

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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

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Date: Thursday, March 16, 2017



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UNITED STATES OF AMERICA  
BEFORE THE  
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF: ) Investigation Nos.:  
FROZEN WARMWATER SHRIMP FROM BRAZIL, ) 731-TA-1063-1064 AND  
CHINA, INDIA, THAILAND, AND VIETNAM ) 1066-1068  
) (SECOND REVIEW)

Main Hearing Room (Room 101)  
U.S. International Trade  
Commission  
500 E Street, SW  
Washington, DC  
Thursday, March 16, 2017

The meeting commenced pursuant to notice at 9:30  
a.m., before the Commissioners of the United States  
International Trade Commission, the Honorable Rhonda K.  
Schmidtlein, Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman Rhonda K. Schmidtlein (presiding)

5 Vice Chairman David S. Johanson

6 Commissioner Irving A. Williamson

7 Commissioner Meredith M. Broadbent

8 Commissioner F. Scott Kieff

9

10

11

12 Staff:

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14 Officer

15 Sharon Bellamy, Records Management Specialist

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17 Keysha Martinez, Investigator

18 Renee Berry, International Trade Analyst

19 Amelia Preece, International Economist

20 Mary Klir, Accountant/Auditor

21 Robin Turner, Attorney/Advisor

22 Elizabeth Haines, Supervisory Investigator

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25

1 Congressional Appearances:

2 The Honorable Walter B. Jones, U.S. Representative, 3rd

3 District, North Carolina

4 The Honorable Steve M. Palazzo, U.S. Representative, 4th

5 District, Mississippi

6 The Honorable Garret Graves, U.S. Representative, 6th

7 District, Louisiana

8

9 State Government Witness:

10 The Honorable Billy Nungesser, Lieutenant Governor, State of

11 Louisiana

12

13 Opening Remarks:

14 In Support of Continuation of Orders (Elizabeth J. Drake,

15 Stewart and Stewart)

16 In Opposition to Continuation of the Orders (Warren E.

17 Connelly, Trade Pacific PLLC)

18

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1 APPEARANCES (Continued):

2 In Support of the Continuation of the Antidumping Duty

3 Orders:

4 Stewart and Stewart

5 Leake & Anderson LLP

6 Washington, DC

7 on behalf of

8 American Shrimp Processors Association ("ASPA")

9 Alan Gibson, President and Owner, Tidelands Seafood

10 Co., Inc.

11 Chalin Delaune, Vice President, Tommy's Seafood Inc.

12 E. Richard Gollott, Sr., Vice President, Golden Gulf

13 Coast Pkg. Co. Inc.

14 Dr. David Veal, Executive Director, ASPA

15 Elizabeth J. Drake, Sahar J. Hafeez, Leah N. Scarpelli

16 and Edward T. Hayes - Of Counsel

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18 Picard Kentz & Rowe LLP

19 Washington, DC

20 on behalf of

21 Ad Hoc Shrimp Trade Committee ("AHSTAC")

22 Ad Hoc Shrimp Industry Committee ("AHSIC")

23 O. Steven Bosarge, Chief Executive Officer, Bosarge

24 Boats, Inc., and B&B Boats, Inc., and President, Southern

25 Shrimp Alliance

1 Ken Garcia, Boat Owner and Vessel Manager, Daniel  
2 Phillip III, Inc., et al.

3 Michael Hooper, Business Manager, Bowers Shrimp Farm  
4 and Bowers Seafood LLC

5 Nathaniel M. Rickard, Whitney M. Rolig and Roop B.  
6 Bhatti - Of Counsel

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8 In Opposition to the Continuation of the Antidumping Duty  
9 Orders:

10 Trade Pacific PLLC

11 Hughes Hubbard & Reed LLP

12 Washington, DC

13 on behalf

14 Brazilian, Indian, Thai and Vietnamese Respondents

15 Guy Pizzuti, Category Manager for Seafood, Publix Super  
16 Markets, Inc.

17 Mike Seidel, Director of Category Management,  
18 Performance Food Group

19 Alan Weitzer, President, Arista Industries

20 Jeff Stern, Vice President of Purchasing, Central  
21 Seaway Company, Inc.

22 Jim Stafford, Vice President, Food & Sundries,  
23 Northeast Region, Costco Wholesale Corp.

24 Joe Zhou, Director of Protein Procurement, Red Lobster  
25 Seafood Co.

1 James P. Dougan, Vice President, Economic Consulting  
2 Services, LLC

3 Emma Peterson, Economist, Economic Consulting Services,  
4 LLC

5 Robert G. Gosselink, Warren E. Connelly, Jarrod M.  
6 Goldfeder, Matthew R. Nicely and Julia K. Eppard - Of  
7 Counsel

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9 Rebuttal/Closing Remarks:

10 In Support of Continuation of Orders (Nathaniel M. Rickard,  
11 Picard Kentz & Rowe LLP)

12 In Opposition to Continuation to the Orders (Matthew R.  
13 Nicely, Hughes Hubbard & Reed LLP)

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## 1 P R O C E E D I N G S

2 9:37 a.m.

3 MR. BISHOP: Will the room please come to order.

4 CHAIRMAN SCHMIDTLEIN: Good morning. On behalf  
5 of the U.S. International Trade Commission I welcome you to  
6 this Investigation on Nos. 701-TA-1063, 1064 and 1066, 1068  
7 Second Review involving Frozen Warmwater Shrimp from Brazil,  
8 China, India, Thailand and Vietnam. The purpose of these  
9 investigations is to determine whether revocation of the  
10 antidumping duty orders on frozen warmwater shrimp from  
11 Brazil, China, India, Thailand and Vietnam would likely lead  
12 to continuation or recurrence of material injury within a  
13 reasonably foreseeable time.

14 Schedule setting forth the presentation of this  
15 hearing, notices of investigation and transcript order forms  
16 are available at the public distribution table. All  
17 prepared testimony should be given to the Secretary. Please  
18 do not place testimony directly on the public distribution  
19 table. All witnesses must be sworn in by the Secretary  
20 before presenting testimony. I understand that parties are  
21 aware of the time allocations. Any questions regarding time  
22 allocations should be directed to the Secretary.

23 Speakers are reminded not to refer in their  
24 remarks or answers to questions to business proprietary  
25 information. Please speak clearly into the microphone and

1 state your name for the record for the benefit of the court  
2 reporter. If you will be submitting documents that contain  
3 information you would classify as business confidential your  
4 request should comply with Commission Rule 201.6.

5 Mr. Secretary, are there any preliminary matters?

6 MR. BISHOP: No, Madam Chairman.

7 CHAIRMAN SCHMIDTLEIN: Very well, will you please  
8 announce our first Congressional witness.

9 MR. BISHOP: Our first Congressional witness is  
10 the Honorable Walter B. Jones, United States Representative,  
11 from the third district of North Carolina.

12 CHAIRMAN SCHMIDTLEIN: Welcome Congressman Jones.

13 STATEMENT OF THE HONORABLE WALTER B. JONES

14 CONGRESSMAN JONES: Commissioners, I would like  
15 to thank you today for giving me a few minutes of your time  
16 to testify. For over twenty years I have represented the  
17 coast of North Carolina. In that time, the number of  
18 shrimpers in my state have been cut in half and I would add  
19 another statement to that. My father served for 26 years  
20 in the United States House of Representatives. The same  
21 coastal area that he represented for those 26 years I have  
22 myself had the privilege to represent. Does that make me an  
23 expert in this area? No, but I can count and again the  
24 point I was trying to make is that in my service of the 22  
25 years, the number of our commercial fisherman and shrimpers

1 have been cut in half.

2 A big reason is illegal dumping of shrimp from  
3 overseas. Namely the countries of Brazil, China, India,  
4 Thailand and Vietnam. The antidumping orders this  
5 Commission approved in 2005 have helped level the playing  
6 field for the American Shrimper. That's why it is important  
7 for those of us who are here today, who have coastal  
8 districts and have shrimpers in our district. We understand  
9 the importance of leveling the playing field. For too long  
10 it has not been level.

11 You made a difference in 2005. Unless those  
12 orders are continued, imported shrimp from these countries  
13 is likely to flood the market at levels exceeding those that  
14 nearly collapsed the Domestic Industry in 2005. This is why  
15 it is so important that you have this debate and this  
16 discussion. It is so important that we have a chance to  
17 share our thoughts.

18 I fear shrimpers in North Carolina and across the  
19 United States would not be able to survive. I urge you to  
20 stand with me and my colleagues here today and the  
21 colleagues that are not here today in support of hardworking  
22 Americans by voting to continue the antidumping orders on  
23 imported shrimp from these countries because if not what has  
24 happened to other markets of American hardworking people in  
25 my opinion will be lost.

1                   This will conclude my remarks. I have a much  
2 longer statement I would like to submit for the record.  
3 Thank you for this opportunity and thank you again for  
4 giving us a chance to share what I consider might be the  
5 last hope for the commercial fisherman and in this case the  
6 shrimpers at least in North Carolina. Thank you.

7                   COMMISSIONER SCHMIDTLEIN: Thank you very much.

8                   MR. BISHOP: Our next Congressional witness is  
9 the Honorable Steve M. Palazzo, United States Representative  
10 from the 4th District of Mississippi.

11                  COMMISSIONER SCHMIDTLEIN: Welcome, Congressman.

12                  STATEMENT OF THE HONORABLE STEVE M. PALAZZO

13                  CONGRESSMAN PALAZZO: Mr. Chairman and fellow ITC  
14 Commissioners, I am happy to be here today to express my  
15 support for the continued imposition of antidumping duty  
16 orders against unfairly traded frozen warmwater shrimp  
17 imported from Brazil, China, India, Thailand and Vietnam. I  
18 believe that the continuation of these orders is vital to  
19 the future stability of the domestic shrimp industry  
20 including my constituents in the Mississippi's 4th  
21 Congressional District.

22                  American workers in this important industry are  
23 relying on you for the chance to compete fairly and on level  
24 playing field with imports from these countries. Shrimping  
25 has a long and rich history in Mississippi. The seafood

1 industry was established in our great state in the early  
2 1860's and by the turn of the 19th century Biloxi had become  
3 the seafood capitol of the world.

4 Today, the seafood industry continues to be a  
5 cornerstone of the local economies in our gulf communities  
6 directly supporting 4700 jobs and providing more than 79  
7 million dollars in annual income in our state. Overall, the  
8 Mississippi Seafood Industry has a value-added economic  
9 impact of over 102 million dollars. Mississippi factories  
10 are world leaders in processing and packaging Gulf shrimp  
11 and distributing it to Americans throughout the country.

12 Of course the impact of the shrimp industry in my  
13 district in the entire state is so much more than economic.  
14 Shrimping is a cultural institution in the Gulf states and  
15 has provided a way of life for generations of  
16 Mississippians, many of them who took a ride on a shrimp  
17 boat before they took a ride on a bike.

18 Shrimping is a tradition for  
19 families in Mississippi who have passed down their boats to  
20 their children and grandchildren and worked together to make  
21 a living harvesting the world's best tasting shrimp from our  
22 waters. Working this industry is demanding and the men and  
23 women, whose livelihoods depend on harvesting, unloading,  
24 peeling, freezing, packing and distributing Gulf shrimp,  
25 are tough and resilient.

1           As I am sure you are aware, the shrimp industry  
2           in Mississippi and all the other Gulf states have been faced  
3           with a series of setbacks in recent years. From natural  
4           disasters like Hurricane Katrina to manmade ones like the BP  
5           oil spill, workers in the shrimp industry have banded  
6           together and persevered through each challenge. But today  
7           shrimp processors and harvesters not only in Mississippi but  
8           Gulf-wide and nationwide are being challenged by a different  
9           type of problem.

10           Americans are consuming more shrimp than ever but  
11           also increasingly turning to dumped imports rather than  
12           Domestic Product. In 2003, before these Petitions were  
13           filed, dumped shrimp imported from Brazil, China, India,  
14           Thailand and Vietnam flooded the U.S. Market at prices below  
15           the cost of production at home, driving down Domestic  
16           Prices.

17           As the Domestic Shrimp Industry received less for  
18           their catch, revenues and take-home pay declined and many  
19           small businesses were forced to close, some after  
20           generations in the industry. Since the orders went into  
21           effect in 2005 however conditions have improved. The volume  
22           of imported shrimp in the market has remained below peak  
23           levels and Domestic Prices have stabilized.

24           Shrimpers are putting their boats back in the  
25           water and landings at Mississippi ports have increased 67

1 percent since 2010. Hardworking entrepreneurs also invested  
2 into their processing and harvesting businesses again with  
3 expansions and updates to help improve their efficiency and  
4 get even more Gulf shrimp onto the tables of American  
5 families. Understandably, the Industry is still fragile and  
6 these improvements can easily be reversed if the current  
7 orders which shield our Domestic Industry from the most  
8 devastating impact of unfair trade are withdrawn.

9           Even with the disciplining effects of the orders,  
10 imported shrimp have made a significant presence in the U.S.  
11 Market and accounted for over 93 percent of domestic  
12 consumption in 2016. If the orders are withdrawn imported  
13 shrimp will undoubtedly return to the market in volumes  
14 exceeding 2003 levels. I am concerned that the Domestic  
15 Industry will not be able to endure another surge of  
16 low-priced imports from these countries and the subsequent  
17 freefall in Domestic Producers.

18           I am grateful to the Commission for its work  
19 defending Domestic Industries like our Gulf shrimp sector.  
20 I believe in free trade but it must also be fair trade based  
21 on market economics. Trade remedy laws that level the  
22 playing field by offsetting unfair foreign market  
23 distortions have been essential to the preservation of our  
24 middle class and the success of hardworking Americans across  
25 our nation.

1           If the antidumping orders can remain in place in  
2           this particular case that would help insure the continued  
3           survival of the Gulf shrimp industry in my home state. I  
4           thank you for your careful consideration of this case and I  
5           hope that you will stand with me in support of the vital  
6           Gulf shrimp industry, an important economic and cultural  
7           institution in Mississippi as well as our neighboring states  
8           of Louisiana and Alabama.

9           I look forward to news of the continuation of  
10          existing antidumping and duty orders on imported frozen  
11          warmwater shrimp when you vote on May 2nd. Thank you for  
12          your time.

13                 COMMISSIONER SCHMIDTLEIN: Thank you,  
14          Congressman. Are there any questions for Mr. Palazzo? No.  
15          Alright thank you very much for coming.

16                 MR. BISHOP: Our next Congressional Witness is  
17          the Honorable Garret Graves, United States Representative  
18          from the 6th District of Louisiana.

19                 COMMISSIONER SCHMIDTLEIN: Welcome, Mr. Graves.

20                         STATEMENT OF THE HONORABLE GARRET GRAVES

21                 CONGRESSMAN GRAVES: Madam Chair and  
22          Commissioners thank you very much. I am Garret Graves from  
23          South Louisiana. I want to thank you for the opportunity to  
24          be here and address this important issue. I also want to  
25          associate my comments with those of Congressman Jones and

1       Congressman Palazzo however I think that Congressman Palazzo  
2       might have misspoke when he said that Biloxi was the shrimp  
3       capital of the nation. I think he meant to say of  
4       Mississippi.

5                 Grand Isle, Louisiana is the place where we land  
6       more shrimp than anywhere else in the United States. It's a  
7       huge part of our culture and our economy in South Louisiana.  
8       Foodies know Louisiana for our great restaurants, for our  
9       amazing fresh seafood and for our great culture and much of  
10      that is based upon the value of the Gulf of Mexico.

11                What we saw as the result of some of the dumping  
12      activities that were happening from many Asian and South  
13      American Countries is we saw devastation of that industry,  
14      of the culture and of portions of our economy. We saw a 70  
15      percent reduction in fishing effort as a result because our  
16      fishers couldn't compete. I want to be clear; these are  
17      people that I have had the chance to work with for decades.  
18      People that are hardworking folks, incredibly efficient and  
19      the hours that they put in are simply extraordinary.

20                They, if given a fair chance, a level playing  
21      field, they will be able to compete and win. They will be  
22      able to compete fairly. What we have seen as a result, not  
23      just of the subsidies but also exacerbated by illegal  
24      practices by these other countries such as the use of  
25      illegal chemicals in some of their aquaculture operations,

1 has exacerbated the conditions here.

2           The banned chemical allowed their production to  
3 be increased in some of their aquaculture activities and  
4 those chemicals are banned in the United States. You can  
5 still see, even today with the duties in place how in some  
6 cases that these foreign shrimp are still undercutting the  
7 price of those in the United States.

8           We found instances where those countries are  
9 avoiding the duties by trans-shipping the shrimp,  
10 mislabeling them and sending them into the United States and  
11 as you all know, we don't have the inspection capabilities  
12 to fully test for these chemicals and ensure that  
13 trans-shipping isn't happening. I don't need to stand here  
14 and repeat everything that the two previous members of  
15 Congress have said.

16           I want to say this. I want to say that there was  
17 complete devastation, once again, a 70 percent reduction in  
18 our shipping effort in the United States as a result of some  
19 of these illegal practices in other countries. Number two,  
20 what you did in terms of putting duties in place, you have  
21 allowed our industry to begin stabilizing and to no longer  
22 see this precipitous drop off in fishing effort and actually  
23 seeing stabilization in prices, less volatility and you can  
24 see people have invested back into their fishing efforts in  
25 the United States.

1           We're not back to pre-duty conditions here. We  
2           still have a long way to go but you have an opportunity to  
3           continue to allow for those stabilized markets. I  
4           appreciate the fact that you are revisiting this every five  
5           years. I think it is appropriate for us to make sure that  
6           this is still something that makes sense to allow for fair  
7           conditions.

8           I want to reiterate that this absolutely is  
9           critical to allow us to continue to have a stabilized market  
10          and continue to allow our Domestic Producers to compete  
11          fairly as we move forward over the next several years. So I  
12          urge you again to keep these tariffs in place on May 2nd  
13          when you have the vote. Thank you.

14          COMMISSIONER SCHMIDTLEIN: Thank you very much.  
15          Do you have any questions for Mr. Graves? No. Alright,  
16          thank you very much.

17          MR. BISHOP: Madam Chairman, we now turn to our  
18          state government witness, the Honorable Billy Nungesser,  
19          Lieutenant Governor for the State of Louisiana.

20          COMMISSIONER SCHMIDTLEIN: Welcome.

21          STATEMENT OF THE HONORABLE BILLY NUNGESSER

22          LT. GOVERNOR NUNGESSER: Thank you, thank you Mr.  
23          Chairman and thank you for giving me the opportunity to  
24          testify before you today. I'm here before you to represent  
25          the thousands of Louisianans who work in the shrimp industry

1 and rely on the rules that ensure fair trade to maintain  
2 their livelihood and their way of life.

3 I appear before you today to demonstrate my  
4 commitment to the industry and to help articulate the  
5 importance of the current antidumping orders on frozen  
6 warmwater shrimp. One of my statutory duties as Lt.  
7 Governor of Louisiana is to run the Louisiana Seafood and  
8 Marketing Board. We promote America's best seafood across  
9 the country and around the globe.

10 So I'm proud to tell you as a chief advocate of  
11 Louisiana seafood that Louisiana produces more than 850  
12 million pounds of seafood every year. We are the 2nd  
13 largest seafood producing state in the U.S. and we have the  
14 largest commercial fisheries in the lower 48 states. So  
15 there is no question that the shrimp industry is an  
16 indispensable asset of Louisiana's economy.

17 Overall the seafood industry employs nearly  
18 43,000 people in our state. Louisiana shrimpers catch over  
19 50 million pounds of shrimp annually with landed values  
20 exceeding 200 million dollars. In addition, the shrimp  
21 industry is culturally very significant to Louisiana and the  
22 entire Gulf region. Shrimp harvesting and process is a way  
23 of life for many workers and families in my state.

24 Priests still bless the boats in some of the  
25 small communities when the shrimping season begins. We have

1 shrimp festivals and fairs all over Louisiana coastal  
2 communities year round across Louisiana. Many  
3 shrimp-related businesses in Louisiana are family owned and  
4 operated. Generations of Louisianans work side-by-side  
5 harvesting and producing shrimp so that they may be enjoyed  
6 by millions of Americans and people around the world.

7 In fact, my family was involved in the shrimp  
8 industry. When I was growing up I spent time on the docks,  
9 on the boats and in the processing plants of South  
10 Louisiana. My father owned Algiers Canning Company, the  
11 brand of shrimp was Gem of the Ocean and I used to joke  
12 about being my first job was putting the lids on the shrimp  
13 cans a long time ago.

14 These small, family-owned/operated businesses  
15 like my father's cannot compete with the imported shrimp  
16 sold in the U.S. Market below the sales price of the  
17 markets. Before the orders went through, unfairly trade  
18 imports from Brazil, China, India, Thailand and Vietnam  
19 inundated the U.S. Market and drove prices down to  
20 dangerously low levels for the families and businesses that  
21 rely on the shrimping for their way of life.

22 Many fishing and processing businesses were  
23 forced to cut back on production and lay off workers as the  
24 Subject Imports took market share from them. Businesses  
25 were barely breaking even and in some cases, losing money.

1       Fortunately for our fishermen and processors, the Commission  
2       instituted orders on dumping shrimp which has kept  
3       significant volumes of unfairly traded shrimp out of the  
4       market since 2005 allowing the Domestic Industry to compete  
5       fairly.

6               The orders have been beneficially effective on  
7       the industry as prices for shrimp have stabilized and  
8       shrimpers have regained confidence and invested in their  
9       businesses again.  If these orders are revoked, shrimp  
10      processors from Brazil, China, India, Thailand and Vietnam  
11      will resume dumping into the U.S. Market as they did before  
12      the orders went into place.  I want to urge you to keep  
13      those in place and support our local industry.  I thank you  
14      for the opportunity to be here today.

15              COMMISSIONER SCHMIDTLEIN:  Alright, thank you  
16      very much Mr. Nungesser.  Are there any questions for the  
17      Lieutenant Governor?  No.  Alright, thank you for coming.

18              LT. GOVERNOR NUNGESSER:  Thank you.

19              MR. BISHOP:  Madam Chairman that concludes  
20      Congressional and State Government testimony.

21              COMMISSIONER SCHMIDTLEIN:  Thank you very much,  
22      Mr. Secretary.  We will now move to opening remarks.

23              MR. BISHOP:  Opening remarks on behalf of those  
24      in support of continuation of the orders will be given by  
25      Elizabeth J. Drake of Stewart and Stewart.

1                   COMMISSIONER SCHMIDTLEIN: Welcome, Mrs. Drake.  
2                   You may begin when you're ready.

3                   OPENING STATEMENT OF ELIZABETH J. DRAKE

4                   MS. DRAKE: Good morning Madam Chairman, Vice  
5                   Chairman, Commissioners. I'm Elizabeth Drake of Stewart and  
6                   Stewart and I'm here today on behalf of the American Shrimp  
7                   Processers Association in support of maintaining the orders  
8                   on shrimp from the five countries that are under review.  
9                   First, I want to thank the Commission Staff. This case has  
10                  a very large record and many parties and we greatly  
11                  appreciate all of their hard work in compiling the  
12                  Prehearing Staff Report.

13                  The record shows that these orders have  
14                  dramatically tamed unfairly traded imports. From 2001 to  
15                  2003, imports from the Subject Countries jumped by 38  
16                  percent based on public data by volume while their unit  
17                  values fell by nearly 20 percent. After the Petitions were  
18                  filed, import volumes dropped by 20 percent and they have  
19                  stayed below their 2003 peak since then. Since the orders  
20                  were imposed, import unit values have stopped falling and in  
21                  2015 they were nearly 39 percent higher than they had been  
22                  in 2005 before the orders were imposed.

23                  As the orders stabilized, import volumes and  
24                  prices of the Domestic Industry also stabilized. Though the  
25                  Industry has struggled to recover from hurricanes and the

1 Gulf oil spill, the industry was able to increase brandings,  
2 production and employment from 2013 to 2015 with the orders  
3 in place. Fisherman's margins which suffered the most in  
4 the original investigation also appear to have seen the most  
5 improvement under the orders according to the data submitted  
6 to the Commission.

7           Despite these improvements, the Domestic Industry  
8 remains vulnerable. As was true in the original  
9 investigation the conditions of competition offer Domestic  
10 Producers no safe harbor from surges in dumped imports.  
11 Domestic Producers and Subject Imports are highly  
12 interchangeable. Both are available in a wide range of  
13 sizes and forms and over 70 percent of purchasers report  
14 buying both farm-raised and wild caught shrimp.

15           Most sales are still in the spot market where  
16 customers make frequent purchases from multiple competing  
17 suppliers. Price continues to be a key driver with more  
18 than 80 percent of purchasers reporting it is a very  
19 important purchasing factor. Processers are already  
20 operating at a low rate of capacity utilization which makes  
21 them particularly vulnerable to any further loss in  
22 production volume.

23           Processers operating margins continue to be  
24 minimal giving them very little room to withstand price  
25 depression or suppression by Subject Imports. Fuel prices,

1 the largest single component of fishermen's operating  
2 expenses are expected to rise this year and next year. If  
3 the orders are revoked, Foreign Producers stand ready to  
4 once again inundate the U.S. Market with low-priced imports.

5 Foreign Producers have massive and growing excess  
6 processing capacity and Subject Countries are also  
7 increasing their farmed shrimp production. As a result,  
8 Subject Countries production is predicted to grow by over  
9 600 million pounds from 2016 to 2018 enabling them to double  
10 current exports and exceed the peak 2003 export volume by  
11 next year.

12 Highly export-oriented Foreign Producers can also  
13 easily divert large volumes from other markets to the United  
14 States as they have demonstrated in the past. Moreover  
15 there will be every incentive for them to do so given the  
16 rising demand in the U.S., lax import standards compared to  
17 other countries and high prices available in our attractive  
18 market.

19 A renewed onslaught of dumped imports will pitch  
20 the Domestic Industry back into crisis. Processers must  
21 either meet customers' demands to follow import prices down  
22 or lose sales. At a certain point falling prices become  
23 unsustainable if they do not permit fishermen to cover their  
24 costs including rising fuel costs. This reduces the  
25 incentive for fishermen to catch shrimp, driving down

1 landings and depriving domestic processors of their key  
2 input.

3           When this point is reached, the industry begins  
4 to collapse from the bottom up as occurred in the original  
5 investigation. With the orders in place, the industry has  
6 been able to survive repeated natural and manmade disasters.  
7 As long as conditions of fair trade persist, the industry is  
8 committed to fighting for its long-term survival and  
9 success.

10           But if the market is once again thrown open to  
11 large volumes of unfairly traded imports, the future of both  
12 processors and fishermen will be in jeopardy. For all of  
13 these reasons we respectfully ask that the orders be  
14 maintained. Thank you.

15           MR. BISHOP: Opening remarks on those in  
16 opposition to continuation of the orders will be given by  
17 Warren E. Connelly of Trade Pacific, PLLC.

18           OPENING REMARKS OF WARREN E. CONNELLY

19           MR. CONNELLY: Good morning. The domestic  
20 parties and their potential political supporters ask the  
21 Commission to accept their dire prediction that import  
22 volumes will soar and import prices will crash in the event  
23 of revocation. Domestic profits will be wiped out. But the  
24 Commission has heard the identical prediction before.

25           In 2013, the very same shrimp processors and

1 fishermen argued that a countervailing duty order was  
2 absolutely critical to protect them from pervasive subsidies  
3 totally \$13 billion provided by seven countries. Here's  
4 what the Petitioners said three and a half years ago: "If  
5 we cannot obtain relief that offsets the subsidies foreign  
6 producers are receiving, the future of the domestic shrimp  
7 industry and of an entire way of life in the Gulf Region is  
8 at risk."

9                   However, after the Commission voted in the  
10 negative, none of these predictions came true. Import  
11 volume remained stable. Prices increased. Overselling  
12 predominated. Profitability did not drop. So in light of  
13 this history, as well as the overall similarity in the  
14 record then and the record now, there is no basis to  
15 conclude that the domestic industry's latest predictions are  
16 any more compelling now than they were then.

17                   Eight facts fatally undermine their current  
18 predictions. First, per capita apparent consumption in 2015  
19 was identical to apparent consumption in 2003 at four pounds  
20 per person. The increase in subject imports during the  
21 period of review reflected population growth. Second, the  
22 domestic industry cannot supply additional demand because of  
23 the biological and environmental limitations inherent in  
24 fishing.

25                   In fact, the record shows a sustained decline in

1 landings that is not the result of increasing diesel fuel  
2 prices or imports. Diesel fuel prices have fallen  
3 substantially since 2014, and they are going to fall further  
4 because the benchmark crude oil price dropped by nine  
5 percent last week.

6 Third, total imports have remained at the 1.1  
7 billion pound annual level since 2006. Both subject and  
8 non-subject producers have always had the ability to ship  
9 much more shrimp to the United States, but they have not  
10 done so. Fourth, the anti-dumping orders are not an  
11 effective restraint on subject imports from India, Thailand  
12 and Vietnam. China now supplies shrimp for mainly  
13 non-subject suppliers and out of scope breaded shrimp, and  
14 Brazil has a strong home market. Five years ago, the record  
15 did not reflect these developments.

16 Fifth, foreign producers have focused on the  
17 development and expansion of significant higher priced third  
18 country markets and in some cases home country markets.  
19 This is a very different situation from the first review.  
20 Sixth, when significant subject producers have achieved  
21 revocation, their U.S. shipments have actually declined.  
22 This is also a different situation.

23 Seventh, subject imports predominantly oversold  
24 domestic origin products. As our economist Jim Duggan will  
25 explain, this overselling was unrelated to the orders and

1 the situation is unlikely to change upon revocation.  
2 Finally, the domestic industry has always recorded low  
3 operating margins. That is not going to change, regardless  
4 of whether the Commission votes to revoke the orders.

5 Once more, the domestic industry did very well  
6 in term 2016 despite an increase in subject import volumes  
7 and market share. You are going to hear today from industry  
8 witnesses whose companies collectively purchased 200 million  
9 pounds of shrimp in 2015. They're going to provide a  
10 comprehensive further understanding of why subject imports  
11 are not likely to cause injury in the future.

12 In conclusion, the domestic parties rely heavily  
13 on the conditions that supported the results in the original  
14 investigation and the first review. They claim that  
15 everything is the same today as it was back then, so the  
16 result ought to be the same as well. But the facts are not  
17 the same, and the marketplace reality is that imports are  
18 absolutely essential to supply the consumer demand that wild  
19 caught shrimp can never meet. Under all these  
20 circumstances, revocation is entirely appropriate. Thank  
21 you.

22 CHAIRMAN SCHMIDTLEIN: Thank you.

23 MR. BISHOP: Would the panel in support of  
24 continuation of the anti-dumping duty orders please come  
25 forward and be seated. Madam Chairman, all witnesses on

1 this panel have been sworn in.

2 (Pause.)

3 CHAIRMAN SCHMIDTLEIN: All right. Welcome to  
4 the first panel. Ms. Drake, you may begin when you're  
5 ready.

6 MS. DRAKE: Thank you, Madam Chairman.  
7 Elizabeth Drake of Stewart and Stewart for American Shrimp  
8 Processors Association. We'd like to begin our panel with  
9 testimony from some members of the association, starting  
10 with Mr. Gollott.

11 STATEMENT OF E. RICHARD GOLLOTT, SR.

12 MR. GOLLOTT: Good morning. I am Richard  
13 Gollott, Vice President of Golden Gulf Coast Packing  
14 Company, Incorporated, which is located in Biloxi,  
15 Mississippi. My family has been in the seafood processing  
16 business for three generations. Today, my son, two brothers  
17 and three sisters are all in the business. I personally got  
18 started in the seafood business when I was 13 years old.

19 In 1983, I acquired a dock in Biloxi and started  
20 unloading shrimp. We then built a facility to process that  
21 shrimp in 1984. I have appeared before the Commission a  
22 number of times to discuss the damages that unfair imports  
23 have done to our industry, including when the Commission was  
24 considering whether to impose the orders that are now under  
25 review.

1                   When I appeared before this Commission in  
2                   December of 2004, our industry had been overwhelmed by a  
3                   surge of dumped imports. Subject imports were growing and  
4                   gaining market share at our expense. Falling import prices  
5                   drove down prices for our domestic product, hurting the  
6                   bottom line for both fishermen and processors.

7                   The impact of the domestic industry was truly  
8                   devastating. During the 2004 calendar year alone, the  
9                   number of shrimp boats unloading at our dock dropped from 95  
10                  to 64, a decline of 30 percent. I am proud that the  
11                  industry joined together to petition for these orders and  
12                  save our domestic shrimp production. The orders that were  
13                  imposed in 2004 stopped the downward spiral our industry had  
14                  been trapped in.

15                  While the volume of imports from these five  
16                  countries has fluctuated over time, it has stayed well below  
17                  pre-peaks in 2003. Prices have stabilized, bringing new  
18                  relief to both processors and fishermen. In the case of  
19                  Golden Gulf, the orders made it possible for us to add some  
20                  new freezers and additional processing capacity in 2005.  
21                  Just as importantly, the orders have given our fishermen  
22                  their lifeline they needed to keep going out and catching  
23                  the shrimp that keeps our plant running and our employees  
24                  working.

25                  Despite the important benefits of the orders

1 have had, our industry remains highly vulnerable. After the  
2 Deep Water Horizon oil spill closed fishing grounds in the  
3 Gulf and drove down annual landing to near all-time lows in  
4 2010, our industry has been able to increase its annual  
5 landings, but those landings remain below the average levels  
6 of landings in prior years.

7 Processors are thus already operating well below  
8 capacity, making it far more difficult to withstand a  
9 renewed surge of imports without some processors having to  
10 shut down for good. Processors' operating income margins  
11 have remained minimal over the period of the review, and  
12 fishermen's margins are threatened by rising fuel costs.

13 If the orders are revoked and the dumped imports  
14 once again undercut and drive down domestic prices, they  
15 will erase any returns the industry is currently able to  
16 generate. All of the conditions that allowed subject  
17 imports to injure the domestic industry in the original  
18 Period of Investigation persist today.

19 Domestic shrimp and subject imports are still  
20 interchangeable and prices continue to be a major factor in  
21 purchasing decisions. What has changed since the original  
22 investigation is sheer scale of the shrimp farming and  
23 processing in these countries. Annual shrimp aquaculture  
24 production in these five countries has more than doubled  
25 from 3.2 billion pounds in 2003 to 7.3 billion pounds in

1 2015, and it is projected to continue increasing these years  
2 and next.

3           Processors in the subject countries report they  
4 had nearly one billion pounds in excessive, underused  
5 capacity in 2015. This is enough to more than double their  
6 2015 exports to the U.S. and wipe out our domestic industry  
7 many times over, all without diverting product from other  
8 markets. It would take just a fraction of this foreign  
9 production and processing capacity to quickly ramp exports  
10 above and beyond the levels found to cause material injuries  
11 in the original investigation.

12           Foreign producers have demonstrated their strong  
13 interest in the U.S. market through their continuous  
14 persistence, even with the orders in place. If the orders  
15 are revoked, these countries will come storming back in with  
16 even larger volumes of imported shrimp. Then the fishermen  
17 won't be able to afford to go out and harvest shrimp, and  
18 the processors such as Golden Gulf will not have enough  
19 shrimp to process.

20           The boats will remain tied up at the docks,  
21 workers will be laid off, processors will simply close their  
22 doors and a unique American way of life and culture will  
23 cease to exist. As someone whose family has been in the  
24 business for three generations and with the fourth  
25 generation taking over, I ask you not to let this happen.

1 Thank you.

2 STATEMENT OF ALAN GIBSON

3 MR. GIBSON: Good morning. My name is Alan  
4 Gibson. I am the president and owner of Tideland Seafood  
5 Company, Incorporated. We are located in Dulac, Louisiana.  
6 I am the fourth generation of my family to be in the shrimp  
7 industry. The shrimp industry is one of the largest  
8 employers in Dulac, and I've committed myself to helping  
9 promote this industry.

10 I am currently the chairman of the Louisiana  
11 Shrimp Task Force, and previously served on the Louisiana  
12 Seafood Promotion and Marketing Board. Anti-dumping orders  
13 on shrimp from Brazil, China, India, Thailand and Vietnam  
14 have had important benefits to our industry. But the  
15 industry remains highly vulnerable to renewed, unfair trade  
16 if the orders are revoked.

17 While the orders have helped restrain import  
18 volumes and prices, subject imports remain an important part  
19 of the market, and they continue to compete with the  
20 domestic producers on a basis of price. I compete with  
21 imports every day. It's just a daily fact of life in our  
22 business. Many of our customers purchase domestic as well  
23 as imported product.

24 Most of our sales are on a spot basis, and we  
25 need to keep our prices competitive with imports to make

1 sales. My customers and brokers regularly tell me about the  
2 lower prices they pay for imported shrimp. In some cases I  
3 cannot meet these prices and still afford to pay the boats  
4 what they need to maintain their fishing, and also cover our  
5 own cost.

6           When that happens, I lose the sales. While I  
7 try to make sales on the basis that I offer a high quality,  
8 great-tasting wild American shrimp product, far too many  
9 customers are more interested in price than anything else.  
10 When imports are available in the same forms and sizes as my  
11 product, and they always are, I need to respond to  
12 customers' price requests in order to make sales.

13           Because U.S. processors have to bid against  
14 imports to sell our shrimp and our costs are based book  
15 prices, our margins are extremely thin. This also causes  
16 our vessels to struggle. Years ago we had 13 processing  
17 plants in Dulac. Today, we only have three. I am hopeful  
18 that we can make the needed investments to preserve our  
19 plant for years to come.

20           But if the orders are revoked and imports of  
21 these five countries are allowed to flood back into the  
22 market with no price discipline, it will put our very  
23 survival at risk. Much of our equipment is over 30 years  
24 old, and the only thing that has helped us make some needed  
25 repairs at this pint has been compensation from the BP oil

1 spill of 2010. We have also seen fishermen reinvest these  
2 funds in the businesses and make upgrades and repairs that  
3 have been put off for far too long. And contrary to what  
4 some have claimed, we do not see fishermen exit the  
5 industry or reduce fishing effort because of BP payments.

6           Instead like me, they are dedicating those funds  
7 that have been -- to their businesses that have been  
8 strapped for years. But this compensation is just a  
9 one-time thing. After it is gone, we need to be able to  
10 generate regular returns from our businesses in order to  
11 survive as an industry. As long as these orders remain in  
12 place, we will have some hope of being able to maintain  
13 prices and encourage fishermen to fish.

14           Without these orders, we will once again be  
15 forced to compete with rising import volumes and falling  
16 prices with no bottom in sight. Unfortunately, with  
17 competition as fierce as it is in this market, it's hard for  
18 me to know if investing those funds back into my business  
19 was the right thing to do. I also considered adding a line  
20 to produce individually quick frozen product at our plant,  
21 but it's hard to justify adding expensive and new equipment  
22 if we cannot earn a price premium on that product due to  
23 competition of unfairly-traded imports.

24           If these orders are revoked, any improvements  
25 that we've been able to make will be at risk to a renewed

1       onslaught of dumped imports. Like my great grandfather,  
2       grandfather and father before me, I've committed my career  
3       to producing Gulf shrimp. I would like to see this industry  
4       to survive for years to come. But to be honest, I already  
5       worry about the ability to pass our business on to the next  
6       generation.

7                       Without these orders in place, I fear there will  
8       be nothing to hand down. I have worked with processors,  
9       fishermen and the state of Louisiana on an array of issues  
10      that face our industry, whether it is environmental,  
11      management concerns or marketing strategies. But the most  
12      urgent threat that we all face is the prospect of renewed  
13      competition from unfairly traded imports from Brazil, China,  
14      India, Thailand and Vietnam.

15                      Producers in these countries have demonstrated  
16      their ability to use dumping and price undercutting to gain  
17      market share. They remain committed to the U.S. market.  
18      Their shrimp farming is projected to grow this year and  
19      next, and they have hundreds of millions of pounds of excess  
20      processing capacity available to ramp up production and  
21      exports if these orders are revoked.

22                      If these orders go away, all the work that we  
23      have done as an industry to help us compete over the long  
24      haul will have been done in vain. For these reasons, I  
25      respectfully ask the Commission to keep these orders in

1 place. Thank you.

2 STATEMENT OF CHALIN DELAUNE

3 MR. DELAUNE: Good morning Madam Chair, Vice  
4 Chairman, Commissioners. My name is Chalin Delaune, and I'm  
5 the Vice President of Tommy's Seafood Incorporated, located  
6 in New Orleans. My father started Tommy's about 35 years  
7 ago. I'm the second generation in the business, together  
8 with my three brothers, who are all active in the company.  
9 Ever since I was a young boy, I knew I wanted to be in the  
10 shrimp business like my mom and dad.

11 Though the industry is a very challenging one,  
12 I'm deeply passionate about it, and want to spend my career  
13 supporting my family in the seafood industry. As vice  
14 president, I focus on all aspects of the business, from  
15 purchasing through production and sales. All of the shrimp  
16 we produce is individually quick frozen, and we produce  
17 shrimp in a range of styles including head on, headless and  
18 easy peel.

19 I understand that the foreign producers who want  
20 the existing orders revoked because -- have argued that  
21 there is a lack of competition between domestic and imported  
22 shrimp because domestic producers either do not or cannot  
23 produce certain value-added forms of shrimp such as easy  
24 peel and cooked shrimp.

25 This is simply not the case. Not only do we

1 already produce easy peel shrimp, we've also invested in  
2 plants to produce cooked shrimp and other additional forms  
3 of value-added shrimp products. For these plants to have a  
4 fair shot at success, we need the anti-dumping orders to  
5 remain in place. Last year, we acquired a value-added food  
6 plant and also have a boiler system, steam tunnel and other  
7 equipment installed to produce cooked shrimp.

8           We just got up and running this year and after  
9 some product development efforts, we hope to be fully  
10 operational this fall. We are excited to have this  
11 opportunity to expand our business and our product  
12 offerings. I'm very hopeful about the future of our  
13 company. I'm not content to simply tread water. I want to  
14 constantly grow and develop, to continue to build upon the  
15 legacy of my parents.

16           There's one major obstacle to our growth plans,  
17 imports. Easily the biggest hurdle we face is that all of  
18 the new customers we want to gain business with are already  
19 purchasing imports, and even with the orders in place, the  
20 prices for some of this imported product are extremely low,  
21 making it difficult for us to gain customers if we cannot  
22 meet the import price.

23           We're hopeful that the quality and service we  
24 can provide will help us make inroads into this part of the  
25 market. But we need import prices to be disciplined to give

1 us a chance. If the orders are revoked and importers once  
2 again use price undercutting to flood the market, all of the  
3 work we've done and investment we've made will be at risk.

4 I know our company is not the only one at risk.  
5 Our fishermen are constantly juggling to make sure they can  
6 cover their fuel and other costs over which they have no  
7 control in the face of dockside prices that can fluctuate  
8 sharply based on changes in import prices. This year I was  
9 selected chairman of the Louisiana Seafood Promotion and  
10 Marketing Board, and I hear similar stories from other  
11 shrimp processors and fishermen.

12 Though we work hard to promote Louisiana's  
13 seafood throughout the country and the world, many customers  
14 are sadly misinformed about the origin of the food they eat.  
15 They seek out lower prices for shrimp, which is a center of  
16 the plate item where the profit on a meal is made. Despite  
17 our efforts, we continue to face many challenges  
18 distinguishing and marketing our product in the mind of the  
19 average consumer.

20 For far too many of them, a shrimp is just a  
21 shrimp. This makes us particularly susceptible to unfair  
22 import competition. Even though our shrimp is wild caught  
23 and most imports are farmed, they look the same and to many  
24 consumers they taste the same. Most customers buy both  
25 imported and domestic, and both wild caught and farmed for

1 the same end uses.

2 Price is thus a very important factor in  
3 purchasing decisions. Many purchases are on the spot  
4 market, where prices can and do change quickly in response  
5 to trends in import prices. These dynamics allow for shrimp  
6 from the five subject countries to gain market share at the  
7 direct expenses of the domestic industry, and to quickly  
8 drive down prices to unsustainable levels.

9 If these orders are revoked, these trends will  
10 resume. With already high excess capacity and already low  
11 returns, our industry could quickly see its operating  
12 margins evaporate as we lose more sales volume and sea  
13 prices crater. If fishermen cannot cover their costs, the  
14 incentive to fish will dry up and supply will disappear.

15 The only way to prevent this injury from  
16 recurring is to keep the orders in place on all five  
17 countries. I have great hope for our industry if the orders  
18 are kept in place. I'm committed to following in my  
19 parents' footsteps and making my living in the shrimp  
20 industry, and I am excited about the potential for us to  
21 grow and advance.

22 But we need a fair shot in order to make these  
23 hopes a reality. This Commission can make all the  
24 difference by voting to keep the existing orders in place on  
25 imports from Brazil, China, India, Thailand and Vietnam.

1 Thank you and God bless.

2 STATEMENT OF O. STEVEN BOSARGE

3 MR. BOSARGE: Good morning Commissioners, Madam  
4 Chair. My name is Steve Bosarge. I own Bosarge Boats as  
5 well as B&B Boats and operate five shrimp trawlers out of  
6 Pascagoula, Mississippi. I appeared before this Commission  
7 at the last sunset review. My family and I has been in the  
8 commercial fishing business for four generations. I  
9 purchased my first shrimp boat after high school in 1976,  
10 and have been in the industry ever since.

11 In addition to being a fishermen, two years ago  
12 I became the president of Southern Shrimp Lines, after  
13 serving on the board of directors of that organization.  
14 Since 2008, I've served as one of five commissioners on the  
15 Mississippi Commission of Marine Resources and am currently  
16 the vice chair of the Commission.

17 In that role, I work with state government staff  
18 to develop management plans that result in the sustainable  
19 use of Mississippi's resources. I am also currently the  
20 vice chair of the Shrimp Advisory Panel for the Gulf of  
21 Mexico's Fishery Management Council. Shrimping put my three  
22 daughters through college. One of them, Leann, received her  
23 MBA and started a banking career before returning to the  
24 family business.

25 In 2013, Leann joined the Gulf of Mexico's

1 Fishery Management Council, and currently serves as the  
2 chair of that Council. The last time I was here, I talked  
3 about what the industry has done to focus on quality and  
4 improved efficiency in commercial shrimping operations.  
5 Today, I want to talk about the resource and how that plays  
6 into our industry's production.

7 In my various roles, I spent a lot of time  
8 thinking about the impact the environment has on commercial  
9 fishing industries. Mother Nature has a hand in determining  
10 what we catch. For example, there was a lot of rain in  
11 Texas last year and because of that, there was a reduced  
12 number of shrimp seen in the western portion of the Gulf.

13 As a result, there was less shrimping effort in  
14 those waters and landings were down. At the same time,  
15 hurricanes in the South Atlantic led to massive amounts of  
16 white shrimp being caught in that region in the latter part  
17 of this season. Three of our boats went to fish over there  
18 and they're still over there now.

19 For the first time in my many years of  
20 shrimping, I actually purchased two licenses to shrimp in  
21 North Carolina state waters. All in all, the Gulf of Mexico  
22 is healthy and our resource the shrimp is doing well. The  
23 overall number of shrimp our industry is producing is down  
24 compared to ten years ago, but that is due to economics, not  
25 biology.

1                   Before my trawlers can work, I need to have some  
2                   idea about what the dockside price for shrimp is going to  
3                   be. I have to consider whether the shrimp that we produce  
4                   is going to be enough to cover the money it costs to send  
5                   those boats out. A long time ago before the flood of dumped  
6                   shrimp imports, back when prices were higher, you could get  
7                   a decent night's work if you pulled in 250 pounds of shrimp.

8                   Now to meet our expenses at current prices, we  
9                   need to produce around 1,000 pounds of shrimp. If we cannot  
10                  produce that amount, the fleet does not go out and we do not  
11                  catch anything. Therefore, the reality is that the fleet  
12                  catches less shrimp. After the flood of dumped imports, the  
13                  future of the shrimping industry was not bright.

14                  However, in the last few years with the price of  
15                  shrimp stabilizing, improved efficiency in our operations  
16                  and the reduction in the fleet, the horizon is changing.  
17                  The compensation that we received from BP for the Gulf oil  
18                  spill has helped. We participated in the seafood  
19                  compensation program. That program is now ended and we do  
20                  not expect to receive any further disbursements from BP.

21                  Diversifying our operations has also helped.  
22                  But what we've been able to do to survive, such as handling  
23                  research work for universities, site cleanup work and the  
24                  decommissioning process of oil platforms and relocating  
25                  endangered species are things that are not easily replicated

1 by others in the industry.

2 In some of the work we do, my boats get paid to  
3 catch sea turtles. I do not think a lot of people hear  
4 about environmentalists wanting shrimpers to catch turtles.  
5 But that is what we do. Our work helps to protect those  
6 endangered species and ensure that my grandkids and your  
7 grandchildren have a chance to see them somewhere other than  
8 in an aquarium or in a zoo.

9 The captains of my boats and I remain shrimpers  
10 at heart, and we are proud that much of work ensures a  
11 sustainable environment for future commercial fishing. You  
12 will see in the information that we submitted to you that  
13 our shrimping activities increased throughout the period  
14 that the Commission is looking at. The Commission's  
15 determination in 2004 and 2011 have allowed me to remain a  
16 shrimper. I thank you for that, and I ask that you once  
17 again vote to keep the anti-dumping duties in place. Thank  
18 you.

19 STATEMENT OF KEN GARCIA

20 MR. GARCIA: Good morning. My name is Ken Garcia.  
21 My Aunt Regina Pena appeared before this Commission during  
22 the last sunset review to testify in favor of the  
23 antidumping duties.

24 While I am the second generation of my family to  
25 testify before you, I represent the third generation of my

1 family to be in the commercial shrimping industry. My  
2 grandfather bought his first fishing boat in 1950 and now,  
3 along with my uncles and aunt, my family owns and operates  
4 22 shrimp boats working out of Palacios, Texas, as well as a  
5 loading dock and a marketing company.

6 After I obtained a business degree from UTSA four  
7 years ago, I joined the family business full-time. On a  
8 daily basis I am responsible for managing 11 of the shrimp  
9 boats in our fleet. I have to make sure that we are  
10 efficiently unloading high-quality product on the most  
11 efficient basis as possible so that Philly Seafood, the  
12 marketing arm, can compete for sales and retail and food  
13 service sectors.

14 Every day my captains and I have to deal with  
15 ever-increasing regulations that cut into our bottom line.  
16 Regulations about where we can fish, about how our vessels  
17 operate, about who we can hire, and virtually every aspect  
18 of our business. The regulations present a challenge and  
19 they directly affect our cost structure, but my job is to  
20 deal with that and get our boats out on the water working.

21 Our boats work the waters from South Texas to the  
22 Mississippi River. How much they work is a function of the  
23 market. In other words, the boats work when it is  
24 profitable to work. Depending on prices in the marketplace  
25 and depending on our costs, one of our boats might work six

1 months a year, or might work ten months a year. Right now,  
2 we generally work nine months of the year and are hoping to  
3 extend that even further.

4 In addition to how many days we fish, how much a  
5 boat trawls or drags on a given night is also a function of  
6 the market. When market conditions are in our favor, our  
7 boats can trawl in the day and in the evening. Right now,  
8 our boats just work at nighttime.

9 What stops me from working my boats more is the  
10 risk of taking heavy losses. If I keep our engines running  
11 and burn fuel without enough production to cover our costs,  
12 we will not operate for long.

13 In the industry, dumped imports are not some  
14 imagined threat to our business. We see directly how import  
15 prices impact our prices. About half of the shrimp from our  
16 boats we have processed by packing plants is IQF frozen, and  
17 the other half is block frozen. Any shrimp of ours sold  
18 into a grocery store is going to be IQF

19 In those settings, our shrimp is competing  
20 directly with imports. A consumer is not going to pay more  
21 for Gulf shrimp if imported shrimp is sitting right next to  
22 it in the retail case or freezer at much cheaper prices.

23 Unless our prices are competitive with those of  
24 imports, we lose customers. And that gets communicated back  
25 to the boats in terms of lower dockside prices. That is why

1 I am here this morning.

2 For me, getting rid of the antidumping duties  
3 means that we are going to return to the days where my  
4 father and his brothers faced a market where imports fought  
5 for consumers at prices that kept declining and forced us to  
6 go down with them.

7 I joined the family business at a different time,  
8 at a time when the antidumping duty orders have provided  
9 stability and given us the ability to improve and expand our  
10 business operations. I do not want to see all that we have  
11 done wiped away because of empty assurances that we do not  
12 have to worry about unfairly traded imports any longer.

13 From my perspective, there is a long future for  
14 me in shrimping. I am fortunate to be able to follow in the  
15 footsteps of my father and his father before him. Our crews  
16 are hard-working and love this business as much as I do.  
17 Because of our location, we did not qualify for BP Seafood  
18 compensation program, but we were able to get some money  
19 from BP last year out of individual settlement. It was a  
20 fraction of what others received, and is all that we will  
21 get.

22 In this business, we will survive and thrive by  
23 virtue of our hard work and our commitment to constantly  
24 improving. When she was here last, my Aunt said that she  
25 was living proof that these orders have worked to help the

1 industry. So am I.

2 Thank you for having me here today, and I look  
3 forward to any questions you might have.

4 STATEMENT OF MICHAEL HOOPER

5 MR. HOOPER: Good morning. My name is Michael  
6 Hooper and I'm the Business Manager for Bowers Shrimp Farm  
7 and Bowers Seafood LLC. I started working with the Bowers  
8 team in 2009, joining a core team that had been in the  
9 company since its inception. But my history with the shrimp  
10 industry goes back even further, as I worked with Ken's  
11 father and separately worked in the grocery industry before  
12 being employed by the Bowers family.

13 Bowers Shrimp Farm is located near the small town  
14 of Collegeport, Texas, on the east side of Tres Palacios  
15 Bay. Reed Bowers has managed the Farm for nearly two  
16 decades. He started working in shrimp farming as a teenager  
17 and eventually bought the facility from his father in 2008.

18 The Shrimp Farm itself began operations in 1989.  
19 As the largest producer of farm-raised shrimp in the United  
20 States, Bowers is the leading aquaculturist in this country.  
21 In South Texas, large-scale shrimp farming is not only  
22 economically feasible but it is also profitable if allowed  
23 to compete on a level playing field.

24 Our aquaculture facility consists of 92 ponds.  
25 We have a growing season outside of about six months running

1 from the end of March to the end of October. We also have  
2 an indoor facility with raised trays to start growing our  
3 pars larva shrimp before stocking our ponds.

4           Extending our growing seasons to two months, our  
5 setup allows us to double-stock during a single growing  
6 season. Bowers Seafood LLC is our processing facility. The  
7 original built--the plant was originally built to process  
8 our production of Bowers Shrimp Farm, but we also toll  
9 process wild-caught shrimp for Philly Seafood.

10           Our plant packs head-on shrimp grown at Bowers  
11 Shrimp Farm, as well as headless shrimp. They may have been  
12 wild caught in the Gulf of Mexico or farm-raised in a Texan  
13 pond. Except for a small amount of fresh shrimp, all of our  
14 farm-raised shrimp is individually quick-frozen.

15           All the Gulf shrimp processed at Bowers Shrimp  
16 Farm or Bowers Seafood is done on a contract basis. The  
17 shrimp process for Philly Seafood is marketed and sold by  
18 Philly under their brand.

19           We pack both wild-caught and farm-raised shrimp  
20 for Philly. Bowers Shrimp Farm markets and sells our own  
21 shrimp under the Bowers brand.

22           My views on antidumping duties are formed by what  
23 I saw in the industry when I joined Bowers in 2005.  
24 Following the flood of dumped imports into the U.S. market,  
25 Bowers was stuck with a large amount of inventory somewhere

1 around a million and a half pounds of shrimp.

2 In trying to move the inventory, potential  
3 customers compared us to the prices of those Asian imports.  
4 If we could not be competitive in price, we could not make  
5 the sale. The Bowers team learned valuable lessons from  
6 that ordeal that continue to influence our financial  
7 decisions today.

8 We market our shrimp emphasizing it as "Made In  
9 The USA.'" We promote the uniqueness of our shrimp. But we  
10 do business in a world of imports. Reed monitors the  
11 volumes and prices of shrimp coming out of Asia and South  
12 America because of the importance they have of a direct  
13 effect on current and future market conditions.

14 Each year we have to make decisions based--about  
15 packaging either head-on or headless shrimp. The maximum  
16 length of inventory hold for head-on shrimp is approximately  
17 18 months, and for headless it is up to two years.

18 For the headless or tails market I have to pay  
19 close attention to the volume and prices of the shrimp  
20 coming out of the subject countries. Although it is  
21 economically safer for us to grow smaller-sized shrimp for  
22 the tails market, the threat of import competition coming in  
23 and dropping the bottom out of the market is ever-present.

24 What you decide here matters for our business.  
25 We cannot retreat completely to the head-on market and hope

1 to maintain our current level of production and sales, but  
2 we also cannot stock inventory and absorb the risk of loss  
3 when dumped inventories bring prices down.

4 Bowers is a growing business. We have made  
5 millions of dollars of capital investments into the farm and  
6 the processing plant, which has created hundreds of jobs.  
7 We play an important role in our community, with employees  
8 serving as firemen, coaches of local sports teams, members  
9 of local school boards, and hospital boards.

10 With current market conditions, if the duties are  
11 removed prices will drop below profitable levels. This will  
12 threaten all of our investment in jobs that we have created.  
13 As a producer of farm-raised shrimp, the only limits to our  
14 productions are economic. We are the only ones recently--we  
15 are not the only ones. Recently new types of large shrimp  
16 farms have started operations. The infrastructural  
17 commitments made by these farms are much more significant  
18 than the past generation of U.S. fish shrimp farms.

19 We are aware of a number of other farmers who are  
20 currently developing business plans for future shrimp farms.  
21 We are even seeing an interest from abroad in investing in  
22 the shrimp aquaculture production in the United States.

23 Therefore, although we continue to be wary of  
24 unfair import competition, we are also able to talk about  
25 possibilities. Thank you for the opportunity to share my

1 perspective today. I'll be glad to answer any questions.

2 STATEMENT OF NATHAN RICKARD

3 MR. RICKARD: Good morning. I am Nathan Rickard,  
4 counsel for the Ad Hoc Shrimp Trade Action Committee and for  
5 the Ad Hoc Shrimp Industry Committee.

6 I want to take a few minutes this morning to  
7 address two very different topics.

8 First, we also wanted to thank the staff for the  
9 tremendous amount of work that went into a comprehensive  
10 report. We appreciate that this industry poses significant  
11 challenges for the Commission's already severely taxed  
12 resources, and we recognize that we added to that burden in  
13 these reviews.

14 In the original investigations, the Commission  
15 received 130 questionnaire responses from fishermen. They  
16 reported 16.3 million pounds of net sales in 2003, and were  
17 estimated to have accounted for roughly 6.5 percent of all  
18 the landings that same year.

19 In the first sunset reviews, the Commission  
20 received 156 questionnaire responses from fishermen. They  
21 reported 9.4 million pounds of net sales in 2009 and were  
22 estimated to have accounted for about 4.3 percent of all  
23 landings.

24 In these reviews, the Commission received 178  
25 questionnaire responses from farmers and fishermen that

1 collectively reported 26.2 million pounds of net sales in  
2 2013. The volume of sales reported in these reviews is more  
3 than the net sales reported in the original investigations  
4 in the first sunset reviews combined.

5 In order to obtain that many responses, members  
6 of this industry held town hall meetings throughout the Gulf  
7 and South Atlantic. In addition, fishermen reached out to  
8 their friends and neighbors to educate them about these  
9 proceedings.

10 I participated in some of those town hall  
11 meetings. At them, I met a lot of people who find all of  
12 this overwhelming. I spoke with many who believe that their  
13 voice does not matter. Still, scores of families sat down  
14 with their books and tax records and filled out a  
15 questionnaire as best they could.

16 Within the industry, a rational response to  
17 something like these sunset reviews is to let someone else  
18 take care of it, for people to focus on the thousands of  
19 things that are piled up in the course of running a small  
20 business and leave it to others to step up.

21 Here, families took it upon themselves to give  
22 the Commission information because they hope it will make a  
23 difference. What we have heard from many of them is that  
24 Commission staff went above and beyond expectations in  
25 answering questions and being available to people who sought

1 help. That really is incredible in the context of the  
2 workload the staff faced, and we are very grateful.

3 The second topic I wanted to touch on this  
4 morning is circumvention of the antidumping duty orders.  
5 Meaningfully addressing trade fraud has been a priority over  
6 the last several years, and the industry as a whole has had  
7 some success.

8 For the purposes of these sunset reviews, the  
9 Commission should look closely at shrimp trade with  
10 Malaysia. During the period of review, China's exports of  
11 shrimp to Malaysia and Malaysia's simultaneous exports of  
12 shrimp to the United States demonstrates how quickly and  
13 easily large volumes of cheap shrimp can be absorbed into  
14 the U.S. market.

15 The staff reports shows that Malaysia was China's  
16 third-largest export market for shrimp in 2013 in terms of  
17 volume, and it's largest in terms of value. In 2014,  
18 Malaysia was China's single largest export market of shrimp  
19 for both volume and value, accounting for roughly one of  
20 every five pounds of China's exports, with a total value of  
21 around \$340 million.

22 At the same time, between 2013 and 2015, Malaysia  
23 exported nearly 78 million pounds of shrimp to the United  
24 States. On its own, Malaysia accounted for 3.8 percent of  
25 the 2 billion pounds of nonsubject shrimp imports during

1 those three years.

2 China's exports of shrimp to Malaysia declined  
3 substantially in 2015. In the first nine months of 2016,  
4 the U.S. imported less than 400,000 pounds of shrimp from  
5 Malaysia.

6 On the other hand, China's shrimp exports to the  
7 U.S. nearly tripled in volume between 2014 and 2015. At its  
8 peak, the United States imported almost 39 million pounds of  
9 shrimp from Malaysia in 2014. That was nearly double the 21  
10 million pounds imported the year before.

11 In 2014, Malaysia accounted for 3.4 percent of  
12 all U.S. shrimp imports. In interim 2016, it was 0.0  
13 percent. These remarkable shifts in supply demonstrate how  
14 easily importers and distributors can shift to the cheapest  
15 sources of shrimp available. The large shifts in China's  
16 exports to Malaysia similarly show how easy it is for  
17 subject exporters to move shipments from one market to  
18 another.

19 These rapid, significant movements are  
20 inconsistent with the arguments presented by those who  
21 oppose the antidumping duties.

22 We work the counter-circumvention, we confront a  
23 market that moves towards the least expensive source of  
24 supply. Shrimp of questionable provenance is distributed by  
25 companies with extensive experience in the seafood industry,

1 sold to major retailers and restaurants that should know  
2 better. As long as the price is right, the brand of the  
3 shrimp doesn't matter. The country-of-origin of the shrimp  
4 doesn't matter. Price is paramount.

5 And with that, let me turn things back over to  
6 Elizabeth Drake.

7 STATEMENT OF ELIZABETH DRAKE

8 MS. DRAKE: Thank you very much, Nathan.  
9 Elizabeth Drake of Stewart and Stewart for the American  
10 Shrimp Processors Association.

11 I would like to conclude our panel with a short  
12 PowerPoint presentation that goes through some of the facts  
13 of record in this case, and some of the legal factors that  
14 the Commission will look at in its analysis.

15 (A PowerPoint presentation follows:)

16 First we'll look at cumulation, then review the  
17 conditions of competition, talk about the likely volume of  
18 imports if the orders are revoked, likely price effects, and  
19 the likely continuation or recurrence of material injury  
20 within a reasonably foreseeable time.

21 With regard to cumulation, the Commission's  
22 record shows that all of the factors are met to cumulate  
23 subject imports from all five countries. Imports from any  
24 one of these countries would have more than a discernible  
25 adverse impact if the order was revoked on that country.

1           There continues to be a reasonable overlap in  
2 competition between the subject imports from all five  
3 countries. They continue to be fungible and present in the  
4 same channels, regions, and time periods. For imports that  
5 have been absent from the market, they showed that they met  
6 these factors in the original investigation and there's no  
7 reason to believe that conditions of competition have  
8 changed to such an extent that they would not be met if the  
9 orders were revoked.

10           The only country that has contested cumulation is  
11 Brazil, but we believe the record shows that the Commission  
12 should include Brazil in cumulated subject imports just as  
13 it did in the first review. Imports from Brazil will have  
14 more than a discernible adverse impact if the order on  
15 Brazil is revoked.

16           In the original Period of Investigation, imports  
17 from Brazil more than doubled from over 21 million pounds to  
18 48 million pounds, in just two years, from 2001 to 2003, and  
19 they retreated from the U.S. market since the order was  
20 imposed, but the Commission has previously found that this  
21 is merely the effect of the order on Brazil.

22           In 2015, Brazilian producers responding to the  
23 Commission's questionnaires reported that they had more than  
24 100 million pounds of excess processing capacity, which  
25 would be enough to more than double their peak 2003 import

1 level of 48 million pounds. And it's not just excess  
2 processing capacity. There's also a projected increase in  
3 farmed production in Brazil, this year and next, for a net  
4 increase of 20 million pounds from 2016 to 2018 that would  
5 be easily absorbed in that excess processing capacity.

6 Brazilian Respondents have argued that they are  
7 now focused on their home market and thus they have no  
8 interest in exporting, but the record shows otherwise.

9 As the Commission is aware, Brazil is currently  
10 in the worst recession it's had in more than 20 years. I  
11 heard this morning that it's ever had, and recovery at  
12 any sustainable level is not expected soon.

13 In addition, there is evidence that the industry  
14 in Brazil is in fact increasingly interested in exports  
15 because of declining domestic conditions. In 2013, shrimp  
16 producers in one province in Brazil reported that they  
17 planned to export 50 percent of their production in the  
18 coming year. In 2013 and 2014 there were reports that  
19 Brazilian shrimp producers were testing international  
20 markets with their product. In 2014, Brazil lost its GSP  
21 preferences in the EU market, one important market, making  
22 that a less favorable market for its exports.

23 In interim 2016, responding Brazilian producers  
24 to the Commission's questionnaire reported that they reduced  
25 home market shipments and increased export shipments by very

1 similar amounts.

2 In November of last year, Brazil's agriculture  
3 ministers said that they need to increase their shrimp  
4 exports. And at the end of this week and next week there's  
5 an annual Boston Seafood Show that is the major industry  
6 event, and on the website you can see that there are 15  
7 Brazilian seafood producers that are signed up to be  
8 exhibitors. Not all of them disclose what products they  
9 produce, but at least six of them list shrimp as one of the  
10 products they offer. So clearly a strong interest in the  
11 U.S. market from Brazilian producers, and an indication that  
12 revocation would have a discernible adverse impact and thus  
13 imports from Brazil should be cumulated together with all  
14 the other countries.

15 Turning to the conditions of competition, the  
16 Commission's Staff Report shows that domestic consumption  
17 rose 15 percent over the POR, and it's projected to continue  
18 increasing. Supply is plentiful, and projected to increase,  
19 and it's plentiful from all sources. While landings are a  
20 bit lower than they have been historically, they have been  
21 able to increase since the Gulf oil spill in 2010, and they  
22 rose from 2013 to 2015, and processors obviously have a  
23 large amount of excess capacity to process any added  
24 production.

25 Another condition of competition is that subject

1 imports in the domestic like product are highly  
2 substitutable, and price continues to be an important factor  
3 in the marketplace.

4 Turning to substitutability, the staff report  
5 shows that more than half of firms report that subject  
6 imports and the domestic like product are always, or  
7 frequently interchangeable. This is including all firms,  
8 producers, importers, and purchasers. And that's for each  
9 subject country compared to the domestic like product.

10 The Staff Report also shows that purchasers  
11 report that subject imports are comparable to the domestic  
12 like product across most of the 18 purchasing factors they  
13 were asked to report on. Brazil, it was only 9 out of 18  
14 that either a plurality or majority reported were  
15 comparable, but again Brazil has been absent from the market  
16 as a result of the order so therefore there may be a little  
17 bit less familiarity with it than there was in the original  
18 investigation.

19 And in terms of quality, a majority of purchasers  
20 report that both domestic and imported product usually or  
21 always meet minimum quality specifications, with 82 percent  
22 of purchasers reporting that for domestic product, and  
23 similar percentages for subject imports.

24 Again for Brazil it was 50 percent, probably  
25 likely due to a little bit less familiarity.

1           Another important condition of competition is the  
2           inability of consumers to distinguish domestic and imported  
3           shrimp in the market. While we do have country-of-origin  
4           labeling, it only applies at the retail level, which is a  
5           minority of the market and does not apply at all in  
6           restaurants, which are the majority.

7           This may be a little hard to read, but this shows  
8           even where it is labeled it can be kind of confusing to the  
9           regular consumer. This is Great American Seafood. And at  
10          the bottom it says that it's farm-raised, and it has the  
11          product of country blank, but there are press articles show  
12          Vietnam, Thailand, et cetera. And if you look up the name  
13          of the company, it is called "Great American Seafood Import  
14          Company."

15          So your regular consumer, even where there is  
16          country-of-origin labeling, would often have difficulty  
17          distinguishing domestic and imported shrimp.

18          Given this high degree of interchangeability,  
19          competition in the market is based on price. The majority  
20          of sales are in the spot market, or short-term contract  
21          sales. Purchasers make frequent purchases and contact  
22          multiple suppliers when they make those purchases.

23          This contributes to the volatility of prices in  
24          the market, which are able to move rapidly in response to  
25          import trends. More than 70 percent of purchasers report

1 that they buy both farmed and wild-caught shrimp.

2 Price is also the second-most frequently cited  
3 top purchasing factor. While quality is the most often  
4 cited, as we just reviewed, the quality is comparable of  
5 both domestic and imported product, and 81 percent of  
6 purchasers report that price is a very important purchasing  
7 factor.

8 Turning next to the likely volume of subject  
9 imports if the orders are revoked, the orders have clearly  
10 had an important disciplining effect on the volume of  
11 subject imports. This is based on public import data from  
12 the five subject countries, so it also includes any  
13 producers that have been revoked, but just in the interest  
14 of having some public data to discuss today.

15 In the original Period of Investigation from 2001  
16 to 2003, imports from the subject countries increased by 38  
17 percent. And they dropped after the petitions were filed at  
18 the end of 2003 by about 20 percent, and on average have  
19 been about 20 percent below that 2003 peak since then. And  
20 in the last full calendar year in 2015, they were consistent  
21 with that 21 percent below that 2003 peak. So clearly a  
22 significant disciplining effect on volume. And that, again,  
23 including nonsubject producers.

24 There also are indications that production is  
25 increasing in the subject countries which would allow them

1 to re-enter the U.S. market at significantly larger volumes  
2 than those that are already here. They have substantial  
3 excess processing capacity, and they also have the ability  
4 to increase their farming. They have invested a lot in  
5 technological and biological methods to increase the  
6 efficiency of farm production, often aided by government  
7 support either by switching to different species such as  
8 Vannamei Shrimp or adopting different methods of farming,  
9 and overall your Staff Report shows that farm-to-production  
10 in the five countries--I'm sorry, your Staff Report shows  
11 that it will increase by 619 million pounds from 2016 to  
12 2018.

13           And just to put that into perspective, this next  
14 slide shows 2003 subject imports of over 700 million pounds,  
15 2015 subject imports of about 450 million pounds, and this  
16 is based on the Staff Report so it doesn't include  
17 nonsubject producers.

18           And this is the additional volume that would be  
19 available if the orders are revoked. Subject producers are  
20 highly export oriented and exported about 1.5 billion pounds  
21 to the rest of the world in 2015. Just a third of that  
22 would allow them to double their exports to the U.S. Again,  
23 as I said, they are projected to increase production, farm  
24 production, by 619 million pounds by 2018. That would also  
25 allow them to double exports to the U.S. without diverting

1 product from any other market. And they have more than  
2 sufficient excess processing capacity of nearly a billion  
3 pounds based on the staff report, not including China to  
4 enable them to process these amounts and increase exports to  
5 the United States.

6 And contrary to Respondents' claims, they are  
7 very able to quickly shift exports between markets. Mr.  
8 Rickard reviewed the record with China and Malaysia that  
9 demonstrates this fact. This is cumulated subject imports.  
10 Changes between 2003 and 2004 after the petitions were  
11 filed, subject producers withdrew 152 million pounds of  
12 exports from the U.S. market, but increased their exports  
13 to the rest of the world by all of that and then some by  
14 more than 150 million pounds in just one year. So obviously  
15 an ability to rapidly shift volumes between export markets.

16 And they are highly likely to shift that to the  
17 U.S. because of its high degree of attractiveness. That  
18 attractiveness is clearly shown by the fact that subject  
19 imports have already maintained a significant presence even  
20 with the orders in place.

21 Demand in the U.S. is projected to increase more  
22 rapidly than in other major markets such as the EU and  
23 Japan. The U.S. health and safety standards for imported  
24 shrimp are relatively lenient compared to other major  
25 markets such as the EU and Japan, and prices in the U.S.

1 market are generally higher, or as high as another country's  
2 and a strong dollar will continue to make the U.S. market  
3 more attractive than other markets in the imminent future.

4 Turning to likely price effects, the orders  
5 clearly had a very important disciplining effect on import  
6 prices. From 2001 to 2005, the average unit value of  
7 subject imports dropped by nearly 20 percent. And from 2005  
8 to 2015, they've risen by nearly 39 percent. And those  
9 average unit values have never dropped as low as the level  
10 they were at in 2005 before the orders were imposed.

11 We have also seen under-selling decline. In the  
12 original investigation, subject imports under-sold domestic  
13 like product in nearly 59 percent of comparisons. Whereas,  
14 in this period of review, under-selling was apparent in only  
15 40 percent of comparisons.

16 I would note that the Commission's under-selling  
17 data in this period of review may be of limited reliability  
18 because of the coverage. Only 2 to 5 percent of imports  
19 were covered by the pricing data, so this may be something  
20 we may want to explore more in APO mode post-hearing.

21 But in any event, the record before the  
22 Commission does show a reduction both in the incidence of  
23 under-selling and lower margins of under-selling when  
24 under-selling did occur.

25 Another benefit of the Order is import prices

1 have improved as an improvement in domestic prices. This is  
2 processors, domestic shipment average unit values, which in  
3 2003 were only \$3.27 a pound, and in 2015 were at \$4 a  
4 pound. And never over the period have fallen as low as that  
5 2003 level. We've also seen improvements in the ex-vessel  
6 price for fishermen, not just for the processors.

7 If the orders are revoked, imports will likely  
8 have significant adverse price effects; under-selling will  
9 increase, and frequency and intensity allowing subject  
10 imports to gain market share at the expense of the domestic  
11 industry, just as they did in the original investigation.

12 Without orders in place, there will be no floor  
13 on prices, allowing imports to once again depress domestic  
14 prices to a significant degree. As we discussed, prices  
15 still are volatile in the shrimp market, given the  
16 characteristics of the market. And, given the fact that  
17 fuel prices are projected to increase in 2017 and 2018 by  
18 the Energy Information Administration, imports may also  
19 suppress domestic prices by not allowing either fishermen or  
20 processors to pass along these rising costs.

21 These adverse volume effects and adverse price  
22 effects will be likely to cause material injury to the  
23 domestic industry to continue or recur if the orders are  
24 revoked. And I think, just looking back to the original  
25 Period of Investigation, as the Commission does in sunset

1 reviews, it paints a very stark picture of the rapid pace at  
2 which material injury could continue or recur.

3 This is really the most probative evidence of  
4 what is likely to happen if the orders are revoked. We saw  
5 declines across production, employment, prices, market  
6 share, and also operating income. Processors' operating  
7 income fell from .09 percent to just .03 percent, and the  
8 fishermen responding to the Commission's questionnaire in  
9 the original investigation said their net income before  
10 salaries dropped from 1.4 percent to a negative -6.6 percent  
11 before reaching a negative -36 percent in the interim  
12 period, which is kind of an eye-popping number.

13 Since the orders have been imposed, the domestic  
14 industry has stabilized. It has faced a number of  
15 challenges, whether related to hurricanes, the Gulf Oil  
16 Spill, subsidies that continue to be provided to foreign  
17 producers, but there have been reversals of the declines  
18 seen in the original investigation.

19 Here from 2013 to 2015, you can see some modest  
20 improvements in landings, processor production, the number  
21 of workers, and hours and wages in shrimp processing plants.  
22 But these are all improvements of less than 5 percent. And  
23 there are other indicators that have gone down.

24 Though processors were able to increase their  
25 production, they were not able to increase their shipments,

1 and that's had a rising level of inventories. And they have  
2 also lost market share as subject imports, even under the  
3 orders, have been able to gain market share over the Period  
4 of Review.

5 All of these elements demonstrate that the  
6 industry is still very vulnerable to continued or renewed  
7 injury if the orders are revoked. While processors'  
8 operating income margins are higher than they were in most  
9 of the original investigation period, they remain extremely  
10 low at under one percent of net sales through the calendar  
11 years in the Period of Review, while their operating margin  
12 reached 2.2 percent in the interim 2016 period, this is  
13 still a very low level of operating income and lower than  
14 the 2.7 percent operating income that processors had in the  
15 interim period in the original investigation when they were  
16 found to be materially injured.

17 While fishermen's operating income margins have  
18 improved based on the responses received by the Commission,  
19 that is because they have benefitted over the Period of  
20 Review from a period of extremely low fuel costs.

21 Those fuel costs started to rise in February of  
22 last year and, as we discussed, are projected to continue to  
23 rise this year and next year based on Gulf diesel prices.  
24 The processing industry continues to have large amounts of  
25 unused capacity, which makes any further reductions in

1 production likely to force processors to take some capacity  
2 out, or shut their doors.

3 And if imports increase and prices fall, the  
4 domestic industry will suffer the same injuries seen in the  
5 original investigation in terms of their own prices  
6 declining and their already minimal operating income margins  
7 evaporating.

8 For all those reasons, we respectfully request  
9 that the Commission maintain these orders on all five  
10 countries. Thank you very much. We look forward to your  
11 questions.

12 CHAIRMAN SCHMIDTLEIN: Alright, thank you Ms.  
13 Drake. I'd like to welcome all the members of the panel for  
14 being here today and helping us to understand this case.

15 This morning we will begin the questioning with  
16 Commissioner Williamson.

17 COMMISSIONER WILLIAMSON: Thank you. And I too  
18 want to express my appreciation to all of the witnesses who  
19 testified today. It's quite fascinating representing so  
20 many different faces of the industry. You know new folks  
21 getting, people who've been here for a long time, so it's  
22 been, I think, a very rich testimony this morning.

23 Let me start off with the question have there  
24 been any significant changes in technology for shrimp  
25 processing and also for shrimp harvesting?

1                   MR. GIBSON: Alan Gibson, Tideland's Seafood.

2                   In the shrimp processing, there's been a lot of  
3 innovations as far as to within the plant to do the  
4 processing as far as more efficiently and to save labor  
5 costs. There are very, very expensive and high maintenance  
6 on a lot of the equipment, but there have been some  
7 innovations. If you need to know more exactly what  
8 innovations, we'd sure like to get a list that includes  
9 that.

10                  COMMISSIONER WILLIAMSON: Okay. Has that  
11 contributed significantly to the efficiency of the  
12 processing operation?

13                  MR. GIBSON: It has contributed to the  
14 efficiency, yes, sir.

15                  COMMISSIONER WILLIAMSON: Thank you.  
16                  What about in the harvesting in the shrimp? I  
17 guess we've got two sides to it. We've got the farm  
18 agriculture and we also have the wild caught.

19                  MR. BOSARGE: Yes, sir. Steve Bosarge.

20                  On the harvesting side, technology, technology,  
21 in other words, technology from using software programs to  
22 help us stay located on the bottom better, to different  
23 types of material that we use to build our nets out of now.  
24 There's kind of the Kevlar-based where it's much stronger  
25 and much lighter, so it's easier to tow, so it's more

1 efficient. So just engines that are now computerized that  
2 are much more efficient than the older engines. So those  
3 are the innovations and the things that have changed for us.

4 COMMISSIONER WILLIAMSON: Thank you.

5 Let me go to this big question that I'm really  
6 curious about. If you go to a store, a place like Costco,  
7 you're going to see wild caught salmon you know and farm  
8 raised and I think given people's interest in food, but I  
9 don't think I ever see that so much with shrimp, at least in  
10 the grocery store. Has the industry tried to promote itself  
11 as a wild caught since that's the overwhelming majority of  
12 the production and can you just sort of discuss that in  
13 terms of your competition with the imports?

14 MR. DELAUNE: Chalin Delaune, Tommy's Seafood,  
15 Inc.

16 So most certainly, that's our main selling  
17 tactic and really the only resource that we have to  
18 distinguish from the imports is the fact that we're wild  
19 caught. You know we like to say that our product is God  
20 made/nature fed, so that's one of our marketing tools. And  
21 the ability to get it to the end user, the consumer, is  
22 really the main complication in that you know with the  
23 limited resources that we do have.

24 You know we don't have countries behind us and  
25 certainly we're a privatized industry and we already operate

1 at such low margins that the money that we do generate  
2 usually is collectively reinvested back into the company.  
3 You know so we have to use every penny that we have as  
4 wisely as possible and we rely on organizations and NGOs and  
5 also some government boards like the Louisiana Seafood  
6 Promotion Marketing Board to aid us in marketing and having  
7 that outreach to consumers and also to our customers.

8 COMMISSIONER WILLIAMSON: Does that mean that  
9 distinctions probably make more sense if you're down in  
10 Louisiana and Mississippi along the Gulf Coast?

11 MR. DELAUNE: I'm sorry; say that again?

12 COMMISSIONER WILLIAMSON: Does that distinction  
13 of the wild caught versus farm raised make a bigger  
14 distinction -- I'm thinking about I usually shop in either  
15 New York or Washington and you know you go into the grocery  
16 store and you just don't see it.

17 MR. DELAUNE: Oh, it's absolutely a distinction  
18 along coastal states without a doubt, but the more inland  
19 you get the more faded that picture becomes.

20 COMMISSIONER WILLIAMSON: Okay, anybody else  
21 want to add to that?

22 MR. GOLLOTT: Richard Gollott.

23 Even in Biloxi, Mississippi there's a lot of  
24 imported shrimp and people buy for price. Even if you  
25 distinguish them, you have some people who will go for the

1 local shrimp, but then you have people that's just looking  
2 for price. And usually supermarkets put a bigger display  
3 out on the imported stuff because they can make more money  
4 on it and want to push it harder.

5 MR. DELAUNE: And we're just accounting for one  
6 aspect of the market and that's the retail market and the  
7 food service side is completely different. There is no  
8 labeling requirement for menus in restaurants. You know in  
9 Louisiana, we have a "No Truth in Menu Law" whatsoever. So  
10 when you account for the amount of product of shrimp that's  
11 sold as already cooked or center-of-the-plate item, like I  
12 was discussing earlier, then the picture really becomes even  
13 more clear that there is no distinguishment between  
14 domestic-produced product or farm-raised produced product,  
15 that a shrimp is just a shrimp.

16 COMMISSIONER WILLIAMSON: Okay.

17 MR. RICKARD: Commissioner, this is Nathan  
18 Rickard.

19 I'd say that throughout the records, both from  
20 the investigations, the Sunset Review, one of the other  
21 things that the Commission has seen is how confusing it gets  
22 to consumers to be able to distinguish between wild-caught  
23 and farm-raised shrimp and Ms. Drake went through a bit of  
24 that packaging in the presentation.

25 More recently, we have been coming up and

1 talking to the Federal Trade Commission about some of the  
2 advertising practicing. And what we see most often is  
3 shrimp associated with vessels, with boats that go out. So  
4 even if you watch on television of ads of restaurant chains  
5 when they push a shrimp promotion it is in front of a shrimp  
6 vessel and it makes it very difficult for the industry to be  
7 able to distinguish what is farm raised versus what's from  
8 wild caught when it goes into the marketplace in the minds  
9 of the consumer.

10 COMMISSIONER WILLIAMSON: Okay, thank you.

11 MR. HAYS: Commissioner, Eddie Hays.

12 If I could just add one thing to that, you also  
13 see a lot of promotions that will promote Cajun-styled  
14 shrimp and things like that where the customer might just  
15 assume that it's a domestic-caught shrimp or a wild-caught  
16 shrimp because it's a Cajun-style, so there's many different  
17 types of marketing tools that are used to promote the  
18 product, which may or may not be domestic wild caught.

19 COMMISSIONER WILLIAMSON: So you put the right  
20 spices on it, it could come from anywhere.

21 MR. HAYS: That's right.

22 COMMISSIONER WILLIAMSON: Okay, thank you. I'm  
23 sorry, someone else?

24 MR. HOOPER: Michael Hooper.

25 In our plant, we've invested in the technology

1 to enter more into the retail market with IQF packaging.  
2 The baggers are -- you know we have automatic baggers and  
3 scales to package the IQF market to make it more presentable  
4 and distinguish itself differently in the supermarket.  
5 That's one of the steps we've taken forward.

6 COMMISSIONER WILLIAMSON: Okay, thank you.

7 MR. DELAUNE: Lastly sir, I'd just like to also  
8 note that one way that we like to distinguish ourselves,  
9 aside from being wild caught or supplemental to being wild  
10 caught and domestically produced is the fact that this is a  
11 consumer safety issue for us as well, so we see -- I believe  
12 we saw it not very long ago a temporary restriction on  
13 Malaysian imports because one third of every lot that was  
14 inspected was found to be tainted and keeping in mind that  
15 we only inspect less than 2 percent of imports as it stands,  
16 so that just really goes to show you if you take that  
17 number and apply it to overall imports really how much  
18 tainted seafood is potentially crossing into our lines. So  
19 we would like to market our shrimp as natural, organic, free  
20 of banned contaminants or chemicals, so that's something  
21 that I'd also like for you to be aware of.

22 COMMISSIONER WILLIAMSON: Okay, thank you.

23 No, the one reason why I was asking these  
24 questions is when we had the catfish case a number of years  
25 ago one of the things the domestic industry was talking

1 about that they were trying to develop you know premium  
2 sizes that are going be more popular in restaurants and so  
3 and again that question -- so that's what I was thinking  
4 about.

5 MR. DELAUNE: Sir, I believe that brand that  
6 they had developed was a Delacata.

7 COMMISSIONER WILLIAMSON: Yes, right.

8 MR. DELAUNE: And it was just a special type of  
9 cut for the catfish. It was more of a thin-sliced; you know  
10 kind of going towards being the filet mignon of catfish  
11 filet.

12 COMMISSIONER WILLIAMSON: First, I haven't seen  
13 a lot of it, but anyway, okay, thank you for those answers.

14 How large is the U.S. demand for cooked shrimp  
15 and why do domestic producers not have more capacity for  
16 cooking?

17 MR. DELAUNE: Well, just speaking on behalf of  
18 not fully into production of or marketing our cooked  
19 products just yet, but we're still in the early  
20 developmental phases. But you had asked the question  
21 earlier about new innovations and how has that affected or  
22 impacted our industry and the fact is that there's been  
23 technology out there that's not necessarily new, but it  
24 might be new to our industry. And one of the reasons why it  
25 might be new to our industry is for the simple fact that for

1 a time it was -- we were unable to be competitive in aspects  
2 of that market and value added of cooked products. And now  
3 that we have some price stabilization, we're able to  
4 actually take extra risks and set money aside to develop  
5 these projects because we do see that there are markets  
6 where they consume more pre-cooked shrimp than raw shrimp.

7 COMMISSIONER WILLIAMSON: Okay. Thank you for  
8 those answers. I love shrimp, so these questions are really  
9 important to me. So thank you.

10 CHAIRMAN SCHMIDTLEIN: Alright, Commissioner  
11 Broadbent.

12 COMMISSIONER BROADBENT: Yeah, it's a great  
13 break from the primary metals cases and the steel cases that  
14 we usually do and we sort of think of about shrimp cocktail  
15 and gumbo and Louisiana cooking and then the further I read  
16 I start seeing these articles about de-veining and  
17 de-heading and Early Mortality Syndrome and the white toxin  
18 and black toxin, so it's not simple. I understand.

19 The quality issue is something I'm really  
20 wrestling with because it seems to me in this environment  
21 where U.S. consumers are really sophisticated about what  
22 they're eating these days that the appeal of the wild-caught  
23 domestic product is really amazing in the sense that you've  
24 had so many consumer report articles. You know you were  
25 mentioning the Malaysia problem with -- I don't know if it

1 was bacteria or toxins or harmful antibiotics, but I mean  
2 there's been so many kind of scary newspaper reporting about  
3 what's going on in this import market that it's hard to --  
4 and even our staff report is telling us that the quality is  
5 really the first differentiating factor that U.S. consumers  
6 look for when they're buying a product, so how do you argue  
7 that it's interchangeable with the imports?

8 MR. DRAKE: Commissioner Broadbent, I'll let the  
9 witnesses respond, but I think the staff report you know  
10 also shows that most purchasers report that they are  
11 comparable and that they, from all sources, meet minimum  
12 quality specifications.

13 And I think consumers who pay attention to those  
14 issues and are concerned about it may be able to seek out  
15 shrimp from a certain source at a grocery store, but the  
16 restaurants and the retailers have an interest in not  
17 enabling them to distinguish that shrimp. They have an  
18 interest in selling the shrimp that gives them the highest  
19 margins and that's exactly why the restaurant industry  
20 lobbied so hard against having country-origin labeling or  
21 farm versus wild caught labeling requirements be applied to  
22 the restaurant industry, which is the majority of the  
23 industry.

24 And you see that even when it is labeled it can  
25 be in a very confusing manner that even a consumer that does

1 care about those issues would have trouble finding it. And  
2 I think your staff report also shows that purchasers'  
3 customers, by and large, do not have a preference for either  
4 shrimp of a certain origin or from a certain producer, but  
5 I'll let the witness.

6 MR. GIBSON: Alan Gibson again.

7 When I was on the Seafood Board in the State of  
8 Louisiana, we had several programs we did with pushing our  
9 wild Louisiana shrimp. And some of the retailers that we  
10 worked with got on board with us and we had some pretty good  
11 marketing strategies and pretty good marketing pushes to  
12 where we actually gave them incentive to market our product.

13 The product is so interchangeably that the  
14 problem we had was when we went to the showcases in those  
15 stores to look at the Louisiana product that was being  
16 marketed, not only shrimp, but whether it was crabs or other  
17 things, but also with the shrimp we did not have any of our  
18 product in the showcases that our labels were on.

19 Our product was further down the aisle and the  
20 reasons were -- we had conflicts with them. The reasons  
21 were we were higher priced and their margins were higher  
22 with the other shrimps. So we do the marketing and  
23 differentiation, but they are very similar in product.  
24 They're very similar in appearance, so a frozen shrimp in a  
25 bag the customers were not picking out -- you've seen some

1 of the labeling, some of the different labeling and where  
2 the labeling of that country may be placed on the bag. So  
3 we've done the marketing and we try to do distinguishing,  
4 but the retailers that we worked with actually did not  
5 follow through. We had to pull our program off the -- you  
6 know our program out of those stores.

7 MR. DELAUNE: To your question on how do we  
8 argue that the shrimp are interchangeable when our product  
9 is considered to be more superior in quality, so I did a  
10 segment last year with Dr. Oz on where do your shrimp come  
11 from. You can look it up. You see the hundreds of  
12 thousands, perhaps millions of views that were on there and  
13 I have just from personal testimony of hundreds of calls  
14 within the next few days or the few days after that segment  
15 aired of questions from unaware consumers on how do they  
16 shop for the right shrimp and just personal accounts of  
17 theirs that they never knew all this time that there was  
18 that kind of distinguishment that they should be looking  
19 closer at the label.

20 And so you mentioned that you see several  
21 reports and releases about the quality of wild American  
22 caught shrimp and that just goes to say that those reports  
23 aren't just one and done. We hope to continue those reports  
24 because of the lack of consumer awareness. That is, as I  
25 stated earlier, are main initiative here as a shrimp

1 industry is raising consumer awareness because if we have an  
2 educated consumer base then I think that we stand a much  
3 better chance at gaining a firm place in the market, but it  
4 takes those reports, it takes those releases, and it takes  
5 the resources that we don't have that we depend on to be  
6 able to educate and inform and hopefully build our market by  
7 that way.

8           So as Elizabeth was stating also that there is  
9 no distinguishment when it comes to the food service side,  
10 that a shrimp is a shrimp. And as Eddie Hays was stating,  
11 the many playoffs on Cajun or Louisiana-focused fair that  
12 make you think you know up front that this product is  
13 A-okay, that there's absolutely nothing wrong with it.

14           And as you saw on the presentation earlier, the  
15 deceptive marketing practices that have just impacted the  
16 retail level, which is the level that we compete at mostly  
17 and you see the Great American Seafood and that isn't to say  
18 that it's just that shrimp.

19           There's many different styles of that shrimp as  
20 well, so you have a Great American Seafood with breaded  
21 shrimp, peeled tail on shrimp, many different styles and in  
22 various forms that aren't American and so we see those  
23 deceptive practices. That's just one of many different  
24 labels.

25           So it's hard to even say which shrimp is

1 American product and which shrimp is farm-raised product  
2 when there's so much deceptive marketing practices that are  
3 taking place that customers might think that they're buying  
4 American product and in reality they're not either because  
5 the marketing is outright deceptive, the labeling or the  
6 branding, or because it's given the impression, according to  
7 the style or method, you'll see Louisiana style shrimp and  
8 that word is "style" makes all the difference on the  
9 packaging.

10 COMMISSIONER BROADBENT: Okay. But I don't  
11 think that that's an argument for renewing a dumping order  
12 in perpetuity. I mean that's a health and safety problem.  
13 It's a deceptive advertising problem, but it's not  
14 particularly a dumping problem.

15 MS. DRAKE: Well, I think it goes to the -- I  
16 think the basis of the Commissioner's question, as I  
17 understood it, was interchangeability, so even if there are  
18 issues with health and safety, even if there are certain  
19 aspects that distinguish the product, the vast majority of  
20 consumers see them as interchangeable. They actually, in  
21 fact, are interchangeable and are used in the same end uses  
22 by the same customers. Most purchasers buy both kinds of  
23 shrimp and use them for the same application, so I think it  
24 goes to the question of interchangeability, which, of  
25 course, is an important condition of competition to consider

1 if the orders are revoked would -- they continue to be  
2 interchangeable and everything that we've seen shows that  
3 the answer is yes.

4 MR. GOLLOTT: Richard Gollott.

5 When we first started marketing wild American  
6 shrimp, we did research and 80 percent of the people that  
7 was eating shrimp coming out of restaurants and such thought  
8 they was eating domestic shrimp when they was really eating  
9 imported shrimp.

10 COMMISSIONER BROADBENT: Well, I mean it's an  
11 interesting definition of "interchangeability" really when  
12 we think about it. And you know I think getting to a Dr. Oz  
13 YouTube with thousands of views, millions of views is really  
14 the next level of consumer awareness and I think it's a  
15 trend that's really escalating at this point in this product  
16 area.

17 MS. DRAKE: And I think the domestic industry is  
18 certainly focused on that, but I think, Chalin, you were  
19 telling me yesterday that certified Angus beef, for example,  
20 was an industry initiative to try to distinguish U.S.  
21 product. And it took them what, 20 years, 25 years, to  
22 actually get that to be recognized, so you know this isn't  
23 clearly an effort the industry is making, but it's just  
24 that. It's just an effort.

25 And I think the story about Dr. Oz, yes, it

1 shows that some consumers will react positively; but it also  
2 shows the extent of the lack of knowledge that there were so  
3 many people that simply had no idea that shrimp that they  
4 were buying may be imported.

5 MR. GIBSON: One more statement. We have some  
6 customers throughout the country that do wholesale and  
7 retail and we do market our shrimp under the Wild American  
8 -- you know, label, Wild American Shrimp, and we do have  
9 them whereas actually yesterday we were working on some  
10 sales with some of them and our sales are down with them  
11 generally because what they're putting on the showcase,  
12 which is retail and they have to label, they are putting the  
13 Wild American Shrimp and it is sold as a premium. And what  
14 they're putting on the wholesale truck to the customers is  
15 the imported product because it's cheaper. Sometimes it's  
16 over a dollar more cheaper and sometimes higher than that.

17 So the problem that we're having is we're losing  
18 some of the sales because of that interchangeability of that  
19 product that goes to the restaurant which is under the food  
20 service near exempt for the country of origin labeling, but  
21 there is that interchangeability with the same customers  
22 that we worked with that buy both are marketing one in the  
23 showcase that they're giving to people and the other one  
24 that they're putting to the restaurants who are worried  
25 about the bottom line price.

1                   MR. GOLLOTT: And I also have shrimp that  
2 customers that I sell and if we run out of a certain size  
3 they will substitute with the imported shrimp and they never  
4 tell the customers or anything and nobody has any idea when  
5 they breaded it you know it all looks alike and tastes  
6 alike.

7                   COMMISSIONER BROADBENT: I mean my understanding  
8 is that we can only produce a very small amount of the U.S.  
9 demand for shrimp and that when we looked at the CVD case --  
10 I think it was 2013 -- there really wasn't a sense that  
11 market share would change. The sense the Commission had  
12 there was that the domestic industry was going to keep the  
13 same market share. In this case if this order were revoked  
14 would you predict that the domestic industry would lose  
15 market share or is it only a price injury that you're --

16                  MS. DRAKE: There certainly would be price  
17 injury. In terms of market share, I think what would be  
18 instructive would be to look at the original period of  
19 investigation where the domestic industry did lose market  
20 share and landings declined and the Commission in that  
21 investigation found that you know landings and productions  
22 are not just a function of what resources naturally  
23 available, but it is also a function of the economic  
24 incentives to go fishing and as domestic prices were driven  
25 down by declining import prices, that economic incentive to

1 fish was reduced and as the fishermen witnesses testified  
2 this morning that continues to be the case today. So yes, I  
3 would expect there to be both adverse volume affects and  
4 adverse price affects.

5 COMMISSIONER BROADBENT: Okay, thank you.

6 CHAIRMAN SCHMIDTLEIN: Commissioner Kief.

7 COMMISSIONER KIEFF: I join my colleagues in  
8 thanking you all for coming and presenting on both sides and  
9 look forward to the transcript as well as the post-hearing.  
10 I also share the interest in the product and I also greatly  
11 enjoy the opportunity to talk about intellectual property  
12 cases like false designation of origin and false  
13 advertising. And you know we have like a third of our  
14 docket here devoted to IP stuff and we like that and I  
15 certainly love writing books and articles and teaching  
16 courses on that stuff.

17 So just to kind of follow up for a second on the  
18 last set of questions with Commissioner Broadbent, has a  
19 governmental body adjudicated there to be false advertising  
20 in this market?

21 MS. DRAKE: Commissioner, Mr. Rickard might have  
22 a better answer for you, but I will say while I'm not aware  
23 of a ^^^^ yes, there have been felony convictions for  
24 mislabeling shrimp in terms of an incorrect origin. There  
25 have also been findings of circumvention by both Customs and

1 by the Commerce Department, either by mislabeling a product  
2 as being outside the scope when dusted shrimp was excluded  
3 and large volumes were brought in that were claimed to be  
4 dusted that actually were not and there's another example.

5 COMMISSIONER KIEFF: Okay, so in the  
6 post-hearing if you could -- you've spent a lot of time -- I  
7 mean you had a whole slide devoted to, aha, someone's  
8 getting tricked. So if both sides in the post-hearing could  
9 present evidence of record cases of falsity so that we can  
10 get a sense of is this happening; how much is it happening,  
11 and then how that should factor into our thinking here?

12 So let me ask you right now -- I'm still trying  
13 to actually -- I'm embarrassed to say that I'm totally not  
14 yet understanding why it matters because it seems to me it's  
15 kind of an interesting -- I mean there's a lot of  
16 atmospheric color that's gleaned from talking about falsity,  
17 especially if you don't have to prove it, right? I mean the  
18 key to a false advertising case is you actually get survey  
19 data from actual consumers of products who testify in front  
20 of cross-examination in front of decision makers that  
21 actually they were tricked. And you know I never -- I  
22 generally recognize the so-called Puffing Doctrine and  
23 trademark law that you know someone says they're the  
24 greatest show on earth or as Mike Jagger says your shirts  
25 can be as whitest as they can be. These are all statements

1 that people make to puff their products. It's not clear  
2 that consumers actually buy the line even if they buy the  
3 product. So why does that matter to this case before this  
4 tribunal in this part of our docket?

5 MS. DRAKE: Thank you very much for that  
6 question, Commissioner Kief. And I apologize if I was not  
7 clear in my presentation. I was not attempting to say that  
8 that particular label constituted false advertising. I was  
9 trying to demonstrate that it may be difficult for consumers  
10 to distinguish domestic from imported product even when it  
11 is labeled at the retail level and that's important for this  
12 case because it shows that the product is highly  
13 interchangeable and substitutable and that customers may not  
14 be able to distinguish domestic from imported product and it  
15 also shows the other examples of circumvention, show the  
16 attractiveness of the U.S. market in the -- because  
17 obviously that doesn't have anything to do with whether they  
18 had to pay import duties or not, but in the case of  
19 circumvention whether a transshipment from different  
20 countries or mislabeling as a non-subject product shows  
21 that foreign producers will go to great lengths to evade the  
22 duties and access the U.S. market because it's a highly  
23 attractive market and that is an important element in your  
24 analysis of what's likely to occur if the orders are revoked  
25 and so that was our hope in raising that issue.

1                   COMMISSIONER KIEFF: Okay, that's helpful.

2                   And then let me also ask, and this is very  
3                   conceptual and therefore I guess appropriate for the lawyer  
4                   question. We all do benefit from the witnesses testifying  
5                   as well, but the opportunity to exchange ideas with counsel  
6                   can be very helpful in clarifying stuff. How should we  
7                   think about the 2013 decision as we think about this case,  
8                   if at all?

9                   I mean as I understand the kind of gateway to a  
10                  Title VII case, our basic statute, is that the statute's  
11                  written in a pretty capacious way to require the Commission  
12                  to have a really pretty broad understanding of injury and in  
13                  effect, that leads to a lot of affirmative determinations.  
14                  And we do that and we've done that in this case and that's  
15                  why this is a review case 'cause we said yes, but just like  
16                  the entry point to the statute tips strongly in favor of  
17                  yes, I take it that Congress has asked us to do these  
18                  reviews for some reason other than to generally continue  
19                  that exactly that same presumption of yes, that somehow  
20                  we're supposed to be looking a little bit more closely than  
21                  just, oops, we decided this already, one and done, we're  
22                  good. Let's keep rolling.

23                  Now we've done that once and we rolled once and  
24                  how the question is do we keep on rolling again and even if  
25                  we have a general view that the thrust of the statute's

1 purpose is certainly not to look to lift easily in this  
2 particular case where we have just recently fully  
3 adjudicated injury in the context of your domestic industry  
4 haven't we decided you're not materially injured or likely  
5 to be harmed and that setting for this particular case is a  
6 logical quandary for me. Can you get me out of that?

7 MS. DRAKE: Thank you, Commissioner. I'll do my  
8 best.

9 So the 2013 decision, obviously, it was based on  
10 current material injury and threat of injury. It overlapped  
11 with three of the countries that are under review here, plus  
12 two non-subject countries, which were some differences.

13 In my view, the 2013 decision had two big  
14 factors that influenced it. One, it was looking at a period  
15 of investigation that started in 2010, the year of the Gulf  
16 oil spill and therefore in the subsequent years the domestic  
17 industry was able to improve, of course, 'cause the fishing  
18 grounds were no longer closed, landings increased,  
19 production increased, shipments increased.

20 COMMISSIONER KIEFF: So in effect, unique to  
21 that time period rise that the domestic industry enjoyed  
22 that you think it wouldn't likely continue to enjoy in the  
23 current time period.

24 MS. DRAKE: If the anti-dumping orders were  
25 revoked.

1                   COMMISSIONER KIEFF:   Okay.

2                   MS. DRAKE:   And I think another aspect in that  
3                   review -- excuse me, in that investigation was the  
4                   compensation from BP, which at that time was seen as to, a  
5                   certain extent, shielding the domestic industry from injury,  
6                   financially --

7                   COMMISSIONER KIEFF:   So these are --

8                   MS. DRAKE:   -- whereas now that competition --

9                   COMMISSIONER KIEFF:   So these are two factors  
10                  that you are pointing out are unique to that decision in  
11                  that time period that don't apply here and that's really  
12                  helpful.

13                  Let me ask a different question.   Are there  
14                  components of our analysis in that decision that are on  
15                  their own terms just not, with the benefit of hindsight, as  
16                  sound as we all wish they were?   It's a feature, not a flaw,  
17                  of our system of argument that both advocates on both sides  
18                  get to say, hey, you made a mistake.

19                  Do you think there's something we should rethink  
20                  about our prior thinking?

21                  We don't want to be rigid in following it.

22                  MS. DRAKE:   Well, we did appeal the decision,  
23                  but that was not successful.   I think that the way that the  
24                  dissent viewed the same facts would be more in line with our  
25                  approach, in terms of saying, yes, the domestic industry was

1 able to increase, but that would've been expected given that  
2 they were just recovering from the oil spill.

3 They didn't increase as much as they could have  
4 because of the rising presence of subject imports and also  
5 found that the BP compensation was not as big of a factor in  
6 terms of fielding the domestic industry. So it's more of  
7 the legal approach that different commissioners would take,  
8 looking at the same set of facts and whether they feel they  
9 meet that standards of statute or not.

10 COMMISSIONER KIEFF: Well, I'll just wrap up by  
11 inviting in the post-hearing, both sides to explain --

12 MR. PICKARD: I'm sorry, Commissioner, can I  
13 just add one thing before you --

14 COMMISSIONER KIEFF: Sure. I'll just -- in  
15 terms of sentence, both sides to just explain that in the  
16 post-hearing what was appropriate to follow or not follow in  
17 our prior decision. Sorry.

18 MR. PICKARD: One of the things, too, that, if  
19 you look at the BP case that's different from the record  
20 that you have before you in this proceeding, is what the  
21 Commission looked at in terms of the domestic industry. In  
22 the CBD proceeding, the Commission put less weight on  
23 evidence that came in from producers within that -- and this  
24 is a change in terms of what the record that is before you.  
25 You have a continual record of the impact, not only on the

1 processing part of the industry, but also on the producing  
2 part of the industry that goes back to 2001.

3 COMMISSIONER KIEFF: Great. Thanks. I'm sorry  
4 that my time is over. Thanks.

5 CHAIRMAN SCHMIDTLEIN: Quite all right. So just  
6 to follow-up on that. I wanted to understand a little bit  
7 more and this could be both from the fact witnesses or from  
8 the lawyers, is the benefit from the original order. And  
9 maybe we'll start with the fact witnesses, anyone who would  
10 like to respond.

11 Was it that you saw -- I understand we've seen  
12 the slide where there was a drop in shipments from subject  
13 countries once the order went into place. Did the domestic  
14 industry experience a benefit in terms of volume? After the  
15 order went in place? Or was it really more of a price  
16 benefit that you saw from the lower volume of subject  
17 imports?

18 MR. GIBSON: It would be with -- anytime we fill  
19 the pipeline full and we have overage of inventories we see  
20 price reductions. One of the biggest problems we have is  
21 when we have something in the freezer and no market for it  
22 and new season production coming, we tend to have this  
23 reduce in market to move the product to open up lines of  
24 credit to have new production.

25 So I think to answer the question I think would

1 be the lower production that came in opened up some market  
2 for shrimp to move, and the faster shrimp moves, the better  
3 price stabilization we have.

4 CHAIRMAN SCHMIDTLEIN: Okay. When I look at the  
5 numbers in terms of the market share and even the U.S.  
6 shipment numbers, since the order went into place, they look  
7 fairly stable, and so it--and correct me if I'm wrong--but  
8 my understanding of how this is really affecting the  
9 industry is when the volume rolls through, that's affecting  
10 the price, and that affects decision on whether or not to  
11 send boats out and so forth?

12 MR. GIBSON: Yes, ma'am. With the stabilization  
13 of price, the vessels know what it's gonna cost for them to  
14 go out, so they have to weigh, if they go out and catch X  
15 amount per night, what is their gross catch per day, is that  
16 profitable for them to go out and operate and cover their  
17 expenses?

18 So we need that price stabilization for the  
19 boats to make a conscious decision if they can go to work.  
20 We need to know when we set a price, what we can sell. And  
21 we quite often have to look at the import numbers that are  
22 coming in to see if we're gonna set a price. What they're  
23 reporting coming in now, we will see in ninety days. And at  
24 that time, depending on what's coming in, what that price  
25 will be, because we buy today, but we have to sell at a

1 later date.

2 So any time we have that increase of production,  
3 it unstabilizes that price, the price that we reap ends up  
4 dropping, so we have to go to the vessels and drop the price  
5 on them. And it makes it very tough to work when you don't  
6 know what you're working with.

7 CHAIRMAN SCHMIDTLEIN: Okay. Sort of along the  
8 same lines, and this might be a question for the lawyers, in  
9 terms of volume and price. In the respondent's brief, they  
10 make an argument that there was a price spike in 2013 and  
11 '14 due to EMS. I assume you all agree with that?

12 MS. DRAKE: That does look to be correct based  
13 on both import AUVs and then how that affected domestic  
14 prices that you see a large increase from '13 to '14, and a  
15 large decrease from '14 to '15, reflecting the impact that  
16 EMS had on supplies.

17 CHAIRMAN SCHMIDTLEIN: The volume?

18 MS. DRAKE: Exactly.

19 CHAIRMAN SCHMIDTLEIN: So are you arguing though  
20 that this is evidence of injury? So I'm just trying to un  
21 -- so in the respondent's brief, they make the argument, and  
22 I don't know if this is something that was really my  
23 question.

24 Price levels for--and I'm looking at Page 5 of  
25 the joint brief--price levels for subject imports in 2016

1 are comparable to, and frequently higher than price levels  
2 that prevailed during the original POI in the first Sunset  
3 review. It is not a sign of injury or potential injury that  
4 current price levels are lower than in '13 and '14, because  
5 in those two years, there was a price spike due to EMS.

6 MS. DRAKE: Right. I'm not --

7 CHAIRMAN SCHMIDTLEIN: So I guess my question  
8 is, are you arguing that there is injury from the decline  
9 from that price spike?

10 MS. DRAKE: No, Chairman. We believe that the  
11 orders have disciplined prices. They continue to be  
12 affected by other factors, but without the orders, we  
13 believe they'd be even lower than they are, so we're not  
14 necessarily arguing that that one year decline constitutes  
15 current material injury. We're arguing that prices remain  
16 volatile.

17 Import prices continue to impact domestic prices  
18 and if the orders are revoked, there will be no floor on  
19 those import prices. And so they could go even lower just  
20 as they did in the original investigation before the orders  
21 were imposed. So it's about the likely price effects if the  
22 orders are revoked. We're not arguing that we were injured  
23 when they went -- we were injured by subject imports'  
24 adverse price effects due to EMS.

25 CHAIRMAN SCHMIDTLEIN: Okay.

1 MS. DRAKE: Or the resolution of the EMS. If  
2 anything, the resolution of EMS increases the likely volume  
3 of subject imports that are likely to increase if the orders  
4 are revoked.

5 CHAIRMAN SCHMIDTLEIN: And has the EMS problem  
6 globally been resolved? Or brought under control?

7 MS. DRAKE: What we've seen --

8 CHAIRMAN SCHMIDTLEIN: I can ask the same  
9 question to the respondents this afternoon, but --

10 MS. DRAKE: Yeah, what we've seen is that there  
11 has been a lot of progress. I know that imports from  
12 Thailand are, I think, are still below their peak, but have  
13 started to increase again, and so we believe that there has  
14 been progress, but I'd be happy to look at that in more  
15 detail in post-hearing.

16 CHAIRMAN SCHMIDTLEIN: Okay. Speaking of  
17 underselling, and you made the point that underselling has  
18 declined since the order went in place, and that's what's  
19 reflected in the staff report. But the respondents argue  
20 that that actually supports the notion that they wouldn't  
21 need to undersell because if you look at the period covered  
22 by the staff report, you see an increase in shipments from  
23 subject countries, notwithstanding the fact that they're  
24 under order, and that underselling is obviously declined as  
25 both sides have pointed out. So why doesn't that support a

1 finding that they wouldn't need to further undersell in  
2 order to increase their shipments since they're already  
3 doing that?

4 MS. DRAKE: Well, I think in previous cases  
5 where there's been overselling in a period of review, the  
6 question is found that doesn't necessarily indicate what  
7 pricing behavior will prevail if the orders are revoked.  
8 And looking at the correlation between underselling and  
9 increases in market share with the orders in place, and  
10 where we have a low coverage in terms of the pricing  
11 products may not be the most prohibitive data.

12 I think looking at the data the Commission had  
13 before the orders were in place, where you had more pricing  
14 products that were covered and with imports that were  
15 reported on, and comparing trends in underselling margins  
16 and market share, there is was very clear that they did  
17 increase their underselling and gained market share as a  
18 result.

19 So the fact that they've also gained some market  
20 share without as much underselling, to us, it doesn't  
21 indicate that they would refrain from underselling if the  
22 orders are revoked, because that would permit them to gain  
23 even greater market share just as they did in the original  
24 investigation.

25 CHAIRMAN SCHMIDTLEIN: Well, and I know that

1       they lost a little bit of market share over this last three  
2       years.

3                   MS. DRAKE: I'm sorry. I was thinking of the  
4       interim periods.

5                   CHAIRMAN SCHMIDTLEIN: You call it the interim  
6       period. Okay. All right. Can you respond to the argument  
7       that, I guess, two different points?

8                   One is that total imports, including subject,  
9       nonsubject and nonsubject producers in subject countries  
10      have remained, according to the respondents, largely stable,  
11      and therefore any effect -- there's not going to be, if I  
12      understand the argument correctly, if the order were to be  
13      revoked, that the domestic industry -- you wouldn't expect  
14      to see a change in that total level.

15                  And therefore, there wouldn't be any adverse  
16      effect on domestic industry? And if I've--correct me if  
17      I've misstated my understanding of their--if I've misstated  
18      their argument, if my understanding's wrong.

19                  MS. DRAKE: I believe that is their argument. I  
20      was a little confused about that argument because I thought  
21      elsewhere they also argued that nonsubject imports are  
22      somehow now bigger and would pose some kind of barrier to  
23      subject imports coming in to the market.

24                  But I think if you look at the interim period,  
25      especially you saw that subject imports were able to gain

1 market share, both at the expense of nonsubject imports and  
2 at the expense of the domestic industry. And the domestic  
3 industry is so small compared to the world of imports that  
4 you can increase total imports by 5% and wipe out half the  
5 domestic industry.

6 So even if overall imports are surging by 40,  
7 50%, what have you, just a small increase is enough to have  
8 very adverse effects on volume, and of course, that doesn't  
9 take into account the added adverse price effects if those  
10 imports are coming in at lower prices that undersell the  
11 domestic industry or at declining prices that are depressing  
12 or suppressing domestic prices.

13 CHAIRMAN SCHMIDTLEIN: OK. And just -- our  
14 time's almost up, but my last question is, can you respond  
15 to the argument that the dire predictions in the 2013 case  
16 did not materialize? And I looked back -- I went back and  
17 looked at the decision in that case, but I did not go back  
18 to the briefs from that case to look at exactly what was  
19 asserted in terms of what would happen if the Commission  
20 went negative.

21 MS. DRAKE: I'd be happy to go back at the  
22 briefs, because I haven't done that either. I only looked  
23 at the decision, Madam Chairman. And I do think that, to a  
24 certain extent, we have seen the domestic industry continues  
25 to have a low level of landings, continues to have declining

1 market share. The existing anti-dumping orders have  
2 prevented further injury, but I would be happy to go back to  
3 those briefs and compare what was predicted to what actually  
4 occurred.

5 CHAIRMAN SCHMIDTLEIN: Okay.

6 MR. PICKARD: Chairman, I'm sorry. Could I just  
7 make a comment on your last question? Just quickly. The  
8 total import volumes have stayed stable with the  
9 anti-dumping duty orders in place. And on the record of  
10 this proceeding, I think on Monday, there was a presentation  
11 put in place from a conference that was held in January.  
12 And in Slide 34 of that presentation, the title of the slide  
13 is "As pricing declines, there is improvement in household  
14 penetration of shrimp."

15 I think that has been what we have argued  
16 repeatedly before the Commission that what happens with  
17 price declines is the volume of imports increase. And as  
18 the volume of imports increase, you see that the total  
19 consumption increases across the board. But what that means  
20 for the domestic industry is prices decline across the board  
21 and that they have to chase those prices down as the volume  
22 increases.

23 So the fact that things are stable now is in an  
24 environment where there is discipline on unfairly traded  
25 imports and you know, what we're looking at is what would

1 happen if that discipline was revoked or removed.

2 CHAIRMAN SCHMIDTLEIN: Okay. All right. Thank  
3 you. I apologize for going over. Vice Chairman Johanson.

4 VICE CHAIRMAN JOHANSON: Thank you, Chairman  
5 Schmidtlein. And I would like to thank all of you for  
6 appearing here today. I'd also like my fellow Commissioners  
7 to express my accolades over your product. I really enjoy  
8 eating shrimp.

9 I have a twelve-year-old son and he had to make  
10 a meal while camping with Boy Scouts last September in order  
11 to earn the First-Class Badge in Boy Scouts. And usually  
12 these meals are not very good. They're all cooked by  
13 twelve- and eleven-year-olds. But he made Cajun Gumbo,  
14 complete with shrimp, and it was a big hit. Perhaps, one of  
15 the highlights of the trip.

16 So thanks for helping him to make that possible.  
17 It was a really good meal. It was frozen, I assume it was  
18 farm-raised. But at home, we eat all sorts of good shrimp.  
19 So thank you again for making such a wonderful product.

20 That being said, it's a great product, but it  
21 sounds like a really tough business. I was reading one of  
22 the petitioner briefs yesterday, the Stewart and Stewart  
23 brief, and on one page, you all wrote about how the industry  
24 was hit by the recession in 2008 and 2009 that drove down  
25 consumption in the U.S. How producers were hit by the BP

1 oil spill, how producers are hit actually fairly frequently  
2 by major hurricanes, and at the same time, the Commission  
3 determined that several years ago, that your industry is  
4 being injured by unfairly traded imports. It sounds like a  
5 really rough business to be in.

6 And that brought to my mind, why -- are there  
7 better ways maybe to do this? And this -- I wanted to ask  
8 Mr. Hooper. You raise farm-raised shrimp. And I'm  
9 wondering why the U.S. market is so focused on wild-caught  
10 as opposed to farm-raised, when it looks like in most of the  
11 rest of the world, people are producing farm-raised. Are  
12 there certain reasons why that is done abroad, and not as  
13 much here in the United States?

14 MR. HOOPER: The farm-raised shrimp outside the  
15 United States is definitely easier to do. There is an  
16 economic advantage in some unorthodox manners that allow  
17 them to produce shrimp at a lower cost than what it does in  
18 the United States. We've niched out a part of our market of  
19 trying to concentrate on the U.S. domestic.

20 The difference between farm-raised and Gulf  
21 shrimp is there's two different species. And the amount of  
22 farm-raised shrimp that we have in the U.S. is a small  
23 amount compared to the domestic industry. And that we don't  
24 attract large groups of customers that are going to be using  
25 our product.

1           But we are in a different playing field even  
2 more than the Gulf shrimpers' wild-caught. We compete on a  
3 basically unlevel playing field because they have a lot  
4 cheaper labor, and there are things they can do over there  
5 that we're just not able to. And we have certain regulatory  
6 practices that are in place that are more stringent than  
7 overseas, I believe, and this is my opinion.

8           So to answer your question is, we believe that  
9 the U.S. industry, based upon some of the actions that have  
10 happened overseas, there are possibilities for growth in the  
11 shrimp industry again, in farm-raised, and actually in our  
12 --

13           There was a significant investment in Texas in  
14 an indoor facility that basically recirculates water. One  
15 of the big differences in our industry in the United States  
16 is that our water, I believe, is in a lot better shape than  
17 what they have overseas.

18           And we also have dodged a bullet as far as EMS  
19 and though they've determined what caused it, part of the  
20 cause was maybe because there was continual raising of  
21 shrimp in the ponds. There was never a break. And in our  
22 industry in the United States, we have a difference because  
23 in the winter, we dry out and they have -- we believe that's  
24 one of the reasons we haven't had it.

25           VICE CHAIRMAN JOHANSON: So that controls

1 disease?

2 MR. HOOPER: Pardon me?

3 VICE CHAIRMAN JOHANSON: That controls disease?  
4 By drying out your facilities?

5 MR. HOOPER: We believe it has an effect. We're  
6 seeing that, now that the ponds have dried out overseas,  
7 they're trying to come back on line. And this all goes back  
8 on line that India did not see EMS. They had not received  
9 -- so when there was a decline in imports from the countries  
10 that did have EMS, India's production skyrocketed. And it  
11 covered that section of the imports that was lacking.

12 Once these other countries, and from what I've  
13 been reading, is that they're gonna come back on line, we're  
14 gonna see a lot more production of farm-raised shrimp from  
15 overseas, especially from Thailand, Indonesia, that were  
16 devastated by the disease. Belize has not recovered from  
17 EMS. They have had it and they have still not recovered.  
18 Ecuador, Mexico had EMS. So these countries that had EMS  
19 affected the amount of imports and production worldwide.

20 But as they fight their way through this  
21 disease, I believe that they're not gonna stop producing,  
22 they're gonna increase the amount of production, which is  
23 gonna drive the prices down. And the ones that are most  
24 likely to do it will be the ones that have the duties in  
25 place.

1                   VICE CHAIRMAN JOHANSON: Yeah, from what I  
2 recall in 2013, EMS was a larger problem. Is that correct?

3                   MR. HOOPER: 2013? Yes. It caused a decrease  
4 in price -- and what we were talking about here earlier  
5 about the increase in prices was caused by EMS supply. EMS  
6 is a strange disease. You go and stock your ponds, you feed  
7 your ponds and then you harvest and you don't have any  
8 shrimp. So it's not like it had a reverberating effect upon  
9 the market, because in 2013, you're dealing with inventory  
10 from 2012. And it's always a year past.

11                   So as these conditions happened, I think it had  
12 a longer effect on the market because of what it did. But  
13 as I said, these countries are gonna come back on line.

14                   VICE CHAIRMAN JOHANSON: Thank you, Mr. Hooper.

15                   MR. RICKARD: Commissioner, can I just add --  
16 you know, some of this sometimes sounds like the industry  
17 having to come in and continue to say that it's feasible and  
18 viable going forward. And I just say that it does -- I  
19 think you're right. It is a difficult business to operate,  
20 but if you look at the other side, on the foreign shrimp  
21 aquaculture, that that's not any easier. There are the same  
22 types of things, and it's these and other things affect them  
23 and make the margins difficult and everybody else is just  
24 trying to survive throughout. And it's similar difficult  
25 and challenging market conditions.

1                   VICE CHAIRMAN JOHANSON: Thanks, Mr. Rickard.  
2                   Something that has really struck me in this investigation is  
3                   that the subject imports remain such a significant part of  
4                   U.S. market, even though we have these orders in effect.  
5                   Why is that the case? It's not the case of all countries.  
6                   Brazil is no longer shipping to the U.S., but with a number  
7                   of the other countries, they remain very large suppliers.

8                   MS. DRAKE: That's true, though they haven't  
9                   been increasing at the same rate, they increased without the  
10                  orders, they do remain a significant presence in the market,  
11                  and I think that's a reflection in part of the attractiveness  
12                  of the U.S. market compared to other markets, and also the  
13                  high degree of export orientation of most of these  
14                  producers.

15                  Some of them only have minimal home markets and  
16                  are almost completely reliant on export markets. And the  
17                  U.S., even with the orders in place, continues to be an  
18                  attractive market with lower import standards, healthy  
19                  prices, healthy demand, and of course if the orders go away,  
20                  it will become even more attractive.

21                  VICE CHAIRMAN JOHANSON: Thank you, Ms. Drake.  
22                  I'm wondering, are landings of fresh shrimp down? And if  
23                  so, why? And are there any restrictions on harvesting of  
24                  shrimp? That seems to have been implied, I think, in some  
25                  of the respondent briefs. But I'm not aware of any direct

1 restrictions. When I think of restrictions, I think of  
2 what's going on in New England with cod restrictions.

3 MS. DRAKE: Yeah, there aren't quotas.

4 VICE CHAIRMAN JOHANSON: There are or not?

5 MS. DRAKE: There are not.

6 VICE CHAIRMAN JOHANSON: Are there restrictions  
7 on providing licenses?

8 MR. BOSARGE: Licenses for the federal orders of  
9 the Gulf of Mexico are under moratorium. There are no new  
10 licenses being issued as of now. But that number of  
11 licenses has been declining by fifteen to thirty every year  
12 for the past four or five years now.

13 When I spoke to the fleet reduction and  
14 surviving over the years when tariffs weren't in place and  
15 the prices of shrimp were really down, the fleet maxed out  
16 and then started on its way down. It is just now leveling  
17 out to a point to where the boats that are left are making  
18 money.

19 That's why it's so critical as to what we do  
20 here with these tariffs. We've overcome a bunch of  
21 different things--with fuel prices, with the boats getting  
22 older, Coast Guard regulations, trying to keep up with  
23 everything we need to keep up with to keep producing shrimp,  
24 so if we don't have a stable price, then I don't know where  
25 exactly we're gonna go with --

1                   Because as time comes on and as time goes on,  
2                   our boats get older and there's more -- as we talked about  
3                   turtles, we have turtles, we have bite catch reduction  
4                   devices, we have effort limits on red snapper, we have  
5                   effort limits on turtles. So there's a lot more involved in  
6                   the fishing industry than what it once was and stabilizing  
7                   this price is critical.

8                   MR. RICKARD: Just to clarify, Commissioner, so  
9                   for federal permits there is a moratorium on the number of  
10                  permits that are issued, so it's capped and they can't go  
11                  further. There is not a quota on state waters. There are  
12                  no limitations. And so in the prehearing brief that we put  
13                  in, we've tried to track over time what the movements have  
14                  been in permits.

15                  And then in terms of landings, what we track on  
16                  a month-to-month basis is Gulf landings. That's what's  
17                  reported by NOAA. There's also the part of the industry  
18                  that's in the South Atlantic. We also try to put in the  
19                  pre-hearing brief demonstration of the South Atlantic  
20                  landings are the highest that they have ever been. In 2016  
21                  they're anticipated to be even higher than they have been in  
22                  2015 when that full data becomes available.

23                  VICE CHAIRMAN JOHANSON: Thank you, Mr. Rickard.  
24                  And just real quickly, my time's expired, but the first part  
25                  of my question was why are shrimp landings down? And that

1 is something that the respondents have written quite  
2 extensively on.

3 MS. DRAKE: Commissioner Johanson, we were  
4 talking about this yesterday and couldn't really come up  
5 with a definitive answer. The studies we have seen don't  
6 indicate that there is any lingering physical impacts from  
7 the oil spill, for example, that would explain a lower level  
8 of landing shrimp as an annual crop. It can renew itself  
9 and regenerate itself every year, and that's why you see  
10 landings fluctuate from year-to-year with -- from all  
11 different kinds of reasons, whether it's environmental or  
12 natural.

13 But the one thing that we do know that will  
14 impact landings from year-to-year is the economics of  
15 fishing as the fishermen testified and as the Commission  
16 found in the original investigation. So we don't believe  
17 that respondents claim that landings have been restrained by  
18 any physical impacts from the BP oil spill is supported.  
19 But we don't have a better explanation about why landings  
20 are, on average, lower now than they were before. But we do  
21 believe that economics always plays a role.

22 VICE CHAIRMAN JOHANSON: Okay, thank you, Ms.  
23 Drake. Although one of the witnesses did state that due to  
24 heavy rains in Texas this year, that it was -- so I guess  
25 there are natural fluctuations?

1 MS. DRAKE: Exactly. Every year it may be  
2 something different.

3 VICE CHAIRMAN JOHANSON: All right. Thank you.

4 COMMISSIONER WILLIAMSON: Okay, thank you.  
5 Continuing on that line, is it typical that if you have the  
6 landings down on the Gulf, they might go up on the East  
7 Coast? Or was that just coincidence?

8 MR. BOSERG: I think it was just coincidence.  
9 The two bodies of water are very separate. And the types of  
10 shrimp they produce and how the fishery actually, how it  
11 works. We're in the Gulf, we're more of a--from the bays  
12 all the way to off to the edge of the Schiff in places  
13 ninety miles, and mostly typically in the South Atlantic,  
14 it's near shore, the bulk of the fishery is near shore.

15 But getting back to your question on maybe what  
16 drives landings. It's mostly economics, where in years  
17 past, when shrimp prices were up and fuel prices were down,  
18 and there was a large fleet. The fleet would work on  
19 smaller amounts of shrimp. We could go out and fish for a  
20 smaller amount of shrimp, whereas now with fuel prices down  
21 from where they were, but still high enough, economics drive  
22 it.

23 In other words, you're not able to go out, the  
24 fleet as a whole is not able to go out and maybe where they  
25 could make a nice work on, like I stated before, 250 pounds,

1 you can't do that now. So they're not gonna go, so landings  
2 on a whole have come down, but landings per vessel are up.  
3 If you can imagine what I'm saying.

4 COMMISSIONER WILLIAMSON: Okay. In terms of  
5 sort of, say consumption and prices in the U.S., does what  
6 happens in the South Atlantic affect what happens in the  
7 Gulf? Or are they just two independent markets?

8 MR. BOSERGE: Oh, yes, sir. Matter of fact,  
9 what we've had our white shrimp in the Gulf, and the white  
10 shrimp on the East Coast are two distinct species. They're  
11 not the same shrimp. And they're actually fished somewhat  
12 different. So the East Coast is -- their fleet's down quite  
13 a bit more, in my opinion, than what the Gulf fleet is. But  
14 their resource is still there, and now the boats that are  
15 left are doing pretty well on production.

16 COMMISSIONER WILLIAMSON: Okay. What about  
17 forecast of 2017? In terms of landings? Anybody wanna say  
18 anything about that?

19 MR. GARCIA: It's all up to Mother Nature.

20 MR. BOSERGE: We're fishermen. We've got our  
21 fingers crossed. We see a mild winter has been so far in  
22 the Gulf and not excessive rainfall. So usually when you  
23 get that, you usually have a pretty good crop of shrimp. So  
24 we've got our fingers crossed.

25 COMMISSIONER WILLIAMSON: With respect to the

1 March snowstorms down there, okay.

2 MR. RICKARD: But Commissioner, I just want to  
3 add that, you know, the fact that there are biological  
4 factors that affect the level of production doesn't mean  
5 that biological factors put a cap on how much can be landed,  
6 and that's really the disconnect between what Respondents  
7 are arguing and what you've heard in testimony today.

8 Again, when you look at the history of these  
9 anti-dumping orders, at the time when they were put in  
10 place, there was a lot of production that was going out of  
11 the market because vessels were being tied up and were no  
12 longer operating. That is all changed as things have gotten  
13 more stable, and folks are trying to figure out ways to  
14 continue to be more efficient, to catch more shrimp, to be  
15 able to work more days and that --

16 And the other thing, that's also part of the  
17 anticipation, is that even with more bountiful harvests that  
18 they'll be able to work more, more days fish to catch more  
19 that shrimp that's out there.

20 COMMISSIONER WILLIAMSON: Thank you. That's  
21 leading to my next question, how should the Commission  
22 assess capacity utilization with the domestic and foreign  
23 industries, given the need for live shrimp supply and the  
24 seasonality of the -- your shrimp harvest? It sounds to me  
25 like you're saying it's -- don't worry about those things so

1 much. Worry about the economics of fishing, of --

2 MR. RICKARD: Well, I think that you can see  
3 the difference in the way the capacity works between the  
4 foreign respondents and the way that it works for the U.S.  
5 industry. The U.S. industry maintains a lot of additional  
6 capacity because of the seasonality of the catch. But when  
7 you look at it in terms of the overseas things Ms. Drake's  
8 presentation went through, you have predictions about how  
9 much aquaculture production is going to be happening over  
10 the next several years.

11 So there is at least a sense that you can  
12 predict the volume that are going to be coming out of those  
13 farms, and the question is will you have enough capacity in  
14 the processing plants to be able to put that into a product  
15 that can be exported out. So in the one context excess  
16 capacity in the United States is part of the seasonality  
17 aspect, but it also shows that whatever the landings are,  
18 that there will be capacity to run that and freeze that into  
19 the marketplace.

20 On the other side, you're looking at capacity  
21 that's growing or it's excess that can absorb the additional  
22 farm capacity or farm production that is going forward.

23 COMMISSIONER WILLIAMSON: Does that mean the  
24 capacity overseas is more -- it's easier to predict that  
25 than domestic? No, it is also a lot larger percentage of

1 consumption too, I mean the farm supply is.

2 MR. RICKARD: Right. I think that's what  
3 you're seeing in the way that the market talks about things,  
4 and in terms of when respondents speak, and again on the  
5 presentation that went on the record on Monday, that you  
6 have a combined thing of being able to look at what farm  
7 production looks like in the future, as well as what you  
8 have available in their processing plants to absorb that  
9 additional farm production.

10 Whereas you can't do that with the domestic  
11 industry. You do not know how much will harvest, no matter  
12 what the intents are of the industry to catch as much as  
13 they possibly can, or if the economics are right. It is  
14 still somewhat determined by biology. It is -- it's that  
15 the disagreement is something that is just a little bit  
16 different. It's not a cap on overall production. You can't  
17 just look at numbers, say they look the same; therefore,  
18 there's a biological cap.

19 There has to be something more to it that  
20 would justify that assertion, and all I think we have from  
21 having read the briefs that were submitted were somebody  
22 saying the numbers look alike; therefore, there is a cap and  
23 that cannot be correct.

24 COMMISSIONER WILLIAMSON: Okay, thank you. Is  
25 there -- are there additional public sources we can look to

1 for an analysis of the long-term effects of the BP oil  
2 spills and the hurricanes on shrimp supplies in the United  
3 States?

4 MS. DRAKE: There are a couple of studies. I  
5 think there was one done shortly after the spill to look at  
6 what the projected impact might be on shrimp and other  
7 species, and I think projected just short-term, if any  
8 impact short-term of one or two years because it is an  
9 annual crop that renews itself every year. There's also a  
10 study that was put on the record by ITC staff that we could  
11 look at post-hearing if that would be helpful.

12 COMMISSIONER WILLIAMSON: Okay, thank you.  
13 Now you've already kind of responded to the Brazilians'  
14 argument saying that there will be no discernible adverse  
15 impact if the orders were lifted on Brazil. I think they  
16 talked about the focus on current market, on their home  
17 market. Are there any additional arguments or information  
18 you want to provide on why you disagree with that?

19 MS. DRAKE: Sure. I think we covered most of  
20 it in the presentation, but if you look at the information  
21 from the Brazilian producers that responded to the  
22 Commission's questionnaire or other public information, I  
23 think you'll see that there is not this 100 percent  
24 dedication to the home market, that they would never export  
25 to the U.S. if the orders were removed.

1                   They showed their interest in the U.S. market  
2                   in the period of original investigation. The Brazilian  
3                   economy is doing very poorly and not predicted to recover,  
4                   and that's reflected in the foreign producers' responses  
5                   showing that, at least in interim 2016, their home market  
6                   shipments went down and their export shipments went up.

7                   COMMISSIONER WILLIAMSON: I was going to  
8                   interrupt you there. If they're doing so poorly, do they  
9                   have the capacity to really try to exploit foreign markets,  
10                  because you do need some resources to do that.

11                  MS. DRAKE: Well I mean they're doing poorly  
12                  in terms of what their demand is in their home market. That  
13                  doesn't mean they don't have the capacity to increase.  
14                  They've reported, I think, 100 million pounds of excess  
15                  capacity or something to that effect, and their prediction  
16                  is that their farm production will grow by 20 million pounds  
17                  by 2018, not an insignificant amount given that at the  
18                  beginning of the original Period of Investigation they were  
19                  exporting I think 18 million pounds, I'm sorry about 21  
20                  million pounds to the U.S. market.

21                  So I think they both have the farmed resources  
22                  and the processing resources to increase production, and  
23                  they also have the incentive to shift existing production  
24                  from the home market to export markets, and the U.S. would  
25                  be a very attractive export market if the orders were

1       revoked.

2                   COMMISSIONER WILLIAMSON:  Are there any  
3       information, indications on their, shall we say marketing  
4       capacity, shipping capacity, infrastructure in the U.S. that  
5       would allow them to get back in here?

6                   MS. DRAKE:  Well they certainly do have  
7       relationships, as can be shown by the Boston Seafood Show,  
8       that they have a number of shrimp producers are there  
9       marketing themselves to U.S. retailers and food service  
10      groups.  So I don't think there's any barrier to them  
11      reintroducing themselves to the U.S. market, and in fact  
12      they appear to be trying to do that right now.

13                  COMMISSIONER WILLIAMSON:  Okay, yeah.  So  
14      anything you can put on the record to sort of support that  
15      would be helpful, and thank you for those answers.

16                  CHAIRMAN SCHMIDTLEIN:  All right, thank you.  
17      Commissioner Broadbent.

18                  COMMISSIONER BROADBENT:  Mr. Garcia, you  
19      discussed regulations as a factor affecting your business.  
20      Have regulations affected the amount of time your boats are  
21      willing to spend shrimping, and can you describe these  
22      regulations, including which ones are the most restrictive?

23                  MR. GIBSON:  One thing in our nets, we have to  
24      pull turtle shooters, you know, so the turtles could escape.  
25      It saves the turtles, but it's also a big hole in the net

1 and I'm all about saving turtles. But when you're not  
2 catching very much shrimp and you have a big hole in your  
3 net, it doesn't help the bottom line.

4 And then we also have a fish excluder that  
5 lets fish out the net, and shrimp go out of that as well  
6 and, you know. But that's the law and we abide by all of  
7 them so --

8 COMMISSIONER BROADBENT: Okay. So those are  
9 kind of the most restrictive regulations?

10 MR. GIBSON: Oh, and also the Coast Guard has  
11 put a bunch of restrictions on us here lately. You know, if  
12 you want to build a new boat, you have probably \$400,000 in  
13 added costs just in extra drawings and paper work to make it  
14 certified for the Coast Guard. Most of the rules the Coast  
15 Guard makes, they don't abide by them in their boats, but  
16 they expect us to abide by them in our boats.

17 COMMISSIONER BROADBENT: Really, \$400,000  
18 additional?

19 MR. GIBSON: Yes ma'am. I got a quote right  
20 now to build a boat classed to Coast Guard spec. It's 2.5  
21 million. If it didn't have to be classed to Coast Guard  
22 spec, it would be 2.1 million.

23 COMMISSIONER BROADBENT: What kind of stuff do  
24 they require on their specs?

25 MR. GIBSON: Well, to tell you the truth, it

1 wouldn't make it a better boat. It doesn't make it any more  
2 safer. It's just you have to have a lot of stuff certified,  
3 your engine. A normal engine would cost you \$100,000. It  
4 has to be a certified engine. So it will be the same  
5 engine, but since it's certified it costs \$120,000 and it's  
6 just all the parts that are throughout the whole boat are  
7 like that.

8 COMMISSIONER BROADBENT: Okay, thank you. I'm  
9 not sure who's best to answer this, but do domestically  
10 harvested shrimp have the same health and safety standards  
11 as imported shrimp?

12 MS. DRAKE: In terms of the regulatory  
13 standards that they're supposed to meet?

14 COMMISSIONER BROADBENT: Health and safety  
15 regulatory standards, yes.

16 MS. DRAKE: Yeah. So a big part of the U.S.  
17 regulatory system is the HAACP plans that maybe you can  
18 explain, and foreign producers are also supposed to have  
19 HAACP plans to export to the U.S.

20 COMMISSIONER BROADBENT: Wait, hazmat?

21 MS. DRAKE: H-A-A-C-P, HAACP.

22 COMMISSIONER BROADBENT: Okay.

23 MS. DRAKE: Is that correct?

24 MR. GIBSON: Hazardous Analysis Critical  
25 Control Point. What it is is throughout the processing we

1 have to -- we have to acknowledge anywhere that there may be  
2 a problem with the product. It could of an allergen to  
3 someone or a health issue, and we have to document it all  
4 the way through. Any time that we're processing, we have to  
5 have paper work that shows that day that we processed, where  
6 the boat came from, how we handled the product, how we have  
7 it, you know, labeled.

8 So if there is any questions we have to pull  
9 -- if there's any questions about the product, we have to be  
10 able to pull it back. We have a daily report on that that  
11 they come in and check. In our position, they check us  
12 every three months, and then every year we have a federal  
13 review that comes in and checks the paper work.

14 MS. DRAKE: And I guess in terms of  
15 differences, that would be less on the processing side and  
16 more in the farmed versus wild caught, which we already  
17 talked about, in terms of whether foreign producers are  
18 using antibiotics or other chemicals in the farming process  
19 that they shouldn't be using, that of course wouldn't be  
20 introduced in the fishing process.

21 COMMISSIONER BROADBENT: Okay. Mr. Hopper,  
22 did you have anything to add?

23 MR. HOPPER: We do -- we have the same  
24 standards. Actually the HAACP plan, that was recommended by  
25 the FDA, is written more likely for imports. The chemicals

1 in aquaculture and antibiotics that are used are not readily  
2 available in the United States. Though we do abide by the  
3 -- do the same plan, but the things that we test for are the  
4 same. But they're not readily available in the United  
5 States.

6 We don't use antibiotics in the shrimp, and as  
7 far as chemicals in the environment, ours are more -- more  
8 regulated by what is around the farm, and not from  
9 discharging. There's a lot of discharging that happens in  
10 other countries that are not permitted here in the United  
11 States, which affects the water quality in which the shrimp  
12 grow in.

13 COMMISSIONER BROADBENT: Right. Mr. Rickard,  
14 you stated that substantial increases in U.S. imports from  
15 Malaysia may be linked to circumvention, and indicate how  
16 subject imports can rapidly surge into the U.S. market and  
17 shift the source of supply.

18 However, if such a major shift in a source of  
19 supply occurs but does not affect the domestic industry's  
20 condition, isn't this an indication that subject imports can  
21 increase significantly, but largely leave the domestic  
22 industry untouched, given that they would simply be  
23 displacing other import sources?

24 MR. RICKARD: Thank you. What we're trying to  
25 point out is you can see the movement, and we have worked --

1 we have worked to limit the amount that could be shifted  
2 over and so, you know, we are not arguing that there is a  
3 material injury from the Malaysian shrimp imports that came  
4 in in that time period, but noting that you can have tens of  
5 millions of pounds move from one market to another.

6 And again, we're not here to argue that injury  
7 is occurring as of now. But what would happen if the  
8 anti-dumping orders were removed on all five subject  
9 countries. And so in that context of looking what it might  
10 be possible, if the argument is that there isn't an ability  
11 to shift supply from one to another, then the record with  
12 respect to trade with Malaysia belies that claim.

13 COMMISSIONER BROADBENT: Okay. Let's see.  
14 How have the administrative reviews affected the volume and  
15 prices of subject imports over the period of review, given  
16 that several of these administrative reviews have resulted  
17 in pretty low margins? Is it likely that a revocation of  
18 those duties will result in any significant change in  
19 subject import volume or prices?

20 MS. DRAKE: Thank you, Commissioner Broadbent.  
21 Yes, I believe that there would be a change in both volume  
22 and price if the orders were revoked. The Respondents focus  
23 on the fact that there have been relatively low margins in  
24 the administrative reviews, but of course in the context of  
25 an administrative review, you have Commerce typically

1 choosing the two or three largest producers, exporters, who  
2 know they're going to be chosen, who can work with their  
3 council to discipline their pricing practices to eliminate  
4 dumping.

5                   Even if that results in a zero margin, that  
6 still benefits the domestic industry, because the dumping  
7 has stopped. Without the discipline of the dumping orders,  
8 they would no longer have to worry about what's going to  
9 happen in the next administrative review and whether or not  
10 dumping would be found and duties would have to be paid, and  
11 therefore they could resume dumping without any duty  
12 discipline.

13                   That's why Commerce, when it looks at the  
14 likely incidence of dumping if the orders are revoked, goes  
15 back and looks at the period of the original investigation,  
16 rather than the history of the reviews, because that's the  
17 last time the imports were not disciplined by the duty  
18 orders.

19                   MR. RICKARD: And Commissioner, I think as you  
20 look across the five countries and the admin reviews, you're  
21 going to see three different baskets of how the admin  
22 reviews affect them. Across the board, as Ms. Drake says,  
23 you know, no matter what you have to price at a particular  
24 level. So even if there are low margins, it demonstrates  
25 that the person, that company or that industry is shipping

1 in at a price level that is at or near fair value, and that  
2 has benefits to the marketplace.

3 You have Brazil and China, which have largely  
4 exited the market. You have Thailand and India, which have  
5 had low margins over a long period of time, and then you  
6 have variability with respect to the Vietnam shipments that  
7 come into the United States. Those seem to fluctuate more  
8 with what the results are of administrative reviews,  
9 depending on whether or not the final results are higher or  
10 lower in Commerce's determination.

11 COMMISSIONER BROADBENT: To what extent have  
12 domestic shrimp fishermen and processors benefitted from the  
13 BP Gulf oil spill payouts, and then also the payouts related  
14 to the Byrd amendment, the Continued Dumping Subsidy Offset  
15 Act over the last three years? How much longer are these  
16 payouts expected to last?

17 MS. DRAKE: Well, with respect to BP, there's  
18 some data in the staff report, and I would note that at  
19 least in the processing segment, even when you look at net  
20 income margins, which would include any BP payments and  
21 CDSOA payments, they're very, very low. So it hasn't been  
22 enough to markedly change the performance, the financial  
23 performance of the industry.

24 It has permitted some processors to invest in  
25 their facilities or to try to acquire additional equipment.

1 But most of that has been invested into companies that have  
2 been unable to make those investments in recent years. With  
3 respect to CDSOA, there's very little money left in the  
4 CDSOA clearing accounts for shrimp. I believe that Mr.  
5 Rickard may have put that on in the response to the Notice  
6 of Institution, but we would be happy to put that on  
7 post-hearing. But it's very minimal amounts that are left  
8 under CDSOA for shrimp.

9 COMMISSIONER BROADBENT: Great, and I just  
10 want to thank the panel for contributing today. We've  
11 really learned a lot and I appreciate your participation.

12 CHAIRMAN SCHMIDTLEIN: Okay. Can somebody  
13 address what drove the increase in consumption from '13 to  
14 '14 and then '14 to '15 in your view?

15 MS. DRAKE: We'd be happy -- I apologize Madam  
16 Chairman. Yes, it is a pretty large increase. Obviously,  
17 you had the economic recovery, which was continuing and  
18 increasing. You had lower unemployment, maybe more  
19 disposable income for people to go out and eat, to afford  
20 products like shrimp. There have also been reports that  
21 there is more interest from consumers in terms of the health  
22 benefits of shrimp and of seafood, that demand for those  
23 types of foods are projected to increase.

24 There may have been some trends in other meat  
25 products, some kind of substitution going on. But I am not

1 aware of that, about something that's been discussed in the  
2 past as a possible factor.

3 CHAIRMAN SCHMIDTLEIN: Okay. Well, it might  
4 help to understand a little more. So for purchasers, I  
5 guess this is really a question for the processors, how do  
6 purchasers determine how much they're going to purchase? Is  
7 it usually the, you know, similar amount every year from  
8 distributors? You know, what are they looking at to figure  
9 out how much they want to purchase, or is it all driven -- ?

10 I guess what I'm really getting at is this --  
11 is this driven by price? In other words, when the price is  
12 low, you'll see purchasers, distributors purchasing more  
13 because they can push that out to retailers in the  
14 restaurants, or is there some other strategy that they have  
15 for --

16 MS. DRAKE: I mean I certainly believe there  
17 is a price element to that, as you see, for example, average  
18 unit values for imports going down. Shrimp import volumes  
19 go up and overall domestic consumption goes up, and I do  
20 believe that's related to that substitution issue, or that  
21 you can simply find new customers that weren't going to buy  
22 shrimp at all but suddenly say wow, it's only \$3 a pound,  
23 maybe I'll try it. So I do think that price has something  
24 to do with variability to push product through to the  
25 market.

1                   MR. GIBSON: I know that our work through the  
2 state of Louisiana has done a lot of promoting of seafood in  
3 a lot of areas that we may not have sold much before, and  
4 then also in areas where we've sold a lot. So we've done a  
5 lot of promotion through the state with that for the Seafood  
6 Board.

7                   As far as a lot of our customers, they're a  
8 spot buy. So depending on the trend, when the trend starts  
9 to pick up on seafood, they order more. When it starts to  
10 slow down, they order less. We don't do a lot of contract  
11 work. I know some of the guys that do do the contract work.

12                   They've worked a lot on securing new markets  
13 and new customers with some of the EMS situations that had  
14 come up, and then with those other countries that were not  
15 involved with EMS, but they started to produce shrimp and  
16 then those countries subject by EMS coming back on. We seem  
17 to see that the imports are up and that the demand is up  
18 because there's more shrimp in more places and cheaper.

19                   CHAIRMAN SCHMIDTLEIN: When you're doing your  
20 spot sales, do you have the purchasers pushing back on price  
21 and citing import prices as a --

22                   MR. GIBSON: Pretty much every phone call.

23                   CHAIRMAN SCHMIDTLEIN: Every phone call, and  
24 is it all imports or is it more specifically subject or  
25 non-subject producers?

1                   MR. GIBSON: It's mostly imports and it may be  
2 if we have an issue, as we had a lot more white shrimp  
3 caught on the East Coast, maybe something that we were not  
4 fully aware of, of the production there, that they say we're  
5 working with someone in Boston and the East Coast is closer  
6 and they have a ramp up of shrimp, he may say look, there's  
7 this issue on this price because of this size of production  
8 here.

9                   And depending on the order, we may have to  
10 adjust our order to try to give up a little bit on one, to  
11 try to recoup some more to keep the order. But quite often  
12 we hear that, you know, be aware because we're hearing,  
13 we're hearing trends that we could buy this product at this  
14 size or this amount, and in 90 days we can have this product  
15 at our facility.

16                   So quite often they're buying less with us  
17 than they bought before. They're inventorying less and  
18 taking small amounts more often.

19                   CHAIRMAN SCHMIDTLEIN: What's the shelf life  
20 of frozen shrimp?

21                   MR. GIBSON: As mentioned before, if you pack  
22 it in today's modern packing, IQF I think is 18 months with  
23 the head on, and two years on headless. The way, you know,  
24 it's packed as far as not IQF in the block form. But we  
25 don't want to hold product that long. We like to see it

1 turned and moved.

2 CHAIRMAN SCHMIDTLEIN: Uh-huh, uh-huh, okay.  
3 Would anyone else like to address that? Mr. Gollott, you're  
4 also a processor, right?

5 MR. GOLLOTT: Pretty much the same thing. The  
6 whole market, every time -- every sale is a negotiation.  
7 Speaking of how customers buy, I have a restaurant that came  
8 in last week and said well, I'm using 1,000 pounds a month.  
9 I'm going to need 5,000 pounds before the season starts. So  
10 they had to sell them to me and keep them for me and bring  
11 them to me at 1,000 pounds a shot. But it's all supply and  
12 demand, and price does make a big difference.

13 CHAIRMAN SCHMIDTLEIN: Mr. Gibson?

14 MR. GIBSON: Yes ma'am. Quite often, as we  
15 have one customer that I'm working with presently, he  
16 ordered X amount of shrimp at the first of the year that he  
17 needs by May. But even though we agreed on a contract -- or  
18 not a contract, but we agreed on a price as January, every  
19 month we look at terms. I'd give him a price where I can't  
20 go higher than this, but if something changes in the market  
21 I've got to reduce to keep him competitive with the  
22 customers that he sells with.

23 So instead of him taking the 5,000 pounds that  
24 he would have taken for the next five months, he's taking  
25 1,000 per month, and every month we renegotiate. Okay,

1 we're okay this month, right. Well next month, we've got to  
2 worry about this coming in. We may have to reduce so he  
3 stays competitive.

4 CHAIRMAN SCHMIDTLEIN: Uh-huh, okay. And what  
5 about breaded shrimp? Has this had an impact on your  
6 industry and the prices?

7 MR. GOLLOTT: It's a different product and it  
8 doesn't really compete directly with your raw shrimp,  
9 different customers.

10 CHAIRMAN SCHMIDTLEIN: Different customers?

11 MR. GOLLOTT: Different customers.

12 CHAIRMAN SCHMIDTLEIN: So different  
13 distributors or different --

14 MR. GOLLOTT: No. Some of the distributors  
15 distribute both products, but most of your high end  
16 restaurants want to fix the shrimp themselves and a lot of  
17 the breaded product is coming from overseas as cheap as they  
18 can get it, and it's just a different -- treated a different  
19 way in the restaurants.

20 CHAIRMAN SCHMIDTLEIN: So you don't see a  
21 connection between the orders and an increase in imports of  
22 breaded shrimp?

23 MR. GOLLOTT: I don't think it affects our raw  
24 shrimp.

25 MS. DRAKE: Well, I think the -- I think

1       there's two different questions. One is whether the imports  
2       of breaded shrimp are hurting the fresh or raw shrimp  
3       industry, and the other question is whether or not subject  
4       foreign producers increase their exports of breaded shrimp  
5       in response to the orders, as a way to continue accessing  
6       the U.S. market.

7                       That certainly did occur in terms of increases  
8       in imports of breaded shrimp from the subject countries,  
9       demonstrating their continued interest in serving the U.S.  
10      market and even if they need to take some additional  
11      processing steps in order to avoid the orders to do that.

12                     CHAIRMAN SCHMIDTLEIN: And do you think that  
13      would reverse if the orders were revoked? In other words,  
14      would they -- is there some reason they would then go back  
15      to raw shrimp as cheaper or processed --

16                     MS. DRAKE: I don't know. Lower production  
17      costs. I don't know enough about, you know, what the  
18      margins would be on each different type of product that  
19      might create different incentives.

20                     CHAIRMAN SCHMIDTLEIN: Uh-huh, okay. The  
21      Respondents also argue that if there was an increase in  
22      subject imports if the orders were revoked, that this would  
23      just replace, subject would just replace non-subject. This  
24      is all sort of an extension of the argument that total  
25      imports are stable, and so therefore there wouldn't be any

1 effect on the domestic industry. Can you respond to that  
2 argument?

3 First of all, do you agree? Like if given  
4 that the volume, the market share of the domestic industry  
5 has been relatively stable over time, do you agree that  
6 subject would probably replace non-subject and would it --  
7 does it matter for the analysis even if that's true?

8 MS. DRAKE: I do not think that it would only  
9 come at the expense of nonsubject imports. I think in the  
10 original investigation, subject imports increased at the  
11 expense of the domestic industry while nonsubject imports  
12 increased only a little bit over the period of the original  
13 investigation. I think you continue to see the ability of  
14 subject imports to increase at the expense of the domestic  
15 industry in the interim period data here, where the only  
16 source of increase was subject imports and both nonsubject  
17 and domestics lost market share to subject imports or lost  
18 volume to subject imports as they increased.

19 So I think both the idea that non-subject  
20 imports have created some kind of impenetrable barrier is  
21 not true. That shows that it's not true, and the idea that  
22 subject imports would only come at the expense of  
23 non-subject imports is not true because they've shown their  
24 ability to increase at the expense of the domestic industry,  
25 both before the orders were imposed and the record of this

1 review, at least in the interim period.

2 MR. RICKARD: Chairman and staff, John  
3 Applebaum from Penguin Frozen Foods had testified here in  
4 the original investigation, he testified here in the first  
5 sunset review; he couldn't be here today in the second  
6 sunset review, and he had testified the last time, and I  
7 just want to read it from what he said.

8 He said "You know, when consumption here is  
9 saturated, the import community doesn't stop buying; they  
10 just buy it cheaper, and they buy it cheaper and they buy it  
11 cheaper until the consumption kicks in and begins to take up  
12 the overflow, and that is when we get killed." That is, I  
13 think, the perception of the domestic industry, how they see  
14 the marketplace. It's true that when prices go down for  
15 subject imports, if the anti-dumping orders are revoked and  
16 prices are cheaper for those imports going in, they will  
17 take some market share from non-subject imports.

18 But they will also take market share from the  
19 domestic industry. They'll take market share from everybody  
20 and prices will decline across the board.

21 CHAIRMAN SCHMIDTLEIN: Alright, my time is up.  
22 Vice Chairman Johanson.

23 VICE CHAIRMAN JOHANSON: Thank you, Chairman  
24 Schmidtlein.

25 The domestic shrimp processors and harvesters

1 have both commented that the United States has less  
2 extensive food and safety inspection laws as they relate to  
3 shrimp as do other countries such as the European Union and  
4 Japan. Are there any efforts to tighten FDA requirements or  
5 restrictions as related to shrimp?

6 You all contend that this puts you at a  
7 competitive disadvantage, but are there means to try to  
8 improve that situation for you?

9 MR. GOLLOTT: Well your HASA program was designed  
10 to tighten up and enhance the inspections and make sure  
11 nobody get sick. But shrimp is a very low chance of getting  
12 sick on a shrimp because you have to cook it to eat it.  
13 It's not like crab meat, or raw oysters, or something like  
14 that. But we have a very good record. I don't think we've  
15 ever heard of anyone getting sick off of shrimp.

16 MS. DRAKE: Vice Chairman Johanson, yes, there  
17 have been efforts by the domestic industry to have increased  
18 inspection rates, to do other things to bring the U.S.  
19 closer to the level of health and safety standards that you  
20 see in Europe and Japan.

21 There also is a rule that the Obama  
22 Administration put out on illegal and unregulated fishing to  
23 try to ensure that the fish and seafood that comes into the  
24 United States is harvested legally, but that rule does not  
25 apply to shrimp because shrimp is farmed instead of

1 harvested, and they decided not to apply it to farm shrimp.  
2 And that's something that the domestic industry has also  
3 been active on, trying to get shrimp included in that  
4 traceability IUU rule. But whether that rule will ever in  
5 fact take effect is up in the air now with the change in  
6 administrations.

7 MR. RICKARD: Vice Chairman, the domestic industry  
8 has worked over the last decade to try and improve both the  
9 regulations that are on the books and the capacity of the  
10 agencies to oversee imports that come in.

11 What we have been most focused on is improving  
12 the targeting at the border for what types of shipments to  
13 look for, so that we're not talking about something where  
14 it's a 2 percent random testing and attempting to find out  
15 what happens there, but instead identify those that present  
16 risks of either being short-rated or having antibiotics, or  
17 being misidentified. So that can improve.

18 On Tuesday of next week, the Federal Government,  
19 led by the U.S. Customs and Border Protection Agency is  
20 going to be holding a roundtable on seafood fraud and the  
21 ways that the agencies have been working together to address  
22 just seafood oversight generally, and that is part of the  
23 continuing efforts to try and get improved enforcement.

24 One of the things that was in the presentation  
25 that went on the record on Monday from the National

1 Fisheries Institute panel is there are arguments that are  
2 made that the U.S. industry is moving towards--is attempting  
3 to move towards U.S. Department of Agriculture regulation.

4 We're not aware of that. I think we have  
5 attempted to clarify with the people who have said that  
6 that's what the domestic industry is doing, so it's a bit  
7 different than from perhaps what you all have seen with  
8 respect to the catfish industry. But otherwise there's  
9 continuing efforts to try and make it so that we leave as  
10 level a playing field as possible on the regulatory  
11 constraints on these productions.

12 VICE CHAIRMAN JOHANSON: Thanks, Mr. Rickard.  
13 Yes, I've followed all this over a number of years, FDA  
14 versus USDA. I'm pretty familiar with it and, yeah, I know  
15 you all are quite frustrated by the current system.; I'll  
16 leave it at that.

17 I'm now going to turn to Brazil. Based on the  
18 industry's home market orientation and recent export  
19 patterns--that being the industry in Brazil--particularly  
20 with respect to the U.S. market, why should we cumulate  
21 subject imports from Brazil with subject imports from the  
22 other subject countries on this record?

23 MS. DRAKE: Thank you, Vice Chairman. We believe  
24 that you should cumulate Brazil with the other subject  
25 imports because it will have more than a discernible adverse

1 impact if the order is revoked on Brazil.

2 `The Commission also found Brazil was absent--  
3 largely absent from the U.S. market in the first review, but  
4 concluded that this was the effect of the order and not  
5 reflecting any lack of interest by Brazilian producers in  
6 the U.S. market.

7 I think the Commission should reach the same  
8 conclusion at this point. While they have become  
9 increasingly focused on their home market, we've put a  
10 number of pieces of information on the record that shows  
11 that over the period of review they have been attempting to  
12 increase their exports; that the Brazilian Minister of  
13 Agriculture last year publicly said that Brazil should  
14 increase its shrimp exports.

15 This is understandable, given the poor state of  
16 the Brazilian economy. And it's projected that their farm  
17 production will rise this year and next year. And they have  
18 sufficient excess processing capacity to process that  
19 increased production. And the U.S. market will be a very  
20 attractive market for those volumes if the order is revoked,  
21 given our prices and our size and our favorable demand  
22 trends. And we believe the presence of the Brazilian shrimp  
23 producers at the Boston Seafood Expo next week reflects  
24 their interest in the U.S. market and in accessing that  
25 market.

1                   VICE CHAIRMAN JOHANSON: Thank you, Ms. Drake.

2                   MR. RICKARD: Vice Chairman, I would also add  
3                   that, you know, for an industry that doesn't supply enough  
4                   shrimp to meet all of domestic consumption demands in  
5                   Brazil, we look at the import ban on Brazilian shrimp--on  
6                   shrimp into Brazil with some interest. I would imagine that  
7                   the panel that's coming up next would have opinions about  
8                   whether or not countries can just ban imports coming in, and  
9                   how long that may be able to stay in place.

10                   So one of the other market conditions that, you  
11                   know, changes the way that Brazil operates in the near term  
12                   is whether or not they can maintain restrictions on what  
13                   goes into Brazil in terms of what their import competition  
14                   looks like in that country.

15                   VICE CHAIRMAN JOHANSON: Thank you, Mr. Rickard.  
16                   How do you all respond to Respondents' claim that subject  
17                   exporters in the subject countries have far greater sales  
18                   opportunities in third country markets, and therefore an  
19                   increase in volume is not likely to enter the U.S. market  
20                   absent the order?

21                   MS. DRAKE: Well combined, third country markets  
22                   may be significant. They still are exporting huge amounts  
23                   to the U.S. market, even with the orders in place. I  
24                   believe there was about 2 trillion--2 billion pounds that  
25                   were exported by the subject countries to all countries in

1 the world, and a quarter of that was to the U.S. market, to  
2 just one market. And that's with the orders in place.

3 So absent the orders, there would be every  
4 incentive for them to increase exports to the U.S., given  
5 our relatively high prices and our relatively lax import  
6 standards. And as demonstrated in the original Period of  
7 Investigation where they increased their exports to the U.S.  
8 quite rapidly without the discipline of the orders.

9 VICE CHAIRMAN JOHANSON: Along those lines, how  
10 does the U.S. market differ from other major shrimp markets,  
11 including the European Union, in terms of price and in terms  
12 of quality requirements?

13 MS. DRAKE: Well one difference is that demand in  
14 the U.S. is expected to continue increasing, whereas demand  
15 in the European Union is seen as not increasing as quickly.  
16 And in fact in Japan there's been a long-term decline in per  
17 capita seafood consumption, as younger generations are less  
18 avid seafood eaters and turning to meat and other products.

19 So there is a difference in the demand trends.  
20 In terms of price, there are times when the U.S. is higher  
21 priced than other markets. There are times when prices are  
22 similar in the U.S. and other major markets. And with the  
23 import standards, the quality standards which we have talked  
24 about, EU and Japan tend to test for a lot more banned  
25 additives than the U.S. tests for, and to test much more

1 frequently for those than the U.S. does.

2 VICE CHAIRMAN JOHANSON: Thanks, Ms. Drake. And  
3 how do you all respond to the Respondents' position that  
4 excess production capacity is an unreliable indicator of the  
5 likelihood of future imports because maximum processing  
6 capacity does not limit production levels? In other words,  
7 that there's a lack of adequate supply.

8 MS. DRAKE: Yes, I would agree that the Commission  
9 needs to look both at excess capacity at the processing  
10 level and at the supply from aquaculture, but the basic  
11 response is that supply is also projected to increase by  
12 more than 600 million pounds from 2016 to 2018. And there's  
13 more than adequate excess capacity to process all of that  
14 additional supply and existing plants based on the  
15 questionnaire responses received by the Commission.

16 So our response is, of course we agree you do  
17 need to look at both, but when you do you'll find that there  
18 is more than adequate supply and more than adequate  
19 processing capacity to greatly increase exports very  
20 quickly.

21 VICE CHAIRMAN JOHANSON: And, Ms. Drake, I wanted  
22 to go back to one of your prior answers. You stated that  
23 consumption is going down in the European Union. Do you  
24 know why that's the case?

25 MS. DRAKE: I don't think it's going down. I

1 think the growth rate--

2 VICE CHAIRMAN JOHANSON: It's not growing as  
3 quickly?

4 MS. DRAKE: Yeah, I think it's based on economics,  
5 based on the rate of their economic recovery versus the  
6 United States.

7 VICE CHAIRMAN JOHANSON: And I guess in Japan you  
8 have no population growth. It's actually declining.

9 MS. DRAKE: Or a difference in taste between  
10 generations in terms of what they prefer to eat.

11 VICE CHAIRMAN JOHANSON: Alright, well thank you  
12 for your responses.

13 COMMISSIONER WILLIAMSON: I turned it on. Excuse  
14 me. Okay, this question has already been touched on but I  
15 think you may be able to give more detail, and particularly  
16 post-hearing.

17 How do you respond to the argument that after  
18 revocation of the orders on individual foreign producers  
19 their shipments to the U.S. did not increase, and that this  
20 is indicative of the likely effects of future revocations?  
21 And I think the Respondents mentioned experience in specific  
22 countries, and that you may wish to touch on post-hearing.

23 MS. DRAKE: Thank you, Commissioner Williamson.  
24 Yes, we would like to respond, and I think the trends differ  
25 by producer. And since all of that information is APO, I

1 would prefer to answer post-hearing, if that's--

2 COMMISSIONER WILLIAMSON: That's fine.

3 MS. DRAKE: Okay.

4 COMMISSIONER WILLIAMSON: Good. Thank you. Let's  
5 see. Respondents argue that processors' operating incomes  
6 have stayed in a narrow band since the original POI. Does  
7 this indicate that industry has limits on how well it can  
8 do, regardless of the presence of absence of the antidumping  
9 orders?

10 MS. DRAKE: There has--operating margins have been  
11 low over time. We did see an increase in both interim  
12 period and the original investigation after the petitions  
13 were filed in the interim period here where there was less  
14 downward pressure on their prices, but there were still some  
15 savings on the ex-vessel prices because fuel costs, although  
16 they were starting to rise, were still pretty low. So there  
17 is an ability to be more profitable.

18 I think the main driver of profitability is the  
19 presence of subject imports and the price of those imports.  
20 If you go back to the '70s, the '80s we were talking about  
21 this yesterday, the shrimp processing industry was a  
22 profitable industry. It was a good industry to be in. And  
23 it was only with the kind of explosion of aquaculture in  
24 foreign countries and the resulting, you know, huge increase  
25 in imports into the U.S. that the industry kind of had this

1 major adjustment to being a thinner margin industry.

2 COMMISSIONER WILLIAMSON: Okay.

3 MR. RICKARD: Commissioner, this is again just a  
4 return back to the difference between this record and the  
5 CBD record that was before this agency. The domestic  
6 industry is defined as being composed of both producers and  
7 processors, and so there is what you were just discussing,  
8 sort of the overall trends that you look at in processors,  
9 but certainly for producers at the farming and fishing  
10 level, that there have been over the time period pretty  
11 significant changes in the financial operations of those  
12 companies.

13 So to the extent that you hear that there has  
14 been improvement in the industry, it is at least  
15 demonstrated on one part of the industry. It may not be all  
16 the way throughout, but there has been variability such that  
17 this concept of having just a low profit margin and that  
18 being the reality of the industry does not seem to get with  
19 the record.

20 COMMISSIONER WILLIAMSON: Okay, thank you. And  
21 finally, how do you respond to the argument that China's  
22 market share for shrimp is growing, while its production is  
23 declined, drawing in imports from other shrimp producing  
24 countries? In other words, that the Chinese market--demand  
25 for shrimp in China is growing, and they're drawing in

1 imports? Do you think that's relevant to what's going to  
2 come to the U.S.?

3 MS. DRAKE: Even if Chinese demand is growing and  
4 they're pulling in imports to serve that demand, Chinese  
5 producers are also going to look at the relative prices that  
6 they can get in China versus export markets like the United  
7 States in determining where they want to focus their  
8 production and their shipments.

9 So they may be happy to let imports serve the  
10 Chinese market so they can serve a more lucrative market in  
11 the U.S. if the orders are revoked.

12 COMMISSIONER WILLIAMSON: Okay.

13 MR. RICKARD: Commissioner, I'll say that we have  
14 talked a little bit about the predictions that were made  
15 maybe three years ago, but I also think that it should be  
16 relevant to the Commission the predictions that were made  
17 six years ago, and five years ago in the last sunset review  
18 about what would happen.

19 And on this topic, the same argument was raised  
20 about what increased Chinese demand, internal demand, would  
21 make as an impact on the rest of the world market for  
22 shrimp. And you can evaluate what has happened in that  
23 interim period to see whether or not the continued  
24 predictions of this is going to be something that changes  
25 the way in which shrimp is marketed around the world,

1       whether to give way to those.

2                   COMMISSIONER WILLIAMSON: Okay, thank you. I want  
3       to thank the panel for all their answers.

4                   CHAIRMAN SCHMIDTLEIN: Vice Chairman Johanson?

5                   VICE CHAIRMAN JOHANSON: Yes, I have just one more  
6       question. Respondents characterize the U.S. shrimp market  
7       as a mature market with stable consumption.

8                   Do you all agree? Or would you characterize this  
9       as a growing market with apparent consumption going up?

10                  MS. DRAKE: Thank you, Vice Chairman. Their  
11       argument seems to be based in part on looking at per capita  
12       consumption, and clearly as the population grows, even if  
13       per capita consumption stays the same, overall consumption  
14       grows. And we have seen apparent domestic consumption over  
15       the Period of Review grew by 15 percent. That's not  
16       nothing. Apparent consumption in the original  
17       investigation grew by 20 percent from 2001 to 2003. And as  
18       we were discussing with Chairman Schmidtlein, consumption is  
19       also a function of price. As prices go down, consumption  
20       will continue--would continue to increase. And so, no, we  
21       do not agree that it is a mature market and consumption will  
22       not increase.

23                  VICE CHAIRMAN JOHANSON: Thank you for your  
24       responses. That's all my questions. I'm very hungry now,  
25       though, so I'm not going to have shrimp today, I know that.

1 (Laughter.)

2 COMMISSIONER WILLIAMSON: I just want to quickly  
3 thank you for this, putting this testimony all together, and  
4 particularly for having the pretty pictures, especially the  
5 pretty pictures of the shrimp right here, for which I thank  
6 you.

7 VICE CHAIRMAN JOHANSON: That's one reason I'm so  
8 hungry, the shrimp sitting in front of me. It looks very  
9 good. Thanks.

10 CHAIRMAN SCHMIDTLEIN: Alright, well that  
11 concludes Commissioner questions. Does the staff have any  
12 questions for this panel?

13 MS. HAINES: Elizabeth Haines. Staff has no  
14 questions.

15 CHAIRMAN SCHMIDTLEIN: Do the Respondents have any  
16 questions for this panel?

17 MR. CONNELLY: No questions.

18 CHAIRMAN SCHMIDTLEIN: No? Thank you.

19 Alright, that brings us to the lunch hour. So we  
20 will reconvene at 1:45. And let me remind you that the  
21 hearing room is not secure, so please take your papers and  
22 confidential information with you.

23 We stand in recess.

24 (Whereupon, the hearing was recessed, to  
25 reconvene at 1:45 p.m., this same day.)

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

2                   MR. BISHOP: Will the room please come to  
3 order?

4                   CHAIRMAN SCHMIDTLEIN: Good afternoon. Mr.  
5 Secretary, will you please announce this panel?

6                   MR. BISHOP: Madam Chairman, the panel in  
7 opposition to the continuation of the anti-dumping duty  
8 orders have been seated. All witnesses have been sworn.

9                   CHAIRMAN SCHMIDTLEIN: All right. You may  
10 begin.

11                  MR. CONNELLY: Good afternoon. We've got a  
12 very full panel of witnesses today. We've got six industry  
13 witnesses and then we're going to have some brief remarks  
14 from three of the Council. So without further ado, we'll  
15 just start with Guy Pizzuti from Publix.

16                   STATEMENT OF GUY PIZZUTI

17                  MR. PIZZUTI: Good afternoon. My name is Guy  
18 Pizzuti. I'm the category manager for seafood at Publix  
19 Supermarkets. I've been responsible for seafood operations  
20 at Publix for the last 21 years. For those not familiar  
21 with our company, we are the largest employee-owned company  
22 in the United States, with over 200,000 associates. We  
23 operate over 1,100 stores throughout the Southeast with  
24 sales of over 36 billion.

25                  We are known for our award-winning customer

1 service and the quality and freshness of the products that  
2 we provide. As category manager, I'm responsible for all  
3 aspects of the Seafood operation, which includes  
4 procurement, sourcing, merchandising and promotional  
5 planning. Along with our Quality Assurance Department, I am  
6 also responsible for ensuring that the products that we sell  
7 and the suppliers that we select meet our standards.

8 We purchase a full range of wild domestic  
9 shrimp. We also purchase wild shrimp from Argentina. Our  
10 farm shrimp comes to us from Thailand, India and Indonesia.  
11 India and Indonesia were added as sources of supply  
12 following the AMS outbreak in Thailand. Our total shrimp  
13 procurement exceeds 15 million pounds.

14 I sat before the Commission during the CVD  
15 case, and at that time the primary questioning was about how  
16 and why Publix would support both wild and farmed product.  
17 My answer today is the same as it was back then, is because  
18 there's a customer demand for both of those products.  
19 Publix operates in areas that are traditional  
20 shrimp-producing states, Florida, Georgia, Alabama and the  
21 Carolinas.

22 Our customers in those markets demand their  
23 shrimp be in our stores. As a result, we now require our  
24 stores to carry wild product in the service case at all  
25 times. In addition, we have created special labeling for

1       our stores that calls out the state of origin on all of our  
2       wild domestic harvested seafood.

3                       That being said, the domestic industry still  
4       struggles to meet our needs, and this is especially true  
5       when it comes to value-added products. Peeled in the vein,  
6       easy peeled and cooked make up the vast majority of our  
7       shrimp sales. Even a simple IQF head on or simple IQF shell  
8       on product can be difficult for us to source when you're  
9       looking at sizing and a consistent, reliable availability of  
10      that product.

11                      The reality is we work around the availability  
12      of the domestic industry, versus them working around our  
13      need and our demand. At the beginning of each year, we  
14      create a promotional plan for the entire year, and I  
15      actually shared in my questionnaire response the shrimp  
16      version of that promotional plan.

17                      Our goal is that each and every week, we offer  
18      a wild and a farmed shrimp in our ads, and it's important to  
19      note that these are two separate promotional plans, one for  
20      wild shrimp and one for farmed shrimp. Therefore, we're  
21      never looking between the two as an either/or scenario, so  
22      there's no pricing comparisons. We want to offer a wild and  
23      a farmed shrimp in the ad.

24                      Now we purchase these products under two  
25      parallel supply chains. On the domestic side, we work with

1 a very small number of suppliers that we've qualified as  
2 meeting our standards. With those suppliers, we allow them  
3 to build inventory across multiple species of domestic  
4 shrimp and multiple sizes. When that inventory reaches the  
5 required point, we'll execute the promotion.

6 The farm side operates completely differently.  
7 We'll create RFQs for a specific sized product at a specific  
8 quantity for a specific delivery date. Our importers then  
9 share that with the 12 approved plants that we have  
10 overseas. When the results come back, we're typically  
11 looking at historical quality levels from each of these  
12 suppliers, as well as those who can hit our demand  
13 quantities and our timing for our promotions.

14 As you can see, they operate completely  
15 independent and under two different purchasing requirements.  
16 Now it has been argued that the U.S. has lower food safety  
17 standards than several other areas of the world, and that  
18 results in an attractive market for imported product. While  
19 I disagree with that comment, I would say it's really  
20 irrelevant for Publix and for most other large retailers.

21 We operate under our own food safety  
22 requirements that require in-person visits of the facilities  
23 we utilize, third party audits, certifications. We use  
24 Certificate of Analysis requirements and when product hits  
25 our warehouses we have quality specialists that evaluates

1 that product as meeting our specifications, and we also have  
2 a zero tolerance policy for banned antibiotics.

3 My job as category manager is to protect the  
4 brand integrity and reputation of Publix Supermarkets.  
5 There is no price or product that I will purchase that I  
6 believe will put our brand at risk.

7 In closing, I believe there's three other  
8 topics that I need to discuss. The first is the impact of  
9 China, which was mentioned earlier today. The reality is  
10 they have changed the landscape for the procurement of  
11 farmed, imported seafood. They are now a net importer of  
12 shrimp, and that is important to note that it's not being  
13 used for reprocessed. This is to meet domestic  
14 consumption.

15 Imports into Asia and within Asia have doubled  
16 over the last five years. The competitive landscape for  
17 farm shrimp is tougher than it has ever been. Second, I'd  
18 like to address the concept of interchangeability. In the  
19 broadest sense yes, this product is interchangeable. If  
20 you're going to make the gumbo, you can use either domestic  
21 shrimp or you can use a farm shrimp.

22 But that's really a simplistic view of the  
23 product that doesn't take customer preferences, customer  
24 demand, volume requirements into account. If they were  
25 truly interchangeable, there would be no need for a retailer

1 such as Publix to offer both of these products to a  
2 customer. Finally, I'd like to touch on what the future  
3 would look like without tariffs.

4 Speaking on behalf of Publix, I will tell you  
5 that our business requirements and our business processes  
6 will not change. We'll continue to work with those  
7 suppliers that we utilize to meet the demands that our  
8 customers place on our stores. The only thing that you'll  
9 find that's certain in the seafood industry is uncertainty.  
10 You have AMS in aquaculture. There's now a new issue  
11 they're dealing with called EHP. You never really know  
12 what the domestic landings are going to be from year to  
13 year.

14 The one thing that is certain is competition  
15 for farmed shrimp will be greater than it has ever been as  
16 we move into the future. That concludes my testimony. I  
17 thank you for your time.

18 STATEMENT OF MICHAEL SEIDEL

19 MR. SEIDEL: Good afternoon. My name is  
20 Michael Seidel and I am the director of Category Management  
21 for Performance Food Group. I've been with PFG for over  
22 five years and before that I worked for the Cisco  
23 Corporation for 14 years. PFG is one of the nation's  
24 largest food service distributors, with annual sales of  
25 over \$16 billion. We offer more than 150,000 products to

1 over 150,000 customer locations throughout the United  
2 States.

3 One of my responsibilities is that I lead a  
4 team whose accountabilities include the national management  
5 and marketing of fresh and frozen seafood. We sell over \$1  
6 billion of seafood annually, of which over 56 million pounds  
7 or approximately 25 percent of our seafood purchases are  
8 frozen, farm raised and wild caught shrimp. Forty percent  
9 of our customers are local, independent owned restaurants,  
10 and the balance of our customers include schools, hospitals,  
11 businesses, regional and national chains such as Red  
12 Lobster, Joe's Crab Shack, Cracker Barrel, Bonefish Grille  
13 and others.

14 We buy both domestic wild caught shrimp and  
15 imported farm raised shrimp. We have foreign suppliers in  
16 China, India, Thailand, Vietnam, Central and South America  
17 and several other countries. Every pound of seafood that we  
18 buy is subject to our own rigorous inspections. My team  
19 also personally conducts physical inspections of the  
20 processing facilities from which we buy seafood.

21 We require extensive documentation of seafood  
22 from the harvest to the processing, then through the  
23 shipment to our own distribution centers. This is how we  
24 ensure that all seafood that we buy is traceable back to the  
25 origin and is completely safe for consumption.

1                   We also conduct internal audits and third  
2 party audits on an ongoing basis, to ensure that our  
3 suppliers comply with all the safety and health laws, and  
4 our goal is to ensure that the shrimp we buy is completely  
5 safe. When we source wild caught domestic ship for our  
6 brand, we make a point of applying a logo to that packaging  
7 that identifies it as wild caught in the USA.

8                   A misconception that the domestic industry has  
9 perpetuated for many years is that shrimp buyers have no  
10 preference for wild caught or farm raised shrimp. That is,  
11 they say each type of shrimp is interchangeable. While  
12 sellers might have a preference, the question is what do the  
13 customers prefer, our customers?

14                   For our customers that reside in the Gulf  
15 Coast region, we experience a far greater demand for wild  
16 caught domestic shrimp. There is no question that wild  
17 caught and farm raised shrimp have totally different taste  
18 profiles. One's wild, one's farm-raised. If you've been  
19 raised on wild caught shrimp, you're always going to prefer  
20 that taste over farm shrimp if it's available.

21                   I would say that at least 15 percent of the  
22 total shrimp volume that we sell each year is the result of  
23 a preference for wild caught shrimp. Those customers are  
24 not going to buy farm raised shrimp, even if it's cheaper.  
25 To these customers, they are simply not interchangeable.

1       However, a growing problem that we have is the shortage of  
2       wild caught shrimp. We would buy more if we could find it.

3                       When we buy shrimp, we do not tell our  
4       potential wild caught suppliers that they are competing  
5       against farm raised suppliers or vice-versa. I don't mean  
6       to say that the price of shrimp is unimportant to us; it is  
7       very important. But we are going to buy domestic shrimp to  
8       meet customer demand, regardless of the availability of far  
9       greater volumes of imported farm shrimp. This is just a  
10      business necessity for us.

11                      In January of this year, I participated in a  
12      panel discussion sponsored by the National Fisheries  
13      Institute, in which the participants discussed the outlook  
14      of shrimp supplies in 2017. As you consider what is likely  
15      to happen in 2017 and beyond, I think it's useful to  
16      consider the opinions that the industry experts provided.

17                      First, the experts found that Chinese demand  
18      for imports has greatly expanded in 2016, and will be the  
19      biggest competitor for shrimp supply of U.S. buyers in 2017.  
20      Second, China's production declined in 2016 by over 330  
21      million pounds. Its increasing demand for imports to offset  
22      the domestic supply shortage will cause price increases in  
23      2017.

24                      Third, the forecast in 2017 is for a slow  
25      increase in global farm shrimp production, estimated at just

1 one percent growth over 2016. Fourth, Asian demand, not the  
2 United States, is seen as the primary driver of growth.  
3 Finally, the panel saw several risk factors that could  
4 affect the imported farmed shrimp supply in 2017, including  
5 Chinese demand, disease issues, unfavorable weather and the  
6 rise of the Argentine wild caught industry.

7 In summary, we don't believe that subject  
8 imports pose any threat to the domestic industry if the  
9 orders are revoked. U.S. demand is relatively stable and  
10 there are growing markets in Asia and Europe. We would like  
11 to see U.S. demand increase, but consumer preferences and  
12 the risk factors are such that no one can reliably predict  
13 that this is going to happen. That completes my remarks.

14 STATEMENT OF ALAN WEITZER

15 MR. WEITZER: Good afternoon. My name is Alan  
16 Weitzer, and I am president of Arista Industries. Arista is  
17 a family owned business started in 1930. I joined Arista in  
18 2008 as a member of the third generation, and I manage the  
19 seafood business today.

20 Arista's core business is sourcing and  
21 distributing imported and domestic shrimp. We ship over 25  
22 million pounds of shrimp a year. Nearly 15 percent of our  
23 shrimp volume is wild caught in the Gulf of Mexico. The  
24 balance of the volume, with a few exceptions, is farm-raised  
25 and imported from Asia.

1                   Arista's domestic and imported shrimp are  
2 distributed to the U.S. food service market through broad  
3 line distributors and seafood wholesalers. While most of  
4 Arista's U.S. competitors trade exclusively either in  
5 domestically caught shrimp or in imported shrimp, Arista's  
6 distributor and wholesale customers require both products  
7 year-round to supply food service operators.

8                   Farm-raised and wild caught shrimp at the  
9 lowest common denominator of both shrimp, but the unique  
10 characteristics of each product, specifically the flavor  
11 profile of the different species, the method of catch and  
12 the origin differentiate the product in the market. In  
13 fact, from our largest broad line customers to our smallest  
14 wholesale customers, the two shrimp categories almost always  
15 are managed independently of each other.

16                   Arista's national broad line customers manage  
17 supply contracts through formal bid processes. Imported  
18 shrimp and domestic shrimp volumes are bid separately, with  
19 few if any overlapping sellers other than Arista, and buyers  
20 do not ask for the relative prices of imported or domestic  
21 shrimp.

22                   Similarly, Arista's wholesale customers often  
23 imported shrimp and domestic shrimp separately from each  
24 other. Arista has two shrimp buyers, one who manages  
25 domestic product purchases and another who manages import

1 product purchases. I manage the domestic purchases. The  
2 unique dynamics of the two shrimp markets influenced  
3 Arista's decision to manage purchasing, inventories and  
4 sales of the two categories of shrimp separately.

5 I have customers who believe that shrimpers in  
6 the Gulf of Mexico catch the best shrimp available on the  
7 market. Arista co-packs shrimp with processors in the Gulf  
8 to the highest standards in order to preserve the quality of  
9 that raw material. Arista markets and promotes domestic  
10 shrimp to service operators committed to shrimp that was  
11 caught in the wild and to shrimp that was caught and  
12 processed in the United States.

13 Due to the consistent demand for wild caught  
14 domestic product, the price of imports has no impact on  
15 whether or not Arista will continue to buy domestic product.  
16 I know many would argue that farm-raised shrimp delivers  
17 equally or better on raw material quality and flavor, or  
18 that the consistent availability, high volume and uniformity  
19 of a farm-raised product drives their purchasing decision.

20 I do not know many buyers of shrimp, however,  
21 that argue domestic and imported product are the same and  
22 compete on price. Prices for domestic and imported shrimp  
23 often vary widely, and move independently based on  
24 seasonality, harvest volumes and demand. Prices for  
25 domestic shrimp are driven by the competitive and market

1 dynamics within the domestic shrimp industry. High  
2 landings tend to drive prices lower, while low landings tend  
3 to drive prices higher.

4 As a buyer, these supply conditions, as well  
5 as competition from other domestic shrimp buyers drive the  
6 prices I have to pay for domestic shrimp. Importantly,  
7 importers do not step into the market to buy and sell  
8 domestic shrimp when domestic shrimp prices are low relative  
9 to import shrimp prices, because they cannot ship domestic  
10 shrimp as a substitute for imported product.

11 Prices for imported shrimp are driven by the  
12 competitive and market dynamics of the global shrimp trade.  
13 There is competition among U.S. importers for product and  
14 market share, but increasingly purchasers from other  
15 markets, specifically China, are U.S. importers' main  
16 competitors for product. Importantly, sellers of domestic  
17 shrimp do not step into the market to buy and sell imports  
18 when prices are low relative to domestic shrimp because they  
19 cannot ship imported shrimp as a substitute for domestic  
20 product.

21 The lack of ability for importers and domestic  
22 producers to shift between the two products in response to  
23 price has led to sustained periods of wide price variance  
24 between imported and domestic shrimp. Despite the  
25 anti-dumping duties which have been consistently low, our

1 supply partners in India and Vietnam always deliver high  
2 quality product, competitive prices and consistent  
3 availability.

4 Arista purchases small volumes from  
5 non-subject countries, including Indonesia and Ecuador, and  
6 non-subject producers within India and Vietnam, but we will  
7 continue to rely on our primary subject suppliers in these  
8 two countries regardless of whether there is an order or  
9 not.

10 First, the duties are not affecting the prices  
11 our subject suppliers charge. Second, over the past five  
12 years U.S. importers have lost standing as a market-setter  
13 in global shrimp markets. Buyers from Europe and Asia,  
14 particularly China, can command higher prices for shrimp in  
15 their home markets than U.S. importers can command in the  
16 U.S. As a result, global trade flows of shrimp continue to  
17 shift.

18 Third, shrimp aquaculture continues to mature  
19 and shrimp farmers have become sophisticated enough to  
20 manage raw material supply to profitability. If farmers  
21 cannot sell raw material to processors for profit, farmers  
22 leave ponds empty until prices recover. The domestic  
23 parties claim that subject imports will sell at cheaper  
24 prices or greater volumes if the orders are revoked, but  
25 this ignores the significant changes in the marketplace over

1 the last five years.

2 If the orders are left in place, Arista's  
3 domestic shrimp business will continue to experience no  
4 benefit, while Arista's import shrimp business will continue  
5 to experience no harm. Thank you for the opportunity to  
6 speak with you today.

7 STATEMENT OF JEFFREY STERN

8 MR. STERN: Good afternoon. My name is Jeff  
9 Stern. I am the Vice President of Purchasing of CenSea,  
10 Inc. CenSea is a Chicago-based importer and distributor of  
11 shrimp and other seafood. We import more than \$260 million  
12 of seafood every year. We source shrimp from about nine  
13 different countries, primarily Vietnam, India, Indonesia,  
14 Thailand and Bangladesh. We sell to restaurant and grocery  
15 chains, wholesalers and reprocessors.

16 Since the anti-dumping orders were issued in  
17 2005, the fundamental nature of our shrimp business has not  
18 changed. Our goal then and now is to provide our customers  
19 significant volumes of the highest quality shrimp. The  
20 price we pay is important. However, it takes second place  
21 by a wide margin to product quality.

22 In contrast to domestic processors, our  
23 overseas suppliers can provide large quantities of high  
24 quality shrimp throughout the year that is consistent from  
25 container to container. Consistency means to us identical

1 or nearly identical quality from load to load, country to  
2 country with respect to our customers' specifications.

3 Restaurants in particular need to put uniform  
4 shrimp on the plate, because it makes a far better  
5 presentation to the consumer. Moreover, they need to plan  
6 menus and pricing promotions based on the consistency and  
7 year-round supply that farm shrimp brings. Additionally,  
8 the growing demand for value-added products has made imports  
9 indispensable to many customers.

10 While most U.S. product is sold in the basic  
11 headless shell on, block form, most of CenSea's shrimp  
12 imports from both subject and non-subject sources are  
13 further processed. Domestic processors simply cannot  
14 provide large volumes of high quality peeled and de-veined  
15 shrimp, which constitutes the largest part of our sales. In  
16 addition, much of our business with restaurant and grocery  
17 chains uses fixed price contracts that typically last up to  
18 one year.

19 Our overseas suppliers provide consistent,  
20 good quality shrimp month after month, and they are able to  
21 establish long term prices. This is different for domestic  
22 processors because of the unpredictable supply. Therefore,  
23 in our business we rarely if ever encounter competition from  
24 domestic, wild caught shrimp.

25 Although buyers that prefer domestic product

1 for particular end use applications, to the best of my  
2 knowledge we have never engaged in head to head competition  
3 with domestic processors. The other side has said that  
4 subject countries will produce enough shrimp to swamp the  
5 U.S. market if the orders are lifted. This is naive.

6 Supplier relationships take time to develop.  
7 More importantly, whether it is shipped to the U.S. is a  
8 decision made by market conditions and our relationships.  
9 We, the importers, decide whom we purchase from, and we  
10 don't intend to shift away from our non-subject sources if  
11 the order is revoked.

12 First, it has taken time and money to develop  
13 those sources. Second, the more qualified vendors we have,  
14 the less risk we have from disease, weather and unforeseen  
15 events. Looking forward, we do not intend to alter our  
16 current supplier relationships, which we have worked so hard  
17 to develop. Through the recent POR, one of our largest  
18 suppliers became non-subject, and it has not drastically  
19 changed how we purchase from them. Again looking forward,  
20 if there is one thing that concerns us, it is the effect of  
21 growing demand for frozen shrimp in Asia, in particular  
22 China.

23 Demand there has increased exponentially. We  
24 have real concerns today in our ability to maintain and  
25 adequate supply to our customers. In Asia, the price of

1 frozen shrimp depends on the price farmers charge for raw  
2 material. In the past this was dictated primarily by prices  
3 that U.S. importers were willing to pay.

4                   However, one of my long-term suppliers in  
5 Thailand told me just last week that the market price in  
6 Thailand today for fresh shrimp is no longer based on the  
7 U.S. finished goods price. Instead, it is based on the raw  
8 shrimp prices that China can pay.

9                   This is a monumental change, and shows that if  
10 Thai farmers can get better prices selling their shrimp to  
11 China and to local Thai processors, that's what they will  
12 do.

13 Undoubtedly, the increased demand in China will require us  
14 to pay higher prices for imports.

15

16                   In contrast, demand in the United States is  
17 relatively stable. We have spoken to dozens of suppliers  
18 and customers, and the collective demand outlook for the  
19 U.S. shrimp market is the same regardless of whether the  
20 dumping orders are revoked. We do not expect to see any  
21 significant increases or decreases in the volume of shrimp  
22 imported into the U.S. or consumed here in the near future.  
23 This is not because of the dumping orders.

24                   A lot has changed since the original  
25 investigation 12 years ago, and the CVD action of four years

1 ago. Most shrimp imports are not coming from subject  
2 sources, and much larger portion of global production goes  
3 to non-U.S. markets, because of increased overseas demand.  
4 CenSea benefits tremendously by having multiple sources in  
5 multiple countries. We have no intention of giving up the  
6 advantage of our diversified supply base.

7 Even if subject exporters have an incentive to  
8 ship to the United States in the absence of the anti-dumping  
9 orders we will have the opposite incentive, to maintain our  
10 diversified supply. This Commission found in the CVD case  
11 that no additional duties were needed. In my mind, no  
12 duties are needed at all. Thank you.

13 STATEMENT OF JAMES STAFFORD

14 MR. STAFFORD: Good afternoon. My name is Jim  
15 Stafford. I'm the Vice President of Food & Sundries  
16 Purchasing for the Northeast Region of Costco Wholesale.  
17 I've been in this position for 20 years and have been with  
18 Costco for 31 years. In addition to my Northeast Region  
19 responsibilities, I also work directly with all of Costco's  
20 U.S. and global frozen food buyers. Costco operates 728  
21 warehouses globally, 508 of which are in 41 U.S. states and  
22 Puerto Rico.

23 We purchase about 30 million pounds of shrimp  
24 every year in the U.S., and it mostly comes from Vietnam,  
25 India, Thailand and Indonesia. We buy from both subject and

1 non-subject sources, including former subject suppliers in  
2 Vietnam and Thailand to which the order no longer applies.

3 All of the product we buy is individually  
4 quick frozen, and most of it is peeled and de-veined. We  
5 don't carry any block frozen products because it does not  
6 display well and our customers have not preferred it in a  
7 limited test. We rely mostly, though not entirely, on  
8 imported product. We do so for a variety of reasons.

9 First, IQF product is available from U.S.  
10 sources in only limited quantities. There is not nearly  
11 enough high quality IQF shrimp from domestic sources  
12 consistently available to meet our demand. We continue to  
13 have meetings with Gulf shrimp suppliers to identify  
14 products that meet our quality specifications. Ironically,  
15 seldom do Gulf shrimp suppliers reach out directly to  
16 Costco buyers.

17 Second, every retail business, Costco  
18 included, has to insist on receiving products that meet our  
19 quality standards. Unfortunately, we have run into several  
20 problems over the years gaining domestic shrimp that  
21 consistently meets our quality specifications. For example,  
22 we tell all suppliers that their shrimp must be ice chilled  
23 to four degrees Centigrade within ten minutes of harvest to  
24 ensure the highest level of freshness.

25 Our pre-approved foreign suppliers have been

1 able to meet the standard, but most domestic fishermen  
2 cannot. After being caught in nets that are dragged along  
3 the bottom of the ocean, the shrimp frequently sit at  
4 ambient temperatures on the deck. As a result, the required  
5 cold chain is broken.

6 We have met many domestic suppliers and  
7 discussed the need for better time and temperature tracking,  
8 limited exposure to heat, more consistent brine handling and  
9 ability to deliver frozen IQF product. Because of the way  
10 domestic shrimp is handled throughout the supply chain, this  
11 shrimp simply cannot maintain the same freshness, quality  
12 and level of consistency and appearance that farm shrimp can  
13 maintain in the quantities that we need.

14 The domestic industry has argued that the food  
15 safety and inspection regime here in the United States is  
16 less demanding than in other countries. Costco does not  
17 agree with this assertion. To the contrary, Costco found  
18 that we have been able to work with -- we have been able to  
19 have more dramatic impact and influence on the harvesting  
20 and processing standards of the imported shrimp that we  
21 sell. Our vendor partners have been very willing to put the  
22 required time and temperature control points in place  
23 throughout the entire supply chain.

24 As I mentioned earlier, we have engaged with  
25 domestic suppliers in implementing similar standards. To

1 date, we have had very limited success. Given our rigorous  
2 specifications, which are supported by in-country plant  
3 visits, third party audits and internal testing, Costco  
4 feels the product we sell is as good or better than any  
5 products sold in the world.

6 We now have to compete with buyers in other  
7 countries for the high quality shrimp that we purchase. We  
8 work with a variety of processors and importers that tell us  
9 they can often sell to Asian or European customers at higher  
10 prices. This increase in global demand for high quality  
11 shrimp will continue to impact and likely increase the price  
12 that the U.S. consumer pays for shrimp.

13 This phenomenon is new. We did not previously  
14 have to compete for supply against the other countries at  
15 the level we do today. Other markets have grown to the  
16 point where shrimp is bought and sold for higher prices in  
17 other parts of the world. Prices move in the United States  
18 not because of the fear of dumping duties, but because of  
19 the international competition for supply. Thank you for  
20 allowing me to attend. I look forward to questions later.

21 STATEMENT OF JOE ZHOU

22 MR. ZHOU: Good afternoon. My name's Joe  
23 Zhou. I'm the senior director of Protein Procurement for  
24 Red Lobster Seafood Company. I have worked for Red Lobster  
25 and its former owner, Darden Restaurants, for over -- for

1 about 24 years. Red Lobster owns and operates over 700  
2 restaurants in the U.S. and Canada. We employ over 58,000  
3 employees. I am sure you're all familiar with our  
4 restaurants and the type of seafood that we serve.

5 Of course, shrimp is one of our main menu  
6 items. We purchase multi-million pounds of shrimp every  
7 year. We could not possibly operate our restaurants without  
8 access to substantial volumes of quality farm raised shrimp.  
9 Today, I supervise a team of people who procure all of the  
10 proteins that we serve. I'm also in charge of our seafood  
11 total quality team, with our own inspectors globally to  
12 qualify every pound of seafood that we purchase.

13 My team and I have inspected at least 50 of  
14 those shrimp processing plants globally over the course of  
15 many years, including at least ten U.S. shrimp processing  
16 plants. Unfortunately, we have found that many domestic  
17 plants are simply inferior in terms of the equipment and  
18 production techniques compared to overseas plants.

19 A good example of this is the difference  
20 between machine tilling, which most of the domestic plants  
21 use, and hand tilling, which foreign plants use. Machines  
22 do not currently peel, devein, shrimp as well as people do.  
23 Machines can make inconsistent cuts. They don't always get  
24 the entire vein out, and they can leave behind bits of shell  
25 and broken pieces.

1                   In the restaurant business, it is essential  
2                   that our guests know exactly what they're getting, and that  
3                   they're going to get the same thing every time that they  
4                   dine with us. With domestic origin shrimp, we would have a  
5                   great deal more difficulty in meeting that goal. It can  
6                   wind up costing us more when we have to deal with defects  
7                   that may damage our reputation.

8                   We have some restaurants in the Gulf Coast and  
9                   Southeast regions where there is a distinct preference for  
10                  wild caught products. We make a point of having our menu  
11                  specifically identify the offering as containing Gulf  
12                  shrimp. We would purchase more Gulf shrimp if we could find  
13                  enough product that meets our quality standards and volume  
14                  requirements consistently.

15                 In our restaurants, we mainly serve peeled and  
16                 de-veined shrimp, either tail on or tail off. We purchase  
17                 shrimp skewers as well. Most of the shrimp that we purchase  
18                 is IQF except for the domestic origin product, which is  
19                 typically block frozen. Our experience is that the domestic  
20                 processors do not have the ability to produce very much high  
21                 quality peeled and de-veined shrimp. Our chefs typically  
22                 need such shrimp for the dishes they prepare. When we  
23                 purchase domestic shrimp, we tell potential suppliers the  
24                 product form, the quantity, the delivery schedule we need.  
25                 The suppliers then give us price quotes.

1                   We assess the quotes based on our opinion as  
2                   to where the market may be at any particular time. We are  
3                   willing to pay more for domestic shrimp than we do, than  
4                   farmed shrimp because of the limited domestic sources that  
5                   are available to us.

6                   Finally, we're having increasing difficulty in  
7                   procuring farmed shrimp because of increasing demand in  
8                   China and other emerging countries. Many of our overseas  
9                   suppliers now tell us that they can often get a higher price  
10                  from Chinese buyers than they can get from us. I don't see  
11                  this situation changing any time soon.

12                  However, we can purchase breaded shrimp from  
13                  China or one of our Chinese suppliers, which is no longer  
14                  subject to the order, prefers not to sell us non-breaded  
15                  shrimp. This company is a major producer, but they appear  
16                  to have concluded that the additional financial returns that  
17                  are available on value-added breaded shrimp make it  
18                  worthwhile to concentrate exclusively on that product form.  
19                  That completes my remark. Thank you.

20                  STATEMENT OF JAMES P. DOUGAN

21                  MR. DOUGAN: Good afternoon. I'm Jim Dougan  
22                  of Economic Consulting Services. My testimony will address  
23                  four topics.

24                  First, I will discuss key conditions of  
25                  competition that affect demand and domestic supply. Second,

1 I will discuss how subject imports will not cause injury by  
2 reason of adverse volume effects in the event of revocation.  
3 Third, I will discuss how the pricing data support the  
4 conclusion that the orders have had no disciplining effect,  
5 and that subject imports will not cause any adverse price  
6 effects in the event of revocation.

7 Finally, I will discuss how the domestic  
8 industry's steady performance, and in particular its strong  
9 recent performance, demonstrate that it is not vulnerable to  
10 any future injury should the orders be revoked. To begin,  
11 there are two key conditions of competition that should  
12 frame the Commission's analysis of the potential volume  
13 effects of revocation.

14 The first condition is that apparent U.S.  
15 consumption has grown slowly but steadily since 2003.  
16 However, this increase is entirely attributable to  
17 population growth, because per capita consumption has been  
18 virtually flat at four pounds per person since the original  
19 POI, as shown at Slide 1. Over the same period, shrimp  
20 prices have varied more widely, but per capita consumption  
21 has not been significantly affected by variations in price  
22 over time.

23 As shown in Slide 2, data from the current POR  
24 illustrate this point well. Both domestic and subject  
25 import prices spiked in 2014, yet per capita consumption

1 remained at its historical level of four pounds per person.  
2 Then when prices fell in 2015, as Asian producers began to  
3 recover from the ENS disease, per capita consumption  
4 remained the same, still four pounds.

5           Slides 1 and 2 together demonstrate that  
6 purchasers did not buy more or less shrimp during the POR  
7 based on changes in price. This means that suppliers have  
8 not been able to stimulate additional demand by offering  
9 lower prices. The second important condition of competition  
10 is that the domestic supply of wild caught shrimp is  
11 constrained by biological and environmental factors, as the  
12 prehearing report has expressly recognized, and as the  
13 petitioners have acknowledged in their brief.

14           However, the domestic industry has  
15 simultaneously claimed that their level of fishing activity  
16 is driven by available prices. This claim is not supported  
17 by the evidence. As shown at Slide 3, U.S. processors' net  
18 sales AUVs during 2013 to 2016, as shown by the green line,  
19 was significantly higher than in prior years, and yet  
20 landings in all four years, as shown by the blue bars, were  
21 far below the average landings in the 1970 to 2008 period,  
22 which is shown by the dashed line.

23           The domestic industry nevertheless claims that  
24 landings increased between 2010 and 2015, but this is  
25 completely misleading, because landings were depressed in

1 2010 due to the BP oil spill. It's clear from Slide 3 that  
2 landings during the 2013 to 2016 period were low by  
3 historical standards, and they appear to be part of a  
4 declining trend since the original investigation, and  
5 that's despite those very high prices.

6 We also have examined changes in landings and  
7 net sales AUVs from 2001 to 2016, leaving out 2004 because  
8 relevant data weren't available from the Commission's prior  
9 investigations. In 11 of 13 of those comparisons, landings  
10 and net sales AUVs moved in opposite directions. For  
11 example, when prices increased, landings declined. This is  
12 the opposite of the relationship one would expect, given the  
13 domestic industry's theory that higher prices would result  
14 in greater domestic supply.

15 Again, the current POR provides compelling  
16 evidence that rebuts the domestic industry's theory that  
17 higher prices lead to greater domestic supply. In 2016,  
18 which you didn't hear much about this morning, landings were  
19 significantly depressed compared to prior years, yet prices  
20 were strong and increasing. There's very much in the trade  
21 press about this.

22 Thus, the domestic industry did not have the  
23 ability to respond to increases in price with increased  
24 supply. Expressed in technical terms, the staff's estimate  
25 of U.S. supply elasticity is significantly overstated, we

1 believe. The implication of this is that the domestic  
2 industry has not been producing greater volumes of shrimp  
3 due to any effects of the order, but rather has been  
4 supplying the market to the extent that its biological  
5 constraints have allowed.

6 Consequently, the revocation of the order will  
7 not lead domestic producers to reduce the volume of shrimp  
8 that they harvest and process.

9 Turning to volume effects, substantial record  
10 evidence also supports the conclusion that there will be no  
11 future adverse volume effects should the order be revoked.  
12 The domestic industry has presented evidence that subject  
13 foreign producers have significant unused capacity, and have  
14 exported significant volumes to third country markets over  
15 the POR.

16 It claims that this capacity will be used to  
17 export greater volumes to the U.S. market, after diversions  
18 from these third country markets upon revocation. However,  
19 it has presented no evidence to support those contentions.

20 Moreover, two factors rebut the domestic  
21 industry's arguments. Factor 1. Over the course of the  
22 POR, some very significant subject producers obtained  
23 revocation, but they did not increase their U.S. exports,  
24 nor did they reduce prices to gain additional market share.  
25 The confidential details are discussed in our prehearing

1 brief.

2 Factor 2. The domestic industry argues that  
3 higher AUVs for subject producers' exports to the U.S.  
4 market, relative to AUVs for their exports to third country  
5 markets mean that they will redirect volumes from these  
6 third markets to the U.S. market if the orders are revoked.  
7 This analysis is misleading, and ignores important market  
8 factors that weigh against such a shift.

9 Petitioners' AUV comparison is misleading  
10 because of demonstrable differences in product mix. As the  
11 Commission is aware, larger shrimp, i.e. those with lower  
12 count sizes, command higher prices. As shown at Slide 5,  
13 the U.S. consumes a greater proportion of larger shrimp than  
14 other markets. As shown in the slide, count sizes 25 and  
15 below account for only a small share of global production,  
16 but more than one-third of U.S. imports.

17 Therefore, these supposedly higher U.S. prices  
18 can instead be explained by the higher AUVs attributable to  
19 differences in product mix. This helps to explain why  
20 foreign producers have continued to grow third country  
21 export markets despite what are sometimes lower AUVs. A  
22 chart from the ASPA brief reproduced at Slide 6 shows just  
23 how substantial this growth in exports to non-U.S. countries  
24 has been since the original investigation.

25 This growth has been driven by demand factors,

1 not a diversion from the U.S. market because of the orders.  
2 As shown at Slide 7, a presentation at the National  
3 Fisheries Institute's Annual Marketing Conference observes  
4 that Asia demand is now driving the global shrimp market,  
5 and you've heard the same from the witnesses on the panel  
6 today.

7 As shown at Slide 8, from the 2016 GOAL  
8 Conference in China, this is explained in large part by  
9 demand growth in China, which has more than doubled since  
10 2005, and has grown by 60 percent since 2010.

11 That this pattern of growth in exports to  
12 non-U.S. markets is attributable to demand factors rather  
13 than the effect of the order is proven by the fact that it  
14 can be observed not only for subject producers, but also for  
15 non-subject producing countries, who have no orders  
16 restraining their exports to the U.S. market. As Slide 9  
17 shows, non-subject countries have increased exports to  
18 non-U.S. markets substantially.

19 In any event, even if subject import volume  
20 and market share increased with the revocation of the  
21 orders, this will not lead to a recurrence of injury. Any  
22 increased volume of subject imports will replace non-subject  
23 imports rather than domestic shipments. This ebb and flow  
24 between subject and non-subject sources has occurred over  
25 the years since the original POI, with the sources changing

1 but total import volume holding steady at approximately 1.1  
2 billion pounds.

3 The events of the interim periods, as shown at  
4 Slide 10, show how an increase in subject imports replaced  
5 non-subject imports without any adverse effect on the  
6 domestic industry. Apparent consumption between the interim  
7 periods increased by three percent.

8 Also between the interim periods, there was a  
9 significant decline in imports from two major non-subject  
10 sources: Malaysia, because of an FDA ban related to  
11 antibiotics found in the shrimp and Ecuador, because of its  
12 increased exports to China.

13 Thus, the increase in subject imports replaced  
14 the curtailed available supply from these two large  
15 nonsubject sources, while helping to satisfy the increased  
16 demand. Despite this increase in interim 2016, U.S.  
17 processors' profit margins improved to their highest levels  
18 since the original POI. Thus, subject imports increased in  
19 volume and market share without any adverse effect on the  
20 domestic industry.

21 This is further evidence that the revocation  
22 of the orders will not lead to the recurrence of adverse  
23 volume effects by reason of subject imports.

24 Turning now to price effects, the record also  
25 supports the conclusion that the revocation of the orders

1 will not lead to these adverse price effects on the domestic  
2 industry for several reasons.

3 First, the preponderance of overselling during  
4 the POR indicates that subject imports do not need to  
5 undersell domestic producers to maintain a significant  
6 presence in the market. Subject imports have retained a  
7 significant share of the U.S. market despite the orders and  
8 despite overselling in the majority of instances, and in an  
9 even greater majority, 75 percent of volume.

10 If Petitioners were correct in claiming that  
11 price drives purchasing decisions, and that subject and  
12 domestic product are interchangeable, this would not be the  
13 case. Thus, even if the orders are revoked, subject imports  
14 can continue to be sold in significant volumes without  
15 causing adverse price effects to the domestic industry.

16 Second, the Petitioners have claimed that the  
17 orders have had a disciplining effect on import prices. But  
18 the record does not support this claim. See Slide 12. This  
19 chart shows the cash deposit rate in effect for India for  
20 each quarter of the POR, and the quarter to quarter changes  
21 in price for Pricing Products 4, 5 and 6.

22 We have selected India as an example, because  
23 unlike the other subject countries it had neither a robust  
24 home market, like Brazil or China, nor any significant  
25 comply constraints like Thailand or Vietnam. We have

1 selected Products 4, 5 and 6 because there was a consistent  
2 time series of these products over the POR, and that  
3 provided the most comparisons.

4 This chart shows that despite very consistent  
5 and consistently low deposit rates during the POR, there  
6 were significant changes in Indian import prices from  
7 quarter to quarter. As you can see in some cases, increases  
8 or decreases of as much as 20 percent over a single quarter.  
9 Thus, importers of shrimp from India were able to make  
10 significant adjustments to their prices to respond to market  
11 conditions, while still maintaining consistently low dumping  
12 margins.

13 This is because these prices and the  
14 producers' underlying costs are driven by global supply and  
15 demand conditions, and because these factors drive costs as  
16 well as prices, they generate a normal value that results in  
17 a low margin calculation. If the orders were truly having a  
18 disciplining effect, you would not see such wide variations  
19 in price from quarter to quarter, especially the price  
20 declines.

21 We have presented India as an illustration of  
22 this concept, and we will also provide the same type of  
23 charts for Thailand and Vietnam in our post-hearing brief  
24 that show a similar relationship, or rather a lack of  
25 relationship, between the deposit rates and changes in

1 price. The significance of these charts is that if the  
2 orders have no disciplining effect on price, the removal of  
3 the orders will not lead to any material change in pricing  
4 behavior.

5 In addition to the analysis presented at this  
6 slide, there are other reasons to doubt whether the order is  
7 having a disciplining effect on prices. If there were a  
8 disciplining effect, than one would expect that the prices  
9 of subject imports and domestic products would have a  
10 consistent relationship. But that is not the case, as  
11 demonstrated in the product by product analysis presented in  
12 our prehearing brief.

13 Moreover, there is much greater amount of  
14 overselling in the current POR than in the previous POR, and  
15 the Petitioners compared it to the OI, but we're comparing  
16 to the previous POR. Thus, the overselling cannot be  
17 attributable to the orders, but rather it's attributable to  
18 the ways that market dynamics influence the setting of  
19 prices in particular products.

20 For example, the comparative abilities of  
21 domestic and foreign processors to supply shrimp that are  
22 IQF, cooked or peeled and de-veined. This evidence  
23 indicates that the overselling is due to attenuated  
24 competition between domestic shrimp and subject imports,  
25 rather than any effect of the orders.

1                   Turning now to impact. The evidence regarding  
2 the domestic industry's profitability further supports the  
3 conclusion that revocation will not lead to any recurrence  
4 of injury. Slide 13 shows that but for two outlier years,  
5 the average operating margin of U.S. processors has been  
6 remarkably steady since 2001.

7                   Given the significant variability of market  
8 conditions over the 16 year period, the record supports the  
9 conclusion that domestic processors' natural or normal  
10 profitability is approximately this level observed from 2013  
11 to 2015, which is roughly equivalent to the levels earned in  
12 2006, 2007 and 2009 through 2011.

13                   2008 is an outlier due to the global financial  
14 crisis, and 2012 is an outlier because of a large increase  
15 in SG&A expenses that was funded with BP compensation. This  
16 is discussed in the staff report for the CVD case. This  
17 conclusion is supported by the fact that processors  
18 maintained this consistent profitability level even during  
19 the current POR, when there was a much wider variation in  
20 prices or net sales AUVs.

21                   Moreover, in interim 2016, processors  
22 experienced their greatest profitability since the original  
23 POI while subject import volume and market share were at  
24 their highest levels of the POR. The prehearing staff  
25 report also shows that the performance of fishermen was

1 stronger from 2013 to 2015 than in any other period for  
2 which were collected. The fishermen have been earning  
3 healthy operating margins over the POR, and their net income  
4 margins are even higher, thanks to the very substantial  
5 CDSOA and BP settlement funds that they've received.

6 In summary, because of this recent strong  
7 performance, neither processors nor fishermen are vulnerable  
8 to possible future injury if the orders are revoked. This  
9 is especially true because of the large amounts of remaining  
10 compensation that processors expect to receive from the BP  
11 settlement in the near future.

12 While the Commission may have made a  
13 reasonable determination about the industry's vulnerability  
14 in the first review, given the uncertainty of the  
15 consequences of the 2010 BP oil spill, there is no such  
16 uncertainty in the market now. Thank you.

17 STATEMENT OF ROBERT G. GOSSELINK

18 MR. GOSSELINK: Good afternoon. Rob Gosselink  
19 of Trade Pacific with some important words from the  
20 Brazilian producers.

21 In the first five-year review, the Commission  
22 found that although subject imports from Brazil had exited  
23 the U.S. market by 2009, the domestic-like product and  
24 imports from Brazil were both present in the United States  
25 during the period of review.

1                   Moreover, the exit of Brazil imports from the  
2 U.S. market was found to have been, at least in part, a  
3 function of the AD Order. The situation is different now.  
4 Subject imports from Brazil basically have not been present  
5 in the U.S. for several years. Moreover, Brazil did not  
6 just exit the U.S. market, but at the same time abandoned  
7 all export markets. Now almost 100 percent of production is  
8 consumed in Brazil.

9                   Given that Brazil has largely exited all exports  
10 markets, the Commission must consider that the decision to  
11 cease U.S. exports was not driven primarily by the AD Order.  
12 Rather the genesis for Brazil's abandonment of its export  
13 markets was the appreciation of the Real, which went from  
14 three Real to a dollar in 2003 to 1.5 to 1 in 2008, that  
15 doubling in value basically ended exports. When the U.S.  
16 dollars gets you only half of what you used to get, you  
17 simply cannot continue to ship.

18                   Seven years later, in 2015, the exchange rate  
19 had reverted to more than four Reals to a dollar and  
20 currently is at three to one. But importantly, exports have  
21 not restarted. This is because when Brazilian producers  
22 were forced away from exports they put substantial energy  
23 and effort in creating a domestic market when previously  
24 there was none. The result was that they found eager  
25 customers for both fresh and frozen product.

1                   Today there are 200 million people in Brazil.  
2                   They purchase almost every pound of shrimp produced and yet  
3                   they still consume only one quarter the per capita amount as  
4                   in the United States, but the potential growth is huge. The  
5                   focus on the domestic market into Brazil now is no longer a  
6                   matter of necessity, but a matter of choice and Brazilian  
7                   producers will continue to focus on developing and selling to  
8                   the local market if the AD Order on Brazil is revoked.  
9                   Thank you very much.

10                   STATEMENT OF JARROD GOLDFEDER

11                   MR. GOLDFEDER: Good afternoon. I am Jarrod  
12                   Goldfeder, also of Trade Pacific, and I will address an  
13                   issue touched on this morning.

14                   The Commission's analysis in a sunset review is  
15                   similar to a threat of injury analysis in an investigation  
16                   in that the Commission must decide what is likely to occur  
17                   in the imminent future based on data from the present and  
18                   recent past.

19                   For that reason, it's not surprising that the  
20                   dire predictions that we heard this morning are virtually  
21                   identical to the predictions that the domestic parties made  
22                   when putting forth their threat of injury case during the  
23                   2013 CVD investigation. Their predictions then about what  
24                   would transpire if the Commission did not impose CVD duties  
25                   proved to be wrong. Their predictions today are equally

1 misplaced. I refer you to the examples in our handout  
2 comparing their predictions in 2013 and today.

3           The first slide begins with a direct quote from  
4 the Petitioners back at the Commission's hearing in the CVD  
5 investigation, which you've already heard in our opening  
6 statement morning that CVD duties were necessary or "the  
7 future of the domestic shrimp industry and of an entire way  
8 of life in the Gulf region is at risk."

9           The record did not support their declaration  
10 then and it certainly does not now. Those subsidies  
11 presumably continued to affect competition after 2013 and  
12 yet, when the Commission looks at the industry now it finds  
13 considerably improved capacity, production, commercial  
14 shipments, employment levels, operating profits, capital  
15 expenditures, and cash flows.

16           The second slide conveys the U.S. industry's  
17 insistence then and now that excess capacity will translate  
18 into increased exports within a short period. That did not  
19 happen after the CVD case even though the amount of excess  
20 capacity in 2013 was equivalent to what it is now.  
21 Similarly, the record here confirms that any capacity  
22 expansions that occurred between 2013 and 2015 did not  
23 result in substantially increased imports from the subject  
24 countries. The available shrimp supply and not unused  
25 capacity drives production and exports.

1                   As the third slide shows, the domestic industry  
2                   prophesized in 2013 that subject inventories would flood the  
3                   U.S. in the absence of CVD duties, but that never came to  
4                   pass. Subject inventories are at least as high now as they  
5                   were then and yet, U.S. processors have increased their  
6                   capacity, increased their production, and increased their  
7                   commercial shipments.

8                   Slide four underscores the domestic industries  
9                   consistent allegation that the export orientation of all  
10                  shrimp-producing countries indicates an intention to  
11                  increase U.S. exports unless duties are in place, but the  
12                  Commission has amassed 15 years of subject and non-subject  
13                  import data that confirms that imports, as a whole, have  
14                  maintained a stable presence in the U.S. market. At the  
15                  same time subject producers have developed substantial and  
16                  growing third country and domestic markets. Export  
17                  orientation is not an indicator of likely future injury.

18                  The fifth slide highlights the domestic  
19                  industry's completely erroneous prediction regarding the EMS  
20                  disease that ravished shrimp production throughout Asia.  
21                  The predicted that EMS would be conquered in no more than  
22                  one year; however, Thailand's production has not recovered  
23                  to anywhere where it was pre-EMS. Nevertheless, the  
24                  processors still argue without any support that EMS has  
25                  caused only a temporary reduction to the shrimp supply. The

1 record here proves otherwise.

2           The sixth slide shows the domestic industry  
3 predicting, as they must, that adverse price affects will  
4 occur without the imposition of duties. That did not happen  
5 after the Commission went negative in 2013. Import  
6 overselling has predominated since 2013 and U.S. processors  
7 earned their best operating profits in 2016 when imports  
8 prices were well below those in 2013 and 2014. There was no  
9 threat of significant adverse price affects back in 2013 and  
10 there is no reason to believe the situation will be any  
11 different in the future without anti-dumping duties.

12           Finally, in both the 2013 investigation and  
13 today, the domestic industry claims that it is highly  
14 vulnerable to injury. And as I explained at the outset, the  
15 extensive production trade and financial data that the  
16 Commission has compiled in this review simply cannot support  
17 their characterization of the industry's likely condition in  
18 the reasonably foreseeable future.

19           In conclusion, more than three years later the  
20 Commission's negative CVD determination has been proven  
21 correct and yet, these processors stand before the  
22 Commission again with the same dire predictions about what  
23 will transpire if duties are not placed on imports. There  
24 is even less reason now for the Commission to accept their  
25 claims of dire consequences if these anti-dumping duty

1 orders are revoked. Thank you.

2 STATEMENT OF MATTHEW R. NICELY

3 MR. NICELY: Good afternoon. I'm Matt Nicely  
4 with Hughes Hubbard & Reed.

5 As we wind down our panel this afternoon, I want  
6 to focus the Commission's attention on what has changed  
7 since the first review that justifies a different result  
8 this time.

9 First, in both the original investigation and  
10 the first review, the evidence collected by the Commission's  
11 staff about the limited extent of competition between  
12 subject imports and domestic product was not nearly as  
13 robust as it was in the CVD case and again in this review.  
14 The Commission now has strong evidence about the attenuated  
15 nature of competition between subject imports and domestic  
16 product.

17 First, consider what you've heard today about  
18 wild versus farmed. You learned in the CVD case and again  
19 here about how wild caught and farmed shrimp are marketed  
20 separately by some of the biggest purchasers in the market  
21 and therefore rarely compete head-to-head. As our witnesses  
22 explained today, this is due to customer preferences,  
23 differences in taste, and also in how the shrimp are handled  
24 from boat to bag versus farm to bag. Preference, taste, and  
25 quality differences are extremely important.

1           Let's talk about supply. Staff confirmed in the  
2 CVD case here and again here that the U.S. industry's supply  
3 responsiveness is limited by biological and environmental  
4 constraints on the amount of fresh shrimp that can be fished  
5 from U.S. waters. The BP oil spill, which limited supply in  
6 the first review period, also continues to have an affect  
7 today, in part, because of environmental factors, but also  
8 because payments to fishermen have reduced shrimping  
9 efforts. Domestic supply is further limited by the seasonal  
10 nature of the wild catch industry, which means less domestic  
11 shrimp is available during the offseason.

12           While the Commission has identified the seasonal  
13 reality in the first review, the important point is what  
14 affect it has on purchasers. Notwithstanding the industry's  
15 efforts to maintain inventories from one season to the next,  
16 our witnesses have explained how domestic processors are  
17 unable to supply sufficient quantities of specified product  
18 types on a year-round basis, unlike subject imports.

19           Questionnaire data and witness testimony today  
20 show that, like in the CVD case, domestic processors offer  
21 only limited quantities of certain kinds of products. The  
22 staff detailed this with regard to IQF product at Table IV-5  
23 of the staff report and witnesses today have discussed the  
24 limited availability of both cooked and peeled and de-veiled  
25 product from domestic suppliers. On the other hand, these

1 products are widely available from subject import sources.

2 Now geography, questionnaire data show that  
3 nearly two-thirds of domestic product is sold in the Gulf  
4 Coast and South Atlantic regions. This quantification was  
5 not available in the first review and is similar to what the  
6 staff learned in the CVD case; meanwhile, we know imports  
7 are widely available all across the country. The bottom  
8 line is that the Commission has a record to support the  
9 conclusion that competition between domestic and subject  
10 imported product is far less direct than the Commission  
11 found it to be in the first review.

12 Next, domestic landings are much lower during  
13 the POR for this sunset review than for the last one.  
14 Importantly, if you read their questionnaire responses,  
15 you'll see that the fishermen are not blaming imports for  
16 that decline; meanwhile, the fishermen are performing better  
17 than they had performed in the past when landing volumes  
18 were larger.

19 Next, non-subject imports are a much larger  
20 factor in the U.S. market now than they were in the first  
21 review period. Not because of the orders, but because,  
22 first, disease and weather issues in Thailand and Vietnam;  
23 second, home market demand in Brazil and China, and finally,  
24 because several previously subject companies are no longer  
25 subject to anti-dumping orders. And note, most of these now

1 non-subject sources of supply did not increase their  
2 shipments to the U.S. upon revocation of the dumping orders.  
3 Exactly the opposite of what Petitioners claim will happen  
4 upon revocation of the orders.

5 Fourth, demand in other countries has grown  
6 dramatically, particularly, in Asia, providing subject  
7 producers with alternative markets, including their own home  
8 markets and thriving third country export markets where  
9 prices are just as high or higher than U.S. prices. Sales  
10 to the U.S. are now only 27 percent of total exports by the  
11 subject countries compared with over 40 percent at the end  
12 of the first sunset review. This is where increased global  
13 production is going and it is having an important price  
14 affect here in the United States.

15 Our witnesses' companies now compete with third  
16 country buyers for available supply of foreign farm-raised  
17 shrimp and they are forced to pay higher prices accordingly.  
18 Record evidence shows that one of the driving forces for  
19 this shift since the first review is the growth of the  
20 Chinese market where the middle class alone is larger than  
21 the entire U.S. population and where they eat three times as  
22 much seafood as we eat here in the United States.

23 Fifth, and consistent with this change in the  
24 global marketplace, the Commission's pricing product data  
25 show that subject imports mostly sold at higher prices than

1 domestic shrimp. Sixty percent import overselling compared  
2 with 40 percent in the first review and 50 percent in the  
3 CVD case. This isn't due to the so-called disciplining  
4 affect of the orders as prices have varied up and down far  
5 beyond what would be permitted if the orders established any  
6 sort of pricing floor, as demonstrated by Mr. Dougan's  
7 discussion earlier.

8           Furthermore, there is nothing to suggest that  
9 import prices have lead to price suppression. After all,  
10 despite their lower prices, the domestic processors COGS to  
11 sales ratio was lower during this review period than at any  
12 time since the order was imposed.

13           Sixth, the domestic processing industry's  
14 overall performance was stronger in interim 2016 than at any  
15 time since the order was imposed. The same is true for the  
16 fishermen. This improved performance is not because of the  
17 dumping orders. After all, both domestic processors and  
18 fishermen did better when subject import volumes increased  
19 at the end of the POR. The fact is that the industry's  
20 performance has nothing to do with imports or the affect of  
21 the orders.

22           Today the domestic industry is doing well and  
23 foreign sources have more robust alternative markets in  
24 which to sell their shrimp. Times have changed. The  
25 industry is not vulnerable. The imports pose no threat.

1 It's time for revocation.

2 MR. CONNELLY: That completes our presentation.

3 CHAIRMAN SCHMIDTLEIN: Alright, thank you very  
4 much, Mr. Connelly.

5 I'd like to welcome the panel and thank you all  
6 for being here this afternoon. This afternoon we will start  
7 with Commissioner Broadbent.

8 COMMISSIONER BROADBENT: Thank you.

9 Let's see, Mr. Connelly, Congressman Graves this  
10 morning testified with regards to the presence of banned  
11 chemicals in imported shrimp. Can you address this? Is it  
12 occurring and if so, are purchasers or consumers aware of  
13 these problems?

14 MR. CONNELLY: Yeah, I'll be happy to address  
15 that.

16 First of all, there is a zero tolerance policy  
17 for banned antibiotics, not just on the part of the  
18 companies represented here, but on the part of the entire  
19 purchasing and importing industry. There is no tolerance  
20 for banned antibiotics; however, there have been instances  
21 where antibiotics not permitted by the FDA have been  
22 detected and the imports have been halted at the border.

23 That's something we agree with. That is not  
24 something we tolerate. And as you heard, these companies  
25 and all companies who have a public reputation are

1 absolutely dead set against. I think the emphasis by the  
2 domestic industry on the banned antibiotic issue is grossly  
3 overstated. I also think that there is no evidence that I am  
4 aware of, of any person ever becoming sick or dying, for  
5 that matter, from ingesting the shrimp that was tainted in  
6 some way by antibiotics.

7 So we don't like it. We're doing everything we  
8 can to prevent it through inspection and for insisting -- we  
9 don't opposed increased FDA inspections. We're for that  
10 too, but to say that this is some sort of huge problem in  
11 the industry I think really overstates the situation.

12 COMMISSIONER BROADBENT: Are there international  
13 standards, or are you just setting up your own standards and  
14 doing your inspections based on that?

15 MR. CONNELLY: Well there are standards for  
16 certain banned antibiotics that the FDA sets, so many parts  
17 per billion. I can't comment on other standards. Does  
18 anybody else here have an opinion about that?

19 But we can say that every company here has a zero  
20 standard for banned antibiotics.

21 COMMISSIONER BROADBENT: Yes?

22 MR. PIZZUTI: There's a --- you had asked if  
23 purchasers are aware. There are FDA import alerts that do  
24 come out on a monthly basis that lists all the companies  
25 from exporting nations that have tested positive. So the

1 larger buyers typically see that and purchasing decisions  
2 are made based on that.

3 COMMISSIONER BROADBENT: Okay. Mr. Nicely, how  
4 should the Commission compare the capacity and any excess  
5 capacity of the domestic industry with capacity in subject  
6 countries, given the differences in harvesting versus farm  
7 raising?

8 MR. NICELY: I think in both instances capacity  
9 amongst the processors cannot reach full capacity unless  
10 they have sufficient raw material supplies. So both here in  
11 the domestic--both here in the United States, if landings  
12 are not reaching sufficient quantities, then of course the  
13 processors aren't going to reach their limits.

14 The same goes for foreign capacity. For my  
15 clients in Vietnam, a very good example, they've run up  
16 against significant problems with supply due to a whole host  
17 of reasons, and we all know and have heard a lot about the  
18 EMS problems in Thailand.

19 If you have issues with gaining enough raw  
20 material supply to process the shrimp, then obviously you're  
21 not going to produce to full capacity. And there are  
22 elements to which that continues throughout the world.

23 MR. CONNELLY: May I add something, Commissioner  
24 Broadbent?

25 COMMISSIONER BROADBENT: Sure.

1           MR. CONNELLY: The suggestion--well, first of all,  
2           unused capacity is a characteristics of shrimp processing,  
3           whether it's wild caught processing or farm shrimp  
4           processing, it is simply a characteristic. Now why is that?

5           In the wild caught industry, it's because of the  
6           cyclical nature of landings. But in the farmed industry,  
7           it's the product of the fact that harvests don't occur day  
8           after day after day. There is a cycle in shrimp pond  
9           harvests, too. And so while you have to have the capacity  
10          to handle the peak harvest, you have many times in the  
11          farmed shrimp industry where you don't have any shrimp  
12          coming in, either.

13          And so that's why you see the low capacity in the  
14          farmed shrimp--low capacity utilization in the farmed shrimp  
15          business.

16          COMMISSIONER BROADBENT: Are the costs associated  
17          with farm raising shrimp higher or lower than the wild  
18          caught?

19          (Pause.)

20          MR. CONNELLY: Well, I guess we don't have an  
21          answer on that one. We'll have to look into that one for  
22          you.

23          COMMISSIONER BROADBENT: Anybody in the back row?

24          MR. ZHOU: Could you clarify the question?

25          COMMISSIONER BROADBENT: Sure. Are costs

1 associated with farm raising shrimp higher or lower than  
2 wild caught? The costs associated with the wild-caught  
3 process?

4 MR. ZHOU: I don't have an answer to that, but I  
5 know wild-caught costs primarily are associated with the  
6 fuel costs.

7 COMMISSIONER BROADBENT: Right.

8 MR. ZHOU: Whereas, shrimp farming costs, as with  
9 other aquaculture products are associated with the feed  
10 costs, primarily.

11 COMMISSIONER BROADBENT: Okay. Why is it that the  
12 U.S. doesn't have that much farmed shrimp?

13 MR. CONNELLY: Well we probably should ask the  
14 representative from Bowers about that one, but let me take a  
15 guess. Weather. You know, shrimp like it hot, and I don't  
16 think it's hot year-round even in Texas, or the Gulf Coast,  
17 whereas of course you see the shrimp farms in Asia and  
18 Central and South America located around the Equator where  
19 the temperature variations are not that great.

20 So as I say, shrimp like it hot, and so that's  
21 why you see that.

22 COMMISSIONER BROADBENT: Okay.

23 MR. CONNELLY: Less cycles.

24 COMMISSIONER BROADBENT: Right. How do natural  
25 and environmental events like tsunamis, oil spills, impact

1 farm-raised shrimp? Are farm-raised shrimp more insulated  
2 from events like that?

3 MR. PIZZUTI: I'll jump in on that one. I don't  
4 believe they're insulated. I believe they're different.  
5 You'll have monsoon seasons in India that will stop  
6 production. You'll have the same weather issues that we  
7 discussed, whether it's heavy rains, long periods of dry  
8 season, that impact the shrimp's desire to feed, which  
9 impacts growth rates.

10 So I believe there's similar impacts that are out  
11 there, but they're just very different scenarios. But there  
12 are things that impact the farm product, as well.

13 If I can go back to your prior question?

14 COMMISSIONER BROADBENT: Sure.

15 MR. PIZZUTI: The one thing that I we have to  
16 understand is there is no domestic aquaculture standard.  
17 That's something that's currently being debated within NOAA  
18 and within the Federal Government from the USDC standpoint.  
19 So I think that is part of the issue with the U.S.  
20 aquaculture production in general, let alone the shrimp  
21 production. Most of the shrimp production that's being done  
22 domestically is under some state guidelines.

23 COMMISSIONER BROADBENT: Okay. And then why is it  
24 more imported shrimp wild-caught? Is it not available?

25 MR. STERN: I think there used to be a significant

1 amount of wild-caught shrimp imported from Asia. The Asian  
2 markets have taken up that and pay a premium price for  
3 wild-caught shrimp. And so very little of it comes here.

4 There's also turtle-excluder devices that were  
5 mentioned this morning that are a requirement by the State  
6 Department, and that applies not only for domestic catches  
7 but for foreign catches.

8 And the countries have decided, a number of the  
9 countries, that it's just not worthwhile to comply with  
10 that, as they have ready markets to ship their wild-caught  
11 products to other places.

12 COMMISSIONER BROADBENT: Okay. Is it fair to say  
13 that the only supply constraint in subject countries, other  
14 than Brazil, is the kind of potential of a disease outbreak?

15 MR. WEITZER: I can answer that a little bit.  
16 Alan Weitzer. I mean another supply constraint that we've  
17 seen more in the past five years is actually the farmers  
18 have been able to assess what their break-even point is for  
19 harvesting.

20 So they can assess during the harvest cycle  
21 essentially when is the best time to harvest the shrimp.  
22 And if they're not going to get the raw material price, at  
23 least they break even or show a profit they're going to  
24 leave that shrimp in the pond potentially longer so that it  
25 can grow out to a size where they're going to get that

1 break-even point.

2           And we've seen in the past couple of years, times  
3 when if the price that the processors overseas are paying to  
4 the farmers gets too low, they simply stop farming shrimp.  
5 They leave the ponds empty until prices recover, and then  
6 they return to farming when it's profitable.

7           COMMISSIONER BROADBENT: Yes?

8           MR. PIZZUTI: One other thing to consider when you  
9 look at, you had mentioned EMS, when you look at the  
10 solution to EMS moving forward, as was mentioned earlier  
11 this morning, the primary solution to EMS and any disease  
12 issues is to reduce your stocking density and to fallow out  
13 the ponds to allow for a dry period.

14           So if you're looking at the countries that are  
15 trying to recover from EMS, they're going to be curtailing  
16 their production in an effort to avoid that disease from  
17 coming back. So that will be another production impact as  
18 we move forward as the effort to contain EMS.

19           COMMISSIONER BROADBENT: Okay, thank you.

20           CHAIRMAN SCHMIDTLEIN: Commissioner Kieff?

21           COMMISSIONER KIEFF: Thanks. Just if I could,  
22 with the lawyers I guess, follow up on the conversation I  
23 had with your counterparts this morning about the CBD Order  
24 and what's changed. And in particular, if I understand the  
25 brief exchange, and obviously both sides will be following

1 up in the post-hearing, but in a nutshell, one of the key  
2 points your opponents made was, gosh, look, ITC, you the ITC  
3 wrote a decision in the CBD case that paid a significant  
4 amount of attention, at least in the majority, to a couple  
5 of factors. And those particular factors were unique to the  
6 market effect of the oil spill, and then the government  
7 response to the market effect of the oil spill. And  
8 therefore that's just not really relevant to today's  
9 decision.

10 What's your response?

11 MR. CONNELLY: I'm glad you asked that question.  
12 So I listened very carefully to what Elizabeth said. So she  
13 said two things. She had two answers.

14 One was the Period of Investigation was 2010  
15 through 2013, and that was distorted because 2010 was the BP  
16 oil spill. But the Commission didn't just look at 2010  
17 through 2013, they looked at 2009. They didn't use the POI  
18 to include 2009, but at the domestic industry's urging they  
19 looked at the data in 2009. So there was a lot of  
20 information on the record about 2009.

21 Number two, she said that the BP compensation had  
22 a great effect, impact. Well one thing about that, that  
23 effect is still going on today. And I don't want to get  
24 into BPI information, but some of the witnesses here today,  
25 we are going to discuss the effect of continuing BP

1 compensation on their own profitability. So that's one set  
2 of answers.

3 The other set of answers has to do with what the  
4 Commission considered with respect to volume, price, and  
5 impact. The Commission addressed all three of those things.  
6 It wasn't just the BP compensation. It wasn't just the base  
7 period. It had to do with the evidence with respect to  
8 under-selling. It had to do with the role of nonsubject  
9 imports, which we talked about again today, which the  
10 Commission is very well aware of. And it had to do with  
11 the condition of the domestic industry, which we think is  
12 better now than it ever was.

13 So certainly the records are different. But in  
14 our view it's a stronger record now than it even was in the  
15 CBD case, and we'll expand on that.

16 COMMISSIONER KIEFF: Alright, that's it for my  
17 questions, and I look forward to everybody providing in the  
18 post-hearing the follow-ups, and we appreciate you all  
19 coming. Thank you.

20 CHAIRMAN SCHMIDTLEIN: Alright, thank you,  
21 Commissioner Kieff.

22 So I'd like to start with understanding a little  
23 bit better the chain of supply here and the role that each  
24 of the industry witnesses' companies play in that chain. So  
25 I guess we can start with you, Mr. Seidel [pronounced

1 SEE-DELL]? SAY-DAHL, excuse me. With the Performance Food  
2 Group.

3 So you are a distributor?

4 MR. SEIDEL: Correct.

5 CHAIRMAN SCHMIDTLEIN: Right. So does that mean  
6 you purchase from importers of record?

7 MR. SEIDEL: That's correct.

8 CHAIRMAN SCHMIDTLEIN: And you're not the importer  
9 of record?

10 MR. SEIDEL: I am not.

11 CHAIRMAN SCHMIDTLEIN: Okay, and you all buy both  
12 subject imports, nonsubject imports, and domestic  
13 wild-caught?

14 MR. SEIDEL: Correct.

15 CHAIRMAN SCHMIDTLEIN: Okay. In your experience,  
16 do the duties that are currently being levied, are they  
17 passed on? Is that something that you are having to absorb  
18 in your purchase price?

19 MR. SEIDEL: We look at it as it's in the price.

20 CHAIRMAN SCHMIDTLEIN: It's in the price?

21 MR. SEIDEL: It's in the price.

22 CHAIRMAN SCHMIDTLEIN: Okay. Alright, so, Mr.  
23 Stafford, you're from Costco. Is Costco directly importing  
24 from these countries? Or are you purchasing from an  
25 importer here in the United States?

1                   MR. STAFFORD: Well let me clarify exactly how we  
2 do. We have, for almost 20 years, all of our  
3 pre-qualifications to be part of our supply chain with the  
4 product we import is done by our buyers visiting these  
5 source countries and establishing relationships with the  
6 processors and farming areas.

7                   So everything we do in working with a supply  
8 chain and up through negotiation, we do directly in-country.  
9 We then do an import-of-record that will pull all of our  
10 goods and provide cold storage consolidation and all of  
11 that, but it's just strictly a cost-plus basis to help  
12 facilitate the transactions.

13                  CHAIRMAN SCHMIDTLEIN: I see. Okay.

14                  MR. STAFFORD: So we are very intimately involved  
15 with being in-country and negotiating our own deals.

16                  CHAIRMAN SCHMIDTLEIN: But the importer of record  
17 is somebody different than Costco?

18                  MR. STAFFORD: Correct.

19                  CHAIRMAN SCHMIDTLEIN: It's not a Costco in-house  
20 job.

21                  MR. STAFFORD: Correct. But complete open book on  
22 what we do.

23                  CHAIRMAN SCHMIDTLEIN: Okay. I see. Alright.  
24 And Costco, I think you said, does not buy domestic  
25 wild-caught? Or did I misunderstand that?

1                   MR. STAFFORD: We buy a limited amount. We would  
2 like to buy more. We buy--for example, we buy pinks in our  
3 Southeast market, and we merchandise them side by side with  
4 the importer product, but it is differentiated through the  
5 packaging to call out that it is a pink and that's produced  
6 in the U.S.

7                   We are not able to get the levels that we'd like.  
8 I think Commissioner Williamson asked about the--I think it  
9 was--mentioned the wild Alaskan salmon that we sell. And  
10 that actually is the model that we would like to build for  
11 shrimp.

12                   When we sell wild Alaskan salmon, it's right next  
13 to our farmed Atlantic salmon in the buildings on both a  
14 fresh and frozen state. And in Alaska they've done a  
15 fantastic job on how they process in everything that they  
16 do. I mean that fishery is actually a model for what we  
17 take everywhere that we go when it comes to time and  
18 temperature and handling of the cold chain.

19                   So they've done a fantastic job with that, and  
20 they've done a great job marketing their species as being  
21 different. So they've consistently been able to sell at a  
22 10 to 20 percent premium within Costco. We think that's the  
23 model that we can do with domestic shrimp if we can work and  
24 massage and get the same comfort level with our  
25 specifications.

1                   Because one thing we do, when we set a  
2                   specification for a protein it is consistent across the  
3                   globe. We try not to change it from country to country. So  
4                   we think there's a tremendous opportunity.

5                   CHAIRMAN SCHMIDTLEIN: And by "specification," are  
6                   you talking about size?

7                   MR. STAFFORD: Well, the size, but there's also a  
8                   processing specification, and specifically it's handling of  
9                   the cold salmon. We mentioned the time that we spent in  
10                  Asia. It was going to the southern part of Vietnam and  
11                  working with a small farmer on what are their icing  
12                  practices. How do they transport it? How do they ensure  
13                  that from the time they pull it out of the pond to the time  
14                  they put it in the bag that we limit that time and that we  
15                  have control point checks on the temperature all the way  
16                  through the process.

17                  Because we feel, although shrimp is cooked and  
18                  that is a kill step, we don't rely on that. We rely on  
19                  very, very clean standards to ensure we limit any microbial  
20                  growth or anything bad that can happen.

21                  So we're wide open to trying to figure out a  
22                  better way to do that within the domestic industry.

23                  CHAIRMAN SCHMIDTLEIN: Okay. Mr. Pizzuti from  
24                  Publix, how do you get your shrimp?

25                  MR. PIZZATI: On the domestic side, we procure

1 directly with, like as I mentioned earlier, to a small  
2 number, three, domestic suppliers that we work with.

3 CHAIRMAN SCHMIDTLEIN: And are those distributors?  
4 Or are those processors?

5 MR. PIZZUTI: Those are direct processors. In  
6 some cases they are actually packing houses that also  
7 process. So they're unloading the boats and processing. In  
8 one case they're just a processor.

9 On the imported side, we're very similar to what  
10 Costco does. As I mentioned in my testimony, we work with  
11 12 overseas facilities between India, Thailand, and  
12 Indonesia, and we work with three import partners to handle  
13 the paperwork and the logistics of getting it into the  
14 country. So that's typically how we work on the procurement  
15 side for farm products.

16 CHAIRMAN SCHMIDTLEIN: Okay. Mr. Zhou, Red  
17 Lobster.

18 MR. ZHOU: We buy our domestic shrimp directly  
19 from a processor, as well. It could also be a distributor  
20 itself, but it's a direct producer-processor.

21 For our imported shrimp, we used to import every  
22 single pound of our seafood. We have ceased doing that some  
23 years ago. So we, like Costco, we have our own  
24 relationships, direct sourcing relationships in foreign  
25 countries, wherever the resource is, and we negotiate

1 directly with the producer, inspect the plants directly,  
2 work directly with them. Just the technical step of  
3 importing itself is either done by the exporter themselves,  
4 or a third party on a cost-plus basis.

5 And part of the reason is that antidumping is a  
6 tremendously burdensome responsibility from a paper keeping  
7 and other compliance standpoint for us. Our focus should be  
8 on our restaurants and, you know, our guests, even though  
9 sourcing products directly from overseas has always been  
10 more directly from producers anywhere in the world, whether  
11 it be domestic or overseas. We actually buy a vast majority  
12 of our seafood in the United States and North America than  
13 from overseas, everything else considered.

14 So, you know, we like to buy directly from  
15 wherever we can, whether it be overseas or here, and the  
16 importing of itself no longer has value to us.

17 CHAIRMAN SCHMIDTLEIN: So I assume like the others  
18 the price you're paying reflects the duties?

19 MR. ZHOU: Correct.

20 CHAIRMAN SCHMIDTLEIN: Okay. And then Mr. Stern,  
21 you are an importer?

22 MR. STERN: Correct. Yes.

23 CHAIRMAN SCHMIDTLEIN: And you're selling to  
24 distributors? Or retailers?

25 MR. STERN: We're selling to distributors like

1 PFG. We sell to large--

2 CHAIRMAN SCHMIDTLEIN: So they're a customer of  
3 yours?

4 MR. STERN: They are a customer of ours.

5 CHAIRMAN SCHMIDTLEIN: Okay.

6 MR. STERN: We sell to large restaurant chains.  
7 We sell to specialty seafood distributors. You may see a  
8 truck driving around Washington, D.C., United Shellfish, or  
9 many of the other ones. We sell to specialty meat  
10 distributors. We sell to companies that do reprocessing,  
11 also.

12 CHAIRMAN SCHMIDTLEIN: And are you able to pass on  
13 the duties in the price that you charge to various buyers?

14 MR. STERN: We certainly try to. So in effect we  
15 look at that as part of our cost, and we do pass the--we  
16 base that cost on what we sell for.

17 CHAIRMAN SCHMIDTLEIN: Okay. Mr. Weitzer, you are  
18 a distributor, I think?

19 MR. WEITZER: No. We are an importer.

20 CHAIRMAN SCHMIDTLEIN: You are? Okay.

21 MR. WEITZER: And also we pack domestic shrimp.

22 CHAIRMAN SCHMIDTLEIN: I see. Okay. And so as an  
23 importer you're selling to distributors?

24 MR. WEITZER: Yes, our customers are distributors  
25 and specialty seafood wholesalers. We really don't sell to

1 retail.

2 CHAIRMAN SCHMIDTLEIN: You don't sell to retail.

3 Okay. And are you able to pass on the cost of the duties?

4 MR. STERN: It is the cost of doing business, and  
5 we, again like Jeff said, we certainly try. We've found  
6 that our margins have not really changed since before the  
7 order to after, so we've been somewhat effective in doing  
8 that.

9 CHAIRMAN SCHMIDTLEIN: Okay, so you've been able  
10 to pass on those duties and not having to absorb them  
11 yourself. And so if the order was revoked, would you expect  
12 that you then would pass on the savings?

13 MR. STERN: That's a good question. I think it  
14 would depend a lot on what our competitors decided to do  
15 with their savings.

16 CHAIRMAN SCHMIDTLEIN: I see. Right. If at all,  
17 everyone would experience that, at least on this panel.  
18 Okay, that's very helpful.

19 MR. NICELY: Chairman Schmidtlein?

20 CHAIRMAN SCHMIDTLEIN: Yes?

21 MR. NICELY: Could I offer another observation?  
22 And I wonder if there's any chance of bringing up one of our  
23 slides again, the slide regarding the dumping margins for  
24 India? I just want to make sure that everyone is focused on  
25 this, because I think it's one of the more important aspects

1 of--and something that you didn't see in our brief that we  
2 wanted to focus on because of the extent to which the  
3 Petitioners focus on this concept of the discipline of the  
4 order, which you're effectively talking about.

5 But, you know, they essentially are claiming that  
6 the dumping margins are setting a price floor. And I think  
7 this is a very, very good example of why that is not the  
8 case.

9 Throughout the entire POR, the dumping margins  
10 have remained pretty flat at around from zero to three  
11 percent, a tight band from zero to three percent for India.  
12 And yet the pricing, if you look at the pricing products,  
13 have changed dramatically. And in some instances, as Jim  
14 talked about during his testimony, declined by 20 percent.

15 Well if they decline by 20 percent, how is this--  
16 how are these orders establishing a price floor? The point  
17 therefore is that it isn't the dumping orders that are  
18 setting price. They're not setting a price floor.

19 What these companies --- the way pricing works in  
20 the United States from imports is based upon, as you've  
21 heard today, is the global market. And as supply moves, and  
22 supply moves, costs move, and hence prices move.

23 But I think this is an important slide to focus  
24 on to understand why this notion of a price floor isn't  
25 happening.

1                   CHAIRMAN SCHMIDTLEIN: Okay. I will follow up in  
2 my next round as my time is up.

3                   VICE CHAIRMAN JOHANSON: Thank you, Chairman  
4 Schmidtlein.

5                   And I would like to thank all of you for  
6 appearing here today. This morning I gave my accolade to  
7 the domestic producers, thanking them for making such a  
8 great product, and thanks to all of you for importing this  
9 product. I enjoy seafood, try to eat it at least once a  
10 week, for health reasons and also just because it tastes so  
11 incredibly good. So thanks for your part in the seafood  
12 economy for bringing those products to all of us.

13                   I'm going to talk a bit more about food, and this  
14 is going to be focused on the panel way in the back  
15 representing the Brazilian producers, Mr. Gosselink, Mr.  
16 Goldfeder and Ms. Eppard.

17                   So I've been to Brazil. And when I was there ---  
18 I've been there twice and ate a whole lot of beef, and  
19 really enjoyed that. And it was my birthday three weekends  
20 ago, and I went to Fogo de Chao for the first time, and I  
21 was back this week again. I liked it so much.

22                   And when I was there, I ate a lot of beef. They  
23 even had lamb; they had pork; they had chicken; but no  
24 shrimp. And with my knowledge of Brazil, I just don't think  
25 of folks eating shrimp. I think of a lot of red meat.

1 That's what the country is known for.

2 But you all have provided information showing  
3 that the consumption is growing rapidly in the Brazilian  
4 diet. Could you talk a bit more about that? Because this  
5 is just something, until I read your briefs, I had no idea  
6 this was going on.

7 MR. GOSSELINK: Rob Gosselink, Trade Pacific,  
8 again. I'd be happy to speak briefly about the topic, and  
9 we can follow up more in our post-hearing brief. My  
10 understanding is that currently the per capita consumption  
11 of meat in Brazil is about 55 pounds per person --- pardon  
12 me, 55 kilos per person --

13 VICE CHAIRMAN JOHANSON: I think it's like the  
14 highest in the world, right? That and Argentina, I believe?

15 MR. GOSSELINK: I believe so. And trim currently  
16 is only about half a kilo. So about one percent of that  
17 quantity. Really, before 2003 there was no home market  
18 consumption of shrimp. The original investigation and  
19 subsequent public information from U.S. Com. Trade Data  
20 shows that almost all of Brazilian production of shrimp was  
21 exporter, and almost none was consumed in the home market.

22 Unlike the United States, there is no tradition,  
23 as in the Gulf Coast area, of shrimp farming, or shrimp  
24 eating. And this product originally was destined for foreign  
25 consumption. With the diseases of 2004 and '06 and the

1 devaluation, or the appreciation of the Real, they really  
2 had no choice but to find a consumer base in the domestic  
3 market.

4           And both retailers, wholesalers, distributors,  
5 the whole chain made great efforts to try to develop that  
6 taste for shrimp. And it's still extremely, extremely  
7 small. It started with the fresh market and evolved into  
8 some frozen consumption, but still was limited to the  
9 coastal areas and the larger cities.

10           And it really hasn't even cracked the interior of  
11 the country in terms of country-wide consumption. That's  
12 why almost every pound of shrimp today consumer--or produced  
13 in Brazil is actually consumed, but mostly consumed still  
14 along the coast. And there's huge potential for increased  
15 consumption in the interior.

16           Right now, however, there is still quite a lot of  
17 restrictions and constraints on increasing that production  
18 capacity. The, I guess the predictions that we saw on the  
19 screen earlier about greater exports in 2013-2014, the proof  
20 is in the pudding. They did not happen.

21           Right now, the production itself has decreased in  
22 the last couple of years. Production volumes, if they  
23 increase 10 or 20 percent in the next couple of years, would  
24 only get back up to the levels they were in 2012 and 2013.

25           So the country still has a long way to go to get

1 to that beef level, and maybe will never reach that level. I  
2 will add, however, that, despite the foreign minister's  
3 claims for greater exports, the Government of Brazil is not  
4 helping the aquaculture sector at all. There are no  
5 incentives. There are subsidies for the aquaculture center.  
6 There's over taxation of production inputs. There's a  
7 highly complex environmental licensing regime. There's  
8 difficulties--the difficulties in the licensing lead to  
9 difficulties in getting access to credit. Bank collateral  
10 requirements are very high.

11 I see considerable constraints on aquaculture  
12 expansion in the near future.

13 VICE CHAIRMAN JOHANSON: Thank you, Mr.  
14 Gosselink.

15 MR. CONNELLY: Can I talk to that briefly to  
16 that, Commission Johanson?

17 Slide five of the domestic said this morning "15  
18 Brazilian seafood producers listed as exhibitors at the  
19 Boston Seafood Show, at least six of which produced shrimp"  
20 and that remark was repeated a couple of times today. I got  
21 to say that proves nothing. We don't know that those 15  
22 companies are going to Boston to try to sell shrimp. All we  
23 know is they looked and they think they produce shrimp, but  
24 they could be going to Boston to sell something else, so I  
25 think that's entitled to no weight whatsoever as you try and

1       decide whether Brazil is export oriented.

2                   MR. ZHOU: I can add a little bit to your  
3       question about the seafood consumption. I'm not from  
4       Brazil, but one of the things that happening Red Lobster  
5       just opened their own restaurants in Brazil. I'm sure  
6       business development people know something more better than  
7       I do about why they want to open a seafood restaurant in a  
8       beef market, per say. They opened two restaurants there.

9                   VICE CHAIRMAN JOHANSON: Wonderful, thank you.

10                   In sticking with the issue of Brazil, when I was  
11       reading the Petitioner briefs, one of them mentioned that  
12       shrimp is seen as a luxury product in the United States and  
13       fall under the recession that began in 2008/2009 consumption  
14       went down in the U.S. And I'm just curious, Brazil right  
15       now is being hit very hard by its economic problems and  
16       that's been going on for several years now, so I was  
17       surprised to see consumption of shrimp going up during that  
18       period of time because I considered shrimp as being  
19       somewhat of a luxury product. It's not something you eat  
20       every day, at least not here and I'm just curious as to why  
21       it's become so popular in Brazil and why you see that as  
22       it's continuing in the future as the economic in Brazil  
23       remains mired in a very bad recession.

24                   MR. GOSSELINK: Well, I don't have the complete  
25       answer, but it's certainly the fact that all production of

1 shrimp is being consumed in Brazil by somebody. No, I don't  
2 know if it's considered a luxury items at this point. It  
3 was certainly consider it a luxury item in the United States  
4 30 years until the increased farm-raised imports came into  
5 the country.

6 I assume that there are still, out of a country  
7 of 200 million people, a lot of people, middle class folks  
8 who can still afford shrimp on a daily basis and see it as  
9 an excellent protein alternative to red meat.

10 VICE-CHAIRMAN JOHANSON: Okay. I was just  
11 wondering. I read once that oysters in the U.S. were seen  
12 as like peasant food maybe a hundred or so years ago and  
13 that's obviously changed, so maybe it's the same thing with  
14 shrimp in Brazil; although I find that hard to imagine  
15 'cause it's such a great product.

16 The Brazilian market appears to have largely  
17 excluded imports. I think that's for disease purposes from  
18 what I recall reading. Is this sustainable or will this  
19 have to change, especially, given the consumption patterns  
20 in Brazil and how large were imports into Brazil before they  
21 were excluded?

22 MR. GOSSELINK: I think there have rarely been  
23 exports to Brazil. We had a chart in our brief on behalf of  
24 the Brazilian Respondents that showed historical levels of  
25 exports to Brazil and they have always been very minimal.

1                   VICE CHAIRMAN JOHANSON: Okay. But then again,  
2 imports have been excluded.

3                   MR. GOSSELINK: Brazil, currently, is very  
4 concerned about bio-security issues. They have seen what  
5 has happened in Southeast Asia with EMS. Last year they had  
6 slightly lowered production because of an outbreak of white  
7 spot disease that is continuing even now. And again, back  
8 in 2004 and 2005, they had huge white spot disease problems  
9 that coincided with significant flooding in the country.  
10 Obviously, when there's both flooding and disease, it's easy  
11 to transfer the disease from pond to pond to pond. The  
12 water just flows that more easily.

13                   They have a very stringent bio-security import  
14 system right now whereby all imports are subjected to  
15 inspection requirements. I think that that may change in  
16 the near future, but I can't speak more on that.

17                   VICE-CHAIRMAN JOHANSON: Alright, thank you, Mr.  
18 Gosselink. My time is about to expire.

19                   CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

20                   COMMISSIONER WILLIAMSON: Thank you. And I do  
21 want to express my appreciation to all the witnesses for  
22 your testimony this morning. You've also presented sort of  
23 a rich story.

24                   I was wondering -- and I asked this, this  
25 morning too. Have there been any significant changes in

1 technology for shrimp processing in subject countries?

2 MR. PIZZUTI: I really haven't seen anything in  
3 my visits over the last four years from a technology  
4 standpoint. The one issue that I have seen has been a  
5 labor-related issue where they are looking to more  
6 automation, even in Asia. As that middle class begins to  
7 grow, there's less and less people willing to work in the  
8 processing plants. There's some degree of automation that  
9 they are looking at, but by and large, I haven't seen any  
10 technology changes at the processing levels.

11 MR. STERN: Jeff Stern.

12 I would agree with what Guy said, changes in the  
13 factory, but the one change we have seen is that they've  
14 embraced technology to provide complete traceability and we  
15 can go from pond to finished product and they can track that  
16 very, very well and they embrace that, so if there a problem  
17 ever in the supply chain it's easily identifiable and you  
18 know we really do have that perfect pond to plate  
19 traceability.

20 COMMISSIONER WILLIAMSON: Okay. Isn't it true  
21 in most globally traded products nowadays at set a certain  
22 standard that the purchasers are demanding that? I mean I  
23 can understand why you have it there, but I'm just raising  
24 this generally -- something very general.

25 MR. STERN: I can't talk about industries

1 outside of seafood, so I really can't comment.

2 COMMISSIONER WILLIAMSON: Okay.

3 Mr. Stafford from Costco.

4 MR. STAFFORD: Yeah, you are correct.

5 Traceability is a buzz word for everybody now. Everybody  
6 wants to know where their food is coming from and it's  
7 getting further down the chain in the ingredients and  
8 everything, so I don't think the industry is there in every  
9 case; but I think every industry is moving in that  
10 direction.

11 COMMISSIONER WILLIAMSON: Okay, thank you.

12 Just an aside, because I've noticed -- somebody  
13 I think mentioned black tiger shrimp are less popular; is  
14 there a shift from that -- away from that? Did someone  
15 mention that?

16 MR. PIZZUTI: I think tigers are actually  
17 beginning to make a small comeback. They were the  
18 predominate species throughout Southeast Asia years ago.  
19 The farmers began to switch to the vannamei shrimp because  
20 it had a higher survival rate, so they were able to grow  
21 that better. They were able to grow it faster. The other  
22 thing with the vannamei that was an advantage they could  
23 actually be breed in hatcheries where with the tigers you  
24 had to get wild brood stock to begin that farming operation.  
25 With the removal of tigers from the market, they've now

1       become a niche item and you're starting to see more and more  
2       players from the aqua cultural standpoint come back with  
3       that because they can get a price premium for it at this  
4       point in time.

5                   COMMISSIONER WILLIAMSON:  Okay.  I only ask that  
6       because every Saturday I'm on Costco and I go by the shrimp  
7       stand and I see the product offering has changed over the  
8       years, but thank you for that.

9                   How difficult would it be to expand farm shrimp  
10       production in subject countries and how long does it take  
11       and how expensive is it and what constraints are there?  You  
12       know what drives the expansion of the farms and all?

13                   MR. CONNELLY:  Commissioner, I'm not sure if I  
14       can answer that one here.  I'll ask if the panel has any --

15                   COMMISSIONER WILLIAMSON:  I mean you've got a  
16       bunch of people who are purchasing this stuff, so I assume  
17       they --

18                   MR. CONNELLY:  They're purchasers.  They're not  
19       farmers.

20                   COMMISSIONER WILLIAMSON:  But they're noisy.  At  
21       least they just told me that.

22                   MR. ZHOU:  I can attempt to provide some --

23                   COMMISSIONER WILLIAMSON:  Okay, who is this?

24                   MR. ZHOU:  Joe Zhou.

25                   COMMISSIONER WILLIAMSON:  Okay, thank you.

1                   MR. ZHOU: Based on you know my experiences is  
2                   that to expand a shrimp pond is not as simple or expanding  
3                   farming is not as simple as it sounds. You know you can dig  
4                   a hole in a pond and start putting shrimp in there. I think  
5                   there are increasing environmental regulations overseas as  
6                   well as investments associated with land acquisition and all  
7                   the standards that you have to comply with in addition to  
8                   the capital investment they have, so it's not a very easy  
9                   endeavor anybody wanted to get into shrimp farming. It's my  
10                  understanding it's getting harder and harder to do so,  
11                  especially, in more mature farming countries like Thailand,  
12                  China, or Vietnam.

13                  You know, typically, where you can farm and it  
14                  seems like there's some kind of farming going on and it's  
15                  hard to expand outside those areas. There are also  
16                  environmental limitations to shrimp farming as well.

17                  COMMISSIONER WILLIAMSON: Does this suggest new  
18                  suppliers in places India easier?

19                  MR. ZHOU: My assertion would be if there are --  
20                  there's less farming in an up and coming country, it's more  
21                  than likely and also it depends on the cost associated with  
22                  the investment in that particular country and location.

23                  MR. WEITZER: Alan Weitzer. I would like to add  
24                  to that.

25                  We have a lot of partners -- supply partners in

1 India and we have asked them on numerous occasions what  
2 drives the farming expansion and they really say it's the  
3 price that they can garner for the shrimp on the global  
4 market. It is surprisingly expensive to buy land; depending  
5 on what your perception is of a country relative to land in  
6 the U.S. sometimes land in India can be more expensive in  
7 regions where they're harvesting shrimp. You know an  
8 acreage in India compared to an acreage you know maybe 50  
9 miles outside of a major city in the U.S. would be similarly  
10 priced, so they have to -- you have to be able to sell the  
11 shrimp for a reasonable price in order to get a return on  
12 your investment and incentive to expand the farming.

13 COMMISSIONER WILLIAMSON: Okay. How much lead  
14 time there is you know before someone is setting up a farm?

15 MR. CONNELLY: We're going to have to look into  
16 that one for you.

17 COMMISSIONER WILLIAMSON: No, it's just kind of  
18 helpful.

19 MR. CONNELLY: Yeah, we'll have to look into  
20 that one.

21 COMMISSIONER WILLIAMSON: Okay.

22 MR. STAFFORD: Just to comment, though, on your  
23 question that you lead with on what do we know about  
24 expanding farms. And I think if you look what our biggest  
25 challenge is in asking processors in countries to expand

1 it's looking at the population growth and the global demand  
2 and all of the things and the way that we -- what we ask for  
3 is more diversification from countries. We're not asking to  
4 build more farms. We're looking for ways to just make sure  
5 we protect our supply base with our expansion throughout the  
6 globe and with the growing population that we're diverse in  
7 our supply. So Guy may mention that he's got 12 plants,  
8 we'll have a number of plants we work with, but we're  
9 looking on continuing to expand that out so we're protected  
10 against EMS and insulated against some of the things that  
11 can happen and can keep up with population growth and  
12 expansion.

13 MR. PIZZUTI: I believe Joe was accurate. You  
14 know when I look at aquaculture, in general, you know  
15 separating the shrimp from everything else everybody looks  
16 to aquaculture as the future. That's were all the product  
17 is going to be coming from.

18 The reality is in most cases the more mature  
19 industries are mature. If you look at land acquisition for  
20 shrimp farming, you need water access. Probably already  
21 farms there right now, so I don't see the huge expansion  
22 potential from new farm growth. It's going to come from  
23 efficiency. The same way if you look at Chilean salmon  
24 they're not going to be able to do more salmon pens.  
25 They've taken up all the space they can take up. And I

1 believe we're getting to that point right now with shrimp  
2 aquaculture as well, that, as Joe said, if there's a farm  
3 there it's there. There's not space in Indonesia to start  
4 building out another farming system similar to some that are  
5 already there.

6 MR. CONNELLY: Commissioner, can I add one more  
7 point about the growth of shrimp farming? The number this  
8 morning that was repeatedly raised by the domestic parties  
9 was that shrimp production was projected to grow by 600  
10 million pounds by 2018. That was repeatedly cited as a  
11 reason why the United States was going to absorb a lot more  
12 imported shrimp. Now the source of that data is Table IV-8  
13 in the pre-hearing report.

14 Now they are relying on a difference of 600  
15 million between 2015 and 2018 and those are all estimates,  
16 but if you go back to the real number in 2014, global  
17 production in the subject countries in 2014 was 6.8 million  
18 pounds, 6.8 million in the subject countries. In 2018, it's  
19 projected to be 6.4 million pounds. In other words,  
20 production is down 400 million pounds between 2014 and '18.  
21 It's only by taking a low base in 2015 that they come up  
22 with a 600 million pound increase. Go back one year and you  
23 get a 400 million pound decrease. So in fact, the experts  
24 are predicting that there's not going to be production  
25 growth if you rely on the information in these tables.

1                   COMMISSIONER WILLIAMSON: Is that production  
2 growth in the existing producers?

3                   MR. CONNELLY: That's the subject countries.  
4 This is one slide from one expert at one conference. That's  
5 a whole other issue.

6                   COMMISSIONER WILLIAMSON: Okay. Okay, thank you  
7 for those answers.

8                   CHAIRMAN SCHMIDTLEIN: Alright, Commissioner  
9 Broadbent.

10                  COMMISSIONER BROADBENT: I think a few witnesses  
11 mentioned this, but I just wanted to clarify. Can anybody  
12 on the panel indicate whether they've ever discussed import  
13 prices with domestic suppliers as a means of explaining a  
14 lost sell or a requested reduction in price?

15                  MR. STERN: Jeff Stern.

16                                 No, we have not.

17                  MR. SEIDEL: Mike Seidel with PFG.

18                                 When we shop for a domestic shrimp, we're  
19 shopping with domestic suppliers. And when we're shopping  
20 with imported shrimp, we're shopping with imported suppliers  
21 and we do not discuss pricing in any of those scenarios.  
22 That's my response.

23                  MR. WEITZER: Alan Weitzer.

24                                 We actually sell both domestic and imported  
25 shrimp and all of our customers are sourcing those from us

1 independent of each other. We don't have customers that  
2 come to us and say I'm looking for a shrimp at its lowest  
3 common denominator. We have a customer base that has to  
4 have domestic shrimp. We sell that domestic shrimp to them.  
5 Yeah, they may or may not understand what the import price  
6 is. I don't know. But we have a customer base also that  
7 buys the import shrimp from us. Many of those customers buy  
8 both of them from us for what are supposedly interchangeable  
9 products if you listen to the other argument at the same  
10 time, at vastly different prices.

11 Even in today's current market, you know for an  
12 interchangeable item you know we're selling domestic shrimp  
13 at a 20 to 30 percent premium over the same item and that  
14 product for us, since we're selling both sometimes to the  
15 same customer at the same time is going on the same truck.  
16 So for me, I don't know why that customer would do that or  
17 why I also on my end would be buying at such different  
18 prices.

19 MR. STAFFORD: Jim Stafford with Costco.

20 The structure that we have -- buyers can say a  
21 lot of different things in different places I'm sure, but  
22 our structure is that all of our imported product that is  
23 frozen is handled within our Kirkland signature brand, which  
24 is negotiated out of Issaquah, Washington. All of our  
25 purchases for domestic area bought regionally throughout our

1 regional offices throughout the country or globe in some  
2 cases, so there are different individuals that are, in fact,  
3 doing the purchasing.

4           The items that they did look at this morning --  
5 I looked at the pink that I referenced that we sell in  
6 Florida and it's a 40/50 pink that we sell for 15.79 for two  
7 pounds. I think we all understand that the larger you go  
8 with shrimp the more expensive it gets, but the smaller  
9 imported item that we sell in that same location is a 31/40  
10 raw for two pounds that is actually less, so we're willing  
11 to pay that premium that we pay in Florida.

12           MR. SEIDEL: Mike Seidel.

13           I'd also like to add that when we sell to a  
14 customer, the restaurateur or the chef, there will be --  
15 some of those folks will kind of shop we call it as a  
16 spreadsheeter. What's your price for French fries? What's  
17 your price on a 16/20 shrimp? They're not very particular  
18 as to what they need to have. They're just looking for a  
19 low cost.

20           There'll be other folks that will say I need a  
21 black tiger 16/20 or I need a white whatever, so they become  
22 very specific as to what they want and the sizing while some  
23 customers it's strictly just a value price. And I think  
24 it's similar, you or I walk into a Costco or a Publix's and  
25 shop. You know there's a lot of things that are helping us

1 make a decision as to what shrimp or what salmon we're going  
2 to buy that day out of that case.

3 MR. PIZZUTI: For Publix, we are the same. As I  
4 mentioned in my testimony, we operate parallel supply  
5 chains, so we never compare the two side-by-side. In  
6 addition, I'd like to add, to date, I've actually never  
7 countered a domestic offer. The price they send for the  
8 product quantity is what we pay. I've never went back  
9 looking for lower pricing.

10 MR. ZHOU: Similar here with Red Lobster you  
11 know there's two distinctive products and there's really no  
12 confusion as to what we're buying and pricing was very  
13 rarely discussed, except for do you have the product? When  
14 can you deliver it? That's pretty important for us.

15 COMMISSIONER BROADBENT: Okay, that's helpful.  
16 Thank you.

17 Maybe Mr. Connelly or Mr. Nicely on this one, do  
18 subject countries maintain separate farms for shrimps  
19 intended for export to the EU and Japan?

20 MR. CONNELLY: As far as I know, the answer to  
21 that is no.

22 COMMISSIONER BROADBENT: And so how similar are  
23 the health standards for EU and Japan versus the U.S.?

24 MR. CONNELLY: Commissioner, I actually don't  
25 know the answer to that, but I do want to get into

1       responding to the suggestion that somehow there are stricter  
2       standards and greater inspection regimes in the EU and  
3       Japan.  If that were true, then you would not see increases  
4       in the exports to those markets.  But if you take India as  
5       an example, their exports to the EU, in particular, have  
6       increased significantly.  So there can't be some sort of  
7       more rigid either standard or more rigid inspection regime  
8       that is somehow causing a diminishment in their exports to  
9       the EU, so we just don't buy that argument that there is  
10      going to be a greater incentive to export to the U.S.  If  
11      that were the case, I mean you just wouldn't see these huge  
12      disproportionate export volumes around the world.  You know  
13      only 27 percent to the U.S., the rest to the rest of the  
14      world.

15                    I mean we'll look into those standards.  We'll  
16      get those standards for you, but I think that the proof of  
17      the pudding is the actual volumes, what's going where.

18                    MR. PIZZUTI:  As far as the question goes, I  
19      know of one company in Thailand that operates a separate  
20      processing facility dedicated to the Japanese market and  
21      that is because the process efficiencies of the specific  
22      product that is being made, so they run out of a separate  
23      facility versus their regular processing plant.

24                    The one thing you'll see in differences from  
25      farm to farm is really I believe a function of the U.S. and

1 the EU and that's with the global aquaculture BAP standards  
2 and the ASE standards for sustainable aquaculture. There  
3 are customers that want to buy a hormone, antibiotic-free  
4 product. That will come from a specific farm dedicated to  
5 that. There are four star and three star and two star  
6 qualifications that will drive different farms to do  
7 different things for different customers, but it's not a  
8 food safety issue.

9 MR. CONNELLY: And also, if your pond is  
10 certified -- if you're a farmer and your pond is certified  
11 for BAP best agricultural practices, you can sell that  
12 shrimp anywhere. It's not dedicated to a market if you've  
13 got a BAP standard. A buyer in Europe may want the BAP  
14 standard. A buyer in the U.S. may want the BAP standard.

15 COMMISSIONER BROADBENT: Good well I think that  
16 concludes my questions and I just want to thank the panel.  
17 I think it's really reassuring to see you all out there sort  
18 of guaranteeing the quality of the products that you are  
19 purchasing for U.S. consumers because we see a lot of  
20 articles in the paper and it is good that you guys are all  
21 taking responsibility so we appreciate it, thank you.

22 CHAIRMAN SCHMIDTLEIN: Alright thank you. I  
23 asked this question this morning -- can any of you explain  
24 what was driving the increase in apparent consumption in the  
25 U.S. market from '13 to '14 and then from '14 to '15?

1                   MR. DOUGAN: Madam Chairman Jim Dugan from ECS.  
2                   I'll let the industry guys respond to that question with  
3                   real world -- real world information that is. But the  
4                   apparent consumption increase that is observed in the data  
5                   from 2013 to 2015 I think has a lot to do with the depressed  
6                   level of imports because of EMS.

7                   And so you know the consumption or the demand  
8                   factors these guys can answer that but there was a lower  
9                   level of imports associated with the EMS restriction on  
10                  supply. And as that recovery happened you saw an increase  
11                  in '14 and '15 -- if you guys have anything else to add.

12                  MR. SEIDEL: Mike Seidel, I would agree  
13                  absolutely with that because has EMS occurred and pricing  
14                  rose and product became harder to get -- customers -- again  
15                  I'm only going to speak to restaurant customers. You know  
16                  they started taking shrimp off the menu and using some other  
17                  protein or reducing the menu items that had shrimp on them.

18                  And then as we got to the point where we got past  
19                  the EMS and the market got -- the quantities got stable and  
20                  the pricing again started to drop we started seeing  
21                  restaurants start menuing again more shrimp items or even  
22                  increasing sizes which generally we see as prices go down  
23                  they may shift up a sight, as prices go up they may shift  
24                  down a sight.

25                  But during the EMS there were a lot of customers

1 that started taking it off the menu completely.

2 CHAIRMAN SCHMIDTLEIN: So right now you don't  
3 think EMS is affecting the market here in the United States?

4 MR. SEIDEL: No I don't think it is right now.

5 CHAIRMAN SCHMIDTLEIN: Okay, does anybody else  
6 have anything to add to that? Okay when I look at the staff  
7 report and this is confidential but at page I-7 -- Roman  
8 Numeral I-7 this is table Roman Numeral I-1 you see the  
9 subject quantity from the original investigations and then  
10 the subject quantity in the first reviews and the subject  
11 quantity in the second review.

12 And there is a substantial drop in the quantity  
13 from subject sources from 2003 and then the next number we  
14 have in this particular table is 2009 and if you have access  
15 to this Mr. Connelly or Mr. Nicely?

16 MR. CONNELLY: I'm looking at it, which page are  
17 you looking at?

18 CHAIRMAN SCHMIDTLEIN: I-7.

19 MR. CONNELLY: Page I-7, okay.

20 CHAIRMAN SCHMIDTLEIN: At the bottom there where  
21 it says subject sources.

22 MR. CONNELLY: Right.

23 CHAIRMAN SCHMIDTLEIN: Original quantity 1,000  
24 pounds and then it shows a substantial drop from the  
25 original investigation to what was the first year of the

1 first review. And so my question is what caused subject  
2 imports to leave the market from the first investigation to  
3 the first review?

4 MR. NICELY: So I talked about that a little bit  
5 in my testimony. There are essentially if you break it down  
6 by country -- you have already heard about Brazil and China.  
7 They ended up focusing on their home markets.

8 CHAIRMAN SCHMIDTLEIN: So that happened  
9 immediately after the order went into place or how quickly  
10 has that happened?

11 MR. NICELY: Well it has happened over time but  
12 you are talking about the change from 2003 to 2015 right?

13 CHAIRMAN SCHMIDTLEIN: No I'm really talking  
14 about the change from 2003 to the number in 2009 and that's  
15 only because I don't have immediately handy the years in  
16 between but I am planning to ask staff for those to see when  
17 the drop actually occurred. Do you all know when the drop  
18 actually occurred?

19 MR. NICELY: I don't recall.

20 MR. DOUGAN: I can't answer that specifically  
21 without the information in front of me but I think there are  
22 a couple of things -- one of them is between 2003 and 2009  
23 Ecuador was released from the order so their volumes were  
24 shifted basically to non-subject.

25 There also were some changed circumstances

1 reviews in between that period from '03 to '09 where some of  
2 the exports from subject countries were no longer subject  
3 imports. So that explains some of that shift.

4 I believe Mr. Gosselink also mentioned with  
5 regard to Brazil that there was the appreciation of the Real  
6 in 2004 is that right?

7 MR. GOSSELINK: It really started in 2004.

8 MR. DOUGAN: That led Brazil to be I guess less  
9 competitive in the export markets. So there were a lot of  
10 things that happened there. To just attribute this to the  
11 effect of the imposition of the order is too simplistic.

12 CHAIRMAN SCHMIDTLEIN: Okay well why don't we get  
13 the -- I don't know if the staff can do that I would like to  
14 see the numbers for the subject quantities for the years  
15 between 2003 and 2009 and maybe you could parse that for me  
16 in the post-hearing brief in terms of what is going on.

17 If you don't I'm just not sure if those numbers  
18 are already available in prior records or if we will just  
19 produce them. Yeah but it wouldn't go through 2005 -- well  
20 I guess it would, okay.

21 MR. DOUGAN: Madam Chairman staff has produced  
22 the record from the earlier investigation.

23 CHAIRMAN SCHMIDTLEIN: They have.

24 MR. DOUGAN: So we will parse that together for  
25 you.

1                   CHAIRMAN SCHMIDTLEIN: Okay alright that would be  
2 helpful. Alright so in turning to this question about  
3 prices and Mr. Dougan I am looking at a slide that you had  
4 -- this was slide number 2 actually.

5                   This one right -- where you put the 2013 to 2015  
6 and we have the U.S. processor net sales AUV and subject  
7 import AUV where we see this increase from 2013 to 2014 and  
8 I guess my question is -- and you heard me this morning,  
9 "From the joint respondent's brief the statement with regard  
10 to the price spike having to do with the EMS that was  
11 occurring, that was driving prices up."

12                   So I guess my question is, were U.S. prices  
13 affected by that price spike?

14                   MR. DOUGAN: It certainly appears so and I  
15 believe -- I don't want to mischaracterize the testimony but  
16 I believe I heard someone this morning also mention that  
17 that had an effect on the prices. So it was a global impact  
18 on pricing.

19                   CHAIRMAN SCHMIDTLEIN: Okay so but my question is  
20 then if the EMS problem in Thailand and I guess there were a  
21 few other countries that were also experiencing this  
22 problem, was having an effect on U.S. domestic wild caught  
23 prices because of the supply shortage from subject countries  
24 and non-subject I suppose -- isn't that inconsistent with  
25 what you all just said about how you -- these are two

1 totally separate markets and the price of frozen subject  
2 import shrimp does not impact the price that wild caught  
3 shrimp is being paid?

4 If that's true and these prices have no effect  
5 then why would the EMS problem that caused the price spike  
6 have affected domestic wild-caught shrimp prices, Mr.  
7 Dougan?

8 MR. DOUGAN: Well I think -- I'm not sure that we  
9 are claiming there is absolutely no effect or no interaction  
10 between these. We have not argued for zero competition but  
11 there is attenuated competition between them.

12 For these people who -- I'm sorry the people on  
13 the panel today who have said that they have parallel supply  
14 chains, that is true with respect to them.

15 But I think if you have a global market of supply  
16 and demand for shrimp and there is something so substantial  
17 as this curtailment of supply in Asia it could have an  
18 overall effect on that.

19 CHAIRMAN SCHMIDTLEIN: Yeah but isn't one of the  
20 Respondent's arguments is that the total supply of imported  
21 shrimp has remained constant over the term and therefore  
22 there shouldn't be any affect if there is a revocation of  
23 the order? So isn't that one of the Respondent's arguments  
24 is that the supply has been constant but yet we see a spike  
25 in price because of the fear of shortage because everyone

1 knew what was going on in Thailand which you say have  
2 affected U.S. domestic prices.

3 So isn't that inconsistent? Like which one is  
4 it?

5 MR. DOUGAN: Well there was -- first of all it  
6 wasn't just Thailand but Thailand was the country that was  
7 most greatly affected by it.

8 CHAIRMAN SCHMIDTLEIN: Mr. Seidel do you want to  
9 say something?

10 MR. SEIDEL: What we have seen -- this has also  
11 happened in the catfish industry is that you know when  
12 product starts getting tight say overseas that you will see  
13 domestic prices artificially increase.

14 And we have seen it with catfish. Catfish  
15 prices, catfish shortage in the overseas will cause an  
16 increase by the domestic suppliers raising their prices  
17 here.

18 CHAIRMAN SCHMIDTLEIN: For catfish you mean?

19 MR. SEIDEL: And shrimp as well.

20 CHAIRMAN SCHMIDTLEIN: So catfish -- I'm sorry so  
21 the shrimp prices are affected by catfish?

22 MR. SEIDEL: No, I would say that they have the  
23 same --

24 CHAIRMAN SCHMIDTLEIN: Same pattern.

25 MR. SEIDEL: Same penetrate, it's parallel.

1                   CHAIRMAN SCHMIDTLEIN: Right.

2                   MR. SEIDEL: But we have seen that you know, and  
3 yes shrimp wasn't affected here with the EMS but the shrimp  
4 pricing -- domestic shrimp pricing went up during that  
5 timeframe and the only thing I can attribute that to is an  
6 artificial increase based on what was occurring with the  
7 limited supply from overseas.

8                   MR. WEITZER: Do you mind if I add some thoughts?

9                   CHAIRMAN SCHMIDTLEIN: Sure go ahead.

10                  MR. WEITZER: Alan Weitzer again. What we saw  
11 that year -- and I am speaking now as a domestic purchaser  
12 and seller -- was that yes the domestic prices did tend to  
13 track the import prices as a result of the supply shortage.

14                  But once a supply shortage goes over to Michael's  
15 point on the artificial price level for domestic shrimp is  
16 that domestic shrimp didn't sell through at those high  
17 prices. Yes, small volumes were selling at those prices but  
18 after the imports recovered there was a tremendous amount of  
19 domestic shrimp unsold and the industry by all accounts, had  
20 a tremendous hangover for about the next year where they  
21 were saddled with tremendously high inventories that they  
22 couldn't sell for anywhere near what they had paid for it.

23                  I certainly couldn't sell my inventory for what I  
24 had paid for it.

25                  CHAIRMAN SCHMIDTLEIN: Because the price of all

1 shrimp had come down right? So now buyers could get their  
2 shrimp more cheaply than what was sitting in your inventory.

3 MR. WEITZER: Well the thing is -- the domestic  
4 prices -- the inventory on the import side sold through  
5 relatively quickly. The inventory on the domestic side did  
6 not sell through quickly. There was a shortage of imports  
7 and in response to that shortage the import price went up.

8 There was not a shortage of domestics yet the  
9 price of domestics still went up because they thought that  
10 they could get the price. When the price went up that high  
11 the imports sold through because there was a shortage of  
12 inventory. The domestics did not because there was not a  
13 shortage for that segment of the market.

14 CHAIRMAN SCHMIDTLEIN: I see okay, alright thank  
15 you.

16 MR. DOUGAN: Madam Chairman can I add one more  
17 thing? If you go back to slide 3, could you please -- there  
18 were declines in landings from '12 to '13 or from '13 to '14  
19 so there was a reduction in U.S. supply as well -- not as  
20 significant as what happened on the global stage.

21 But it was at a time when -- and as I mentioned  
22 on slide 4 prices in landings have been moving in opposite  
23 directions which again would make sense in supply and demand  
24 terms right. So when supply goes down prices go up. You  
25 saw that happening to some degree in those periods.

1                   CHAIRMAN SCHMIDTLEIN: Yes I understand. The  
2 question here though is the effect of subject imports on the  
3 price of domestic product. So I understand that the supply  
4 of the domestic product also has an effect on the price of  
5 domestic product but I had understood your argument to be  
6 that these were two totally different markets.

7                   And that you all negotiate the prices for these  
8 two different products separately and you never quote an  
9 imported price to a domestic buyer. And so that was my  
10 question. Well if that's true then are you saying that this  
11 price spike in 2013 did not have an effect on the price of  
12 domestic wild-caught?

13                   That it would seem to be a logical extension of  
14 your argument but that's not consistent with what's in the  
15 brief so that was my question. And it wasn't clear to me --  
16 you have it on your chart, why you have the U.S. price  
17 compared to the imported price.

18                   So I just wanted to understand like what exactly,  
19 you know, what exactly is your argument with regard to the  
20 price effects?

21                   MR. DOUGAN: Sure okay, well two things. The  
22 reason that that is -- could you go back to the slide 2.  
23 The reason that these prices are plotted next to these  
24 consumption numbers is to show that the per capita  
25 consumption of shrimp didn't change much in response to

1 changes in price. So people didn't start eating a lot more  
2 shrimp because it got cheaper between '14 and '15 and they  
3 didn't eat less between '13 and '14 when it got more  
4 expensive.

5 Now if you are talking about the --

6 CHAIRMAN SCHMIDTLEIN: Well wouldn't they have  
7 had to eaten more? I mean the consumption increased 15% but  
8 the per capita -- you say the per capita -- but we didn't  
9 have a 15% increase in population?

10 MR. DOUGAN: But there is the '13 number you can  
11 see is slightly lower than '14 right? So that few tenths of  
12 a percentage point again because import supply was reduced  
13 -- if you multiply that over the population that has an  
14 effect, from '14 to '15 the increase in consumption overall  
15 was like 2 and %, 3% but sorry -- per capita consumption  
16 was flat.

17 And you would expect if you know, demand was  
18 sensitive to changes in price that a significant change in  
19 -- sorry a significant decline in price between '14 and '15  
20 would have led people to consume more and on a per capita  
21 basis they didn't.

22 I think the example here -- and that's mostly the  
23 point of what we are trying to accomplish here. If you go  
24 back to slide 3 the variation in price prior to 2013 is much  
25 more limited. And so I think the sort of limited effect and

1 attenuated competition and attenuated overlap in price is  
2 sort of more observable there.

3 I think it is a different situation when you have  
4 something like that global supply shock that you had in  
5 2013. And especially when that is amplified by a reduction  
6 in domestic supply -- so is that a sort of a systematically  
7 different type of circumstance than you see in day to day  
8 negotiations? I think the record would support that.

9 CHAIRMAN SCHMIDTLEIN: Okay thank you for that.  
10 I have far exceeded my time so Vice Chairman Johanson?

11 VICE CHAIRMAN JOHANSON: Thank you Chairman  
12 Schmidtlein. Getting back to Brazil for all of you in the  
13 third row at page 55 of their brief the American Shrimp  
14 Processors Association discuss awards that have been  
15 provided to Brazilian shrimp producers.

16 It lists two awards that were provided to certain  
17 producers in Brazil. Do recent awards to these Brazilian  
18 producers make the Brazilian product more competitive in  
19 export markets? In other words has production improved in  
20 Brazil? Is quality improving in Brazil to the extent that  
21 it will make them more competitive in the United States?

22 MR. GOSSELINK: I'll follow-up to see if we can  
23 get additional information on that but my understanding is  
24 that it has had no impact at all.

25 VICE CHAIRMAN JOHANSON: Okay thank you Mr.

1 Gosselink. And do you all know if there are any trade  
2 restrictions on Brazilian shrimp in third country markets?  
3 The staff report did not indicate that there are but I was  
4 just wondering if you all knew if there might be?

5 MR. GOSSELINK: I believe that Petitioners this  
6 morning mentioned the -- was it the European GSP? They  
7 might not have access to the GSP preferences in Europe  
8 anymore.

9 VICE CHAIRMAN JOHANSON: Okay but there is not a  
10 restriction per se?

11 MR. GOSSELINK: No, no.

12 VICE CHAIRMAN JOHANSON: The traditional trade  
13 talk okay. And in sticking with Brazil we all know that the  
14 economy there is not in the best situation but the Real has  
15 gone up a bit I think but then again the U.S. dollar just  
16 keeps going up and up and up.

17 What impact does the strength of the U.S. dollar  
18 have in making the U.S. market more attractive for product  
19 from Brazil and for that matter for any of the subject  
20 countries?

21 MR. GOSSELINK: As the Brazil I guess --  
22 depreciated to I guess 4.1 in 2015 and 2016 I think the  
23 export markets were obviously a lot more attractive. For  
24 every 5 dollars that you could sell you could get 20 Real  
25 instead of only about 10 a couple of years earlier.

1                   But the fact is that even with those better  
2                   exchange rates no Brazilian exporters existed. They focused  
3                   entirely on the domestic market and in 2016 the rate is back  
4                   down to 3.1 and currently is I think it is about 2.9 in 2017  
5                   so there's even less incentive this year than there was last  
6                   year in 2015 to export.

7                   VICE CHAIRMAN JOHANSON: Okay so I'm sorry so you  
8                   agree with me that the Real has gone up is that what you are  
9                   saying?

10                  MR. GOSSELINK: The Real has gone up from 2016 to  
11                  today.

12                  VICE CHAIRMAN JOHANSON: Okay.

13                  MR. GOSSELINK: And that has hurt their export  
14                  opportunities.

15                  VICE CHAIRMAN JOHANSON: Right, alright well  
16                  thank you Mr. Gosselink. So Brazil has in effect exited the  
17                  U.S. market but for the other countries -- some of the other  
18                  subject countries excluding China imports have remained  
19                  quite high and why are subject imports, these subject  
20                  imports such a significant part of the market even with the  
21                  orders in place?

22                  MR. DOUGAN: I'm sorry -- could you repeat the  
23                  question please?

24                  VICE CHAIRMAN JOHANSON: Yeah so I'm just  
25                  discussing that with the case of Brazil and China those

1 products have largely left the U.S. market correct?

2 MR. DOUGAN: Yes.

3 VICE CHAIRMAN JOHANSON: With other subject  
4 countries Vietnam and India and Thailand the product has  
5 kept coming into the United States in quite substantial  
6 amounts correct?

7 MR. DOUGAN: Correct.

8 VICE CHAIRMAN JOHANSON: Why is that the case  
9 with the dumping orders in place?

10 MR. DOUGAN: Well I think as the slide put up  
11 earlier slide 12 shows that you know, that there wasn't --  
12 basically that suppliers were able to respond to the needs  
13 both in terms of price and volume without the order having  
14 particularly disciplining effect.

15 It shows I think that -- and given the  
16 predominance of the over-selling it shows that you know  
17 these producers don't need to under-sell to have a place in  
18 the market, to have a substantial place in the market.

19 And finally I think as some of these purchasers  
20 have noted you know having diversified supply chain is  
21 important to them. So they have wanted to maintain a  
22 diversified supply chain and that includes large producers  
23 in these countries and they have all you know, basically  
24 been willing to do that even with the order in place and  
25 paying the prices that they need to to maintain that

1 particular aspect of their supply chain.

2 So I mean it is a 1.3 billion pound market. The  
3 subject producers are a significant share of that and I  
4 think will continue to do so. What also is interesting  
5 though about that is that the non-subject sources who are  
6 unrestrained by any kind of order or trade restrictions  
7 didn't just automatically take over the rest of the market.

8 And you know this is a good question as to why  
9 they didn't do that. Why did they increase their exports to  
10 third country markets and there was some increase in  
11 non-subject shipments to the U.S. but you know again they  
12 maintained a steady supply base.

13 So you know it isn't necessarily this sort of  
14 zero sum game of replacement among them it is more of a  
15 balance over time about the supply sources and the kinds of  
16 relationships that these purchasers have with these  
17 suppliers.

18 MR. STERN: Could I add something -- Jeff Stern?

19 VICE CHAIRMAN JOHANSON: Yeah.

20 MR. STERN: Our relationships with our suppliers  
21 are so important. Some of our suppliers we have dealt with  
22 for 30 years. I have been with the company for 37 and just  
23 because of the order we are not going to abandon them. We  
24 are going to be loyal to them and they are going to be loyal  
25 to us.

1           And that diversified supply base we have is as a  
2 critical part of why we are successful all the time. When  
3 EMS hits we fortunately had very good relations in other  
4 countries so we were able to make up for some of the  
5 shortages in supply with those good suppliers that we had.

6           My largest supplier in Thailand -- EMS hit, he  
7 didn't know what to do. We weren't going to abandon him  
8 because he had problems with supply. We did everything we  
9 could to assist them in surviving this critical period.

10           VICE CHAIRMAN JOHANSON: Thanks Mr. Stern. Mr.  
11 Pizzuti?

12           MR. PIZZUTI: Yeah I was just going to actually  
13 say very similar things. I think Jeff talked in his  
14 testimony about the investment in developing overseas  
15 suppliers to do it the way you want it done. And you know  
16 that to us in terms of getting the quality we want at the  
17 time we need it, that becomes much more important than  
18 trying to chase the nickels and dimes and quarters around  
19 and leaving those suppliers.

20           Once you develop them you want to continue to  
21 support and work with them through any of the tough times.

22           VICE CHAIRMAN JOHANSON: And I assume the  
23 Respondents would state that you would expect imports to  
24 continue coming to the United States because the United  
25 States producers can't supply the entire market, all the

1 demand in the market.

2 But the issue there is price though. And  
3 Respondents have argued that over-selling by subject imports  
4 predominates and this is based on the pricing data collected  
5 on the record -- but isn't this what you would expect to see  
6 given the anti-dumping duty orders in place on subject  
7 imports? Am I seeing this incorrectly?

8 MR. DOUGAN: Commissioner Johanson if there is --  
9 we did a product by product analysis in our brief, I think  
10 it is pages 63 to 68 somewhere in the 60's. And if it  
11 really were the case that there's over-selling because of  
12 the orders you would see the same patterns from product to  
13 product but you don't, it's different.

14 In some products there's over-selling and in some  
15 products there's under-selling. You would also have seen a  
16 similar pattern between the original POR the first review  
17 period and the CVD period at least with respect to the  
18 overlapping countries and now.

19 And you don't. You see much more over-selling  
20 both in terms of percentage of instances and the percentage  
21 of volume now in this POR than you did in the original POR  
22 and in the CVD case.

23 And if it is because of the order then you would  
24 have seen similar relationships then as well. I thought it  
25 was telling that the Petitioner's slide talked about what

1 happened in the original investigation period versus now.

2 And that's because of the order. But it doesn't  
3 explain why you see a different composition of over-selling  
4 and under-selling now than you did in the first review  
5 period or in the CVD case.

6 VICE CHAIRMAN JOHANSON: Alright thank you Mr.  
7 Dougan my time is about to expire.

8 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent, no  
9 -- alright back to me, no wait did I skip you?

10 COMMISSIONER WILLIAMSON: Sure did.

11 CHAIRMAN SCHMIDTLEIN: Oh I'm so sorry.  
12 Commissioner Williamson?

13 COMMISSIONER WILLIAMSON: Okay kind of a  
14 follow-up on the question about enforcement health and  
15 regulations and enforcement in Japan and the EU. And I  
16 guess my question was if they sort of do a more extensive  
17 enforcement than our FDA does in terms of higher rates of  
18 inspections -- now I realize there are companies and farms  
19 that they tailor to meet those higher standards.

20 I mean you mentioned certain suppliers that --  
21 certain farms that go just to Japan because they cut it a  
22 certain way. So I guess my question is if you didn't have  
23 tighter inspections by the government there as opposed to  
24 the U.S. fair approach where some suppliers -- some  
25 purchasers are very strict and I imagine there are some

1 others that are not, does that effect the attractiveness of  
2 the market for say those people that have an investment in  
3 specialized servicing that particular Japanese or European  
4 market?

5 MR. STERN: Jeff Stern.

6 I don't know the exact standards in the EU and  
7 Japan. I know that the U.S. had a zero tolerance for banned  
8 antibiotics. You often shrimp from one pond may end up  
9 partially going to Jeff Stern and some of that may also go  
10 to Japan because they may need certain sizes to fill orders  
11 for a European order or Japanese order or an American order  
12 and so I don't really think that there's different  
13 standards.

14 You know are standards are as severe as anyone  
15 can be because again we have a zero tolerance.

16 COMMISSIONER WILLIAMSON: And the Europeans and  
17 the Japanese probably do too.

18 MR. STERN: They may or may not. I can't  
19 comment about what their exact standards are. One thing I  
20 can say, though, unrelated, I'm the chairman of the National  
21 Fisheries Institute Importers Committee and you know back  
22 six or seven years ago when FDA was asking for more money to  
23 have better seafood enforcements, we were one of the major  
24 supporter of increased funding for the agency that regulates  
25 us most closely. Because again, we feel food safety is of

1 paramount importance.

2 COMMISSIONER WILLIAMSON: Okay.

3 MR. ZHOU: Can I add to what Jeff said.

4 COMMISSIONER WILLIAMSON: I don't want to drag  
5 this out because I've got a lot of other questions, but go  
6 ahead.

7 MR. ZHOU: Like Jeff said, I'm not aware of any  
8 exporters that I've dealt with somebody telling me I want to  
9 ship to the U.S. because you guys are easier. You know I've  
10 never heard that kind of statement before. Rather this is  
11 something which I think is pretty telling in practice  
12 whether one is more difficult than another. In the EU  
13 community or European community they have what they call  
14 MRL, Maximum Residue Limit. That's their regulatory term.  
15 In U.S., zero tolerance is the regulatory term. So by that  
16 alone, you can imply that's for veterinarian medicine  
17 products -- stopped.

18 COMMISSIONER WILLIAMSON: I understand. Okay,  
19 thank you.

20 MR. DOUGAN: When the Malaysian imports were  
21 stopped in 2016, it was the FDA that stopped them at the  
22 border. It wasn't Publix's or Costco, so it's not there's a  
23 Wild West thing where you know everything gets to come across  
24 the border unless these guys say it's okay.

25 MR. STAFFORD: And again, to clarify, with

1 Costco being a global company, they own a private label,  
2 when we develop the product and source it in the country,  
3 whether it's in the countries we're buying from, when we  
4 decide to ship that same product into the EU or Spain or  
5 Korea or Japan, Australia, it's a label requirement, maybe  
6 documentation requirements, but we're not changing what we  
7 put in the bag.

8 COMMISSIONER WILLIAMSON: Okay.

9 MR. STAFFORD: We're testing for the same  
10 things. It's the same standards.

11 COMMISSIONER WILLIAMSON: Okay, good. Thank you  
12 for those answers.

13 On this question of the long-term affects of the  
14 BP oil spill and hurricanes on shrimp supply in the U.S.,  
15 and you've already addressed this somewhat, but just a  
16 question of whether or not there's any scientific analysis  
17 that you're aware of, of these long-term impacts? If you do  
18 have it, you can submit it in your post-hearing it'll be  
19 fine. If you don't, okay.

20 MR. CONNELLY: I don't think we've seen any of  
21 that, Commissioner Williamson. Maybe it's out there. The  
22 only thing I can refer to is some of the shrimpers  
23 themselves think that from their questionnaire responses.  
24 They themselves see a long-term impact from BP. I don't  
25 know if they've got any better evidence than anybody else.

1                   COMMISSIONER WILLIAMSON: I was just asking if  
2 there's any independent -- good, okay. Thank you.

3                   MR. PIZZUTI: I do have. We work closely with  
4 several environmental groups. Ocean Conservancy is one of  
5 those groups and I believe they were actually commissioned  
6 to do a study by BP following the spill, so that may be  
7 something to look into because they backed out of their  
8 seafood sustainability program to focus on that project. So  
9 Ocean Conservancy may be a source.

10                  COMMISSIONER WILLIAMSON: Okay, thank you.

11                  A quick question on the Brazilian restriction,  
12 the bio-security restrictions, I was just curious. How do  
13 imports of shrimp for human consumption -- you know the  
14 frozen shrimp pose a risk to the live shrimp in Brazil?

15                  MR. GOSSELINK: The concern is the further  
16 processing that takes place in the processing facilities.  
17 Oftentimes, shrimp when it's exported is exported in either  
18 head on or headless form and is subject to further  
19 manufacturing processing and facilities and country. And  
20 viruses, these bacteria they have a way of traveling around  
21 and there's a real concern that any type of infection or  
22 virus within a processing facility could get back to the  
23 ponds. Oftentimes, they're located far away, but sometimes  
24 within very close proximity.

25                  COMMISSIONER WILLIAMSON: Okay, thank you. And

1 I guess any idea how long these restrictions are going to  
2 remain in effect?

3 MR. GOSSELINK: No.

4 COMMISSIONER WILLIAMSON: Okay, thank you.

5 On page 80 of the Respondent's brief, you  
6 compare unit sales values from 2001 to the present; however,  
7 these are not adjusted for inflation. What would the  
8 numbers look like with such adjustments?

9 MR. DOUGAN: I can't say offhand, but we can  
10 look at that and provide some answer in the post-hearing  
11 because some of it's BPI also.

12 COMMISSIONER WILLIAMSON: Understood. Good,  
13 thank you.

14 Okay, you argue that anti-dumping margins in  
15 Thailand and Vietnam have been low for years. Is it your  
16 position that an order with low deposit rates doesn't have a  
17 disciplining effect on the market or doesn't the risk of  
18 higher rates and administrative reviews impose some  
19 discipline? I don't think you've answered that before.

20 MR. NICELY: Let's put of Slide 12 again. Not  
21 to keep flogging this, but let me flog it one more time. I  
22 think the critical point is that you've got -- in this  
23 example you've got I guess three periods of review, right?

24 Deposit rates were decided in three periods of  
25 review and notwithstanding a consistent ban of between you

1 know zero and 3 percent dumping margins by mandatory  
2 Respondents in India. This is just India, but just to use  
3 that as an example, you saw significant changes in price.  
4 And the reason why it's important, Commissioner Williamson,  
5 is because if, indeed, this was setting a floor, then you  
6 wouldn't expect such a significant decline, a significant  
7 move in --

8 COMMISSIONER WILLIAMSON: Except, isn't -- it's  
9 a margin and the margin's the home market price and things  
10 like changes in supply, disasters, all that, so you might  
11 have a price that goes up and changes quite a bit; but the  
12 question is what's the margin between that home market price  
13 and what you're selling in the U.S. Isn't that the issue?

14 MR. NICELY: Exactly. That's exactly our point,  
15 though, is that it's not as if the dumping order is setting  
16 a price floor because, in fact, U.S. prices are determined  
17 -- in effect, they're following what's happening with their  
18 own costs, right?

19 COMMISSIONER WILLIAMSON: No, but isn't the  
20 dumping margin really to sort of say kind of you're not  
21 going to be able to sell too much below your home market  
22 price or the fair market price; isn't that the floor? It's  
23 not that the price is going ^^^^ there's going to be a  
24 minimum price that you can import at.

25 MR. NICELY: Fair enough. But the point,

1       though, is that discipline of the order and in terms of  
2       market affect what matters is what are the prices that are  
3       going to be sold here in the United States market, right,  
4       because discipline only matters if it has some impact on  
5       what the prices are here, right? But if, as you say, normal  
6       value is changing, right? Permitting them to, in fact,  
7       lower their U.S. price then what discipline is there? It's  
8       not having an impact in terms of they're able to sell here  
9       in the United States.

10                   COMMISSIONER WILLIAMSON: I mean it's not  
11       insulating you from business cycles. There are a lot of  
12       other things that could change the price, the fair market  
13       price of the product.

14                   MR. NICELY: That's right.

15                   COMMISSIONER WILLIAMSON: And the orders are not  
16       supposed to cut those off, are they, unless we're going to  
17       do a suspension agreement or something like that. That's a  
18       different matter.

19                   MR. NICELY: You mean a minimum price, for  
20       instance?

21                   COMMISSIONER WILLIAMSON: Yeah.

22                   MR. NICELY: Right. That's exactly right, but  
23       the point is that if it was really going to have an impact  
24       on the domestic industry and when they talk about discipline  
25       if that's what really matters then you'd expect them to be

1 saying, well, we've gotten prices to stay up at a particular  
2 level and that hasn't happened, as this chart shows in stark  
3 relief.

4 COMMISSIONER WILLIAMSON: I don't agree with  
5 you, but that's okay. Thank you, because my time has  
6 expired.

7 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent,  
8 you don't have any further questions?

9 COMMISSIONER BROADBENT: No.

10 CHAIRMAN SCHMIDTLEIN: Okay. I want to make  
11 sure I'm not skipping anybody.

12 So I actually have a question about that slide.  
13 When I looked at this, it jumped out at me that India  
14 lowered their prices substantially. You see there's a drop  
15 there in 2014 and we were just talking about the spike in  
16 prices in the United States in 2014 as a result of the EMS  
17 problem. And so my question is why is India dropping its  
18 prices by over 20 percent during that period when the rest  
19 of the world has raised or at least the rest of the world  
20 selling in the United States is raising their prices?

21 MR. NICELY: These are specific products. These  
22 are pricing products. The other example --

23 CHAIRMAN SCHMIDTLEIN: Was AUVs.

24 MR. NICELY: What we were looking at is overall  
25 average unit values, right? So the distinction is you know

1 the various products are moving in various directions.

2 CHAIRMAN SCHMIDTLEIN: So why did you choose  
3 these three products?

4 MR. DOUGAN: The reason that we chose these  
5 three products is because they were the products at least  
6 sold by India for this example. It had a price in every  
7 quarter, so we could do a quarter-by-quarter comparison.  
8 It's hard for me to get into more than that because some of  
9 it's BPI, but for some of the other products the coverage of  
10 the imports was more spotty. They either didn't sell it at  
11 all or didn't sell it in certain quarters and so you saw  
12 less of a longer time series. We can supply it and put the  
13 other ones on there, but this had the most likely  
14 comparison.

15 CHAIRMAN SCHMIDTLEIN: Does it strike you as  
16 unusual that India is dropping its price you know on at  
17 least two products? I mean the one with the purple line,  
18 which was Product 6, has not dropped as much, but I mean it  
19 looks like it's from 5 percent down. But Product 5 and  
20 Product 5 you know dropped substantially during this time  
21 period.

22 MR. DOUGAN: And that's true. And Madame  
23 Chairman, I think what might be sort of helpful is -- again,  
24 these are percent changes so as to not present the actual  
25 BPI prices, but if you look at the figures in the staff

1 report, while the average price in 2014 across the market,  
2 across the products, across all sources was higher than in  
3 '13. So you saw the increase from '13 to '14. There still  
4 were declines that began in, say, the middle of 2014 as the  
5 supply began to adjust. So you know it's almost like the  
6 peak of prices for some of these occurred in the first and  
7 second quarter of 2014, so by the third quarter what we're  
8 looking at here is you are starting to see declines in  
9 prices and you're starting to see them from other sources as  
10 well.

11 CHAIRMAN SCHMIDTLEIN: Okay. And this is sort  
12 of related to my second question, which is why was India  
13 increasing its shipments to the United States over this  
14 period? I mean they increased substantially.

15 MR. DOUGAN: I'll let Jeff answer that, but, in  
16 part, to make up for the shortage of supply from Thailand.

17 MR. STERN: Jeff Stern.

18 Two things, to answer that question, there was a  
19 tremendous conversion of black tiger farms to vannamei farms  
20 because of successful farming. And they get a much higher  
21 production per hector impacting vannamei versus black tiger.  
22 They also get more crops per year because the shrimp are  
23 faster growing. So India took advantage of when EMS hit in  
24 2013, they said this is an opportunity and they produced  
25 more vannamei. They produced more shipments to the U.S.

1                   On your other questions, and I don't have exact  
2                   dates and I'm just going from my memory, which is not as  
3                   good as it used to be, you know prices really spiked in  
4                   2013. And as Alan said, the domestic prices went up for no  
5                   real reason, other than import prices went up. We sold our  
6                   inventories in 2013 at a very, very quick rate. We were  
7                   turning our inventory much quicker than we normally would  
8                   because prices were high. There were shortages, et cetera.

9                   When supply started to pick up a little bit,  
10                  particularly, in India and other places not affected by EMS,  
11                  we said we've got to make sure we don't get caught with  
12                  inventory because we had lost a lot of placements on menus.  
13                  I think Mike mentioned that shrimp came off the menu in a  
14                  lot of places. So what we did is we tried to be very nimble  
15                  and to respond to the market changing as quickly as we could  
16                  and therefore prices did come down in Q3 of 2014 only  
17                  because there was less demand because we had lost a lot of  
18                  placements on menus. I don't know if supermarkets stopped  
19                  promoting. Guy could comment on that, but we saw at the  
20                  restaurant level a lot less shrimp consumption.

21                  MR.PIZZUTI; Just to follow up on that comment  
22                  James had made earlier, had it not been for EMS Publix would  
23                  not be buying out of India today. That was a direct move on  
24                  our part to secure raw material.

25                  CHAIRMAN SCHMIDTLEIN: Okay.

1                   MR. STAFFORD: That was similar for Costco.  
2 They were the beneficiary of Thailand falling off. India  
3 did pick up.

4                   CHAIRMAN SCHMIDTLEIN: And I'm just curious why  
5 India? Why not one of the other suppliers that you were  
6 already working with?

7                   MR. STAFFORD: For us, they were the most  
8 underdeveloped supplier at that time, so they had the  
9 ability to offset it and other countries did not.

10                  CHAIRMAN SCHMIDTLEIN: I'm sorry; say that  
11 again?

12                  MR. STAFFORD: Other countries did not have the  
13 same ability to offset it based on the needs that we had as  
14 quickly.

15                  CHAIRMAN SCHMIDTLEIN: I see.

16                  MR. STAFFORD: For us, it was diversifying the  
17 supply to get further away from that Thailand, Indonesia,  
18 Vietnam where problems had been occurring where India wasn't  
19 seeing that and that's where we were able to actually  
20 qualify suppliers versus some of the other countries we  
21 looked at.

22                  CHAIRMAN SCHMIDTLEIN: Okay, anybody else? No?

23                  My last question has to do with the interim  
24 period. And I'm not sure who should answer this. Maybe Mr.  
25 Dougan, you should start. Where we see the U.S. producers

1       losing some market share to subject sources and non-subject  
2       also lose share to subject sources, and so my question is  
3       why is that occurring?

4                   MR. DOUGAN: I can answer that. There's two  
5       parts to that. One, the subject increase -- first of all,  
6       there was an increase in overall consumption, but the  
7       subject increase replaced a decrease from two large -- very  
8       large non-subject sources, Ecuador and Malaysia. Evaluator  
9       increased their exports to China, which was really because  
10      they could get a better price. They certainly weren't  
11      affected by the order here, and Malaysia was banned by the  
12      FDA. There were imports found that contained higher than  
13      allowable antibiotic levels and so they were all stopped at  
14      the border and sent back to Malaysia. So you had two very  
15      large suppliers to the U.S. And the decline in their  
16      shipments was pretty much equal to the increase in subject  
17      shipments such that the overall between those sources is  
18      very similar between those two interim periods.

19                   The affect of the decline in domestic market  
20      share was landings were down. I mean you can see from 2015  
21      to 2016 and there's all kinds of press articles that you  
22      could read. Landings in 2016 were way down, not just from  
23      the prior year, but from long-term averages, from short-term  
24      averages, and the articles talk about how prices were  
25      strong. Prices were strong and increasing and yet landings

1 were down. So this idea that you know prices are good that  
2 you're going to fish more just doesn't match the data.

3 CHAIRMAN SCHMIDTLEIN: So your argument is they  
4 couldn't have supplied that extra increase demand.

5 MR. DOUGAN: Correct.

6 CHAIRMAN SCHMIDTLEIN: But when I look at their  
7 ending inventory quantities, they have 22 -- this is not  
8 confidential, right, 22,000 or I guess 2.2 million, right?  
9 This is in thousands. And when you look at the percentage  
10 market share that they lost based on what the apparent  
11 consumption was in that interim period the inventory  
12 quantity exceeds that percentage, at least by my math. So  
13 why couldn't they have sold it out of inventory?

14 MR. DOUGAN: There's a couple of things there,  
15 one, the apparent consumption -- so the inventory data is  
16 gathered from the processors' questionnaires, but the U.S.  
17 shipments as reported in apparent consumptions aren't from  
18 questionnaire data. They're from the methodology that the  
19 Commission long has used where they basically take landings  
20 and then convert it to the headless weight and then deduct  
21 exports, so there's not really actually a match between  
22 those. And in fact, the trends in the processor shipments  
23 that you see in the data are actually a little bit different  
24 than what you see in the apparent consumption table. I  
25 think that might be BPI, so I want to stay away from it.

1                   And also, we don't think that the decline in the  
2                   -- the observed decline in the U.S. market share from that  
3                   table is accurate. There's an exhibit in our pre-hearing  
4                   brief where we talk about this issue, but a lot of it had to  
5                   do with -- because of methodology it deducts exports and you  
6                   know the export data reported at this Table I-10 where the  
7                   apparent consumption is calculated just can't be right. It  
8                   basically assumes that domestic processors are exporting 20  
9                   percent of their production or something like that, which is  
10                  not at all consistent with history or -- so any kind of  
11                  decline in domestic market share here we think is  
12                  overstated to begin with.

13                  CHAIRMAN SCHMIDTLEIN: Okay, I have to confess  
14                  I'm not sure I followed what your --

15                  MR. DOUGAN: I'll give you the longer answer.  
16                  There's a lot of things going on, but the thing is there's  
17                  multiple data sources supposedly being used to measure the  
18                  same thing, but they're not. And so comparing from one  
19                  source and another source, you're going to get inconsistent  
20                  results and maybe things that don't make intuitive sense.  
21                  And I think that may be coming -- a little bit of where  
22                  you're coming from here.

23                  CHAIRMAN SCHMIDTLEIN: Okay.

24                  MR. DOUGAN: I can provide a much longer  
25                  explanation with BPI data in the post-hearing.

1                   CHAIRMAN SCHMIDTLEIN: Okay. And I would invite  
2                   the Petitioners to respond to the same question in the  
3                   post-hearing.

4                   Alright, I don't have any other questions.  
5                   Vice-Chairman Johanson.

6                   VICE CHAIRMAN JOHANSON: Alright, I've got a few  
7                   more questions and thanks for putting up with all this  
8                   today. I know it's a very long day, but you're here, so we  
9                   might as well talk with you, right.

10                  Why should we expect to see price stability in  
11                  the absence of the orders rather than increasing price  
12                  competition and declining prices? That's kind of the crux  
13                  of why we're here, right, or one of the major questions?

14                  MR. NICELY: Well, I think our witnesses have  
15                  talked about what's changed in the global market since the  
16                  last time that the Commission looked at this. Essentially,  
17                  all of our industry witnesses here have talked to you about  
18                  how they're essentially competing for supply with other  
19                  markets. The extent to which are subject countries have  
20                  ended up moving more of their product to non-U.S. markets as  
21                  an example of that. So I think you know the fact that the  
22                  global market has changed means that you can't assume that  
23                  the same thing that was happening back in 2003 is going to  
24                  happen as soon as you take away the orders.

25                  MR. DOUGAN: I'll let Alan answer that. I can

1 add onto it later.

2 MR. WEITZER: Just to clarify the question, are  
3 we talking about stability in prices of imports or of  
4 domestic shrimp?

5 VICE CHAIRMAN JOHANSON: Well, the prices in the  
6 U.S. market overall.

7 MR. WEITZER: I think it depends on the premise  
8 of how much you think the price of an import influences the  
9 price of domestics. I mean we're seeing certainly over the  
10 last few years much more stability in the markets overseas  
11 for imported product. If anything, we've seen less  
12 stability in the United States for domestic product and  
13 that's pretty much a function of internal issues within the  
14 domestic industry.

15 Again, as an importer, I'm competing against  
16 other importers. As a co-packer of domestic shrimp, I'm  
17 competing with other packers of domestic shrimp. The price  
18 that we pay for domestic shrimp is generally determined by  
19 how the landings come in, the financial restrictions of the  
20 participants in the industry. We see prices go up and down,  
21 both lower and higher, over the past 12 months while import  
22 prices have remained very, very steady, remarkably steady,  
23 in fact.

24 So again, I think it's the premise under which  
25 you make the assumption. I personally don't believe that

1 the price of the imports is the primary factor determining  
2 what's happening with the stability of the domestic shrimp.

3 VICE CHAIRMAN JOHANSON: But it's part of the  
4 fact -- I mean it is a factor, though, right?

5 MR. WEITZER: When we're buying and we're  
6 looking at the prices we're paying -- again, I have numbers,  
7 internal company numbers for both because we're selling  
8 both. We do not see -- it's very difficult for me to say,  
9 hey, the price of domestic shrimp right now is 20 percent  
10 below the price of what we're paying for imports. You know  
11 why is that? Why aren't other importers stepping in to buy  
12 that product? If they could sell it to their customers,  
13 they could buy it 20 percent cheaper than they're paying  
14 for the imports. They don't do it because they can't sell  
15 it to their customers.

16 Similarly, when the price of domestics is 20  
17 percent higher than imports, which it's also been in the  
18 past 12 months, why are domestic producers stepping in to  
19 buy imports? And it's because they cannot sell those  
20 imported shrimp to their customers.

21 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.  
22 Weitzer. Mr. Stafford?

23 MR. STAFFORD: When we look at the variability  
24 in pricing we've had just over the last five years and the  
25 swings. You know pick a size and it can swing two to three

1 dollars a pound over the course of those five years.

2 When we look at the blend of the duties on our  
3 subject to non-subject, I will put it in the pot and blend  
4 that with what it costs us. We're talking 14, 15 cents a  
5 pound.

6 That adds to our cost that is blended in  
7 somewhere. So the impact of us taking a bag from \$14.99 to  
8 \$14.69 to the consumer, if that were fully loaded, pales to  
9 what happens with the global demand swings, the disease  
10 swing, a environmental factor, anything else that hits it.  
11 The impact of managing that is huge on us. The impact of us  
12 trying to determine how we properly account for it.

13 But if you asked us today if the duty went away  
14 tomorrow, would we change where we buy from and how we price  
15 it, it would not change dramatically with any of those  
16 components because the diversification fees and protecting  
17 our supply is so much more important. Getting the right  
18 quality is so much more important, and even when we do all  
19 those things right, the swing of the global demand or the  
20 swing of an environmental consequence or something else has  
21 a far greater impact of the price that we sell it for to  
22 our consumer.

23 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.  
24 Stafford. Mr. Dougan?

25 MR. DOUGAN: Mr. Johanson, can I add something

1 to that? The idea that there would be increased competition  
2 and therefore lower prices among subject and nonsubject, or  
3 I guess what are now subject and nonsubject suppliers for  
4 volume in the United States, you know, presumes a picture of  
5 the world that just isn't in effect anymore.

6 That's sort of like a way to think of the world  
7 before the great increase in demand in China. You've heard  
8 these guys talk about how they are now competing to get that  
9 supply and China's bidding it up. And so if the U.S. were  
10 the only market in the world, then everybody we're trying to  
11 sell here, maybe that, maybe you'd see something like what  
12 you're describing, but there's not going to be this  
13 incentive for a race to the bottom when you have all these  
14 alternative markets and growing demand.

15 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.  
16 Dougan. And actually I have two more questions. I'm just  
17 gonna ask two of 'em because I think we're kind of -- did  
18 the court reporter hear that? [laughter] A snarky remark  
19 from another Commissioner who will not be named. Okay, I'm  
20 just gonna ask two more.

21 Okay, respondents have argued that domestic  
22 supply is limited due to biological factors and that's at  
23 Page 14 of your brief, and that kind of caught my attention.  
24 What are these biological fishing limits as relates to  
25 shrimp? And I'm asking this because we hear a lot about

1 limitations in the northeast on Cod. And I brought that up  
2 this morning. Just something I read about quite a bit.  
3 There're actual limits to how much you can catch, imposed by  
4 the federal government. I don't hear about that in the  
5 Gulf. Are there big biological limits? Are there problems  
6 there which are limiting fishing of shrimp? And I'm raising  
7 this because it's something you all brought up in your  
8 brief.

9 MR. DOUGAN: Commissioner Johanson, and I'll let  
10 the others respond to this. We don't have a complete  
11 explanation as to why, say, landings are down now relative  
12 to when they were in prior years. But they certainly are.  
13 And if you look, there's -- in the exhibit to our brief,  
14 Exhibit 5, that provides all the landings from 1970 to 2008.

15 And there's a variability over time, but the  
16 average was about 260 million. And now the average over the  
17 last few years has certainly been lower than that. But  
18 prices have been pretty good. So if price is driving the  
19 incen--if it's relative to -- well, there's a biological  
20 limit to how many shrimp are growing and how many we can  
21 pull outta the water, yes, but we're inclined to fish more  
22 if prices are good.

23 Well, you know, the recent experience doesn't  
24 really support that contention, especially 2016. So there  
25 must be something that is not a government restraint, but

1 some sort of biological constraint that there just are fewer  
2 shrimp out there in the Gulf. Anyone else want to answer  
3 that?

4 MR. PIZZUTI: When you look at catch per unit  
5 effort, there's only so many trips these boats can make over  
6 the course of the year, and there's only so much shrimp that  
7 can be caught, so when you look at what the industry is  
8 capable of producing and you look at the U.S. market, it's  
9 very limited.

10 Using myself as an example, domestic shrimp  
11 represents about 10% of our total shrimp sales. I carry  
12 twenty-two different wild domestic products to meet that 10%  
13 versus nine imported products. So when you're looking at  
14 what's available out there, for me to hit that consumer  
15 demand that I have, for 10% of my shrimp business takes  
16 twenty-two different items. That's across six species and  
17 multiple sizes within those species.

18 So when we're talking about lack of  
19 availability, that's really what we're discussing. It's  
20 having to meet a demand across multiple species and multiple  
21 sizes of those species versus hitting the other fourteen,  
22 thirty and a half million pounds with nine items. And  
23 that's really what I'm talking about, lack of availability,  
24 that's what I'm talking about.

25 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.

1 Pizzuti. And here's my last question. Respondents have  
2 commented that Vietnam is facing raw material supply  
3 constraints. What are these constraints? And are you  
4 claiming that these limit exports of supply and this issue  
5 is raised at Page 24 of your brief, at Footnote 33.

6 MR. NICELY: We'll talk about it further in our  
7 post-hearing brief. But there are weather related reasons  
8 that we can explain in greater detail.

9 VICE CHAIRMAN JOHANSON: Okay. I look forward  
10 to reading about that. And that concludes my questions.  
11 Thanks to all of you for appearing here today.

12 COMMISSIONER WILLIAMSON: Just one quick  
13 question. Petitioners on Page 8 of their brief, and this  
14 concerns Brazil--on Page 8 of their prehearing brief state  
15 that the Brazilian shrimp industry and the Brazilian  
16 government continue to express interest in exporting  
17 substantial quantities of shrimp. And they quote the  
18 president of the Brazilian Association of Shrimp Breeders.  
19 I was just wondering, how do you respond to that?

20 MR. GOSSELINK: Just as I said earlier, I think  
21 it's important to look at the actual numbers. It's one  
22 thing to try to promote exports, to try to improve the  
23 oppression of the industry, but we really just have to look  
24 at what actually happened to get the truth.

25 COMMISSIONER WILLIAMSON: Okay.

1                   MR. GOSSELINK: And in this case, there have  
2                   been almost no exports from Brazil in the last few years,  
3                   and especially over the POR.

4                   COMMISSIONER WILLIAMSON: Okay. Thank you. I  
5                   used to be on Brazil estate and I know what you're talking  
6                   about. Thank you. And thank all the responses we got  
7                   today. Thank you.

8                   CHAIRMAN SCHMIDTLEIN: All right. Seeing that  
9                   there are no other questions from the Commissioners, do the  
10                  staff have any questions for this panel?

11                  MS. HAINES: Staff has no questions.

12                  CHAIRMAN SCHMIDTLEIN: Thank you. Do the  
13                  petitioners have any questions for this panel?

14                  MS. DRAKE: We do not, Madam Chairman.

15                  CHAIRMAN SCHMIDTLEIN: All right, thank you. So  
16                  this will bring us to closing statements. I guess, Mr.  
17                  Secretary, do you want to dismiss the panel?

18                  MR. BISHOP: We thank all of you so much. You  
19                  may be dismissed and we'll go to closing remarks.

20                  CHAIRMAN SCHMIDTLEIN: For closing remarks, in  
21                  support of the petition, you have seven minutes from direct,  
22                  and five minutes for closing, for a total of twelve minutes.  
23                  And opposition, you have zero minutes from direct, five  
24                  minutes for closing, for a total of five minutes.

25                  MR. BISHOP: Rebuttal and closing remarks on

1       behalf of those in support of continuation of the orders,  
2       will be given by Nathan M. Rickard, Picard, Kentz & Rowe,  
3       and Elizabeth Drake of Stewart and Stewart. You have a  
4       combined total of twelve minutes. You may begin.

5                   CLOSING REMARKS BY ELIZABETH J. DRAKE

6                   MS. DRAKE: Thank you very much, and thank you  
7       for your attention throughout this long day. I'm gonna keep  
8       my portion very brief, and just again--Elizabeth Drake from  
9       Stewart and Stewart for American Shrimp Processors  
10      Association--and make an attempt to defend my honor  
11      regarding the prehearing brief we submitted in the CBD  
12      investigation.

13                   First of all, that brief was submitted with  
14      regard to all seven countries that were initially under  
15      investigation because we didn't have final commerce  
16      determinations at that time, so that covered China, India,  
17      Indonesia, Thailand, Malaysia, Vietnam and Ecuador, which  
18      was sort of a different group to compare to what's happened  
19      to subject countries since that time.

20                   So if you actually look at what happened to all  
21      of those seven countries that were addressed in that  
22      prehearing brief, you will see that imports did go up after  
23      2013 after the negative determination in October of 2013.  
24      They went up 18% from 2013 to 2015. So that was not a dire  
25      prediction. It turned out to be an accurate prediction.

1                   We did say that we believed EMS was gonna start  
2                   to be addressed in 2013 or 2014 at the latest. That was  
3                   based on public statements by industry experts at that time,  
4                   and we did actually see that. After 2014, Thailand was able  
5                   to increase its exports to the United States by more than  
6                   12% in 2015 alone, and by another 18% in 2016. Another  
7                   panelist this afternoon seemed to confirm that the peak of  
8                   the impact of EMS was actually in 2014.

9                   In terms of price effects, I don't have average  
10                  unit values for those seven countries, but after EMS  
11                  subsided, we did see all import unit values fall by 21% in  
12                  2015 and fall again in 2016. And we saw U.S. average unit  
13                  values fall by 27% during that same time, again, emphasizing  
14                  the correlation between import prices and domestic prices.

15                 During that same time, we saw the processing  
16                 industry's operating income margin decline. We saw their  
17                 net income margin decline to zero. We saw the fishermen who  
18                 responded to these questionnaires, saw their operating  
19                 income actually go up a little bit from '13 to '15, but  
20                 their net income went down pretty significantly from '13 to  
21                 '15, reflecting reduced BP payments since 2013.

22                 Now the only reason that we weren't injured even  
23                 more, perhaps than we predicted, was the continued existence  
24                 of these anti-dumping orders. And in fact, the Commission  
25                 itself stated in its majority determination in the CBD case,

1 that was these anti-dumping orders that would help protect  
2 us from injury that have otherwise resulted from a negative  
3 determination in the CBD case.

4 So I hope the Commission will again, in this  
5 review, determine that those anti-dumping orders have  
6 benefited the domestic industry and are important to keep in  
7 place to keep our domestic industry viable. Thank you.

8 CLOSING REMARKS BY NATHAN M. RICKARD

9 MR. RICKARD: This is Nathan Rickard, Picard,  
10 Kentz & Rowe, here on behalf of the Ad Hoc Shrimp Trade  
11 Action Committee and the Ad Hoc Shrimp Industry Committee.

12 What has changed in the conditions of  
13 competition? On the record of this review, compared to the  
14 first reviews in the original investigations? For our part,  
15 we ask the Commission to look at the significant growth  
16 projected for farm production in the subject countries. As  
17 respondents' counsel indicated, these numbers are contained  
18 in the staff report at Table 4-A on Page 417. The numbers  
19 in that table are from two different sources. For 2013 to  
20 2014 the numbers are from the FAO. For 2015 to 2018, the  
21 numbers are from a global aquaculture alliance 2016 survey.

22 In comparing 2018 totals to a 2015 base as both  
23 of us have done here today, we are comparing apples to  
24 apples. Similarly, in Slide 28 of the National Fisheries  
25 Institute presentation that was placed on this record, they

1 also use two different data sources. 2011 and 2012 are from  
2 the FAO data. And 2013 through 2017 are from the NFI panel.  
3 These data cover three of the subject countries, Thailand,  
4 India and Vietnam, and reach a similar conclusion to what  
5 the staff report reaches. In fact, the title of that is  
6 "Panel Underestimated Shrimp Recovery in 2016 and Expansion  
7 Should Continue in 2017."

8 Now, also on this record, because of this NFI  
9 presentation, there is evidence that shows that declining  
10 prices lead to increased demand for shrimp. Slide 34 says,  
11 as pricing declines, there is an improvement in household  
12 penetration of shrimp, but indicates the percentage of  
13 households that purchase shrimp is contingent on price. And  
14 that 47% of households purchased shrimp in 2016, an increase  
15 over previous years, tying that to price.

16 I find this presentation very interesting and I  
17 think that it merits looking through the presentation and  
18 checking the representations that have been made in the  
19 presentations today against things that were said in the  
20 NFI. That also includes issues regarding Brazil.

21 Now, on the other hand, at base the respondents  
22 are making are the same as they were in 2004. And that  
23 argument is that competition between the subject imports and  
24 the domestic like product is attenuated. Selling domestic  
25 shrimp as a separate product from imported shrimp is the

1 aspirational goal of the domestic industry, but it is not  
2 the current reality. The record of these proceedings shows  
3 that imported shrimp continues to compete directly with  
4 domestic shrimp.

5 In a Sunset review, the Commission engages in a  
6 counterfactual analysis of what happens in the reasonably  
7 foreseeable future of an important change in the status quo.  
8 The challenge for the parties seeking revocation is  
9 threading the needle and arguing that the revocation of the  
10 anti-dumping duty orders will not have a significant impact  
11 in the market, while expanding significant time and  
12 resources pursuing that outcome.

13 The domestic industry has set forth what we  
14 believe will happen with revocation. Subject import prices  
15 will decline. Subject import volumes will increase. Prices  
16 for the domestic like product will decline, and domestic  
17 production will decrease. The decline in prices and  
18 production for the domestic industry will result in material  
19 injury, just as it was in 2003.

20 The support for our claims is the comprehensive  
21 records developed by the Commission in the original  
22 investigation, the first Sunset reviews and these reviews.  
23 Respondents argue that there will be no significant change  
24 in the volume or prices of subject imports if the  
25 anti-dumping orders are revoked. The support for their

1 claims are the same arguments that respondents have  
2 presented and the Commission has rejected in all prior  
3 proceedings related to these anti-dumping duty orders.

4 Stated differently, the legal standard incumbent  
5 upon respondents is to demonstrate on this record before the  
6 Commission what has changed such that the original material  
7 injury determination is no longer relevant. That standard  
8 is not satisfied by asserting that you were right all along.

9 These anti-dumping duties have had significant  
10 positive impacts on an industry that faced an existential  
11 crisis in 2003. As the industry faces the stable market  
12 created by these anti-dumping duty orders, the industry  
13 continues to take actions that are intended to ensure the  
14 long-term survival and competitiveness of the industry.  
15 Some of these steps have attempted to further distinguish  
16 domestic shrimp from imported shrimp. The domestic industry  
17 wants to build a market like wild salmon.

18 And I want to close on this point. The reason  
19 why so much of the domestic industry continues to try and  
20 market domestic shrimp as distinct from imported shrimp is  
21 because, as this record shows, domestic shrimp and imported  
22 shrimp are interchangeable and compete directly against each  
23 other in the U.S. market. I thank you for your time and for  
24 your consideration this afternoon.

25 MR. BISHOP: Rebuttal and closing remarks on

1       behalf of those in opposition to the continuation of the  
2       orders will be given by Matthew R. Nicely of Hughes Hubbard  
3       & Reed. Mr. Nicely, you have a total of five minutes. You  
4       may begin when you're ready.

5                   CLOSING REMARKS BY MATTHEW R. NICELY

6                   MR. NICELY: Good afternoon. I'll be brief, 'cuz  
7       I have to be. Matt Nicely for joint respondents.  
8       Petitioners have fashioned a set of arguments in this case  
9       that would, if accepted, resolve in the continuation of the  
10      AD orders, no matter what the facts are, from now until  
11      eternity.

12                   They apply essentially the same standard that  
13      the Commerce Department applies in its Sunset reviews.  
14      Their position is, if subject imports caused injury before  
15      there was an order, they'll do it again if the order's  
16      revoked. It doesn't matter to them that the market's  
17      changed. What matters is that they won an affirmative  
18      injury determination in 2004.

19                   Here's the logic that they effectively adopt by  
20      taking such a position. If subject import volumes are down,  
21      well, that's because of the discipline of the order, and the  
22      order is needed to keep volumes down. If subject imports  
23      are up as they are for some of the countries that are  
24      subject, then that makes the industry vulnerable, and we  
25      need continued protection.

1                   If prices are up, or if there's import  
2                   overselling, well, that's because of the discipline of the  
3                   order, and we need the order to keep prices up. But if  
4                   prices are down, as they were in the first Sunset review, or  
5                   if there is import underselling, then that makes us  
6                   vulnerable and we need continued protection. You get the  
7                   picture. They win either way.

8                   They can't have it both ways. The facts have  
9                   changed, and they've changed such that the orders are no  
10                  longer relevant to the industry's performance. The  
11                  petitioners know that they can only supply a limited  
12                  proportion of demand in this market, as will always be the  
13                  case, the rest of the market is served by a combination of  
14                  subject and nonsubject sources.

15                 Nonsubject sources are now the majority, not  
16                 because of the orders, but because A) raw material supply  
17                 shortages have hampered Thailand and Vietnam, B) home market  
18                 demand has dramatically increased in Brazil and China, and  
19                 C) various sources that used to be subject are now  
20                 nonsubject.

21                 But even if subject imports increase in the  
22                 future like they did at the end of the POR in this review,  
23                 they will merely replace other imports, as happened amongst  
24                 the subject countries over the last five years. So when and  
25                 if that happens, the real question is, will it have a price

1 effect?

2           The answer's no. Subject imports have a strong  
3 position in this market now, and yet they oversell on a  
4 whole, domestic producers in a large majority of pricing  
5 product comparisons. And an even greater majority when  
6 weighted by volume. And the extent of the price variation  
7 that has occurred over the POR demonstrates that the dumping  
8 orders do not explain the higher import prices.

9           After all, as Mr. Dougan showed earlier, Indian  
10 dumping margins remained low, from 0 to 3% over the POR,  
11 while prices moved all over the place. Variations in global  
12 supply and growing demand in third country markets drive  
13 prices for imports, not the anti-dumping order. That  
14 pricing data tells us something else that's critical to  
15 understand.

16           Prices of imported and domestic shrimp vary  
17 widely. Why? Because purchasers don't generally pit them  
18 against one another. Petitioners want you to believe that a  
19 shrimp is a shrimp is a shrimp. But it's simply not true.  
20 If it were true, you would expect all the volume to go to  
21 the imports, whether subject or nonsubject.

22           That hasn't happened because there are certain  
23 customers who want to buy and eat domestic shrimp. That's  
24 why Publix carries both farm-raised and wild-caught. That's  
25 why Arista buys and sells both, and has one person in charge

1 of buying domestic shrimp and another who buys imports.

2 That will continue to happen whether the orders  
3 remain in place or not. It's a different world now. This  
4 industry does not benefit from these anti-dumping orders and  
5 they won't experience adverse effects if they are  
6 eliminated. It's time for revocation. Thank you.

7 CHAIRMAN SCHMIDTLEIN: All right, thank you very  
8 much, Mr. Nicely. This brings us to the end of the hearing.  
9 Post-hearing briefs, statements responsive to questions and  
10 requests of the Commission and corrections to the transcript  
11 must be filed by March 27th, 2017. Closing of the record  
12 and final release of data to parties will be April 19th,  
13 2017, and final comments are due April 21st, 2017. And with  
14 that, I want to thank you all again for being here for this  
15 long day, and we stand adjourned.

16 (Whereupon the hearing was adjourned at 4:59  
17 p.m.)

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## CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Frozen Warmwater Shrim from Brazil, China, India, Thailand, and Vietnam

INVESTIGATION NOS.: 731-TA-1063-1064 and 1066-1068

HEARING DATE: 3-16-17

LOCATION: Washington, D.C.

NATURE OF HEARING: Second Review

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: 3-16-17

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I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings 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 proceedings.

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