subject.

They fell in 2009 with the recession, but in the interim 2010 period, we are back up to $3.49 higher than they had been when the orders were imposed. So the presence of non-subject imports has not prevented the orders from delivering overall benefits to the market, in terms of higher prices that our producers need to compete with.

COMMISSIONER PEARSON: Possibly. Then let me ask the question this way. If we revoke the orders will there be any noticeable effects for the domestic industry? I mean, what would we see happen if the orders are revoked that would be indications of some injury or harm to the domestic industry?

MS. DRAKE: Well, I believe what we would see is what we saw in the original investigation. That imports that are now subject to the order would no longer be disciplined, in terms of volume or price.

They would be able to increase in volume as they did in the original investigation, whereas, they have increased since the petitions were filed. And they would be able to aggressively lower pricing as they did in the original investigation without any placing discipline on the orders.

That with the competing presence of non-subject imports and increased presence of newly liberated subject imports, that would eat into the domestic industry's production, market share, and pricing, just as it did in the original investigation, leading their returns to suffer, and with all the negative consequences that flow from that, just as they did in the original investigation.

There is nothing about the conditions of the competition, or other aspects of the market, that would lead us to believe that revocation would lead to anything but the exact sort of trends that we saw in the original investigation.

COMMISSIONER PEARSON: Well, there appear to be just from looking at the marketplace a whole lot of shrimp, both subject and non-subject, sloshing around the global market, spilling heavily into the U.S. market.

It's just not obvious to me that if the orders were revoked that there would be any more shrimp sloshing around. I don't know how much more the domestic market can absorb. Mr. Appelbaum.

MR. APPELBAUM: Just on what you just said, how much more the U.S. market can absorb, as has been pointed out, none of these subject companies is producing at anything close to their capacity, and current outlets, the European Union, and Japan, my observations of their purchasing habits historically are that they purchase to consumption.

In the United States, we import to opportunity. What happens is they produce more, and the European Union and Japan are not eating more. The shrimp has got to go somewhere. There are no others, other than the TERA, there are absolutely no barriers to shipping the product to the United States.

As was mentioned earlier, our inspection standards are much lower, and historically the U.S., or the import community, when the market here is -- when consumption here is saturated, the import community doesn't stop buying. They just buy it cheaper.

And they buy it cheaper, and they buy it cheaper until the consumption kicks in, and begins to take up the overflow. That is when we get killed. That's where we were prior to the anti-dumping orders being put in place.

That is when 40 or 50 headless sold for $2 a pound to distributors, and peeled meat was -- you know, very little value to it because of the dumped peeled meat coming into the United States.
Now, I think that it is pretty clear what will happen if the tariffs are removed.

COMMISSIONER PEARSON: So just to follow up on that. Is it your position that if the tariffs are removed that prices in the domestic market would fall to such a level that domestic shrimpers would no longer be able to afford to harvest shrimp?

MR. APPELBAUM: I think as Jonathan mentioned earlier -- I mean, fuel being the largest component of costs, it is always a balance of fuel prices against catch, fuel prices against catch against price for shrimp.

And fuel prices are much higher today than they were, and so, yes, I think it would be impossible for companies like mine to pay them both enough money based on what we can sell the shrimp for, to enable them to cover their costs, and go out and fish, and shrimp.

COMMISSIONER PEARSON: Okay. Well, if domestic shrimpers are not able to shrimp, then we would see some effects in the domestic marketplace. For purposes of the post-hearing could you please elaborate on that? Help me to understand more clearly the economics facing shrimpers now and throughout the period of review so that I have a sense of how much of a decline in the domestic price might be accommodated before they would no longer be able to shrimp, understanding that there are significant costs there.

MR. APPELBAUM: I think I would have to defer that to the producing community here to answer.

COMMISSIONER PEARSON: Some of the producing community is here, and I am sure that counsel will help them answer that question.

MS. DRAKE: We will do so.

COMMISSIONER PEARSON: Okay. Madam Chairman, with that, I have no further questions. Thank you.

CHAIRMAN OKUN: Thank you. Commissioner Aranoff.

COMMISSIONER ARANOFF: The Respondents characterized overall U.S. demand for shrimp as being pretty much flat over the last five, or maybe seven, years. Would you agree with that? Has this market basically reached its saturation point, in terms of consumption of shrimp?

MS. DRAKE: Commissioner Aranoff, in terms of overall domestic consumption, there has been a slight increase from 2005 to 2009, in terms of apparent domestic consumption, and 2009 apparent consumption.

In fact, in the last three years, apparent consumption was above what it was in the period of original investigation. What the apparent consumption data doesn't reflect is how demand has affected prices, in terms of the declining demand in 2009.

So I believe the Respondents' argument is that the market has reached a saturation point for imported shrimp, but both the subject and non-subject, but they base that on the period of review when half of that shrimp was subject to the order.

There is no reason to believe that the market has reached some sort of natural level of demand for imported shrimp. In the period of investigation, of course, volumes went up dramatically. There is on reason to believe that that wouldn't happen again if the orders are revoked.

COMMISSIONER ARANOFF: Okay. Well, if there is anything that you want to add post-hearing to suggest that demand could potentially grow faster than the rate of population growth, I think that would be something useful for us to have on the record.

For my last question, let me just turn to a legal question. On page 94 of the Respondents' brief -- and the Respondents can see that I actually read to the last page of your brief -- they cite to the Court of International Trade's NSK Corporation v. The United States Decision, and they quote the part of that decision that talks about non-subject imports serving as an impenetrable barrier that precludes the Commission from making an affirmative finding in a Sunset Review.

What can you tell me either now, and you can feel free to elaborate in post-hearing, on whether the substantial group of non-subject imports in the U.S. market presents an impenetrable barrier to subject imports reentering the market in significant quantities? Mr. Salonen.

MR. SALONEN: We will certainly address that in more detail in the post-hearing brief, but as I am sure you and the rest of the Commission are more than painfully aware, that case is based on an interesting interpretation of the statute.

But as far as the record in this investigation, it shows that the non-subject imports are by no means constitute any kind of an impenetrable barrier to subject imports, though they certainly were in significant volumes prior to the imposition of the orders, and subject imports had no difficulty taking volume away with no orders in place.

So there is no reason to believe why that would not happen again if the orders are revoked.

COMMISSIONER ARANOFF: Okay. I leave it to the post-hearing to have you add anything you want to have on first this issue of whether the substantial presence on non-subject imports is really a barrier to reentry by subject imports, but also the issue of if subject imports in fact do reenter in substantial quantities, but they only displace non-subject imports, is that a sufficient basis on which the Commission could still make an affirmative finding in these reviews.

MR. SALONEN: We will be happy to address that post-hearing.

COMMISSIONER ARANOFF: Okay. Thank you very much. With that, Madam Chairman, I don't have any further questions. I do thank all the witnesses for your answers.

CHAIRMAN OKUN: Commissioner Pinkert.

COMMISSIONER PINKERT: This question is perhaps best for post-hearing, but I am wondering whether this panel is in agreement that the Commission can satisfy its legal obligations with respect to the dusted shrimp issue by defining the domestic like product in this review.

MR. SALONEN: Commissioner Pinkert, Eric Salonen. When you consider the peculiar facts in this particular case, the fact that your record in your original investigation included dusted shrimp, or at least there is no evidence to suggest that it excluded dusted shrimp, and that the Commission, since the issue had not come up with the Commission to treat it as a like product issue, and since you have collected that data in this case, we believe that, yes, you could fulfill your legal obligations by reviving the like product definition as you did in the -- I can't pronounce the whole product name, but the resin case some years back in another Sunset Review.

But I'll let counsel for Ad Hoc address their views obviously.

MR. RICKARD: Commissioner Pinkert, we will address it in our post-hearing brief as well.

COMMISSIONER PINKERT: Thank you very much. Thank you, Madam Chairman.

CHAIRMAN OKUN: Vice Chairman Williamson, do you have additional questions?

VICE CHAIRMAN WILLIAMSON: Let's see. A couple of quick questions here. Respondents have submitted documents that discuss rapidly growing shrimp consumption in China. To what extent is Chinese demand affecting global trade flow for the subject product, and what is the effect likely to be in the future?

MS. DRAKE: Vice Chairman Williamson, we would be happy to provide more information on this in post-hearing, but I would just note that of the increase in subject country production that is predicted to occur between 2010 and 1012, China alone accounts for 300 million pounds of that increase.

So while there does appear to be some growing demand in China, China is actively ramping up its production, and as we outline in our brief, a number of those investments are directed directly at export markets, including the U.S. market, such as their global shrimp platform that they are investing, and is designed to meet U.S. import standards.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you.

How significant are -- how useful are AUVs for analysis in this investigation, and are there significant product mix differences, or changes in product mix, that limit the utility?

MS. DRAKE: Vice Chairman Williamson, of course AUVs are always somewhat limited in their utility due to their product mix. We haven't done an analysis of the extent to which there has been a change in product mix over time.

That wouldn't make the AUVs any less reliable or more reliable than they were in the original investigation. I would note that the pricing product that the Commission collected data for do provide helpful information, but only provides a small amount of representation of domestic shipments, and particularly of import shipments.

Therefore, we think that it is useful for the Commission to consider both the pricing product data, and the average unit value data to get a variety of data points upon which you can base your decision.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you. I think I got the impression that you were saying -- and Mr. Appelbaum may have addressed this, but that there really hasn't -- maybe a slight increase in the size of shrimp that the market is demanding, but you are saying that it is not a dominant factor. Is that correct?

MR. APPELBAUM: Yes.

VICE CHAIRMAN WILLIAMSON: Okay. Mr. Appelbaum, I was wondering if you could -- you made a statement about the U.S. market as the market of opportunity, and I was wondering if you could clarify that.

Are we going to have more Golden Corrals with all you can eat shrimp, or what are you talking about there?

MR. APPELBAUM: I don't know about that, but it has been my observation over the 25 years that I have been working in my family's business that as prices of imported shrimp go down, the importers bring in more.

And as I think has been mentioned, it is mostly for spot sales, and it is not contractual sales. They are bringing it in, and quoting it on a daily, weekly, monthly basis, and when not enough shrimp is sold relative to inventories, and what is coming in, then the price goes down more, and that is the battle that we fought pre-tariff.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you. In April of 2010 the U.S. prohibited imports of wild-caught shrimp from Mexico as part of an effort to protect sea turtles. Do you know the status of this prohibition, and what steps Mexico has taken to get it lifted?

MR. BOSARGE: Yes, sir. This is Mr. Bosarge. What happened was that the Mexican TED Program, or the Turtle Excluded Devices, did not meet the requirements of the United States, and when we do inspections of every country that imports while caught shrimp into our country, have to meet our TED or Turtle Excluded Device specifications.

Their program fell behind, and so they banned imports into this country from Mexico. Since then, I am pretty sure that since then that inspection has gone back. They have gone back and inspected, and now they meet the requirements, and now it is back open.

VICE CHAIRMAN WILLIAMSON: Okay. Any impact that you can see in the U.S. market from that?

MR. BOSARGE: Of course, because I am not a marketer. I am a producer, but it did appear to me to help the market on some larger shrimp.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you. Ms. Pena.

MS. PENA: I would just like to add to that.

Yes, because that supply of wild caught shrimp did not come into the U.S., there was a shortage on demand, and so it put some pressure on domestic to try to fill that void.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you. Mr. Appelbaum.

MR. APPELBAUM: The timing event was such that it came after the Mexican season had closed, and so no one was really producing shrimp at that time, and then by the time the Mexican industry got their act together with the TEDs and were recertified, it was only about a month into the new Mexican shrimp season.

So I don't know -- I mean, a month is a long time in shrimp fishing, but I don't think -- I don't believe it had a real large impact on demand for domestic shrimp. Remember that while most Mexican shrimp today is farm raised, their commercial fisheries has gotten much, much, much smaller over the last five years.

VICE CHAIRMAN WILLIAMSON: Okay. Thanks for that answer. Ms. Truong, you talked about how your father came and got started in the business. I noticed that most of these people who are shrimp fishermen here are second and third generation.

And so I wanted to know something about -- well, does the example that you have given, on how the Vietnamese community has come in and really has gotten well established in America, is there anything about the opportunities in shrimp fishing and the nature of the shrimp market, of the shrimp fishing industry in the U.S. that might make it different from other countries?

MS. TRUONG: Well, they settled in Biloxi, Mississippi, in 1984 because it was very similar to the weather in Vietnam, and they just found it very similar to how they were fishing in Vietnam, and shrimping in Vietnam.

And the opportunity was there, and not only for fishermen, but the women also were involved in towing the shrimp, and the whole family was able to settle there and find work there through the processes, and the men going out, and the women working at the factories.

VICE CHAIRMAN WILLIAMSON: Was a significant percentage of the Vietnamese who had gotten into the shrimp industry were people who had done that before?

MS. TRUONG: In Vietnam?

VICE CHAIRMAN WILLIAMSON: Yes.

MS. TRUONG: Yes.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you. I just wanted to say something about the viability of the shrimping community and that's what I was wondering about, and with that, I have no further questions. Thank you.

CHAIRMAN OKUN: Let's see if there are other questions from my colleagues. Let me ask the Staff if they have questions for this panel.

MR. MCCLURE: Jim McClure, Office of Investigations. The Staff has no questions.

CHAIRMAN OKUN: Let me turn to counsel for the Respondents. Do you have questions for this panel?

MR. NICELY: Thank you, Chairman. No, we have no questions.

CHAIRMAN OKUN: Okay. Well, let me then take this opportunity again to thank this panel of witnesses for all your testimony, and for the many answers. It has been a long morning, and we will look forward to post-hearing information.

I do want to note that I was advised by the Secretary that Respondent witness Stephen Weitzer, the CEO of Arista, plans require him to go back and he will not be able to be with us.

We had looked at the schedule to see if

there was a way to accommodate his testimony, but given the time and the fact that the Commissioners would not have the ability to question him, we are just going to ask that his testimony be submitted for the record, and we very much appreciate your efforts to be here.

We can also submit written questions, and we hope that you will respond to those as well. But with that, we will go ahead and take a break until 2:15. I would remind the parties that the room is not secure, and so please take any confidential business information with you, and we will reconvene at 2:15, and this hearing stands in recess.

(Whereupon, at 1:17 p.m., a luncheon recess was taken in the above-entitled matter.)

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

(2:17 p.m.)

CHAIRMAN OKUN: Good afternoon. This hearing of the U.S. International Trade Commission will now come back to order. Mr. Secretary, I understand that our final Congressional Witness has arrived?

MR. BISHOP: That is correct, Madam Chairman. The Honorable Roger F. Wicker, United States Senator, Mississippi.

CHAIRMAN OKUN: Good afternoon, and welcome to the Commission, Senator Wicker.

SENATOR WICKER: Well, thank you very much, Madam Chair, Commissioners, ladies and gentlemen, good afternoon, and thank you for the opportunity to appear before you today. Thank you also for accommodating my schedule, as one of the thousands of Americans whose travel plans were altered because of this megastorm that we hear about.

I appear today in support of our American shrimp industry, which has a long history in my State of Mississippi, and is a vital component to our cultural heritage. Ensuring a level playing field for all producers is important, and I strongly support continuing the anti-dumping orders on frozen warm water shrimp from Brazil, China, India, Thailand, and Vietnam.

Shrimping creates thousands of jobs in the United States, providing a national economic impact that exceeds one billion dollars. In Mississippi alone, the industry has a positive annual impact of roughly $115 million, and directly provides employment for hundreds of Mississippians.

Extending anti-dumping orders is based on the determination that renewed injury would likely result from unrestricted imports of warm water shrimp. These orders are in place because dumping was found in the past, and injury occurred.

The domestic price of shrimp fell significantly because of unfair trade practices by other countries. As a result, American jobs were wrongly lost. Family businesses that existed for generations were forced to close, and local economies were hurt by these unjust imports.

To all Mississippians, a return to that type of environment would be tragic and should be prevented. The past decade presented many challenges for the Gulf Coast region. This plentiful area helps meet America's food and recreational needs.

However, we were devastated by Hurricane

Katrina in 2005, leaving many homeless, jobless, and fighting for their way of life. The storm's impact on the shrimp industry was grave. Many boats, docks, and processing facilities were critically damaged or completely destroyed.

The marine ecosystem was highly disrupted, as habitats and nursery grounds essential for shrimp were devastated by violent currents and a catastrophic storm surge. Shrimp landings dropped considerably post-storm.

According to the Department of Commerce data, shrimp landings in Mississippi dropped from almost 18 million pounds in 2004 to just over 8 million pounds in 2006. Unfortunately, Katrina was not the only storm that impacted the Gulf of Mexico region.

Ivan, Gustav, Ike, and other tropical events, also negatively affected the region, and our shrimp industry. The 2010 tragic explosion of the Deep Water Horizon Mobile Drilling Unit, and the subsequent oil spill further impacted our coast.

Many industries, including those associated with our seafood production and sales, were brought to a halt by the spill, by ensuing cleanup efforts, and by an uninformed perception of Gulf seafood.

I heard firsthand from Mississippi shrimp harvesters and processors during a town meeting last summer of the troubles that they have experienced personally over the past years, and their willingness to continue fighting for their industry and for their way of life.

I believe some of them are testifying before the Commission today, and will share their honest and compelling stories of hardship. Ongoing tests and comprehensive monitoring have shown Gulf seafood is safe, and I am confident that that will not change.

To ensure safety of the harvest, Federal and State governments instituted broad fishery closures lasting for months. At its maximum closure, more than 36 percent of the Gulf of Mexico exclusive economic zone, an area greatly than 88 thousand square miles, was closed to all fishing.

Restricted seafood harvests and a misperception of Gulf seafood products combined to drastically harm small businesses, and workers along our Gulf Coast. We do not know how last year's spill will impact landings in 2011, or for the foreseeable future.

With this uncertainty the assurance of a stable and fair marketplace is paramount and critically needed. It would be premature and ill-advised to let these anti-dumping orders lapse. I believe the continuation of these orders are necessary for the domestic industry to rebound from the events that have plagued domestic production over the past decade.

These concerns of existing and future injury to the industry are not mine alone. They are shared by my constituents who harvest shrimp, as well as those who process shrimp, and by all Mississippians who base their way of life around wild caught Gulf shrimp.

My concerns are shared by my colleagues who testified before you today, and other colleagues who have written the Commission. I thank them for sharing their voices in this important review process.

These concerns are backed by the Department of Commerce, who announced in December that revocation of these orders would very likely lead to dumping and to negative impacts for our domestic shrimp industry.

Our country's shrimp industry is comprised of hard working and resilient individuals dedicated to continuing their way of life. A majority of them work to provide Gulf shrimp to all Americans.

What they have endured since Katrina, and last year's oil spill, clearly shows their willingness and determination to carry on through the most daunting of challenges. They should be given the opportunity to confront these challenges in a fair marketplace.

Your vote and support of retaining these orders will help individuals and small businesses across the Gulf Coast continue to rebuild and recover. Your support will help lead many of our constituents and our country out of these tough economic times. Thank you for your consideration of my testimony today.

CHAIRMAN OKUN: And thank you for your testimony. Let me see if my colleagues have questions.

(No response.)

CHAIRMAN OKUN: Thank you very much.

SENATOR WICKER: Thank you.

MR. BISHOP: Madam Chairman, the panel in opposition to the continuation of anti-dumping duties have been seated. All witnesses have been sworn.

CHAIRMAN OKUN: Thank you, Mr. Secretary. You may proceed.

MR. CONNELLY: Madam Chairman, and Members of the Commission, we were here with you six years ago. We are here to tell you today that the world of shrimp has changed dramatically, both in the United States and globally.

What we heard this morning, I believe, was the effort of the domestic industry to claim that the world of 2001 through 2003 will be the world of 2011 through 2013. Our view is most emphatically that that is a totally incorrect characterization of what is likely to happen in the future if the order is revoked.

Without any further ado, we have four fact witnesses who we have brought with you. We are going to start with Steve Weitzer, and then Eric Bloom, then Jeff Stern, and then Andrew Kaelin.

And after our fact witnesses have finished their testimony, we will have remarks from Rob Gosselink on the volume related issues, and then Matt Nicely on the price and impact related issues. So we will start with Steve Weitzer.

MR. WEITZER: Good afternoon, Madam Chairperson, and Commissioners. My name is Steve Weitzer, and I am CEO of Arista Industries, a third-generation family business, which is based in Wilton, Connecticut, and was established in 1930 as the Marine Oil Import Company.

In an effort to diversify our product offerings, we entered the shrimp business in the 1960s. I joined the company in 1974, and started buying and selling shrimp. As CEO of the company, I oversee all aspects of our business, and maintain primary responsibility for our imported shrimp business.

Currently, Arista buys and sells both domestic and imported shrimp. Our domestic shrimp comes from the Gulf of Mexico. Our imported shrimp is from Asia and South America, primarily India, Thailand, Vietnam, and Ecuador.

We sell our shrimp to retail food outlets and food service operators. Our largest customer is the Sysco Corporation. They are the largest food distributor in North America, and we are their largest shrimp supplier.

When we got into this business, we purchased mostly wild caught imported shrimp, but switched to mostly domestic wild caught shrimp in the mid-1980s. In fact, we remained dedicated to domestic shrimp until only recently.

We did not buy from Vietnam until 2006, and only started buying shrimp from Thailand in 2009, since the anti-dumping orders went into effect. We first started buying imported farm raised shrimp because we were unable to source all of our customers' demand from our domestic supplier.

The Gulf produces only a limited amount of shrimp, and even a large harvest year, U.S. processors still only supply about 10 to 12 percent of the market. In addition, there are huge variations in available domestic supply throughout the year.

Because the shrimping season does not last all year, 70 to 80 percent of domestic shrimp is typically harvested and purchased during the summer and fall months. Some processors freeze domestic shrimp during the season for sale in the offseason, but these amounts often are insufficient to meet demand. So, as demand grew and as consumers wanted shrimp throughout the year, we were forced to diversify our product offerings to include imported shrimp.

There were plenty of customers who still insist that we sell them shrimp from the Gulf. Many of these customers favor Gulf shrimp based purely on tradition. They would rather eat a wild caught product than a farm raise shrimp.

These customers, most of whom are in the Gulf region, the Midwest, and the Mid-Atlantic States, also generally prefer the taste of wild caught shrimp, and who can blame them. I tend to agree that wild caught shrimp is tastier.

But as the market has evolved, there are more and more customers for whom presentation and quality matter just as much as taste. By presentation and quality, we mean several things; the texture, consistent sizing, and lack of defects, such as broken shells, or broken tails.

This is where the imported product excels. There is simply no question that compared to the domestic wild caught shrimp, imported shrimp is of more uniform and consistent quality. As a result, it is my experience that domestic and imported shrimp, although technically interchangeable, do not compete for the same final consumer.

We have customers who will only buy imported product, and we have customers who will buy only domestic product, and we do have customers who ask for both. In all cases the origin of the shrimp is specified by my customers because origin ultimately matters to their customer.

Also in my experience, there was never any difficulty in distinguishing wild caught domestic shrimp from imported farm shrimp. The lack of competition between imported and domestic product is demonstrated in our company by the manner in which we buy. We have one team that buys domestic shrimp, and another that buys imports.

The two markets function independently. What drives price negotiations is specific to the domestic shrimp market, or the imported shrimp market, as the case may be. The fact that customers continue to demand domestic product, regardless of price, is also proof of the lack of competition.

With regards to imports, we easily could have switched the bulk of our sourcing to suppliers in countries like Indonesia or Bangladesh, who are not covered by the tariff. Yet, since the tariffs were imposed in 2005, we have purchased more from Vietnam and India than anywhere else.

We do this because this is where we have found suppliers on whom we can depend for consistent quality product. Furthermore, the anti-dumping duties have not been high enough to discourage us from buying from these countries. As a result, in my view, if the anti-dumping duties were to be revoked, very little would change. We would continue to buy from Vietnam, Thailand, and India, and we would also continue to buy from Ecuador, which is no longer subject to the duties, and we will always buy domestic shrimp for those customers who insist on domestic wild caught product.

I understand that domestic processors are arguing that the anti-dumping orders have helped them, and that if they are removed the industry will be injured again. However, I don't see the connection.

Over the last several years, what has driven pricing for domestic product is the quantity of shrimp that fishermen are able to bring to the dock. When the harvest is low, the prices are high. When the harvest is high, the prices are low.

It is also important to recognize that domestic pricing is affected by the extremely limited number of buyers in the market. There are only a few. They include Arista, as well as Penguin Foods, who you heard from earlier.

This phenomena results in very low pricing during strong harvests, which has hurt the industry far more than imports. As I mentioned earlier, Arista's largest customer is Sysco, to whom we sell both imported and domestic product.

Tonight is Sysco's annual awards dinner, at which they honor their top 100 suppliers. This is an important event for us. This is Arista's fifth year in a row being on Sysco's top 100 list, and I am told that this year that we are receiving a special honor.

We have won this honor because of the growth of our business with Sysco, up 30 to 40 percent each year over the last two years, due in large part to our commitment to consistent quality.

Although Sysco buys both domestic and imported shrimp, most is now imported from subject countries. We choose these sources because of their consistently good quality. I was scheduled to catch a 3:00 p.m. plane to Houston this afternoon, but after sitting here listening to the domestic industry's presentation, I realized that I should stay, and let my son receive our company's award. I do look forward to the Commission's questions. Thank you for listening to my remarks.

MR. BLOOM: Good afternoon, Madam Chairman, and fellow Commissioners. My name is Eric Bloom. I am president of Eastern Fish Company, located in Teaneck, New Jersey. We have been purchasing shrimp, mostly imported, but some domestic, for almost 30 years.

My father started Eastern Fish as a fish and crab trading company, sourcing products from Alaska and Canada. In 1982, we began supplying farm raised shrimp to a wide variety of customers, including Pathmark Supermarkets, Red Lobster, and Safeway Supermarkets.

Eastern sources more than 60 million pounds of shrimp per year from 12 different countries, primarily Thailand, Mexico, Indonesia, China, Peru, and Bangladesh. We are one of the world's largest suppliers of farm raised and wild caught shrimp.

A lot has changed since the original investigation. There has been a huge increase in the globalization of the shrimp business. The majority of shrimp exports are no longer destined for the United States.

Now the trend is towards other markets. As far as using shrimp as a primary protein choice, many countries are where the U.S. was eight years ago, developing their markets and significantly increasing their purchases.

Five years ago our supermarket customers in Belgium, Switzerland, and Germany, only marketed limited quantities of fresh water shrimp from Asia. Now, our biggest sellers to those countries are warm water shrimp from Thailand, India, and Vietnam, and we sold more to Europe in 2010 than ever before.

China has also significantly increased its consumption of imports. An Ecuadorian supplier recently told me that he sold a million pounds of shrimp to China just in December of 2010, and one of our Chinese trade partners imported more than 10 million pounds in 2010 from Thailand and Ecuador for resale into the Chinese market.

Like our company, foreign shrimp exporters know that the future lies in Europe and Asia, and they know that they need to develop these markets now to establish permanent relationships. This is not something that will happen in two to three years. It is already happening.

Thus, the most important issue in the shrimp industry today is globalization. In contrast, the U.S. market is relatively stable. We have recently visited producers and factories in Peru, Mexico, Ecuador, Thailand, China, and Indonesia.

We spoke with dozens of suppliers and customers, and I can tell you that the outlook for the U.S. shrimp market is the same, whether or not the dumping orders are revoked. This is because the U.S. market is stable.

We do not expect any significant increases or decreases in the volume of shrimp imported or consumed in the United States in the near future, and this is not because of the dumping orders. The current margins are not so high that they have restricted trade, and imports will not increase if the tariffs are lifted.

Like chicken, beef, and pork, shrimp is now an established center of the plate protein option in the U.S., and any increases will be gradual as with other protein commodities. At Eastern Fish, we are agents for our customers. We buy what they want us to buy.

We purchase domestic scallops and lobster, and even some domestic shrimp, but we cannot rely only on domestic shrimp, and this is not just because domestic shrimp can supply only a fraction of the U.S. demand, but because of specific customer demand.

The distinction between domestic wild caught shrimp and foreign farm raised shrimp drives customer demands. In an early attempt to develop new supplies, Eastern devoted two years to developing trade in domestic aquaculture in the U.S. Our head of quality control for the Americas traveled to Texas to show the U.S. farmers how to increase the quality of their shrimp so that they could compete with imports.

We also taught them how to produce high quality head on shrimp to obtain higher returns.

After a few months a farmer in Harlingen, Texas, told us that he would no longer sell to us because he could sell to others that did not demand the high quality of shrimp that we required.

Moreover, we never obtained for U.S. farm shrimp the same price as we got for the imported shrimp, because our customers felt that the U.S. shrimp was of lesser quality. U.S. buyers of domestic wild caught shrimp generally will not shift imports.

Some, such as the U.S. Government, specify U.S. shrimp as the only type acceptable. Others need U.S. shrimp because of written specifications, or because their customers prefer the flavor.

In any case, U.S. shrimp cannot be replaced by imported farm raised shrimp from overseas. But no customer has ever told me that they use U.S. shrimp because of the quality. Customers seeking a consistent high quality year around product must buy imported farm raised shrimp.

In addition to being of higher quality, farm shrimp imports also increase our business certainty, and that of our customers. Restaurants can plan menus and pricing due to the programming consistently of farm shrimp. Supermarkets can plan advertising schedules without having to store large volumes of product. This leads to healthier cash flows and reduced supply chain costs.

Additionally, the growing demand for value added products has made imports indispensable to many customers. Most of Eastern Fish's imports from subject countries are further processed goods, which are almost unavailable from the domestic industry.

Most U.S. product is marketed in the basic shell on form. I can tell you that two or three supermarket chains that are good customers of mine have either stopped or in the process of stopping their offerings of domestic shrimp due to lack of sales.

In explaining the switch, they say that they cannot rely on the inconsistent domestic supply, and also have to reject product for quality issues. As this discussion shows, the bottom line is that the anti-dumping orders have not affected U.S. demand.

There might have been some reshuffling of import sources, but total shrimp import volumes have remained steady for five years. I have heard the claims that the subject countries produce enough to swamp the U.S. market if the orders are lifted, but the real world does not work like that.

Import supply does not function like a water faucet. You cannot turn one off, turn one on, and then immediately redirect trade flows. Supplier-customer relationships take time to develop. More importantly, it is not the exporter's decision. We, the importers, decide whether to purchase foreign supply, and we don't intend to shift supply away from non-subject countries.

When the anti-dumping tariffs were applied, we looked for other sources and we now purchase shrimp from a dozen countries. We still purchase the majority of our shrimp from Thailand, China, and Vietnam, but we will not abandon our other sources if the orders are revoked.

First, it has taken us time and money to develop these sources. Second, the more qualified vendors we have, the more insulated our supply is from disease, weather, oil spills, and other unforeseen events.

Third, many of our alternate supply sources have advantages over the subject countries, such as shorter transit time. Eastern benefits tremendously by having multiple sources in multiple countries, and we have no intention of giving up the advantages of a diversified supply base that we worked so hard to develop.

Thus, even if exporters had an incentive to come back into the United States in the absence of anti-dumping orders, importers have just the opposite incentive. We will maintain our diversified supply. Thank you for your time.

MR. STERN: Good afternoon, Commissioners. My name is Jeff Stern, and I am the vice president of purchasing for Censea, Inc. Censea, Inc. is a Chicago-based importer and distributor of shrimp and other types of seafood.

We import about $200 million worth of seafood every year, and we source from over 30 countries. We service over 400 customers throughout the United States. We sell to restaurant chains, broadline distributors, retail grocery chains, wholesalers, and processors.

Our customers include Outback Steak House, U.S. Food Service, and Super Value. We have not changed the fundamental nature of our shrimp business since the anti-dumping orders were issued in early 2005.

Our goal then, as it is now, is to provide our customers and potential customers, with significant volumes of the highest quality shrimp at a fair market price. At Censea, we long ago concluded that domestic shrimp could not satisfy our customers' needs from both a volume and quality standpoint.

In contrast, overseas suppliers in numerous countries have the ability to provide large quantities of high quality shrimp year around that is consistent from one container to the next. By consistent, I mean the size of the individual shrimp within a particular count are costly grouped.

Restaurants in particular want to put uniform shrimp on the same plate because it makes far better presentations to the consumer. Consistency also means identical, or nearly identical, quality from load to load with respect to our detailed product specifications, as well as our customers' own specifications.

The price that we pay is also very important, but it takes a second place by a wide margin to product quality. It is only after we satisfy the customer that our quality meets or exceeds their own specifications that we can begin to negotiate on price.

I have heard shrimp referred to as a commodity, but the commodity nature of shrimp only comes into play in the buyer's mind if the quality standard is first satisfied. Our experience with domestic shrimp is that the quality varies widely, which is a strong disincentive or buyers to enter into long term relationships with domestic suppliers.

In contrast, we conduct a significant portion of our business with restaurant and grocery chains using fixed-price contracts that typically last up to a year. This method of doing business allows us to develop long term relationships, especially because our customers come to know and value the quality of our overseas suppliers that we purchase from.

During the POR, one of our large restaurant chain customers switched from using primarily domestic shrimp to imports for the reasons that I precisely stated; consistency of supplier, ability to negotiate a long term price, and uniformity of size.

This customer purchases significant volumes of shrimp on an annual basis. I can unequivocally state that we rarely, if ever, encounter competition from domestic wild caught shrimp. Certainly there are customers out there that would rather buy domestic products.

A good example is Penguin Frozen Foods, who like Censea, has its main office in the Chicago area, and distributes shrimp nationwide. To the best of my knowledge, we have never engaged in a head-to-head competition with Penguin for an account.

Rather, Penguin focuses on customers that prefer wild caught shrimp, and we, like most other importers, focus on customers that strongly prefer farm raised shrimp. To be sure the orders have caused us to alter our supply base.

The uncertainty created by cash deposit rates that can change considerably after Commerce completes an administrative review led us to conclude that we would be safer if we switched more of our purchases to non-subject countries.

Over the course of the last six years, we have been able to develop strong relationships with non-subject packers in several countries, including Indonesia, Bangladesh, Malaysia, and The Philippines. We pay prices that are comparable to prices that subject suppliers charge.

Looking into the future, we don't see any need to alter in any significant way our current supply relationships, which we have worked hard to develop and build upon. In addition, we don't foresee any increase in demand for imports over the next several years.

In fact, we are very concerned about the effect of rapidly growing demand in Asia, particularly

China, will have on our ability to maintain an adequate supply for our customers. The added demand has required us to pay higher prices for imports.

Third-country demand has affected us significantly in Vietnam, where our largest supplier has shifted a greater proportion of their exports to the Chinese market, which has been paying premium prices, as compared to the United States.

Since there are no barriers to imports in the other country's markets, this problem is likely to continue to grow over the short and long term. As a result, we expect prices in the U.S. market to remain strong as global demand continues to increase. This completes my testimony. Thank you.

MR. KAELIN: Good afternoon, Madame Chairman and commissioners. My name is Andrew Kaelin, and I am the Managing Director of AIS Aqua Foods. We are a producer and importer of seafood from China, including shrimp, Tilapia, squid, and catfish.

Over the years, one of our largest customers has been Darden Restaurants, which owns the Red Lobster, Olive Garden, and Capitol Grill chains. Because of the U.S. FDA import alert 16-131 on Chinese farmed seafood, we no longer import any shrimp or catfish from China.

I first got into the shrimp business in Panama in 1983, where I helped to develop a shrimp farm, and then went to China in 1989 as a consultant to the World Bank to assist the Chinese in the technical aspects of shrimp farming and processing. I have worked and traveled extensively throughout China over the past 20 years, consider myself extremely knowledgeable about the Chinese shrimp industry, as well as the economic conditions in China that relate to domestic and export demand for Chinese shrimp.

I have worked in the capacity as a consultant-advisor and a businessman in China. This has given me insights to both the official government policies in the seafood industry and business community.

In October of 2010, I participated in the preparation of an analysis of the Chinese aquaculture industry for presentation at the annual meeting of the Global Aquaculture Alliance. The GAA is an organization that is devoted to the promulgation and enforcement of best practices in aquaculture, including best practices with respect to food safety.

Among the conclusions that we reached after an examination of statistical data compiled by the Chinese government, as well as from other sources of data, were the following:

First, China has an enormous and rapidly growing middle class that already consists of about 4- to 500 million people, and that is forecast to reach 700 million in the next 10 years. The middle class is relatively young, and discretionary income features more women than men. It has a much greater consciousness of the importance of food quality and safety than ever before, as well as much greater concern for preservation of the environment.

Second, most of the Chinese wealth is concentrated in urban areas located mainly in the eastern part of the country, and in those cities where seafood is extremely popular and available. However, even in rural areas, demand for seafood is growing. As a result, China has become the world's leading consumer of seafood, according to a National Geographic study. Japan is the second largest seafood consumer, and the U.S. is a distant third.

Next, the very same demographic changes in social attitudes that are driving food consumption patterns in the U.S. and elsewhere are appearing in China. For example, the Chinese are far more interested these days in healthy and nutritional forms of protein, and that often means seafood, including shrimp. Headless, shell-on, frozen shrimp, for example, used to be less preferred than live or fresh shrimp. But the trend is now in the opposite direction. The same is true for consumer-friendly packaged seafood products, which are appearing in grocery store freezer displays.

Fourth, shrimp prices in China's internal market are growing because demand has been growing. A sales manager at one of the largest Chinese producers, Guangdong Evergreen Group, announced last August that his company could now charge higher prices in China than in its export markets. Another major producer, Zhanjiang Guolian, increased its home market shrimp sales in 2010 to over 10 percent of its total sales, even though it is exempt from U.S. antidumping duties.

Fifth, independent experts believe that China will be a net importer of seafood in 2011. China is also likely to need to import shrimp this year due to the very substantial reductions in production that have occurred due to adverse weather conditions and disease issues. China shrimp production dropped by almost 20 percent -- 25 percent between 2009 and 2010 due to these problems. This is a 600 million pound shortfall from which it will take several years to recover.

The magnitude of that shortfall is going to cause domestic shrimp prices to increase considerably. In fact, seafood prices in China overall increased by at least 10 percent in 2010. In addition, labor shortages are developing that make it more difficult for shrimp processors to maintain output. Raw shrimp prices rose by 10 to 15 percent in China in 2010, and that has made it much more difficult for Chinese processors to export.

Adding to the export disincentive are higher labor costs and a higher than expected inflation rate in the 5 percent change, with another 3 to 4 percent increase widely predicted for 2011.

For all these reasons, I know of at least one major U.S. purchaser that has expressed great concern over its future ability to continue to source shrimp and other types of seafood from China. Because the Chinese demand is so strong right now, and because consumption is growing so rapidly, the products that are profitable enough to export are primarily the value-added products, like in raw, cooked, and peeled shrimp in prepared meals, and breaded shrimp.

The basic commodity-type products like head-on and headless, shell-on, raw-bought tend to stay in China. One way to think about China's enormous and growing potential for shrimp sales is to consider its annual per capita consumption, which is just 3-1/2 pounds per person in the urban areas, and far less in the rural areas.

If Chinese shrimp consumption on a per capita basis increased by just 1/2 pound per year, that is equal to the U.S. consumption. Then Chinese consumption would increase by well over the amount of its total exports. That goal seems achievable in the near future, given the enormous transformation of the Chinese society that is now underway. In fact, one source has estimated the Chinese are likely to double their seafood spending over the next 10 years.

Some have claimed that the enforcement of the U.S. food safety laws are lax. But this has not been my experience. In fact, the U.S. FDA import alert 16-131 on Chinese aquaculture products has made it too time consuming and expensive for us to continue to import shrimp and catfish from China.

Let me sum up by mentioning an article that I wrote in mid-2002, after the antidumping case had been filed. I predicted that the effect of the case would be that the Chinese shrimp industry would become more competitive, not less, and that is exactly what happened. I thought that at the low and zero tariff

Chinese exporters would continue to ship to the U.S., and that has happened, with Zhanjiang Guolian.

I predicted that the new shippers would also succeed in establishing no dumping, and that has happened with a producer called Zhanjiang Regal. I expected Chinese businessmen to invest elsewhere in Asia, and they have done that in Indonesia in particular, as well as in Burma. I thought that the high margin processors would diversify their product mixes to include other seafood products, and would also move to higher value-added forms of shrimp, and that has been done. And, of course, the Chinese processors are helping to create, build, and sustain a huge, fast-growing internal market.

So the Chinese market has diversified, has changed its orientation to some extent, and has become more competitive, but not in any way that threatens the U.S. industry. Rather, the strongest likelihood is that the domestic market and other export markets can easily soak up the Chinese production for the foreseeable future.

Nothing suggests the Chinese need to or will return to the U.S. market and can compete in the ways that they did at the beginning of this decade. China will become an importer of shrimp and other seafood from other countries, including the antidumping countries.

That completes my remarks. Thank you.

MR. GOSSELINK: Good afternoon, Commissioners. Pardon me. My name is Rob Gosselink. I'm here today on behalf of the Thai Respondents. I will discuss the potential volume effects and explain why the conditions of competition and market dynamics for the subject countries show that the subject import volumes will not be significant if the orders are revoked; and to clarify the situation with China, the world's largest producer and consumer of shrimp.

Let me briefly discuss the other subject countries, starting with Brazil. Like China, Brazil also has developed its internal market over the past five years. In addition, Brazilian producers have almost completely exited the U.S. market and have slashed their exports to the EU. Huge home market demand and a significant appreciation of Real have resulted in a strong domestic market that is now the *only* attractive destination for domestic producers.

These developments support the conclusion that Brazilian producers will not resume exporting to the U.S. at historical volumes. Nor will India, Thailand, and Vietnam significantly increase their exports to the U.S. following revocation of the orders. Each has developed numerous alternative markets, and the domestic markets of each has grown.

There is no basis on the record to conclude that subject producers in these countries would shift significant volume to the U.S. market. Please see our brief for a discussion of the specific facts.

ASPA and the LSA acknowledge in their brief the huge growth in subject countries' third-country shipments, highlighting that while U.S. received half of all subject global exports in 2003, the U.S. accounted for only one-third of such exports in 2009. Curiously, they suggest that this positive development will lead to increased U.S. imports. But rather than heralding an increase in U.S. imports, these significant third-country exports reduce the likelihood that subject imports will increase upon revocation.

ASPA and LSA make their claim by ignoring the strongest evidence that subject imports will not shift back to the United States, namely, that the U.S. market is at equilibrium, that import levels have not changed significantly since 2003, before implementation of the antidumping orders, and that there is no record evidence that U.S. demand will increase substantially in the foreseeable future.

Data collected by the Commission show that the total volume of subject and nonsubject shrimp has remained steady since 2003. From 2003 to 2009, total U.S. imports and U.S. consumption both increased only about 4 percent. There is no reason to believe that import levels will change if the orders are revoked.

First, even with the antidumping orders, Hurricanes Katrina and Ike in 2005 and 2008, the global financial crisis, and the BP oil spill, import levels have remained virtually identical every year. Despite extremely low antidumping duty margins throughout the POR, unused capacity has not resulted in increases in cumulated subject import volumes or market penetration. Despite revocation of the antidumping orders in 2007 and 2009 for a significant percentage of subject producers, the total volume of shrimp imports again did not change.

Finally, Indonesia, Ecuador, and Mexico, the second, third, and fourth largest sources of imports, sell their exports at competitive prices without concern for the so-called disciplining effect of the orders. But the total volume of subject and nonsubject imports again has remained constant over the POR.

In sum, no record evidence suggests that shrimp imports will change appreciably in the foreseeable future, regardless of whether the Commission revokes the orders. Although the United States has been an attractive market because of its large size, subject producers now have no incentive to shift exports to the United States, where the market is stable and the majority of imports already are nonsubject, and thus give up expanding opportunities in third country markets where demand is expanding dramatically and prices are increasing.

More importantly, as Eric just testified, U.S. importers that make most of the purchasing decisions will not abandon their existing vendors and shift imports back to the subject countries. That total U.S. imports of subject and nonsubject warm-water shrimp have remained stable for six years supports the conclusion that subject producers cannot and will not expand their U.S. exports. The information collected by the Commission confirms this, with most shrimp importers and purchasers reporting that they do not intend to increase their purchases of subject merchandise in the event of revocation.

Finally, no data support Petitioner's claim that the subject foreign producers are able to expand their exports rapidly. The Commission already has found that there is a biological limit as to how much fresh shrimp can be fished from U.S. waters. The same is true with respect to farmed aquaculture. Production cannot increase overnight, especially where, as reported by many Thai Respondents, for example, commercial product expansion basically has stopped.

Petitioner's claim, based only on estimates, of vast future increases in farm-raised shrimp production are purely speculative and are based on cherry-picked data. The record evidence leads to one conclusion: there is no potential surge of imports to be unleashed to the U.S. market following revocation.

The Commission also is directed to consider whether the likely volume of subject imports would be significant relative to U.S. consumption if the orders are revoked. In the original determination, the Commission found that the increase in subject imports' market share came mostly at the expense of the domestic industry, especially given that domestic producers' market share decreased steadily at the same time that subject import market share was increasing.

But the POR data show that subject import volumes have not determined domestic market share.

Over the past five years, the U.S. producers' market share has not increased. In fact, the U.S. producers' market share during the POR exceeded the 12 percent market share achieved in 2003, prior to the imposition of the orders, only once. And this is in 2006, the same year that subject import volume also increased and peaked.

The additional six years of data highlight the utter lack of correlation between import volumes and the domestic market share. Record evidence thus directs that the volume of imports will not be significant relative to U.S. consumption if the orders are revoked.

In light of the U.S. market equilibrium and the relatively low dumping margins that have not restricted import volumes, no evidence suggests that subject foreign producers can increase exports to the U.S. market rapidly. This conclusion is supported by the behavior of nonsubject producers in Thailand and India, which did not ramp up shipments after their exclusion from the dumping order. It is confirmed by record evidence that subject producers have growing home markets and substantial third country markets in which they face no trade barrier.

It is further confirmed by subject inventory levels, which are steady, and by the lack of any potential product shifting. And it is reinforced finally by the lack of any correlation between subject import volumes and domestic processors' U.S. market share.

Based on all of these factors, the Commission should find that the likely volume of cumulated subject imports either in absolute terms of relative to both U.S. production and consumption will not be significant in the event of revocation. Thank you.

MR. NICELY: Good afternoon, Madame Chairwoman and fellow commissioners. I'm Matt Nicely appearing on behalf of Vietnamese Respondents. I will address today price and impact and demonstrate that the domestic industry's fortunes are tied to factors inherent in the domestic industry, not to variations in subject import volumes or price.

The conditions of competition today are so different from what they were in 2003 that revoking the orders will not harm the domestic industry. First, let's talk about price.

The domestic industry claims that the orders have altered the competitive playing field, providing them with improved and stable prices that reversed pre-order volatility in the U.S. market. But did prices actually improve and remain stable? Were the movements in domestic prices linked to subject imports? The answer to both questions is no.

To generate price improvement, Petitioners are forced to compare first quarter 2005 data to third quarter 2010 data, the latter of which everyone agrees was distorted by the oil spill. Whenever a party compares period endpoints, it's usually because the trends over the course of the POR did not support their story.

In this case, as our pricing Exhibit 1 shows, which you should have in front of you, domestic prices varied dramatically up and down throughout the POR, so much so that in 2005 and '06 and in '09 again, their AUVs were below the prices the industry received in '03, when the Commission determined that subject imports were causing the industry's trouble.

Indeed, overall, domestic prices declined from 2005 to 2009. This decline cannot possibly have been due to subject imports because, as the domestic industry notes, and as we show in pricing Exhibit 2, subject import AUVs increased during the POR.

If their theory held water, you would expect domestic AUVs to improve throughout the POR. Yet they did not, as our first exhibit shows. The same is true for six of eight of the pricing products, as we will show in our prehearing brief.

The reason domestic prices did not follow import prices is because their prices have nothing to do with imports. Steve Weitzer testified today that the industry operates its own separate market. Domestic and imported shrimp may be interchangeable technically, but in practice they are not. Some consumers want wild caught. Some want farm raised. Some want the larger Black Tiger shrimp, which is only available from a few foreign sources and not the United States. Some want IQF, cooked product, further value-added products, which the domestic industry produces, by the way, in only minute quantities.

These customers are forced to rely on imports. Add the quality and consistency differences noted by our witnesses today, and there are clear reasons why these products follow different patterns. It should be no surprise therefore that domestic prices move in relationship to the volume and price of domestic supply, that is, landings, rather than in relationship to imports.

As pricing Exhibit 3 shows, there is a very strong negative correlation between domestic supply and domestic price. That is, as the domestic supply increases, price decreases, and vice versa. The strong negative correlation holds whether we look at domestic processor shipments in AUVs or at the experience of the shrimpers, as shown in pricing Exhibit 4.

Now, you will notice that our correlation coefficients are quite different from those submitted by the domestic processors. Please see ASPA's brief at Exhibit 13. And that's for good reason. There are at least two fatal flaws in their analysis. First, they compare total imports rather than subject imports with domestic shipments. They have done this because using subject imports would have completely undermined their argument.

Second, they include both full-years and three-quarter interim periods, which makes no sense. Not only is this mathematically illegitimate, it also ignores seasonal differences among quarters. You'll see in our pricing Exhibit 6 that we have fixed the analysis to analyze subject imports and to limit the analysis to four years. When you properly analyze the data, the coefficients support our position. That is, the negative correlations between domestic AUVs and domestic volumes are far stronger than the positive correlations between domestic AUVs and the subject import AUVs. And the strongest correlation, as one would expect, is between processor AUVs and shrimper AUVs.

The pricing products tell the same story. That is, subject import prices and domestic prices don't move together. Look at individual years. There are many examples where subject import prices went up exactly when domestic prices went down, and again, vice versa. And while import prices generally increased over the POR, domestic prices declined for six of eight products.

The pricing product analysis leads to the same conclusion as the analysis of the AUVs. Domestic volume drives U.S. price, not subject import price or volume.

Under these circumstances, evidence of some underselling does not support a conclusion that imports are the problem. Rather, it leads to the conclusion that the domestic industry sets its own prices, irrespective of imports. Indeed, the fact that they often sell their product at significant premiums over import prices when domestic supply is tight but overall supply is not confirms Mr. Weitzer's testimony. It shows that competition is attenuated because their customers view domestic products differently from imports.

Let's now turn to impact. Has the order helped improve the domestic industry's performance? No. The data show that as with price, the industry's fortunes are tied to domestic supply, not to imports. Let's first consider the following facts, which assume the processing industry is defined as the staff proposed in Table C-2 of the staff report.

In 2006, when supply of domestic shrimp peaked, domestic processors went from unprofitable in '05 to profitable in '06, even though subject import quantities were at their highest level of the entire POR in 2006, and subject import AUVs were still low. In 2007 and '08, industry performance deteriorated, just as subject import quantities fell and subject import AUVs increased.

In 2009, when domestic supply increased again, processor performance improved again, even though the subject import AUV declined slightly. These facts show that the health of the domestic industry is unrelated to subject imports.

Consider domestic share as well, which has decreased since the POI. Domestic market share reached a POI low of 12 percent in '03, fell further to 11 percent in '05, 10.9 percent in '07, 9.2 percent in 2008. In 2009, domestic market share was lower than 2003. The only year it was higher was in 2006, the high volume point during the POR for subject imports. As such, domestic share has not increased due to the orders. On the contrary, domestic market share was generally lower in the POR than it was in the POI. Nonsubject imports, which will remain in the market with or without the orders, have taken share from domestic processors and subject imports.

The performance of the fishermen is similar. Despite the orders, they have been unable to increase their prices measurably. Whether we look at questionnaire data or NMFS data, the story is the same. X vessel prices reported by the fishermen were continuously below the 2003 low point of the POI. The more comprehensive NMFS data indicate that landing prices were lower than 2003 in both 2006 and 2009, when landing volumes increased significantly. The higher volume made up for lower prices in 2006 when the fishermen showed operating profits. But in '09, when landing volume spiked and landing prices declined again, the fishermen had operating losses.

This is telling because in 2009, imports were at their lowest level, and at relatively high prices. Other events, such as increased costs and the recession clearly were driving the fishermen into the red that year, not import prices or volume.

Landing prices have not increased measurably since imposition of the orders. And overall, fishermen performance was down late in the POR. Meanwhile, subject import volumes did not increase, and their prices trended upward. Under these circumstances, the orders clearly have not helped the fishermen. Rather, the prices obtained by the fishermen are inextricably linked to the volumes they land for sales to a small number of processors, and they are independent of subject imports. The orders have been ineffective in altering this most basic market dynamic.

ASPA claims that due to the orders, fishermen's overall performance improved since the POI, yet the data show otherwise. Any improvement as compared to the POI is because there are fewer fishermen. It certainly cannot be tied to negligible increases in X vessel prices between the POI and the POR. Clearly, the more efficient shrimpers have remained in business, while others have opted out.

Any comparison of the POI with the POR must take account of this market reality. Overall, the record evidence shows that whether or not the orders remain in effect will have no bearing on the health of the domestic industry.

This includes our testimony, and we look forward to your questions.

CHAIRMAN OKUN: Well, thank you very much. Before we begin our questions, let me take this opportunity to thank all of the witnesses for being here. For those who have traveled to be with us, we very much appreciate it. Mr. Weitzer for having changed your plans to stay with us this afternoon so we could ask questions, we appreciate that as well.

And with that, we will start our questions this afternoon with Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Madame Chairman. And I join the chairman in thanking all of you for being here today and answering our questions.

I want to begin with Mr. Bloom. And just to help me to understand your testimony a little better, what is the economic rationale for continuing current supply patterns, even if it turns out that prices from subject producers become relatively more attractive?

MR. BLOOM: Well, first and foremost, we've developed different markets now for products from specific areas, such as we've built the business where people are requesting products from Peru. Peru was not a significant supply partner of ours five years ago. And over that time period, we've developed customers requesting and requiring that product.

From a standpoint of if product becomes more -- I mean, they do produce a different product mix as well as some of the other countries. So that would be -- so the other point is that long term, I'm not so sure that the pricing structures are going to return possibly to lower levels, just because I think that excess volume will be brought up by China.

We're getting requests from Russia. Russia is a non-traditional importer of product. There is a lot of people there who don't know a lot about warm-water shrimp at this point. So we see the dynamic a complete paradigm changing.

COMMISSIONER PINKERT: Well, that leads right into my next question, which could be answered by anybody on the panel. But you heard the testimony this morning about how often the customer doesn't know or perhaps doesn't even care whether the product is farm raised or wild caught. How often is that the case? It seems that the testimony on this panel is that customers have distinct preferences between the various products that we're talking about, various sources of the product.

MR. WEITZER: I think I could help answering that. There are still traditional regional preferences for shrimp taste. Years ago, there was no farm-raised shrimp, okay? The Gulf shrimp industry supplied most of the shrimp in this country. So you still have areas, especially in the Gulf Coast, in the Midwest, where it's ingrained. They like that flavor. And typically, it's an iodine flavor for a brown shrimp, and a little less for a white shrimp.

In the Northeast, they don't like it. We have customers in Texas who buy both. I mean, a lot of our customers buy both. So you have traditionalists who know the difference, and our customers know the difference, I would say more so than the actual consumer.

MR. CONNELLY: Commissioner Pinkert, could I add to that a little bit? I think the testimony you heard this morning about consumers not knowing the difference means the restaurant customer sitting at the table. That is a very different situation from the restaurant itself, obviously. The restaurant absolutely knows the origin of the shrimp. It is making a decision based on the origin of the shrimp.

In Table 2-13 in the prehearing report, it indicates just how significant the decision is by a purchaser to purchase based on either the process or the country of origin. It is a very important consideration for the buyer. That is precisely our point.

COMMISSIONER PINKERT: Mr. Nicely, do you want to add to that?

MR. NICELY: No. I think Mr. Connelly handled it quite well.

COMMISSIONER PINKERT: Okay. I just saw you shaking your head. I wanted to make sure. Now, turning to the subject countries, as you know, we have five subject countries here. And I noted that in your brief you suggested that some of the countries might be more export oriented than others. Can you tell us which countries are more export oriented than the others?

MR. CONNELLY: Yes, certainly. Let's take them alphabetically. Brazil. Brazil has been characterized, I think grossly inaccurately by the group this morning, as export oriented, based on an analysis of two totally I think inadequate questionnaire responses from the only two Brazilian processors you got.

In contrast, we submitted a report from the

USDA's Foreign Agricultural Service which shows just how much the Brazilian processors now are oriented to their home market. It is almost -- I won't say completely, but it is strongly oriented to the home market. So that's Brazil.

China, also inaccurately characterized as export oriented. Frankly, I don't think the domestic industry understands what is going on in China. They didn't really talk about China this morning. China to us obviously is a very significant producing country. But it's an extraordinary consuming country, and will get even stronger, as you heard from Andrew and others this morning.

So China definitely is not an export oriented country. Are its exports significant? Yes. But are they significant relative to domestic consumption? No. Is domestic consumption growing rapidly, according to all experts, including I might add, at least one of the witnesses you heard from this morning in his questionnaire response.

Rob, I'll let you talk about the other three countries.

MR. GOSSELINK: Rob Gosselink. I think that the other three perhaps could be categorized as more export oriented. But India, Thailand, and Vietnam all have made considerable efforts in developing their domestic home markets over the past five years. For example, Thailand, the largest by far exporter to the United States of shrimp merchandise had, I believe, only a 1-1/2 or less than 2 percent domestic home market share during the original POI. And in the last five years, in some years we know it has gone up to at least 7 or 8 or 9 percent.

That is a significant increase in home market consumption. In addition, a lot of the home market consumption of the shrimp grown is not consumed as subject merchandise, or in the form of subject merchandise. Thailand, for example, according to a lot of the responses produces a lot of prepared meals, ready-to-eat meals, breaded shrimp, dim sum, soups. In domestic aquaculture, shrimp is being used more and more in those products as opposed to what normally are considered subject merchandise.

COMMISSIONER PINKERT: Thank you. Now, you also may recall that I asked the representatives of the domestic industry whether nonsubject imports would leave the U.S. market in significant quantities if there were a substantial increase in subject imports upon revocation of the orders. Now, I understand that you wouldn't accept the premise that there would be a substantial increase in subject imports, but I'm just trying to understand the relationship between the subject and the nonsubject. Do they tend to sort of have an inverse correlation or do they compete against one another directly?

MR. WEITZER: Well, I can comment on the subject countries that produce and export Black Tiger. There are no other countries that in any viable quantity export a Black Tiger. You have India, and you have Vietnam. So there are no other nonsubject countries exporting in any large volume.

MR. STERN: To answer your question, when the orders came into place, we assessed where our business was at and what to do. We elected to put a lot of effort into developing imports from nonsubject countries. Our business to Indonesia has increased many, many fold in that five-year period.

We've developed relationships with suppliers there that are very, very long term. They understand our business. We understand their business. And if tomorrow the orders were revoked, we would be continuing that business. We would not replace it with imports that were formally subject to the orders.

MR. CONNELLY: Can I just add one little bit?

COMMISSIONER PINKERT: Please do.

MR. CONNELLY: I don't think we heard this morning anyone contest our claim that imports have been very stable for at least the last five years. The mix, of course, between subject and nonsubject has changed, for lots of reasons. But there has been an incredible stability in total imports over the last five years. It's truly remarkable.

What does that mean? It suggests to us if you accept the premise that the margins have not been a significant barrier -- and I think that is demonstrable -- particularly with respect to Thailand. If you accept that premise, then there is no reason to think that anything is going to change. I mean, all we heard this morning was an assertion that things were going to change, which requires them to ignore what has happened for the last five years.

I think Commissioner Pearson asked what is missing this morning. What is missing? That's what is missing, their failure to account for what has happened in the last five years.

COMMISSIONER PINKERT: Thank you. Madame Chairman, I'm past my time.

CHAIRMAN OKUN: Again, welcome to this panel. I guess, Mr. Connelly, I'll start with you, but others can also respond to that, which is the argument you were just making about what the behavior has been of subject imports and whether the margins have made any difference.

The behavior or the trends for Ecuador during the period of review, are they consistent with the argument you're making of what the market would look like post-revocation? And if not, why not?

MR. CONNELLY: Well, that's a hard question to answer, Madame Chairman. But I certainly think it is consistent. I mean, the Ecuadorians do what the Ecuadorians do. I mean, Ecuador has probably got a minimum of 30 exporters, I would say, significant exporters. I mean, I represented the Ecuadorians at the Commerce Department, so I'm familiar with the nature of their industry. There are at least 30, maybe 50. And the point is that they all have different markets. They have different export markets, and they act independently.

You know, I have one Ecuadorian exporter who focuses on Italy. I have another one who ships head-on to Spain. I have another one who wants to ship cooked product to France. They're all different. What is extraordinary about what has happened, though, is that it has all worked itself out into a stable

U.S. market. I think that is the one perception of exporters globally, whether it's Ecuador or anyone else. There is a perception that this market is at a satiation point. And, of course, per capita consumption in the U.S. has declined slightly over the last couple of years for shrimp.

CHAIRMAN OKUN: Others? Yes, Mr. Bloom and then Mr. Nicely.

MR. BLOOM: Yes, Madame Chairman. Just in order to add, I just returned from Ecuador, and in dealing with their -- we have an office there as well. And they have so strongly developed their European market, which is predominantly a head-on market, and for reasons being better return, better throughput -- I mean, when you take the head off a shrimp, you're losing 35 percent of the total weight. So they can become actually more efficient by producing the head-on shrimp.

That's a market they are committed to. And if you look, there is two major seafood shows in the world. One is in Boston. The other one is Brussels, in Belgium, on an annual basis. And there is probably three times as many Ecuadorian exporters in Belgium at the Belgium show than there are here in the United States.

So just to make that point, they recognize the value in both markets. But they are also looking at the global markets. I mean, again, I had reference to one guy who had just in one month sold a million pounds, and that was just one exporter. Many others are selling into China as well. They have also been telling me about they're getting inquiries from Korea, from Russia. So they truly are looking to keep that diversification in place.

CHAIRMAN OKUN: Mr. Nicely.

MR. NICELY: I would just encourage you to look at both volume and price when you think about Ecuador. And the fact is, in 2008, when you no longer had Ecuador as subject to the orders, pricing -- the overall AUV for Ecuador actually went up rather than go down. If the domestic industry was correct, what you would have expected to have happen would be a huge skyrocket in their volumes and a decline in their price, and that simply didn't happen.

CHAIRMAN OKUN: Well, I have a bunch of price questions. That is important. But before I lose my train of thought on the other part of the question I wanted to ask on volume -- it was you, Mr. Connelly. In I think anticipation of your argument about the satiation of the market, Petitioners this morning had said you would have made the same argument during the original investigation, and yet we saw imports go up by whatever, 38 percent, I think.

And so is there anything in the record particularly you would point me to to support the argument that we now have a satiated market that we didn't have during the original investigation?

MR. CONNELLY: Well, the way I would answer it -- I guess I might be repeated myself a little bit, Madame Chairman. But over the last five years, what has prevented an increase from occurring over the last five years? In other words, what is going to be different in the future than the situation right now, if you assume the premise that the margins are not a meaningful constraint? And we would say that is the best evidence of what is likely to happen in the future, what has happened in the last five years, in the period of review. That is what is so different about the period of review and the period of investigation.

CHAIRMAN OKUN: Mr. Gosselink?

MR. GOSSELINK: The only thing I would add is that it's really not just the last five years. It actually started being a much more stable market in 2003, prior to the implementation of the orders. So really you could look at it for a seven- or eight-year period, including 2010. There really has been no change in demand levels in the United States. Import levels have been extremely consistent.

You look at some of these charts and graphs, and the line is flat. It's something I've never seen before in these cases, and that coordinates -- and correlates quite nicely with U.S. consumption as well, which saw similar trends.

CHAIRMAN OKUN: Okay. So moving more on the price side -- and that is where Petitioners spent I think more of their time this morning, that the orders had more impact on the pricing in the market. I think, Mr. Stern and Mr. Bloom, you had both noted in your testimony today about customers are having switches from domestic shrimp to foreign farmed shrimp, and you were focused on the consistency and the quality of the product.

I guess you noted, Mr. Stern, that price was an important factor. And my question would be, you know, in that instance, maybe the order is in effect, but did your customers end up paying lower or higher prices with the switch? And if the information is business proprietary, we can take it posthearing. That's fine. But I'm curious about pricing in this market right now when you have a switch between a domestic and a foreign supplier.

MR. STERN: Lower or higher is difficult to answer because the form was different. We could provide our customers' product that was much more ready for their need in the restaurant, and therefore even if the price where they were buying a headless product in the past -- that's with the shell on -- they were already buying it prepeeled to their exact specification. And therefore, they had tremendous labor savings at the restaurant level.

So we weren't comparing apples to apples when they made the switch.

CHAIRMAN OKUN: Okay. Mr. Bloom?

MR. BLOOM: I would only go so far as to say in my testimony we actually do sell some U.S. product in one specific form, with the shell on. But that wasn't necessarily replaced. We do still provide those items to those customers who require U.S. product. So most of our other products that are imported are in those other forms, as Mr. Stern indicated. We do a lot of prepeeled, precooked products from overseas, more value-added items than the standard shell-on form that we get from the U.S.

CHAIRMAN OKUN: And I guess your testimony, contrary to what the Petitioners argue, is that the different products' prices don't impact one another?

MR. BLOOM: For the most part, no. No. We find there is different needs and different usages for those products, by and large.

CHAIRMAN OKUN: Okay. I think I have some follow-ups on that, but let me move on to a different area. And I appreciated your focus on incentives for the other subject imports from other countries looking at their different markets.

I guess I'm still not clear on the arguments. And maybe it's different for the different countries, and so you can testify to that as well and make it more clear for me, which is, you know, if we look at the charts on where prices are higher, you still see the U.S. being both a big and a high-priced market. You've talked about the home market, the growing market demand. And I can understand the attractiveness of that.

But I'm just understand pricewise how do the other markets compare for the different subject countries when they're looking at what they would do if an order were revoked.

MR. CONNELLY: Well, there are two ways to look at price. One is to compare the AUV in the U.S.

to the AUV in another market and make a judgment about the relative attractiveness of one market or another. Obviously, you would choose -- if the U.S. price were higher, you would say that market is more attractive than a lower-priced market.

On the other hand, if you look at the trend of AUVs -- and it was one of this morning's slides -- in the EU, for example, you see the trend of AUVs is up. The trend may be lower than in the U.S., but the trend in AUVs in both the EU market and I believe the Asian market is up.

So if you have worked hard to establish relationships, and prices are going up in those other markets, why would you leave them? They were very profitable previously, and the prices are only increasing. So it seems to us that is a very ample economic incentive to stay with those markets.

CHAIRMAN OKUN: Mr. Bloom, do you have something brief? My red light has come on. I can come back to you. But you can add a few --

MR. BLOOM: I just wanted to reference on the pricing that I think it was the Petitioner slide 31, where they were comparing the European prices versus the U.S. prices, where they said the U.S. prices were higher, so it's more attractive. That statement I will tell you is not accurate inasmuch as the product form.

In Europe, the two largest consumers of shrimp are France and Spain. They predominantly buy head-on shrimp. As I referenced, you're buying 35 percent head, which would decrease the actual pricing. But the return to the supplier is probably even better selling it head-on to Europe.

CHAIRMAN OKUN: Okay. So I may follow-up on that with some more specifics. Vice Chairman Williamson.

VICE CHAIRMAN WILLIAMSON: Thank you, Madame Chairman. And I too want to join my colleagues, especially in appreciation of the witnesses for their testimony today and coming here to give it.

Respondents have argued that wild caught shrimp has failed to capture a price premium that it could capture. You argued that wild caught shrimp is no better -- but that it's no better, you know, or is not as good as the farmed shrimp, and in some ways a lower quality.

So in one sense, you're saying wild caught shrimp has a premium, and on the other hand you're saying it's not as good as the farmed. Now, how do you reconcile those arguments?

MR. CONNELLY: Well, I'll give it a shot, but I want to be sure our experts give it the best shot first. I think it's easy to reconcile, Commissioner.

MR. WEITZER: Well, I think people who prefer and want a wild caught shrimp are going to pay for it.

VICE CHAIRMAN WILLIAMSON: Okay.

MR. WEITZER: All right? And they'll pay a premium for it. That's a simple answer.

VICE CHAIRMAN WILLIAMSON: I guess marketing also can play a role here, I assume, in terms of what people want.

MR. WEITZER: Oh, yes.

MR. CONNELLY: Let me direct you to an exhibit in our brief. It is a study about the premium that is available for high quality wild-caught shrimp. This is not our study. This is the domestic industry's study. As early in 2003 and 2004, experts in the domestic industry were saying the domestic industry is failing to produce high enough quality shrimp.

Separate out the issue of taste from the issue of quality. Taste may be an element of quality, but there are many other aspects of quality, as all the witnesses have testified.

VICE CHAIRMAN WILLIAMSON: Actually -- go on. I'm sorry.

MR. CONNELLY: I'm sorry. So in 2009 or 2010 -- I forget the date of the study -- the domestic industry's experts are still telling them that they are failing to capture that premium. Now, some of the producers here today may in fact have captured the premium. But the domestic industry as a whole has not. That was the WASI campaign. That was the effort.

It was talked about this morning as marketing. But marketing only can be effective if your product meets the standards you're trying to set. And a review of the questionnaire responses with respect to the participation of the domestic processing industry in the WASI program reveals some very interesting answers, mainly that they really don't see a benefit, they're not willing spend the time, they don't understand what to do, they can't meet the specs, it's too expensive.

So we're very firm on the issue of whether or not they have taken advantage of what a premium should be. In contrast, by the way, to the Mexican shrimp industry, which has always got the premium for their own wild caught shrimp. It comes from the Gulf of Mexico, just Louisiana and Texas shrimp.

VICE CHAIRMAN WILLIAMSON: They got their premium in the Mexican market?

MR. CONNELLY: No. The Mexican shrimp gets a premium in the U.S. market because it is perfect.

VICE CHAIRMAN WILLIAMSON: Okay. Mr. Bloom, you want to -- yes.

MR. BLOOM: Commissioner, if you'll permit me, because I buy a fair amount of the Mexican shrimp. And the Mexican shrimp, actually, it's West Coast that's from the Gulf of California. And typically, someone a long time ago taught me that once you take shrimp out of a water, whether it's farmed or on a boat, you can't make it any better, okay? It can only go one way. It can only at best maintain itself.

Most of the U.S. catch, the product is frozen on boats or it's on ice boats, where it takes a few weeks to get to the processing facility to be further processed. It certainly can't improve any sitting that time period, as opposed to some of the other wild capture production, particularly in Mexico, where they have a lot of what they call day boat production. So the product goes out on small boats. It is fished and frozen immediately, or it is frozen

-- or the product is frozen -- it's deheaded and frozen when it's caught.

I think the capabilities to keep the product the same are there. I don't know historically, not being a U.S. fisherman, I can't speak to their practices. But I've only seen that in many cases the product may, if you will, degrade. It will maybe get some broken backs. That's what we talk about when we talk about a lesser quality. So it's a little more flaccid and not as firm when it gets to the end user. It may start to turn a little black on the ends if it's not maintained at the proper temperature.

And no world is perfect, but those are kind of the qualitative differences that we look at. Maybe the shrimp in the handling, the tails break a little bit, or a few fins are broken, whereas other countries seem to do a little more consistent better job historically. So I hope that kind of sheds a little light on your question.

VICE CHAIRMAN WILLIAMSON: Okay. Now, is it easier to do those things with the farmed shrimp?

MR. BLOOM: I would say probably, probably, because the farms are, first of all, by and large closer to the processing facilities as well. So they can maintain the ambient temperature and have the product frozen in its final form much quicker than any wild-caught product from anywhere in the world.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you. Thank you for that -- I'm sorry.

MR. STERN: Let me just add one. We have one supplier that literally can farm shrimp that can literally have the shrimp in a factory ready for freezing within 90 minutes to 150 minutes of the time it is taken out of the water because the factory is located literally in the middle of the ponds. And it's such a sophisticated system that they literally load it onto a boat. It goes through a canal right into the factory. And, you know, there is no chance for -- and because the time is so short, it is going to be the freshest possible.

VICE CHAIRMAN WILLIAMSON: Okay. But would a domestic supplier with a rigorous inspection program be able to deliver -- meet the quality specs that your -- I assume your customers want?

MR. CONNELLY: Well, let me give it a shot first. It starts at the bottom of the ocean with the trawling. That is the first thing you've got to do right. You know, this domestic industry study, it's a very detailed, lengthy study. But it says that excessive trawl times, in other words, when that shrimp is in the net for too much time, it starts to deteriorate before it has even come on the boat.

Then you've got to get it on the boat, and once you get it on the boat and get it on the deck, you've got to handle it right. And then once you get it off the boat, you've got to handle it right in the processing plant.

So all of those elements go into producing perfect shrimp. Can it be done? Of course it can be done. And I think there are probably some processors here this morning who do it. But that's not really the point. The point is do they all do it. And the answer to that is no because why is this domestic industry study in 2010 saying we've got a long way to go.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you for those answers. We've talked about the quality issues with wild-caught shrimp. What about the consumer concerns about farming practices and possible use of antibiotics and other drugs in the processing? Does that have an effect on the sale of farmed shrimp in the U.S.?

MR. KAELIN: Let me answer that because I have a lot of experience with it.

MR. KAELIN: I referenced, right now there's in effect and it's been in effect since 2006 this USFDA import alert, and I'm speaking of China right now. But in China any products that are shrimp, catfish, dace, bassa, or eel that enter the country are on what they call detention without physical examination. That means they have to be tested by a lab, and a U.S. lab, you can't go using an offshore lab, it has to be a U.S. lab that tests for the antibiotics.

So that immediately, now you can get off of that and you can get what they call a green picket and there are a number of factories but it's a very expensive process, it's very time consuming. And if you're on it and you have an order on detention you immediately have additional cost because a container of shrimp, say coming from China, that needs to be tested will cost $5 or $6,000 just for the antibiotic testing regimen. So antibiotics also there's a zero tolerance and the equipment that's used to test them is so extensive and so specific --

VICE CHAIRMAN WILLIAMSON: My time is expiring so if you could --

MR. KAELIN: Okay. It's, that you can detect it down to parts per billion.

VICE CHAIRMAN WILLIAMSON: Okay.

MR. KAELIN: So a lot of --

VICE CHAIRMAN WILLIAMSON: But I guess the question is, that only applies to China, right?

MR. KAELIN: Well this applies to China and other locations as well, yes, specifically to other places because the actual cultural methodology has changed.

VICE CHAIRMAN WILLIAMSON: Okay. Let me, and I'll have to come back to this because I'm running out of time.

MR. KAELIN: Okay.

VICE CHAIRMAN WILLIAMSON: But thank you.

CHAIRMAN OKUN: Commissioner Lane?

COMMISSIONER LANE: Thank you. Mr. Kaelin, if I am understanding what you were saying, you are saying that the U.S. government has regulations in effect that affect the way that you can or that China can export shrimp to other parts of the world. And the next part of the question is, does it affect countries other than China?

MR. KAELIN: Well that's what I was getting longwinded about.

COMMISSIONER LANE: Okay, just say yes or no, and then I'll ask you which countries.

MR. KAELIN: Yes, the USFDA has this import alert that I noted in there and I gave the specific number on it that has been in effect, continues in effect. Now any processor that can show compliance with zero tolerance for any antibiotics or additives can get themselves removed after a lengthy process of shipments by the USDA. The USDA has an office in China and they have it in other countries as well. In Thailand, I believe they also have an office in Thailand.

So they have taken the effort to try to control it, and then what that does is that becomes a curtailment because then the countries, in this case China that I'm specifically referring to, the Chinese inspection quarantine has then implemented new rules and regulations and testing methodologies. For their way of doing it you find a lot less incidence and then a lot of the importers like ourselves, we would send that product for testing in China with, you know, with laboratories that were on an, that have the international standards and protocols, and test it prior to and, you know, prior to stopping shipping breaded shrimp we had no incidence of antibiotics there.

So that idea of the banned antibiotics, there's still incidences of it, there's still in small places and small farmers, but the general cultural methodology the way the farmed shrimp is, and the new advancements in the technology have made it now there's even, I haven't read it in detail, they're speaking of a new shrimp vaccine that's being developed as they did with salmon that would prevent any additives.

COMMISSIONER LANE: Okay, let me ask you this. This new regulation that went into effect in 2006, does it affect and does the shrimp from Brazil, China, India, Thailand, and Vietnam have to go through these same procedures?

MR. KAELIN: Just China, that's an import alert for China alone.

COMMISSIONER LANE: Okay. And you decided that it was too much trouble and so you no longer import from China?

MR. KAELIN: No, I import talapia from China, I import squid from China. Our company imports talapia and squid from China.

COMMISSIONER LANE: But not shrimp.

MR. KAELIN: Not shrimp. These, our last was breaded shrimp and then, you know, that we were doing, and then catfish, we were also a large importer of catfish. And because of that import alert it just became, first of all if it's held it's held for a period of time so you've got your product held up --

COMMISSIONER LANE: Okay, let me ask you this. Does this new regulation affect regular shrimp from China or just breaded shrimp?

MR. KAELIN: All shrimp from China.

COMMISSIONER LANE: Okay, okay thank you. Page 8 of the Texas A&M report that appears as Exhibit 8 of your brief identifies four conditions that led to sharp increases in shrimp imports during the original period of investigation: growing worldwide supplies of farmed shrimp, stagnant consumption in Japan, high E.U. tariffs, and an E.U. regulatory regime for product safety which is far stricter than the one in the United States. Are any of these conditions no longer applicable?

MR. BLOOM: Commissioner, I can speak at least in terms of Europe, whereas I can say although I bring in more product into the U.S. than I do into Europe from Thailand specifically, it seems to me that the sampling percentages are pretty consistent by the European Veterinary Authority and FDA, so I don't see any more samplings from the subject countries than I do in the U.S., or necessarily any less. It seems pretty consistent between the two.

COMMISSIONER LANE: Mr. Gosselink?

MR. GOSSELINK: I can answer a couple of the others I believe. I believe that the E.U. preferential treatment under the GSP has been restored, so that's no longer an issue. And in the last couple of years as evinced by the questionnaire responses and the data collected by the Commission the demand in Asia as a whole is way up. Japan might have tempered off in the last year or so, but volumes to Japan are still very high. It's the country where all exporters subject to the order get their best prices in the global marketplace. And countries in Asia are also increasing their AUVs over the past few years for all countries.

COMMISSIONER LANE: Expanding a little bit on Vice Chairman Williamson's question about the allegations that farm raised shrimp has all of these chemicals and that people don't want to buy them because they're afraid of what's in them, and we heard that there are special regulations relating to China. Are there, what do we find, what kind of checking or does the Food and Drug Administration or you and the U.S. Department of Agriculture, or the home countries, what kind of tests do they subject these the shrimp to to make sure that the shrimp is safe for consumption?

MR. CONNELLY: Well, Commissioner Lane, let me give it a shot and then I'll let others try. First of all the claim that imported shrimp is laced with banned antibiotics is a scurrilous smear.

COMMISSIONER LANE: So the things that I read in the newspaper about it, it's all wrong?

MR. CONNELLY: It happened, it happened. Now consider this. Say you are a publicly traded restaurant chain like Red Lobster and Olive Garden. Would you take the slightest chance of selling shrimp that has banned antibiotics and suffer the possibility of an adverse reaction by the public? You would never do that. So how do you prevent that?

COMMISSIONER LANE: Okay, let me just think about toys from China and dog food from China and other substances from countries where apparently the inspections are lax. So go ahead.

MR. CONNELLY: So what these companies do is they maintain their own rigorous inspection policies. They require inspection, they inspect these plants with their own quality assurance people. They will not do business, no company will do business unless it has been through a plant, it has walked the floor, it understands A to Z what goes on that plant. It has, it maintains inspectors in that country. This has nothing to do with the FDA, this is purely internal policy what they do. Now I can't give you any more details than that but I can tell you with utter confidence that that is what all major buyers do.

COMMISSIONER LANE: Well let me ask you this, Mr. Connelly. The chemicals that go into the water where the shrimp are raised, or however you raise shrimp, are those chemicals regulated by somebody?

MR. KAELIN: You have to define the shrimp growing areas. For China for instance there is this island of Hainan. There really isn't a lot of industry in the area where it is. So if we're talking about effluents from factories --

COMMISSIONER LANE: No, no, no, I'm talking about --

MR. KAELIN: Oh, the antibiotics that are added.

COMMISSIONER LANE: Yes.

MR. KAELIN: No, there's two ways to add the antibiotics. And back in the early 2000s, 2002, I actually gave presentations at the, you know, the Global Aquaculture Alliance showing the use of antibiotics. And that prompted a lot of reaction in that it was being used and these cocktails of antibiotics were being used. All that has since been regulated. And that means that they do not allow any of the banned, the fluoroquinolones, the nitrofurans, the chloramphenicols which originally started all these. They are not allowed, they are banned from use.

COMMISSIONER LANE: In all the countries that we're discussing today?

MR. KAELIN: Yes, in all the countries we're discussing.

COMMISSIONER LANE: Okay, thank you, my time's up. Thank you, Madam Chair.

CHAIRMAN OKUN: Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Madam Chairman. Greetings to all afternoon panelists. I appreciate very much you being here. A special word for you, Mr. Weitzer. You know, you have, I spent enough time in the private sector to have some sense of what you're giving up to be here. At least if I understand correctly you've put some time and effort into building a relationship with Sysco and tonight there's a function at which they probably are going to say nice things about you, and you won't be there to hear them?

MR. WEITZER: No. But I'll get the report.

COMMISSIONER PEARSON: Okay, well that doesn't happen every day, and so to have to miss it is very sad. Now if, they may also have some doubts about your business acumens because you're going to have spent the full afternoon trying to explain shrimp to the six of us up here at the Commission and odds are by the end of the day you'll not have sold a single shrimp to us.

MR. WEITZER: I'll make up for it tomorrow. Actually I'm flying in late tonight. And I am a good salesman.

COMMISSIONER PEARSON: Okay, good, well if it results that you've offended your customer by not showing up let me know and I'll write them a note letting them know that you were performing a public service, okay? Let me shift gears now. In the original investigation we found anecdotal reports that domestic shrimpers were fishing less due to low prices, you know, just plain tying up their boats in the harvest season. Was that a correct observation, was that going on at that time? This would have been 2004.

MR. CONNELLY: Well we don't know what individual shrimpers are doing. All we know is collectively what they're doing. Collectively we know they're not fishing any less. What we know is that there are fewer shrimpers and we know that those shrimpers are actually much more productive. There were I believe 22,000 shrimpers in 2002. There were 8,000 shrimpers I believe in 2009. This is coming from the domestic industry's brief. I believe there are now -- in other words a reduction of 14,000 shrimpers.

On the other hand they are landing more shrimp total. 14,000 fewer shrimpers landing as much or more shrimp as they did about 10 years ago. So is there less fishing effort? Yes, there is less fishing effort. That's a good thing because it makes the remaining fishermen more efficient, productive, profitable. Now we have great sympathy for those who are no longer in the business, that's a human tragedy no matter what the cause.

I think we all feel like this is a wonderful industry, the domestic shrimping industry, and no one feels sorrier for those who have had their lives destroyed than we do. But if you look at it from the standpoint of is what's left of the industry stronger? The answer is yeah, it has to be. This was a call that's been made not by us but by industry experts for many, many years, that there are way too many shrimpers. We brought to the Commission's attention in 2004 a NMFS that said that.

COMMISSIONER PEARSON: Okay, but for those of you who buy domestic shrimp at times, in your careers have there been times when you've heard, my gosh the returns are so lousy that people aren't going out to fish, I'm afraid, I'm not sure whether I'll be able to get product this next month because the boats are all here at the dock? Does that sort of thing happen?

MR. WEITZER: I think I can answer that. Obviously you're dealing with a wild animal. There are times when the weather --

COMMISSIONER PEARSON: And you're referring to the shrimp themselves then?

MR. WEITZER: Yes.

COMMISSIONER PEARSON: Okay.

MR. WEITZER: There are times when the weather is terrible, the boats do not go out. There are other times where there is large spikes in fuel charges, and that will restrict boats going out and also distances that they will go to shrimp. You can go far offshore when, you know, farther when fuel is cheap to make longer trips, you actually get larger shrimp oftentimes offshore. So these are two variables where at times we're concerned about not getting enough shrimp. And obviously the fact that most of the shrimp is harvested, like I said in my testimony, starting in, you know, probably late spring, heavy in the summer months, and winding down in the fall. If the weather is good boats will go out but the production is much, much less.

COMMISSIONER PEARSON: Okay, have there been seasons when economic conditions have been pressing enough that there's an argument that the overall catch of shrimp was reduced because of those economic pressures?

MR. WEITZER: Not that I'm aware of.

MR. CONNELLY: What's interesting is in 2009, which is I guess the year the domestic industry fastens on as the height of the recession, that was the year in which landings were the second highest volume over the entire POI.

COMMISSIONER PEARSON: All right.

MR. WEITZER: And prices during the 2009 season were the lowest that they have been in many, many, many years. There was just too much shrimp coming in in such a short time.

COMMISSIONER PEARSON: Okay. If we did have a circumstance in which the economics were so poor that shrimpers could not go out to harvest, would it be fair for us to view that as producing injury to the domestic industry if there weren't enough shrimp to process? This is more a question for the lawyers I suppose, but I mean what constitutes injury? Is it possible to get the injury in this situation?

MR. CONNELLY: Well I'm going to have to think about that one. Well I'll give you my initial reaction. If conditions in the domestic industry were such that the economics would not permit fishermen to fish the question is what's the cause? And if the cause is the price of diesel fuel is so high, for example, we cannot make a return, and that's a possibility as we heard this morning, you know, I think that would prevent you from finding in favor of the domestic industry. I mean there you would be attributing their situation entirely to external causes and not subject imports.

COMMISSIONER PEARSON: Mr. Nicely, did you have thoughts on that?

MR. NICELY: No, I agree with what Mr. Connelly said. I have nothing to add.

COMMISSIONER PEARSON: Okay. So is it your position that such a circumstance where shrimpers could not afford to go out fishing, is that equally likely or unlikely in the absence of the orders? I mean because as I understand the position of the domestic industry they're saying it's more likely they will be injured if the orders were revoked, and you take a different view.

MR. CONNELLY: Well we certainly do. I mean to be honest what I think we heard this morning was a lot of catch phrases and the traditional language that is used when you're trying to keep an order in effect. Surge of imports, you know, prices going down, all that. Not unexpected but contradicted by the evidence. So, you know, we have a fundamental disagreement about I guess what the record shows. And what the Commission I think is going to have to do is take a hard look at that record, and we've made an awful lot about what this period of review means and what's different about it than the period of investigation. And all we're asking you to do is take a hard look and say whether that is a legitimate basis on which to project what's going to happen when the orders if the orders are revokes and, you know, we think it is.

MR. NICELY: Commissioner Pearson, I would just add, you know, as I indicated during my testimony you can look at what happened during the POR and determine, and use that as an indication of what would happen without the orders. I mean the fact is that you saw deterioration of the industry's experience regardless of whether or not they had the orders in place. Their situation deteriorated even at times when imports were decreasing. So it's not as if we have to think of some sort of, some speculative situation of what's going to happen in the future. I think what is shown during the POR is the absence of a relationship between the industry's fortunes and what's happening with imports.

COMMISSIONER PEARSON: Okay, part of your argument I think has been that the shrimpers are more economically efficient now and that they are bringing in more shrimp with less effort. What's the best evidence on this record that you would point us to or that you could provide posthearing that would substantiate that?

MR. CONNELLY: There is a standard industry term to measure productivity called catch per unit of effort. And so the simplest measure of catch per unit of effort is simply quantity of landings divided by the number of days fished, catch per day.

COMMISSIONER PEARSON: Okay, and we have that on the record, or you will elaborate on that in the posthearing I bet so that I understand clearly how we should take that as an indication that the industry going forward might be I suppose you would argue less vulnerable than it was in the past?

MR. CONNELLY: That's right, we can do that.

COMMISSIONER PEARSON: Thank you. Madam Chairman, my time is expired.

CHAIRMAN OKUN: Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Madam Chairman. I join all my colleagues in welcoming the afternoon panel and thank you for your patience as the afternoon wears on. I want to follow up on something that Mr. Bloom was talking about, I think it was Mr. Bloom in his direct testimony. If I'm correct, Mr. Bloom, you're the one who said that U.S. importers are really the ones who call the shots in terms of what shrimp products from whom get imported into the U.S. market, that foreign exporters don't make that decision, is that correct?

MR. BLOOM: That's correct.

COMMISSIONER ARANOFF: Okay. Are there any foreign exporters in subject countries who sell their product in competition with U.S. importers through their own U.S. marketing operations?

MR. BLOOM: Yes there are, there are one or two.

COMMISSIONER ARANOFF: Okay, do you want to --

MR. BLOOM: Pardon me?

COMMISSIONER ARANOFF: Can you elaborate on that any?

MR. BLOOM: Oh, there are that I can think of two Thai packers that have opened up offices here in the United States, and one of them has also opened up, at least one if not both have European offices as well. So I mean those are the ones that I can think of right off the top of my head as we sit here.

COMMISSIONER ARANOFF: Does anybody else? Mr. Gosselink?

MR. GOSSELINK: If I can add to that just briefly, I think you might be talking about Thai Union and CP?

MR. BLOOM: Yes.

MR. GOSSELINK: And my understanding is that their U.S. facilities have been actually open for quite some time, and over the past five years I can't think of a single large top ten Thai packer that has decided that because of these orders or for any other reason, I'm going to open up a shop in the United States to compete with my customers. None of them have done that and I don't think any have any plans to do so.

COMMISSIONER ARANOFF: Okay. I mean what I'm just trying to do is establish for the record the support for Mr. Bloom's statement that basically people such as the gentlemen at the table here today really have control over the decisions about how much product gets imported into the U.S. Because I know there's a number of industries that we see here at the Commission where for example there are, you know, independent brokers who, you know, maybe aren't as invested in the business as you gentlemen are who will sometimes buy product on spec, bring it into the U.S., and then look around for a customer if the price is right. Does any of that go on in this business?

MR. BLOOM: I'm sure that, I mean yes, in our industry there is some speculative buying. I mean part of our business as has been referenced is purchase on spot inventories. You know, however, I can only speak to my business and many of my competitors who I would perceive as other importers. We do a lot more of what we would call the program type sales which would be longer term contract commitments that we would work and which we would work with our supply partners overseas to help manage their inventories and product flows.

COMMISSIONER ARANOFF: Sure.

MR. STERN: Jeff Stern. If I can add something to that, because of the way the shrimp industry has developed, and it is a relationship industry, the chance for just random speculators to come in and buy and take advantage of a market has really diminished in the 30 years I've been doing this. I think that type of action would probably be more likely to happen in a wild caught fishery where there is limited supply. Because farm raised shrimp tends to be produced throughout the year, the chance to just make a random purchase if you're not vested in the market is very, very difficult.

COMMISSIONER ARANOFF: Okay, all right, well I appreciate those answers. And one other thing that we sometimes see is that large purchasers, large retail purchasers for some products seem to have a habit lately of eliminating the middle man and going to these countries and they have large buying operations already overseas and just buying the product directly. Has that occurred with this product to any extent?

MR. STERN: Yes, it's going on to a limited extent. There are some supermarket chains that particularly have international operations that try and go to source direct. We sell a rather large food processor that is a multinational conglomerate. They actually went and tried to do that same thing, and the people at the operation that we supply to said, well this is going to happen. We said, well if it does it does. And in the end they continued to buy from us because their own international people did not have the relationships with the suppliers in order to source the product that met the specifications that our customer demanded.

MR. BLOOM: Commissioner, if I can add to that too. The largest buyers in the U.S., supermarkets such as Wal-Mart, Costco, Target, and even Darden Red Lobster, all bring product in through other importers. They may have a hand in developing projects overseas with the importer, we make frequent trips overseas and really kind of bring our suppliers along and introduced them to the purchasers or the R&D people of our different customers and, you know, that's part of the relationship building that I believe Mr. Stern referenced as well with the customers.

But we do add value to the equation, whether it's inventory management, from a financial standpoint a little bit of expertise in understanding the global markets, understanding the money, the way the yen versus the baht versus the dollar. I mean, you know, I never thought ten years ago I'd be looking at the different exchange rates and every day it's the first thing I look at. So, you know, there is an added value that we bring to the equation.

COMMISSIONER ARANOFF: Okay. All right, well if there's anything that you can offer posthearing just to kind of help us quantify, you know, to what extent there are these other channels other than these established importers through which the product could get into the market, I think that would be helpful. Maybe you can't but if you can I think that would be helpful. Let me move on and just ask counsel on an unrelated issue to confirm for me, your brief does not address the issue of cumulation. Do I take it from that that you're conceding that we should cumulate imports from all five countries?

MR. CONNELLY: That's correct.

COMMISSIONER ARANOFF: Okay. Of the witnesses who are here, have any of you ever purchased shrimp from Brazil?

MR. STERN: We used to buy wild caught shrimp from Brazil many, many years ago, and when

Brazil got into the farm raising business we did a teeny bit of business in the beginning but we never really pursued it.

MR. WEITZER: Our company used to buy wild product also from Brazil many, many years ago, never farm raised shrimp.

MR. BLOOM: We purchased both farmed and wild.

COMMISSIONER ARANOFF: Okay.

MR. BLOOM: Up until recently when we couldn't, a few things happened as the dumping order came into effect. Number one, the farms were, they were hit with this whitespot disease which kind of tends to ravage different places at different times and it was their first time dealing with it, so it had taken a few years for that industry to recovery. However, also the exchange rates, again the real had gotten so strong and the domestic market had gotten so strong we actually had a person who worked for us in Brazil who we pulled out after a few years because we couldn't buy any shrimp, we were just noncompetitive with the domestic market. So they basically told us, you know, in so many words, take a hike, if you will.

COMMISSIONER ARANOFF: Okay. Mr. Stern?

MR. STERN: Just one further thing. I think you'd be very hard pressed to find any Brazilian shrimp in the U.S. market these days, I just, not only from our group here but from anyone importing it.

COMMISSIONER ARANOFF: Well it's pretty consistent with the data that we have.

MR. BLOOM: Right, or Europe for that matter, which was as big if not a bigger market than the U.S.

COMMISSIONER ARANOFF: Okay. Well thank you very much for those answers. Thank you, Madam Chairman.

CHAIRMAN OKUN: Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you, Madam Chairman. Now it appears that most of the increase in nonsubject imports since the orders have come into effect come from nonsubject producers in subject countries. Can somebody explain to me why that would be the case?

MR. CONNELLY: Well I'm looking at Table 4-1, I assume you are too, Commissioner Pinkert. So nonsubject countries, 400, well I'll just look at 2009. That's 401 million pounds, but one of those countries is Ecuador which used to be subject. I haven't done the math here exactly but I think the balance between subject, formerly subject countries and nonsubject countries probably is more heavily in nonsubject countries.

COMMISSIONER PINKERT: Let me revise the question then. The increase appears to have come from nonsubject producers in subject countries or countries as to which an order was revoked. So you're not talking about increases or at least dominant increases from countries that were never subject to the order or from producers who were never subject to the orders. So I'm just wondering what might explain that?

MR. GOSSELINK: I'm sorry, Commissioner, are you looking at year 2009?

COMMISSIONER PINKERT: I'm looking at the period under review.

MR. GOSSELINK: I'll have to go back and look at it but I have just the opposite recollection of the data. I believe that the majority of the increase in imports comes from nonsubject countries that were never subject to the order ever. One of the big differences between the situation we have now and the situation we had in 2001 to 2003 is that one of the reasons the subject countries could increase their exports to the United States so dramatically during that three-year period is because there really weren't any alternate sources to meet U.S. demand. Today that is just the opposite. Countries like Indonesia, Malaysia, Bangladesh, Peru, other countries exist today and export in large quantities today when they did not during the original three years of the POI.

COMMISSIONER PINKERT: Thank you. Well if you want to take a look at again in the posthearing for purposes of the posthearing that would be helpful. Now you also heard testimony this morning about how given the domestic producers' small market share that they don't have any ability to influence the prices, basically they're price takers in the market. Do you agree with that, do you disagree with that, what should we do with that claim?

MR. NICELY: Commissioner Pinkert, this is Matt Nicely. I would completely disagree with it. If you look again at the tables and the graphs that we gave you today and the data we showed you in our prehearing brief and we will do it again on a different basis in the posthearing brief, where we will look to quarter by quarter data looking at the same quarters, their prices are being determined by something obviously other than imports. To say that they are price takers based upon what imports are doing, upon what subject imports are doing at least, is an incorrect statement because subject imports, subject import pricing is oftentimes going in the opposite direction from where domestic pricing is going. So to suggest that they somehow are just going to whatever price level the subject imports are at would be incorrect.

COMMISSIONER PINKERT: Now turning to Commissioner Pearson's question about whether the industry is less vulnerable than, the domestic industry is less vulnerable than it was in the past, I'm wondering just speaking in an absolute sense rather than relative to where the industry was in the past, would you say that the domestic industry is currently vulnerable to injury from imports? Leaving aside the question of whether imports are going to increase, whether there's going to be any change in the marketplace going forward in the event of revocation, but just on the question of whether it is currently vulnerable based on its financial performance and the performance with respect to the trade data.

MR. CONNELLY: Well, here I'm going to speak on behalf of the Chinese Respondents and the India Respondents who my law firm represents since I think you've asked one of those ultimate type legal questions. And subject to thinking about it a little more I would say we would not contest the issue of vulnerability. We don't think we need to show that the industry is not vulnerable to win here.

COMMISSIONER PINKERT: Mr. Nicely?

MR. NICELY: I agree with what Mr. Connelly has said. I guess I would simply add that, and I don't think it matters which countries we're representing, my perspective is that they may be quite vulnerable to swings in fuel prices, they may be quite vulnerable to another hurricane, they may be quite vulnerable to a number of things that are happening or can happen to them, but their product is selling in effect in a different market and to different customers than the imported product is selling to, as you've heard from the witnesses today. So whether or not they are vulnerable in and of itself, I would agree again with Mr. Connelly that doesn't tell you that imports by definition are going to pose a problem for them.

COMMISSIONER PINKERT: Now turning to the capacity and the capacity utilization figures, isn't reported capacity substantially constrained by the supply of shrimp? And if so what does that tell us about the capacity and the capacity utilization figures that we have in the data?

MR. NICELY: Just to clarify, Commissioner Pinkert -- I'm sorry, Warren. But just to clarify one thing, you're talking about the domestic capacity utilization or foreign capacity utilization?

COMMISSIONER PINKERT: Well it's a broad question that really covers both, but if you want to take one end of it and run with that, that's fine.

MR. CONNELLY: I'll give it a shot. We have said in our brief and we strongly believe that the capacity figures and capacity utilization calculations are an unreliable guide to foreign producer intentions or likelihood of resuming exports. I think it was well understood and articulated this morning that capacity has to be able to handle the peaks of the harvest, there are peaks in farmed shrimp production.

There are, and Eric probably can explain this a lot better than I can, but as I understand it for shrimp harvest from a pond there are two-week cycles and when the moon is high once every two weeks you're going to get a peak harvest and the rest of the time you are not. And that, you have got to have the capacity, you have got to have the equipment, you have got to have the people to handle that peak harvest.

The domestic industry, they have a different kind of peak but they have the same situation as you can tell from looking at their reported capacity figures, which are double their highest harvest ever. Now that would make no economic sense but for the fact that you have to handle seasonality. It's different for farmed shrimp versus wild caught shrimp. So the real constraint is raw shrimp, that's the real measure of capacity.

COMMISSIONER PINKERT: Mr. Gosselink?

MR. GOSSELINK: I would add just one more clarification, and that is if you look actually at some of the financial statements of the foreign packers, the subject producers, and maybe we could provide one or two in the posthearing brief, none of them, or I would say only a relatively few of them actually carry any raw material inventory. If you look at their inventory values it's for finished goods or for other materials used in production. But raw material, raw shrimp material, is used the day it arrives. They get the shrimp from the farms and they need to process it that day. It immediately starts to degrade if it's not immediately processed and frozen.

COMMISSIONER PINKERT: All right then, well that's the end of this round of questions for me. Thank you.

CHAIRMAN OKUN: Again I appreciate all the responses. I've been looking at the weather and so far the modelers still say that it's not going to hit until after the commute. So we can continue to ask questions and believe that we are sending you out into safety as opposed to the 5-hour commutes and 13-hour commutes of last week. On this capacity utilization question, and maybe this is best for posthearing then, I'm a little bit, I'm wondering whether we need some additional information on this how you judge farming versus wild caught. Because I guess what I thought I heard the Petitioners saying was, you know, ours is different, you know, wild caught is harder to predict because you don't know how many you're bringing in whereas farming you have a little more predictability on what the harvests are going to be even though they do peak.

And so just to make sure we have a clearer understanding of how we should look at that if there's anything posthearing that would help clear that up, for me at least I just want to make sure I understand how we should evaluate the capacity utilization data. And then, Mr. Kaelin, I wanted to go back to you about interesting information you've provided with respect to China. And I wanted to make sure in terms of what we have on the record with respect to your, the information you have said about China becoming a net importer, I was trying to look in the briefs, I know there was a note referencing a PowerPoint presentation but I was trying to make sure that we actually have the underlying data on which that claim is made in the record. And it might be there, I just may have missed it, but I just wanted to make sure that there's a dataset.

MR. CONNELLY: We can do that, yes.

CHAIRMAN OKUN: Okay.

MR. KAELIN: No problem. That primarily came from that study that was referenced in there from the Global Aquaculture Alliance.

CHAIRMAN OKUN: Okay, but the study itself is on our record now?

MR. KAELIN: I have --

CHAIRMAN OKUN: You'll make sure of it, okay, that's fine I just wanted to make sure. Yes?

MR. CONNELLY: That study is actually available online. We'll submit it for the record.

CHAIRMAN OKUN: Okay, that's great, thank you. And then just with respect to again the data that you think is the data we should rely on with respect to both the subject countries' export markets, their home market demand, I think in response to the earlier questions or maybe in your direct you had talked about those instances in the staff report where we have low questionnaire participation. And I'm just trying to make sure, are you saying that where we have good participation the data with respect to where they're selling to is what we should rely on in their home market demand but with respect to those countries where we have did not get good participation that there is other data available that we should be looking to?

MR. CONNELLY: I think I was talking about Brazil when I was talking about two, only two questionnaire responses that we thought were highly unrepresentative of what's really the situation in Brazil. And we did provide for the record as an exhibit to our brief the Foreign Agricultural Service study about the Brazilian production industry. So I don't think there was anything else in that regard. I know there was a question this morning about UN Comtrade data.

CHAIRMAN OKUN: Right.

MR. CONNELLY: And I --

CHAIRMAN OKUN: Yes, please respond to that as well.

MR. CONNELLY: Yeah I would comment on that.

Both sides have I think relied heavily on the UN Comtrade data, so I think we generally agree that the UN Comtrade data is a good source. There was a comment which we also agree with that the average unit values for Vietnam have an error, not an error but a different kind of reporting that makes the AUVs not usable but the volume data is usable. So I think we have a consensus on Comtrade data. By the way, there is UN Comtrade import data and UN Comtrade export data. I think most of the briefs used export data, which was fine for the purposes we were using them for. There's also import data and that might also be of use to the Commission, we might want to provide that in our posthearing.

CHAIRMAN OKUN: Okay, that would be helpful. And that would remind me, Mr. Bloom, at the end of my first round of questions you were talking about why you thought that the pricing and foreign market data that Petitioners had provided in their charts was not actually an accurate representation of prices because of what they're purchasing is not a comparable product. So I didn't know if there was something else, I think I had had to cut you off on that so I just wanted to make sure.

MR. BLOOM: I just wanted to explain that the biggest purchasers of shrimp in Europe are France and Spain, and predominantly all those imports are head on shrimp, which would dramatically reduce the selling price of the shrimp because again 35 percent of that is head, versus the usable tail. The only other comment I'm going to make is, typically water glaze is used on shrimp to protect it as a protective shell. In the United States because of FDA regulations we're required to sell product glaze compensated or net weight when that glaze is removed.

In Europe they actually sell the product at 10 or 15 or 20 percent glazed. So they may sell, and they'll declare it but the value will be based on a 500 gram bag of product with 20 percent of that being water, which is declared but that would also go to reduce the value of that product by 10 or 15 or 20 percent or whatever that, and that's typically done at the retail level as much as anything. So I hope you understand that differentiation too.

CHAIRMAN OKUN: Yes, Mr. Gosselink?

MR. GOSSELINK: I just wanted to reiterate that I think that both of those issues are critical to understanding whether or not subject countries have an incentive to shift back from Europe for example to the United States if the orders are revoked. You know, the slide that we saw earlier that showed a 23 percent, maybe I guess price premium for products sold to the United States over Europe, does not take into consideration either the glazing effects of price or the important point that most of that product is sold in the head on form.

CHAIRMAN OKUN: Okay, well for purposes of posthearing, you know, you can elaborate on that and if there's any other specific information that would help us see what the prices are, whether it's pricing that your clients or others have that show prices in the E.U. for comparable product, I think that would be helpful to understand that argument. Mr. Weitzer, I had wanted to go back to you in listening to your direct presentation.

And you had talked about how your company runs and they actually have separate sales forces for your imported product and your domestic product. And I guess in listening I was trying to figure out how typical you are compared to the rest of the industry, or if you can, and then there were some questions about what does the rest of the industry look like. But maybe you could elaborate a little bit on your business model versus others?

MR. WEITZER: I think very unusual in that two ends of the business domestic and imports are very big part of my business, even though one is smaller, okay? The domestic end of my business is smaller but it's a very important part of my business, and I don't think there are too many companies in this country that focus as much on domestic production and purchases along with imports.

CHAIRMAN OKUN: And how would you describe pricing or the period of review? I mean what we've heard from Petitioners is a lot of focus on that the orders helped establish a floor for them, that they know where their prices are which in their words is different than before the order. So maybe if you could talk a little bit about what you've seen in pricing for domestic product and imported product with the order in effect?

MR. WEITZER: Okay. Well pricing for domestic product is primarily in my opinion dictated by the landings. As we mentioned, I think in 2009 the landings were very, very good and pricing for domestic shrimp were very, very low. And I think imports from subject and nonsubject countries prices were actually increasing, specifically in 2009. There are peaks and valleys in the shrimp market. I mean it is a commodity. And domestic production there is not an even or a balanced supply and demand.

Again in my testimony, most of the production occurs in a short period of time, and we have to buy that shrimp, I mean as a marketer I need, you know, it's my job to buy at the best I can because I know that I'm going to have to sell that shrimp for 12 months. On the import level, you know, it's a constant offering every day. We can get, you know, offers from these various countries on a daily basis. There are some peaks in harvests, summertime you have an increased harvest situation. So there's more constant, consistent supply.

CHAIRMAN OKUN: Okay, I appreciate those comments. I wanted to come back to Mr. Nicely on some of this the other pricing data, but I'll have to do that the next time. Vice Chairman Williamson?

VICE CHAIRMAN WILLIAMSON: Okay, thank you, Madam Chairman. Mr. Weitzer, just to finish up, when you said peaks in the summertime you're talking about peaks of imported supply?

MR. WEITZER: Well it so happens that in service, certain countries in Asia their peak harvest season is starting in late spring through the summer.

VICE CHAIRMAN WILLIAMSON: Okay, so --

MR. WEITZER: Even though there is

production and there's harvest throughout the whole year, but there are peak periods.

VICE CHAIRMAN WILLIAMSON: Okay, and is it usually the importer who is basically doing that inventory of, or do sometimes you have the exporter?

MR. WEITZER: Yes, we have commitments from our customers, we know how many pounds and their usage, and we have to make sure that we have enough inventory on a daily basis to supply them whether it's imported shrimp or domestic shrimp.

VICE CHAIRMAN WILLIAMSON: Okay. And I was going to say that's the same thing if you have customers who traditionally want domestic shrimp you've got to give them that. Now are there, what types of customers might not care so much whether it's imported or domestic as long as it meets whatever size they want? Are there many?

MR. WEITZER: Well yeah, I mean there are customers who only care about price and whatever price is low on the market they may opt to buy the low price. Now I have sold domestic shrimp at 30 to 40 percent higher than imported shrimp, and I have sold domestic shrimp lower levels than imported shrimp. Again it depends on the relative market which I feel run independently from one another.

VICE CHAIRMAN WILLIAMSON: But there are customers who can play in either one, I take it then?

MR. WEITZER: Yes. Oh I have customers who only want domestic shrimp, only want imported, and want both.

VICE CHAIRMAN WILLIAMSON: Okay.

MR. WEITZER: I hope I answered your question.

VICE CHAIRMAN WILLIAMSON: Yes you did, I just didn't realize how complicated it is. Okay, just an aside, I used to work for the Port Authority in New York and New Jersey and I know several of you are in the New York area and probably use the Port of New York, and this is why the market is special because of people like you. Let me go back to Brazil for a second. No, first let me go back to this question, I don't so much about the facts on farmed shrimp and antibiotics and all that, but in terms of the perception of customers to what extent do consumer concerns about farming practices have an effect on sales of farmed shrimp? So again it's, you know, the consumers' concerns that I'm addressing.

MR. BLOOM: Commissioner Williamson, if I can field this one please. What we find is we have some supermarket chains, and as I can't recall who referenced also big restaurant chains, maybe Warren did, they are concerned when there's an issue, a global issue with a specific country of origin. Obviously with China and the negative publicity makes marketing the China product a little more difficult, okay, and there have been some supermarket chains, some, which won't use China for those reasons.

However there are plenty of others who have tried to communicate to their customers and looked and have not shied away from China product. But there are some who for marketing reasons specifically, not that they believe now that there's any issues with the China product, because our customers rely on us for quality. We as Eastern Fish have offices all over the world, okay, with quality control inspectors in them where we do serve as a secondary check, or actually primary check, and actually they report and can reject product and will audit reports and inspections. We also utilize third party, independent, analytical labs to confirm that there's no antibiotics.

VICE CHAIRMAN WILLIAMSON: Good, I understand, but I'm just thinking about what the customers are --

MR. BLOOM: I apologize, I digressed.

VICE CHAIRMAN WILLIAMSON: Yes.

MR. BLOOM: But from a marketing standpoint there are some who have shied away from China. And China seems to be the only relevant country at this point.

VICE CHAIRMAN WILLIAMSON: Okay, good, thank you. Now Brazil's production fell off during the POR due in part to disease problems. To what extent are these problems ongoing, to what extent have they been solved? Does anyone know?

MR. CONNELLY: That's a tough one. I think all we can look at is the production volumes in Brazil. I don't think they have recovered from the levels that they had reached previously. I am sure that the Brazilians would say that all is well, but, you know, that's usually marketing mumbo jumbo.

VICE CHAIRMAN WILLIAMSON: Okay.

MR. CONNELLY: So I think all we can go on, Commissioner Williamson, is what the production volume is.

VICE CHAIRMAN WILLIAMSON: Okay. Because you had, I guess you had also argued that the environmental controls in Brazil have become stricter and I was wondering what impact those, that might have had. Whatever you know posthearing will be fine.

Okay. Now you also argued that the

Brazilian industry is now focused on the home market, and then you also made reference to the USDA report that you presented I guess in Exhibit 21 to your brief. And on page 4 it states that "In 2010 producers are again focusing on the European market and the Brazilian government is more aggressive with marketing promotion for shrimp exports." And then page 7, "The industry is highly dependent on exports." So how can you reconcile these two statements?

MR. CONNELLY: I'm afraid I don't have the Exhibit in front of me, but I believe the numbers tell the story. The same report has the numbers with respect to domestic consumption and exports, and I believe the export volume, for whatever the most recent year is, is relatively small. I think that's also in the UN Comtrade data that we've submitted as an exhibit. The total exports from Brazil might have been 6,500 metric tons, I'm seeming to recall that number.

VICE CHAIRMAN WILLIAMSON: Okay, so you say they want it but can't quite do it, is that?

MR. CONNELLY: Well they themselves, well the USDA says they can't because of the appreciation of the currency.

VICE CHAIRMAN WILLIAMSON: Okay, thank you.

Okay, you argued that because subject imports did not increase despite low margins in some countries the order is having no disciplining effect. However, doesn't the administrative review process provide a disciplining effect because even with the deposit rate, even if the deposit rate is currently low importers know they can be hit with a higher rate in the next review?

MR. GOSSELINK: Rob Gosselink again. I work with a number of Thai packers, and perhaps in the first administrative review a lot of them were not familiar with the process, they didn't understand what they needed to do in order to maintain and keep their low margins. But I can assure you that over the past five years they have gotten much better about understanding how to maintain good adequate records regarding their production costs, maintaining very good control over their pricing in all markets, and have a lot more confidence about what their ultimate margins will be.

VICE CHAIRMAN WILLIAMSON: In other words the order is disciplining their pricing practices, is that what you're saying?

MR. GOSSELINK: The orders have had the effect of teaching them what they need to do to avoid dumping. And to that degree they have, you know, changed their behaviors. But there is no real sense that any of these countries have I guess in my opinion specifically decreased their export volumes because of antidumping orders. The low margins, that is, have not had the disciplining effect of reducing their export volumes.

MR. NICELY: Commissioner Williamson, this is Matt Nicely.

VICE CHAIRMAN WILLIAMSON: Okay.

MR. NICELY: I guess I'd want to go on to say that the question is if indeed there has been a disciplining effect, and perhaps you could argue there has because in fact as I indicated during my testimony import prices, subject import prices, have increased. But the question ultimately is not simply whether there is a disciplining effect. The question is whether that disciplining effect has had any impact on the domestic industry, right?

The fact that prices might have gone up, the fact that they have adjusted to some extent in order to overcome the small amount of dumping that was found in the original investigation, perhaps that's resulted in some of these price increases. But ultimately does it matter for the domestic industry? And that's why we're saying no, ultimately it doesn't. Their prices declined from '05 to '09. Subject import prices increased from '05 to '09. So ultimately you can't simply assume that the fact that subject import prices have increased means therefore that it has mattered for the domestic industry and that maintaining the orders will matter for the domestic industry.

VICE CHAIRMAN WILLIAMSON: Mr. Gosselink?

MR. GOSSELINK: Pardon me if I may. One of the other items of interest that I heard this morning was that subject import volumes have decreased sharply because of the disciplining effects of the order. And I suppose since we haven't really addressed it in our presentation or in our briefs I wanted to just, you know, discuss it very briefly now and we can talk about it more in our posthearing brief, the fact that the day after Christmas, 2004, the Asian tsunami wiped out huge production volumes in Southeast Asia.

And that decrease in production in 2005 primarily in Thailand and India was what, you know, we see in a lot of the data. Certainly there was some product shifting to third country imports, nonsubject imports, but I think we have to remember that, you know, this Commission conducted a chain circumstance review primarily because of the effect of that natural disaster, and that natural disaster had nothing to do with the antidumping orders.

The other issue that we mentioned in our brief is the disciplining effect on China exports to the United States. A lot of the high margins that were calculated for China in the original investigation were subsequently shown by the CIT to be unlawful, margins that initially were 80 percent, 30 percent, went down to 5 percent and 8 percent, and I don't think it's appropriate for anyone to consider an unlawful assessment rate to be a disciplining effect of the order.

VICE CHAIRMAN WILLIAMSON: Okay, well my time is expired but thank you for those answers.

CHAIRMAN OKUN: Commissioner Lane?

COMMISSIONER LANE: Mr. Connelly, I know I don't need to read the statute to you but I'm going to because I have a question following it. And the statute directs us to determine whether revocation of an order would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time. And then one of the things that we can look at is the prior injury determinations including volume price, effect and impact of the imports.

So my question is, you said, I think it was you, that demand for this product has not really changed over the years, it's been relatively flat. So and that the domestic industry only provides about 10 percent, 10 to 12 percent of the consumption of the product in the United States. So my question is, if demand has not changed very much and the industry is such a small segment of the overall industry, if the orders were revoked wouldn't subject imports take away volumes from the domestic product?

MR. CONNELLY: Well we don't think so. It seems to me the question is, if the orders are revoked is there any incentive on the part of subject producers to change their behavior, to change their behavior from the way we have shown that they have acted in the last five to six years. What is there about the conditions of competition in the U.S. and globally that would cause something different to happen in the next two years, let's say, from what has happened in the last five to six years? And of course our answer to that is there isn't anything that would cause them to respond --

COMMISSIONER LANE: And is that because the dumping margin is so small?

MR. CONNELLY: It's a combination. That's certainly one effect of it. It's a combination of things but that's certainly one aspect of it. So no, we don't think that imports would take volume away from the domestic industry. We know that the domestic industry goes out and fishes just as hard as it can fish every year. We know that in the recession in 2009 they fished harder than in any other year of the POR and caught the second highest volume of shrimp in that year. So, you know, with that being the way the domestic shrimping industry works they're going to go out there and they're going to catch every shrimp they can, that's just the way it's worked forever. I don't think anybody this morning said anything to the contrary.

MR. GOSSELINK: Can I --

COMMISSIONER LANE: Yes.

MR. GOSSELINK: Rob Gosselink. I would only add that I think as we testified earlier, the market share of the domestic processors has not moved sort of in an inverse relationship with the volume of subject imports. There seems to be no correlation whatsoever between the volume sold by the domestic processors and the amount imported.

MR. NICELY: Commissioner Lane?

COMMISSIONER LANE: Yes, go right ahead, Mr.

Nicely.

MR. NICELY: If I could just add, first question is, just to break down what you've asked, first question is whether or not subject imports will actually increase. And as we have indicated today, because demand has leveled off, because the conditions of competition have changed, because now shrimp has established its place as a center plate protein, we don't expect demand to change much and therefore we don't expect subject imports to increase. We've also said that's true because of the alternative markets that have been developed by subject suppliers.

The second question you might look at is if they did increase will they in fact, and I think this is what you're asking, if they did increase would they take market share from the domestic industry? And again for the reasons we've discussed today, based upon including pricing, the answer to that question is no, they would likely not take market share away from the domestic industry. They would perhaps take share from nonsubject imports, but there's no indication they'd take it from the domestics.

I mention pricing in this context, and that's important to recognize is because as we've talked about the formerly subject producers who have reentered the market perhaps in increased quantities have done so at higher prices. So again, they haven't done so and they haven't taken away market share from the domestics and they haven't appeared to have any impact on price on the domestic industry. Instead they're selling at even higher prices.

COMMISSIONER LANE: Okay, thank you. Now I don't know that we've asked you all how has, from your perspective how did the Gulf spill affect your ability to do business and what effects did you see?

MR. WEITZER: As far as us selling domestic shrimp there were two or three or four months where we really had no access to certain types of shrimp, where these boats just couldn't fish. And I think primarily it was the small pealed season out of Louisiana. Prices as we all know spiked. The spill occurred just before a new season so inventories going in were very, very, very low. So strictly again supply and demand, prices for domestic shrimp skyrocketed. I don't think it had much effect on pricing for imported shrimp.

MR. STERN: Commissioner, if I can add?

COMMISSIONER LANE: Yes, sir.

MR. STERN: We had some nontraditional buyers that primarily use domestic shrimp come to us and say, we want to buy some imports because we are afraid we will not have any supply. Many of those were one-time sales. They were panicked, they bought some inventory, but there were no recurring sales there. And I think it was more an insurance policy for those people than anything else.

COMMISSIONER LANE: Okay, thank you. Madam Chair, that's all I have. And I want to thank the witnesses for their answers to our questions today, thank you.

CHAIRMAN OKUN: Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Madam Chairman. I don't think there has yet been a discussion of the production costs for farm raised shrimp. If there has been I missed it, so let me go to that. Mr. Kaelin, you may be the most knowledgeable on this. Could you elaborate? I assume that there are actual costs of producing these things and that they don't magically jump out of the ponds?

MR. KAELIN: No they don't magically jump out of the ponds. I always tell everybody it's very basic, it's seed and feed. So the post-larvae that go into the ponds are produced in a hatchery, so you actually have the capital investment in the hatchery. Then you have the feed. What's ensued since the antidumping tariffs were put in place is the primary ingredient in the feed is fish meal, and that has increased from about $570 or $600 per metric ton to approximately $1,350 to $1,400 per metric ton at this point in time.

So your feed cost has increased, you know, very dramatically. And then you put all the other factors that come to bear into that, increasing labor cost, then there's a whole series of factors that go into there. So your cost of production has increased. So those are the two primary factors is the seed going in, the feed cost, and then there is the labor but that's much less so, it's very similar to the capture fisheries where they're saying two thirds of their cost is in their diesel fuel. About I'd say more than two thirds of the cost is in the seed and the feed for the shrimp.

COMMISSIONER PEARSON: And are those costs relatively uniform across countries or would there be some countries that would have a cost advantage?

MR. KAELIN: No. I mean Peru and Chile would have a cost advantage but Chile doesn't produce any.

COMMISSIONER PEARSON: That's because they are the sources of the fish meal?

MR. KAELIN: They're sources of the fish

meal. And, you know, there's some other, I mean U.S. produces some fish meal. It's a different, it's a white fish meal, but the basic one that's used in the salmon and the shrimp feeds come from primarily from Peru and Chile. So the high demand for those feeds has increased the cost of production.

COMMISSIONER PEARSON: And is there some, are there some rations that use some soybean meal or is that a difficult product to use in this?

MR. KAELIN: No, yes there is. I mean tilapia feed has very little fish meal in it, and tilapia is mainly because it's just a different animal. To get the growth rates with for shrimp you need to have fish meal.

COMMISSIONER PEARSON: Okay. Do you have, does anyone have any expectation of what prices for feed might do in the reasonably foreseeable future? Because of course as we consider whether to retain or revoke an order we need to think about the effects on the domestic industry in the reasonably foreseeable future if we revoke.

MR. KAELIN: Well feed cost probably will stay stable, increase. That is, no one is expecting, there's a finite amount of anchovies in that Chilean Peruvian area, and they also have a yearly life cycle so they have to be fished and converted. Other countries in like North Africa have also an abundant source of sardines but they're trying to use those for human consumption rather than trying to convert them into fish meal. And so that leaves the primary source of your fish meal, so feed prices aren't going to decline, they're probably going to stay stable or continue to increase.

COMMISSIONER PEARSON: Are we at a point in the El Nino/La Nina cycle at which the supplies of fish meal might be considered more at risk?

MR. KAELIN: It affects the production, the El Nino/La Nina definitely affects the production in Peru.

COMMISSIONER PEARSON: Right, but what I'm wondering is within the reasonably foreseeable future, say the next 18 months, is it likely that that cycle could swing in a way that restricts the supply of fish meal to the market? And you might want to do some research and answer in the posthearing but it's a serious question.

MR. KAELIN: Yes, no, no, I know. I mean we just came off of La Nina cycle so El Nino could possibly come, and I could consult with the Peruvians, you know, they're very effective at controlling their fish meal resource now.

COMMISSIONER PEARSON: Right, and I mean there's a lot of historical evidence of how this all works I just I'm a few years away from it now --

MR. KAELIN: Okay.

COMMISSIONER PEARSON: So I need to ask people who know more. Okay, relating to this, is there any evidence that is either on the record or could be put on the record that would indicate whether the prices at which farm raised shrimp have been sold in the United States relate somehow to the cost of production or are those prices independent of the cost of production?

And we know that this is a dumped product, the Department of Commerce, you know, as a legal matter we understand that it's possible that sometimes products can be sold in a dumped way and that could mean less than the cost of production. So what I'm trying to get at is just to understand whether based on this record we would see sales prices that are somehow in alignment with costs of production or that are divorced from costs of production?

MR. KAELIN: No, I would see them very much in line with cost of production. I mean I can just say from the products that we're producing in other countries, because we not only produce in China we also produce in other locations, that cost of production has increased. In China I mean we've has substantial increases in cost of production and that has been passed on in the cost of sales, you know, primarily because of currency revaluations, labor, and just general inflationary pressures that are going on in China. China will probably run an 8 percent inflation this year, and they can't maintain that.

And so they'll sell it into their domestic market where they can get it, or if the dollar is very weak because of the revaluation of their currency then they will, you know, they'll continue to consume it internally and not go. So I don't expect to see that not being passed on. I would not, all those price increases are being passed on right now, I can cite you from other products that we deal with how much they've increased in the last year.

COMMISSIONER PEARSON: So having worked with people do you have a sense of whether their costs of production actually create kind of a floor below which they are not willing to sell product, a price floor?

MR. KAELIN: Oh yes, definitely. I mean I've always, I actually talk with the people at Department of Commerce and try to give them the cost inputs into what it cost to produce back then, but since it's a nonmarket country, both Vietnam and China, then they use a regression analysis that, and, you know, a labor source for China at that time was India. And so it's not, it doesn't really take into account that kind of regression analysis the actual situation you're encountering.

And then of course the more of the private industry that's into it in China, and very little of it now, most of the seafood business, in China specifically, I'm speaking of China, is in private hands, it's not state owned enterprises. We I don't think, we used to have two state owned enterprises we dealt with, and currently we have no state owned enterprises that we work with in China, they're all privately owned. And that, when I say privately that doesn't even mean that the municipality has a percentage or anything else, because I used to do that with the World Bank is determine what the ownership was. These are truly privately owned enterprises.

COMMISSIONER PEARSON: Okay. Well as I understood the domestic producers this morning they're arguing that there's a, that the imposition of the order has had the effect of putting a floor price on the domestic market, and that could be correct. If you have a different view of the market and what might be creating a floor price, it would be good to elaborate that in the posthearing, perhaps with some time series data that would look across the period of review and would somehow compare production costs in various countries with sales prices, something that would show a relationship there. Mr. Bloom?

MR. BLOOM: Sorry to interject. Real quickly, one other thing that has to be looked at in production costs is survival or relative mortality of the shrimp, and feed conversion is what they call how much feed the shrimp is consuming to get to a certain size. And higher mortality will destroy your costs no matter how big the shrimp gets.

So I think relatively speaking no one wants to produce product at a loss, okay, and I think just visiting in Ecuador and Peru and Thailand, and speaking to the farmers, they're actually trying to make sure that they maintain a more stable price return for their product and grow larger sizes, which historically they grew medium and small sizes and it kind of, and everyone did the same thing at one time. They feel they can get a better return for their product by growing larger shrimp consistently whether the market gets higher or lower, so maybe they make a little bit less than they would if they grew smaller shrimp and the prices were lower, where they would lose money on two cycles and make money on one cycle they could make money on two cycles.

COMMISSIONER PEARSON: Okay, well for purposes of the posthearing if you could compile this into whatever you want to say about the costs of production and how we should understand it in the context of what if any relationship it has with pricing, that would be very helpful. Madam Chairman, my time is expired.

CHAIRMAN OKUN: Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Madam Chairman. Two data questions for posthearing. There are two points on which I see something of a clash of interpretation on the data and I wanted to invite you to comment on. First, someone on this panel commented in the direct testimony that the data that the domestic industry has offered with respect to expansion of raw shrimp production in subject countries was inaccurate or unreliable. So I wanted to ask you to go through the evidence that they cite in their brief in some concise but point-by-point way and identify in what respect you think it's unreliable and what you think would be more reliable.

MR. CONNELLY: We can do that. We regard this as, their analysis, as cherry picking to the extreme.

COMMISSIONER ARANOFF: Okay, well yeah I heard you just say that but it would be helpful to me if you went through it of course.

MR. CONNELLY: We can do that.

COMMISSIONER ARANOFF: Thank you. And of course I invite the domestic producers to, you know, bolster their argument in any way you think is appropriate. The other data point that I wanted to raise was it seems to me that a key point of dispute in this review is the issue of can subject producers get better prices in other markets or in the U.S. market? And obviously that's very relevant to their incentive to enter the U.S. market in larger volumes in the event of revocation.

In their direct presentation the domestic producers offered a table or a chart that showed relative prices in the U.S. versus other markets. And so I'd invite both sides again to talk about what's the best data that we have on the record to look at in deciding the issue of whether or not there really are consistently better prices in one place or the other. Okay, so I'll look forward to people's responses on that and now let me get back to questions that can actually be answered here.

One quick one. There's information on the record suggesting that the industries in several subject countries, the ones that have been producing the black tiger shrimp are either converting to or adding the, I'll probably mispronounce it, the vannamei shrimp varieties. And there's some discussion of the fact that these latter raw shrimp are, can be grown more efficiently. Is that likely to increase raw shrimp availability to processors in those countries or is there something else going on that I don't know about?

MR. CONNELLY: Well I'll speak a little bit for India and we'll try to elaborate on it much more in the posthearing brief. There is a bit of a transition from, in India which is a traditional black tiger country, there is now introduction of vannamei, and vannamei does have some advantages over black tiger. On the other hand it's not priced as high, so there are tradeoffs there. Where India is going, you know, that's going to take a little digging for us to do.

MR. NICELY: Commissioner Aranoff, for Vietnam there has been obviously some increase in vannamei production. However, as you've heard from the witnesses today there are only really two countries in the world now where you can get black tiger. Vietnam I think has established itself as the largest supplier of that product now, and as a result you can see it in the pricing, Vietnam tends to be a higher priced supplier.

I think the industry is struggling with this issue but recognizes that they have to some extent a corner on the black tiger market if they were to stay in it. So there isn't as much of an incentive for them to rush into vannamei as you might think, particularly when they're rushing into a species where there is such a significant amount of production in other countries.

COMMISSIONER ARANOFF: Okay, well perhaps you can tie any further thoughts on that into my request about the raw shrimp supply, because I'm really trying to understand whether that's added capacity on top of the black tiger if that's, you know, a pretty good exclusive market, or whether people are converting. Okay, so I'll look forward to those answers. I asked, this morning I asked the panel about the issue of breaded shrimp, and the answer I think I got was, demand for breaded shrimp in the U.S. isn't going to grow, probably won't shrink, it's just kind of what it is. Is that, would you agree with that?

MR. CONNELLY: Well I think we have the import data on breaded shrimp, and I don't have it in the front of my mind right now but we can certainly give you that. We know of course that breaded shrimp consumption in the U.S. has grown significantly since the orders were imposed. It's a higher value added, higher profit product, and there has frankly been a good incentive to move to breaded. There are also what's called in the U.S. breaders, in other words processors, domestic processors, some of whom who have responded to your questionnaire who import shrimp or buy domestic shrimp, bread it here and sell it. So we'll have to take a look at their questionnaires and see what their production patterns have been for breading.

MR. WEITZER: Well I can speak for Arista. We recently got into the breaded shrimp business and we feel there is some potential for growth in our business. I think it's stable, I think in certain areas breaded shrimp is still widely used.

COMMISSIONER ARANOFF: Okay. I also asked the panel this morning with respect to the effect of the Gulf oil spill whether demand went down for the domestic product or for all shrimp, and I wanted to give the members of this panel an opportunity to comment on that as well. The morning panel seemed to suggest that it was all shrimp.

MR. CONNELLY: The import number doesn't bear that statement out. The imports in interim 2010 versus interim 2009 were down 5 million pounds on over three quarters of a million. So it seems to be an insignificant variation, it doesn't seem to have had any effect really on imports.

COMMISSIONER ARANOFF: Did it affect you in selling to, you know, the next level down or affect your customers? It's the kind of thing you would see at the level of someone going into a restaurant and deciding not to eat shrimp even though the restaurant and you as their supplier may have laden the supply.

MR. BLOOM: Commissioner Aranoff, I can speak for Eastern Fish in that we hadn't necessarily recognized a decrease in demand at all. What we did find is that coming off of a year where it was financially difficult general stocks in the United States were a little bit lighter than normal as it was, so I think people, coupled with there was a little bit of a panic that where am I going to get my wild shrimp from, we actually saw a spike in demand for wild caught product because of their concern about being able to replace the U.S. product that they felt that they couldn't get. So we had actually seen during that June time period a little bit of, you know, an increase in sales and requests for those items.

COMMISSIONER ARANOFF: Okay. Something that hasn't been discussed yet today, the domestic producers' briefs give a lot of attention to various kinds of circumvention of the orders that they argue are going on in the market. And so I wanted to ask you to comment on what weight the Commission should give to this information. And I would just, by way of background I would just say that the Commission's, I don't know if it's strong enough to say a practice, but in a number of cases where this issue has come up in reviews we've tended to not give much weight if they're allegations but to give more weight if there are some formal findings by Commerce or Customs or some other government authority. But in general in this case what is this information telling us?

MR. CONNELLY: Frankly I didn't understand the argument. They have, there is some evidence of investigations where circumvention has been found. I don't believe there was an effort to quantify the extent of the circumvention that has actually been adjudicated, so it was very difficult I think for us to formulate a response not knowing exactly what the point is. The issue here it seems to me is subject imports. The notion that there have been some efforts to avoid the orders it seems to me is just a sideshow.

COMMISSIONER ARANOFF: Okay, well I'll give you the opportunity to comment more posthearing. I mean I see two possible ways in which the information could be relevant, the most obvious way in that it could be considered evidence of intent on the part of, you know, a number of producers or importers to bring more product into the market. And also it goes back to the questions I was asking about what the channels are through which the product gets into the market in that it suggests that there may be players other than the fine upstanding businessmen who are on this panel who may be bringing the product into the U.S. market.

MR. CONNELLY: I'll just add one other thing, Commissioner Aranoff, and that is if you are a U.S. importer you have no interest in buying transshipped goods. The penalty is on you, even though you may have no idea whatsoever with respect to where, the fact that this shrimp let's say originated in China but you've been given a certificate of origin that says Indonesia. You have no interest whatsoever in buying transshipped shrimp because of the penalties that can be imposed on you by Customs even though you have no knowledge and no ability to prevent transshipment. So no U.S. importer would I think engage in that knowingly.

COMMISSIONER ARANOFF: Okay, well thank you for those responses. Thank you, Madam Chairman.

CHAIRMAN OKUN: Commissioner Pinkert?

COMMISSIONER PINKERT: Just have a few more questions. First of all, I know you're going to comment on this in the posthearing but I want to emphasize that this question which I'm going to read again to you concerns the increase in nonsubject imports since the orders have come into effect. So let me go ahead and read it and then you can comment on it in the posthearing. It appears that most of the increase in nonsubject imports since the orders have come into effect has come from nonsubject producers in subject countries or countries as to which an order was revoked.

You can agree or disagree after looking at the data. If you agree with that statement then please give me your best explanation of why that might be the case. Okay, now moving to a question that I have not asked already. How should we view the domestic industry's return on investment? There was a lot of talk about return on investment this morning, and I know we've just talked in the previous round about vulnerability, but how should we view that?

MR. CONNELLY: I don't have a ready answer to that one, Commissioner Pinkert, I'll have to think about that one. I will say that I'm a little skeptical of the investment claims, and I think we want to take a close look in posthearing brief about just exactly what the nature of the so called reinvestment has been. I believe the staff report said actually there hasn't, the amount of the investment that's been made has been made by only a very few processors. Certainly some had to rebuild.

Return on investment, well I don't know about ROI, we'll just have to think about that. I do know that when the question was asked this morning about what is the appropriate I think profit margin that one could expect and I think the answer was 3 to 5 percent, and my reaction was that's way in excess of what the profit margin for the processors was in 2001. So I wonder if that's really a realistic statement given their history.

MR. NICELY: Commissioner Pinkert, I'm not sure exactly the focus of your question, but when I look at the data that's in the staff report there seems to be a relationship just as there is with price and with other performance indicators as between landings, in other words domestic volumes, and this indicia of performance. They did well when landings were high, the return on investment was higher when their landings were high, both in 2006 and 2009. Beyond that I'm not sure what you're getting at with your question.

COMMISSIONER PINKERT: Well I suppose what I'm getting at is whether we should consider the return on investment to be solid given other facts that we know about the industry, such as the cost of capital. Is the return on investment indicative of a sound situation for the industry or is it indicative of an industry that's not getting the return on its investment that it would expect when it makes investments? And I'll have a follow up about Mr. Connelly's point about whether the investment claims themselves are credible given the performance of the industry, but let's just focus first of all on this point of is this a sound return on investment, what they would expect when they actually enter into the investments?

MR. NICELY: I think every industry obviously is different, and the best indicator is as Mr. Connelly was saying to look back and see prior periods to determine, to compare early part of the POI with the POR. We don't have that in front of us, we can deal with that in the posthearing brief.

COMMISSIONER PINKERT: And now this is I think more of a question for the business people on the panel, but is the financial performance of the industry sufficient to warrant the kinds of investment claims that we heard this morning? And you can't look at all the data that we can look at, I understand that, but just as a general matter and perhaps the lawyers can comment on that as well.

MR. WEITZER: Well, I think speaking for my company we're strictly marketers. I don't own a plant, I don't own a boat, I don't know what their expenses are. Obviously, I know what cost the funds are. The risk in my business and the overhead in my business is inventory, and obviously, I want to sell, you know, for higher than I purchase product. So I don't, you know, I'm a marketer.

MR. STERN: We're in the same boat. Again, we don't own factories, we don't own boats. We are a buyer and a seller, so for us to comment on their return, I don't think we have enough knowledge, I don't have enough knowledge, to make any kind of a meaningful comment.

COMMISSIONER PINKERT: Perhaps the lawyers could comment in the posthearing about whether the investment claims themselves are credible.

MR. CONNELLY: We will.

COMMISSIONER PINKERT: Thank you. That concludes my questions. I appreciate the information that you've given us today, and I look forward to the additional information posthearing.

CHAIRMAN OKUN: Vice Chairman Williamson?

VICE CHAIRMAN WILLIAMSON: Just a few more questions. Domestic industry argues that government support is helping increase production and capacity in subject countries. I'm just wondering, how do you respond to that?

MR. CONNELLY: Well, the only thing I can respond right at the moment is with respect to India where I believe there were some substantial claims that the Indian government is subsidizing the shrimp industry in a manner to increase the output of Indian shrimp, I believe that's the overall thrust of the allegations in their brief, so the answer to that is no. The investments that are being made are to improve the quality of the Indian shrimp, not the quantity.

VICE CHAIRMAN WILLIAMSON: Okay. Mr. Gosselink?

MR. GOSSELINK: Rob Gosselink. I'll answer on behalf of the allegations regarding the Thai government. The one article that I think was repeated a few times in the brief of the ASPA was that the Thai government intends to provide the Thai industry with approximately $900 million Baht over the next three years. That's approximately $30 million over the period, about $9 or $10 million per year. In the same article, the ASPA did not mention this in their brief, but in the same article that they quote, the author of the article also mentioned that the Thai exporters plan to sell approximately $256 billion Baht over the next three years. So the amount of the government assistance, $9 million a year compared to about $2 billion a year is just too minor to have any degree of help whatsoever.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you. This morning I raised the question about the domestic industry's, the processors' investment in, you know, deveining equipment, deheading, and equipment like that, and I guess which they mentioned a lot of it was actually, or some of it was produced in the U.S., designed in the U.S., and they sort of said that everything in Asia was done at hand, by hand, or, you know, comparable things were done by hand. I was wondering whether or not, did you agree with that? Are there trends? Given increased labor costs in some of the countries, are they beginning to look at more mechanization and stuff like that?

MR. BLOOM: Commissioner, I can speak for our primary suppliers in Thailand, which is our largest supplier, and they're all investing in bringing over these U.S. made peeling machines. So they're trying to pull labor out of the plants, just like we are here, they're finding, you know, for improved efficiency, reducing the costs as well of their production. So they've, if you will, somewhat seen the light and have tried to move away from the hand peeled or the hand labor, which was traditional, and that was traditional everywhere. I'm finding that in subject countries, as well as nonsubject countries, they're being more mechanized.

VICE CHAIRMAN WILLIAMSON: Does that mean that they're becoming more productive and efficient, would you say, or is that hard to say?

MR. BLOOM: I think we'll find out, but I believe that's probably going to add to their productivity. It might make, it should add to their efficiency in the plant, yes.

MR. NICELY: Commissioner Williamson?

VICE CHAIRMAN WILLIAMSON: Yes?

MR. NICELY: In Vietnam I haven't seen the peeling machines, but I've certainly seen the grading, the sizing machines. that's becoming more and more common, I think, in order to ensure exactly what the importers here, what the witnesses here have indicated, to ensure the uniformity that the customers are demanding. I think peeling is the sort of thing that there's a significant amount of disagreement within the industry as to whether or not peeling maintains the quality of the shrimp if you use a machine. Grading, on the other hand, or sizing, on the other hand, I think is another matter, and there are state of the art sizing machines being installed in Vietnam.

VICE CHAIRMAN WILLIAMSON: The ones with the lasers and things like that? Okay. We'll signalling other products. Okay. Thank you. Another question. In subject countries, how does consumption of fresh shrimp compare to consumption of frozen shrimp as far as volume goes? To what extent do particular farmers produce for both the frozen and fresh markets?

MR. KAELIN: Well, I'll start with that question. In China there has been a traditional preference for live and fresh, but now, with the growth in the inland areas, because the coastal areas of China are now very well-developed, as everyone knows, but the inland areas, they're now processing and shipping frozen shrimp into the inland areas of China. So it's somewhat the equipment, and especially certain kinds of freezing methodologies have gotten us past a lot of the stigma of the frozen versus the fresh. As the freezing technology has gotten better, especially with the IQF, you've gotten a better quality product when it's defrosted.

VICE CHAIRMAN WILLIAMSON: Okay.

MR. KAELIN: So there's less, there's more now in China being frozen and consumed within China.

VICE CHAIRMAN WILLIAMSON: What about in some of the other countries?

MR. KAELIN: In Vietnam, you know, unlike China, they haven't developed the middle class as quickly, nor do they have the extent of the urban areas, you know, urban areas in China, cities that we've never heard of that are bigger than most of our cities, where, you know, using frozen product is more the norm. In Vietnam it's just not, they're not there yet but it's growing.

VICE CHAIRMAN WILLIAMSON: Any --

MR. CONNELLY: Commissioner, I don't know that we've got a whole lot of information on the record about fresh versus frozen consumption in most of the subject countries. We just have to take a look at that.

VICE CHAIRMAN WILLIAMSON: What about to the extent that it's the same fish farmers who are producing, you know, they might be selling some in the live market, and then selling the freezing in other?

MR. CONNELLY: We don't know.

MR. BLOOM: It seems like in my travels in going into different supermarkets, because I find that interesting, I see predominantly fresh product. I'm sorry. I see predominantly previously frozen product in most countries, limited amounts of fresh seafood maybe in Mexico because the infrastructure is a little more developed, but China seems to have the preference for the live product, and maybe Japan to an extent, but they're not a producing country on shrimp.

VICE CHAIRMAN WILLIAMSON: And Thailand?

MR. BLOOM: Thailand, most, I mean, you have a few markets where you might get some fresh, but certainly not, I've never seen any live shrimp short of a few specialized Chinese restaurants. In Thailand, most of it's frozen and thawed out or something like that. More frozen.

VICE CHAIRMAN WILLIAMSON: Okay. Good. Okay. Thank you. I just want to express my appreciation to the witnesses for their testimony. No further questions. Thank you.

CHAIRMAN OKUN: Commissioner Lane? Commissioner Pearson?

COMMISSIONER PEARSON: Yes. Madam Chairman, I think I have one more. You've argued that there is a substantial degree of attenuation in the competition between domestically-produced shrimp and imported shrimp. Has that competition become more attenuated or less attenuated over time? Is there a trend there or is it just, has it been uniform all along? You may answer now, or in the posthearing, or both.

MR. STERN: I'll take a whack at it, I guess. I think that if you go back 20 years, domestic shrimp was the dominant player in the market. I don't have the figures, I don't know, but I believe the supply was relatively constant even 20 years ago to where it is today. The level of imports has steadily grown, and with that level of imports growing, the consumption has also increased. So whereas 20 years ago we had domestic shrimp in a dominant position, imports were kind of looked at in a different way, things have changed. The imports developed their own market and the domestics remained the same and the imports accounted for the increase in consumption. They went to different markets in different forms. We never sold cooked shrimp until there were imports. We never sold IQF shrimp in the volumes that we can at a supermarket level. Restaurant chains never had shrimp to promote in the huge volumes consistently that they were able to. So I think that the difference, there's been a great change, you know, in the history of the shrimp business, but it's because we've developed different markets for farmed shrimp out of southeast Asia. I don't know if that gets to your question completely.

COMMISSIONER PEARSON: Well, it certainly touches on it. Are you suggesting that imported shrimp competes against other imported shrimp more than it competes against domestic shrimp?

MR. STERN: Yes.

COMMISSIONER PEARSON: Okay.

MR. BLOOM: In the prior years when imports were coming on line it was block frozen against block frozen shell on base form. Today, the predominance of imported shrimp again is precooked, value added products, so Thailand's competing against Indonesia, which is competing against Vietnam. For those end users, domestic shrimp, U.S. shrimp, typically doesn't even enter the discussion, okay, for that at this point, okay? It's been an evolution, as Mr. Stern indicated, and at this point, I know he had indicated this, I hadn't said this, but I can't remember the last time I heard a customer say, well, gee, I can buy domestic shrimp at this price. It's really, you know, more I can buy my cooked 26, 30 shrimp from Indonesia cheaper than I can buy from Thailand, so that's, or what have you. That's what we run against.

COMMISSIONER PEARSON: Okay. Well, if, for purposes of the posthearing, you'd like to elaborate that little bit, by all means, do so because it's not been clear to me whether the degree of attenuation has changed, but you might now be making such an argument. With that, I have no further questions. I thank you very much for your patience and for putting up with all of my questions. I'll now turn back to the Chairman.

CHAIRMAN OKUN: Commissioner Aranoff?

COMMISSIONER ARANOFF: One more question. The domestic producers placed a lot of emphasis this morning on the fact that the majority of sales of imported product in the U.S. market are spot market sales as opposed to sales under what would fit under the Commission's definitions of contracts, and so I wanted to do two things. One is for you to tell me exactly what that term, spot market sales, means to you in terms of your relationship with your customers, and then I also wanted to ask you to step back and tell me what the purchasing arrangements are between you and your foreign suppliers. Whether you have contracts, whether you have some kind of somewhat less formal but still kind of concrete agreements, or whether you just call around on the spot market every time you have demand for a product. So I don't know who wants to take the first stab at that.

MR. STERN: I can take a first shot. A significant portion of our business is done under long-term contracts. We also have a significant amount of business where --

COMMISSIONER ARANOFF: When you say your business, you're talking about your business with your suppliers or your business with your customers?

MR. STERN: Both.

COMMISSIONER ARANOFF: Okay.

MR. STERN: Many times where we have a long-term contract with a customer, we also make that same contract with our supplier so that we're locked in. We also have a lot of customers that are committed to buying Censea brand shrimp but may buy on a weekly basis based on market prices. They commit they're going to handle our product, and depending on their sales and the current market conditions, they buy from us. We do have a small portion of sales, 20 percent, maybe 25 percent, where the buyer is one of those guys who if my price is low, they will buy from us, if someone else's price is low, they will buy from them. As far as the supplier side, we have very strong relationships with our suppliers. As I mentioned earlier, we have some contracts that are long-term at fixed prices. We have other contracts where we are committed to buying from them and just because some supplier down the street is five cents less, we're not going to go and chase after that five cents. We're committed because they provide the quality and the consistency throughout the year. You know, we've worked very hard to develop those relationships.

COMMISSIONER ARANOFF: Okay. Mr. Bloom?

MR. BLOOM: I think, you know, just to get at your definition of a spot sale, if you will, a spot sale would be an unplanned, unprogrammed sale of product that I, or someone, would have inventory sitting in the cold storage hopefully to be sold, okay? That would be a buyer who could be a distributor, who could be a supermarket chain, who could say, hey, I have a need for something, I'm going to call multiple people and see who has that product and it's sold a one time, a nonrecurring instance necessarily. That's what by definition a spot sale would be.

In fact, in speaking for Eastern Fish, about 80 percent of our business is actually programmed, so we will make a contract with a customer, okay, and we have multiple different ways, which I am not at liberty to discuss, but I could fill that in privately, but we have multiple different pricing strategies. By the same token, we will also make those contracts backwards with our suppliers, so, and for every different instance we would make sure we have our secure supplier. Obviously, we've developed relationships and reliance on these suppliers over years so we know we can trust them to deliver on forward contracts and commitments for product that's actually still swimming in the ponds.

COMMISSIONER ARANOFF: And these are based on you make a projection of what demand is going to be?

MR. BLOOM: Yes. We discuss with the buyer. He says, look, my needs for the next four months based on history, based on my advertising schedule, or six months, I'm going to need *X, Y* and *Z* per month of this product. So I will go and talk, I'll shop a few customers, a few of my primary suppliers to see, number one, who's in a position to accept such a contract, and I will shop price, you know, I will see who can make me a better deal, if you will, or better terms, whether they'd manage that inventory better, or some guys may say, well, I'll give you a lower price but you have to take it, take the product now and hold it at my expense. So I'll weigh all those options just like any, I mean, that's a financial decision that I need to make. So that's how I deal with the suppliers.

COMMISSIONER ARANOFF: Okay.

MR. BLOOM: And then I'll have purchase contracts with the customers.

COMMISSIONER ARANOFF: Okay. Well, you know, obviously we have data in the staff report that suggests that a very large proportion of import sales are spot sales, however that is defined in our questionnaire, and so I guess I would ask you for posthearing, that suggests that either the gentlemen who are here today are atypical of the importers that are working in this industry or that there's something about the definition of spot sales that we need to be aware of, so if you could take a look at that for purposes of the posthearing, I think that would be helpful.

MR. KAELIN: I'd like to add that, you know, the whole supply chain mechanisms have changed so much in the last 10 years and food products, and seafood, and shrimp, in this case, have changed along with them, so no one is buying, this isn't like back in the 1980s or something that you would buy five containers, 10 containers on a certain date, a harvest date, and then you'd hold them. Now, from a business point of view, here you have the time, cost and money, you have your storage costs. You don't want to be holding very much spec product. Plus, the primary, your large buyers are trying to tighten up their supply chain.

So they want to have, they want to program, you know, and you have to be sure that you can deliver to them, that we're delivering five containers of a certain product, or 10 containers of another product on certain months and certain dates. I heard that figure this morning and I was a bit, because basically, we're not atypical. It's the general supply chain mechanisms within the industry have gotten to where you're programming your sales. You're even doing bids with supermarkets where you're saying we will deliver such and such a product with this specification at this date, so that is not at all a spot sale.

MR. BLOOM: One other comment I want to make. The dynamic has changed and larger customers have actually gotten larger, the bigger supermarket chains bigger, broad line distributors have all gotten bigger. It's left a space for largely ethnic, if you will, business who I guess does business in an individual, if you will, mom and pop, less formal manner, and those are the people that would probably be more open and prone toward those spot sales than the larger volume type of customers who can't afford to be at the mercy of market movements, such as the smaller players, if you will, can react at very different, you know, paces or phases.

COMMISSIONER ARANOFF: Okay. Well, I understand what you're saying. Mr. Weitzer, did you want to add something?

MR. WEITZER: Yeah, I would. On the sell side, with our customers, I think we're all seeing more contract program business. You know, all three of us are competitors in a way and we all look to do the best for our companies and for our customers, so we have gone with our customers and have gone to the end user to contract with them for locked in prices for up to six months or longer, and this includes domestic shrimp also. We have done contract bids for domestic shrimp, and I think it's becoming more prevalent.

COMMISSIONER ARANOFF: Okay. All right. Well, I'll look forward to anything you have to add posthearing to just help me reconcile what you're telling me with the data that we have in the staff report. With that, I don't have any further questions, but I do want to thank you all for your answers and for your perseverance. Thank you, Madam Chairman.

CHAIRMAN OKUN: Thank you. Let me see if there are any other questions from my colleagues. Let me turn to staff to see if staff has questions for this panel.

MR. MCCLURE: Jim McClure, Office of Investigations. Staff has no questions.

CHAIRMAN OKUN: Do counsel for Petitioners have questions?

MR. SALONEN: No questions, Madam Chairman.

CHAIRMAN OKUN: All right. Well, before we turn to our closing statements and rebuttal let me take this opportunity to again thank all the witnesses who were on this afternoon's panel for answering all our questions. It's been a long afternoon, but very informative. We'll take just a moment to let this panel go back. I will review the time remaining. Those in support of continuing the orders have a total of nine minutes left, four from direct and five for closing, those in opposition have a total of 15, 10 from direct and five for closing. Unless there's objection, we'll follow our normal practice of having the two times combined, so I'll give you a couple of minutes to let this panel go and then we'll bring up Petitioners.

(Pause.)

CHAIRMAN OKUN: If I could have all the folks take a seat in the back so that we can turn our attention to our closing remarks. You may proceed.

MS. DRAKE: Madam Chairman, thank you. My name is Elizabeth Drake with the law offices of Stewart and Stewart here on behalf of ASPA, LSA, Dean

Blanchard Seafood and Seafood Shed. I'm going to take a few minutes of rebuttal and then turn over to Kevin O'Connor from Picard Kentz & Rowe to do closing on behalf of those in favor of continuing the orders. Respondents continue to claim that there is somehow some serious defects in quality of domestic product, as they testified this afternoon, and they continue to cite the Texas A&M study that purports to show that domestic producers are failing to improve their product as they could to receive premiums for quality

Our panel, of course, and this morning fishermen, processors and purchasers all reported that the industry has adopted these practices on a wide and uniform basis and that they meet quality standards. You don't have to choose which panel you believe, you can simply look at the public staff report which shows that 70 percent of purchasers report that domestic quality is comparable, or superior, to subject import quality, and the public staff report shows that 70 percent of purchasers report that domestic product meets minimum quality specifications, while 68 percent of subject product does. The Respondents claim that while there may be technical interchangeability between the different forms and types of domestic and imported product, really, there's not true interchangeability in the market.

The interchangeability reflected in the staff report is not just technical. Different forms, different species are used in the same applications, and changes in price of one affect prices of the other. Thus, we simply ask you to look at the staff report and accept what the staff report says about the high degree of interchangeability between domestic and subject product and the continued importance of price in the market. Next, moving to likely volume, the Respondents say that we have cherry-picked the data to create an impression that there will be growing production in subject countries, yet the source we rely on for these production estimates is the Global Aquaculture Alliance, the same organization that Mr. Kaelin worked for to produce the report on projected domestic consumption trends in China.

I can't vouch for the credibility of this organization, but I would just say I cannot believe that it's not credible for us to rely on this source while it is credible for Respondents to rely on this source. Second, Respondents claim that even if there is an increase in production it won't come to the domestic market because the domestic market has reached an equilibrium. They ask what is it that has constrained the total import volume in the past five years? We submit the answer is very simple. It's the orders. The orders have constrained volume. If you go back to the original investigation, it's very clear that subject producers are able to quickly ramp up volume and that there's no natural equilibrium in the market.

This is a result of margins that discipline the subject imports. Even if margins are low, that is a reflection of the fact that prices are increasing. Respondents once in a while admitted that, yes, they did change sources because of the margins, because of having to deal with cash deposits, et cetera. That is what we talk about when we talk about the disciplining effect of the orders. I would like to talk about the trends in nonsubject producers who have become nonsubject, or countries that have become nonsubject. A lot of the data that would be useful is business proprietary and so we will expand on that in our posthearing brief. Finally, they argue that the U.S. market is not attractive because EU prices are rising, yet if you look at the slide we put up earlier this morning, U.S. prices are rising faster than EU prices.

Our margin of the premium you can get in the U.S. market has grown since 2005. Similarly, their contention about breaded product just doesn't hold up. The U.S. imports of breaded product have fallen since 2005 from 98 million pounds to 82 million pounds from the world. This isn't an expanding market, and it's not a significant market. For every 100 million pounds of subject product we imported, we imported 8 million pounds of nonsubject breaded product. It's simply not a significant alternative market. In terms of likely price affects, they questioned the correlation data that we presented to the Commission this morning in our prehearing brief. We did a little back of the envelope comparison.

If we eliminate the interim periods and constrain ourselves to annual data looking at the correlation between import price and domestic price versus the correlation between domestic volume and domestic price we see the exact same thing we showed you this morning. The correlation with import price is 63 price, the correlation with domestic volume is 38 percent. Clearly, import price drives domestic price and it will continue to do so if the orders are revoked. Finally, turning to impact, the Respondents throw out a lot of data over the period of review and say that there's no correlation between the data. Certainly there are other factors affecting the domestic industry's performance, including hurricanes, fuel prices, the recession, et cetera, yet they say, well, processors do well when the landing volumes is high, and they say the fishermen do poor when the landing volumes is high.

Their story simply doesn't make sense. The story that we tell is the story that does make sense. They try to throw out other alternative possible means of causation, such as the failure of the domestic industry to capture a supposed premium for wild caught shrimp. Their data comparing Mexican wild caught shrimp to Central American farmed shrimp is not helpful, as if when you compare Mexican wild shrimp to Central American wild shrimp you see the same premium for Mexican product. So it does not appear to be a wild product premium, it appears to be a Mexican premium over Central America. They also say that the reduction in catch per unit effort, or the increase in catch per unit effort has helped the industry become stronger, but that certainly did not protect fishermen from losses in 2009 and 2010 and won't protect them from losses if the orders are revoked.

Again, our story is a simple one and it's supported by the record in the original investigation and the record in the public staff report. Subject unit values went up when the orders were imposed. That led all import unit values to go up on a cumulated basis. Prices stabilized, not where we want them to be, but we stopped the free fall, and, as a result, our industry is recovered somewhat and is able to invest in itself but remains highly vulnerable. If the orders are revoked, the collapse we saw in the original investigation will recur. Thank you.

MR. O'CONNOR: Good evening. My name is Kevin O'Connor, of Picard Kentz & Rowe, counsel to The Ad Hoc Shrimp Trade Action Committee. I'd like to thank you all for the time and hard work that you've put into this review and this hearing, and in the brief time that I have, I'd like to summarize the reasons why the Commission clearly must extend these orders. First, if the orders are revoked, the volume of dumped imports would increase significantly. The Commission found in the original investigation that the increasing volume of subject imports in the United States came at the expense of domestic producers. The Commission also rejected arguments made by Respondents that the significant increase in subject import volume and market penetration was the result of new markets created by subject imports and new channels of distribution.

I want to pause on that last part because now that the antidumping orders are up for review, Respondents have changed their tune and now argue that the U.S. market has reached a new equilibrium where demand will remain constant. Coincidentally, now that they need to show that demand has leveled off, there are no longer claims about the ability to create new markets. Revocation of the orders would undoubtedly replicate what we saw before the orders were put in place. Subject exporters stand ready to again flood the U.S. market with dumped imports given their massive unused capacity, imminent plans to increase production and history of shifting exports between markets, something they did with hundreds of millions of pounds after the orders were put in place.

That alone should raise a red flag when Respondents claim that their businesses are not able to readily shift exports to other markets. Further, the United States remains much more attractive than other markets, like Japan and the EU, where prices are lower and stricter import standards make shipping seafood more difficult. In addition, the significant circumvention of the orders that has taken place demonstrates the continued attractiveness of the U.S. market and the fact that foreign producers will go through great lengths to ship their product here. Without a doubt, revocation would result in significant increases of dumped foreign shrimp.

Second, if the orders are revoked, the new flood of dumped imports would send prices for domestic shrimp spiraling downward once again. The Commission found in the original investigation that there was a causal nexus between the large quantities of subject imports entering the U.S. market at declining prices and the corresponding price declines for the domestic product. Only the orders were able to arrest these trends. Underselling was significant during the period of review, similar to the original investigation, indicating that importers will once again price aggressively without the discipline of the orders. This underselling would depress and suppress domestic prices as it did in the original investigation.

Third, if the orders are revoked and the flood of imports causes prices for domestic shrimp to plummet once again, the domestic industry would suffer not only severe, but perhaps insurmountable injury. While the domestic industry's financial performance has improved since imposition of the orders, one must remember how far it declined prior to the orders. In addition, the industry remains highly vulnerable. A lot of this vulnerability is a result of escalating fuel costs. Respondents contend that fuel costs are the primary cause of the current condition of the domestic shrimping industry and revocation of the orders will have no effect on its ability to overcome this problem. While fuel costs are high and they cut into fishermens' profits, you need to look no further than 2008 to see that even when fuel prices are at historic highs, fishermen can still be profitable. Nevertheless, the current high fuel costs come on the heels of two devastating hurricanes and the largest oil spill in U.S. history and have resulted in very thin profit margins. Clearly, this industry is especially vulnerable to injury at the hands of the significant volume and price effects of dumped imports if these orders are revoked. I'd like to return briefly to Respondent's contention --

CHAIRMAN OKUN: I'm sorry. Your red light has come on. Are we done with the sentence?

MR. O'CONNOR: Sure. The domestic industry has survived because members of the industry have adapted whenever and however possible and because the antidumping orders have halted the flood of unfairly traded imports. We will need both of these factors to stay in place if the domestic industry is to remain viable. Thank you.

CHAIRMAN OKUN: Thank you very much.

MR. NICELY: Well, now it's good evening, Commissioners. I think we have about 15 minutes, but I don't intend to take anywhere near that. In fact, you just heard the end of our presentation about 10 minutes ago, and therefore, I don't want to go into a great level of detail. I simply want to reiterate the major points of what we put before you today. As you have heard, we have established that demand has leveled off with no indication that demand is suddenly going to increase again. That has happened despite unfettered access to this market by imports, both nonsubject imports who are selling at low prices, as well as subject imports that continue to have significant access to this market because the tariffs are so low.

What we've shown today is that the conditions of competition have changed sufficiently as to allow the domestic industry's prices and volumes to be determined by the domestic industry, not having to do with what's happening with subject imports. As you saw with the handouts we gave you today, they want you to believe that there's some relationship between subject imports and price and volume, but, in fact, there isn't. If you look at the correlation analysis that we have corrected for them, you'll see that there simply isn't the correlation that they claim. That relationship that happened during the course of the period of review is critical to understanding what will happen later.

It's not as if you have to, as I said earlier, speculate as to what would happen when the tariffs are taken off. The fact is that you have the record during the review to show you that the domestic industry's fortunes are determined by their own actions, by their landings and by other factors, including fuel costs and other factors that occur here, in the United States, that have nothing to do with the impact of imports. I leave you with one last thing that we will, in fact, address in more detail in our posthearing brief, which is that it is important, notwithstanding any increases in production capacity for the subject countries, there is evidence to show that they have created new markets for themselves in other countries and that demand in those other countries is, in fact, increasing, and so there is, in fact, no indication that they have an incentive to come back to the United States. With that, I'll let us all end the evening. Thank you.

CHAIRMAN OKUN: Thank you. posthearing briefs, statements responsive to questions and requests of the Commission, corrections to the transcript must be filed by February 10, 2011. The closing of the record and final release of data to parties is March 7, 2011, and final comments are due March 9, 2011. With no other business to come before the Commission, this hearing is adjourned.

(Whereupon, at 6:02 p.m., the hearing in the above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Frozen Shrimp from Brazil, China, Indian, Thailand, and Vietnam

INVESTIGATION NO.: 731-TA-1063, 1064, and 1066-1068 (Final)

HEARING DATE: February 1, 2011

LOCATION: Washington, D.C.

NATURE OF HEARING: Briefing

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: February 1, 2011

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: Rebecca McCrary
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Christina Chesley
Signature of Court Reporter