

**HEARING BEFORE
THE INTERNATIONAL TRADE COMMISSION**

**FROZEN WARMWATER SHRIMP FROM BRAZIL,
CHINA, INDIA, THAILAND, AND VIETNAM**

**INV. NOS. 731-TA-1063, 1064, 1066-1068
(REVIEW)**

FEBRUARY 1, 2011

**Hearing Materials and Testimony
in Support of Continuation of
Antidumping Duties**

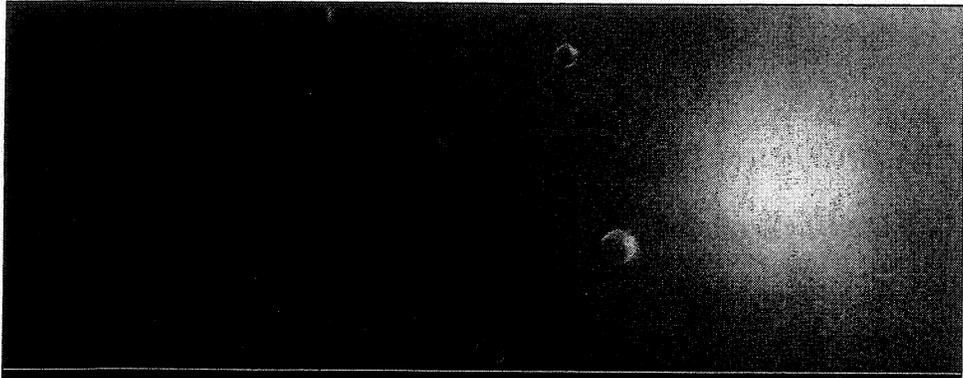
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**Frozen Warmwater Shrimp from Brazil,
China, India, Thailand and Vietnam (Review)**

Testimony in Support of Maintaining the Antidumping
Orders on Subject Imports

February 1, 2011

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

-My name is Elizabeth Drake, and I am joined by my colleagues from Stewart and Stewart, Terence P. Stewart and Eric Salonen, as well as our co-counsel, Mr. Edward Hayes of Leake & Andersson.

-We want to take a moment to thank the Commission staff for compiling a very strong staff report, which was no small task given the large number of participants in this review.

Overview

- 1) Conditions of Competition**
- 2) Benefits of the Orders**
- 3) Vulnerability**
- 4) Cumulation**
- 5) Likely Volume and Price**
- 6) Injury**

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

1) Conditions of Competition

- **Weak Demand**
- **Stable to Growing Supply**
- **High Interchangeability**
- **Price Competition**

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Source: ASPA, LSA, et al. Public Pre-Hearing Brief at 93-101.

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

-First, demand has been dampened by the recession, particularly in 2009

-Second, while the oil spill constrained supply in interim 2010, landings since then have recovered and any lingering effects in 2011 and 2012 are expected to be within the normal range of annual landings fluctuations

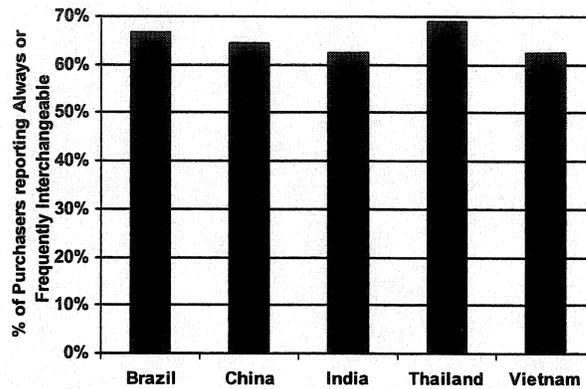
-Supply from other countries is growing rapidly, as we will review later

-Third, the degree of interchangeability between domestic and subject product appears to be as high, if not higher, than it was in the original investigation

-Finally, competition continues to be based primarily on price

1) Conditions of Competition

U.S. and subject product are interchangeable



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Source: Public PSR at Table II-10.

-About two-thirds of purchasers report U.S. product is frequently or always interchangeable with subject imports, depending on the country, a higher proportion than in the original investigation (Pub. 3748 at Table II-3).

-Country-of-origin labeling and the Wild American Shrimp initiative have been unable to differentiate domestic product

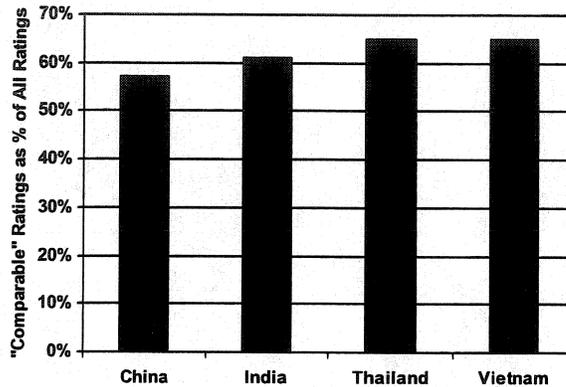
-COOL does not apply to restaurants, which account for about 80% of shrimp consumption, and it contains other loopholes that limit its effectiveness

-WASI, while supported by a number of processors, has lost its federal funding and been unable to deliver enough of a price premium to be self-sustaining given the price sensitivity of the market

-Thus, most consumers still cannot distinguish domestic from imported shrimp

1) Conditions of Competition

U.S. and subject product
comparable across 17 purchasing factors



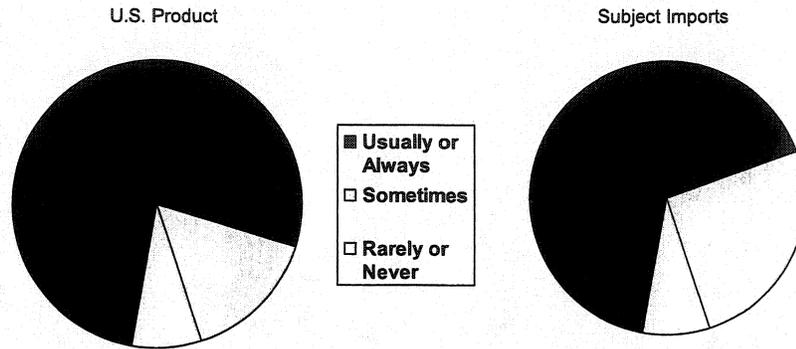
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Source: Public PSR at Table II-9.

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

1) Conditions of Competition

U.S. and subject product
meet quality specifications



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Source: Public PSR at Table II-12.

-A majority of purchasers also report that domestic and subject product usually or always meets minimum quality specifications

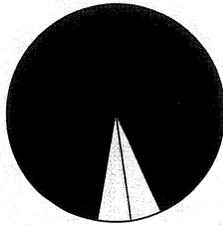
-Indeed, 77% percent report that US product meets minimum specs, while 68% report that subject product does

-Thus, purchasers themselves directly refute respondents' claims about the supposedly inferior quality of domestic shrimp

1) Conditions of Competition

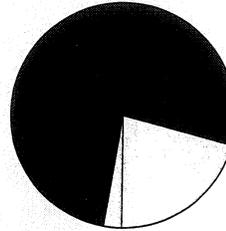
Differences other than price are not significant

Processors' Views

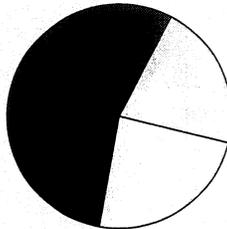


■ Sometimes or Never Significant
□ Frequently Significant
□ Never Significant

Importers' Views



Purchasers' Views



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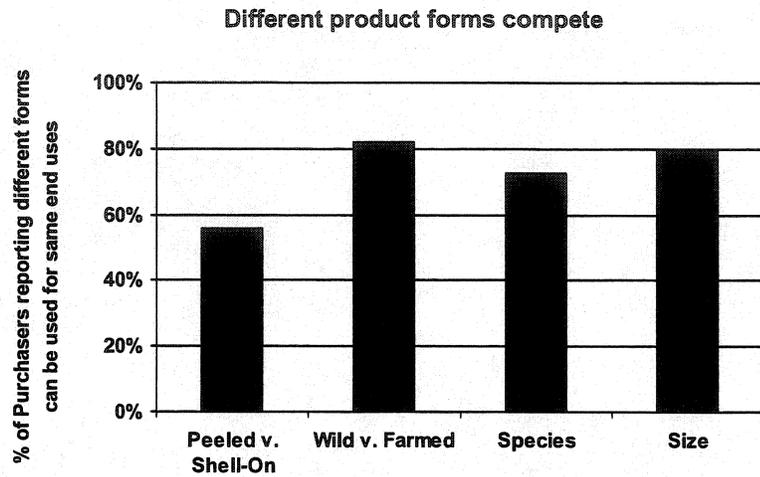
Source: Public PSR at Table II-11.

-In addition, the majority of market participants agree that non-price differences between subject and domestic product are never or only sometimes significant

-Again, the record here is even stronger than in the original investigation.

-(Only a minority of purchasers viewed non-price differences as insignificant in the OI, now 77% do. (Pub. 3748 at Table II-5))

1) Conditions of Competition



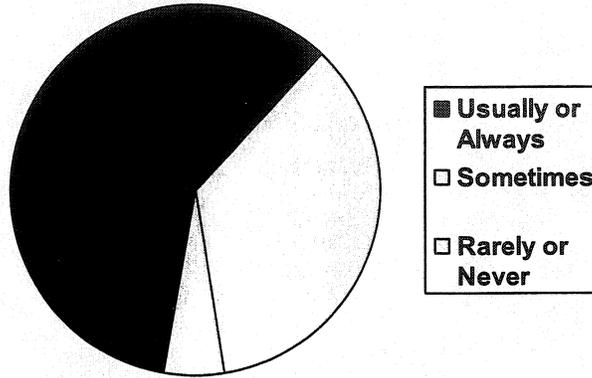
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Source: Public PSR at II-45 – II-46.

- Despite this strong record, respondents claim that competition is attenuated due to differences in taste, species, frozen form, and cooking
- But the majority of purchasers disagree; they report that shrimp of different forms and species either are or can be used in the same applications depending on customer needs or on price

1) Conditions of Competition

Price changes for one form or species
affect the prices of other forms or species



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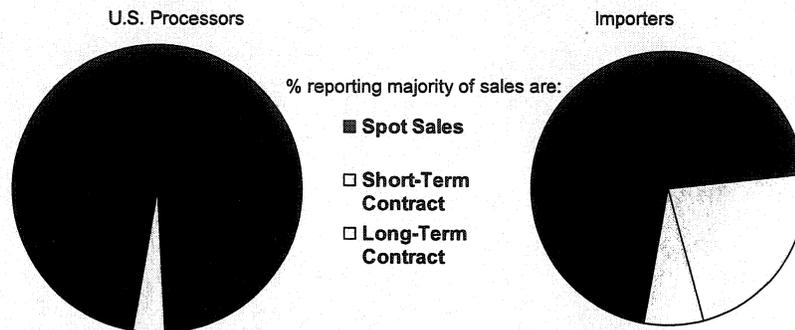
Source: Public PSR at Table II-14 (combined reporting for frozen form, peeled, wild v. farmed, species, and size).

- In addition, changes in the price for one form usually or always affect the price for the other form
- (For example, 69% of purchasers report that changes in the price of IQF usually or always affects prices for block-frozen shrimp, and vice-a-versa)
- The record refutes respondents' claims, and demonstrates direct, not attenuated, competition between domestic and subject product of all forms and all species

1) Conditions of Competition

▪ Competition Is Based on Price

- Multiple suppliers
- Spot sales



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Source: Public PSR at II-41, V-4.

-Given this high degree of interchangeability, it is no surprise that competition is based largely on price

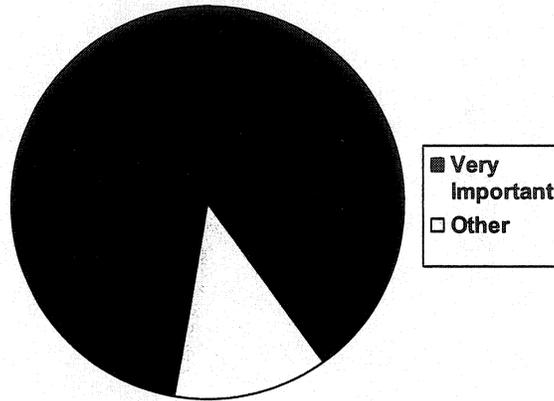
-Purchasers contact multiple suppliers before buying, and the majority of sales are spot sales

-Respondents' claims on importers' reliance on contracts does not hold up, as the majority of both domestic processors and importers rely on spot sales

-(A full 70% of importers report that the majority of their sales are on the spot market; in addition, while some domestic producers also use contract sales, just like importers)

1) Conditions of Competition

Purchasers' Views on Price



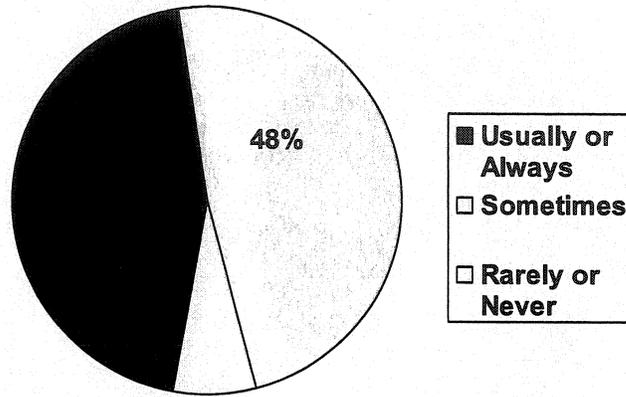
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Source: Public PSR at II-30.

-Moreover, purchasers overwhelmingly cite price as a “very important” factor in their purchasing decisions

1) Conditions of Competition

Purchasers Buy at the Lowest Price



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Source: Public PSR at II-43.

-In addition, the vast majority of purchasers report they sometimes, usually, or always buy the product offered at the lowest price

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

1) Conditions of Competition

- Respondents claim domestic volume drives domestic prices
- Real driver is import price

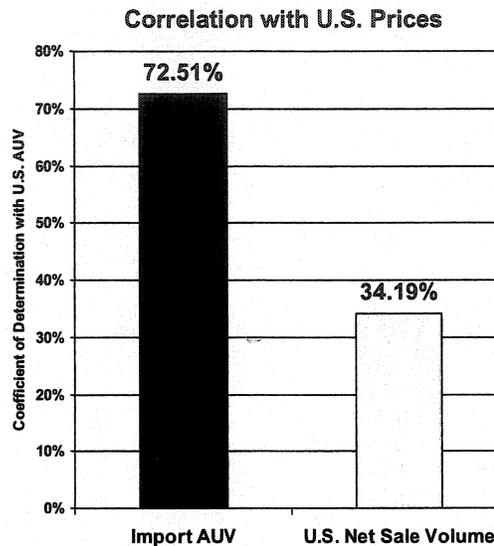
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-Despite this strong record, respondents claim that domestic prices are driven by the volume of domestic shipments, rather than price competition from imports

-They base this claim largely on the price data for 8 pricing products gathered by the Commission, but they fail to correct for the seasonality of such prices, which we will examine shortly.

-The fact that domestic prices are driven by import prices, and not domestic volume, is apparent when we examine public import and shipment data.

1) Conditions of Competition



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Source: ASPA, LSA, et al. Public Pre-Hearing Brief at Ex. 13.

-As our brief shows, the correlation between domestic prices and import prices is more than twice as strong as the correlation between domestic price and domestic shipment volume

-This is only logical

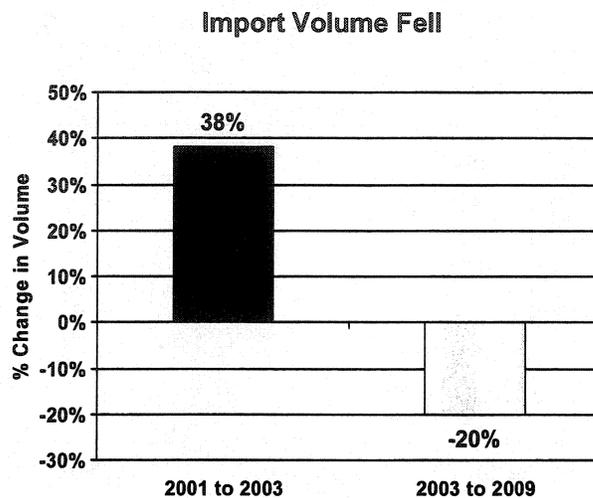
-Domestic producers account for about 12 percent of the volume in market – the idea that annual fluctuations in their volume would drive prices, rather than the prices of the product which accounts for more than 80 percent of the market, defies economic sense

-Our producers compete with multiple suppliers for sales on the spot and contract markets, serving purchasers who view quality as comparable and price differences as very important

-These are the conditions of competition that led the Commission to correctly find that import prices were driving down domestic prices in the original investigation

-And these are the conditions of competition that now make domestic producers so susceptible to renewed price suppression and depression and injury if the orders are removed

2) Benefits of the Orders: Volume



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Source: ASPA, LSA, et al. Public Pre-Hearing Brief at 110 (Official Import Statistics).

-Next, I would like to review the important benefits the orders have had for the domestic industry

-Respondents' brief spends very little time reviewing the original investigation, but it is a relevant statutory factor for the Commission

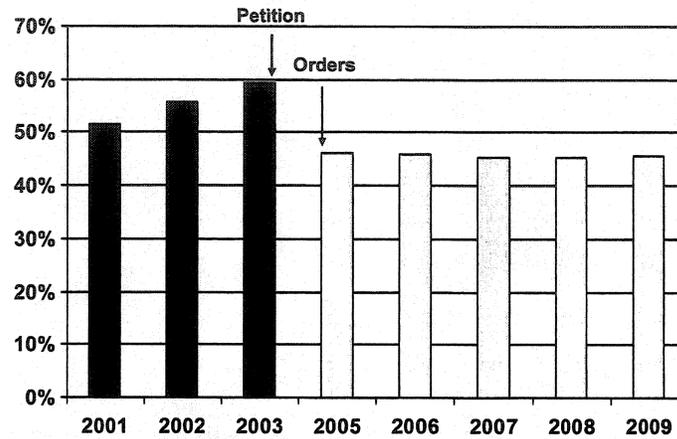
-In the POI, imports from the 5 countries subject to this review jumped by 38 percent in just two years

-Subject imports started dropping as soon as the petitions were filed at the end of 2003, and by 2009 they were still 20 percent below their pre-petition peak

-It should be noted that these numbers are based on public official import statistics. They do not account for producers in the subject countries who are no longer subject to the orders, and those trends are reviewed in the BPI portions of our brief

2) Benefits of the Orders: Volume

Import Market Share Fell

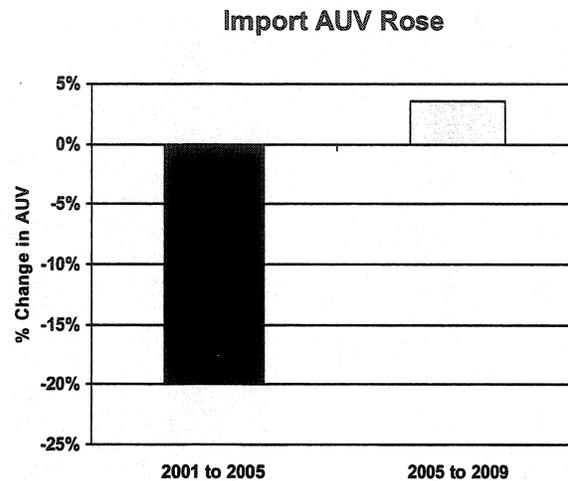


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Source: ASPA, LSA, et al. Public Pre-Hearing Brief at 110, Ex. 2.

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

2) Benefits of the Orders: Price



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Source: ASPA, LSA, et al. Public Pre-Hearing Brief at Ex. 2 (Official Import Statistics).

-In the original investigation, as volumes grew, prices dropped – by 20 percent from 2001 to 2003 alone

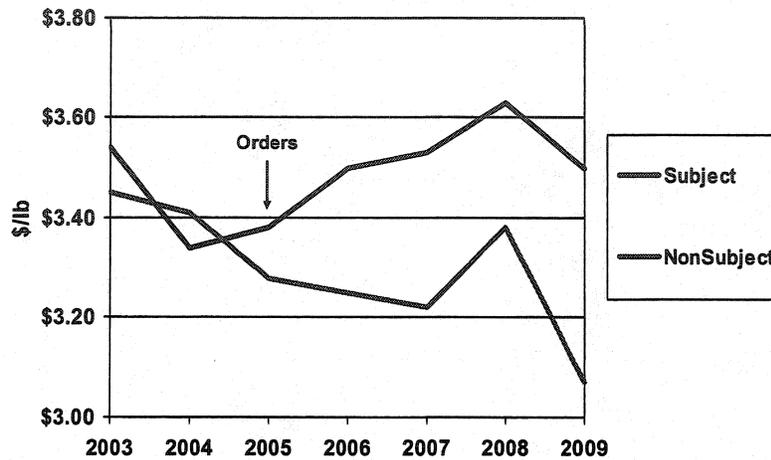
-While the filing of the petition began to lower volumes, prices did not improve until the orders themselves were imposed in February of 2005.

- Prices rose each year of the period, until the recession in 2009 – but, even then, subject unit values remained above the 2005 level, thanks to the orders

-By interim 2010, subject unit values were back up and exceeded both 2005 and 2003 levels

2) Benefits of the Orders: Price

Orders Stabilized Subject Import Prices



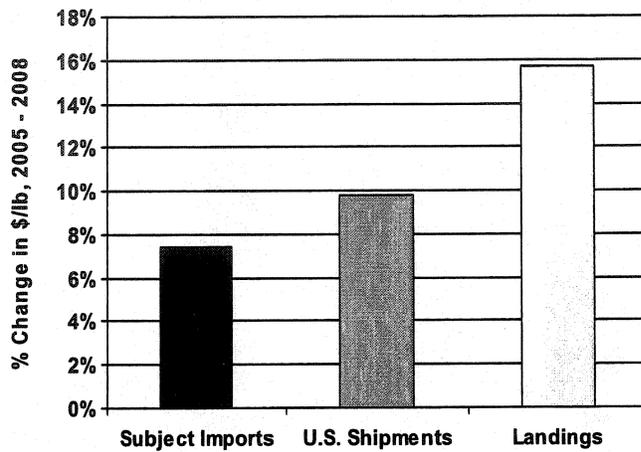
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Source: ASPA, LSA, et al. Public Pre-Hearing Brief at 121 (Official Import Statistics).

- The price discipline is also apparent in a comparison between unit values for subject and nonsubject countries
- Even with the recession, subject unit values in 2009 were still 12 cents/lb higher than they had been in 2005
- Nonsubject unit values, by comparison, were 21 cents/lb lower in 2009 than they had been in 2005

2) Benefits of the Orders: Domestic Industry

Rising Import Prices Permitted Processors and Fishermen to Get Better Prices



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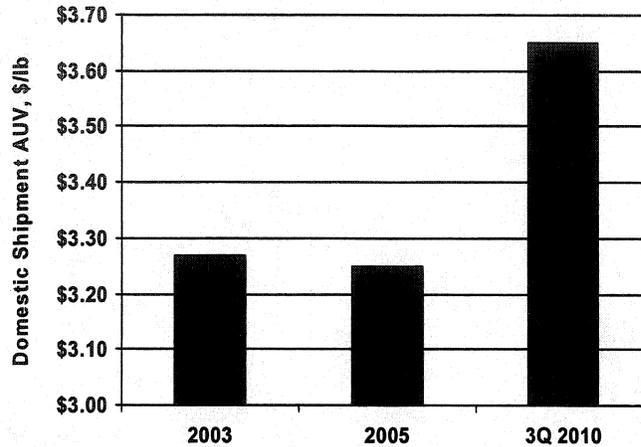
Source: ASPA, LSA, et al. Public Pre-Hearing Brief at Ex. 13.

-As subject import prices rose, processors and fishermen were finally able to get better prices for their product

-These bars show the percent growth in subject unit values, U.S. shipment unit values, and landings unit values, from 2005 to 2008, before the recession hit

2) Benefits of the Orders: Domestic Industry

Despite price declines in the recession, by interim 2010 overall domestic shipment AUV was back up above pre-order levels



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Source: USITC Pub. 3748 at Table C-3; Public PSR at Table C-2.

-While the recession hurt all prices, the orders have softened the blow and supported a recovery since then

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

2) Benefits of the Orders: Domestic Industry

Pricing product trends, when compared quarter to quarter, also show net increases

Product	Change 1Q 2005 to 3Q 2010	Change 3Q 2005 to 3Q 2010
1	- 3.1%	+ 1.1%
3	- 21.6%	+ 48.2%
4	9.3%	+ 25.1%
5	- 2.9%	+ 48.5%

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Source: Public PSR at Tables V-1, V-3, V-4, V-5, and V-11.

-The staff report shows net declines in domestic prices for several of the pricing products selected for this review (PSR at Table V-11), including through the third quarter of 2010

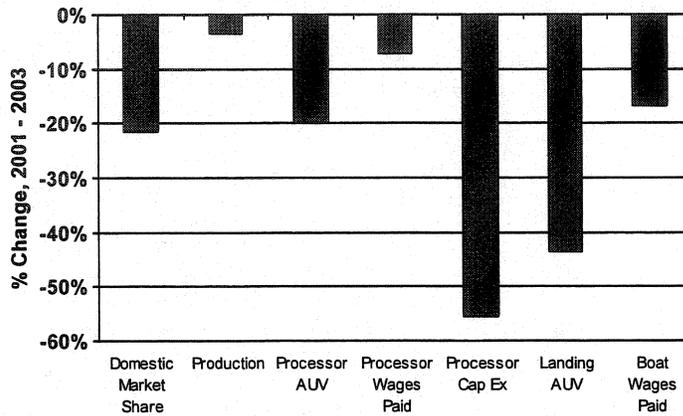
-However, we urge the Commission to compare pricing product data from one quarter in 2005 to the same quarter in 2010, as it did in the original investigation, in order to eliminate distortions due to seasonal price variations

-While there will be differences depending on the quarter selected, comparisons between second quarter prices or third quarter prices reveal an increase in domestic unit values, and often a quite significant increase

-This slide only includes 4 out of the 8 pricing products reviewed, as consistent third quarter price information is not public for the other four products

2) Benefits of the Orders: Domestic Industry

Domestic Industry Saw Major Declines in Original Investigation



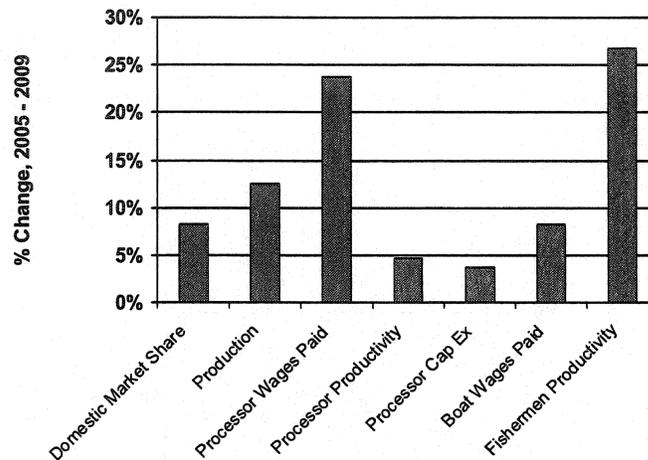
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Source: USITC Pub. 3748 at Tables C-1, C-3, F-2; ASPA, LSA, et al. Public Pre-Hearing Brief at Ex. 10.

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

2) Benefits of the Orders: Domestic Industry

Domestic Industry Indicators Improved in Period of Review



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Source: Public PSR at Tables C-2, E-2, and E-5.

-The orders, by taming import volumes and putting a floor on import prices, stopped the hemorrhaging

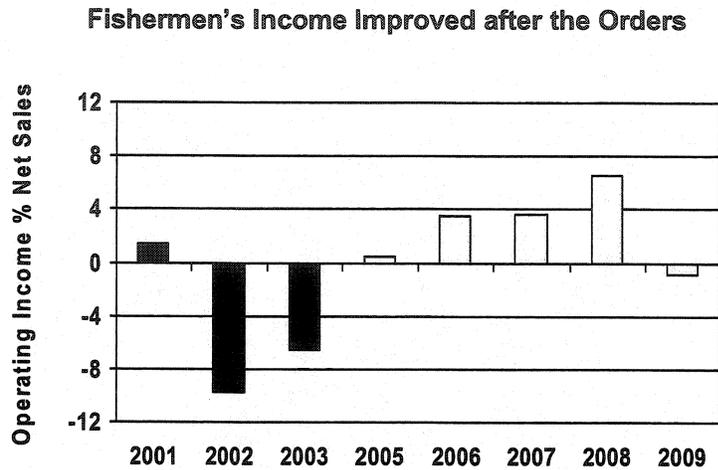
-As reviewed above, prices began to rise

-Even with the recession, over the period, the domestic industry saw production and market share go up, an increase in wages paid to both processing workers and boat crews, an increase in capital expenditures, and improvements in productivity

-All of these improvements occurred in spite of devastating hurricanes and the worst recession since the great depression

-These improvements have also helped processors and fishermen survive the crippling Gulf oil spill

2) Benefits of the Orders: Domestic Industry



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Source: ASPA, LSA, et al. Public Pre-Hearing Brief at 133.

- As a result of these improvements, returns strengthened
- Fishermen, who suffered the worst declines in operating income in the period of investigation, also saw the greatest operating income benefit from the orders
- Processors have seen a less marked improvement, though their operating income in 2009 (+1.3%) was higher than any year back to 2001.
- Nonetheless, the processing segment of the industry has had only minimal returns for nearly a decade, indicating severe difficulties in meeting its costs of capital
- I will now hand over the presentation to my partner, Eric Salonen

3) Vulnerability



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-Despite all of the improvements the orders have helped support, the domestic industry remains highly vulnerable to injury should the orders be revoked

-First, the successive hurricanes in 2005 and 2008 damaged and destroyed many boats and processing facilities, requiring the domestic industry to reinvest in order to rebuild. Fortunately, the market certainty provided by the orders helped justify investments to not only bring capacity back to pre-hurricane levels, but to improve and expand on that capacity. These investments need time to generate sufficient returns. Indeed, many fishermen are still so indebted from these investments that their ability to meet current debt obligations is in jeopardy if they cannot make consistent returns.

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

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

4) Cumulation

- **Reasonable Overlap**

- **Fungible**
- **Same Channels**
- **Same Regions**
- **Same Periods**

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Source: ASPA, LSA, et al. Public Pre-Hearing Brief at 19-25.

-The Commission should assess the likely volume and price of subject imports on a cumulated basis.

-Each of the discretionary factors outlined in the statute support cumulation.

-As reviewed above, U.S. and subject product are highly fungible.

-In addition, as in the original investigation, they are sold in the same channels of distribution and through the same regions of the country.

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

4) Cumulation

Staff Report Rebuts Respondents' Claims

- **“Domestically-produced and imported warmwater shrimp are sold to distributors, end users, and retailers/institutional buyers.”**
- **Shrimp produced in the U.S. is “shipped nationwide”; imports are “generally sold nationwide.”**
- **“Both U.S. processors and importers serve a national market.”**

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Source: Public PSR at II-1 – II-4, IV-11 – IV-16.

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

-The staff report shows that both domestic and imported product are present in each of the channels of distribution

-Moreover, the staff report concludes that both domestic producers and importers serve a national market

-The statute requires only a reasonable overlap of competition; not 100% identical conditions – that standard is more than met here, as it was in the original investigation

4) Cumulation

- **Discernible Adverse Impact**
 - **Substitutable**
 - **Competition Based on Price**

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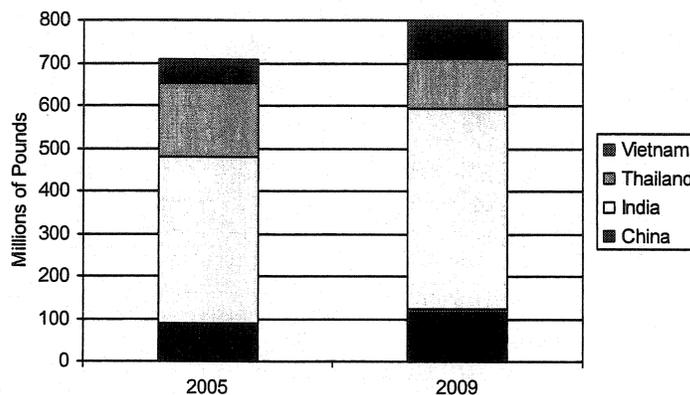
Source: ASPA, LSA, et al. Public Pre-Hearing Brief at 26-31.

-In addition, none of the subject countries satisfies the “likelihood of no discernible adverse impact” test

-As to the threshold factors, we have already established that there is a high degree of substitutability and that competition is based largely on price

4) Cumulation

Excess Capacity in Each Country



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Source: Public PSR at Tables IV-8, IV-10, IV-12, and IV-14.

-In addition, public data indicate that producers in each of the subject countries will respond to revocation with what the staff correctly characterize as “large” or “moderate to large” changes in the volume of shrimp exported to the U.S.

-Each country for which public data is available have large and growing amounts of excess capacity

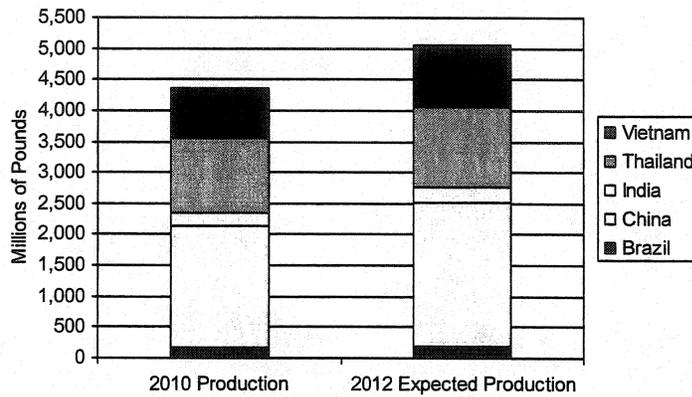
-Respondents correctly point out that this is processing capacity, not farming capacity

-Our brief, however, details the steps being taken in each of the subject countries to increase farming capacity through expansions to aquaculture areas, the adoption of more efficient shrimp species, improvements in farming productivity, or a combination of the above

-Thus, processors with rising excess processing capacity will also have growing farmed production to rely upon to ramp up their exports upon revocation

4) Cumulation

Rising Production in Each Country



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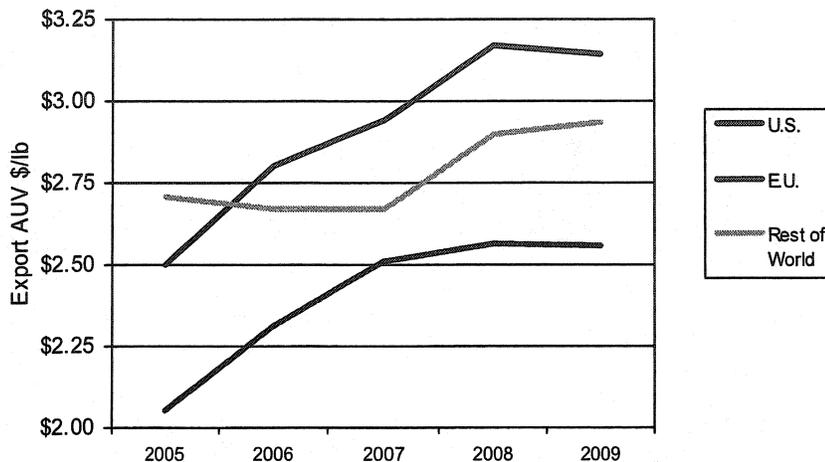
Source: ASPA, LSA, et al. Public Pre-Hearing Brief at 114.

-As a result of these investments, farmed shrimp production is expected to grow in each one of the subject countries from 2010 to 2012

-The total volume of production is predicted to rise by 300 million pounds this year, and by nearly 400 million additional pounds next year

5) Likely Volume of Subject Imports

The U.S. Is an Attractive Market Due to Higher Prices



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Source: ASPA, LSA, et al. Public Pre-Hearing Brief at Ex. 3 (UN Comtrade Stats, excluding Vietnam).

-The U.S. will be a highly attractive market for growing subject production if the orders are revoked

-In 2009, subject countries could get a 23 percent premium for shrimp exported to the U.S. over the shrimp they exported to the EU, and a 7 percent premium in the U.S. over shrimp exported to other countries

-We hope the Commission will rely on these objective overall export data in evaluating the attractiveness of the U.S. market rather than selected statements from certain foreign producers

5) Likely Volume of Subject Imports

- **U.S. shrimp import inspection rate: 2%**
- **EU shrimp import inspection rate: 20 – 50%**

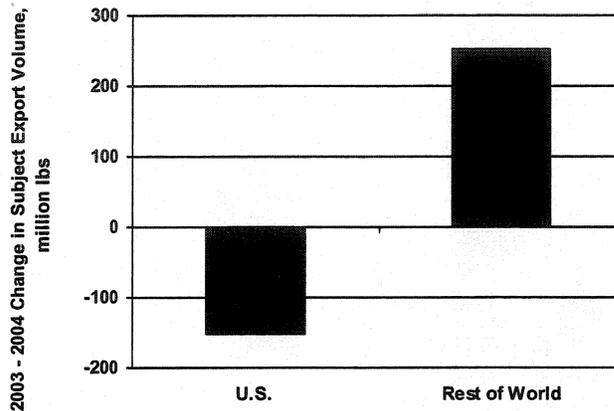
“The U.S. approach thus provides greater flexibility as it offers several alternatives and facilitates imports from businesses in countries with a weak regulatory capacity.”

- Int'l Food & Ag. Trade Policy Council

-In addition, the U.S. imposes less stringent health and safety standards on imported shrimp than other key markets such as Europe and Japan

5) Likely Volume of Subject Imports

Subject Producers Have Demonstrated their Ability to Shift Export Volumes



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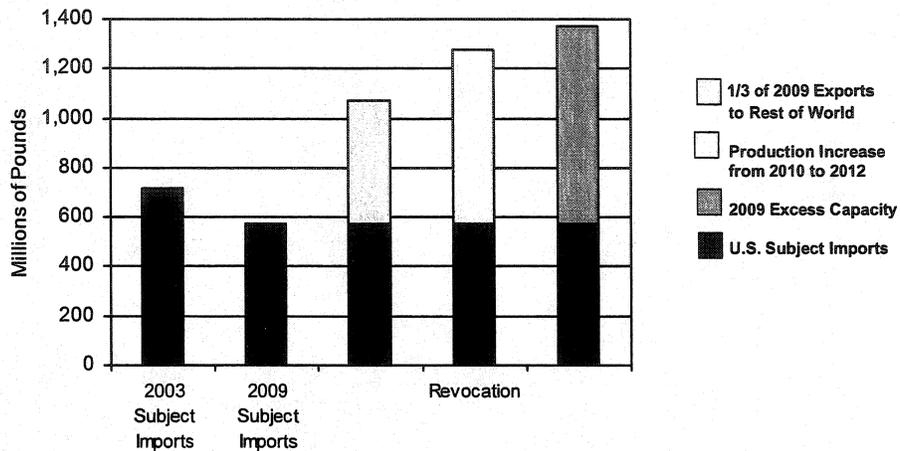
Source: ASPA, LSA, et al. Public Pre-Hearing Brief at 117.

-Finally, subject producers have demonstrated their ability to quickly shift product among markets – the entire 152 million pounds of shrimp they withdrew from the U.S. market in 2004 found its way into third country export markets that very same year, plus a hundred million pounds more

-Respondents' claims that they somehow lack the ability to move those same volumes back to the U.S. if the orders are revoked are simply not credible

5) Likely Volume of Subject Imports

Excess Capacity, Production Growth, and Diversion
Will Fuel Rising Import Volumes



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Source: ASPA, LSA, et al. Public Pre-Hearing Brief at 112-116.

-The volume of subject imports is likely to be significant if the orders are revoked.

-With cumulated exports of nearly 1.5 billion pounds to the rest of the world in 2009, subject producers would only need to divert a fraction of that amount to the U.S. to far exceed the pre-petition peak achieved in 2003.

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

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

5) Likely Price Effects

- **Import prices drive the market**
- **Underselling**
- **Price depression**

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Source: ASPA, LSA, et al. Public Pre-Hearing Brief at 118-127.

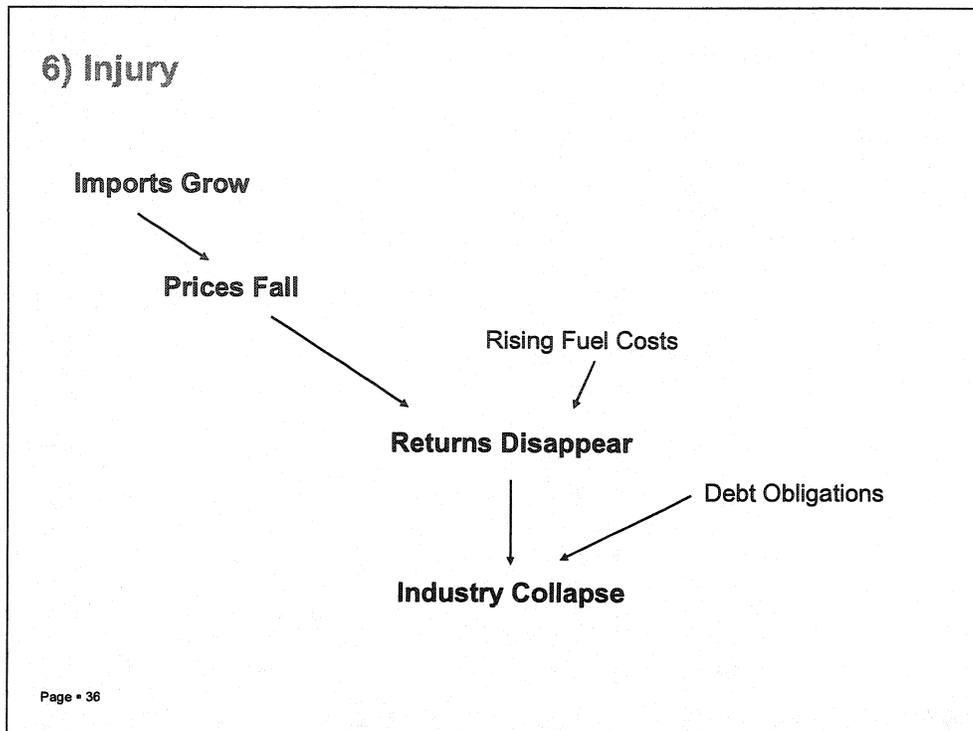
-The likely adverse price effects of these rising volumes of subject imports will be immediate and widespread

-As reviewed above, there continues to be a strong correlation between import prices and domestic prices, just as there was in the original investigation

-As the pricing discipline of the orders disappears, and imports start to erode U.S. prices down to global levels, purchasers will demand that domestic processors either follow prices down or lose sales

-While underselling has moderated under the discipline of the orders, the continued presence of underselling indicates that importers will be highly price competitive if the orders are revoked

-Moreover, absent the discipline of the orders, this underselling will depress and suppress domestic prices, just as it did in the original investigation



-Rising volumes of subject imports are likely to lead to a continuation or recurrence of material injury in the reasonably foreseeable future

-Processors will be forced to compete on price or lose sales as high volumes of low-priced imports rush back in to the market

-In the face of rising fuel costs, fishermen will have very little room to withstand a decline in prices without seeing their returns diminish and disappear, as they did in the original investigation

-The domestic industry will not be able to sustain such a vicious cycle for long, as they continue to struggle to meet debt obligations and achieve a return on investments made in the wake of successive hurricanes

-Once boats can no longer afford to fish, processors will no longer be able to acquire domestic supply, and the industry will begin to collapse from its foundations on up, eroding employment and wages, requiring production curtailments, deferring capital investments, and, eventually, jeopardizing the future of a vital American industry

-This outcome can be avoided only if these important orders are kept in place.

-I would now like to turn to our first witness, Mr. Richard Gollot of Golden Gulf Coast Packaging, Inc.