

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
FROZEN WARMWATER SHRIMP) Investigation Nos.:
FROM CHINA, ECUADOR, INDIA,) 701-TA-491-497
INDONESIA, MALAYSIA,) (Preliminary)
THAILAND, AND VIETNAM)

REVISED AND CORRECTED TRANSCRIPT

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P R O C E E D I N G S

(9:30 a.m.)

1
2
3 MS. DeFILIPPO: Good morning and welcome to
4 the United States International Trade Commission's
5 conference in connection with the preliminary phase of
6 countervailing duty Investigation Nos. 701-TA-491-497
7 concerning imports of Frozen Warmwater Shrimp From
8 China, Ecuador, India, Indonesia, Malaysia, Thailand,
9 and Vietnam.

10 My name is Catherine DeFilippo. I am the
11 Director of the Office of Investigations, and I will
12 preside at this conference. Among those present from
13 the Commission staff are, from my right, Amy Sherman,
14 the investigator; to my left, Robin Turner, the
15 attorney/advisor; Amelia Preece, the economist; David
16 Boyland, the auditor; and Renee Berry the industry
17 analyst.

18 I understand that parties are aware of the
19 time allocations. I would remind speakers not to
20 refer in your remarks to business proprietary
21 information and to speak directly into the
22 microphones. We also ask that you state your name and
23 affiliation for the record before beginning your
24 presentation or answering questions for the benefit of
25 the court reporter.

1 Finally, speakers will not be sworn in, but
2 are reminded of the applicability of 18 U.S.C. 1001
3 with regard to false or misleading statements and to
4 the fact that the record of this proceeding may be
5 subject to Court review if there is an appeal.

6 Any questions?

7 (No response.)

8 MS. DeFILIPPO: Hearing none, we will now
9 proceed with the opening statements. Ms. Drake,
10 welcome. Please proceed with your opening statement
11 when you are ready.

12 MS. DRAKE: Good morning. My name is
13 Elizabeth Drake from the Law Offices of Stewart and
14 Stewart. I am here today with my colleagues and our
15 co-counsel, Eddie Hayes of Leake and Andersson, on
16 behalf of the Petitioner, the Coalition of Gulf Shrimp
17 Industries.

18 We are here today because large volumes of
19 heavily subsidized shrimp from China, Ecuador, India,
20 Indonesia, Malaysia, Thailand, and Vietnam are
21 severely undercutting domestic prices and pushing the
22 domestic frozen shrimp industry to the brink of
23 extinction.

24 The record in this case supports an
25 affirmative preliminary determination. Production and

1 exports of shrimp in the seven countries are fueled by
2 explicit government growth plans and backed by
3 billions of government dollars. Shrimp is a key
4 export commodity for many of the countries, and
5 government plans to increase the volume of those
6 exports are central to national economic development
7 strategies.

8 We have documented over 100 separate subsidy
9 programs across the seven countries in our petitions,
10 including a large number of export subsidies. High
11 volumes of low-priced, heavily subsidized shrimp
12 imports are causing material injury to the domestic
13 shrimp industry. The U.S. imported 984 million pounds
14 of shrimp from the subject countries in 2011. U.S.
15 imports from the seven countries have gained market
16 share since 2009, reaching 77 percent of apparent
17 consumption in interim 2012.

18 The prices at which the imports enter the
19 U.S. market are significantly below domestic prices.
20 In the most common count sizes for which data are
21 available, imports undersold domestic product in 90
22 percent of the monthly comparisons reviewed since
23 2009. The frequency and intensity of this price
24 undercutting has increased in 2012, with underselling
25 margins reaching 20 percent or higher for some

1 products. Indeed, in 2012 prices have started to fall
2 in absolute terms for the first time in years.

3 The Commission has previously found that
4 imported frozen shrimp competes with domestic frozen
5 shrimp and that changes in import prices affect
6 domestic prices to a significant degree. The same is
7 true today. As our panel will testify, domestic
8 producers constantly face price competition from
9 imports, and they face it throughout the market.
10 Their customers frequently quote import prices in
11 sales negotiations, and if domestic producers cannot
12 lower their prices to meet the import quote they lose
13 sales. When our producers do try to chase import
14 prices to make a sale they run the risk of driving
15 their company into the red.

16 This cutthroat competition has suppressed
17 the prices that domestic shrimp processors are able to
18 receive, preventing them from keeping up with rising
19 costs of production. The domestic industry has seen
20 its production, shipments and employment all decrease
21 since 2009 based on the public information in our
22 petition. In addition, price suppression by imports
23 caused the industry's thin margin of profitability in
24 2009 to nearly disappear in 2010 and again in 2011.
25 As import prices began to fall in 2012, the domestic

1 industry's minimal returns turned into losses.

2 Domestic producers have also been forced to
3 delay and forego needed capital investments due to the
4 instability in the market caused by subject imports.
5 These trends are simply unsustainable for the domestic
6 frozen shrimp industry. If we cannot obtain relief
7 that offsets the massive subsidies foreign producers
8 are receiving, the future of the domestic shrimp
9 industry and of an entire way of life in the Gulf
10 region is at risk. We are here today to ask you to
11 give us the chance to obtain this badly needed relief.

12 Thank you.

13 MS. DeFILIPPO: Thank you, Ms. Drake.

14 Welcome, Mr. Connelly. You are doing
15 opening statement for Respondents? Yes? Great. Just
16 proceed when you're ready. Thank you.

17 MR. CONNELLY: Good morning. I'm Warren
18 Connelly with the Akin Gump law firm offering opening
19 remarks on behalf of all the Respondents. We submit
20 that the record strongly supports a negative
21 preliminary determination.

22 Unlike most cases, the Commission possesses
23 extensive information dating back to 2001 concerning
24 the volumes, prices and impact of global shrimp
25 imports on the domestic industry, so the Commission

1 can make a very confident judgment right now that the
2 Petitioners can never establish that they are entitled
3 to relief.

4 The starting point for the Commission's
5 analysis should be the finding that shrimp is not a
6 commodity. There are dramatic differences in the
7 species, products and price levels available in the
8 market from a wide variety of suppliers. The records
9 in the original antidumping investigation and in the
10 2011 sunset review fully support this conclusion, and
11 nothing has changed since 2011.

12 The domestic industry claims that domestic
13 shrimp is "always" interchangeable with imported
14 shrimp, but this is true in only the broadest, most
15 literal sense. But if shrimp was truly
16 interchangeable then you would not see domestic and
17 imported shrimp displayed side-by-side in the freezer
18 case and at the seafood counter.

19 In addition, the companies that buy shrimp,
20 meaning restaurant chains, grocery store chains, food
21 service distributors, have extremely specific needs.
22 All too often, domestic producers cannot provide
23 sufficient volume, quality, consistency or year-round
24 availability. This lack of interchangeability has
25 significant implications for the Commission's

1 analysis. Most importantly, it provides a factual
2 basis for a finding of attenuated competition. In
3 other words, for many purchasers domestic shrimp is
4 simply not an option.

5 This is equally obvious from the fact that
6 imported shrimp for many years has accounted for about
7 90 percent of domestic consumption, and when it comes
8 to volume the undisputed fact is that total imports
9 have been absolutely steady at 1.1 billion pounds
10 every year since 2006. The sources of supply shift
11 back and forth from time to time, but the total never
12 changes despite the adverse effects of the hurricanes
13 and the BP oil spill.

14 This is simply not a volume case. Imported
15 volume and market share and the trends in volume and
16 market share have no effect on the domestic industry.

17 Year after year, the domestic shrimp industry catches
18 all the shrimp that it can. Over the past 40 years,
19 the domestic landings have averaged about 260 million
20 pounds per year, and nothing indicates this is going
21 to change.

22 Now let's talk about import prices. Assume
23 that Petitioners are correct that imported shrimp is
24 sold at much lower prices than domestic shrimp. If
25 domestic shrimp is always interchangeable with

1 imported shrimp then why would purchasers ever buy the
2 more expensive domestic shrimp? The fact that a
3 substantial market exists for more expensive domestic
4 shrimp means that demand for it is largely independent
5 of demand for imported shrimp. This necessarily means
6 once again that competition is attenuated. Moreover,
7 domestic prices are up substantially since 2009, as
8 are import prices. This is not the type of fact
9 pattern that suggests material injury caused by
10 imports.

11 Finally, imports have not had any adverse
12 impact on domestic processors. In the sunset review
13 we established a lack of a correlation between import
14 prices and the domestic industry's condition, and the
15 record here supports the same conclusion. Domestic
16 processing has always been a very marginal business,
17 and that has not changed as a result of the
18 antidumping order.

19 What we have here is an industry that
20 continues to loudly blame imports for its misfortunes
21 while it insists on doing business in the traditional
22 ways that have always bred a lack of success in
23 competition with imports. The problems that the
24 domestic industry suffers from have been thoroughly
25 and repeatedly documented. It is time for the

1 Commission to find that trade relief is no longer the
2 answer.

3 The domestic industry received almost \$260
4 million in Byrd Amendment distributions. How much did
5 the processors get? We hope you will require them to
6 provide that answer immediately. And where did that
7 money go? We'd like to know that too. Clearly it did
8 not go where it is needed most, which is making a
9 world class product that appeals to those who prefer
10 wild caught shrimp. Thank you.

11 MS. DeFILIPPO: Thank you very much, Mr.
12 Connelly.

13 We will now move to the direct presentation
14 and testimony for Petitioners. Ms. Drake, when your
15 panel is settled and ready to go, please proceed.

16 MS. DRAKE: Can you hear me? Good morning.
17 Again, my name is Elizabeth Drake from the Law
18 Offices of Stewart and Stewart. I am pleased to be
19 here today with my colleagues, the managing partner of
20 our firm, Terence P. Stewart; my partner, Eric
21 Salonen; and our associates, Philip Butler and
22 Jennifer Smith. We're also joined by our co-counsel,
23 Eddie Hayes of Leake and Andersson in New Orleans, and
24 we are all here today on behalf of the Petitioner, the
25 Coalition of Gulf Shrimp Industries.

1 We'd like to begin our panel this morning
2 with an overview of the case before our witnesses
3 testify. I have six issues I would like to address
4 this morning. First, the domestic like product;
5 second, cumulation and the conditions of competition;
6 third, the volume of subject imports; fourth, price
7 effects; fifth, present material injury; and, sixth,
8 the imminent threat of material injury.

9 Turning to the subject merchandise, the
10 subject merchandise of certain frozen warmwater shrimp
11 and prawns, whether wild caught or farm raised, head
12 on or head off, shell on or peeled, tail on or tail
13 off, deveined or not deveined, cooked or raw or
14 otherwise processed in any form regardless of size.
15 As you are aware, this is the product that is
16 currently covered by antidumping orders on certain
17 frozen warmwater shrimp from Brazil, China, India,
18 Thailand, and Vietnam, with some exceptions for
19 individual companies in some of those countries.

20 The domestic like product. The Petitioner
21 has requested that the Commission define the domestic
22 like product as certain frozen warmwater shrimp
23 coextensive with the scope. This is the product that
24 is like the articles subject to the investigation and
25 thus the appropriate domestic like product under the

1 Act.

2 In the antidumping case, the Commission
3 expanded the like product beyond the scope to include
4 fresh, as well as frozen shrimp. Each Commission
5 determination is sui generis, and the Commission is
6 not bound by its prior determinations. In this case,
7 different facts merit a different approach.

8 In the antidumping case, while the
9 Commission used a semi-finished product analysis to
10 expand the domestic like product to include fresh
11 shrimp, it did so in a case where the petitioning
12 group itself included fishermen, as well as
13 processors, and where that petitioning group had
14 requested adding fishermen to the domestic industry
15 under the raw processed agricultural industry
16 provision of the statute.

17 Here the Petitioner is limited to
18 processors, and the Petitioner has made no request to
19 expand the domestic like product or the domestic
20 industry to include fresh shrimp or fishermen. Why is
21 this difference relevant? The raw processed
22 agricultural industry provision invoked by the
23 Petitioner in the antidumping case is a discretionary
24 provision for the Commission.

25 When Congress enacted the provision in 1988,

1 it explained that its purpose was to allow producers
2 of a raw product to have standing to bring a case on
3 processed imports and to have their injury, the injury
4 to the raw producers, considered by the Commission in
5 such a case. Congress explained that the provision
6 was added to achieve the remedial purposes of the law.

7 Congress further explained that the
8 provision was not to be used to prevent producers from
9 obtaining relief from imports of processed
10 agricultural products. In other words, the purpose of
11 the raw processed agricultural industry provision is
12 to help growers obtain relief from processed imports
13 in the absence of sufficient support from processors
14 or indications of injury to processors.

15 The purpose of the provision is not to make
16 relief harder to obtain merely because the Petitioner
17 produces a processed agricultural product. Applying
18 the provision in such a way would directly violate the
19 congressional intent. Applying the provision in this
20 case would also contradict the Commission's own prior
21 practice.

22 We are not aware of a single case where the
23 Commission has applied the raw processed provision to
24 expand the domestic industry to include growers unless
25 growers were either part of the petitioning group or

1 the petitioning group itself requested that growers be
2 added to the industry definition. Neither situation
3 applies in this case.

4 Contradicting congressional intent and prior
5 practice to apply the provision to this case would
6 also have absurd results. In effect, the Commission
7 would be using its discretion under the statute to
8 require Petitioner to demonstrate injury not only to
9 its own industry, but also to the industry that
10 produces its upstream product merely because the
11 Petitioner produces a processed agricultural good.

12 No other industry is subject to such a
13 requirement. A car maker who brings a case on
14 imported cars only has to show injury to the
15 automotive industry, not to the tires, glass and steel
16 industries. To require processors of agricultural
17 goods to meet this higher burden would fly in the face
18 of the provision's remedial purpose.

19 As I mentioned, the Commission actually used
20 the semi-finished product analysis in the antidumping
21 case, not the raw processed analysis that was
22 requested by the Petitioner. But the Commission
23 should also decline to use the semi-finished product
24 analysis to include fresh shrimp in the domestic like
25 product in this case.

1 The analysis is not required by the statute,
2 but is instead a Commission practice. In the vast
3 majority of cases, it is used to analyze whether
4 products within the scope of subject merchandise are
5 part of the same domestic like product or comprise
6 separate domestic like products. Thus, when a case is
7 brought on finished and semi-finished goods and the
8 Commission's factors are met, the domestic industry
9 producing the same finished and semi-finished goods
10 are analyzed together for injury purposes.

11 We have been able to identify eight cases
12 where the Commission used the semi-finished product
13 analysis to consider expanding the domestic like
14 product to include upstream goods outside of the scope
15 of subject merchandise. Again, the majority of cases
16 look at semi-finished and finished products within the
17 scope.

18 In two of these cases we have identified,
19 application of the analysis was requested by the
20 Petitioner itself. Of course, one of these was the
21 prior Shrimp case, as we noted, where the Petitioner
22 asked for fishermen to be included pursuant to the raw
23 processed provision. The other case is the Coated
24 Paper case where the Petitioner made such a request
25 because their original scope also included sheeter

1 rolls and sheets. Commerce excluded sheeter rolls
2 from the scope, and the Petitioner requested that they
3 continue to be included in the domestic like product.

4 The other four cases that we were able to
5 determine that the Commission used the semi-finished
6 product analysis to include nonscope, upstream
7 products were cases where the domestic industry was
8 vertically integrated and it produced both a
9 semi-finished product and the finished product.
10 Though this factor was not explicitly addressed in
11 those cases, undergoing the analysis may have been
12 justified to ensure that the injury data was not being
13 distorted due to an artificial segregation of these
14 production activities.

15 Furthermore, in only one of these four cases
16 did the Commission actually expand the domestic like
17 product as a result of this analysis. This was the
18 Cephalexin From Canada case where they included the
19 bulk form of the medicine, as well as the medicine in
20 capsules. The scope was limited to the capsules, and
21 a number of the major producers produced both the bulk
22 and the capsule form of the medicine. In that case
23 one of the Commissioners noted in a footnote that it
24 made no material difference to the injury
25 determination whether the bulk product was included or

1 not, so it did not materially affect the outcome of
2 that case.

3 Finally, we identify two additional cases
4 with unique fact patterns where the Commission
5 undertook a semi-finished like product analysis to
6 look at nonscope, upstream goods. One was the Woven
7 Electric Blankets case where the scope included a
8 number of different components and parts, as well as
9 the final good. The Commission asked whether or not
10 an additional part not included in the scope should be
11 considered a semi-finished product for the domestic
12 like product purposes and ultimately determined that
13 it shouldn't.

14 The other case is the Low Enriched Uranium
15 case, which also had a unique fact pattern in terms of
16 a changing scope from one set of cases to the next and
17 in addition a changing domestic like product where the
18 Commission in the later case found the domestic like
19 product to be the same as the scope.

20 In summary, we do not believe it would be
21 consistent with the Commission's prior practice to
22 apply the semi-finished product analysis to include
23 fresh shrimp in the domestic like product here. The
24 Petitioner has not requested that such an analysis be
25 employed. There is very little vertical integration

1 between the fresh shrimp and frozen shrimp industry,
2 and there are no other unique facts that warrant
3 application except for the prior antidumping case
4 which, as I addressed, arose primarily under the raw
5 processed provision.

6 To conclude on this topic, frozen shrimp is
7 the product like the subject merchandise in this case.

8 We have no doubt that fishermen are suffering
9 material injury by reason of subject imports, just
10 like the processing industry is, but requiring the
11 Petitioner to demonstrate injury to its suppliers, as
12 well as to itself, would impose a unique, unnecessary
13 and unwarranted burden. We therefore request that the
14 domestic like product in this case be defined as
15 frozen warmwater shrimp coextensive with the scope.

16 I'd like to move on to the topics of
17 cumulation and conditions of competition. The
18 Commission cumulated imports of certain frozen
19 warmwater shrimp from Brazil, China, Ecuador, India,
20 Thailand, and Vietnam in the antidumping original
21 investigation and exercised discretion to do so again
22 with regard to these countries, with the exception of
23 Ecuador, in its recent sunset review.

24 The Commission found that imported and
25 domestic shrimp were fungible, noting that majorities

1 of purchasers found products from the different
2 sources were frequently or always interchangeable, and
3 a majority of importers reported they were at least
4 sometimes interchangeable.

5 The Commission found the domestic and
6 foreign producers served national markets and were
7 present in the market in all months of the year. The
8 Commission also found that they were present in the
9 same channels of distribution, with major purchasers
10 buying both imported and domestic shrimp and a
11 substantial portion of imports in the domestic product
12 being sold through distributors.

13 As Mr. Connelly said, these conditions
14 persist today. Nothing has changed since 2011, and
15 they continue to support cumulation in these
16 investigations. This case does include two new
17 countries that were not considered by the Commission
18 in this cases, Indonesia and Malaysia, but Indonesia
19 and Malaysia also compete with other subject
20 merchandise and with U.S. product in the market.

21 Our petitions demonstrate that imports from
22 Indonesia and Malaysia are imported through Customs
23 districts throughout the United States and are
24 imported in each month of the period since 2009.
25 Also, what evidence we've been able to find is that

1 they're present in the same channels of distribution.

2 We'll note a statement from Sysco to this effect
3 later in our presentation. Therefore, all the
4 conditions for cumulation are met in this case.

5 With regard to the conditions of
6 competition, demand appears to have varied from year
7 to year. These numbers were compiled using the same
8 methodology the Commission used in its sunset review
9 using landings and a small amount of domestic farm
10 production as the domestic supply, converting that to
11 a headless form and then compiling the import data to
12 come up with an estimate of apparent consumption.

13 In terms of supply, U.S. shipments fell
14 sharply in 2010, the year that the Gulf was closed to
15 fishing for a time due to the Deepwater Horizon oil
16 spill. While shipments rose in 2011, they did not
17 recover to the 2009 level. Domestic shipments fell
18 slightly again in the interim period.

19 Subject imports, by contrast, rose in 2010
20 and again in 2011 and maintained an elevated market
21 share in 2012. While the absolute volume of imports
22 fell in the interim period due to temporary disease
23 problems in some countries and an apparently ample
24 inventory overhang from 2011, subject imports actually
25 reached their highest market share over the period in

1 2012.

2 On substitutability, the Commission has
3 previously found that imported and domestic product
4 are at least moderate substitutes. The Commission has
5 found that there are no clear distinctions in the
6 markets their customers served between imported and
7 domestic shrimp, that leading purchasers buy both
8 imported and domestic shrimp for the same end uses,
9 that domestic and imported shrimp are available in all
10 forms and sizes and that both domestic and imported
11 shrimp meet minimum quality standards. These
12 conditions continue today.

13 Sysco, for example, a major distributor to
14 the food service industry, both buys subject and
15 domestic shrimp and advertises subject and domestic
16 shrimp to the same customers. This is their quote
17 from their most recent seafood catalog that we were
18 able to access online.

19 Now I would like to turn to the volume of
20 subject imports. The volume of imports is significant
21 whether viewed by quantity or value and whether on an
22 absolute or relative basis. From 2009 to 2011,
23 imports increased by 90 million pounds and \$1.3
24 billion. Imports increased from 70 percent of
25 apparent consumption in 2009 to 76 percent in 2011.

1 The final bar here is only the first three quarters of
2 2012 compared to annual amounts in the previous years.

3 From 2011 to 2012, imports fell in absolute
4 terms, as I mentioned previously, as several countries
5 faced temporary supply issues and importers worked
6 down ample inventories. However, subject imports also
7 achieved their highest market share of the period in
8 2012, reaching 77 percent of apparent consumption,
9 again not accounting for any movements in inventories.

10 The volume of imports is also significant
11 relevant to domestic shipments. In 2009, we imported
12 5.77 pounds of subject shrimp for each pound of
13 domestic shipments. That ratio jumped to 8.25 in
14 2010, moderated somewhat, but remained high at 7.56 in
15 2011, and in 2012, even with the absolute reduction in
16 import volume, the ratio remained above its 2009 level
17 and reached 6.3 pounds of subject imports for every
18 pound of domestic shipments.

19 To get a better sense of the significance of
20 the volume of subject imports in light of the absolute
21 decline in the interim period, we created a projection
22 for the full 2012 year and compared it to 2009. To
23 create a projection we multiplied the volumes for the
24 first three quarters of 2012 by a ratio equal to the
25 difference between full year 2011 and the first three

1 quarters of 2011.

2 When we compare 2009 to a projected full
3 year 2012, we see the volume of apparent consumption
4 falling by 9 percent, subject imports barely dropping
5 by 1 percent, and domestic shipments projected to post
6 a decline of 14 percent, reinforcing the conclusion
7 that the volume of subject imports is significant in
8 this case.

9 Moving on to price effects, in its prior
10 determinations the Commission has found that changes
11 in prices for imported shrimp affect domestic prices
12 to a significant degree. The Commission has found
13 that most sales are on the spot market or on a
14 transaction-by-transaction basis, that market
15 participants constantly monitor prices for their
16 negotiations, that purchasers routinely quote import
17 prices and negotiations and that most purchasers
18 report price is an important factor.

19 In the sunset review it was the second most
20 important factor after quality and again, as noted
21 before, both domestic and imported product were found
22 to meet minimum quality standards. These conditions
23 continue today. In August of this year Jeff Goldberg,
24 a shrimp buyer for the importer Mazzetta, explained
25 that most U.S. buyers "only look at price".

1 Subject imports have persistently undersold
2 domestic product throughout the period, and the
3 margins of underselling appear to have intensified in
4 2012. This price undercutting is apparent from a
5 variety of data sources. These charts compare the
6 average unit value of subject imports to a straight
7 average of Urner Barry price data for six common count
8 sizes of white and brown domestic shrimp. So while
9 this doesn't account for product changes, it is
10 specific to the subject countries. Excuse me. It
11 doesn't account for product mix. It is specific to
12 the subject countries.

13 As you can see, subject imports undersold
14 domestic product by margins of 15 to 18 percent in
15 2009 through 2011. In 2012, the margin of
16 underselling was 21 percent, higher than in any other
17 period. Indeed, the price undercutting has gotten so
18 severe that it appears prices are actually starting to
19 decline on an absolute basis in 2012. The average
20 import unit value fell by 25 percent per pound over
21 the interim period, and domestic Urner Barry average
22 prices started to fall as well.

23 These trends are also apparent when you look
24 at unit values by count size. This chart compares the
25 margins of underselling for three common count sizes

1 of shell-on product based on subject import unit
2 values and Urner Barry prices for the domestic
3 product. The Urner Barry data is for headless
4 shell-on, whereas the import data is for shell-on, but
5 doesn't distinguish between head-on and headless, just
6 to note.

7 Looking at the data by product level reveals
8 an even starker intensification of price undercutting
9 by subject imports. In 2009, imports undersold the
10 domestic product by margins of 13 to 23 percent. By
11 2012, the underselling margins were at 30 to 33
12 percent. We compared monthly price data for six
13 common count sizes from January of 2009 through
14 September of 2012. Overall, Asian and South American
15 shrimp undersold the domestic product in 90 percent of
16 the monthly comparisons examined.

17 The Urner Barry data also show the same
18 intensification of the margins of underselling in
19 2012. The average underselling margins in 2012 were
20 among the highest for the period for almost every
21 count size, nearing or exceeding 20 percent in most
22 cases. Thus, even as volumes of imports from some
23 countries fell in absolute terms in 2012 due to
24 external factors, those heavily subsidized producers
25 cut prices and dramatically increased their aggressive

1 price undercutting to retain higher shares of the U.S.
2 market.

3 This price undercutting has prevented the
4 domestic industry from passing on rising input costs
5 to their customers. The bars in this chart show the
6 industry's cost of goods sold as a percent of sales
7 revenue again based on the public information in our
8 petition. Costs were already very high, 89 percent of
9 sales, in 2009. They rose to 92 percent in 2010,
10 moderated somewhat but remained higher at 91 percent
11 in 2011, and were back at near 92 percent in 2012.

12 The black line is the margin of underselling
13 based on the aggregate average unit value of subject
14 imports reviewed in the first slide before. As
15 underselling has intensified, producers' ability to
16 earn prices that cover their cost of production has
17 deteriorated. This is a classic case of price
18 suppression.

19 Now I would like to turn to material injury.

20 The high volume of subsidized imports undercutting
21 domestic sales and suppressing domestic prices is
22 causing material injury to the domestic industry. The
23 industry has suffered injury according to nearly every
24 indicator. Based on the public material in our
25 petition compiled from our members, production,

1 capacity utilization, the volume of commercial
2 shipments, employment, gross profits and operating
3 income all fell from 2009 to 2011, and they fell again
4 over the interim period.

5 As a result of the growing cost/price
6 squeeze resulting from import price suppression, the
7 industry's very small operating margin of a little bit
8 less than 2.5 percent in 2009 nearly disappeared in
9 2010 and 2011 and turned negative in the first three
10 quarters of 2012, again based on the public data in
11 our petition.

12 It is worth noting that in the sunset review
13 the Commission considered the industry's returns in
14 interim 2010 to be so poor that it found the industry
15 vulnerable to injury from imports. While operating
16 income increased slightly in 2011, it was still less
17 than what it had been in 2009, a year the Commission
18 considered as marginally profitable for the industry.

19 In 2012, as imports' market share peaked, import
20 prices started to decline absolutely, and the
21 industry's costs rose as a percent of sales. The
22 industry's operating margin disappeared altogether.

23 Finally, I'd like to address the threat of
24 material injury. While we believe there is strong
25 evidence of present material injury in this case, I

1 would like to quickly review the imminent threat that
2 will occur if we cannot obtain relief from subsidized
3 imports.

4 The poor financial performance reviewed
5 above demonstrates that the domestic industry is
6 vulnerable. The volume of subject imports is
7 significant and likely to increase once temporary
8 disease issues subside. Governments in the subject
9 countries view the shrimp industry as a strategic
10 economic development tool, and many have set specific
11 targets for increased production and exports. These
12 targets are not just aspirational. They are backed by
13 massive amounts of government dollars and evidenced in
14 a variety of capacity expansions announced by foreign
15 producers and cited in our petition.

16 As we also document in our petition, given
17 low demand in major third country markets and higher
18 sanitary and phytosanitary barriers in those markets,
19 the U.S. will continue to be a prime destination for
20 these increased exports from subject countries. A
21 threat determination is further supported by the
22 persistent and intensifying underselling of domestic
23 product by imports.

24 Finally, the factor of government
25 subsidization is clearly met in this case. Our

1 petitions document more than 100 subsidy programs
2 across the seven countries, including export subsidies
3 in each of the seven countries, which pose a
4 particularly acute threat to domestic producers.

5 With that, I will turn to our panel. Our
6 first witness is Carson Kimbrough from Carson & Co. in
7 Bon Secour, Alabama. Thank you.

8 MR. KIMBROUGH: Good morning. My name is
9 Carson Kimbrough, and I'm the President of Carson &
10 Co., a member of the Coalition of Gulf Shrimp
11 Industries. I founded Carson & Co. in Bon Secour,
12 Alabama, in 1976. Before that I worked for another
13 shrimp processor and then bought and operated my own
14 shrimp boat for four years.

15 At Carson & Co. we process a wide range of
16 shrimp products, including headless shell-on, peeled
17 and undeveined and peeled and deveined shrimp. We
18 sell through full service distributors that serve
19 customers all over the country. While we
20 predominantly process domestic shrimp, we also process
21 some imported shrimp. We do this because our
22 customers buy both domestic and imported shrimp for
23 the same uses, and when they need to meet a lower
24 price point they demand that we satisfy the price
25 point by supplying imports instead of domestic shrimp.

1 I would like to be able to supply my
2 customers with all domestic product, but if I can't
3 meet the price of imports in the market I will lose my
4 customers altogether. Because I process and market
5 both domestic and imported shrimp, I can tell you
6 firsthand that they are comparable in every way except
7 for price. My customers feel the same way, and they
8 decide whether or not to use domestic or imported
9 product based on the price.

10 Imported shrimp has consistently undersold
11 domestic shrimp since 2009. This underselling has
12 been getting worse since the oil spill in 2010.
13 Foreign producers have used aggressive price
14 undercutting to keep hold of the increased market
15 share they seized while the domestic shrimp fishery
16 was closed.

17 As foreign governments spend billions to
18 increase their production and exports of shrimp,
19 competition with import prices will get even worse.
20 That's why the relief we are seeking in this case is
21 so important to the future of our American shrimp
22 industry.

23 I see import competition in my market every
24 day. Although I have some short-term contracts, the
25 vast majority of my business is spot sales. I set

1 prices weekly based on the cost of raw materials and
2 my processing. My company purchases shrimp from boat
3 unloading docks all over the Gulf Coast and the South
4 Atlantic. When I send out my weekly prices, I get
5 from 15 to 40 responses from my customers quoting
6 lower prices. Nine times out of 10, these lower
7 prices are from imports.

8 At various times of the year I go and visit
9 end user customers of my product to get a unique
10 insight into what drives the purchases they're making
11 on shrimp. From these visits I learn firsthand what
12 products they are being offered and at what price, and
13 most often they'll even show me the competitor's
14 invoices, and the cheaper products are most always
15 imports.

16 When that happens, I'm forced to either
17 lower my price to try to compete with the import
18 prices or I will lose the customer. As a result of
19 this undercutting, I have lost sales and market share
20 to lower priced imports or taken substantial losses on
21 my product to keep the customer.

22 The food industry makes up the majority --
23 the food service industry, excuse me, makes up the
24 majority of the market for shrimp in this country. In
25 the current economic climate, the food service

1 industry is more concerned than ever with keeping food
2 costs low. Protein items such as shrimp, so-called
3 center-of-the-plate items, account for the largest
4 portion of these costs, and they are thus the main
5 focus of these cost cutting efforts. Price has always
6 been the most important factor in competition between
7 imports and domestic products, but that is the case
8 more than ever in today's economy.

9 I'd like to briefly address the Gulf oil
10 spill. During the oil spill, my company's production
11 dropped significantly because the fishery was closed,
12 but two years after the waters reopened and the
13 fishermen went back to work we have still not been
14 able to return to the level of production and sales
15 that we had before the spill. The reason is imports.

16 In 2010, the banks that financed my
17 operations reduced my credit, even though nothing was
18 in default, because of the uncertainty in the market
19 and the losses I had incurred. As a result, we had to
20 sell a large, individually quick-frozen operation,
21 also called IQF, that we had invested over \$1 million
22 to acquire. Unfortunately, the banks have not been
23 willing to restore the availability of credit to pre
24 2010 levels because of the continued instability in
25 the market. Low-priced imports are the reason for

1 this instability.

2 In December of 2010, I was personally in a
3 financial position to retire, but instead I decided to
4 make a significant investment into my business to keep
5 the doors open and keep my staff employed. Some of
6 them have worked for me for 30 years. I have told
7 them that I am committed to keeping the company in
8 business until they tell me to stop. If we don't get
9 relief from these subsidized imports, some day soon my
10 employees will recommend that I close the business
11 because they can't bear to see me keep investing in an
12 industry that can't make a reasonable return.

13 My company and the rest of the domestic
14 shrimp industry can only survive and thrive again if
15 the competition in the market is fair. Foreign
16 governments are providing billions to subsidize their
17 exports to our market, while I have to finance my
18 company's operation out of my own pocket.

19 If the price distortions and instability in
20 the market caused by subsidized imports are corrected,
21 we can increase production and sales, regain lost
22 customers and get back on our feet. This will make
23 all the difference for me, my business and the people
24 I have worked with at Carson & Co. for the past 30
25 years. I therefore respectfully request that the

1 Commission render an affirmative determination. Thank
2 you for your consideration.

3 MR. BABIN: Good morning. My name is Daniel
4 Babin, and I'm the General Manager of Gulf Fish, Inc.
5 located in Houma, Louisiana, and a member of the
6 Coalition of Gulf Shrimp Industries. I've worked in
7 the shrimp processing industry for over 30 years.

8 I'm also an elected councilman in Terrebonne
9 Parish, Louisiana. I have served on the Louisiana
10 Shrimp Task Force, and I was a member of the Louisiana
11 Department of Wildlife and Fisheries Commission from
12 1995 to the year 2000, and I served as its chairman
13 one year.

14 The shrimp industry has historically been a
15 pillar of the local economy and cultural heritage of
16 the State of Louisiana and Terrebonne Parish in
17 particular. Many of the businesses in the shrimp
18 industry are family owned and have been passed down
19 through generations, but unfairly traded imports have
20 weakened our industry and threatened its continued
21 existence.

22 The shrimp industry in Terrebonne Parish has
23 declined tremendously. The seafood industry,
24 including shrimp, used to be the second largest
25 industry in Terrebonne Parish. Now it has dropped to

1 the fifth or sixth. Competition against low-priced,
2 unfairly traded imports is the primary reason for this
3 decline.

4 We as shrimp processors have to base our
5 prices on the cost to produce shrimp. Our most
6 significant costs are the prices we pay for shrimp
7 from fishermen. Fishermen in turn need to be able to
8 cover their cost of production, the most significant
9 of which is fuel. Fuel prices have been rising each
10 year, which means the processors have to pay more to
11 keep the fleet in operation. When we can't pay enough
12 to cover the fishermen's cost, they either have to tie
13 up their boats or leave the fishing life altogether.
14 If this trend continues, it will be the death of our
15 domestic industry.

16 While our costs are rising, subsidized
17 imports are making it harder and harder to cover these
18 costs. We consistently have to lower our prices to
19 compete with imports. Our brokers buy and sell
20 domestic, as well as imported products. Our customers
21 often quote lower prices from imports to us, and for
22 the vast majority of them price is everything.

23 Sometimes the imported prices they quote to
24 us are so low we can't meet them without making the
25 sale at a loss. Just this past week, for an example,

1 a customer of mine forwarded me prices he was offered
2 for shrimp from India and Malaysia. Some of these
3 prices were well below my cost of production.

4 With costs increasing and prices unable to
5 keep up, margins in the shrimp industry are very low
6 or nonexistent. With such poor financial performance,
7 banks are much stricter in providing credit. Gulf
8 Fish and other shrimp processors would like to invest
9 more in our businesses, but ability to do so is
10 limited because of the limited ability of credit.

11 Gulf Fish has had to delay investments such
12 as freezer upgrades and machinery acquisition due to
13 these conditions. Without the possibility of relief
14 from imports and a potential for rational pricing in
15 the market, it will severely impact our ability to
16 invest in improvements to our business.

17 While the Gulf Fish shrimp industry has
18 faced some extraordinary events in the past few years,
19 including hurricanes and oil spills, the decline in
20 the shrimp industry is due to unfairly subsidized
21 imports and the constant price pressure that it
22 inflicts on our market. I am proud to be a part of
23 the history and tradition of the Louisiana shrimp
24 industry. Subsidized imports cannot be permitted to
25 wipe this industry out of existence. Thank you.

1 MR. McLENDON: Good morning. My name is
2 Jonathan McLendon, and I am here today on behalf of
3 Biloxi Freezing & Processing, M&M Shrimp, as well as
4 the Coalition of Gulf Shrimp Industries.

5 My grandfather started processing shrimp in
6 Biloxi, Mississippi, in 1969. My parents and I have
7 carried on the tradition. I would like to comment on
8 the domestic shrimp industry's commitment to quality
9 and to reaffirm the comments of other producers
10 testifying before you today regarding the injury that
11 subsidized imports are causing to our industry.

12 I previously testified before the Commission
13 in the antidumping sunset review on shrimp. At that
14 time, I told the Commission that after the plant my
15 grandfather built was destroyed by Hurricane Katrina
16 in 2005, my family decided not only to rebuild the
17 plant, but to start over with a whole new organization
18 and upgraded, cutting edge equipment.

19 We are continuing to expand and upgrade our
20 operations to improve efficiency and quality. Since
21 2009, my company has invested heavily in quality
22 control and in state-of-the-art technology. We have
23 incurred well over \$1 million in capital expenditures
24 to acquire new machinery, to increase the quality of
25 our shrimp and the efficiency of our plant, including

1 two high-speed, laser-powered optical sorters,
2 prototype graders, an additional deveining machine and
3 an additional heat-sealed, form-filled packing
4 machine.

5 We have also purchased land adjacent to our
6 plant and plan to build additional facilities and
7 capacities there. We have made these investments to
8 keep production costs as low as possible while still
9 maintaining high level of quality and consistency.
10 Our business strategy is to produce high-quality
11 shrimp at a competitive price.

12 Our ability to earn a return on these
13 investments and to succeed at our strategy depends on
14 this case. If we can get relief from subsidized
15 imports, our future can be bright. If not, no amount
16 of investments and upgrades will permit us to compete
17 with the deep pockets of foreign governments.

18 We have recently passed the Global Food
19 Safety Institution's safe quality foods audit, a
20 globally recognized food safety quality management and
21 traceability certification. Most of the boats that
22 supply our company with shrimp have GPS units onboard
23 that trace exactly where the boats are shrimping, and
24 all of our product is labeled with the unloading
25 location.

1 In fact, you can go on our company's website
2 or mobile app and see a map of our boats and where our
3 fleet is fishing right now. These efforts have been
4 costly, and we will not be able to continue them if
5 subsidized imports continue to drive down prices. For
6 most purchasers and end users in the food service
7 industry, shrimp is just a commodity. The market is
8 strictly cost driven.

9 As I testified previously, while we do have
10 some short-term contracts, most of our sales are on
11 the spot market. We send out weekly price lists based
12 on our inventory and cost. Our customers regularly
13 quote us import prices, and if we cannot be
14 competitive with those prices we cannot sell our
15 product. Sales reps or buyers tell us that they have
16 chosen to buy imports because they are cheaper. We
17 lose sales to imports several times a week.

18 By contrast, if we can meet import prices we
19 set sales records. The problem is these prices cannot
20 sustain our business. The foreign companies producing
21 these imports benefit from billions of dollars of
22 subsidies to improve their operations and to keep
23 prices low. We don't. The millions of dollars that
24 we have invested in our business have come from our
25 own private capital.

1 Unless there is action to counteract the
2 harm these subsidized imports are causing, matters
3 will become even worse. If subsidized imports
4 continue to undercut our product, we won't be able to
5 pass on inevitable increases in fuel costs, and if the
6 boats can't cover their fuel cost they won't go out
7 shrimping. The result will be industry collapse.

8 I believe the domestic industry will be
9 healthy again someday, but only if there is fair
10 competition in the marketplace. We have made major
11 investments in the hope that this can be achieved.
12 Absent relief from the huge subsidies that imports
13 have received and continue to receive, the competition
14 will never be fair, and all that we have poured into
15 this industry will be at risk. Thank you for your
16 consideration.

17 MR. GIBSON: Good morning. My name is Alan
18 Gibson. I'm the President and Owner of Tidelands
19 Seafood and a member of the Coalition of Gulf Shrimp
20 Industries. We are located in Dulac, Louisiana. I am
21 the fourth generation of my family in the seafood
22 business, in the shrimp business. I have committed
23 myself to helping promote the Louisiana seafood
24 industry by serving on the Louisiana Shrimp Task Force
25 and also on the Seafood Promotion Marketing Board.

1 Subsidized imports are severely distorting
2 the U.S. market, and countervailing duties are needed
3 to bring relief to the domestic industry. Imports
4 from the seven countries in this case jumped from 2009
5 to 2010 as the domestic industry was forced to grapple
6 with the BP oil spill. Once the waters reopened,
7 however, injury continued. The imports rose again in
8 2011 and maintained their elevated market share in
9 2012.

10 By aggressively undercutting domestic
11 prices, foreign producers and importers were able to
12 hold onto the market share even after the oil spill
13 was over. The price competition has continued to
14 intensify, and import prices in 2012 began to drop in
15 absolute terms.

16 I see import competition affecting my
17 business every day. Many of my customers purchase
18 domestic, as well as imported product. Primarily all
19 of my business is spot sales. Contracts don't give me
20 the protection from price competition. Contract
21 customers will demand discounts when import prices
22 fall, and they will even refuse delivery if imports
23 are significantly cheaper than our product.

24 Every week I publish a price based on the
25 prices we have to pay for our fresh shrimp, and quite

1 often my customers and brokers call me with lower
2 prices of imported shrimp and demand that we match the
3 imported prices. For example, one long-time customer
4 of mine now has a new buyer who will not pay any more
5 for domestic versus imported, so now I cannot sell
6 this customer anymore.

7 During the oil spill, some of our customers
8 were forced to use imports for the first time, and
9 when they saw that their own customers, the ultimate
10 consumer, couldn't tell the difference between
11 domestic and imported shrimp those customers didn't
12 come back. Product that I used to sell for \$4.40 a
13 pound is now \$3.90 today based on the low prices of
14 imports. It is getting to the point where building
15 inventory in the off season is a huge risk because you
16 do not know how low the imports may go.

17 Because U.S. processors have to bid against
18 imports to sell our shrimp and our costs are based on
19 the boat prices, our margins are razor thin. On some
20 of the sales we are only making a few pennies a pound.

21 The margins have become so thin that I'm not sure how
22 much longer we will ultimately stay in business.

23 Without significant margins, we cannot
24 afford critical investments to maintain or expand our
25 production facilities. I'll give you one specific

1 example. We held off replacing blast freezer units in
2 our facility due to market situations. Knowing that
3 we can get relief from subsidized imports and a fair
4 price for our product will help avoid such delays in
5 replacing equipment going forward.

6 It isn't only the processors who are
7 suffering due to the imported price competition.
8 Shrimp fishermen are also feeling the effects of
9 subsidized imports and the lower dock prices that they
10 receive. Those who haven't left the industry can't
11 afford the critical maintenance for their boats, and
12 without such maintenance most of these boats will not
13 be in operation in five to 10 years.

14 Like my great-grandfather, grandfather and
15 father before me, I have committed my career to
16 producing Gulf shrimp, but as billions of dollars of
17 foreign government subsidized shrimp continually gut
18 our margins, I cannot encourage my own son to continue
19 to carry on and be a fifth generation member of this
20 business. As much as it pains me, I have encouraged
21 him to look for a line of work in a brighter future.

22 I would like to see the industry be viable
23 for many generations to come, but we need to
24 counteract the unfair subsidies to get stability in
25 the market and have an opportunity for these efforts

1 to pay off for us. I urge the Commission to give us
2 the opportunity by reaching an affirmative preliminary
3 decision. Thank you.

4 MR. ANDERSON: Good morning. My name is
5 Ernest Anderson, and I'm here today on behalf of
6 Graham Shrimp Co., a member of the Coalition of Gulf
7 Shrimp Industries. Graham Shrimp Co. is located by
8 the docks in Bayou La Betra, Alabama. I would also
9 like to add that I've served for the past 10 years as
10 the President of Organized Seafood Association of
11 Alabama and currently serving by appointment on the
12 Alabama Seafood Marketing Commission.

13 I have a fleet of 12 boats I work with. I
14 sell to retailers, restaurants and distributors. In
15 2008 and 2009, I was in the process of trying to
16 expand my business. I relocated from a 1,200 square
17 foot to a 7,500 square foot plant, and I added 1,600
18 foot of freezer capacity. I also planned expansions
19 to increase my in-plant processing capability.

20 Unfortunately, because of damage the imports
21 are causing to this market, I have not been able to
22 achieve the growth that I was hoping for. If we don't
23 get relief from subsidized imports I'm afraid the
24 expansion plans that I started pursuing more than
25 three years ago may never become a reality.

1 Graham Shrimp sets its prices based on
2 prices we must pay to the shrimp boats plus a target
3 margin. Where imports are cheaper we have to lower
4 our prices to match the import prices. Customers
5 often give me quotes of those cheaper import prices
6 when we negotiate our sales. We see this import
7 competition every day across the market.

8 At the retail level our product bears an
9 origin label, unlike at restaurants where there is no
10 such information disclosed to the consumer. But even
11 in the retail market, the differentiation isn't enough
12 to shield us from competition with the lower priced,
13 subsidized imports. Price is still the primary
14 motivation for the majority of our customers
15 regardless of what segment of the market they are in.

16 If we can't match the lower import prices we lose the
17 sales to those customers.

18 As a result of the pricing pressures from
19 imports, Graham Shrimp has often found that it cannot
20 sell product at a reasonable margin while still
21 meeting shrimp boat prices that fishermen need to
22 cover their own cost. The boats I buy from are my
23 bread and butter. My pricing has to keep them
24 operating, while also being competitive in the market.

25 If current boat prices get any lower they will not be

1 able to afford to go out and fish, and in some
2 instances import prices will even beat dock prices.

3 When we offload a boat, we pay for the
4 shrimp and we carry the risk for that shrimp. Over
5 the past years, price undercutting from imports has
6 made it even harder and harder for us to pass any
7 increases in boat cost through to the customer.
8 Expanding my production when we don't know how low
9 import prices may go is simply too risky.

10 I got into this business. I wanted to
11 expand my operations because I believe there can be a
12 future for high quality American shrimp, but we will
13 only have a shot at that future if we get relief from
14 the subsidized imports. We need your help to
15 counteract these unfair subsidies, stabilize prices
16 and level the playing field for the American shrimp
17 industry. I'd like to thank you for your
18 consideration.

19 MS. DRAKE: And with that we conclude our
20 presentation and would like to reserve any time.
21 Thank you.

22 MS. DeFILIPPO: Thank you, Ms. Drake, and
23 thank you very much to the panel. I appreciate you
24 all taking time out of your business day and coming up
25 here to present testimony and to answer the questions

1 that will come from the staff. It's very helpful for
2 us to understand the industry, so I thank you very
3 much.

4 We will turn first to Mr. Boyland, our
5 auditor, as he has to sneak out for a Wind Towers vote
6 at 11:00.

7 MR. BOYLAND: Thank you. Thank you for your
8 testimony. First question. Mr. McLendon, you talked
9 about these investments and upgrades. Would you
10 consider your company to be unusual, typical in terms
11 of the investments you've made to sort of get the most
12 out of the automation?

13 MR. McLENDON: Well, on some of the
14 equipment we were actually the first individuals in
15 the warmwater shrimp industry to use the equipment,
16 but I look around at my competitors here domestically
17 and I see lots of same, similar types of capital
18 expenditures going on, and I'm sure from the
19 questionnaire responses that you'll probably conclude
20 that as well.

21 MR. BOYLAND: Okay. Thank you. I guess one
22 other sort of general question in terms of the
23 information that's been reported. We see a pretty
24 broad range of volume being reported by processors;
25 under a million, some well over a million.

1 In terms of how we look at that, how do you
2 see the industry in terms of how do these different
3 processors fit into the overall? I mean, you have
4 some smaller, some larger. How do they fit into the
5 big picture? Are they serving different markets? I
6 mean, what sort of explains this difference in
7 revenue, size of operations?

8 MS. DRAKE: I'm not sure if I have a
9 conclusive answer to that. I would be happy to talk
10 with folks and see if we can be a bit more responsive
11 perhaps in our brief, but I'm not aware of any clear
12 lines that smaller processors are only serving some
13 segments of the market whereas larger processor are
14 only serving others.

15 We have Ernie, for example, he is a smaller
16 processor looking to get bigger, but he's serving
17 retail markets, as well as distributors, as well as
18 restaurants. Generally to invest in an IQF line you
19 need to have a little bit more capital to do that, so
20 you're not going to find necessarily your smallest
21 processors having that, but a lot of folks are looking
22 to try to add that and get into that as well, and we
23 certainly have significant amounts of that in the
24 larger processors.

25 So I don't know if anyone else has anything

1 to add, but it's simply this is an industry that's
2 been around a long time throughout the region and so
3 there are all different sizes, but I'm not aware of
4 any clear dividing lines that they serve different
5 markets or have different products in the different
6 sizes of operations.

7 MR. BOYLAND: Thank you. And I guess that
8 sort of led into one other question regarding the type
9 of freezing. You mentioned IQF and blast freezing.
10 Are those two separate types of methods used to
11 freeze?

12 MR. McLENDON: Well, they are two separate
13 types of product forms, but they can compete with each
14 other as well. It's more a convenience factor, but if
15 pricing on an IQF is lower it will compete with the
16 block and vice versa.

17 MR. BOYLAND: Okay. Would IQF be the more
18 sophisticated version of freezing in the industry?

19 MR. McLENDON: It requires more expensive
20 packaging equipment. It's usually used with nitrogen,
21 ammonia or CO₂.

22 MR. BOYLAND: Okay. With respect to the BP
23 oil spill, your testimony referenced obviously a
24 significant decline in shipments in 2010 and then sort
25 of this inability to recapture the market.

1 In terms of are there other indirect or
2 direct impacts on the financial results that we should
3 be looking at, in other words, beyond sort of the
4 obvious volume impact? I mean, was there sort of a
5 price impact directly or indirectly, a cost impact
6 directly?

7 MS. DRAKE: As supply went down in 2010,
8 prices did start to go up and there have been absolute
9 increases in prices, but really the volume impact was
10 the primary impact of the oil spill in 2010, so I
11 think that that is where you would see it.

12 In terms of some of the larger folks, I
13 think they believe that their ability to operate at
14 their peak volume is of course helpful to their
15 financial position and so I think that likely explains
16 why 2010 was at least in the full calendar years the
17 worst in terms of financial performance.

18 MR. BOYLAND: In terms of the BP oil
19 settlement revenue and income, most processors are
20 reporting that as an Other Income line item. How do
21 you think we should be looking at that in terms of
22 financial results? Should we sort of disregard it?

23 MS. DRAKE: I think the Commission's normal
24 practice is to disregard below the line items when
25 looking at financial performance and instead to focus

1 on operating income.

2 There was one case that we're aware of, the
3 Coated Paper case, where below the line items came
4 into the analysis, but really the way it came into the
5 analysis there was because the tax credit issue it was
6 alleged actually contributed to the increase in the
7 cost to sales margin and so the Respondent's side
8 argued that it wasn't legitimate to attribute the
9 increasing cost/price squeeze to imports because it
10 instead was due to an item that was reflected in the
11 below the line income. The Commission made an
12 affirmative threat determination there rather than an
13 affirmative present injury determination here.

14 That sort of situation is not at all present
15 here. The below the line items, to the extent they
16 exist, are not impacting any of the above the line
17 items in terms of creating an artificial appearance of
18 costs being higher than they are or things like that
19 that might be relevant to injury. So we believe those
20 below the line items should, consistent with the
21 Commission's prior practice, be disregarded.

22 MR. BOYLAND: Thank you. With respect to
23 Mr. Connelly's opening statement, he referenced the
24 Byrd Amendment, and obviously that's another line item
25 that is reflected correctly in the financial results.

1 With respect to I guess the notion that the
2 industry should be accounting for that in some
3 specific way, reinvestment, did the industry use that
4 money in a particular way or is it sort of just
5 company specific?

6 MS. DRAKE: I'll let some of the processors
7 speak for themselves. Obviously it does vary by
8 producer, but again CDSOA money has always been
9 considered below the line and not taken into account
10 in injury determinations. The purpose of the money is
11 to help affected domestic producers that continue to
12 be affected by continued dumping, and the amount of
13 the tariffs collected and distributed reflect the
14 amount of continued dumping and thus continued injury
15 to the industry.

16 In the sunset review we had a number of
17 folks talk about how that money had been very
18 important to them in terms of enabling them to make
19 certain capital investments, and I think folks on the
20 panel would agree that in the years that that money
21 has been available it's been sort of a life line to
22 the ability to reinvest and make capital investments,
23 but it's sort of a year by year thing. It's nothing
24 that the industry relies upon.

25 MR. ANDERSON: I think I've got two examples

1 myself of that on different ends of the spectrum
2 regarding the previous Byrd monies. Also during that
3 time I owned and operated shrimping vessels in the
4 Gulf and one example, the last vessel that I owned --
5 it was in 2008 -- experienced a fire offshore.

6 I've carried insurance on that vessel since
7 the purchase of that vessel. That vessel initially I
8 purchased at a cost of \$350,000. I could no longer
9 insure the vessel above \$100,000 cost due to the loss
10 of valuation in the industry, the value of that vessel
11 in the industry.

12 As a result, the damage barely exceeded that
13 \$100,000. In the past that vessel -- it was a
14 wheelhouse fire -- would have been repaired and I'd
15 have been back to work, but I lost that vessel as a
16 result of devaluation. I never even come close to
17 receiving enough Byrd money to offset the valuation on
18 that boat and the two previous boats that I had to
19 sell in order to try to maintain and keep myself in
20 this market.

21 And also recently I believe that my
22 expansion -- I was leasing dock for about eight years,
23 and I took that Byrd money and I invested it in 475
24 foot of dock and a 75 foot building in order to
25 increase my ability to at some point process and

1 become a larger part of this industry as three
2 generations of my family have done off and on without
3 failing. They've always come back in this industry.

4 But what I see since 2003 and '04, when you
5 go down in this industry now you don't come back.
6 There's only one factor that's here now that hasn't
7 been here over the years, and that's the imports and
8 the pricing.

9 MR. BOYLAND: Thank you. You mentioned in
10 your testimony that you have a fleet of boats. I
11 mean, that suggests sort of a level of integration
12 that may not be common in other -- or it just depends.

13 I suppose other processors do have their own boats?

14 MR. ANDERSON: Well, in that testimony I did
15 at one point own and operate three vessels up until
16 '08, but the vessels I have -- in the industry, sir,
17 the vessels, they're vessels that do business with me.

18 I have no contract with them. They leave.

19 I maintain approximately 12 vessels, but if
20 you'll look at the list of those vessels over the
21 three years the vessels can interchange, the numbers
22 and which vessels they are. They may be here two
23 years ago, but not here, based on my ability to match
24 at beat prices.

25 MR. BOYLAND: Okay. Thank you.

1 MS. DRAKE: I was just going to say that
2 vertical integration is the exception rather than the
3 rule. Most of the processors don't have ownership
4 interests in boats.

5 I think, Ernie, when you owned boats that
6 was before you were a processor and then you got into
7 processing, right, but there are some isolated
8 examples of processors that do also own boats.

9 MR. BOYLAND: Okay. Mr. Kimbrough, you
10 mentioned the availability of credit, and just to get
11 clarification that's working capital or --

12 MR. KIMBROUGH: Asset-based financing.
13 Excuse me. Asset-based financing, capital for
14 inventory and accounts receivable.

15 MR. BOYLAND: And in terms of availability
16 of credit, is this sort of a -- I mean, I'm assuming
17 it's basically an industry-wide issue in terms of
18 the --

19 MR. KIMBROUGH: That's what I'm told, yes.

20 MR. BOYLAND: And, Mr. McLendon, you
21 mentioned obviously there's a significant investment
22 here in terms of your upgrades. You mentioned your
23 own private capital. Is that equity that had already
24 been --

25 MR. McLENDON: Yes, sir, and CDSOA money.

1 I'm sure if you look at our questionnaire responses as
2 well, I know we spent in excess of what our CDSOA
3 payments were.

4 MR. BOYLAND: This is just sort of a general
5 question. We had a few people submit -- not here
6 obviously, but the processors who submitted
7 questionnaires that in fact turn out to be what they
8 refer to as unloaders, which I was told basically
9 meant they took the shrimp from the boat and delivered
10 it to the processor. Is it correct to assume they're
11 not technically processors? Is that fair?

12 MS. DRAKE: Since those are confidential, I
13 don't believe any of those were our members. They may
14 have been other processors.

15 MR. BOYLAND: Yes. This is a general
16 question.

17 MS. DRAKE: Yes. The Commission previously,
18 when it had looked at what was sufficient activity to
19 constitute processing, looked at activities like
20 grading, deheading, freezing obviously, peeling,
21 deveining, et cetera, and found that some minimal
22 activities like simply just putting a skewer through a
23 shrimp didn't constitute processing.

24 So I believe that while there are certainly
25 a lot of gray areas, most folks would believe that

1 simply unloading without going through some amount of
2 grading and chilling or freezing or keeping on ice
3 would not be traditionally seen as processing.

4 MR. BOYLAND: Thank you. With respect to
5 the processors and the reported financial results, the
6 shrimp component is obviously the largest single part.

7 With respect to the other parts of the
8 processing, were there any significant changes during
9 the period in terms of costs increasing, decreasing,
10 that had an impact, a notable impact on the financial
11 results, or should I really be just looking at the
12 cost of the shrimp as the main driver?

13 MR. BABIN: We always have external factors
14 -- is this on -- that come into play. Rising fuel
15 cost, the cost of electricity, the cost of labor.
16 We're bound by the government to pay X amount of
17 dollars to our employees. I'm not quite sure that
18 always takes place on the other side.

19 But in respect to outside influences, each
20 one of us here would love to have not received Byrd
21 money because then that means we would not have been
22 bombarded by cheap, subsidized imported shrimp, but we
23 needed that money just to maintain.

24 Would we have liked to use that money to
25 expand? Sure, we would have, but as our market share

1 dropped over all those years and continues to drop you
2 need that money just on your bottom line. But we are
3 faced here in the United States with increasing prices
4 every year, so it just continues to get worse.

5 MR. BOYLAND: Thank you. I guess just a
6 sort of a general matter in terms of the input, again
7 looking at the shrimp. Testimony indicated that some
8 -- perhaps the majority -- is domestically procured.
9 Some is imported.

10 In terms of the imported shrimp that's used
11 as input, what form does it generally come in? I'm
12 assuming that there's some kind of distinction in
13 terms of how and what form it's being consumed. It's
14 obviously shrimp, but what is the difference, the main
15 difference?

16 MR. McLENDON: Our company specifically on
17 the import side purchases block frozen headless.

18 MR. BOYLAND: And so the shrimp that you're
19 producing domestically is obviously coming in in a raw
20 form. Is that sort of maybe the basic distinction?
21 The import is coming in frozen. You're going to have
22 to deal with that versus the domestic input.

23 MR. McLENDON: We purchase shrimp that are
24 actually frozen on the vessel as well.

25 MR. BOYLAND: Okay. All right. So it's

1 already frozen --

2 MR. McLENDON: Yes.

3 MR. BOYLAND: -- from both samplings. Okay.

4 Thank you for your answers to my questions. I have
5 no further questions.

6 MS. DeFILIPPO: Thank you, Mr. Boyland. We
7 will now turn to questions from Ms. Sherman.

8 MS. SHERMAN: First I'd like to thank you
9 all for joining us this morning. I only have a few
10 questions.

11 First for Mr. Kimbrough, you mentioned in
12 your testimony this morning that you purchase imported
13 shrimp or that you process imported shrimp. I was
14 just wondering. Do you purchase that or do you
15 directly import that shrimp?

16 MR. KIMBROUGH: I'm sorry. That last part?
17 Do I purchase it or?

18 MS. SHERMAN: The imported shrimp that you
19 process. Do you purchase that as imported shrimp, or
20 do you directly import that shrimp?

21 MR. KIMBROUGH: I purchase as imported
22 shrimp. I do not directly import.

23 MS. SHERMAN: Okay. Great. Thank you. And
24 I have one question regarding inventory. In the
25 petition there was a statement on page 19 that there

1 were significant inventories of imports at the end of
2 2011, suggesting that it could stay in inventory for
3 up to four months. Is this typical of the industry,
4 and do domestic processors typically hold inventory
5 for this long?

6 MS. DRAKE: Domestic processors certainly
7 put production into inventory and hold it in inventory
8 in the off season, which is at the end of the year and
9 the very beginning of the year. Others can speak to
10 that.

11 I believe that what we were referring to was
12 what was publicly available to us in terms of
13 importers' inventories and how ample they may have
14 been at the end of 2011 and into the beginning of
15 2012, but certainly our guys need to have inventories
16 in the off season in order to supply their producers
17 so that's a normal occurrence. But the level of
18 import inventories was what was relevant to us in
19 terms of a potential inventory overhang in 2012.

20 MS. SHERMAN: Okay. Thank you. I have no
21 further questions.

22 MS. DeFILIPPO: We will now turn to Ms.
23 Turner.

24 MS. TURNER: Good morning. Well, let me
25 start out with the beginning, which is the domestic

1 like product of course. I'm trying to understand the
2 difference here. Ms. Drake, the question is directed
3 to you to begin with and if any of the other attorneys
4 want to join in.

5 But looking at this from a legal matter, the
6 question is of course the Commission starts on the
7 domestic like product. It defines the domestic like
8 product to define a product that is like or most
9 similar with the scope of investigation. It doesn't
10 start with first defining the domestic industry, which
11 of course the provision that you've discussed that was
12 requested to include the fishermen in the previous
13 case was to actually define the domestic industry. It
14 wasn't to define the domestic like product.

15 So my question starts out with in the
16 Commission's opinion in 2011, which basically they
17 have a sentence where they summarize what they did in
18 the original investigation where they found that fresh
19 shrimp should be included in the domestic like product
20 because fresh shrimp was overwhelmingly used as an
21 input in the production of the frozen shrimp. Frozen
22 product.

23 Shrimp was overwhelmingly sold in a
24 processed form, and the initial stages of processing
25 did not significantly change the physical

1 characteristics and uses of the product and appeared
2 to add at most moderate value to the product, which is
3 the semi-finished product analysis.

4 So my question to you is what has changed?
5 When the Commission is looking at the domestic like
6 product now I know the scope still is frozen and each
7 case is sui generis, so what's changed for the
8 Commission to now find a clear dividing line between
9 frozen and fresh, which it did not find before?

10 MS. DRAKE: The facts of how much fresh
11 shrimp is dedicated to the production of frozen
12 shrimp, how much value is added, et cetera, we don't
13 believe have -- that is not the basis for us
14 requesting a different domestic like product
15 definition in this case.

16 And while certainly the point is absolutely
17 correct that the raw processed industry provision is
18 about the definition of the industry whereas the
19 semi-finished product analysis is about the definition
20 of the domestic like product and in the original case
21 the Commission used the semi-finished product
22 analysis, not the raw processed industry analysis, our
23 point was that by using the semi-finished product
24 analysis the Commission reached the result that the
25 domestic industry was seeking there, which was the

1 inclusion of fishermen in the domestic industry.

2 It did it through a different means. It did
3 not use the raw processed industry provision, but by
4 virtue of including the fresh shrimp in the domestic
5 product it was able to reach the result that the
6 Petitioner had requested in that case and was looking
7 for in that case. Here we are not requesting that
8 result.

9 Even if we limit ourselves just to the
10 semi-finished product test and move away from the raw
11 processed industry test, this is a test that is
12 employed by the Commission. It appears in its
13 discretion. It's not required by the statute. It's
14 very rare for this test to be imposed to bring in a
15 semi-finished product that is not also part of the
16 subject merchandise.

17 And our concern is that if this test is used
18 to bring in a domestic like product that is outside of
19 the scope of the subject merchandise it does impose an
20 additional burden on the Petitioner in terms of
21 demonstrating injury, and when we look in the past
22 when the Commission has done this it's done it very
23 rarely to bring in an outside-of-scope, upstream
24 product.

25 It's unusual for the Commission to address

1 policy issues in the definition of domestic like
2 product. Usually it's just a very factual analysis
3 under the legal factors and you won't see a lot of
4 policy discussion in that analysis, but we believe
5 there is an important underlying policy that one can
6 see through the Commission's consistent application of
7 this provision that would be undermined or
8 contradicted if the provision were applied in this
9 case.

10 As we noted, the semi-finished like product
11 analysis has been used to include nonscope, upstream
12 product when Petitioners have requested it, have
13 requested that it be included or have requested that
14 the industry producing that product be included,
15 neither which is the case here.

16 They have applied that analysis to bring in
17 upstream, out-of-scope product when the industry is
18 vertically integrated and, though it's not articulated
19 in those decisions, could be a legitimate policy
20 reason for doing that. There is a legitimate policy
21 concern potentially about distorting the injury data
22 if you have the same integrated producers only
23 reporting their operations on the finished product and
24 not on the semi-finished product by virtue just of how
25 they've defined the scope.

1 So in those cases there could be a
2 legitimate policy reason for looking at semi-finished
3 product, even though it's outside of the scope.
4 Again, that factual scenario is not the case here. So
5 we believe the fact that Petitioner does not include
6 the fishing segment, that Petitioner has not requested
7 that fresh shrimp be included in the domestic like
8 product or that fishermen be included in the domestic
9 industry and that the industry by and large is not a
10 vertically integrated industry so there's no concerns
11 about distorting injury data by virtue of focusing
12 only on the finished product, all of those factors
13 weigh against the Commission exercising its discretion
14 to use that analysis again in this case.

15 MS. TURNER: Okay. So the basis is not
16 necessarily a factual basis. The basis is more a
17 conclusion to get to a result that you're asking the
18 Commission to get to?

19 MS. DRAKE: It's based on the facts in the
20 sense that it's based on the fact of who is in the
21 petitioning group, and it's based on the fact of
22 whether the industry is integrated or not, and it's
23 based on prior Commission practice.

24 We were only able to find one case where the
25 Commission included an upstream, nonscope,

1 semi-finished product in the domestic like product
2 where it wasn't requested by Petitioner. That was the
3 Cephalexin case that I'm probably going to
4 mispronounce the name of that. But that was the only
5 case we were able to find where the Commission did
6 this, and again, as noted there, those were vertically
7 integrated producers and it was noted that it made no
8 material difference to the injury determination.

9 So we do believe that it would be a
10 departure from prior practice for the Commission to
11 decide to use that analysis in this case if it were
12 going to make a material difference in the injury
13 determination by requiring the domestic industry to
14 show injury not just to itself, but to nonintegrated
15 producers of an upstream, semi-finished product that
16 is not within the scope of investigation.

17 MS. TURNER: Okay. Thank you. If I can ask
18 the processors to each respond to a question, the
19 question being the shrimp that you purchase from the
20 shrimp boats. Are you purchasing that primarily all
21 primarily or primarily half and half fresh versus
22 frozen product?

23 Mr. Chauvin, you actually didn't testify,
24 but you're one of the processors. Do you want to
25 start at this side and just continue around? Is the

1 product that you're purchasing from the shrimp boats,
2 is that in frozen form or is that in fresh form?

3 MR. CHAUVIN: In my particular business I
4 would probably say it's about a 50/50 split. I sell
5 quite a few million pounds to Mr. McLendon here, and
6 it's probably about a 50/50.

7 MS. TURNER: Thank you. Mr. Anderson?

8 MR. ANDERSON: One hundred percent frozen.

9 MS. TURNER: Thank you. Mr. Kimbrough?

10 MR. KIMBROUGH: I would say probably 75
11 percent of mine is fresh, 25 percent frozen.

12 One thing that I'm not sure that you
13 understand when you say frozen shrimp on a boat. It's
14 not processed frozen. It's frozen simply to stay out
15 longer and keep it. It's defrosted when we get it and
16 further processed.

17 MS. TURNER: I do actually understand. I
18 was actually on the shrimp trip last time --

19 MR. KIMBROUGH: Okay.

20 MS. TURNER: -- so saw this, but that is an
21 important distinction. But what I'm getting at is
22 actually the input product, which would be rather than
23 the process, which is what we're looking at here.

24 Mr. McLendon?

25 MR. McLENDON: Mr. Chauvin is one our

1 suppliers, as he stated earlier. I would say our mix
2 is probably 40 percent frozen, 60 percent fresh.

3 MS. TURNER: Mr. Gibson?

4 MR. GIBSON: Our split would be between 90
5 frozen, 10 percent fresh.

6 MS. TURNER: Okay. And Mr. Babin?

7 MR. BABIN: Mine is probably about 50/50
8 now. It used to be more like 80/20 frozen, but I just
9 don't have those boats anymore because they don't
10 exist.

11 MS. TURNER: Has there been a change in the
12 market in terms of the change in actually what you're
13 able to purchase; that now you have more supply? You
14 just raised that; that you're purchasing more fresh
15 now than before, and my question is for you there
16 seems to have been a change. For others has there
17 been a change, or has this been consistent, fresh
18 versus frozen input?

19 MR. BABIN: The reason for the change in
20 mine is because the number of boats that used to
21 unload at our dock that had freezing capacity either
22 moved to other states or are no longer operating a
23 shrimping vessel, so that's the circumstances.

24 I would have preferred to stay in the mode
25 that I was in prior to, but because circumstances

1 change we had to change our business to actually do it
2 so it brought it down to that percentage.

3 MS. TURNER: I'm just trying to get at
4 whether in fact in the original timeframe, which was a
5 number of years ago that the original case was,
6 whether things have changed. For your situation it's
7 actually moved from frozen to fresh. Have others seen
8 that, or have you seen it move the other way?
9 Anybody?

10 MR. McLENDON: I think our operation has
11 stayed similar through the range.

12 MR. CHAUVIN: I would say that the majority
13 of our vessels prior to collecting some of the CDSOA
14 money were fresh and they used that money to purchase
15 onboard freezers.

16 MR. ANDERSON: Previously in operating I had
17 a fuel and ice dock that I operated for several years,
18 and because of the integration movement to frozen I
19 had basically 30 to 36 vessels. Two of those were
20 freezer. Over a three-year period in the '90s I ended
21 up with two ice boats. I'm talking about Gulf
22 production.

23 And also when you're asking about the
24 changes now, what are we doing fresh relative to what
25 we were producing, as I said, you may have been

1 producing a million pounds. Eighty percent of that
2 might have been frozen, twenty percent fresh. Now you
3 might only be producing half a million pounds being
4 fresh and frozen so the scope of that fresh product is
5 overall a smaller amount.

6 MR. GIBSON: In our business, it's been that
7 many of the boats have changed over. A lot of the
8 older vessels may have got out or some of the vessels
9 got larger and they added freezing equipment so that
10 when they go out, everything that they catch is frozen
11 on the vessel, so we would receive it that way.

12 MS. TURNER: Okay. Mr. Kimbrough, and any
13 of the others, but you had indicated that you purchase
14 imported shrimp, and so is that actually, I would
15 imagine that's in frozen form, as opposed to fresh.

16 MR. KIMBROUGH: Yes, ma'am, all frozen.

17 MS. TURNER: Anybody else purchase imported
18 shrimp to process who's here?

19 MR. MCLENDON: Yes, ma'am, we do as well,
20 and it's all frozen.

21 MS. TURNER: Okay. This was actually just
22 one question. Mr. Kimbrough, you had actually
23 indicated that you purchased on the docks -- let me, I
24 actually highlighted it -- the docks all over the Gulf
25 Coast and the south Atlantic, so actually it was much

1 more. I thought it was more specific. Where do you
2 actually purchase your imports? I mean that's not
3 going to be on the docks, I take it.

4 MR. KIMBROUGH: No, ma'am. Usually they're
5 FOB Miami or New York.

6 MS. TURNER: And do they arrive by plane or
7 is it --

8 MR. KIMBROUGH: No, ma'am. Freight lines.
9 Common carriers.

10 MS. TURNER: Freight?

11 MR. KIMBROUGH: Yes, ma'am.

12 MS. TURNER: Okay. So it's, how long of a
13 time is it between when that's caught and it's, is
14 that just out of inventory or is that, that it's
15 shipped to you. I'm just trying to get a timeline.

16 MR. KIMBROUGH: Well, when I purchase
17 imported shrimp for my distribution processing
18 business it is most of the time already in this
19 country and has passed Food and Drug inspection, and
20 probably from the time I buy it until the time I get
21 it is a week or less.

22 MS. TURNER: But from the time it's caught
23 do you have any idea how long?

24 MR. KIMBROUGH: I really don't know. I mean
25 in conversation with the vendors that supply with that

1 I'm told from the time you process it in Asia and get
2 it on a ship, get it over here and get it cleared, it
3 can be from 75 to 90 days. I think from Latin America
4 it's less than three weeks. Just what I think I've
5 been told.

6 MS. TURNER: Okay. Mr. McLendon, do you
7 have any different?

8 MR. MCLENDON: It's been our experience
9 where most of the lots and the date codes are
10 somewhere in the two to six month range.

11 MS. TURNER: Okay. And yours is mostly, as
12 well, shipped by freight and it's, I mean ocean
13 freight and it's to Miami, or does it come in
14 somewhere else?

15 MR. MCLENDON: It usually arrives to us as a
16 delivered cost. They may have it stored in Miami, or
17 New York, or Atlanta, but we purchase it from the
18 importer or from the trader and have it delivered to
19 our plant.

20 MS. TURNER: Okay. Then the next question I
21 had was actually, Ms. Drake, regarding dusted shrimp.

22 If you can -- that was an issue in the review. My
23 understanding is it is included in the scope this
24 time. If you can just elaborate.

25 MS. DRAKE: Yes. We are trying to avoid any

1 future problems, so yes, dusted shrimp is included in
2 the scope this time, consistent with the revised scope
3 of the antidumping orders.

4 MS. TURNER: Okay. I also have another
5 question on the sufficient production for processing
6 which you had actually noted in terms of what the
7 Commission had done, and I just wanted to, you know,
8 the Commission actually had found that activities such
9 as deheading, grading, machine peeling and deveining
10 all constitute domestic production, as well as
11 cooking, were sufficient, but that marinading and
12 skewering, things that didn't include specialized
13 equipment, really was the breakdown, the breakout
14 between whether something had sufficient domestic
15 production.

16 Do you have anything to add to that? Do you
17 agree with that?

18 MS. DRAKE: Yes. That correctly summarizes
19 the position of the prior determinations, and I don't
20 have anything to add to that.

21 MS. TURNER: Okay. The last question that I
22 have just does have to do with I understand that there
23 are, nobody here is -- Mr. Boyland actually had
24 started this questioning in terms of whether the
25 ownership of any of the, whether any of you actually

1 own some of the boats or are they all independent
2 contractors to you that you purchase from.

3 MS. DRAKE: Mr. Chauvin is one of our
4 processors that does own some boats, which is why we
5 brought him today, because most of our processors do
6 not. So if you have any specific questions, you can
7 ask.

8 MS. TURNER: No. I just basically was
9 trying to get a take on whether, in fact, there was
10 some in this mix. That's it for my questions today.
11 Thank you.

12 MS. DeFILIPPO: Thank you, Ms. Turner. Ms.
13 Preece, do you have questions for this panel?

14 MS. PREECE: First of all, a couple of you,
15 Mr. McLendon and Mr. Gibson mentioned they had weekly
16 price lists. Can you describe what would be
17 differentiation on the price if you're, on this price
18 list? Are these price lists firm or could you change
19 within that week?

20 MR. MCLENDON: On our weekly price list
21 we're going to separate the shrimp out by brand,
22 sizes, types, colors. So we'll have peeled, peeled
23 and deveined, peeled and deveined tail on, in both
24 white and brown, in different IQF forms also, and the
25 price sheet is negotiable. It also says subject to

1 change at any time.

2 MR. GIBSON: On ours, it's pretty much the
3 same. We separate by brand, by color. We only do
4 headless shrimp in our facility so we separate by
5 grade, and of course it is subject to change depending
6 on what information we have and what our inventories
7 may be at the time.

8 MS. PREECE: Thank you. That's very
9 helpful. Okay. Well, I have too many questions so I
10 won't ask them all. Have there been, we have the
11 case, the review case, data from that, and I'm just
12 trying to see whether there's anything that you could
13 say has really changed since the 2011 review. Has
14 consumer demand recovered from the BP oil spill?

15 MS. DRAKE: I believe that in the sunset
16 review there were mixed views among the processors in
17 terms of how long there may be lingering concerns
18 among consumers about the effects of the spill. From
19 my understanding and the vast majority of the market,
20 those concerns are no longer a significant factor.

21 There's obviously been a lot of effort in
22 terms of testing and public education in the wake of
23 the spill, so my understanding from folks is that if a
24 customer does mention something like that, it's
25 usually seen as a negotiating tactic rather than a

1 legitimate concern that they're hearing from their own
2 consumers.

3 MS. PREECE: There seems to be some
4 regionality in demand for this product. Is that true?
5 Do different regions have different types of
6 restaurants that serve shrimp or is that just a
7 misconception that I have because of looking at
8 questionnaires?

9 MR. MCLENDON: I think that you're going to
10 find the different geographic areas across the
11 country. Usually in maybe your tourism-related areas,
12 like the Florida panhandle or Myrtle Beach, South
13 Carolina, they may use a specific type of shrimp
14 that's related more to the types of restaurants that
15 they have there, and you also may go inland and find
16 specific regions that have certain fish houses that
17 all cook similar items in similar sizes, and you may
18 go up to Virginia, which primarily is going to prefer
19 brown shrimp over white shrimp.

20 MS. PREECE: If you were presented with a
21 brown shrimp and a white shrimp that had been peeled
22 and cooked, could you tell the difference?

23 MR. MCLENDON: Yes, ma'am, I could.

24 MS. PREECE: And could you taste the
25 difference if I closed, if I blindfolded you?

1 MR. MCLENDON: Well, it's been my
2 experience, I believe I can. I can smell it when I
3 walk in the plant, the difference, and you can
4 certainly taste it, but from my experience, the folks
5 who prefer brown shrimp, the brown shrimp is
6 indigenous to the area where they grew up so it's more
7 of a familiarity with what they were used to.

8 MS. PREECE: Okay. And so does this affect,
9 I mean there seems to be some difference between the
10 wild caught demand and the imported demand, maybe not
11 in every area, but is there a regional demand that
12 seems to be more specific to the wild caught, or can
13 you sell it better in local markets, in, say in
14 California?

15 MR. MCLENDON: Well, we were actually at the
16 Seafood Festival in Biloxi, Mississippi, and right
17 there in the heart of Biloxi, Mississippi, they were
18 serving imported shrimp at the festival.

19 MS. PREECE: Of course. Okay. Thanks.

20 MR. ANDERSON: When you're talking about the
21 differences, one of the things I see in the markets --
22 I also have integrated in distribution. I go into
23 Atlanta, I go north, I go west, and you know, along
24 the Gulf Coast.

25 Also, part of our, in our marketing research

1 that we have gotten back from marketing, we're looking
2 at our Coast and what you'll see when you go into
3 those areas, when they come down to the Coast and they
4 go into Louisiana and they're seeing that, and that's
5 what they're seeing there is white shrimp, but they're
6 seeing a brown shrimp in Alabama. They go back to
7 Birmingham. I can sell those. Seem to be more -- the
8 appearance, they're there.

9 Now, when I go into an area and I go into a
10 market that's predominantly imported shrimp, I don't,
11 it's not so much, you know, the, when you're talking
12 about the taste, the difference, it's the appearance,
13 what they have been seeing. They see the white
14 shrimp. That's what they, you know, are easier to
15 move over to that market. You know, move that market
16 to it.

17 MS. DRAKE: Yes. I think certainly our guys
18 who are in the shrimp industry every day are, you
19 know, can see the differences between species, and
20 flavor and things like that, but I think when you look
21 at the Commission's determination in the sunset
22 review, they found that the majority of purchasers
23 found that wild caught and fresh shrimp could be used
24 for the same end uses, and price changes in one were
25 reflected in price changes in the other.

1 So we've also seen, I think we've put on the
2 record a study of whether or not country of origin
3 labeling had changed demand patterns for shrimp and
4 that label includes information on whether it's wild
5 caught or farmed, and at least that study we were able
6 to find, did not find evidence of a shift in demand
7 patterns because of that labeling.

8 So while there certainly can be some
9 differences on the margin and perhaps some consumers
10 that can perceive those differences, I think the
11 evidence in the record that we've seen to date is that
12 there still is direct competition between them in the
13 vast majority of the market.

14 MS. PREECE: But the price lists would
15 differentiate between white shrimp and brown shrimp,
16 and therefore, to a certain extent, there is some kind
17 of, little bit of price difference between white
18 shrimp, brown shrimp. Is that correct, basically? I
19 mean they may be, sometimes brown may be higher than
20 white. I'm not saying that one is higher than the
21 other, but I'm saying there could be differences and
22 people will pay those differences sometimes.

23 MR. ANDERSON: I don't see it, it's not a
24 market. I think it's more the availability. I see
25 the brown and white moving between availability moreso

1 than what, you know, the market or the end user, so
2 it's availability. I see those prices because of the
3 cost of purchasing that raw material to produce that
4 product.

5 MS. PREECE: Yes, but somebody's willing to
6 buy it. You don't just sort of throw it all together,
7 and devein it and send it out. There's some
8 differentiation. Okay. Okay.

9 MS. DRAKE: And there are also different
10 seasons for white and brown so that can indicate, you
11 know, how recently it was caught or not depending on
12 whether it's white or brown.

13 MR. GIBSON: Yes, ma'am. One more comment
14 on that. Historically, the white shrimp usually
15 bought in our premium price which was 10 cents more
16 per pound in the buying. It's not a great difference.

17 With the advent of the imported product being so
18 prevalent, the white shrimp now quite often fetch 10
19 cents or 20 cents less per pound.

20 It's changed that way just because of the
21 influx and the amount of product that is there. It's
22 actually lowered the price and changed that slightly.

23 They usually, and some areas will interchange and
24 some will not depending on the price between the white
25 and the brown.

1 MR. ANDERSON: Ms. Preece, you brought a
2 point earlier about the BP, your question, and
3 apparently its comment here, but I want to just make a
4 point that in December in our Alabama Marketing
5 Commission, Seaford Board, we received, we had been
6 like doing focus groups, doing surveys.

7 In December our number one problem that we
8 had as far as in the market, what we needed to target
9 was imports. There was no longer a perception. It's
10 imports that was the result of those surveys.

11 MS. PREECE: Okay. I have another question
12 that's completely in a different direction, so hold
13 on. If I went to a restaurant and got a plate, dish,
14 with shrimp, how much of the cost of that dish would
15 be the shrimp? Does anybody have a guess? Your guess
16 is better than mine. That's all I can say.

17 MR. MCLENDON: Actual food cost, excluding
18 labor and overhead for the restaurant, I would say 75
19 percent.

20 MR. BABIN: It's a very difficult question
21 to answer because if you were in Washington, D.C., it
22 may be a much higher cost than it would be in south
23 Louisiana simply because of what goes on in
24 Washington, D.C., or New York City, or in Chicago.

25 Our cost, our sale price to that individual

1 may be the same in New Orleans, Louisiana, exclusive
2 of freight, as it is in Washington, D.C. What happens
3 to that price after is not in our control.

4 MS. PREECE: It's just I'm trying to look at
5 cost shares and this is a question that drives me
6 crazy and everybody else who gets the question doesn't
7 understand it so I'm just trying to --

8 MS. DRAKE: Well, we'd be happy to see if we
9 can find some information for you posthearing, if that
10 would stop you from going crazy.

11 MS. PREECE: That would be most helpful
12 because I don't like random numbers. We have a bunch
13 of new countries in this case, and is there anything
14 about these countries that is somewhat different than
15 the countries we've had in the previous review? I
16 mean I've asked you whether there have been changes
17 since 2011. Now we've got some new countries. Are
18 there differences because of these new countries? I'm
19 happy to have a no, but it would be much, it would be
20 easier for me if it's no, but I really do want the
21 truth, so give me that.

22 MS. DRAKE: For Ecuador, obviously they were
23 included in the original investigation so all of the
24 factors you look at here were looked at in the
25 original investigation for Ecuador, and I don't

1 believe there have been any significant changes that
2 would impact that analysis regarding Ecuador.

3 Regarding Indonesia and Malaysia, we
4 reviewed a number of the different factors for
5 cumulation for the two countries and I'm not aware of
6 significant differences. Different marketing
7 materials we've been able to find do advertise
8 Indonesian shrimp, along with shrimp from the other
9 countries.

10 As Mr. Babin mentioned, one of his customers
11 quoted him not only import prices from India, but also
12 import prices from Malaysia, so in terms of being
13 present in the same markets and being part of the
14 import competition that our processors are faced with,
15 we're not able to perceive any significant
16 differences.

17 There was also, I believe the Mazzetta
18 article that we quoted, where he was quoted that we
19 put up on the screen, he was discussing Indonesian and
20 Indian shrimp, saying that even though, you know, he
21 may have seen some differences, his customers did not,
22 and so he was, you know, he had Indonesian shrimp that
23 was competing against Indian shrimp in the market with
24 his customers.

25 So we've not seen any evidence of any

1 significant differences for Indonesia and Malaysia or
2 significant changes from the original investigation
3 for Ecuador that would merit a different net result.

4 MS. PREECE: Okay. Thank you very much for
5 your testimony. It's been very helpful.

6 MS. DeFILIPPO: Ms. Berry, any questions
7 from you for this panel?

8 MS. BERRY: I just have one question. I
9 want to take the opportunity to confirm my
10 understanding of block freezing versus IQF. My
11 impression is that block frozen is only suitable for
12 customers in large food service industry because it
13 has to be thawed all at once, is that correct? If so,
14 is demand for block frozen among those customers
15 stable or are they moving more towards IQF? Thank
16 you.

17 MR. BABIN: Block frozen versus IQF, simply,
18 IQF stands for individually quick frozen. As Jonathan
19 said, it's either you either use CO2, nitrogen, or
20 ammonia to freeze it, and each individual shrimp is
21 frozen on its own. Block frozen, we do it in five
22 pound boxes.

23 The institution who knows how much they're
24 going to use or can assume how much they're going to
25 use every day has no problem using either way. The

1 smaller operations may use IQF because it is more
2 convenient. If someone walks in and wants fried
3 shrimp, let's say, on their menu and they didn't have
4 any defrosted, then they could take out the six, to
5 nine, to 12 shrimp, whatever they put on their
6 platter, and utilize it.

7 As far as convenience, that's left up to the
8 individual customer that would prefer one over the
9 other. The benchmark in our industry has always been
10 five pound block frozen shrimp.

11 MR. MCLENDON: I haven't seen any decrease
12 in demand from block frozen shrimp myself. Been in
13 grocery stores Biloxi, Mississippi, Louisiana and New
14 York City, and even block is available in a retail
15 pack there. Typically, the individual quick frozen
16 shrimp, they may dehydrate quicker since they're not
17 protected.

18 MS. DeFILIPPO: Thank you, Ms. Berry. Ms.
19 Haines, do you have any questions for this panel?

20 MS. HAINES: Since the earlier investigation
21 has there been much consolidation of the processors or
22 have there been any new processors come on the market?

23 No. It's pretty much the same players. Okay.

24 MS. DRAKE: As far as we know. I think
25 there may have been a couple smaller folks that may

1 have dropped out since then, more, you know, reduced
2 production, but I don't think there's been any
3 consolidation or big new players. Yes, nothing
4 significant.

5 MS. HAINES: Nothing significant.

6 MS. DRAKE: Just normal activity of the
7 margins.

8 MS. HAINES: Okay. Thank you. Another
9 quick question about the fishermen. Mr. Chauvin, is
10 the trend that more of the fishermen are having the
11 freezing capacity on their boats? You said that you
12 had put in the freezing capacity on the boats. Is
13 that sort of a trend that's going with the fishermen?

14 MR. CHAUVIN: I don't see it as a trend that
15 will continue because of the demographics and the
16 different size vessels.

17 MS. HAINES: Would it be largely the larger
18 boats that would put it on?

19 MR. CHAUVIN: The larger vessels would put
20 the IQF systems onboard, yes.

21 MS. HAINES: Okay.

22 MR. BABIN: Ms. Haines, just in the
23 geography of Louisiana is different than most states.
24 We have an inland fishing area in Louisiana and an
25 offshore fishing area. The inland fishing area is

1 primarily smaller to medium-sized boats, the offshore
2 industry is medium to large boats. You see the
3 freezing taking place in the offshore area, whereas
4 the majority of the boats fly the inland waters, so it
5 is an efficient way for the bigger boats to hopefully
6 catch more shrimp, stay out longer, but the majority
7 of the fleet is of the smaller size that would be of
8 the ice boat variety.

9 MS. HAINES: Okay. That's helpful. Thank
10 you. Actually, that's all I have at the moment.
11 Thank you.

12 MS. DeFILIPPO: Thank you, Ms. Haines. I
13 have a couple of questions, I think. I've tried to
14 cross off the questions that I had as staff has asked
15 them and hopefully have done a good job. Just a
16 couple quick sort of follow-up ones. Mr. Boyland was
17 asking Mr. McLendon about the technology and he had
18 asked, I think it was were you seeing those similar
19 kind of things in other U.S. producers. The question
20 I had was are you aware of similar technological
21 advances in the subject countries?

22 MR. MCLENDON: I can't really speak from
23 experience over there but it's my understanding that
24 most of, at least from some of the equipment
25 manufacturers, that they have been moving some items

1 over there but the majority of production overseas is
2 still based off of manual labor.

3 MS. DeFILIPPO: Thank you. Following up on
4 one of Ms. Preece's questions on the price lists, are
5 the price lists same, or similar, for imported shrimp?
6 Do they also put out similar types of price lists in
7 the market?

8 MR. ANDERSON: Yes, ma'am. That's been my
9 experience.

10 MS. DeFILIPPO: Do you know, do they specify
11 on those country of origin in addition to say sizing
12 or something?

13 MR. MCLENDON: I have seen mostly regional.
14 Whether it's Vannamei or a Black Tiger, that's the
15 types of differences that I see.

16 MS. DeFILIPPO: Okay.

17 MR. BABIN: I'd like to add to that. The
18 majority of lists that I get specify the country that
19 it's coming from.

20 MS. DeFILIPPO: Okay. Thank you. I think
21 this was in someone's testimony, and I apologize that
22 I didn't write it down, who said it or what, but just
23 to verify, we've talked about the different segments,
24 retail, restaurant, in food service. Competition from
25 imports is in all of those? Are you all experiencing

1 seeing it in all, or is it more intense or one or more
2 of those three segments?

3 MR. ANDERSON: I see it in all aspects of
4 it. One of the products that I see out there that
5 I've attempted to start moving in is a peeled shell
6 on, like 26/30 cooked shell on. In the retail that's
7 one of the largest movers at the retail level. That's
8 where we come in. We've tried to use machinery and
9 other forms, but we always have to seem to move back
10 to the hand peeling, and the competition, being able
11 to compete with that is, we're just unable to do, get
12 that market.

13 MR. GIBSON: We see competition across the
14 board because, you know, we can do, it's because if
15 it's a like product, it's a headless, or it's a peeled
16 and deveined, or it's a peeled vein in, vein out,
17 they're all like product in that way so we see that
18 across the board, you know? Most of this product ends
19 up as being an ingredient in something so it's very
20 much similar in the commodity market.

21 MS. DeFILIPPO: Would that be true for
22 across the board in terms of country of origin or are
23 there any countries that we're looking at in the
24 subject countries that may be more predominant in one
25 segment or another, or is it generally, too, kind of

1 across the board for all the countries?

2 MS. DRAKE: We can look at the, I welcome
3 anyone to answer that but we can also look at the HTS
4 categories which break it into, you know, shell on,
5 peeled. There's not a separate category for cooked,
6 but there's the prepared products.

7 Certainly, while volumes and shares within a
8 country within the product range will vary, for most
9 of the countries you'll see product coming in in
10 virtually, you know, all of those categories, the
11 peeled, the shell on, the different sizes, et cetera,
12 so, but we'd be happy to look at that further, if
13 you're interested.

14 MS. DeFILIPPO: I think that actually gets
15 at all the questions that I wrote down. I would like
16 to say thank you again. It's been very helpful having
17 you all here testifying and answering our questions.
18 We'll take a quick 10 minute break to just let
19 everyone stretch your legs, use the restroom, et
20 cetera. We'll come back at 11:40 for the Respondents'
21 testimony. Thank you.

22 (Whereupon, a short recess was taken.)

23 MS. DeFILIPPO: Mr. Connelly and your panel,
24 please proceed when you are ready to go.

25 MR. CONNELLY: We're ready. We're going to

1 start with Eric Bloom from Eastern Fish, and then
2 we've got a very knowledgeable panel of witnesses
3 today, but I just want to make one quick remark before
4 we do that.

5 The Petitioners this morning showed a slide.

6 It's No. 19. It's the quote from Sysco. The quote
7 is, "Whatever your choice, Tigers, whites, browns,
8 domestic, China, Vietnam, Indonesia, Thailand,
9 Ecuador, cooked, breaded, raw, peeled, Portico has you
10 covered." That is our precise point. These products
11 are being offered to appeal to people and customers
12 who have different preferences.

13 This is not a quote that goes to the issue
14 of interchangeability, it goes to the fact that we
15 have these wide variety of shrimp in different forms,
16 different countries. What Sysco is trying to do is
17 maximize its sales. As we've said in our opening
18 remarks, and as you'll hear again today, what that
19 means is that domestic shrimp has a market. Some of
20 your questions went to regionality this morning. It's
21 a very important issue. So, with that, I'll turn it
22 over to Eric Bloom.

23 MR. BLOOM: Good morning. Thank you for the
24 opportunity to speak. My name is Eric Bloom. I'm
25 President of Eastern Fish Company located in Teaneck,

1 New Jersey.

2 We've been purchasing shrimp, mostly
3 important, but some domestic, for 30 years. While we
4 began as a fish and crab trading company sourcing
5 products from Alaska and Canada, in 1982 we began
6 supplying farm-raised shrimp to a wide variety of
7 customers, including Pathmark supermarkets, Red
8 Lobster and Safeway supermarkets.

9 Eastern sources more than 60 million pounds
10 of shrimp per year from 12 different countries,
11 primarily Thailand, Mexico, Indonesia, India, China,
12 Peru and Honduras. We are one of the world's larger
13 suppliers of farm-raised shrimp and wild caught
14 shrimp.

15 Much has changed since the antidumping
16 investigation eight years ago. Primarily, there's
17 been a huge increase in the globalization of the
18 shrimp business. A large volume of shrimp exports
19 from the seven countries being investigated now no
20 longer are destined for the United States. Now the
21 trend is towards other markets where customers are
22 significantly increasing their purchases.

23 Six years ago our supermarket customers in
24 Belgium, Switzerland and Germany bought only limited
25 quantities of freshwater shrimp from Asia. Now, our

1 biggest sellers to Europe are warmwater shrimp from
2 Thailand, India and Vietnam, and we sold more to
3 Europe in 2011 and 2012 than ever before. China also
4 has significantly increased its consumption in
5 imports. China is purchasing substantial volumes of
6 shrimp from Ecuador, India and Vietnam.

7 Like our company, foreign shrimp exporters
8 know their potential for growth lies in Europe and
9 Asia and they already have made inroads into these
10 markets now and continue to establish permanent
11 relationships.

12 In contrast to increased shipments in
13 foreign markets, the U.S. market is relatively stable.

14 We constantly are visiting producers overseas. We
15 speak with dozens of suppliers and customers, and I
16 can tell you that the outlook for the U.S. shrimp
17 market is the same. No one expects any significant
18 increases or decreases in the volumes of shrimp
19 imported or consumed in the United States in the near
20 future.

21 Trade now is so diversified and there are so
22 many options that overall imports will not increase or
23 decrease with the existence of CVV orders. Like
24 chicken and beef, shrimp is now an established center
25 of the plate protein option in the U.S. and any

1 increases will be gradual, as with other protein
2 commodities.

3 At Eastern Fish, we are agents for our
4 customers. We buy what they want us to buy. We
5 purchase domestic scallops and lobster and even some
6 domestic shrimp, but we cannot rely on only domestic
7 shrimp. This is true not just because domestic shrimp
8 can supply only a fraction of U.S. demand, it is
9 primarily because of specific customer demands. There
10 are significant differences between domestic wild
11 caught shrimp and foreign farm-raised shrimp and it is
12 these differences that drive customer demands.

13 In an early attempt to develop new supplies,
14 Eastern devoted two years to developing domestic
15 aquaculture in the U.S. Our head of quality control
16 for the Americas traveled to Texas to show U.S.
17 farmers how to increase the quality of their shrimp so
18 they can compete with imports. We also taught them to
19 produce high quality, head on shrimp to obtain higher
20 returns. After a few months, the farmer in Arlington,
21 Texas who we were working with told us he'd no longer
22 sell to us because he can sell to others that did not
23 demand the high quality specifications that we
24 required. Moreover, we never obtained farmed U.S.
25 shrimp the same price as we got for imported shrimp

1 because our customers felt the U.S. shrimp was of
2 inconsistent quality.

3 In this country, U.S. buyers of domestic
4 wild caught shrimp generally will not shift to
5 imports. Some buyers, such as the U.S. Government,
6 specify U.S. shrimp is the only type acceptable.
7 Other buyers need U.S. shrimp because of written
8 specifications or because their customers, or their
9 customer prefers the flavor. For these reasons, U.S.
10 shrimp cannot be replaced by imported farmed shrimp
11 from overseas.

12 No customer has ever told me they use U.S.
13 shrimp because of the quality. To the contrary,
14 customers seeking a consistent high quality product
15 year round must by imported farmed shrimp. Customers
16 seeking consistent quality shrimp in guaranteed
17 quantities also must by imported shrimp.

18 Eastern makes sales forecasts and buying
19 decisions months in advance. I need to be able to
20 know today that my suppliers will deliver six months
21 from now, and while there are sizeable producers in
22 the United States, none of these guys can guarantee
23 delivery to me in the sizes and quantities that I
24 want, when I want. There might be plenty of fish in
25 the sea, but there's only so much shrimp in the Gulf,

1 and that quantity is prone to fluctuations, whether
2 due to hurricanes, fuel prices, or as we've recently
3 seen, man made disasters.

4 Because of their higher quality and
5 guaranteed availability, farmed shrimp imports have
6 increased our business certainty and that of our
7 customers as well. Restaurants can plan menus and
8 pricing due to the programming and consistency of
9 farmed shrimp. Supermarkets can plan advertising
10 schedules without having to store large volumes of
11 product. This leads to healthier cash flows and
12 reduced supply chain costs.

13 Moreover, the growing demand for value added
14 products has made imports indispensable to many
15 customers. By value added, I mean peeled and deveined
16 shrimp products. Most of Eastern Fish's imports from
17 subject countries are further processed goods, which
18 are almost unavailable from the domestic industry.
19 Most U.S. product is marketed in the basic shell on
20 block form, and to the degree that shrimp are peeled,
21 they are mostly peeled by machine with significant
22 broken shrimp and shell remaining.

23 Two or three supermarket chains that are
24 good customers of mine have stopped offering domestic
25 shrimp because of the lack of sales. In explaining

1 the switch, they say they cannot rely on the
2 inconsistent domestic supply and have often had to
3 reject product for quality issues.

4 One more reason why our customers demand
5 farm-raised shrimp is sustainability. Unlike foreign
6 producers, the U.S. industry cannot get third party
7 certifiers to say their production process is
8 sustainable. Using sustainable resources is now a key
9 marketing component of restaurants and grocery chains
10 and the domestic industry fails the test. Only
11 processors that rely on aquaculture farm can be third
12 party certified. Only imports can meet this goal.

13 IN conclusion, better quality products,
14 combined with larger and more consistently available
15 supply have put foreign shrimp producers in a
16 competitive position globally. These advantages are
17 the reasons that these products are different from
18 those available from U.S. producers.

19 One further comment. As an American, I'm
20 deeply troubled that our industries are no longer
21 working to improve themselves. They seem very content
22 to assign blame to others and look for handouts
23 instead of looking inward. Thank you for your time
24 today.

25 MR. CONNELLY: Our next speaker is Mark

1 McCloskey from H&N Group.

2 MR. MCCLOSKEY: Good morning. My name is
3 Mark McCloskey and I'm the Senior Vice President of
4 Purchasing and Product Development for The H&N Group.

5 H&N is a global seafood importer based in California.

6 We're among the largest seafood importers in North
7 America, importing and distributing a wide variety of
8 seafood products, including frozen shrimp.

9 Shrimp in fact accounts for 50 percent of
10 our corporate revenue. We import frozen warmwater
11 shrimp each year from countries including Thailand,
12 Ecuador, Indonesia, India and Vietnam, and we sell to
13 customers nationwide. I've been an executive in the
14 seafood distribution and import industry for nearly 30
15 years.

16 Domestic shrimp is wild caught from the Gulf
17 Coast while most imported frozen shrimp is farm-
18 raised. I will be the first to admit that Gulf Coast
19 shrimp, when it's fresh caught and not chemically
20 altered, tastes great, maybe even better than imported
21 shrimp. It is precisely because fresh Gulf Coast
22 shrimp tastes so good that the product has maintained
23 a stable customer base in certain locations in the
24 midwest, mid-Atlantic and Gulf Coasts.

25 When it comes to the U.S. market for frozen

1 shrimp, however, it's a different story. In my
2 experience, frozen Gulf Coast shrimp simply does not
3 compete head to head with imported frozen shrimp. H&N
4 sells imported frozen shrimp to large national and
5 regional customers, restaurant chains like
6 TGIFriday's, Ruby Tuesday's and Applebee's, and
7 national supermarket chains such as Publix, HE Butt
8 and Harris Teeter. These large customers buy small
9 quantities of domestic frozen shrimp.

10 H&N also sells imported frozen shrimp to
11 major food service distributors like Sysco and U.S.
12 Food Service. National food service distributors buy
13 some domestic frozen shrimp to satisfy their local
14 customers that traditionally prefer Gulf Coast shrimp,
15 but mostly buy imported frozen shrimp.

16 Overall, our customers consider domestic
17 frozen shrimp to be inferior to imported shrimp for
18 several reasons. First, Gulf Coast frozen shrimp
19 frequently has a poor appearance. There are two main
20 methods of catching shrimp in the Gulf.

21 The first uses freezing boats. The shrimp
22 is caught and treated with a chemical called sodium
23 metabisulfite which preserves the integrity of the
24 shrimp so that through further processing and eventual
25 defrosting the shrimp will not appear to have black

1 spot disease. This disease is a darkening of the
2 shell and flesh of the animal after it dies that is
3 extremely unsightly.

4 The second method of catching is by boats
5 that ice the shrimp after it's caught and bringing the
6 shrimp quickly back to the dock where it is usually
7 sold as fresh product, but also may be treated with
8 sodium metabisulfite if it is going to be further
9 processed.

10 Inconsistent application of chemical
11 treatment, which is common, leads to black spot
12 disease, and therefore, a poor appearance, and no
13 consumer wants to buy shrimp with a black colored
14 shell and meat.

15 In contrast, this problem does not typically
16 arise with imported farm-raised shrimp because, like
17 other aquaculture products, the shrimp are either
18 processed live or immediately after harvesting and
19 consequently are so fresh that they do not need any
20 preservation chemicals.

21 Second, the size irregularity of wild caught
22 shrimp is a significant issue. U.S. processors are
23 unable to supply specific count ranges in the volumes
24 required by large volume customers such as TGIF or HE
25 Butt. As a wild caught item, U.S. processors have to

1 take what the Gulf of Mexico gives them. Aquaculture,
2 in contrast, can provide the exact size that the
3 customer demands.

4 Third, U.S. shrimp processors are limited in
5 their ability to provide value added products that
6 H&N's customers demand. For example, skewered shrimp,
7 marinated shrimp, cooked shrimp rings and easy peel
8 products that make up the majority of the shrimp
9 import business are not produced in significant
10 quantities by U.S. processors of Gulf Coast shrimp.

11 Fourth, consistent supply is a big issue for
12 domestic frozen shrimp. The Gulf Coast shrimp
13 business is seasonal, and although some shrimp is
14 placed in frozen storage for the off season, the
15 quantities are negligible and do not come close to
16 satisfying U.S. demand, especially the needs of the
17 large national chains.

18 In contrast, the shrimp farming and
19 processing sectors in Asia and South America have
20 worked hard for 25 years to build a highly
21 sophisticated system that allows companies like H&N to
22 place orders many months in advance of actual delivery
23 and then receive the shrimp in the quantities and
24 sizes required by our customers without the need to
25 hold inventories in the United States.

1 Foreign shrimp farmers and processors are
2 able to adjust for seasonal and climate-related
3 factors and market demand, while still providing a
4 consistent and quality product. This allows H&N to
5 keep our U.S. inventories to a minimum, yet still
6 satisfy our customers' exacting demands for on time
7 delivery of large volumes of high quality, value added
8 shrimp.

9 For all of these reasons, U.S. processors
10 are unable to service the large customers that buy
11 imported frozen shrimp from H&N, and they are
12 misguided if they think that even more duties on
13 imports will change that fact. This is not about
14 price at all. I do not think that H&N's customers
15 would switch to domestic frozen shrimp even if it were
16 priced considerably less than imported frozen shrimp
17 for the reasons that I have just stated.

18 To be sure, the frozen domestic product has
19 its market segment. This tends to consist of smaller
20 stores and regional distributors located in southern,
21 midwest and mid-Atlantic states. More out of
22 tradition than anything else, these customers still
23 place a premium on wild caught U.S. product, whether
24 in fresh or frozen form. H&N does not compete with
25 the distributors that supply only domestic frozen

1 shrimp to these types of customers.

2 We do, however, buy a small quantity of
3 domestic frozen shrimp, but only in tiny sizes, 130,
4 150, 150, 200 and 200 up, which are not harvested in
5 shrimp farms. We would buy more domestic frozen
6 shrimp if our customers asked for it, but they simply
7 do not.

8 Because there is limited to no direct
9 competition between domestic frozen shrimp and
10 imports, shrimp imports are not hurting the domestic
11 shrimp industry. Rather, the domestic industry has
12 been challenged by factors that are unrelated to
13 imported shrimp. The Gulf oil spill, for example,
14 comes immediately to mind.

15 U.S. demand for Gulf shrimp took a huge hit
16 because of consumer concern for the safety and quality
17 of Gulf Coast seafood products in the wake of the oil
18 spill. My wife is a great example. She used to love
19 to eat fresh, chemical free Gulf Coast shrimp that I
20 would bring home for her, but she now still refuses to
21 eat it for fear that it's tainted from the Gulf oil
22 spill. Negative consumer perception is difficult to
23 reverse. Only now are we hoping to see consumers
24 getting comfortable again with Gulf Coast seafood.

25 Lastly, I would like to address the argument

1 that imports from Asia and South America to the U.S.
2 market will increase if additional import duties are
3 not imposed. I think this is very unlikely due to the
4 growing demand for seafood products, especially
5 shrimp, in regions other than the U.S., including Asia
6 and South America.

7 Because H&N sources seafood products from
8 all over the world, we also pay attention to trends in
9 foreign markets for products like shrimp. Within the
10 last few years we have observed growing consumer
11 demand for shrimp and other seafood products in China
12 and in other developing economies in Asia, including
13 Indonesia. Demand for shrimp has also grown in
14 Brazil, so much so that the country, which used to be
15 a net exporter of shrimp, is now a net importer of
16 shrimp and other seafood products.

17 Because of growing consumer demand for
18 shrimp in bustling economies in Asia and South
19 America, a number of our long time shrimp suppliers in
20 Ecuador, Thailand, Vietnam and India and Indonesia are
21 now supplying more processed shrimp to these areas.
22 The U.S. market for shrimp, in contrast, is stable and
23 has not been growing for the last few years. For this
24 reason, I doubt we will see shrimp imports to the U.S.
25 increase much for the foreseeable future whether or

1 not countervailing duties are in place.

2 This concludes my remarks. Thank you for
3 your time. I'd be happy to answer any questions.

4 MR. CONNELLY: Our next witness is Carlos
5 Faria from Chicken of the Sea Frozen Foods.

6 MR. FARIA: Good afternoon. My name is
7 Carlos Faria. I am the Vice President of Operations
8 for Chicken of the Sea Frozen Foods. We have offices
9 in both California and New York and are a national
10 supplier of seafood products, including premium frozen
11 shrimp. My professional experience has covered all
12 aspects of the import seafood business from logistics
13 to procurement, to sales and marketing, to management.

14 Like the other importers here this morning,
15 we supply farm-raised shrimp to a wide variety of
16 customers throughout the United States. My colleagues
17 have already spoken about some of the differences
18 between imported and domestic shrimp. I would like to
19 touch on a few more.

20 First, Chicken of the Sea is more than just
21 an importer. We are actively engaged in supply chain
22 management, production and processing. For a
23 significant portion of the shrimp we sell, Chicken of
24 the Sea is vertically integrated so our customers are
25 buying directly from the source, a key point of

1 differentiation from the domestic processors.

2 We know that hatcheries, the feed mills, the
3 processing plants. Our situation is not unique,
4 however. The ability to provide a consistent,
5 dependable supply of high quality shrimp that is
6 traceable from the source to the customer is something
7 that most importers can accomplish. It is something
8 that our customers demand. It is something, however,
9 that the U.S. processors generally cannot provide.

10 For most wild caught shrimp processed by the
11 Petitioners there is no way to know where the shrimp
12 were caught, what the shrimp were eating, what the
13 live shrimp were exposed to or how long the shrimp
14 have been stored on a boat prior to unloading. For
15 customers that demand traceability, wild caught U.S.
16 shrimp is generally not an option. Customers
17 increasingly have this requirement, and for this
18 reason alone, the domestic product and farm-raised
19 imports are not substitutes. There are more.

20 I can state unequivocally that we do not
21 encounter competition from domestic wild caught
22 shrimp. We supply large customers across the country
23 and the orders presented to us by retail supermarkets,
24 chain restaurants, cruise lines and casinos all ask
25 for farm-raised shrimp. Let me explain further.

1 Our customers give us specification sheets
2 that identify the species, the quantity, the size, the
3 processing type and any chemical ingredients, or lack
4 thereof, of the shrimp they want to purchase. These
5 terms are not negotiable, they are requirements. We
6 in turn take those requirements and try to source
7 product that meets the specifications. In a small
8 number of cases we might see domestic shrimp
9 specified, but we never see both farm shrimp and wild
10 shrimp listed on the same specification. Let me
11 repeat that. Our customers never ask for farm raised
12 shrimp or wild shrimp on the same specification.

13 To the best of my knowledge, we have never
14 engaged in head to head competition with any of the
15 Petitioners here for an account. They focus on
16 customers that prefer wild caught Gulf shrimp, and we
17 focus on customers that strongly prefer farm-raised
18 shrimp.

19 It is my understanding that the U.S.
20 industry has claimed to you that in the United States
21 most sales are on a transaction by transaction spot
22 basis. Well, that may be the case for them, but it's
23 not the case for us. My knowledge of domestic shrimp
24 is that the quality varies widely, which is the
25 strongest incentive for buyers to enter into long-term

1 relationships with domestic suppliers.

2 For us, however, 80 to 90 percent of our
3 business is with restaurant and grocery chains using
4 fixed price contracts that typically cover periods of
5 three to 12 months. Our customers need year around
6 consistency and high quality from one container to
7 another. By consistency, I mean that the sizes of
8 individual shrimp, whether in a particular count size,
9 need to be closely grouped. By quality, I mean good
10 texture, lack of broken shells, no broken tails, no
11 heat stress, no decomposition and no freezer burn.
12 This is where the imported product excels.

13 There is simply no question that compared to
14 domestic wild caught shrimp, imported shrimp have more
15 uniform and consistent quality. Restaurants in
16 particular want uniform shrimp on same plate because
17 it makes a better presentation to the customer. This
18 is something overseas suppliers can provide. It is
19 something that domestic producers cannot deliver.

20 When the antidumping tariffs were applied
21 some years ago we looked to diversifying our sources
22 as a precaution, and now we purchase shrimp from a
23 number of countries. However, even with the AD
24 orders, we still purchase the majority of our shrimp
25 from Thailand, India and Vietnam. This is because the

1 antidumping orders have not affected U.S. demand.
2 There may have been some reshuffling of import
3 sources, but total shrimp import volumes have remained
4 steady since 2006. We expect this to continue because
5 of the domestic product is different from imported
6 shrimp and our customers' noted products are not
7 interchangeable.

8 I hope my discussion has helped you to
9 understand that the typical U.S. product and the
10 typical imported product are not substitutes for each
11 other. There are characteristic, quality and sourcing
12 differences that are critical to customers and these
13 differences are why imported shrimp maintains its
14 place in the market today. Thank you.

15 MR. CONNELLY: Our next witness is Robby
16 Paterson from Tampa Bay Fisheries.

17 MR. PATERSON: Good morning. My name is
18 Robert Paterson. I am the President and CEO of Tampa
19 Bay Fisheries and Singleton Seafoods. Singleton is
20 one of the nation's oldest shrimp processors. I,
21 myself, am a fifth generation of my family to be in
22 the seafood industry. I'm the first one that's left
23 the boat. I started a plant, now operated by Tampa
24 Bay Fisheries, when I was 17 for \$1.15 an hour. Since
25 then, I've owned, run and sold other processing

1 companies and joined Tampa Bay in 1992.

2 Tampa Bay Fisheries is a leading supplier of
3 processed and fresh seafood to the wholesale grocery
4 distributors and restaurant industries. Tampa Bay is
5 a production company, sourcing shrimp. We purchase
6 shrimp from Central America, South America, Asia,
7 India and the Gulf of Mexico. In addition, Tampa Bay
8 owns and operates two seafood processing plants in
9 Florida where we employ just under 500 people at our
10 245,000 square foot plant that sits on 104 acres. We
11 have full-time employees that we provide health
12 insurance and 401(k) plans for. Most shrimp
13 processing facilities in the United States are less
14 than 10 percent of the size of our facility, with a
15 less organized workforce that is often part-time.

16 Along with our sister companies, we are part
17 of one of the largest private-owned shrimp importing
18 and processing groups in the United States, and we
19 purchase and process foreign shrimp, as well as
20 products from U.S. vessels. We sell shrimp in all
21 forms, including raw, cooked, shell on, peeled,
22 marinated and breaded. Our major customers include
23 Sysco, Red Lobster, Walmart and many, many other well-
24 known brands. The bottom line is that we know the
25 global shrimp industry.

1 My company is also a member of the ad hoc
2 shrimp industry committee and I'm here today to tell
3 you that I'm opposed to the initiation of the
4 countervailing duty investigation. I'm opposed to
5 this petition because knowing the domestic industry as
6 well as I do, I can say that imports from these
7 countries are not injuring the U.S. industry. In
8 reality is is that they do not compete. We buy both
9 and use domestic shrimp when the buyer requests it.
10 We do not buy more domestic shrimp because we simply
11 do not have a supply. The quality is not always as
12 good as the imported shrimp and the supply is not
13 there.

14 The bottom line is is we don't see big
15 offerings from domestic shrimp to us. I simply don't
16 know who has them. I can tell you that I never have a
17 domestic shrimp processing company call to offer me
18 product for sale. I buy domestic shrimp to fill
19 orders for the military where domestic shrimp is
20 required by the Berry Amendment, and certain companies
21 in some states where the customers demand domestic
22 shrimp.

23 However, when I try to buy domestic shrimp I
24 can never get the supply that I need. If I call a
25 supplier and I ask for one or two truckloads, which is

1 35,000 to 40,000 pounds per truck, the supplier will
2 say you can have 6,000 or have 3,200 pounds. There's
3 never the volumes that we need.

4 As I said, we sell nationally, and other
5 than in those specific niche markets, we do not see
6 domestic shrimp marketed nationally. That material
7 goes into the niche market, but not nationally.

8 The next issue is quality. The U.S.
9 producers do not generally supply peeled shrimp and
10 American customers demand that their shrimp are
11 peeled. Now, you see the listing for peeled shrimp,
12 but those are peeled, tail off shrimp, and in most
13 cases, they're small. If you go to your, any
14 restaurant chain today and you order a meal of a fried
15 shrimp, or a shrimp scampi, or whatever, the tail is
16 going to be on it. That is their specification.
17 That's not offered by the domestic industry. Only in
18 very small quantities.

19 The peeled shrimp that is available
20 domestically is mechanically peeled. It is often --
21 it is always without tails. Moreover, much of the
22 domestic peeled shrimp is treated with chemicals that
23 increase the weight and lower the quality and do not
24 meet many, many customer specifications. The quality
25 of imported shrimp is better.

1 Over the last years India has switched to
2 white shrimp from black tigers. They are now in my
3 opinion producing one of the best tasting farm shrimp.

4 Lately they've also been able to increase their
5 yields by keeping the shrimp in the ponds longer.

6 This has increased yields with very little
7 additional expenses. If you -- in farm-raised shrimp
8 typically what we've seen is they will grow shrimp to
9 a certain size. If they have orders for 36/40s or
10 31/35s, they grow to that size. What India did is
11 they let the shrimp grow.

12 If you take a mid-size shrimp and leave it
13 in the ponds for another six to seven weeks, you get a
14 16/20. You double your weight. So it's very much
15 like a corn farmer. If a corn farmer put his combines
16 in the field and combined this young, tender corn when
17 the ears were only half grown, he's only going to get
18 a very, very small yield versus the larger yield of
19 letting the corn grow to the full ear.

20 We're talking about farming. Even though
21 quality issues of domestic shrimp have certainly
22 improved, all of the things that these guys have said
23 about their investments and especially the boat owners
24 with their freezers and, you know, the sanitations, it
25 certainly has improved. But they're not going to

1 solve the supply issue. This is just not going to go
2 away. Environmental issues have decreased the catch.

3 As we've already heard, the BP oil spill has
4 had a devastating impact on the industry. More long
5 term is the dead spot in the Gulf of Mexico at the
6 mouth of the Mississippi River. It's growing.
7 However, along with the environmental issues, the
8 number of people that want to go out fishing is also
9 vanishing.

10 I live in a shrimp ford. I can tell you I'm
11 very close to the industry. You don't see young
12 people today that want to be shrimper men. They don't
13 want to be gone for two weeks, kind of like I was when
14 I was that age. So young people today are not wanting
15 to go fishing. That's going to be a challenge in the
16 future.

17 This case is not going to help the domestic
18 industry. It will basically push value-added product
19 overseas, which hurts companies like mine. That's why
20 the dumping case has done any additional duties, and
21 it's just going to increase that.

22 As long as we have the Berry Amendment in
23 place and there is local consumption of good Gulf
24 shrimp, that industry will keep its market share. The
25 rest of the market will be fought over by the Thais,

1 the Indians, and the other countries. Thank you.

2 MR. CONNELLY: Our next witness is Elias
3 Sait from SEAI.

4 MR. SAIT: Good morning, all of you. My
5 name is Elias Sait. I'm currently the secretary-
6 general of the Seafood Exporters Association of India.

7 I have been closely involved in the Indian shrimp
8 industry since 1978. I would like to take a few
9 minutes this morning and discuss the history and
10 development of the Indian shrimp industry.

11 I want to explain the development on the
12 Indian shrimp industry because I think that this
13 history helps to understand the current state of the
14 U.S. industry. First, the most important thing to
15 remember is that the industry cannot survive without
16 supply of raw shrimp. And what we have learned in
17 India is that without innovation, the supply will
18 disappear and the industry will die.

19 In the 1970s, when I started in the
20 industry, the Indian shrimp industry was nearly 100
21 percent sea-caught, much as the U.S. industry is
22 today. However, in the 1980s, due to over-fishing and
23 other environmental factors, the shrimp catch declined
24 significantly from the ocean. By the end of the
25 decade, the ocean catch in India was down by 40 to 50

1 percent. With catch like this and an ever-increasing
2 cost, the Indian industry would not survive.

3 Most of the boats were tied up and several
4 of the remaining boats switched to catching squid,
5 cuttlefish, or other types of fish. If nothing had
6 changed, that would be the end of the story for the
7 Indian shrimp industry, and I would not be sitting
8 here today.

9 However, along with the rest of the world,
10 the Indian shrimp industry switched to aquaculture.
11 Shrimp aquaculture has always been practiced in India
12 on a small scale in Calcutta, in an ongoing basis.
13 Over time, the modern techniques from the rest of the
14 world moved to India, and aquaculture began to grow.

15 At first, the predominant species was native
16 black tiger. However, due to certain disease
17 conditions, overall black tiger production decreased
18 in mid-2000s, and the industry suffered serious
19 setbacks. Again, this could have been the end of the
20 story. However, the industry again adapted by
21 beginning to produce vannamei species. This involved
22 a substantial risk to farmers, prompting them to move
23 cautiously.

24 The broodstock for this shrimp is pathogen
25 free and primarily imported from Hawaii.

1 Incidentally, the U.S. pioneered several tremendous
2 technological advances in the field of shrimp
3 aquaculture. The introduction of vannamei helped the
4 Indian farmers to recover from the loss of black tiger
5 and begin to operate profitably, conforming to
6 environmental standards.

7 The industry has reached a sustainable level
8 with markets around the world. Around this time the
9 Gulf shrimp harvest suffered back-to-back disasters,
10 such as natural calamities, the Gulf oil spill, and
11 intensive hypoxia, that is, dead zone harmful to
12 marine life.

13 Today, aquaculture sector in India employs
14 about 1-1/2 million small but enterprising farmers.
15 They combat severe deficiencies in infrastructure such
16 as roads and profitably produce raw shrimp that is
17 sold around the world, and not just the United States.

18 Therefore, I was somewhat surprised by the
19 Petitioner's claim that subsidies are provided to the
20 sector.

21 Again, these farms have been able to survive
22 not because of government handouts, but because the
23 Indian shrimp industry has innovated and the farmers
24 showed adaptability in the face of adversity.
25 Unfortunately, I have not seen this in the U.S.

1 industry, in spite of reported significant government
2 supports and millions in Byrd money.

3 As shown by the wide area of countries
4 before you today, the technology for aquaculture is
5 available to anyone, and some good part of it comes
6 from the U.S. For the past several years, it was
7 known that the Gulf harvest would not increase, and
8 that the boats were not getting enough harvest to make
9 shrimping an economic proposition.

10 Given these factors, why did the U.S. shrimp
11 industry not adapt as we did? You have just heard
12 from a number of importers who discussed the U.S.
13 market. It has grown substantially over the years.
14 In other words, the pie has gotten bigger. If U.S.
15 production were to increase, the U.S. producers'
16 market share would increase. U.S. sales have not
17 increased because the supply of raw material has not
18 increased, and it can't until the U.S. industry learns
19 to adapt.

20 The supply of shrimp in the Gulf is finite
21 and most likely declining. This is what I and my
22 members see in the market, a market where U.S.
23 producers are largely not present. The buyers and
24 consumers here today can discuss the conditions of
25 competition in the U.S. market. I just want to tell

1 you what I see.

2 First, as I said, Indian shrimp is 90
3 percent aquaculture, and then 10 percent ocean catch
4 is almost entirely salad shrimp, much like cold-water
5 shrimp, that U.S. producers generally do not sell.
6 Indian shrimp now is primarily in the smaller sizes,
7 26/30s and 31/40s. We do have some larger shrimp, but
8 that's not the bulk of our business.

9 U.S. shrimp in contrast is larger and almost
10 entirely sea-catch. Moreover, properly processed sea-
11 catch commands a price premium. However, as I noted
12 before, the supply of U.S. shrimp is very low and
13 undercutting conditions will not grow, no matter how
14 high the prices.

15 Despite receiving millions in Byrd money,
16 the U.S. industry did not try to innovate. However,
17 it will always be impossible to harvest what is not
18 there. This is something India learned 30 years ago,
19 and we did not have the added environmental strains or
20 the world's worst oil spill.

21 Due to the declining supply of U.S. product,
22 India basically does not compete with U.S. producers.

23 We compete with the countries that you see with me
24 today: Thailand, Indonesia, Ecuador, Vietnam, China,
25 and a few other nonsubject countries.

1 Trade restrictions will only shift U.S.
2 supply sources from subject to nonsubject countries,
3 the same way as it happened when antidumping duty was
4 introduced.

5 Finally, I want to mention about the
6 difficulties and expenses that are already in place
7 when selling to the U.S. market. Due to the
8 antidumping order, foreign producers generally have to
9 incur expenses for importing the product as opposed to
10 selling directly to importers. Overall, the U.S.
11 processors are the ones with the competitive advantage
12 when selling here.

13 The U.S. industry has not been injured by
14 the Indian, Thai, or any other foreign producers. The
15 producers before you today have grown at the expense
16 of other countries, not the U.S. producers. If the
17 U.S. producers are suffering, it is because of the
18 U.S. industry's inability to adapt to change.

19 On the other hand, the aqua farmers in India
20 and other countries have been highly innovative and
21 developed new practices of increased productivity and
22 cost reduction, which has made them successful. This
23 in turn has put the processes back on stream, helping
24 them to produce more and market more to all countries
25 of the world, the U.S. being one of them because as I

1 said at the beginning of my remarks the processors
2 cannot be successful without supply, and that comes
3 only through innovation.

4 I will be happy to take any questions that
5 the staff may have. Thank you.

6 MR. CONNELLY: Our next speaker is Duane
7 Layton on behalf of the Indonesian industry.

8 MR. LAYTON: Good afternoon. My name is
9 Duane Layton. I'm a partner and chair of the
10 Government and Global Trade Group at Mayer Brown. I
11 appear today on behalf of the government of Indonesia,
12 the Indonesian Fishery Product Processing and
13 Marketing Association, which I'll refer to in my
14 comments as AP51 and its members.

15 To start, I want to note to the staff that
16 the Indonesian Respondents in this case have made a
17 tremendous effort to cooperate with the Commission in
18 this investigation, operating under very tight
19 deadlines. Fifteen AP51 members submitted their
20 foreign producer questionnaire responses before
21 January 11th, and tow more responses and several
22 amended questionnaires were submitted on January 15.
23 So we tried very hard.

24 The Indonesian Respondents participating in
25 the investigation account for approximately 75 percent

1 of the country's total frozen warm-water shrimp
2 production in 2011 and 75.4 percent of total U.S.
3 exports in that year. In short, Indonesian
4 Respondents have done their best to help the
5 Commission get a complete and accurate understanding
6 of their industry.

7 Petitioner claims that subject imports of
8 frozen shrimp from Indonesia cause or threaten to
9 cause material economic injury to its members. My
10 clients must disagree. I will limit my comments today
11 to two points.

12 First, there is attenuated competition
13 between domestic shrimp and imported shrimp due to
14 differences in the characteristics of the products and
15 the channels of distribution.

16 Second, recent official Indonesian export
17 data shows that Petitioner's claim of, quote, "threat
18 of injury," closed quote, lacks factual support, as
19 the volume of Indonesian shrimp exports is actually
20 declining. I will explain these points in turn.

21 On the issue of competition, Indonesian
22 shrimp products imported into the United States differ
23 in important respects from Petitioner's locally
24 produced frozen shrimp, and as a result primarily
25 compete with imports from other countries, as you've

1 heard here today.

2 The Commission should take a special note of
3 the fact that the domestic industry relies on a
4 different source for live shrimp supply than the
5 Indonesian industry does. U.S. producers primarily
6 rely on wild-caught shrimp as the main input in their
7 frozen products, while Indonesian producers mostly use
8 farm-raised shrimp for the production of subject
9 imports. This is a very important distinction because
10 it causes the characteristics of the respective shrimp
11 products and channels of distribution to differ, and
12 marks an apparent division in the U.S. shrimp market
13 that matters a great deal to customers.

14 As a result, there is attenuated competition
15 at best between domestic shrimp products and subject
16 imports from Indonesia. The differences between wild
17 caught and farm-raised shrimp are significant and must
18 be considered in the Commission's injury analysis. As
19 found by the Commission in the recent sunset review of
20 the U.S. AD order on shrimp, the quantity of wild-
21 caught shrimp available to U.S. fishermen is
22 insufficient to meet domestic demand. This point was
23 not contested by the U.S. domestic industry.

24 The U.S. industry simply has little
25 potential for growth due to its reliance on wild-

1 caught shrimp. In the recent sunset review of the
2 U.S. antidumping order on shrimp, Commissioner Pearson
3 pointed out in his evaluation of the conditions of
4 competition that domestic shrimp landings have varied
5 little since 1980 because there is a limit as to how
6 much the U.S. industry's fishermen can harvest
7 regardless of price or demand.

8 Facing this restraint on its main input, it
9 is undeniable that the domestic industry cannot fully
10 satisfy the demand in the U.S. market, even in the
11 absence of further imports. Farm-raised shrimp has
12 many attributes that are preferred by customers of
13 imported shrimp that wild-caught shrimp simply lack.
14 For instance, farm-raised shrimp provides greater
15 consistency and stability in terms of large quantities
16 of shrimp, standard sizes, and year-round supply than
17 wild-caught shrimp.

18 Imported shrimp also tends to be
19 individually quick frozen, whereas domestic shrimp is
20 typically block frozen, requiring additional water
21 usage and labor by end users. For the reasons just
22 described, subject imports from Indonesia compete in a
23 different segment of the U.S. market from domestic
24 products, and as a result do not cause or threaten to
25 cause material injury to the U.S. domestic industry.

1 I would now like to make some observations
2 on what Indonesian export data shows. According to
3 official export data, Indonesian shrimp exports
4 dropped by more than 7.3 percent in terms of volume
5 from 2008 to 2011. The exports were at their lowest
6 in 2010.

7 Even though exports picked up a little in
8 2011, the export volume for that year was still
9 substantially lower than 2008. We also note that the
10 Indonesian producers' capacity was fairly flat during
11 the POI. Nearly all of the producers cited, quote,
12 "low shrimp availability," closed quote, as a
13 significant production constraint.

14 This trend of declining shrimp exports
15 reflects a strategic decision by Indonesian producers
16 to make their domestic market a priority. Targeting a
17 growing middle class, Indonesian producers expect
18 their sales of both frozen and warm-water shrimp and
19 other frozen seafood into the Indonesian domestic
20 market to continue to grow in the coming years.

21 For all of these reasons, Indonesian
22 producers do not pose any threat to the U.S. domestic
23 industry, with which they hardly compete at all.
24 Thank you.

25 MR. CONNELLY: Our last speaker is Jarrod

1 Goldfeder, from Akin Gump.

2 MR. GOLDFEDER: Good afternoon. I'm Jarrod
3 Goldfeder, with Akin Gump, here today on behalf of the
4 Ecuadoran Respondents. I will address how the volume,
5 price, and domestic industry financial data fully
6 support a negative preliminary determination. As I
7 discuss the record data, I will refer to our handout,
8 which you should have.

9 The table in Exhibit 1 shows shrimp imports
10 from the AD/CVD countries, which we've defined as the
11 seven countries covered by the CVD petition plus
12 Brazil, which was included in the AD case, but not
13 this one. It also shows frozen warm-water shrimp
14 imports from all other sources, as well as total
15 imports. Finally, it includes apparent U.S.
16 consumption derived from the Commission's staff
17 reports in the AD investigation and for sunset review.

18 This simple table reveals the most critical
19 condition of competition, specifically that the U.S.
20 market has reached a state of equilibrium with respect
21 to demand and imports. The situation in the current
22 POI is completely different from the POI in the AD
23 investigation. At the time, 2001 through 2003, demand
24 was growing by 10 percent per year. But in the eight
25 years since, demand has grown by only 1 percent per

1 year, and total imports have grown at a similar pace
2 during this recent eight-year period, which is to say
3 at about 1 percent per year.

4 Exhibit 1 reveals another critical aspect of
5 the U.S. market equilibrium. Not only has domestic
6 demand remained steady at about 1.2 billion pounds per
7 year, but since 2003 total import market share has
8 remained within a very narrow range of 87 to 91
9 percent. Despite the issuance of AD orders, U.S.
10 producers' market share has remained virtually
11 unchanged.

12 As Exhibit 1 shows, what has changed, as
13 Exhibit 1 shows, is the composition of imports. In
14 2003, imports from the AD/CVD countries had a 69
15 percent market share out of 88 percent overall for
16 imports. By 2011, AD/CVD countries had a 76 percent
17 market share out of 89 percent overall for imports.

18 What this shows is that the sources of
19 imports shift, but the overall level has remained the
20 same. This means that any increase in subject import
21 volumes and market shares during this POI has come at
22 the expense of non-subject imports and not U.S.
23 production. This is not indicative of injury.

24 Exhibit 2 shows the U.S. shrimp fishermen's
25 commercial landings in the Gulf and South Atlantic

1 states measured in live weight. Between 2001 and
2 2011, commercial landings averaged 250 million pounds
3 per year. Actually, if you were to look back over the
4 past 40 years, you'll find that annual shrimp landings
5 have averaged about 260 million pounds per year. Year
6 in and year out, the amount of domestic shrimp that
7 can be sold to U.S. processing facilities is limited.

8 Neither demand nor prices nor import levels can
9 change the natural limitations of the wild shrimp
10 fishery.

11 Exhibit 2 also supports the conclusion that
12 competition between U.S. production and imported
13 shrimp is attenuated. In 2010, U.S. shrimpers
14 suffered an unanticipated and significant reduction of
15 24 percent to their harvest as a result of the BP oil
16 spill, more than 60 million pounds below the 40-year
17 mean.

18 This, of course, reduced the amount of raw
19 material available to U.S. processing plants. Exhibit
20 21 of the petition, entitled, "Domestic Industry's
21 Trade and Financial Information," claims that between
22 2009 and 2010, U.S. production declined by 30 percent,
23 and U.S. commercial shipments declined by 18 percent.

24 Assuming these figures are accurate, if competition
25 was truly head-to-head, foreign suppliers would have

1 rushed into the market to fill that consumption gap,
2 but this did not occur. Rather, total imports
3 increased by a mere 1 percent.

4 There are two logical conclusions from these
5 facts. First, any reduction in domestic industry
6 production and shipments during this POI was not
7 caused by subject imports, which increased only at the
8 expense of non-subject imports. Rather, the BP oil
9 spill was the true problem for the processors, and
10 that obviously had nothing to do with subject import
11 competition.

12 Second, there is no correlation between
13 changes in U.S. commercial landings and import levels.

14 Commercial landings declined in some years when
15 import volumes declined, or increased when imports
16 increased. In other instances, such as in 2008 and
17 2010, commercial landings declined at a much greater
18 rate than imports increased. This demonstrates that
19 domestic shrimp landings are not affected to any
20 material degree by import levels.

21 I'd like to make two final points regarding
22 volume. First, page 24 of the petition shows that
23 import volumes have declined in the first three
24 quarters of 2012 compared to the same period in 2011.

25 This trend does not support an affirmative injury

1 finding.

2 Second, Exhibit 3 of our handout summarizes
3 U.N. Comtrade export statistics from subject and
4 nonsubject countries for HS subheading 030613. As
5 shown there, subject producers had ample ability to
6 ship far more shrimp to the U.S., but nevertheless
7 chose to export larger volumes to other markets. This
8 is because U.S. demand has been absolutely level since
9 2006, so foreign suppliers have focused on other
10 markets.

11 This exhibit also shows that there is so
12 much frozen shrimp out there in nonsubject countries
13 that even if all subject imports had not been in the
14 U.S. during the POI, nonsubject suppliers could have
15 easily filled the void to meet the U.S. demand. This
16 further supports the absence of causation.

17 Turning now to price, there is virtually no
18 correlation between import volumes and domestic shrimp
19 prices. As the staff knows from its extensive shrimp
20 experience, by far the most significant determinant of
21 the price of domestic wild-caught shrimp is the size
22 of the annual wild-caught harvest. As Exhibit 2
23 showed, shrimp fishermen are able to charge far less
24 when their harvest is high, and they receive much more
25 when their harvest is reduced.

1 For example, when landings increased by 24
2 percent between 2008 and 2009, the AUV declined by 31
3 percent. When landings dropped by 24 percent in 2010
4 due to the BP oil spill, AUVs rose sharply by 44
5 percent. This is basic supply and demand. When
6 landings increase, prices decrease, and vice versa.

7 The prices that shrimpers charge the
8 processors in turn affect the prices that the
9 processors sell to U.S. purchasers. That is why
10 domestic processor profits tend to decline when the
11 harvest is low. The Petitioner has contended that
12 subject imports undersell domestic processors.
13 However, the Commission has said that underselling,
14 even if significant, does not matter if there has been
15 no price depression or suppression. And what does the
16 data show?

17 Petitioner's best case data presented at
18 page 29 in their petition shows that AUVs of domestic
19 shrimp, subject imports, and nonsubject imports all
20 increased steadily from 2009 to 2011. Petitioner
21 reports that prices were lower in interim 2012 than in
22 interim 2011, but they all remained substantially
23 above that 2009 level.

24 Urner Barry data supports these conclusions.
25 Exhibit 4 of our handout shows prices for popular

1 count sizes of domestic wild white shrimp and imported
2 white shrimp. Prices are up across the board between
3 2009 and 2012. Exhibit 5 of our handout provides
4 graphs showing that domestic white shrimp prices
5 declined during 2009, presumably due to the 24 percent
6 increase in landings that year. But they increased
7 through 2012. Substantial U.S. price increases cannot
8 support a finding of adverse price effects.

9 Exhibit 6 contains a chart showing domestic
10 processing financial performance since 2001. Between
11 2009 and 2011, the AUV of U.S. processors' commercial
12 shipments increased by 48 cents, or 16 percent.
13 Between the interim 2011 and 2012 periods, their AUV
14 increased by 23 cents, or 7 percent. This further
15 evidence of price increases, not declines, provides a
16 complete answer to their injury claim.

17 Exhibit 6 also shows that the COGS to net
18 sales ratio has remained virtually the same for the
19 past 11 years. There is simply no evidence of price
20 depression or suppression here.

21 My final topic is the condition of the
22 domestic industry. The petition alleges that the
23 domestic industry's financial performance deteriorated
24 as it lost volume to subject imports and suffered the
25 effects of underselling. This I've already discussed.

1 The evidence contradicts these claims.

2 Exhibit 6 supports the absence of any causal
3 link between subject imports and the domestic
4 industry's financial condition. Several important
5 conclusions can readily be drawn from this chart.
6 First, marginal profitability is a longstanding
7 characteristic of the domestic industry, which CVD
8 duties will not change.

9 Second, if you overlay Exhibit 2 with
10 Exhibit 6, you will see that more often than not the
11 domestic industry's profitability directly reflects
12 changes in the volume of commercial landings, and that
13 is commercial landings increase, the industry is
14 usually profitable. When landings decline, the
15 processors incurred operating losses. This pattern
16 makes complete sense because raw material costs spike
17 when the harvest is low.

18 Third, the processors reported operating
19 profits in 2009, 2010, and 2011. In fact, they
20 reported operating losses only during interim 2012.
21 However, Exhibit 6 shows that the domestic processors
22 inexplicably reported SG&A expenses in that period
23 that were \$10 million higher than in interim 2011, and
24 those SG&A expenses were disproportionately higher
25 than the 11-year average of SG&A expenses to cost of

1 goods sold.

2 If they had reported SG&A expenses in line
3 with historical experience, and it's unclear why they
4 haven't, they would have reported an operating profit
5 in this most recent period as well. Also, the
6 reported operating profits do not reflect the AD duty
7 distributions the domestic industry received under the
8 Byrd Amendment, which as shown in Exhibit 7 totaled
9 \$259 million.

10 A large portion of this went to the
11 processors who are now seeking CVD relief. The
12 operating profits also do not account for any of the
13 settlement money that BP has paid to the U.S. shrimp
14 industry following the Gulf oil spill. The Petitioner
15 should be required to supplement the record in their
16 post-conference brief so that the Commission can
17 evaluate how these benefits have affected the
18 processors' bottom line financial performance and
19 ability to achieve investment efforts.

20 Without this data, the Commission's
21 preliminary determination will understate the
22 industry's true financial performance. These Byrd
23 Amendment distributions and BP settlement funds are
24 both the functional equivalent of operating income,
25 even if they are recorded below the line in the

1 processors' accounting records.

2 In conclusion, the statistics I have
3 discussed support everything you've heard from our
4 panel today. There is no causal link between subject
5 import volumes and prices and the current condition of
6 the U.S. industry. Petitioner is simply complaining
7 about a problem that does not have exist. The U.S.
8 market reached an equilibrium for demand in import
9 levels in 2003. The fate of the U.S. processors is
10 inextricably linked to harvest levels and not to
11 import volumes, not to import prices, and not to any
12 remedial tariffs.

13 Thank you. That concludes our affirmative
14 remarks.

15 MR. CONNELLY: We'd be happy to answer
16 questions.

17 MS. DeFILIPPO: Thank you, Mr. Connelly, and
18 thank you to the panel. I very much appreciate all of
19 you coming today to provide information on the
20 industry. It is very helpful, and I do appreciate
21 also you taking your time from your businesses to be
22 here.

23 We will start questions with Ms. Sherman.

24 MS. SHERMAN: First, thank you all for being
25 here today. I have one question regarding disease.

1 In the petition specifically there was a comment that
2 there have been disease outbreaks that have affected
3 export volume from some countries. And I believe Mr.
4 McCloskey also mentioned this in his testimony this
5 morning, about black spot disease.

6 So I was wondering if any of you here today
7 are aware of what specific disease outbreaks there
8 have been in some of these countries.

9 MR. McCLOSKEY: First of all, I'd like to
10 differentiate the disease I was speaking of, which is
11 a local phenomenon that is called melanosis, is the
12 scientific term for it, which is an enzyme reaction in
13 the shell of a shrimp that has not been chemically
14 treated, especially wild shrimp that have higher
15 iodine contents.

16 The diseases overseas in the shrimp farming
17 industry are varied, and you probably heard such terms
18 as white spot and many other diseases. They're
19 totally unrelated to this domestic shell discoloration
20 that I spoke of. But there have been diseases
21 recorded in the past few years in various segments of
22 the farming industry. In particular, right now there
23 is a new disease in Thailand, I think, that is
24 affecting as much as 10 to 20 percent of the
25 production harvest.

1 MR. CONNELLY: Can I add just a little bit
2 to that? The phenomenon of disease in shrimp ponds is
3 not a new one. This has been going on for years. You
4 see outbreaks, you see remedies. And I think the
5 effort of the Petitioners to try and elevate these
6 most recent disease outbreaks is pulling this way out
7 of proportion. I mean, you can look back to Brazil.
8 You can look back to Ecuador. Everybody has had a
9 problem. They overcome it. But it doesn't
10 necessarily mean that when those problems are remedied
11 that there is going to be this sudden influx of
12 shrimp.

13 Please look at this exhibit we've given you
14 with the imports which have been rock steady despite
15 all of these changes and conditions really since 2004.

16 I mean, we say 2006. It has been 1.1 billion pounds
17 of total imports. It really doesn't change. And
18 that's a function of demand here.

19 MS. SHERMAN: Okay. Thank you. Have there
20 been any changes to production processes since the
21 last -- in any of the countries, specifically the new
22 countries we're looking at here, Indonesia, Malaysia,
23 in the past three years?

24 MR. LAYTON: Well, I believe -- you know,
25 Indonesia is new to this proceeding, as you have

1 mentioned in your question. I believe they've been
2 innovating like many of the other countries, and you
3 heard in the panel discussion today, especially from
4 India. And I think Indonesia has been trying to, you
5 know, be more efficient and use different methods to
6 hold onto the water and avoid dissipation and things
7 like that. I think some of that has been touched on
8 in the questionnaire responses.

9 So I suspect the short answer is all of
10 these countries and all of these producers over the
11 last three years have been engaging in what might be
12 called sort of incremental innovation, trying to be
13 more efficient.

14 MR. SAIT: Yeah. Should I respond to that?
15 Well, there have been a lot of advances in the
16 processes that have been adopted in India. Actually,
17 these earlier -- the Petitioner had mentioned about
18 IQF techniques in usually quick-frozen product and
19 blast-frozen product and all that. But the most
20 important thing is how fast the product is frozen from
21 the point it's caught.

22 In India now today, the product is frozen
23 within 18 to 24 hours of the material being harvested.

24 And most of the factories are located near to the
25 farm areas, and some of them freeze them within 12

1 hours of catch. So that retains the freshness in
2 almost the live form, okay?

3 So all these processing plants which are
4 being newly put up in India and I'm sure in Indonesia
5 and other places, they are located near to the catch
6 areas, and then they brought all the modern equipment
7 like the unusually quick-frozen equipment and then
8 blast frozen and plate frozen. All these equipments
9 are there.

10 But the most important aspect of all of
11 this, as a lot of people explained before, is the
12 freshness of the product, and that is determined, how
13 fast it is frozen since the material is caught. And
14 this has been specialized in all these countries,
15 whether it's Thailand, whether it's India, whether
16 it's Indonesia. That's why the imported product is --
17 the freshness is the best that you can get because it
18 is so near to the point of harvest.

19 MR. FARIA: The investments are being geared
20 towards improving food safety and meeting the
21 heightened standards by the customers in the
22 marketplace, so as to make sure that all plants are
23 compliant with global food safety audits and also
24 sustainability initiatives, which are very, very
25 important to the consumers in the market.

1 MS. DeFILIPPO: Thank you for your
2 responses. Sorry. I was looking at numbers. Ms.
3 Turner, questions from you?

4 MS. TURNER: Good afternoon. Yes, I do have
5 a few. Mr. Connelly, I'll start with you, but if any
6 of the other counsel want to also, but starting with
7 you, I'm going to ask the first question, is on like
8 product. Do you agree with the Petitioner's proposal
9 to limit the like product here to just frozen warm-
10 water shrimp, or do you have a view on whether the
11 Commission should expand the like product to also
12 include freshwater?

13 MR. CONNELLY: Okay. So first I want to
14 make clear when I answer I'm going to answer on behalf
15 of Ecuador, and I will let others have their own
16 position.

17 MS. TURNER: Okay.

18 MR. CONNELLY: Frankly, I'm going to have to
19 think about that one, but I think you asked a heck of
20 a question. And if it is correct, if it is, that the
21 shrimp that comes off those boats is frozen, then --
22 and the like product is frozen shrimp, then the record
23 does not permit an affirmative determination because
24 you are missing the shrimper data. And so I think
25 there is a very serious question here as to whether

1 this petition is adequate.

2 MS. TURNER: Okay. If you could though --
3 what I'm actually asking for -- you've jumped ahead to
4 the domestic industry. What I'm asking is just
5 factually on the basis of the factors we look at for
6 domestic-like product, and I'd like if anybody else --
7 and whether you do that now or you do it in your post-
8 conference brief, if you could please address the
9 domestic like product issue, first on the facts of
10 whether there is a clear dividing line between frozen
11 and fresh shrimp, warmwater shrimp.

12 MR. CONNELLY: Okay. Well, there is no
13 clear dividing line if we're talking about frozen
14 because as you heard, most of the domestic processors
15 buy frozen shrimp off the boats. It is frozen. It's
16 just not processed. Ms. Drake's explanation was long,
17 and she talked fast. It really wasn't very convincing
18 as I heard it. It was a policy-oriented thing.

19 But I think the question that was asked by
20 the staff was what has changed, what has changed since
21 the sunset review when we -- factually when we
22 consider this like product issue. And the answer is,
23 of course, nothing has changed with respect to the
24 facts. So if that decision was good then, I would
25 submit it's good now.

1 MS. TURNER: Mr. Layton?

2 MR. LAYTON: Yeah. As I said before,
3 Indonesia and Mayer Brown are new to this proceeding,
4 but some of the people I was sitting with saw me jump
5 with delight when you asked these questions because
6 I'm not maybe as smart as Ms. Drake, but it seems to
7 me if the Commission looked at -- applied it's like
8 product analysis, found frozen and fresh to be one
9 like product before, ain't nothing changed.

10 So I think Mr. Connelly is spot on. I think
11 you have a flawed petition here that doesn't -- is not
12 filed on behalf of what the Commission has found in
13 this particular industry to be the like product. It
14 is frozen and fresh shrimp. What has changed?
15 Nothing. And I don't care how you -- there was an
16 interesting article whether it's pleaded or pled. I
17 don't care how you plead the case, pled the case. The
18 facts are the facts are the facts. It's fresh and
19 frozen, I think.

20 So that's certainly my preliminary view, and
21 I was delighted to hear your questions.

22 MS. TURNER: Mr. Lunn?

23 MR. LUNN: Thank you very much. Mark Lunn
24 from Arent Fox on behalf of the SEAI. We will expand
25 upon this more in our post-conference brief, but to

1 your specific question -- and I went back and looked
2 at the sunset review determination where the
3 Commission said the record in these reviews does not
4 indicate there has ever been any changes in the
5 product characteristics that would change since the
6 original investigation.

7 Nothing has changed since then either. So I
8 think it would be very difficult for the Commission to
9 reach a different determination in this case. One bit
10 of factual difference -- and I wasn't involved in the
11 sunset review -- but was this issue that Mr. Connelly
12 referenced that they're buying frozen shrimp, the
13 processor buying sometimes 100 percent of what they're
14 buying from the shrimpers is frozen shrimp. They're
15 buying frozen shrimp from the importers.

16 So it's very difficult to see how they
17 distinguish what they're -- I know they're not
18 processed off the boat, but they are frozen. So I
19 think they're trying to make a distinction without a
20 difference, basically. Thank you.

21 MS. TURNER: Thank you. If you can
22 elaborate in your post-conference briefs on that
23 issue, on the factual side of just what we're looking
24 at for domestic like product, that would be helpful.

25 Mr. Connelly, I'll go back to you because

1 you actually raised this, but if any of the other
2 counsel want to -- commodity. You indicated you
3 started off in your opening remarks indicating that
4 this is not a commodity. And I guess I want to start
5 on that one by asking you, yes, I mean, the Commission
6 did not find in the review that this was a commodity
7 product, but the Commission did find that there was a
8 lot of evidence to show that the products, the imports
9 and the domestic product, were interchangeable, and
10 that there was a correlation because they did go
11 affirmative on the case, a correlation between the
12 imports and the injury, the continuation of material
13 injury.

14 So my question for you is what has changed
15 now in the last two years to indicate that there is no
16 longer these products -- are not interchangeable. And
17 I guess prefacing that by saying commodity and
18 interchangeability, you can have a product that's not
19 a commodity that can still be very inter -- and have a
20 variety of sizes, shapes, and species, and still be
21 interchangeable or substitutable for each other.

22 MR. CONNELLY: I don't disagree with that.
23 And so let's take it step by step. I think everyone
24 agrees it's not a commodity. With respect to the
25 issue of interchangeability in the Commission's

1 finding that it was moderately interchangeable,
2 imports, wild-caught -- versus wild-caught.

3 You have to really doubt that if you look at
4 the Urner Barry prices of domestic shrimp versus
5 imported shrimp. Why this consistent underselling
6 that the Petitioners stress? Why would you ever buy
7 domestic shrimp if it's moderately interchangeable?
8 Why would you do that? The price of the imported
9 shrimp, taking their theory, is always lower.

10 Now, you ask what is different. With all
11 due respect, we think the Commission was wrong two
12 years ago. I think it's just that simple. But the
13 evidence here, I think, is every bit as persuasive now
14 as it was then. We would never deny that imported and
15 domestic shrimp can compete head to head sometimes.
16 No one is saying that there is never a point of
17 competition. What we are saying is that doesn't get
18 to the level of significant adverse price effects
19 because for the most part, we would say it's not
20 moderately substitutable. There is limited
21 substitutability for all of the reasons you heard
22 today.

23 Now I'll let others speak.

24 MR. LUNN: I just want to jump in. There is
25 one instance Mr. Paterson mentioned where domestic and

1 imported are not substitutable, and that's in the case
2 when they're supplying the U.S. military because under
3 the Berry Amendment, he has to supply them with
4 domestic-caught shrimp. So that's an instance where
5 that's market that the imports cannot penetrate.
6 That's protected to them. So that's a situation where
7 there is no substitutability.

8 MS. TURNER: What share of the U.S. market
9 does that account for?

10 MR. PATERSON: I don't have the exact
11 number. There was a lot of things that changed a few
12 years ago in the way that the military bought their
13 shrimp, which I think was a big mistake for the
14 domestic shrimp industry not to, you know, challenge
15 those points. They went to a prime vendor.

16 But I can tell you when it was all done by a
17 bid through Philadelphia. It would be not uncommon
18 for me to have 20 tractor-trailer load orders at a
19 time. That's a lot of shrimp. We still supply the
20 military, but on a smaller basis. And, you know, we
21 only have a portion of the business. There are some
22 other processors that aren't here today that have the
23 majority of that military business, and I know that
24 one of them is a large plant that runs, you know, 52
25 weeks a year, 5 days a week. So it's a considerable

1 amount of product.

2 MS. TURNER: If for post-conference briefs,
3 if you can give us -- you're making an argument of
4 attenuated competition, and in the underlying court
5 cases that have dealt with attenuated competition and
6 defining whether a market is, they have their ranges
7 of percentages of how attenuated the competition
8 actually is. It's great having a few -- pointing out
9 a few areas, but if it, you know, accounts for only 5
10 percent of the industry or 10 percent of the market,
11 then there is obviously in any case -- well, most any
12 non-commodity case, there is going to be some kind of
13 attenuated competition, but it really depends on the
14 level of that.

15 So if you can actually address that
16 question, looking back at some of the case law as well
17 if you want to, but give us percentages of exactly how
18 attenuated the competition is, keeping in mind what
19 the Commission did two years as well, that they didn't
20 find there was --

21 MR. CONNELLY: Well, as I listened to the
22 testimony, I wrote down ten attenuation factors that
23 emerged in the testimony. Whether we can quantify it,
24 I'm not sure. But we'll certainly try. But let me
25 just give you my ten. The difference between contract

1 -- and these are differences between imported shrimp
2 and farmed -- excuse me, wild caught domestic.
3 Contract versus spot sales, different specifications.
4 You heard from Mr. Faria. He never gets a spec that
5 says you can provide either farmed or wild-caught.
6 Regional distribution differences, size of customer
7 differences. I've mentioned earlier different prices,
8 different quality, mechanical peeling by the domestic
9 industry versus hand peeling by the importers. That
10 is a huge difference in terms of the quality of the
11 shrimp. Black tiger not provided by the domestic
12 industry, always has a price premium from black tiger.
13 Nobody disputes that. Headless, shell-on versus
14 peeled. There is a difference between imports and of
15 course limited supply for the domestic. And last but
16 not least, the difference in taste.

17 We can argue about which tastes better, but
18 there is a difference. And all of those factors I
19 think lead to an attenuation of competition.

20 MS. TURNER: Please address those and try to
21 quantify the attenuation. Mr. Lunn, you --

22 MR. LUNN: Yeah. I just want to ask one
23 more -- or make one last point, following up on what
24 Mr. Connelly said, because the other area where --
25 probably the bigger area where there is no competition

1 is when you have to do long-term contracts. I've
2 heard a lot of people talk about three- and six-month
3 contracts versus spot, and that was the first thing on
4 Mr. Connelly's list.

5 When you take the domestics completely out
6 of that pool of business, that's even bigger. So
7 that's probably the bigger area where they cannot
8 compete. If they're going to have to do weekly price
9 lists because they don't know what is going to come in
10 off of that boat versus a farmer who can go what do
11 you need over the next six months, you know, I'll
12 harvest whatever size you need, and we'll set it up,
13 and we'll have a program, and you got it.

14 But that's probably the bigger area where
15 there cannot be any competition.

16 MS. TURNER: Unless those long-term
17 contracts also have price adjustments to them which --
18 I'm just saying you might -- if you've got a long-term
19 contract that has got a set price, but if you've got a
20 long-term contract that has got price adjustments to
21 it, then you're actually dealing with something closer
22 to your weekly price list. And I believe that --

23 MR. LUNN: Well, you can't -- even if you
24 can make some adjustments on the price, you can't
25 necessarily adjust on the size and the species and the

1 availability. You can't predict what you're going to
2 pull out of the Gulf of Mexico three months from now.

3 There could be another oil spill. I mean, that's a
4 massive thing. But just there are times -- you know,
5 Mr. Paterson has been telling me about the fishing.
6 He said there were times years ago when all of a
7 sudden there was no white shrimp for a while, and it
8 runs in cycles.

9 So you have those various variations of
10 nature that you're dealing with that you cannot --
11 that you can account for when you're dealing with
12 aquaculture that you can't with wild caught.

13 MS. TURNER: Anything you can do to quantify
14 any of those would be helpful. Yes, Mr. Bloom.

15 MR. BLOOM: Ms. Turner, I'm so sorry. Can I
16 just add onto that?

17 MS. TURNER: Yes, please.

18 MR. BLOOM: And I can speak for our business
19 at Eastern Fish. We're a plus 80 percent, close to 85
20 percent, contract business. And when we make a
21 contract, it's a fixed price, fixed quantity, over a
22 fixed time period. And we have multiple contracts
23 actually that go a year out.

24 MS. TURNER: But are you talking about your
25 sales or are you talking about the product that you're

1 actually -- when you're actually -- because you're a
2 processor.

3 MR. BLOOM: Both.

4 MS. TURNER: Okay.

5 MR. BLOOM: Both. An importer, yeah, yes.
6 So my suppliers are able to lock into a fixed price.
7 We guarantee a price to our customer for the length of
8 time.

9 MS. TURNER: I actually was going to ask you
10 because you indicated you import farm-raised
11 primarily, but you also purchase wild caught to
12 process. So my first question is, is the wild caught
13 mostly U.S. product, or do you also get wild caught
14 from imported --

15 MR. BLOOM: We actually -- most of our wild
16 capture product is imported from Mexico primarily.
17 And we do buy processed and bring it into the United
18 States.

19 MS. TURNER: Okay. So that's actually --
20 that's processed. That's not something that you
21 priced.

22 MR. BLOOM: Correct. It's not a -- and even
23 the U.S. product we do buy, there are certain
24 customers of ours that carry a range of sizes, and
25 what we have to -- they specify on one or two of their

1 sizes, U.S. shrimp, and we will source that for them
2 already processed.

3 MS. TURNER: Already processed?

4 MR. BLOOM: Yes.

5 MS. TURNER: So the only thing -- what you
6 then process actually is imported farm raised? Or am
7 I mistaken that you don't --

8 MR. BLOOM: We are an importer. We are
9 not --

10 MS. TURNER: You don't do any processing.

11 MR. BLOOM: -- a processor.

12 MS. TURNER: Okay. I guess I understood you
13 incorrectly. Okay. Then what you're purchasing to,
14 is it only farm-raised, or is it also wild-caught?

15 MR. PATERSON: It's both, but the wild --
16 most of the wild-caught that we purchase now that are
17 not domestic shrimp are small shrimp that count 100 to
18 200 to the pound, and we purchase them because they're
19 hand-peeled and chemical free.

20 MS. TURNER: Okay. So that's the wild-
21 caught that you're purchasing?

22 MR. PATERSON: That's some of it. We also
23 -- we process -- we buy a lot of -- a lot of packers
24 in countries like Mexico, for example, they don't have
25 the facilities to IQF the shrimp. So we buy a lot of

1 Mexican shrimp, which is a high quality, you know,
2 brings a premium price, West Coast Mexican shrimp.
3 That product often we sell as an IQF shell-on into
4 retail grocery stores.

5 MS. TURNER: Okay. So one question. You
6 had noted that there was not enough supply of U.S. for
7 you and that though there is also different products
8 -- and so I guess you actually indicated the
9 attenuated competition between the domestic and the
10 U.S., and that one of the reasons, if I've got this
11 correctly -- that one of the reasons that you didn't
12 purchase more domestic is a supply issue.

13 And I guess my question to you then is --
14 but is there demand for that because you've indicated
15 that the domestic product is different from the
16 imported product, and thus it's not only just whether
17 you have the supply of the domestic product available
18 to you, do you have the demand for it as well?

19 MR. PATERSON: I'd like to give you a quick
20 example of that. In 2009 and 2010, I operated a
21 company in Port Arthur, Texas called Flor Tex Shrimp
22 Company, and we -- it was a time when we had an
23 opportunity to lease a dock in a facility there. We
24 saw domestic shrimp at its lowest prices. As a matter
25 of fact, when we went in and opened that facility up,

1 the boats were being paid for 9/12 head-on shrimp as
2 low as \$1.35 a pound.

3 We went in. We opened that facility up, and
4 we advertised -- we actually put a sign up as the
5 boats came by the dock. We paid \$1.90. So the boats
6 actually laid offshore, waited, and made appointments
7 for us to come in and unload with us. We had no
8 customer base for those shrimp that we were buying.
9 We took them back to Tampa. We processed them into a
10 retail bag. We sold every one of them profitably.

11 That market went from \$1.90 all the way up to \$3.85.

12 And we would have -- our lease was up in 2010. The
13 oil spill had happened. Our boats that were fishing
14 for us for independent contractors, they were all
15 being paid 50- to \$70,000 a month to do the oil
16 cleanup. So we had no fishermen. So we didn't renew
17 the lease. We went back.

18 But the example is that you can sell
19 domestic shrimp, but you've got to get out and work
20 it. You've got to get out and get a customer. You've
21 got to have a supply. And, you know, I think that's
22 one of the differences between, you know, my company
23 and some of the other companies.

24 If I had to make a living today with the
25 domestic shrimp, darned right I can.

1 MS. TURNER: So there is a demand for it,
2 even though it's a different product.

3 MR. PATERSON: You've got to create the
4 demand. You've got to go sell something. Nobody
5 calls me to sell me any domestic shrimp.

6 MS. TURNER: But they call you to sell you
7 -- I mean, they call you to purchase imported shrimp?

8 MR. PATERSON: Not -- I don't sell any
9 imported shrimp to domestic people. My company wants
10 to work our people. We've been terribly affected by
11 the last antidumping duties because what that did is
12 it forced China into breaded shrimp, where there was
13 almost nothing coming. There is over 100 million
14 pounds started coming out. That directly affected my
15 business.

16 I'll give you an example. We own Tampa Bay
17 Fisheries and we own Singleton Seafoods. Singleton
18 Seafoods also had 400 employees. The breaded shrimp
19 market went so low that we had to combine the two
20 plants so that we'd have enough production to run. We
21 shut down the Singleton facility, laid off 400 people.
22 Some of them had been there for 30 years.

23 So that's what the antidumping duties did
24 for us last time.

25 MS. TURNER: Okay.

1 MR. PATERSON: The shrimp business is a good
2 business. You've got to work your butt off, but it's
3 a good business.

4 MS. TURNER: Okay. The other question -- I
5 also had a question or Mr. Faria because you actually
6 -- Chicken of the Sea is a processor as well, right?

7 MR. FARIA: Chicken of the Sea is an
8 importer, and our parent company is a processor.

9 MS. TURNER: Okay. So you're a process of
10 -- is it imported or domestic or both?

11 MR. FARIA: Our processing facilities are in
12 Thailand. Our processing facilities are in Thailand.

13 MS. TURNER: Thailand, okay, okay.

14 MR. FARIA: Yes.

15 MS. TURNER: So basically -- okay. So and
16 thus it's in Thailand where you're processing. Is it
17 only farm-raised?

18 MR. FARIA: It's all farm-raised, yes.

19 MS. TURNER: Okay. Since actually the two
20 of you are both processors, Mr. Paterson and Mr.
21 Faria, even though yours is in Thailand and yours is
22 in the U.S., is it fresh -- when you're getting the
23 shrimp from the shrimpers, or from actually -- it
24 wouldn't be the shrimpers, it would actually be from
25 the farms. Is it only -- is it fresh, or is it

1 frozen?

2 MR. FARIA: Fresh.

3 MS. TURNER: Fresh?

4 MR. PATERSON: Frozen.

5 MS. TURNER: Your is frozen, okay. So it's
6 either/or. Okay. And this is something I probably
7 should have asked, actually, the domestics, and if
8 they want to respond to it, please do, in the post-
9 conference brief. When you're processing fresh versus
10 frozen, aside the fact of actually refreezing it into
11 -- freezing it, is there a difference? How much of a
12 difference is there in the processing? The deveining,
13 all of the things that we've actually considered to be
14 truly sufficient processing?

15 MR. PATERSON: Ms. Turner, I could answer
16 maybe that, some of it. It's kind of like if you went
17 to a dog show, and you had a poodle and a Saint
18 Bernard. You know, they're totally different animals,
19 but both of them can be blue ribbon winners. And
20 that's kind of the way it is with domestic shrimp.
21 There is domestic shrimp that's going to be a great
22 product.

23 But one of the big differences, for example,
24 as me as a process who is going to take that product
25 and peel it for somebody whose specification is that

1 it's tail-on, when that shrimp is caught in that net
2 -- you said you went down there, and you saw how that
3 works. So, you know, the weight of that -- all that
4 product gets in that net, and it bounces along the
5 bottom.

6 Typically, with the white shrimp, which is
7 what I'll prefer to buy, with the white shrimp that
8 shrimp dies pretty much in the net. It bounces along
9 the bottom. The tail, which is, you know, the most
10 tender part, that tail gets bent around, and it very
11 often comes off, especially on a freezer boat where
12 they've IQF'd it. Then you've got them rubbing
13 together in the bags. So you're going to get a lot of
14 shrimp that has one fin off the tail missing.

15 If you go to a restaurant, if you go to a
16 supermarket, and you buy a cooked shrimp, typically
17 you're going to find that the tail is on it and notice
18 that. With an ocean-caught shrimp, it's very, very
19 difficult for us to yield out when we peel that shrimp
20 because the tails are going to come off. When that
21 tail comes off, it can't be used for the order that
22 we're putting it in. And oftentimes it goes into what
23 we call large pieces.

24 So it's very, very expensive for us to try
25 to use that product. We are probably -- I have about

1 100 people in my company that peel shrimp. You know,
2 it's a process that we've developed over the years,
3 and it's partially mechanical and partially, you know,
4 finished up by hand. But it's something that we can
5 take a farm-raised shrimp which is gently handled, and
6 we can peel that product and we can use it for our
7 orders. We can't use the domestic shrimp.

8 There are things I can use domestic shrimp
9 for, but it balances out pretty darn well because our
10 shrimp market is not, you know, 150 million pounds or
11 200 million pounds. It's over a billion pounds. And
12 there is certainly a place for all of the products
13 today.

14 MS. TURNER: Thank you. Mr. Faria?

15 MR. FARIA: The fact that our products are
16 processed fresh offers a quality advantage because our
17 products are not twice frozen. And also to the fact
18 that our processing capacity and facilities are in
19 Thailand, our entity in the U.S., Chicken of the Sea
20 Frozen Foods, it's a market-driven company that offers
21 whatever the customer demands, and therefore our
22 imports from our parent company are less than even 30
23 percent of our total shrimp imports. So, we source
24 what the customer demands, basically.

25 MS. TURNER: Thank you for those answers.

1 MS. DeFILIPPO: Thank you Robert. Ms.
2 Preece, questions for this panel?

3 MS. PREECE: If you have any answers to the
4 questions I've asked the domestics I'd be happy to see
5 them in the brief as well. I'm going to try to ask
6 some of the questions.

7 What has changed in demand, or has anything
8 changed in demand since the review? I'm using the old
9 report as my template, so I need to know what I need
10 to change, and if you don't tell me anything, it's
11 going to look kind of familiar. I hope you don't
12 dislike the old one, but that's efficiency.

13 MR. CONNELLY: Let me take the first shot at
14 it.

15 Our Exhibit 2 we'd like to see in your
16 report because it gives you a perspective from 2001
17 right through 2011 and you can add 2012 on there as
18 well. When the commission sees those numbers and the
19 increases, we think that's very significant, factually
20 and legally.

21 Another answer to your question would be
22 nothing's changed. Demand's right where it was. We
23 had the BP oil spill. That was a big change, but what
24 didn't change was the level of imports. As Jarrod
25 said earlier, if we are as aggressive as they claim

1 and we are so bent on taking over the U.S. market,
2 then why did our imports not increase? You cannot
3 consider just subject imports here. There are ebbs
4 and flows for all kinds of various reasons. And it's
5 going to continue. But year after year it's 1.1
6 billion pounds of imports. Year after year.

7 So we'd like to see that in the report.
8 we'd like to see all the data in the report.

9 MR. GOLDFEDER: It's Exhibit 2. They're
10 confused.

11 MR. CONNELLY: I'm sorry. Exhibit 1.

12 But all the other exhibits. We'd like to
13 see the entire series right from 2001 right through
14 2012 because it gives a perspective. The more things
15 change in this industry, the more they stay the same.
16 That's really our point.

17 MS. PREECE: You've explained some of the
18 advantages of the imported shrimp and yet I think
19 we're seeing that there is some price difference
20 between the imports and the domestics, with the
21 domestics having a higher price. What's the
22 explanation for that?

23 MR. CONNELLY: Actually that's the question
24 we'd like you to ask the domestics. If everything is
25 so moderately substitutable, how is it they can get

1 such a high price premium? Higher price?

2 Our view is that that must be attributable
3 to different preferences. People are willing to pay
4 more for domestic shrimp if, if it is properly
5 prepared. That's where we have a problem with
6 domestic shrimp.

7 There is domestic shrimp that is well
8 prepared and well presented and well cared for, and
9 that's the shrimp that gets the premium.

10 You'll recall the Wild American Shrimp
11 Initiative which we went over in the sunset review.
12 For all we can tell, it's now defunct. But that Wile
13 American Shrimp Initiative was an express recognition
14 by the domestic industry that their shrimp did not
15 meet the standards of imported shrimp, and therefore
16 they are not capturing the premium that could be
17 captured for wild American shrimp if it was done
18 right, and that went from the boats right through the
19 processing plant.

20 so to get back to your question, if you do
21 it right, as Robby Patterson says, there's money to be
22 made.

23 MR. GOLDFEDER: I'd just like to add onto
24 that from Exhibit 1, and what I mentioned earlier is
25 when you look over since 2001, really since 2000, this

1 whole period, you see that the market share of total
2 imports has remained more or less in this narrow range
3 of 87 to 91 percent. What that means then on the flip
4 side is that domestic industry market share has
5 remained essentially the same, more or less at ten
6 percent throughout this whole period.

7 So if there was this true head-to-head
8 competition throughout that you're always finding this
9 price premium of domestics, or rather you're finding
10 this consistent underselling, at some point wouldn't
11 you expect the imports to start taking over the
12 domestic's market share? You haven't seen that.
13 You've seen incredible stability over a very long
14 period of time.

15 MR. SAIT: If you have fresh caught ocean
16 shrimp, fresh caught ocean shrimp processed
17 immediately, and frozen immediately within 24 hours,
18 commands a premium over the cultured ship. Fresh
19 caught ocean shrimp anywhere in the world, it commands
20 a premium over the cultured shrimp.

21 MR. BLOOM: One other comment is if you look
22 at the Urner Barry Index it lists multiple origins,
23 multiple forms from multiple different countries. I
24 believe it actually shows the wild caught shrimp kind
25 of in its own grouping. And if there weren't

1 significant differences and distinctions, why would
2 they have all these different lists of pricing by
3 categories and countries?

4 MS. PREECE: Thank you.

5 Has there been anything affecting supply and
6 particularly I want to address the question of, we
7 have more information about countries that were
8 previously in the order, or in the other order, but
9 any of these countries, new countries coming in
10 different? Is there anything different? Or anything
11 changed in supply since the review?

12 MR. CONNELLY: In the absence of any other
13 volunteers I'll answer that question. I think the
14 answer is no.

15 I think the conditions are pretty much the
16 same. However, I do want to make I think one
17 important difference. The volume of shrimp produced
18 overseas that goes to home country markets and third
19 country markets has increased substantially. There is
20 a very significant amount of shrimp.

21 Who would think that China would be a net
22 importer of shrimp? China is a net importer of
23 shrimp.

24 Ecuador sells shrimp to China, a lot of
25 shrimp to China, and other countries, same thing.

1 You're seeing that in, what's the exhibit? Exhibit
2 3. Exhibit 3 is showing that, I think.

3 I guess the other point I would make is
4 please don't discount the significance of these non-
5 subject countries. There are a lot of them.

6 The Petitioners try to discount the
7 significance of non-subject shrimp, shrimp from number
8 eight down.

9 When you look at the volume of shrimp that
10 those countries produce in Exhibit 3 and the annual
11 average, it's a billion pounds. A billion pounds.
12 Those countries could supply the U.S. market all on
13 their own.

14 Here again, we get back to the fact that
15 they don't, because demand in this country is level.
16 There is simply no reason to think that the importers
17 here represented, the seven countries here represented
18 have any objective or ability to increase exports.

19 If they had, that would have happened a long
20 time ago, because you had Ecuador, you had the largest
21 producer in China, you had big producers in India and
22 Thailand. They could have increased their shipments
23 after they got out from the antidumping order a long
24 time ago, and it did not happen.

25 You would think they would have every

1 incentive to do that, but it did not happen.

2 MR. LAYTON: Because of lack of
3 interchangeability. This case just stares in your
4 face, I think, the fact that you have a price premium
5 for the wild caught. How can they sustain that?
6 Because there's not interchangeability. You have
7 these new entrants into the market. They're not
8 taking market share from the U.S. industry, they're
9 taking market share from the other exporters. Why?
10 Because of lack of interchangeability.

11 MS. PREECE: So how much of the imports are
12 sold using long term contracts and are these weekly
13 price lists common for importers?

14 MR. McCLOSKEY: Different importers I think
15 have different percentages based on their versatility
16 in the countries that they're dealing with.

17 For example, as a comment from Eastern said,
18 countries like Thailand and Indonesia specifically who
19 have been in the farm raised business a little bit
20 longer are more akin to be very proficient in helping
21 our companies get long term contracts in place. So
22 therefore my guess would be from Indonesia and
23 Thailand you would have a vast majority of that
24 product going into long term contracts.

25 Ecuador, for example, is more versatile in

1 producing a quick, fresh frozen product that's packed
2 mostly in headless and head-on forms which would be
3 more akin to selling on a shorter term or priceless
4 basis because the prices on those change. But
5 countries like India as well.

6 So I would say it depends upon the importer.
7 And if you want to add to that --

8 MR. BLOOM: I can speak certainly between
9 our distinction between our wild caught and our farmed
10 product, particularly from Asia.

11 About close to, probably 90 percent of our
12 farmed product, our Asian product, is contracted out.

13 The majority of our wild shrimp that we catch or
14 purchase from Mexico is purchased on a spot basis, is
15 sold on a spot basis, I'm sorry. We have some
16 customers who have requirements, but most of those are
17 market driven. Most of those sales are market driven.

18 MR. CONNELLY: Let me add one other thing.

19 Put yourself in the place of someone who's
20 trying to sell shrimp. If you're selling on a spot
21 basis, you're on the phone all day long making phone
22 calls, trying to sell that shrimp. It takes a lot of
23 time and a lot of effort to sell a little bit of
24 shrimp at a time, if you can sell on a contract basis
25 because you have an assured supply, it makes it a

1 whole lot easier and you make a whole lot more money.

2 MS. PREECE: Are importers or imports moving
3 up a value chain, moving from frozen shrimp to, it was
4 already mentioned, this breaded shrimp, or any other
5 products that are upstream?

6 MR. McCLOSKEY: We see an increase,
7 especially on the contract basis, for fully or nearly
8 prepared shrimp items for some of the fast food, quick
9 service industry, whereby shrimp will be not only
10 cooked, IQFd and have the marinade on it so that the
11 back of the help assistant, the back of the store
12 helpers will just read a recipe and say take three of
13 the shrimp from the bag, put them in the microwave,
14 and that's it. There's no further preparation. That
15 is definitely increasing, as well as full meals. You
16 see more and more as you go to your supermarkets, you
17 see all kinds of shrimp items now. Scampi with the
18 pasta, with the vegetables. Breaded was like the
19 first level of value added, but now it's gone much
20 further than that. It's better for the producers.
21 Even overseas, you guys can confirm this too, there's
22 a lot more value added and it really grabs a market
23 segment that was before not known.

24 MS. PREECE: Thank you very much.

25 MS. DeFILIPPO: Thank you, Ms. Preece.

1 Ms. Berry, questions for this panel?

2 Ms. Haines?

3 MS. HAINES: No, I don't have any questions,
4 but thank you very much. It was very helpful. Thank
5 you.

6 MS. DeFILIPPO: All right. I think I just
7 have one question to follow up on with Mr. Goldfeder.

8 Exhibit 2 that you were talking about in
9 your testimony, you were I believe talking about the
10 relationship between landings and prices. So
11 landings -- inverse relation. If landing's up, price
12 down; vice versa.

13 So, I love numbers. So I went back and I
14 was looking, sort of looking at the road, percentage
15 change from prior year and the live weight grouping.
16 Then the AUV. Generally that holds true, different,
17 different so if one was up and down I marked it
18 different. Except for 2011. The relationship, it
19 didn't hold in four and three, or one to two and then
20 three to four.

21 So in 2011 you have a 17.7 percent increase
22 in landings and you also have a 3.9 percent increase
23 in price.

24 Is there some explanation for why most
25 recently that relationship did not hold?

1 MR. GOLDFEDER: What you're seeing in 2011
2 is the domestic industry, or the shrimpers, they're
3 still recovering from the BP oil spill. I talked
4 about this 40 year average where if you look at it
5 you'll see that there are about 260 million pounds per
6 year. You see that 2009 was right at that mean. Then
7 it plummeted in 2010 because of the oil spill. In
8 2011 they're still recovering from that. They're
9 still trying to get back to where they were before.

10 So I would say that since we're still in the
11 BP -- 2011 is reflecting that post BP recovery period,
12 you would expect to see the AUV still --

13 MS. DeFILIPPO: Would you expect for the
14 2012 data to show that inverse relationship return?
15 Or will it take longer to kind of sort that out?

16 Speculation. Just a guess, just curious.

17 MR. GOLDFEDER: We'll speculate in post-
18 conference if that's okay.

19 MS. DeFILIPPO: That's fine, thank you.

20 Let me quickly look --

21 (Pause.)

22 MS. DeFILIPPO: Actually, I think that was
23 the only question that I had.

24 With that, I thank this panel very much. It
25 was very helpful to hear your testimony, and thank you

1 for being patient with our questions and answering
2 those.

3 We'll do a five minute break to swap and
4 then we will go into rebuttal, closing remarks.

5 So we'll be back at 1:35.

6 (A recess was taken from 1:30 to 1:35 p.m.)

7 MS. DeFILIPPO: We will move to closing
8 remarks from the Petitioner. Ms. Drake, are you going
9 to do the honors?

10 Welcome back, and please begin when you're
11 ready.

12 MS. DRAKE: Thank you again. My name is
13 Elizabeth Drake with the law offices of Stewart &
14 Stewart on behalf of the Petitioner.

15 I would like to respond to a number of
16 points that were made by opponents to relief in the
17 prior panel.

18 First, there was an argument that demand has
19 stabilized in the United States market, that imports
20 are stable, and that domestic production is limited
21 and therefore I presume the result of that argument
22 they hope is that therefore the volume of imports is
23 not significant.

24 There's no requirement that the domestic
25 industry be able to supply the entire domestic market

1 in order for import relief to be merited under the
2 statute. There are many cases where domestic industry
3 may be constrained by other factors from supplying the
4 entire market, but that does not prevent import relief
5 especially in a case such as this where you do see an
6 increase in market share of subject imports over the
7 period, and you see dramatic price undercutting and
8 very significant adverse price effects.

9 In addition their argument relies on a
10 period where antidumping orders have been in effect on
11 some of the countries that are subject to these
12 petitions. If you go back to the 2001 through 2003
13 period you see that there was a very robust ability of
14 countries to increase supply to the United States very
15 quickly and to increase market share, and the
16 antidumping orders may have put a floor on that for
17 some countries but they certainly didn't change the
18 situation for everyone. As I said, when you look at
19 our subject countries as opposed to all imports in the
20 charts that were provided, but when you focus on
21 subject countries which is the proper focus, there has
22 been an absolute increase from 2009 to 2011, and an
23 increase in market share over the period as a whole.

24 Next I would like to move to some of the
25 arguments about attenuated competition. Some of these

1 are a little bit like deja vu all over again because
2 they've been addressed by the Commission, both in the
3 original investigation and in the sunset review. And
4 as many have stated, not much has changed since then.

5 In terms of the wild caught versus farmed,
6 people can't seem to agree if that makes the wild
7 caught product better or the wild caught product
8 worse, but they do continue to emphasize what
9 differences they're able to identify between wild
10 caught and farmed. And again, in the sunset review
11 the Commission found that the majority of purchasers
12 purchased both, that they were used in the same end
13 uses, and that changes in prices for one affected
14 changes in prices for the other. Nothing has changed
15 on that point.

16 The issue about long term contracts and
17 predictable supply and being able to have consistency.
18 Again, this was raised in the sunset review and the
19 Commission looked at it and said that while there may
20 be some small portion of the market that's long term
21 contracts, the vast majority is either short term
22 contracts or spot, and that the domestic industry has
23 off-season inventory where they're able to supply
24 throughout the year, and that they are able to supply
25 in all sizes was another finding of the Commission in

1 the sunset review. Again, nothing has changed since
2 then.

3 There was an argument about value added
4 products not being available from the domestic
5 industry. The domestic industry, some folks are
6 working on value added products. It's an area where
7 people try to expand and then they see the imports
8 quickly move into that area and to try to get into
9 that market as soon as the domestics have created a
10 market for a value added product. We'd be happy to
11 expand on that post hearing.

12 Traceability. That's an interesting issue
13 and there certainly is a small segment of consumers
14 that are interested in traceability. I know it's
15 something I like to look for when I shop for my family
16 at the grocery store. But as Mr. McLendon testified,
17 you can go right on his web site and find out exactly
18 which boat caught the shrimp and when and where, and
19 it's packaged with that information. He's not the
20 only domestic processor that has such a system.

21 If you go back to the sunset review and look
22 at the testimony of Mr. Peterson from JBS Packing,
23 they also have full traceability back to the boat. So
24 this is something that a lot of processors are working
25 on and understand that they can meet that demand with

1 domestic shrimp.

2 In terms of the other supposed quality
3 differences between domestic and imported shrimp,
4 again in the sunset review the Commission found that
5 domestic and imported product met minimum quality
6 requirements the majority of the time.

7 We heard that domestically they can't peel
8 and leave the tail on. They can only rip it off and
9 tear it to shreds and the tails are all broken off.
10 but Mr. McLendon, if he didn't testify to this he does
11 also produce the peeled tail-on product, so it's
12 simply not true that it's not produced domestically.

13 Then we heard the gentleman from Tampa Bay
14 Fisheries say that when we work hard enough we can
15 produce that quality product from the domestic shrimp.

16 Well, our processors are working as hard as they can
17 to produce that quality product. You heard a lot from
18 them today about different quality improvements
19 they've been trying to make and they compete head to
20 head with imports and they sell the highest quality
21 shrimp and their purchasers are buying their shrimp as
22 well as imported shrimp.

23 Finally there was this issue about
24 disruptions to supply. Certainly the Gulf oil spill
25 was a significant disruption in that particular year.

1 It was a limited disruption in terms of the time
2 period, at least in terms of the data that we can see
3 and quantify and know about.

4 But then we also heard about disease events
5 in the foreign producing countries, so this is
6 something that's not unique to the Gulf. Everyone
7 will remember the changed circumstance review due to
8 the tsunami affecting the foreign countries' supplies,
9 so disruptions in supply are things that happen to
10 everyone and aren't unique to the domestic industry.

11 I'd like to move on and talk a little bit
12 about price effects. There was an assertion that
13 landings price is determined by landings volume. This
14 was also made in the sunset review. I think we had
15 dueling regression analyses of every single different
16 factor we could think of. Basically the Commission
17 said that the data, particularly purchaser data,
18 provides persuasive evidence that price changes for
19 the subject imports will affect prices for the
20 domestic like product in contrast to the analyses
21 provided by responding parties, et cetera.

22 The data has not changed. We have a few
23 more years' data. We can plug them into the
24 regression analyses again if you all really want to
25 look at those.

1 Mr. Goldfeder also highlighted the fact that
2 average unit values have increased since 2009. I hope
3 our petition and our presentation made clear that for
4 the majority of the period what we were concerned
5 about in terms of adverse price effects was price
6 suppression, not price depression over those periods.

7 And that is evidenced in the increasing cost of goods
8 sold to sales ratio of the domestic industry.

9 Now when you start out in the first year of
10 the period at 90 percent, there's not a lot of room to
11 increase that ratio before you go out of business, but
12 there was an increase in that ratio as price
13 underselling continued. It's only in the last period,
14 the last interim months of the period where we
15 actually see price depression happening in terms of
16 prices going down. I didn't hear any other views on
17 that point.

18 Finally, moving to injury, there were,
19 again, claims that the domestic industry's performance
20 is based on landings and not impacted by imports.
21 Everything this Commission has found in the past
22 refutes that. That import prices do affect domestic
23 prices and do inflict injury on the domestic industry.

24 That is happening now because of the large subsidies
25 going to imported product.

1 They raise the question of the operating
2 loss in 2012 and whether that was due to an increase
3 in SG&A expenses.

4 We'd like to look at this further post-
5 conference, but I would just note even before you get
6 to SG&A expenses and just looking at gross profit, it
7 was down in 2012 from 2011, and this is reflected in I
8 believe our presentation compared the COGs to sales
9 ratio over the interim period from 2011 and 2012, and
10 it went up.

11 So even if you keep SG&A in 2012 exactly the
12 same as what it was in 2011, which of course you
13 shouldn't because you should base it on what the
14 producer's financials are, but even if one were to do
15 that, you may not see an operating income loss in
16 2012, but any return that's there is going to be
17 smaller than it was in 2011.

18 Finally, not finally. One more point was
19 the various arguments made about CDSOA payments and BP
20 settlement payments. I did not hear any case cited
21 where the Commission has included these in operating
22 income and I'd encourage you to stay with your
23 consistent practice.

24 And I would just like to conclude by
25 thanking the staff for all of their time and all of

1 their assistance in helping to gather the data for
2 this case. We believe that large volumes of heavily
3 subsidized imports from the seven countries are having
4 present adverse effects on the domestic industry.
5 They are coming in at prices that in some cases are
6 below our cost of production. We meet import
7 competition across the market in retail and
8 restaurant, across products, across sizes, across
9 forms in block and IQF. Everywhere we try to sell our
10 product we meet import product that undercuts our
11 prices and is making it harder and harder for our
12 domestic industry to earn a reasonable return. Unless
13 we get relief from these imports, we are afraid that
14 our industry will suffer permanent injury and
15 permanent damage so we hope we will be able to obtain
16 relief.

17 Thank you very much.

18 MS. DeFILIPPO: Thank you, Ms. Drake.

19 We will now have closing remarks for
20 Respondents. Mr. Lunn, I believe I was told you would
21 be doing the honors.

22 MR. LUNN: This has been a long day and I
23 really appreciate everybody's patience and everybody's
24 really good questions. I think you helped us bring
25 out the points that we wanted to make and we think are

1 important to the decision that the Commission has to
2 make.

3 Ms. Drake just spent a lot of time talking
4 about everything's the same as before, and I think
5 what she wants you to do is rubber stamp -- you being
6 the Commission if you were -- rubber stamp your
7 previous decisions. You found injury before, you need
8 to find injury now.

9 However, she really doesn't address the
10 biggest change between then and now. She's
11 fundamentally changed this case by changing the like
12 product.

13 The shrimpers aren't here today. They're
14 not petitioners. She took them out of the equation.
15 we're going to address this a lot more in our post-
16 conference brief, but I think that one fundamental
17 change means that we have to look at this completely
18 differently than we did before. That was a change
19 they asked for.

20 So I think we need to look at the whole
21 conditions of competition, looking at -- We think you
22 should look at the shrimpers as well as the
23 processors. The processors, as I said before, are
24 buying frozen shrimp from importers, they're buying
25 frozen shrimp from the boat, from the shrimpers. It's

1 one like product so we encourage you to do that.

2 The next thing I want you to look at, and
3 there's been a lot of discussion about the
4 substitutability of domestic wild caught and
5 aquaculture. I won't repeat it because I think we
6 went into it at some length, but there are issues of
7 availability. If you're a large purchaser -- a Wal-
8 Mart, a Sysco, those types of things and they want
9 predictability over time, that can't be given by the
10 wild caught shrimpers. They're selling on a weekly
11 price list basis. They don't have the quality or the
12 consistency.

13 Mr. Patterson can make excellent products
14 using wild caught. I'm certain all the processors
15 here can. But can they do it consistently? Do they
16 have the ability to peel them by hand? Things of that
17 nature that it takes to process them properly.

18 The processors we've spoken to said that
19 really just the consistency isn't there.

20 Next, the U.S. industry profits, they're not
21 huge but they've been consistent over the last ten
22 years. Yes, there was a drop in the beginning of
23 2012. Mrs. Drake would like you to look at that. But
24 once you reverse that SG&A change and find out what
25 that is, you then get to the point where profits

1 remain basically stable over the last literally ten
2 years.

3 So it doesn't seem to be an industry, no
4 matter what, imports have been reasonably constant as
5 well, so it doesn't seem to be an industry that's being
6 impacted by these huge subsidies that they're
7 claiming.

8 Moreover, I think we do have to look at the
9 BP oil spill money. That's a little bit different
10 than a lot of other below-the-line items. The reason
11 that is is because the settlement money they got was
12 given to them to make up for lost profits during that
13 period. BP created, there was a negligence on BP's
14 part. They reached a settlement. And the purpose was
15 to replace those profits.

16 So if you look at the dip in profits, if
17 you're going to take that into consideration, I think
18 by definition you have to consider what they did with
19 this money and look at how they used it and how much
20 they got and consider that into revenue and their
21 profitability during that period. Basically it's a
22 different animal than a lot of other below-the-line
23 items.

24 Finally, you heard a lot about huge
25 subsidies and I know this is Commerce's purview, but

1 you're going to find that there just aren't huge
2 subsidies. The world market for shrimp has expanded.
3 The processors, my clients, the Indians, since I've
4 worked with them have expanded their overseas markets
5 and they're always looking for more. The AD duties
6 have provided, have been in effect for quite some time
7 now but countries have gone out of it. Ecuador is
8 out. The largest Indian producer is out. I believe
9 some of the Thai producers are out of the order. We
10 don't see huge increases coming from them. If they
11 were getting huge subsidies or there was some reason
12 to ship huge amounts to the United States they would
13 be doing it, they could be doing it because there's no
14 restrictions on a large portion of the production from
15 these countries right now. We don't see that right
16 now.

17 Mr. Connelly made this point. If there was
18 any desire to ship and take over the entire U.S.
19 market the production basically is there but they have
20 other markets. They're selling to China. They're
21 selling to Europe. New entrants are coming into play.

22 So I think there are major changes.

23 Going back to some of the questions that
24 Mrs. Preece had and others, what has changed? I think
25 a lot has changed over the past couple of years.

1 Again, the biggest one being that they've tried to
2 change the like product. We think it should go back
3 to what it was originally. But there are new markets
4 that our companies are selling to. The Department of
5 Commerce I think will find that there are not huge
6 subsidies that are being provided. They just
7 initiated on some of the cases and they didn't
8 initiate on a number of the subsidies from what I've
9 been told.

10 I think we're going to find out that this is
11 a stable market that we're looking at right now. We
12 have reached a level of equilibrium. The subject
13 imports are competing head-to-head with each other.
14 They're competing with non-subject countries. But at
15 the end of the day they're really not competing with
16 domestic industry and we respectfully request that the
17 Commission, or in your report you not recommend that
18 they find injury.

19 Thank you very much.

20 MS. DeFILIPPO: We don't recommend. Fact-
21 based report. But thank you for your closing
22 statement.

23 On behalf of the Commission and the Staff I
24 would like to thank the witnesses who came here today
25 as well as counsel for helping us gain a better

1 understanding of the product and the conditions of
2 competition in the frozen warm water shrimp industry.

3 Before concluding, please let me mention a
4 few dates to keep in mind.

5 The deadline for submission of corrections
6 to the transcript and for submission of post-
7 conference briefs is Thursday, January 24th.

8 If briefs contain business proprietary
9 information a public version is due on Friday, January
10 25th.

11 The Commission has tentatively scheduled its
12 vote on these investigations for Thursday, February
13 7th, and it will report its determination to the
14 Secretary of the Department of Commerce on Monday,
15 February 11th.

16 Commissioners' opinions will be transmitted
17 to the Department of Commerce on Tuesday, February
18 19th.

19 Thank you all for coming. This conference
20 is adjourned.

21 (Whereupon, at 1:55 p.m., the hearing in the
22 above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Frozen Warmwater Shrimp from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam

INVESTIGATION NO.: 701-TA-491-497

HEARING DATE: January 18, 2013

LOCATION: Washington, D.C.

NATURE OF HEARING:Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: January 18, 2013

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Rebecca McCrary
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: W. Andre Bellamy
Signature of Court Reporter