UNIVERS STATES
INTERNATIONAL TRADE COMMISSION

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

) (SECOND REVIEW)

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BEFORE THE
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF: ) Investigation Nos.:
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CHINA, INDIA, THAILAND, AND VIETNAM ) 1066-1068
) (SECOND REVIEW)

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

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

On behalf of the International Trade Commission:

Commissioners:

Chairman Rhonda K. Schmidtlein (presiding)
Vice Chairman David S. Johanson
Commissioner Irving A. Williamson
Commissioner Meredith M. Broadbent
Commissioner F. Scott Kieff

Staff:

William R. Bishop, Supervisory Hearings and Information Officer
Sharon Bellamy, Records Management Specialist
Keysha Martinez, Investigator
Renee Berry, International Trade Analyst
Amelia Preece, International Economist
Mary Klir, Accountant/Auditor
Robin Turner, Attorney/Advisor
Elizabeth Haines, Supervisory Investigator
Congressional Appearances:
The Honorable Walter B. Jones, U.S. Representative, 3rd District, North Carolina
The Honorable Steve M. Palazzo, U.S. Representative, 4th District, Mississippi
The Honorable Garret Graves, U.S. Representative, 6th District, Louisiana

State Government Witness:
The Honorable Billy Nungesser, Lieutenant Governor, State of Louisiana

Opening Remarks:
In Support of Continuation of Orders (Elizabeth J. Drake, Stewart and Stewart)
In Opposition to Continuation of the Orders (Warren E. Connelly, Trade Pacific PLLC)
APPEARANCES (Continued):

In Support of the Continuation of the Antidumping Duty Orders:

Stewart and Stewart
Leake & Anderson LLP
Washington, DC

on behalf of

American Shrimp Processors Association ("ASPA")

Alan Gibson, President and Owner, Tidelands Seafood Co., Inc.

Chalin Delaune, Vice President, Tommy's Seafood Inc.
E. Richard Gollott, Sr., Vice President, Golden Gulf Coast Pkg. Co. Inc.

Dr. David Veal, Executive Director, ASPA
Elizabeth J. Drake, Sahar J. Hafeez, Leah N. Scarpelli
and Edward T. Hayes - Of Counsel

Picard Kentz & Rowe LLP
Washington, DC

on behalf of

Ad Hoc Shrimp Trade Committee ("AHSTAC")
Ad Hoc Shrimp Industry Committee ("AHSIC")

O. Steven Bosarge, Chief Executive Officer, Bosarge Boats, Inc., and B&B Boats, Inc., and President, Southern Shrimp Alliance
Ken Garcia, Boat Owner and Vessel Manager, Daniel Phillip III, Inc., et al.

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

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

In Opposition to the Continuation of the Antidumping Duty Orders:

Trade Pacific PLLC

Hughes Hubbard & Reed LLP

Washington, DC

on behalf

Brazilian, Indian, Thai and Vietnamese Respondents

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

Mike Seidel, Director of Category Management,

Performance Food Group

Alan Weitzer, President, Arista Industries

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

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

Joe Zhou, Director of Protein Procurement, Red Lobster Seafood Co.
James P. Dougan, Vice President, Economic Consulting Services, LLC

Emma Peterson, Economist, Economic Consulting Services, LLC

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

Rebuttal/Closing Remarks:
In Support of Continuation of Orders (Nathaniel M. Rickard, Picard Kentz & Rowe LLP)
In Opposition to Continuation to the Orders (Matthew R. Nicely, Hughes Hubbard & Reed LLP)
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MR. BISHOP: Will the room please come to order.

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

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

Speakers are reminded not to refer in their remarks or answers to questions to business proprietary information. Please speak clearly into the microphone and
state your name for the record for the benefit of the court reporter. If you will be submitting documents that contain information you would classify as business confidential your request should comply with Commission Rule 201.6.

Mr. Secretary, are there any preliminary matters?

MR. BISHOP: No, Madam Chairman.

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

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

CHAIRMAN SCHMIDTLEIN: Welcome Congressman Jones.

STATEMENT OF THE HONORABLE WALTER B. JONES

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

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

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

I fear shrimpers in North Carolina and across the United States would not be able to survive. I urge you to stand with me and my colleagues here today and the colleagues that are not here today in support of hardworking Americans by voting to continue the antidumping orders on imported shrimp from these countries because if not what has happened to other markets of American hardworking people in my opinion will be lost.
This will conclude my remarks. I have a much longer statement I would like to submit for the record. Thank you for this opportunity and thank you again for giving us a chance to share what I consider might be the last hope for the commercial fisherman and in this case the shrimpers at least in North Carolina. Thank you.

COMMISSIONER SCHMIDTLEIN: Thank you very much.

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

COMMISSIONER SCHMIDTLEIN: Welcome, Congressman.

STATEMENT OF THE HONORABLE STEVE M. PALAZZO

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

American workers in this important industry are relying on you for the chance to compete fairly and on level playing field with imports from these countries. Shrimping has a long and rich history in Mississippi. The seafood
industry was established in our great state in the early 1860's and by the turn of the 19th century Biloxi had become the seafood capitol of the world.

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

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

Shrimping is a tradition for families in Mississippi who have passed down their boats to their children and grandchildren and worked together to make a living harvesting the world's best tasting shrimp from our waters. Working this industry is demanding and the men and women, whose livelihoods depend on harvesting, unloading, peeling, freezing, packing and distributing Gulf shrimp, are tough and resilient.
As I am sure you are aware, the shrimp industry in Mississippi and all the other Gulf states have been faced with a series of setbacks in recent years. From natural disasters like Hurricane Katrina to manmade ones like the BP oil spill, workers in the shrimp industry have banded together and persevered through each challenge. But today shrimp processors and harvesters not only in Mississippi but Gulf-wide and nationwide are being challenged by a different type of problem.

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

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

Shrimpers are putting their boats back in the water and landings at Mississippi ports have increased 67
percent since 2010. Hardworking entrepreneurs also invested
into their processing and harvesting businesses again with
expansions and updates to help improve their efficiency and
get even more Gulf shrimp onto the tables of American
families. Understandably, the Industry is still fragile and
these improvements can easily be reversed if the current
orders which shield our Domestic Industry from the most
devastating impact of unfair trade are withdrawn.

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

I am grateful to the Commission for its work defending Domestic Industries like our Gulf shrimp sector. I believe in free trade but it must also be fair trade based on market economics. Trade remedy laws that level the playing field by offsetting unfair foreign market distortions have been essential to the preservation of our middle class and the success of hardworking Americans across our nation.
If the antidumping orders can remain in place in this particular case that would help insure the continued survival of the Gulf shrimp industry in my home state. I thank you for your careful consideration of this case and I hope that you will stand with me in support of the vital Gulf shrimp industry, an important economic and cultural institution in Mississippi as well as our neighboring states of Louisiana and Alabama.

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

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

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

COMMISSIONER SCHMIDTLEIN: Welcome, Mr. Graves.

STATEMENT OF THE HONORABLE GARRET GRAVES

CONGRESSMAN GRAVES: Madam Chair and Commissioners thank you very much. I am Garret Graves from South Louisiana. I want to thank you for the opportunity to be here and address this important issue. I also want to associate my comments with those of Congressman Jones and
Congressman Palazzo however I think that Congressman Palazzo might have misspoke when he said that Biloxi was the shrimp capital of the nation. I think he meant to say of Mississippi.

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

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

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

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

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

I want to say this. I want to say that there was complete devastation, once again, a 70 percent reduction in our shipping effort in the United States as a result of some of these illegal practices in other countries. Number two, what you did in terms of putting duties in place, you have allowed our industry to begin stabilizing and to no longer see this precipitous drop off in fishing effort and actually seeing stabilization in prices, less volatility and you can see people have invested back into their fishing efforts in the United States.
We're not back to pre-duty conditions here. We still have a long way to go but you have an opportunity to continue to allow for those stabilized markets. I appreciate the fact that you are revisiting this every five years. I think it is appropriate for us to make sure that this is still something that makes sense to allow for fair conditions.

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

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

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

COMMISSIONER SCHMIDTLEIN: Welcome.

STATEMENT OF THE HONORABLE BILLY NUNGESSER

LT. GOVERNOR NUNGESSER: Thank you, thank you Mr. Chairman and thank you for giving me the opportunity to testify before you today. I'm here before you to represent the thousands of Louisianans who work in the shrimp industry
and rely on the rules that ensure fair trade to maintain
their livelihood and their way of life.

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

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

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

Priests still bless the boats in some of the
small communities when the shrimping season begins. We have
shrimp festivals and fairs all over Louisiana coastal
communities year round across Louisiana. Many
shrimp-related businesses in Louisiana are family owned and
operated. Generations of Louisianans work side-by-side
harvesting and producing shrimp so that they may be enjoyed
by millions of Americans and people around the world.

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

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

   Many fishing and processing businesses were
forced to cut back on production and lay off workers as the
Subject Imports took market share from them. Businesses
were barely breaking even and in some cases, losing money.
Fortunately for our fishermen and processors, the Commission instituted orders on dumping shrimp which has kept significant volumes of unfairly traded shrimp out of the market since 2005 allowing the Domestic Industry to compete fairly.

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

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

LT. GOVERNOR NUNGESSER: Thank you.

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

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

MR. BISHOP: Opening remarks on behalf of those in support of continuation of the orders will be given by Elizabeth J. Drake of Stewart and Stewart.
COMMISSIONER SCHMIDTLEIN: Welcome, Mrs. Drake.

You may begin when you're ready.

OPENING STATEMENT OF ELIZABETH J. DRAKE

MS. DRAKE: Good morning Madam Chairman, Vice Chairman, Commissioners. I'm Elizabeth Drake of Stewart and Stewart and I'm here today on behalf of the American Shrimp Processers Association in support of maintaining the orders on shrimp from the five countries that are under review.

First, I want to thank the Commission Staff. This case has a very large record and many parties and we greatly appreciate all of their hard work in compiling the Prehearing Staff Report.

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

As the orders stabilized, import volumes and prices of the Domestic Industry also stabilized. Though the Industry has struggled to recover from hurricanes and the
Gulf oil spill, the industry was able to increase brandings, production and employment from 2013 to 2015 with the orders in place. Fisherman's margins which suffered the most in the original investigation also appear to have seen the most improvement under the orders according to the data submitted to the Commission.

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

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

Processers operating margins continue to be minimal giving them very little room to withstand price depression or suppression by Subject Imports. Fuel prices,
the largest single component of fishermen's operating expenses are expected to rise this year and next year. If the orders are revoked, Foreign Producers stand ready to once again inundate the U.S. Market with low-priced imports. Foreign Producers have massive and growing excess processing capacity and Subject Countries are also increasing their farmed shrimp production. As a result, Subject Countries production is predicted to grow by over 600 million pounds from 2016 to 2018 enabling them to double current exports and exceed the peak 2003 export volume by next year.

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

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

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

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

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

OPENING REMARKS OF WARREN E. CONNELLY

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

In 2013, the very same shrimp processors and
fishermen argued that a countervailing duty order was absolutely critical to protect them from pervasive subsidies totally $13 billion provided by seven countries. Here's what the Petitioners said three and a half years ago: "If we cannot obtain relief that offsets the subsidies foreign producers are receiving, the future of the domestic shrimp industry and of an entire way of life in the Gulf Region is at risk."

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

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

In fact, the record shows a sustained decline in
landings that is not the result of increasing diesel fuel
prices or imports. Diesel fuel prices have fallen
substantially since 2014, and they are going to fall further
because the benchmark crude oil price dropped by nine
percent last week.

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

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

Seventh, subject imports predominantly oversold
domestic origin products. As our economist Jim Duggan will
explain, this overselling was unrelated to the orders and
the situation is unlikely to change upon revocation. Finally, the domestic industry has always recorded low operating margins. That is not going to change, regardless of whether the Commission votes to revoke the orders.

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

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

CHAIRMAN SCHMIDTLEIN: Thank you.

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

(Pause.)

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

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

STATEMENT OF E. RICHARD GOLLOTT, SR.

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

In 1983, I acquired a dock in Biloxi and started unloading shrimp. We then built a facility to process that shrimp in 1984. I have appeared before the Commission a number of times to discuss the damages that unfair imports have done to our industry, including when the Commission was considering whether to impose the orders that are now under review.
When I appeared before this Commission in December of 2004, our industry had been overwhelmed by a surge of dumped imports. Subject imports were growing and gaining market share at our expense. Falling import prices drove down prices for our domestic product, hurting the bottom line for both fishermen and processors.

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

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

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

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

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

Domestic shrimp and subject imports are still interchangeable and prices continue to be a major factor in purchasing decisions. What has changed since the original investigation is sheer scale of the shrimp farming and processing in these countries. Annual shrimp aquaculture production in these five countries has more than doubled from 3.2 billion pounds in 2003 to 7.3 billion pounds in
2015, and it is projected to continue increasing these years
and next.

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

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

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

STATEMENT OF ALAN GIBSON

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

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

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

Most of our sales are on a spot basis, and we need to keep our prices competitive with imports to make
sales. My customers and brokers regularly tell me about the lower prices they pay for imported shrimp. In some cases I cannot meet these prices and still afford to pay the boats what they need to maintain their fishing, and also cover our own cost.

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

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

But if the orders are revoked and imports of these five countries are allowed to flood back into the market with no price discipline, it will put our very survival at risk. Much of our equipment is over 30 years old, and the only thing that has helped us make some needed repairs at this pint has been compensation from the BP oil
spill of 2010. We have also seen fishermen reinvest these funds in the businesses and make upgrades and repairs that have been put off for far too long. And contrary to what some have claimed, we do not see fishermen exit the industry or reduce fishing effort because of BP payments. Instead like me, they are dedicating those funds that have been -- to their businesses that have been strapped for years. But this compensation is just a one-time thing. After it is gone, we need to be able to generate regular returns from our businesses in order to survive as an industry. As long as these orders remain in place, we will have some hope of being able to maintain prices and encourage fishermen to fish.

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

If these orders are revoked, any improvements that we've been able to make will be at risk to a renewed
onslaught of dumped imports. Like my great grandfather,
grandfather and father before me, I've committed my career
to producing Gulf shrimp. I would like to see this industry
to survive for years to come. But to be honest, I already
worry about the ability to pass our business on to the next
generation.

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

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

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

STATEMENT OF CHALIN DELAUNE

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

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

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

This is simply not the case. Not only do we
already produce easy peel shrimp, we've also invested in plants to produce cooked shrimp and other additional forms of value-added shrimp products. For these plants to have a fair shot at success, we need the anti-dumping orders to remain in place. Last year, we acquired a value-added food plant and also have a boiler system, steam tunnel and other equipment installed to produce cooked shrimp.

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

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

We're hopeful that the quality and service we can provide will help us make inroads into this part of the market. But we need import prices to be disciplined to give
us a chance. If the orders are revoked and importers once again use price undercutting to flood the market, all of the work we've done and investment we've made will be at risk.

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

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

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

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

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

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

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

STATEMENT OF O. STEVEN BOSARGE

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

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

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

In 2013, Leann joined the Gulf of Mexico's
Fishery Management Council, and currently serves as the chair of that Council. The last time I was here, I talked about what the industry has done to focus on quality and improved efficiency in commercial shrimping operations. Today, I want to talk about the resource and how that plays into our industry's production.

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

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

For the first time in my many years of shrimping, I actually purchased two licenses to shrimp in North Carolina state waters. All in all, the Gulf of Mexico is healthy and our resource the shrimp is doing well. The overall number of shrimp our industry is producing is down compared to ten years ago, but that is due to economics, not biology.
Before my trawlers can work, I need to have some idea about what the dockside price for shrimp is going to be. I have to consider whether the shrimp that we produce is going to be enough to cover the money it costs to send those boats out. A long time ago before the flood of dumped shrimp imports, back when prices were higher, you could get a decent night's work if you pulled in 250 pounds of shrimp.

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

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

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

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

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

STATEMENT OF KEN GARCIA

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

While I am the second generation of my family to testify before you, I represent the third generation of my
family to be in the commercial shrimping industry. My
grandfather bought his first fishing boat in 1950 and now,
along with my uncles and aunt, my family owns and operates
22 shrimp boats working out of Palacios, Texas, as well as a
loading dock and a marketing company.

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

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

Our boats work the waters from South Texas to the
Mississippi River. How much they work is a function of the
market. In other words, the boats work when it is
profitable to work. Depending on prices in the marketplace
and depending on our costs, one of our boats might work six
months a year, or might work ten months a year. Right now, we generally work nine months of the year and are hoping to extend that even further.

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

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

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

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

Unless our prices are competitive with those of imports, we lose customers. And that gets communicated back to the boats in terms of lower dockside prices. That is why
I am here this morning.

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

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

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

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

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

STATEMENT OF MICHAEL HOOPER

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

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

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

Our aquaculture facility consists of 92 ponds. We have a growing season outside of about six months running
from the end of March to the end of October. We also have
an indoor facility with raised trays to start growing our
pars larva shrimp before stocking our ponds.

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

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

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

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

My views on antidumping duties are formed by what
I saw in the industry when I joined Bowers in 2005.
Following the flood of dumped imports into the U.S. market,
Bowers was stuck with a large amount of inventory somewhere
around a million and a half pounds of shrimp. In trying to move the inventory, potential customers compared us to the prices of those Asian imports. If we could not be competitive in price, we could not make the sale. The Bowers team learned valuable lessons from that ordeal that continue to influence our financial decisions today.

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

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

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

What you decide here matters for our business. We cannot retreat completely to the head-on market and hope
to maintain our current level of production and sales, but we also cannot stock inventory and absorb the risk of loss when dumped inventories bring prices down.

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

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

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

Therefore, although we continue to be wary of unfair import competition, we are also able to talk about possibilities. Thank you for the opportunity to share my
perspective today. I'll be glad to answer any questions.

STATEMENT OF NATHAN RICKARD

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

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

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

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

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

In these reviews, the Commission received 178 questionnaire responses from farmers and fishermen that
collectively reported 26.2 million pounds of net sales in 2013. The volume of sales reported in these reviews is more than the net sales reported in the original investigations in the first sunset reviews combined.

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

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

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

Here, families took it upon themselves to give the Commission information because they hope it will make a difference. What we have heard from many of them is that Commission staff went above and beyond expectations in answering questions and being available to people who sought
help. That really is incredible in the context of the workload the staff faced, and we are very grateful.

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

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

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

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

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

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

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

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

We work the counter-circumvention, we confront a market that moves towards the least expensive source of supply. Shrimp of questionable provenance is distributed by companies with extensive experience in the seafood industry,
sold to major retailers and restaurants that should know better. As long as the price is right, the brand of the shrimp doesn't matter. The country-of-origin of the shrimp doesn't matter. Price is paramount.

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

STATEMENT OF ELIZABETH DRAKE

MS. DRAKE: Thank you very much, Nathan.

Elizabeth Drake of Stewart and Stewart for the American Shrimp Processors Association.

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

(A PowerPoint presentation follows:)

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

With regard to cumulation, the Commission's record shows that all of the factors are met to cumulate subject imports from all five countries. Imports from any one of these countries would have more than a discernible adverse impact if the order was revoked on that country.
There continues to be a reasonable overlap in competition between the subject imports from all five countries. They continue to be fungible and present in the same channels, regions, and time periods. For imports that have been absent from the market, they showed that they met these factors in the original investigation and there's no reason to believe that conditions of competition have changed to such an extent that they would not be met if the orders were revoked.

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

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

In 2015, Brazilian producers responding to the Commission's questionnaires reported that they had more than 100 million pounds of excess processing capacity, which would be enough to more than double their peak 2003 import
level of 48 million pounds. And it's not just excess processing capacity. There's also a projected increase in farmed production in Brazil, this year and next, for a net increase of 20 million pounds from 2016 to 2018 that would be easily absorbed in that excess processing capacity.

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

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

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

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

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

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

Another condition of competition is that subject
imports in the domestic like product are highly substitutable, and price continues to be an important factor in the marketplace.

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

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

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

Again for Brazil it was 50 percent, probably likely due to a little bit less familiarity.
Another important condition of competition is the inability of consumers to distinguish domestic and imported shrimp in the market. While we do have country-of-origin labeling, it only applies at the retail level, which is a minority of the market and does not apply at all in restaurants, which are the majority.

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

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

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

This contributes to the volatility of prices in the market, which are able to move rapidly in response to import trends. More than 70 percent of purchasers report
that they buy both farmed and wild-caught shrimp.

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

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

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

    There also are indications that production is
increasing in the subject countries which would allow them
to re-enter the U.S. market at significantly larger volumes
than those that are already here. They have substantial
excess processing capacity, and they also have the ability
to increase their farming. They have invested a lot in
technological and biological methods to increase the
efficiency of farm production, often aided by government
support either by switching to different species such as
Vannamei Shrimp or adopting different methods of farming,
and overall your Staff Report shows that farm-to-production
in the five countries—I'm sorry, your Staff Report shows
that it will increase by 619 million pounds from 2016 to
2018.

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

And this is the additional volume that would be
available if the orders are revoked. Subject producers are
highly export oriented and exported about 1.5 billion pounds
to the rest of the world in 2015. Just a third of that
would allow them to double their exports to the U.S. Again,
as I said, they are projected to increase production, farm
production, by 619 million pounds by 2018. That would also
allow them to double exports to the U.S. without diverting
product from any other market. And they have more than
sufficient excess processing capacity of nearly a billion
pounds based on the staff report, not including China to
enable them to process these amounts and increase exports to
the United States.

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

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

Demand in the U.S. is projected to increase more
rapidly than in other major markets such as the EU and
Japan. The U.S. health and safety standards for imported
shrimp are relatively lenient compared to other major
markets such as the EU and Japan, and prices in the U.S.
market are generally higher, or as high as another country's
and a strong dollar will continue to make the U.S. market
more attractive than other markets in the imminent future.

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

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

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

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

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

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

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

These adverse volume effects and adverse price effects will be likely to cause material injury to the domestic industry to continue or recur if the orders are revoked. And I think, just looking back to the original Period of Investigation, as the Commission does in sunset
reviews, it paints a very stark picture of the rapid pace at
which material injury could continue or recur.

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

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

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

Though processors were able to increase their
production, they were not able to increase their shipments,
and that's had a rising level of inventories. And they have
also lost market share as subject imports, even under the
orders, have been able to gain market share over the Period
of Review.

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

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

Those fuel costs started to rise in February of
last year and, as we discussed, are projected to continue to
rise this year and next year based on Gulf diesel prices.
The processing industry continues to have large amounts of
unused capacity, which makes any further reductions in
production likely to force processors to take some capacity out, or shut their doors.

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

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

CHAIRMAN SCHMIDTLEIN: Alright, thank you Ms. Drake. I'd like to welcome all the members of the panel for being here today and helping us to understand this case. This morning we will begin the questioning with Commissioner Williamson.

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

Let me start off with the question have there been any significant changes in technology for shrimp processing and also for shrimp harvesting?
MR. GIBSON: Alan Gibson, Tidelands Seafood.

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

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

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

COMMISSIONER WILLIAMSON: Thank you.

What about in the harvesting in the shrimp? I guess we've got two sides to it. We've got the farm agriculture and we also have the wild caught.

MR. BOSARGE: Yes, sir. Steve Bosarge.

On the harvesting side, technology, technology, in other words, technology from using software programs to help us stay located on the bottom better, to different types of material that we use to build our nets out of now. There's kind of the Kevlar-based where it's much stronger and much lighter, so it's easier to tow, so it's more
efficient. So just engines that are now computerized that are much more efficient than the older engines. So those are the innovations and the things that have changed for us.

COMMISSIONER WILLIAMSON: Thank you.

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

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

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

You know we don't have countries behind us and certainly we're a privatized industry and we already operate
at such low margins that the money that we do generate usually is collectively reinvested back into the company. You know so we have to use every penny that we have as wisely as possible and we rely on organizations and NGOs and also some government boards like the Louisiana Seafood Promotion Marketing Board to aid us in marketing and having that outreached to consumers and also to our customers.

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

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

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

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

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

MR. GOLLOTT: Richard Gollott.

Even in Biloxi, Mississippi there's a lot of imported shrimp and people buy for price. Even if you distinguish them, you have some people who will go for the
local shrimp, but then you have people that's just looking for price. And usually supermarkets put a bigger display out on the imported stuff because they can make more money on it and want to push it harder.

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

COMMISSIONER WILLIAMSON: Okay.

MR. RICKARD: Commissioner, this is Nathan Rickard.

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

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

COMMISSIONER WILLIAMSON: Okay, thank you.

MR. HAYS: Commissioner, Eddie Hays.

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

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

MR. HAYS: That's right.

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

MR. HOOPER: Michael Hooper.

In our plant, we've invested in the technology
to enter more into the retail market with IQF packaging.

The baggers are -- you know we have automatic baggers and
scales to package the IQF market to make it more presentable
and distinguish itself differently in the supermarket.

That's one of the steps we've taken forward.

COMMISSIONER WILLIAMSON: Okay, thank you.

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

COMMISSIONER WILLIAMSON: Okay, thank you.

No, the one reason why I was asking these
questions is when we had the catfish case a number of years
ago one of the things the domestic industry was talking
about that they were trying to develop you know premium
sizes that are going be more popular in restaurants and so
and again that question -- so that's what I was thinking
about.

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

COMMISSIONER WILLIAMSON: Yes, right.

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

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

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

MR. DELAUNE: Well, just speaking on behalf of
not fully into production of or marketing our cooked
products just yet, but we're still in the early
developmental phases. But you had asked the question
earlier about new innovations and how has that affected or
impacted our industry and the fact is that there's been
technology out there that's not necessarily new, but it
might be new to our industry. And one of the reasons why it
might be new to our industry is for the simple fact that for
a time it was -- we were unable to be competitive in aspects
of that market and value added of cooked products. And now
that we have some price stabilization, we're able to
actually take extra risks and set money aside to develop
these projects because we do see that there are markets
where they consume more pre-cooked shrimp than raw shrimp.

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

CHAIRMAN SCHMIDTLEIN: Alright, Commissioner
Broadbent.

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

The quality issue is something I'm really
wrestling with because it seems to me in this environment
where U.S. consumers are really sophisticated about what
they're eating these days that the appeal of the wild-caught
domestic product is really amazing in the sense that you've
had so many consumer report articles. You know you were
mentioning the Malaysia problem with -- I don't know if it
was bacteria or toxins or harmful antibiotics, but I mean
there's been so many kind of scary newspaper reporting about
what's going on in this import market that it's hard to --
and even our staff report is telling us that the quality is
really the first differentiating factor that U.S. consumers
look for when they're buying a product, so how do you argue
that it's interchangeable with the imports?

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

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

And you see that even when it is labeled it can
be in a very confusing manner that even a consumer that does
care about those issues would have trouble finding it. And

I think your staff report also shows that purchasers' 
customers, by and large, do not have a preference for either 
shrimp of a certain origin or from a certain producer, but 
I'll let the witness.

MR. GIBSON: Alan Gibson again.

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

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

Our product was further down the aisle and the 
reasons were -- we had conflicts with them. The reasons 
were we were higher priced and their margins were higher 
with the other shrimps. So we do the marketing and 
differentiation, but they are very similar in product. 
They're very similar in appearance, so a frozen shrimp in a 
bag the customers were not picking out -- you've seen some
of the labeling, some of the different labeling and where
the labeling of that country may be placed on the bag. So
we've done the marketing and we try to do distinguishing,
but the retailers that we worked with actually did not
follow through. We had to pull our program off the -- you
know our program out of those stores.

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

And so you mentioned that you see several
reports and releases about the quality of wild American
caught shrimp and that just goes to say that those reports
aren't just one and done. We hope to continue those reports
because of the lack of consumer awareness. That is, as I
stated earlier, are main initiative here as a shrimp
industry is raising consumer awareness because if we have an educated consumer base then I think that we stand a much better chance at gaining a firm place in the market, but it takes those reports, it takes those releases, and it takes the resources that we don't have that we depend on to be able to educate and inform and hopefully build our market by that way.

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

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

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

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

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

MS. DRAKE: Well, I think it goes to the -- I think the basis of the Commissioner's question, as I understood it, was interchangeability, so even if there are issues with health and safety, even if there are certain aspects that distinguish the product, the vast majority of consumers see them as interchangeable. They actually, in fact, are interchangeable and are used in the same end uses by the same customers. Most purchasers buy both kinds of shrimp and use them for the same application, so I think it goes to the question of interchangeability, which, of course, is an important condition of competition to consider
if the orders are revoked would -- they continue to be
interchangeable and everything that we've seen shows that
the answer is yes.

MR. GOLLOTT: Richard Gollott.

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

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

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

And I think the story about Dr. Oz, yes, it
shows that some consumers will react positively; but it also shows the extent of the lack of knowledge that there were so many people that simply had no idea that shrimp that they were buying may be imported.

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

So the problem that we're having is we're losing some of the sales because of that interchangeability of that product that goes to the restaurant which is under the food service near exempt for the country of origin labeling, but there is that interchangeability with the same customers that we worked with that buy both are marketing one in the showcase that they're giving to people and the other one that they're putting to the restaurants who are worried about the bottom line price.
MR. GOLLOTT: And I also have shrimp that customers that I sell and if we run out of a certain size they will substitute with the imported shrimp and they never tell the customers or anything and nobody has any idea when they breaded it you know it all looks alike and tastes alike.

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

MS. DRAKE: There certainly would be price injury. In terms of market share, I think what would be instructive would be to look at the original period of investigation where the domestic industry did lose market share and landings declined and the Commission in that investigation found that you know landings and productions are not just a function of what resources naturally available, but it is also a function of the economic incentives to go fishing and as domestic prices were driven down by declining import prices, that economic incentive to
fish was reduced and as the fishermen witnesses testified this morning that continues to be the case today. So yes, I would expect there to be both adverse volume affects and adverse price affects.

COMMISSIONER BROADBENT: Okay, thank you.

CHAIRMAN SCHMIDTLEIN: Commissioner Kief.

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

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

MS. DRAKE: Commissioner, Mr. Rickard might have a better answer for you, but I will say while I'm not aware of a ^^^^ yes, there have been felony convictions for mislabeling shrimp in terms of an incorrect origin. There have also been findings of circumvention by both Customs and
by the Commerce Department, either by mislabeling a product
as being outside the scope when dusted shrimp was excluded
and large volumes were brought in that were claimed to be
dusted that actually were not and there's another example.

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

So let me ask you right now -- I'm still trying
to actually -- I'm embarrassed to say that I'm totally not
yet understanding why it matters because it seems to me it's
kind of an interesting -- I mean there's a lot of
atmospheric color that's gleaned from talking about falsity,
especially if you don't have to prove it, right? I mean the
key to a false advertising case is you actually get survey
data from actual consumers of products who testify in front
of cross-examination in front of decision makers that
actually they were tricked. And you know I never -- I
generally recognize the so-called Puffing Doctrine and
trademark law that you know someone says they're the
greatest show on earth or as Mike Jagger says your shirts
can be as whitest as they can be. These are all statements
that people make to puff their products. It's not clear
that consumers actually buy the line even if they buy the
product. So why does that matter to this case before this
tribunal in this part of our docket?

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

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

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

Now we've done that once and we rolled once and how the question is do we keep on rolling again and even if we have a general view that the thrust of the statute's
purpose is certainly not to look to lift easily in this particular case where we have just recently fully adjudicated injury in the context of your domestic industry haven't we decided you're not materially injured or likely to be harmed and that setting for this particular case is a logical quandary for me. Can you get me out of that?

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

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

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

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

MS. DRAKE: If the anti-dumping orders were revoked.
COMMISSIONER KIEFF: Okay.

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

COMMISSIONER KIEFF: So these are --

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

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

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

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

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

MS. DRAKE: Well, we did appeal the decision, but that was not successful. I think that the way that the dissent viewed the same facts would be more in line with our approach, in terms of saying, yes, the domestic industry was
able to increase, but that would've been expected given that they were just recovering from the oil spill.

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

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

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

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

MR. PICKARD: One of the things, too, that, if you look at the BP case that's different from the record that you have before you in this proceeding, is what the Commission looked at in terms of the domestic industry. In the CBD proceeding, the Commission put less weight on evidence that came in from producers within that -- and this is a change in terms of what the record that is before you. You have a continual record of the impact, not only on the
processing part of the industry, but also on the producing part of the industry that goes back to 2001.

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

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

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

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

So I think to answer the question I think would
be the lower production that came in opened up some market
for shrimp to move, and the faster shrimp moves, the better
price stabilization we have.

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

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

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

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

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

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

CHAIRMAN SCHMIDTLEIN: The volume?

MS. DRAKE: Exactly.

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

Price levels for--and I'm looking at Page 5 of the joint brief--price levels for subject imports in 2016
are comparable to, and frequently higher than price levels
that prevailed during the original POI in the first Sunset
review. It is not a sign of injury or potential injury that
current price levels are lower than in '13 and '14, because
in those two years, there was a price spike due to EMS.

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

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

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

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

CHAIRMAN SCHMIDTLEIN: Okay.
MS. DRAKE: Or the resolution of the EMS. If anything, the resolution of EMS increases the likely volume of subject imports that are likely to increase if the orders are revoked.

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

MS. DRAKE: What we've seen --

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

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

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

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

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

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

CHAIRMAN SCHMIDTLEIN: Well, and I know that
they lost a little bit of market share over this last three
years.

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

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

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

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

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

But I think if you look at the interim period,
especially you saw that subject imports were able to gain
market share, both at the expense of nonsubject imports and at the expense of the domestic industry. And the domestic industry is so small compared to the world of imports that you can increase total imports by 5% and wipe out half the domestic industry.

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

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

MS. DRAKE: I'd be happy to go back at the briefs, because I haven't done that either. I only looked at the decision, Madam Chairman. And I do think that, to a certain extent, we have seen the domestic industry continues to have a low level of landings, continues to have declining
market share. The existing anti-dumping orders have
prevented further injury, but I would be happy to go back to
those briefs and compare what was predicted to what actually
occurred.

CHAIRMAN SCHMIDTLEIN: Okay.

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

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

So the fact that things are stable now is in an
environment where there is discipline on unfairly traded
imports and you know, what we're looking at is what would
happen if that discipline was revoked or removed.

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

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

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

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

That being said, it's a great product, but it sounds like a really tough business. I was reading one of the petitioner briefs yesterday, the Stewart and Stewart brief, and on one page, you all wrote about how the industry was hit by the recession in 2008 and 2009 that drove down consumption in the U.S. How producers were hit by the BP
oil spill, how producers are hit actually fairly frequently by major hurricanes, and at the same time, the Commission determined that several years ago, that your industry is being injured by unfairly traded imports. It sounds like a really rough business to be in.

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

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

The difference between farm-raised and Gulf shrimp is there's two different species. And the amount of farm-raised shrimp that we have in the U.S. is a small amount compared to the domestic industry. And that we don't attract large groups of customers that are going to be using our product.
But we are in a different playing field even more than the Gulf shrimpers' wild-caught. We compete on a basically unlevel playing field because they have a lot cheaper labor, and there are things they can do over there that we're just not able to. And we have certain regulatory practices that are in place that are more stringent than overseas, I believe, and this is my opinion.

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

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

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

VICE CHAIRMAN JOHANSON: So that controls
disease?

MR. HOOPER: Pardon me?

VICE CHAIRMAN JOHANSON: That controls disease?

By drying out your facilities?

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

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

But as they fight their way through this disease, I believe that they're not gonna stop producing, they're gonna increase the amount of production, which is gonna drive the prices down. And the ones that are most likely to do it will be the ones that have the duties in place.
VICE CHAIRMAN JOHANSON: Yeah, from what I recall in 2013, EMS was a larger problem. Is that correct?

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

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

VICE CHAIRMAN JOHANSON: Thank you, Mr. Hooper.

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

Something that has really struck me in this investigation is that the subject imports remain such a significant part of U.S. market, even though we have these orders in effect. Why is that the case? It's not the case of all countries. Brazil is no longer shipping to the U.S., but with a number of the other countries, they remain very large suppliers.

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

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

VICE CHAIRMAN JOHANSON: Thank you, Ms. Drake.

I'm wondering, are landings of fresh shrimp down? And if so, why? And are there any restrictions on harvesting of shrimp? That seems to have been implied, I think, in some of the respondent briefs. But I'm not aware of any direct
restrictions. When I think of restrictions, I think of what's going on in New England with cod restrictions.

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

VICE CHAIRMAN JOHANSON: There are or not?

MS. DRAKE: There are not.

VICE CHAIRMAN JOHANSON: Are there restrictions on providing licenses?

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

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

That's why it's so critical as to what we do here with these tariffs. We've overcome a bunch of different things--with fuel prices, with the boats getting older, Coast Guard regulations, trying to keep up with everything we need to keep up with to keep producing shrimp, so if we don't have a stable price, then I don't know where exactly we're gonna go with --
Because as time comes on and as time goes on, our boats get older and there's more -- as we talked about turtles, we have turtles, we have bite catch reduction devices, we have effort limits on red snapper, we have effort limits on turtles. So there's a lot more involved in the fishing industry than what it once was and stabilizing this price is critical.

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

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

VICE CHAIRMAN JOHANSON: Thank you, Mr. Rickard. And just real quickly, my time's expired, but the first part of my question was why are shrimp landings down? And that
is something that the respondents have written quite extensively on.

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

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

VICE CHAIRMAN JOHANSON: Okay, thank you, Ms. Drake. Although one of the witnesses did state that due to heavy rains in Texas this year, that it was -- so I guess there are natural fluctuations?
MS. DRAKE: Exactly. Every year it may be
something different.

VICE CHAIRMAN JOHANSON: All right. Thank you.

COMMISSIONER WILLIAMSON: Okay, thank you.

Continuing on that line, is it typical that if you have the
landings down on the Gulf, they might go up on the East
Coast? Or was that just coincidence?

MR. BOSERG: I think it was just coincidence.

The two bodies of water are very separate. And the types of
shrimp they produce and how the fishery actually, how it
works. We're in the Gulf, we're more of a--from the bays
all the way to off to the edge of the Schiff in places
ninety miles, and mostly typically in the South Atlantic,
it's near shore, the bulk of the fishery is near shore.

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

In other words, you're not able to go out, the
fleet as a whole is not able to go out and maybe where they
could make a nice work on, like I stated before, 250 pounds,
you can't do that now. So they're not gonna go, so landings
on a whole have come down, but landings per vessel are up.
If you can imagine what I'm saying.

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

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

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

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

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

COMMISSIONER WILLIAMSON: With respect to the
March snowstorms down there, okay.

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

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

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

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

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

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

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

COMMISSIONER WILLIAMSON: Does that mean the
capacity overseas is more -- it's easier to predict that
than domestic? No, it is also a lot larger percentage of
consumption too, I mean the farm supply is.

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

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

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

    COMMISSIONER WILLIAMSON:  Okay, thank you. Is there -- are there additional public sources we can look to
for an analysis of the long-term effects of the BP oil spills and the hurricanes on shrimp supplies in the United States?

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

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

MS. DRAKE: Sure. I think we covered most of it in the presentation, but if you look at the information from the Brazilian producers that responded to the Commission's questionnaire or other public information, I think you'll see that there is not this 100 percent dedication to the home market, that they would never export to the U.S. if the orders were removed.
They showed their interest in the U.S. market in the period of original investigation. The Brazilian economy is doing very poorly and not predicted to recover, and that's reflected in the foreign producers' responses showing that, at least in interim 2016, their home market shipments went down and their export shipments went up.

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

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

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

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

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

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

CHAIRMAN SCHMIDTLEIN: All right, thank you.

Commissioner Broadbent.

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

MR. GIBSON: One thing in our nets, we have to
pull turtle shooters, you know, so the turtles could escape.
It saves the turtles, but it's also a big hole in the net
and I'm all about saving turtles. But when you're not
catching very much shrimp and you have a big hole in your
net, it doesn't help the bottom line.

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

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

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

COMMISSIONER BROADBENT: Really, $400,000
additional?

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

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

MR. GIBSON: Well, to tell you the truth, it
wouldn't make it a better boat. It doesn't make it any more safer. It's just you have to have a lot of stuff certified, your engine. A normal engine would cost you $100,000. It has to be a certified engine. So it will be the same engine, but since it's certified it costs $120,000 and it's just all the parts that are throughout the whole boat are like that.

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

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

COMMISSIONER BROADBENT: Health and safety regulatory standards, yes.

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

COMMISSIONER BROADBENT: Wait, hazmat?


COMMISSIONER BROADBENT: Okay.

MS. DRAKE: Is that correct?

MR. GIBSON: Hazardous Analysis Critical Control Point. What it is is throughout the processing we
have to -- we have to acknowledge anywhere that there may be
a problem with the product. It could of an allergen to
someone or a health issue, and we have to document it all
the way through. Any time that we're processing, we have to
have paper work that shows that day that we processed, where
the boat came from, how we handled the product, how we have
it, you know, labeled.

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

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

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

MR. HOPPER: We do -- we have the same
standards. Actually the HAACP plan, that was recommended by
the FDA, is written more likely for imports. The chemicals
in aquaculture and antibiotics that are used are not readily available in the United States. Though we do abide by the -- do the same plan, but the things that we test for are the same. But they're not readily available in the United States.

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

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

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

MR. RICKARD: Thank you. What we're trying to point out is you can see the movement, and we have worked --
we have worked to limit the amount that could be shifted
over and so, you know, we are not arguing that there is a
material injury from the Malaysian shrimp imports that came
in in that time period, but noting that you can have tens of
millions of pounds move from one market to another.

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

COMMISSIONER BROADBENT: Okay. Let's see.

How have the administrative reviews affected the volume and
prices of subject imports over the period of review, given
that several of these administrative reviews have resulted
in pretty low margins? Is it likely that a revocation of
those duties will result in any significant change in
subject import volume or prices?

MS. DRAKE: Thank you, Commissioner Broadbent.

Yes, I believe that there would be a change in both volume
and price if the orders were revoked. The Respondents focus
on the fact that there have been relatively low margins in
the administrative reviews, but of course in the context of
an administrative review, you have Commerce typically
choosing the two or three largest producers, exporters, who
know they're going to be chosen, who can work with their
council to discipline their pricing practices to eliminate
dumping.

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

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

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

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

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

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

It has permitted some processors to invest in their facilities or to try to acquire additional equipment.
But most of that has been invested into companies that have been unable to make those investments in recent years. With respect to CDSOA, there's very little money left in the CDSOA clearing accounts for shrimp. I believe that Mr. Rickard may have put that on in the response to the Notice of Institution, but we would be happy to put that on post-hearing. But it's very minimal amounts that are left under CDSOA for shrimp.

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

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

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

There may have been some trends in other meat products, some kind of substitution going on. But I am not
aware of that, about something that's been discussed in the
past as a possible factor.

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

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

MS. DRAKE: I mean I certainly believe there
is a price element to that, as you see, for example, average
unit values for imports going down. Shrimp import volumes
go up and overall domestic consumption goes up, and I do
believe that's related to that substitution issue, or that
you can simply find new customers that weren't going to buy
shrimp at all but suddenly say wow, it's only $3 a pound,
maybe I'll try it. So I do think that price has something
to do with variability to push product through to the
market.
MR. GIBSON: I know that our work through the state of Louisiana has done a lot of promoting of seafood in a lot of areas that we may not have sold much before, and then also in areas where we've sold a lot. So we've done a lot of promotion through the state with that for the Seafood Board.

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

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

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

MR. GIBSON: Pretty much every phone call.

CHAIRMAN SCHMIDTLEIN: Every phone call, and is it all imports or is it more specifically subject or non-subject producers?
MR. GIBSON: It's mostly imports and it may be
if we have an issue, as we had a lot more white shrimp
cought on the East Coast, maybe something that we were not
fully aware of, of the production there, that they say we're
working with someone in Boston and the East Coast is closer
and they have a ramp up of shrimp, he may say look, there's
this issue on this price because of this size of production
here.

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

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

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

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

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

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

CHAIRMAN SCHMIDTLEIN: Mr. Gibson?

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

So instead of him taking the 5,000 pounds that he would have taken for the next five months, he's taking 1,000 per month, and every month we renegotiate. Okay,
we're okay this month, right. Well next month, we've got to worry about this coming in. We may have to reduce so he stays competitive.

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

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

CHAIRMAN SCHMIDTLEIN: Different customers?

MR. GOLLOTT: Different customers.

CHAIRMAN SCHMIDTLEIN: So different distributors or different --

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

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

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

MS. DRAKE: Well, I think the -- I think
there's two different questions. One is whether the imports
of breaded shrimp are hurting the fresh or raw shrimp
industry, and the other question is whether or not subject
foreign producers increase their exports of breaded shrimp
in response to the orders, as a way to continue accessing
the U.S. market.

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

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

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

CHAIRMAN SCHMIDTLEIN: Uh-huh, okay. The
Respondents also argue that if there was an increase in
subject imports if the orders were revoked, that this would
just replace, subject would just replace non-subject. This
is all sort of an extension of the argument that total
imports are stable, and so therefore there wouldn't be any
effect on the domestic industry. Can you respond to that argument?

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

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

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

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

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

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

CHAIRMAN SCHMIDTLEIN: Alright, my time is up.

Vice Chairman Johanson.

VICE CHAIRMAN JOHANSON: Thank you, Chairman Schmidtlein.

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

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

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

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

There also is a rule that the Obama Administration put out on illegal and unregulated fishing to try to ensure that the fish and seafood that comes into the United States is harvested legally, but that rule does not apply to shrimp because shrimp is farmed instead of
harvested, and they decided not to apply it to farm shrimp. And that's something that the domestic industry has also been active on, trying to get shrimp included in that traceability IUU rule. But whether that rule will ever in fact take effect is up in the air now with the change in administrations.

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

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

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

One of the things that was in the presentation that went on the record on Monday from the National
Fisheries Institute panel is there are arguments that are made that the U.S. industry is moving towards--is attempting to move towards U.S. Department of Agriculture regulation.

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

VICE CHAIRMAN JOHANSON: Thanks, Mr. Rickard.

Yes, I've followed all this over a number of years, FDA versus USDA. I'm pretty familiar with it and, yeah, I know you all are quite frustrated by the current system.; I'll leave it at that.

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

MS. DRAKE: Thank you, Vice Chairman. We believe that you should cumulate Brazil with the other subject imports because it will have more than a discernible adverse
impact if the order is revoked on Brazil.

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

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

This is understandable, given the poor state of the Brazilian economy. And it's projected that their farm production will rise this year and next year. And they have sufficient excess processing capacity to process that increased production. And the U.S. market will be a very attractive market for those volumes if the order is revoked, given our prices and our size and our favorable demand trends. And we believe the presence of the Brazilian shrimp producers at the Boston Seafood Expo next week reflects their interest in the U.S. market and in accessing that market.
VICE CHAIRMAN JOHANSON: Thank you, Ms. Drake.

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

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

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

MS. DRAKE: Well combined, third country markets may be significant. They still are exporting huge amounts to the U.S. market, even with the orders in place. I believe there was about 2 trillion--2 billion pounds that were exported by the subject countries to all countries in
the world, and a quarter of that was to the U.S. market, to
just one market. And that's with the orders in place.

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

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

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

So there is a difference in the demand trends.

In terms of price, there are times when the U.S. is higher
priced than other markets. There are times when prices are
similar in the U.S. and other major markets. And with the
import standards, the quality standards which we have talked
about, EU and Japan tend to test for a lot more banned
additives than the U.S. tests for, and to test much more
frequently for those than the U.S. does.

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

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

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

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

MS. DRAKE: I don't think it's going down. I
VICE CHAIRMAN JOHANSON: It's not growing as quickly?

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

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

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

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

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

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

MS. DRAKE: Thank you, Commissioner Williamson. Yes, we would like to respond, and I think the trends differ by producer. And since all of that information is APO, I
would prefer to answer post-hearing, if that's--

COMMISSIONER WILLIAMSON: That's fine.

MS. DRAKE: Okay.

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

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

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

COMMISSIONER WILLIAMSON: Okay.

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

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

COMMISSIONER WILLIAMSON: Okay, thank you. And finally, how do you respond to the argument that China's market share for shrimp is growing, while its production is declined, drawing in imports from other shrimp producing countries? In other words, that the Chinese market--demand for shrimp in China is growing, and they're drawing in
imports? Do you think that's relevant to what's going to come to the U.S.?

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

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

COMMISSIONER WILLIAMSON: Okay.

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

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

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

CHAIRMAN SCHMIDTLEIN: Vice Chairman Johanson?

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

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

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

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

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

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

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

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

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

MR. CONNELLY: No questions.

CHAIRMAN SCHMIDTLEIN: No? Thank you.

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

We stand in recess.

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

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

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

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

CHAIRMAN SCHMIDTLEIN: All right. You may begin.

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

STATEMENT OF GUY PIZZUTI

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

We are known for our award-winning customer
service and the quality and freshness of the products that we provide. As category manager, I'm responsible for all aspects of the Seafood operation, which includes procurement, sourcing, merchandising and promotional planning. Along with our Quality Assurance Department, I am also responsible for ensuring that the products that we sell and the suppliers that we select meet our standards.

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

I sat before the Commission during the CVD case, and at that time the primary questioning was about how and why Publix would support both wild and farmed product. My answer today is the same as it was back then, is because there's a customer demand for both of those products.

Publix operates in areas that are traditional shrimp-producing states, Florida, Georgia, Alabama and the Carolinas.

Our customers in those markets demand their shrimp be in our stores. As a result, we now require our stores to carry wild product in the service case at all times. In addition, we have created special labeling for
our stores that calls out the state of origin on all of our wild domestic harvested seafood.

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

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

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

Now we purchase these products under two parallel supply chains. On the domestic side, we work with
a very small number of suppliers that we've qualified as meeting our standards. With those suppliers, we allow them to build inventory across multiple species of domestic shrimp and multiple sizes. When that inventory reaches the required point, we'll execute the promotion.

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

As you can see, they operate completely independent and under two different purchasing requirements.

Now it has been argued that the U.S. has lower food safety standards than several other areas of the world, and that results in an attractive market for imported product. While I disagree with that comment, I would say it's really irrelevant for Publix and for most other large retailers.

We operate under our own food safety requirements that require in-person visits of the facilities we utilize, third party audits, certifications. We use Certificate of Analysis requirements and when product hits our warehouses we have quality specialists that evaluates
that product as meeting our specifications, and we also have
a zero tolerance policy for banned antibiotics.

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

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

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

But that's really a simplistic view of the
product that doesn't take customer preferences, customer
demand, volume requirements into account. If they were
truly interchangeable, there would be no need for a retailer
such as Publix to offer both of these products to a
customer. Finally, I'd like to touch on what the future
would look like without tariffs.

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

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

STATEMENT OF MICHAEL SEIDEL

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

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

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

We require extensive documentation of seafood from the harvest to the processing, then through the shipment to our own distribution centers. This is how we ensure that all seafood that we buy is traceable back to the origin and is completely safe for consumption.
We also conduct internal audits and third party audits on an ongoing basis, to ensure that our suppliers comply with all the safety and health laws, and our goal is to ensure that the shrimp we buy is completely safe. When we source wild caught domestic ship for our brand, we make a point of applying a logo to that packaging that identifies it as wild caught in the USA.

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

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

I would say that at least 15 percent of the total shrimp volume that we sell each year is the result of a preference for wild caught shrimp. Those customers are not going to buy farm raised shrimp, even if it's cheaper. To these customers, they are simply not interchangeable.
However, a growing problem that we have is the shortage of wild caught shrimp. We would buy more if we could find it.

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

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

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

Third, the forecast in 2017 is for a slow increase in global farm shrimp production, estimated at just
one percent growth over 2016. Fourth, Asian demand, not the
United States, is seen as the primary driver of growth.
Finally, the panel saw several risk factors that could
affect the imported farmed shrimp supply in 2017, including
Chinese demand, disease issues, unfavorable weather and the
rise of the Argentine wild caught industry.

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

STATEMENT OF ALAN WEITZER

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

Arista's core business is sourcing and
distributing imported and domestic shrimp. We ship over 25
million pounds of shrimp a year. Nearly 15 percent of our
shrimp volume is wild caught in the Gulf of Mexico. The
balance of the volume, with a few exceptions, is farm-raised
and imported from Asia.
Arista's domestic and imported shrimp are distributed to the U.S. food service market through broad line distributors and seafood wholesalers. While most of Arista's U.S. competitors trade exclusively either in domestically caught shrimp or in imported shrimp, Arista's distributor and wholesale customers require both products year-round to supply food service operators.

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

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

Similarly, Arista's wholesale customers often imported shrimp and domestic shrimp separately from each other. Arista has two shrimp buyers, one who manages domestic product purchases and another who manages import
product purchases. I manage the domestic purchases. The unique dynamics of the two shrimp markets influenced Arista's decision to manage purchasing, inventories and sales of the two categories of shrimp separately.

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

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

I do not know many buyers of shrimp, however, that argue domestic and imported product are the same and compete on price. Prices for domestic and imported shrimp often vary widely, and move independently based on seasonality, harvest volumes and demand. Prices for domestic shrimp are driven by the competitive and market
dynamics within the domestic shrimp industry. High
landings tend to drive prices lower, while low landings tend
to drive prices higher.

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

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

The lack of ability for importers and domestic
producers to shift between the two products in response to
price has led to sustained periods of wide price variance
between imported and domestic shrimp. Despite the
anti-dumping duties which have been consistently low, our
supply partners in India and Vietnam always deliver high
quality product, competitive prices and consistent
availability.

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

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

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

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

STATEMENT OF JEFFREY STERN

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

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

In contrast to domestic processors, our overseas suppliers can provide large quantities of high quality shrimp throughout the year that is consistent from container to container. Consistency means to us identical
or nearly identical quality from load to load, country to
country with respect to our customers' specifications.

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

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

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

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

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

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

Demand there has increased exponentially. We
have real concerns today in our ability to maintain and
adequate supply to our customers. In Asia, the price of
frozen shrimp depends on the price farmers charge for raw material. In the past this was dictated primarily by prices that U.S. importers were willing to pay.

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

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

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

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

A lot has changed since the original investigation 12 years ago, and the CVD action of four years
ago. Most shrimp imports are not coming from subject sources, and much larger portion of global production goes to non-U.S. markets, because of increased overseas demand. CenSea benefits tremendously by having multiple sources in multiple countries. We have no intention of giving up the advantage of our diversified supply base.

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

STATEMENT OF JAMES STAFFORD

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

We purchase about 30 million pounds of shrimp every year in the U.S., and it mostly comes from Vietnam, India, Thailand and Indonesia. We buy from both subject and
non-subject sources, including former subject suppliers in Vietnam and Thailand to which the order no longer applies. All of the product we buy is individually quick frozen, and most of it is peeled and de-veined. We don't carry any block frozen products because it does not display well and our customers have not preferred it in a limited test. We rely mostly, though not entirely, on imported product. We do so for a variety of reasons.

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

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

Our pre-approved foreign suppliers have been
able to meet the standard, but most domestic fishermen cannot. After being caught in nets that are dragged along the bottom of the ocean, the shrimp frequently sit at ambient temperatures on the deck. As a result, the required cold chain is broken.

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

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

As I mentioned earlier, we have engaged with domestic suppliers in implementing similar standards. To
date, we have had very limited success. Given our rigorous
specifications, which are supported by in-country plant
visits, third party audits and internal testing, Costco
feels the product we sell is as good or better than any
products sold in the world.

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

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

STATEMENT OF JOE ZHOU

MR. ZHOU: Good afternoon. My name's Joe
Zhou. I'm the senior director of Protein Procurement for
Red Lobster Seafood Company. I have worked for Red Lobster
and its former owner, Darden Restaurants, for over -- for
about 24 years. Red Lobster owns and operates over 700 restaurants in the U.S. and Canada. We employ over 58,000 employees. I am sure you're all familiar with our restaurants and the type of seafood that we serve.

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

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

A good example of this is the difference between machine tilling, which most of the domestic plants use, and hand tilling, which foreign plants use. Machines do not currently peel, devein, shrimp as well as people do. Machines can make inconsistent cuts. They don't always get the entire vein out, and they can leave behind bits of shell and broken pieces.
In the restaurant business, it is essential that our guests know exactly what they're getting, and that they're going to get the same thing every time that they dine with us. With domestic origin shrimp, we would have a great deal more difficulty in meeting that goal. It can wind up costing us more when we have to deal with defects that may damage our reputation.

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

In our restaurants, we mainly serve peeled and de-veined shrimp, either tail on or tail off. We purchase shrimp skewers as well. Most of the shrimp that we purchase is IQF except for the domestic origin product, which is typically block frozen. Our experience is that the domestic processors do not have the ability to produce very much high quality peeled and de-veined shrimp. Our chefs typically need such shrimp for the dishes they prepare. When we purchase domestic shrimp, we tell potential suppliers the product form, the quantity, the delivery schedule we need. The suppliers then give us price quotes.
We assess the quotes based on our opinion as to where the market may be at any particular time. We are willing to pay more for domestic shrimp than we do, than farmed shrimp because of the limited domestic sources that are available to us.

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

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

That completes my remark. Thank you.

STATEMENT OF JAMES P. DOUGAN

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

First, I will discuss key conditions of competition that affect demand and domestic supply. Second,
I will discuss how subject imports will not cause injury by reason of adverse volume effects in the event of revocation. Third, I will discuss how the pricing data support the conclusion that the orders have had no disciplining effect, and that subject imports will not cause any adverse price effects in the event of revocation.

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

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

As shown in Slide 2, data from the current POR illustrate this point well. Both domestic and subject import prices spiked in 2014, yet per capita consumption
remained at its historical level of four pounds per person. Then when prices fell in 2015, as Asian producers began to recover from the ENS disease, per capita consumption remained the same, still four pounds.

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

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

The domestic industry nevertheless claims that landings increased between 2010 and 2015, but this is completely misleading, because landings were depressed in
2010 due to the BP oil spill. It's clear from Slide 3 that landings during the 2013 to 2016 period were low by historical standards, and they appear to be part of a declining trend since the original investigation, and that's despite those very high prices.

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

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

Thus, the domestic industry did not have the ability to respond to increases in price with increased supply. Expressed in technical terms, the staff's estimate of U.S. supply elasticity is significantly overstated, we
believe. The implication of this is that the domestic
industry has not been producing greater volumes of shrimp
due to any effects of the order, but rather has been
supplying the market to the extent that its biological
constraints have allowed.

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

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

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

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

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

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

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

This growth has been driven by demand factors,
not a diversion from the U.S. market because of the orders.

As shown at Slide 7, a presentation at the National Fisheries Institute's Annual Marketing Conference observes that Asia demand is now driving the global shrimp market, and you've heard the same from the witnesses on the panel today.

As shown at Slide 8, from the 2016 GOAL Conference in China, this is explained in large part by demand growth in China, which has more than doubled since 2005, and has grown by 60 percent since 2010.

That this pattern of growth in exports to non-U.S. markets is attributable to demand factors rather than the effect of the order is proven by the fact that it can be observed not only for subject producers, but also for non-subject producing countries, who have no orders restraining their exports to the U.S. market. As Slide 9 shows, non-subject countries have increased exports to non-U.S. markets substantially.

In any event, even if subject import volume and market share increased with the revocation of the orders, this will not lead to a recurrence of injury. Any increased volume of subject imports will replace non-subject imports rather than domestic shipments. This ebb and flow between subject and non-subject sources has occurred over the years since the original POI, with the sources changing
but total import volume holding steady at approximately 1.1 billion pounds.

The events of the interim periods, as shown at Slide 10, show how an increase in subject imports replaced non-subject imports without any adverse effect on the domestic industry. Apparent consumption between the interim periods increased by three percent.

Also between the interim periods, there was a significant decline in imports from two major non-subject sources: Malaysia, because of an FDA ban related to antibiotics found in the shrimp and Equador, because of its increased exports to China.

Thus, the increase in subject imports replaced the curtailed available supply from these two large nonsubject sources, while helping to satisfy the increased demand. Despite this increase in interim 2016, U.S. processors' profit margins improved to their highest levels since the original POI. Thus, subject imports increased in volume and market share without any adverse effect on the domestic industry.

This is further evidence that the revocation of the orders will not lead to the recurrence of adverse volume effects by reason of subject imports.

Turning now to price effects, the record also supports the conclusion that the revocation of the orders
will not lead to these adverse price effects on the domestic industry for several reasons.

First, the preponderance of overselling during the POR indicates that subject imports do not need to undersell domestic producers to maintain a significant presence in the market. Subject imports have retained a significant share of the U.S. market despite the orders and despite overselling in the majority of instances, and in an even greater majority, 75 percent of volume.

If Petitioners were correct in claiming that price drives purchasing decisions, and that subject and domestic product are interchangeable, this would not be the case. Thus, even if the orders are revoked, subject imports can continue to be sold in significant volumes without causing adverse price effects to the domestic industry.

Second, the Petitioners have claimed that the orders have had a disciplining effect on import prices. But the record does not support this claim. See Slide 12. This chart shows the cash deposit rate in effect for India for each quarter of the POR, and the quarter to quarter changes in price for Pricing Products 4, 5 and 6.

We have selected India as an example, because unlike the other subject countries it had neither a robust home market, like Brazil or China, nor any significant comply constraints like Thailand or Vietnam. We have
selected Products 4, 5 and 6 because there was a consistent
time series of these products over the POR, and that
provided the most comparisons.

This chart shows that despite very consistent
and consistently low deposit rates during the POR, there
were significant changes in Indian import prices from
quarter to quarter. As you can see in some cases, increases
or decreases of as much as 20 percent over a single quarter.
Thus, importers of shrimp from India were able to make
significant adjustments to their prices to respond to market
conditions, while still maintaining consistently low dumping
margins.

This is because these prices and the
producers' underlying costs are driven by global supply and
demand conditions, and because these factors drive costs as
well as prices, they generate a normal value that results in
a low margin calculation. If the orders were truly having a
disciplining effect, you would not see such wide variations
in price from quarter to quarter, especially the price
decreases.

We have presented India as an illustration of
this concept, and we will also provide the same type of
charts for Thailand and Vietnam in our post-hearing brief
that show a similar relationship, or rather a lack of
relationship, between the deposit rates and changes in
price. The significance of these charts is that if the orders have no disciplining effect on price, the removal of the orders will not lead to any material change in pricing behavior.

In addition to the analysis presented at this slide, there are other reasons to doubt whether the order is having a disciplining effect on prices. If there were a disciplining effect, than one would expect that the prices of subject imports and domestic products would have a consistent relationship. But that is not the case, as demonstrated in the product by product analysis presented in our prehearing brief.

Moreover, there is much greater amount of overselling in the current POR than in the previous POR, and the Petitioners compared it to the OI, but we're comparing to the previous POR. Thus, the overselling cannot be attributable to the orders, but rather it's attributable to the ways that market dynamics influence the setting of prices in particular products.

For example, the comparative abilities of domestic and foreign processors to supply shrimp that are IQF, cooked or peeled and de-veined. This evidence indicates that the overselling is due to attenuated competition between domestic shrimp and subject imports, rather than any effect of the orders.
Turning now to impact. The evidence regarding
the domestic industry's profitability further supports the
conclusion that revocation will not lead to any recurrence
of injury. Slide 13 shows that but for two outlier years,
the average operating margin of U.S. processors has been
remarkably steady since 2001.

Given the significant variability of market
conditions over the 16 year period, the record supports the
conclusion that domestic processors' natural or normal
profitability is approximately this level observed from 2013
to 2015, which is roughly equivalent to the levels earned in

2008 is an outlier due to the global financial
crisis, and 2012 is an outlier because of a large increase
in SG&A expenses that was funded with BP compensation. This
is discussed in the staff report for the CVD case. This
conclusion is supported by the fact that processors
maintained this consistent profitability level even during
the current POR, when there was a much wider variation in
prices or net sales AUVs.

Moreover, in interim 2016, processors
experienced their greatest profitability since the original
POI while subject import volume and market share were at
their highest levels of the POR. The prehearing staff
report also shows that the performance of fishermen was
stronger from 2013 to 2015 than in any other period for
which were collected. The fishermen have been earning
healthy operating margins over the POR, and their net income
margins are even higher, thanks to the very substantial
CDSOA and BP settlement funds that they've received.

In summary, because of this recent strong
performance, neither processors nor fishermen are vulnerable
to possible future injury if the orders are revoked. This
is especially true because of the large amounts of remaining
compensation that processors expect to receive from the BP
settlement in the near future.

While the Commission may have made a
reasonable determination about the industry's vulnerability
in the first review, given the uncertainty of the
consequences of the 2010 BP oil spill, there is no such
uncertainty in the market now. Thank you.

STATEMENT OF ROBERT G. GOSSELINK

MR. GOSSELINK: Good afternoon. Rob Gosselink
of Trade Pacific with some important words from the
Brazilian producers.

In the first five-year review, the Commission
found that although subject imports from Brazil had exited
the U.S. market by 2009, the domestic-like product and
imports from Brazil were both present in the United States
during the period of review.
Moreover, the exit of Brazil imports from the U.S. market was found to have been, at least in part, a function of the AD Order. The situation is different now. Subject imports from Brazil basically have not been present in the U.S. for several years. Moreover, Brazil did not just exit the U.S. market, but at the same time abandoned all export markets. Now almost 100 percent of production is consumed in Brazil.

Given that Brazil has largely exited all exports markets, the Commission must consider that the decision to cease U.S. exports was not driven primarily by the AD Order. Rather the genesis for Brazil's abandonment of its export markets was the appreciation of the Real, which went from three Real to a dollar in 2003 to 1.5 to 1 in 2008, that doubling in value basically ended exports. When the U.S. dollars gets you only half of what you used to get, you simply cannot continue to ship.

Seven years later, in 2015, the exchange rate had reverted to more than four Reals to a dollar and currently is at three to one. But importantly, exports have not restarted. This is because when Brazilian producers were forced away from exports they put substantial energy and effort in creating a domestic market when previously there was none. The result was that they found eager customers for both fresh and frozen product.
Today there are 200 million people in Brazil. They purchase almost every pound of shrimp produced and yet they still consume only one quarter the per capita amount as in the United States, but the potential growth is huge. The focus on the domestic market into Brazil now is no longer a matter of necessity, but a matter of choice and Brazilian producers will continue to focus on developing and selling to the local market if the AD Order on Brazil is revoked.

Thank you very much.

STATEMENT OF JARROD GOLDFEDER

MR. GOLDFEDER: Good afternoon. I am Jarrod Goldfeder, also of Trade Pacific, and I will address an issue touched on this morning.

The Commission's analysis in a sunset review is similar to a threat of injury analysis in an investigation in that the Commission must decide what is likely to occur in the imminent future based on data from the present and recent past.

For that reason, it's not surprising that the dire predictions that we heard this morning are virtually identical to the predictions that the domestic parties made when putting forth their threat of injury case during the 2013 CVD investigation. Their predictions then about what would transpire if the Commission did not impose CVD duties proved to be wrong. Their predictions today are equally
miscarried. I refer you to the examples in our handout comparing their predictions in 2013 and today.

The first slide begins with a direct quote from the Petitioners back at the Commission's hearing in the CVD investigation, which you've already heard in our opening statement morning that CVD duties were necessary or "the future of the domestic shrimp industry and of an entire way of life in the Gulf region is at risk."

The record did not support their declaration then and it certainly does not now. Those subsidies presumably continued to affect competition after 2013 and yet, when the Commission looks at the industry now it finds considerably improved capacity, production, commercial shipments, employment levels, operating profits, capital expenditures, and cash flows.

The second slide conveys the U.S. industry's insistence then and now that excess capacity will translate into increased exports within a short period. That did not happen after the CVD case even though the amount of excess capacity in 2013 was equivalent to what it is now. Similarly, the record here confirms that any capacity expansions that occurred between 2013 and 2015 did not result in substantially increased imports from the subject countries. The available shrimp supply and not unused capacity drives production and exports.
As the third slide shows, the domestic industry prophesized in 2013 that subject inventories would flood the U.S. in the absence of CVD duties, but that never came to pass. Subject inventories are at least as high now as they were then and yet, U.S. processors have increased their capacity, increased their production, and increased their commercial shipments.

Slide four underscores the domestic industries consistent allegation that the export orientation of all shrimp-producing countries indicates an intention to increase U.S. exports unless duties are in place, but the Commission has amassed 15 years of subject and non-subject import data that confirms that imports, as a whole, have maintained a stable presence in the U.S. market. At the same time subject producers have developed substantial and growing third country and domestic markets. Export orientation is not an indicator of likely future injury.

The fifth slide highlights the domestic industry's completely erroneous prediction regarding the EMS disease that ravished shrimp production throughout Asia. The predicted that EMS would be conquered in no more than one year; however, Thailand's production has not recovered to anywhere where it was pre-EMS. Nevertheless, the processors still argue without any support that EMS has caused only a temporary reduction to the shrimp supply. The
record here proves otherwise.

The sixth slide shows the domestic industry predicting, as they must, that adverse price affects will occur without the imposition of duties. That did not happen after the Commission went negative in 2013. Import overselling has predominated since 2013 and U.S. processors earned their best operating profits in 2016 when imports prices were well below those in 2013 and 2014. There was no threat of significant adverse price affects back in 2013 and there is no reason to believe the situation will be any different in the future without anti-dumping duties.

Finally, in both the 2013 investigation and today, the domestic industry claims that it is highly vulnerable to injury. And as I explained at the outset, the extensive production trade and financial data that the Commission has compiled in this review simply cannot support their characterization of the industry’s likely condition in the reasonably foreseeable future.

In conclusion, more than three years later the Commission's negative CVD determination has been proven correct and yet, these processors stand before the Commission again with the same dire predictions about what will transpire if duties are not placed on imports. There is even less reason now for the Commission to accept their claims of dire consequences if these anti-dumping duty
orders are revoked. Thank you.

STATEMENT OF MATTHEW R. NICELY

MR. NICELY: Good afternoon. I'm Matt Nicely with Hughes Hubbard & Reed.

As we wind down our panel this afternoon, I want to focus the Commission's attention on what has changed since the first review that justifies a different result this time.

First, in both the original investigation and the first review, the evidence collected by the Commission's staff about the limited extent of competition between subject imports and domestic product was not nearly as robust as it was in the CVD case and again in this review. The Commission now has strong evidence about the attenuated nature of competition between subject imports and domestic product.

First, consider what you've heard today about wild versus farmed. You learned in the CVD case and again here about how wild caught and farmed shrimp are marketed separately by some of the biggest purchasers in the market and therefore rarely compete head-to-head. As our witnesses explained today, this is due to customer preferences, differences in taste, and also in how the shrimp are handled from boat to bag versus farm to bag. Preference, taste, and quality differences are extremely important.
Let's talk about supply. Staff confirmed in the CVD case here and again here that the U.S. industry's supply responsiveness is limited by biological and environmental constraints on the amount of fresh shrimp that can be fished from U.S. waters. The BP oil spill, which limited supply in the first review period, also continues to have an affect today, in part, because of environmental factors, but also because payments to fishermen have reduced shrimping efforts. Domestic supply is further limited by the seasonal nature of the wild catch industry, which means less domestic shrimp is available during the offseason.

While the Commission has identified the seasonal reality in the first review, the important point is what affect it has on purchasers. Notwithstanding the industry's efforts to maintain inventories from one season to the next, our witnesses have explained how domestic processors are unable to supply sufficient quantities of specified product types on a year-round basis, unlike subject imports.

Questionnaire data and witness testimony today show that, like in the CVD case, domestic processors offer only limited quantities of certain kinds of products. The staff detailed this with regard to IQF product at Table IV-5 of the staff report and witnesses today have discussed the limited availability of both cooked and peeled and de-veiled product from domestic suppliers. On the other hand, these
products are widely available from subject import sources. Now geography, questionnaire data show that nearly two-thirds of domestic product is sold in the Gulf Coast and South Atlantic regions. This quantification was not available in the first review and is similar to what the staff learned in the CVD case; meanwhile, we know imports are widely available all across the country. The bottom line is that the Commission has a record to support the conclusion that competition between domestic and subject imported product is far less direct than the Commission found it to be in the first review.

Next, domestic landings are much lower during the POR for this sunset review than for the last one. Importantly, if you read their questionnaire responses, you'll see that the fishermen are not blaming imports for that decline; meanwhile, the fishermen are performing better than they had performed in the past when landing volumes were larger.

Next, non-subject imports are a much larger factor in the U.S. market now than they were in the first review period. Not because of the orders, but because, first, disease and weather issues in Thailand and Vietnam; second, home market demand in Brazil and China, and finally, because several previously subject companies are no longer subject to anti-dumping orders. And note, most of these now
non-subject sources of supply did not increase their
shipments to the U.S. upon revocation of the dumping orders.
Exactly the opposite of what Petitioners claim will happen
upon revocation of the orders.

Fourth, demand in other countries has grown
dramatically, particularly, in Asia, providing subject
producers with alternative markets, including their own home
markets and thriving third country export markets where
prices are just as high or higher than U.S. prices. Sales
to the U.S. are now only 27 percent of total exports by the
subject countries compared with over 40 percent at the end
of the first sunset review. This is where increased global
production is going and it is having an important price
affect here in the United States.

Our witnesses' companies now compete with third
country buyers for available supply of foreign farm-raised
shrimp and they are forced to pay higher prices accordingly.
Record evidence shows that one of the driving forces for
this shift since the first review is the growth of the
Chinese market where the middle class alone is larger than
the entire U.S. population and where they eat three times as
much seafood as we eat here in the United States.

Fifth, and consistent with this change in the
global marketplace, the Commission's pricing product data
show that subject imports mostly sold at higher prices than
domestic shrimp. Sixty percent import overselling compared with 40 percent in the first review and 50 percent in the CVD case. This isn't due to the so-called disciplining affect of the orders as prices have varied up and down far beyond what would be permitted if the orders established any sort of pricing floor, as demonstrated by Mr. Dougan's discussion earlier.

Furthermore, there is nothing to suggest that import prices have lead to price suppression. After all, despite their lower prices, the domestic processors COGS to sales ratio was lower during this review period than at any time since the order was imposed.

Sixth, the domestic processing industry's overall performance was stronger in interim 2016 than at any time since the order was imposed. The same is true for the fishermen. This improved performance is not because of the dumping orders. After all, both domestic processors and fishermen did better when subject import volumes increased at the end of the POR. The fact is that the industry's performance has nothing to do with imports or the affect of the orders.

Today the domestic industry is doing well and foreign sources have more robust alternative markets in which to sell their shrimp. Times have changed. The industry is not vulnerable. The imports pose no threat.
It's time for revocation.

MR. CONNELLY: That completes our presentation.

CHAIRMAN SCHMIDTLEIN: Alright, thank you very much, Mr. Connelly.

I'd like to welcome the panel and thank you all for being here this afternoon. This afternoon we will start with Commissioner Broadbent.

COMMISSIONER BROADBENT: Thank you.

Let's see, Mr. Connelly, Congressman Graves this morning testified with regards to the presence of banned chemicals in imported shrimp. Can you address this? Is it occurring and if so, are purchasers or consumers aware of these problems?

MR. CONNELLY: Yeah, I'll be happy to address that.

First of all, there is a zero tolerance policy for banned antibiotics, not just on the part of the companies represented here, but on the part of the entire purchasing and importing industry. There is no tolerance for banned antibiotics; however, there have been instances where antibiotics not permitted by the FDA have been detected and the imports have been halted at the border. That's something we agree with. That is not something we tolerate. And as you heard, these companies and all companies who have a public reputation are
absolutely dead set against. I think the emphasis by the
domestic industry on the banned antibiotic issue is grossly
overstated. I also think that there is no evidence that I am
aware of, of any person ever becoming sick or dying, for
that matter, from ingesting the shrimp that was tainted in
some way by antibiotics.

So we don't like it. We're doing everything we
can to prevent it through inspection and for insisting -- we
don't opposed increased FDA inspections. We're for that
too, but to say that this is some sort of huge problem in
the industry I think really overstates the situation.

COMMISSIONER BROADBENT: Are there international
standards, or are you just setting up your own standards and
doing your inspections based on that?

MR. CONNELLY: Well there are standards for
certain banned antibiotics that the FDA sets, so many parts
per billion. I can't comment on other standards. Does
anybody else here have an opinion about that?

But we can say that every company here has a zero
standard for banned antibiotics.

COMMISSIONER BROADBENT: Yes?

MR. PIZZUTI: There's a --- you had asked if
purchasers are aware. There are FDA import alerts that do
come out on a monthly basis that lists all the companies
from exporting nations that have tested positive. So the
larger buyers typically see that and purchasing decisions
are made based on that.

COMMISSIONER BROADBENT: Okay. Mr. Nicely, how
should the Commission compare the capacity and any excess
capacity of the domestic industry with capacity in subject
countries, given the differences in harvesting versus farm
raising?

MR. NICELY: I think in both instances capacity
amongst the processors cannot reach full capacity unless
they have sufficient raw material supplies. So both here in
the domestic--both here in the United States, if landings
are not reaching sufficient quantities, then of course the
processors aren't going to reach their limits.

The same goes for foreign capacity. For my
clients in Vietnam, a very good example, they've run up
against significant problems with supply due to a whole host
of reasons, and we all know and have heard a lot about the
EMS problems in Thailand.

If you have issues with gaining enough raw
material supply to process the shrimp, then obviously you're
not going to produce to full capacity. And there are
elements to which that continues throughout the world.

MR. CONNELLY: May I add something, Commissioner
Broadbent?

COMMISSIONER BROADBENT: Sure.
MR. CONNELLY: The suggestion—well, first of all, unused capacity is a characteristic of shrimp processing, whether it's wild caught processing or farm shrimp processing, it is simply a characteristic. Now why is that? In the wild caught industry, it's because of the cyclical nature of landings. But in the farmed industry, it's the product of the fact that harvests don't occur day after day after day. There is a cycle in shrimp pond harvests, too. And so while you have to have the capacity to handle the peak harvest, you have many times in the farmed shrimp industry where you don't have any shrimp coming in, either.

And so that's why you see the low capacity in the farmed shrimp—low capacity utilization in the farmed shrimp business.

COMMISSIONER BROADBENT: Are the costs associated with farm raising shrimp higher or lower than the wild caught?

(MR. CONNELLY: Well, I guess we don't have an answer on that one. We'll have to look into that one for you.

COMMISSIONER BROADBENT: Anybody in the back row?

MR. ZHOU: Could you clarify the question?

COMMISSIONER BROADBENT: Sure. Are costs
associated with farm raising shrimp higher or lower than
wild caught? The costs associated with the wild-caught
process?

MR. ZHOU: I don't have an answer to that, but I
know wild-caught costs primarily are associated with the
fuel costs.

COMMISSIONER BROADBENT: Right.

MR. ZHOU: Whereas, shrimp farming costs, as with
other aquaculture products are associated with the feed
costs, primarily.

COMMISSIONER BROADBENT: Okay. Why is it that the
U.S. doesn't have that much farmed shrimp?

MR. CONNELLY: Well we probably should ask the
representative from Bowers about that one, but let me take a
guess. Weather. You know, shrimp like it hot, and I don't
think it's hot year-round even in Texas, or the Gulf Coast,
whereas of course you see the shrimp farms in Asia and
Central and South America located around the Equator where
the temperature variations are not that great.

So as I say, shrimp like it hot, and so that's
why you see that.

COMMISSIONER BROADBENT: Okay.

MR. CONNELLY: Less cycles.

COMMISSIONER BROADBENT: Right. How do natural
and environmental events like tsunamis, oil spills, impact
farm-raised shrimp? Are farm-raised shrimp more insulated from events like that?

MR. PIZZUTI: I'll jump in on that one. I don't believe they're insulated. I believe they're different. You'll have monsoon seasons in India that will stop production. You'll have the same weather issues that we discussed, whether it's heavy rains, long periods of dry season, that impact the shrimp's desire to feed, which impacts growth rates.

So I believe there's similar impacts that are out there, but they're just very different scenarios. But there are things that impact the farm product, as well.

If I can go back to your prior question?

COMMISSIONER BROADBENT: Sure.

MR. PIZZUTI: The one thing that I we have to understand is there is no domestic aquaculture standard. That's something that's currently being debated within NOAA and within the Federal Government from the USDC standpoint. So I think that is part of the issue with the U.S. aquaculture production in general, let alone the shrimp production. Most of the shrimp production that's being done domestically is under some state guidelines.

COMMISSIONER BROADBENT: Okay. And then why is it more imported shrimp wild-caught? Is it not available?

MR. STERN: I think there used to be a significant
amount of wild-caught shrimp imported from Asia. The Asian markets have taken up that and pay a premium price for wild-caught shrimp. And so very little of it comes here.

There's also turtle-excluder devices that were mentioned this morning that are a requirement by the State Department, and that applies not only for domestic catches but for foreign catches.

And the countries have decided, a number of the countries, that it's just not worthwhile to comply with that, as they have ready markets to ship their wild-caught products to other places.

COMMISSIONER BROADBENT: Okay. Is it fair to say that the only supply constraint in subject countries, other than Brazil, is the kind of potential ofa disease outbreak?

MR. WEITZER: I can answer that a little bit. Alan Weitzer. I mean another supply constraint that we've seen more in the past five years is actually the farmers have been able to assess what their break-even point is for harvesting.

So they can assess during the harvest cycle essentially when is the best time to harvest the shrimp. And if they're not going to get the raw material price, at least they break even or show a profit they're going to leave that shrimp in the pond potentially longer so that it can grow out to a size where they're going to get that
break-even point.

And we've seen in the past couple of years, times when if the price that the processors overseas are paying to the farmers gets too low, they simply stop farming shrimp. They leave the ponds empty until prices recover, and then they return to farming when it's profitable.

COMMISSIONER BROADBENT: Yes?

MR. PIZZUTI: One other thing to consider when you look at, you had mentioned EMS, when you look at the solution to EMS moving forward, as was mentioned earlier this morning, the primary solution to EMS and any disease issues is to reduce your stocking density and to fallow out the ponds to allow for a dry period.

So if you're looking sat the countries that are trying to recover from EMS, they're going to be curtailing their production in an effort to avoid that disease from coming back. So that will be another production impact as we move forward as te effort to contain EMS.

COMMISSIONER BROADBENT: Okay, thank you.

CHAIRMAN SCHMIDTLEIN: Commissioner Kieff?

COMMISSIONER KIEFF: Thanks. Just if I could, with the lawyers I guess, follow up on the conversation I had with your counterparts this morning about the CBD Order and what's changed. And in particular, if I understand the brief exchange, and obviously both sides will be following
up in the post-hearing, but in a nutshell, one of the key points your opponents made was, gosh, look, ITC, you the ITC wrote a decision in the CBD case that paid a significant amount of attention, at least in the majority, to a couple of factors. And those particular factors were unique to the market effect of the oil spill, and then the government response to the market effect of the oil spill. And therefore that's just not really relevant to today's decision.

What's your response?

MR. CONNELLY: I'm glad you asked that question. So I listened very carefully to what Elizabeth said. So she said two things. She had two answers.

One was the Period of Investigation was 2010 through 2013, and that was distorted because 2010 was the BP oil spill. But the Commission didn't just look at 2010 through 2013, they looked at 2009. They didn't use the POI to include 2009, but at the domestic industry's urging they looked at the data in 2009. So there was a lot of information on the record about 2009.

Number two, she said that the BP compensation had a great effect, impact. Well one thing about that, that effect is still going on today. And I don't want to get into BPI information, but some of the witnesses here today, we are going to discuss the effect of continuing BP
compensation on their own profitability. So that's one set of answers.

The other set of answers has to do with what the Commission considered with respect to volume, price, and impact. The Commission addressed all three of those things. It wasn't just the BP compensation. It wasn't just the base period. It had to do with the evidence with respect to under-selling. It had to do with the role of nonsubject imports, which we talked about again today, which the Commission is very well aware of. And it had to do with the condition of the domestic industry, which we think is better now than it ever was.

So certainly the records are different. But in our view it's a stronger record now than it even was in the CBD case, and we'll expand on that.

COMMISSIONER KIEFF: Alright, that's it for my questions, and I look forward to everybody providing in the post-hearing the follow-ups, and we appreciate you all coming. Thank you.

CHAIRMAN SCHMIDTLEIN: Alright, thank you, Commissioner Kieff.

So I'd like to start with understanding a little bit better the chain of supply here and the role that each of the industry witnesses' companies play in that chain. So I guess we can start with you, Mr. Seidel [pronounced
SEE-DELL]? SAY-DAHL, excuse me. With the Performance Food Group.

So you are a distributor?

MR. SEIDEL: Correct.

CHAIRMAN SCHMIDTLEIN: Right. So does that mean you purchase from importers of record?

MR. SEIDEL: That's correct.

CHAIRMAN SCHMIDTLEIN: And you're not the importer of record?

MR. SEIDEL: I am not.

CHAIRMAN SCHMIDTLEIN: Okay, and you all buy both subject imports, nonsubject imports, and domestic wild-caught?

MR. SEIDEL: Correct.

CHAIRMAN SCHMIDTLEIN: Okay. In your experience, do the duties that are currently being levied, are they passed on? Is that something that you are having to absorb in your purchase price?

MR. SEIDEL: We look at it as it's in the price.

CHAIRMAN SCHMIDTLEIN: It's in the price?

MR. SEIDEL: It's in the price.

CHAIRMAN SCHMIDTLEIN: Okay. Alright, so, Mr. Stafford, you're from Costco. Is Costco directly importing from these countries? Or are you purchasing from an importer here in the United States?
MR. STAFFORD: Well let me clarify exactly how we do. We have, for almost 20 years, all of our pre-qualifications to be part of our supply chain with the product we import is done by our buyers visiting these source countries and establishing relationships with the processors and farming areas.

So everything we do in working with a supply chain and up through negotiation, we do directly in-country. We then do an import-of-record that will pull all of our goods and provide cold storage consolidation and all of that, but it's just strictly a cost-plus basis to help facilitate the transactions.

CHAIRMAN SCHMIDTLEIN: I see. Okay.

MR. STAFFORD: So we are very intimately involved with being in-country and negotiating our own deals.

CHAIRMAN SCHMIDTLEIN: But the importer of record is somebody different than Costco?

MR. STAFFORD: Correct.

CHAIRMAN SCHMIDTLEIN: It's not a Costco in-house job.

MR. STAFFORD: Correct. But complete open book on what we do.

CHAIRMAN SCHMIDTLEIN: Okay. I see. Alright. And Costco, I think you said, does not buy domestic wild-caught? Or did I misunderstand that?
MR. STAFFORD: We buy a limited amount. We would like to buy more. We buy--for example, we buy pinks in our Southeast market, and we merchandise them side by side with the importer product, but it is differentiated through the packaging to call out that it is a pink and that's produced in the U.S.

We are not able to get the levels that we'd like. I think Commissioner Williamson asked about the--I think it was--mentioned the wild Alaskan salmon that we sell. And that actually is the model that we would like to build for shrimp.

When we sell wild Alaskan salmon, it's right next to our farmed Atlantic salmon in the buildings on both a fresh and frozen state. And in Alaska they've done a fantastic job on how they process in everything that they do. I mean that fishery is actually a model for what we take everywhere that we go when it comes to time and temperature and handling of the cold chain.

So they've done a fantastic job with that, and they've done a great job marketing their species as being different. So they've consistently been able to sell at a 10 to 20 percent premium within Costco. We think that's the model that we can do with domestic shrimp if we can work and massage and get the same comfort level with our specifications.
Because one thing we do, when we set a specification for a protein it is consistent across the globe. We try not to change it from country to country. So we think there's a tremendous opportunity.

CHAIRMAN SCHMIDTLEIN: And by "specification," are you talking about size?

MR. STAFFORD: Well, the size, but there's also a processing specification, and specifically it's handling of the cold salmon. We mentioned the time that we spent in Asia. It was going to the southern part of Vietnam and working with a small farmer on what are their icing practices. How do they transport it? How do they ensure that from the time they pull it out of the pond to the time they put it in the bag that we limit that time and that we have control point checks on the temperature all the way through the process.

Because we feel, although shrimp is cooked and that is a kill step, we don't rely on that. We rely on very, very clean standards to ensure we limit any microbial growth or anything bad that can happen.

So we're wide open to trying to figure out a better way to do that within the domestic industry.

CHAIRMAN SCHMIDTLEIN: Okay. Mr. Pizzuti from Publix, how do you get your shrimp?

MR. PIZZATI: On the domestic side, we procure
directly with, like as I mentioned earlier, to a small
number, three, domestic suppliers that we work with.

CHAIRMAN SCHMIDTLEIN: And are those distributors?
Or are those processors?

MR. PIZZUTI: Those are direct processors. In
some cases they are actually packing houses that also
process. So they're unloading the boats and processing. In
one case they're just a processor.

On the imported side, we're very similar to what
Costco does. As I mentioned in my testimony, we work with
12 overseas facilities between India, Thailand, and
Indonesia, and we work with three import partners to handle
the paperwork and the logistics of getting it into the
country. So that's typically how we work on the procurement
side for farm products.

CHAIRMAN SCHMIDTLEIN: Okay. Mr. Zhou, Red
Lobster.

MR. ZHOU: We buy our domestic shrimp directly
form a processor, as well. It could also be a distributor
itself, but it's a direct producer-processor.

For our imported shrimp, we used to import every
single pound of our seafood. We have ceased doing that some
years ago. So we, like Costco, we have our own
relationships, direct sourcing relationships in foreign
countries, wherever the resource is, and we negotiate
directly with the producer, inspect the plants directly, work directly with them. Just the technical step of importing itself is either done by the exporter themselves, or a third party on a cost-plus basis.

And part of the reason is that antidumping is a tremendously burdensome responsibility from a paper keeping and other compliance standpoint for us. Our focus should be on our restaurants and, you know, our guests, even though sourcing products directly from overseas has always been more directly from producers anywhere in the world, whether it be domestic or overseas. We actually buy a vast majority of our seafood in the United States and North America than from overseas, everything else considered.

So, you know, we like to buy directly from wherever we can, whether it be overseas or here, and the importing of itself no longer has value to us.

CHAIRMAN SCHMIDTLEIN: So I assume like the others the price you're paying reflects the duties?

MR. ZHOU: Correct.

CHAIRMAN SCHMIDTLEIN: Okay. And then Mr. Stern, you are an importer?

MR. STERN: Correct. Yes.

CHAIRMAN SCHMIDTLEIN: And you're selling to distributors? Or retailers?

MR. STERN: We're selling to distributors like
PFG. We sell to large--

CHAIRMAN SCHMIDTLEIN: So they're a customer of yours?

MR. STERN: They are a customer of ours.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. STERN: We sell to large restaurant chains.

We sell to specialty seafood distributors. You may see a truck driving around Washington, D.C., United Shellfish, or many of the other ones. We sell to specialty meat distributors. We sell to companies that do reprocessing, also.

CHAIRMAN SCHMIDTLEIN: And are you able to pass on the duties in the price that you charge to various buyers?

MR. STERN: We certainly try to. So in effect we look at that as part of our cost, and we do pass the--we base that cost on what we sell for.

CHAIRMAN SCHMIDTLEIN: Okay. Mr. Weitzer, you are a distributor, I think?

MR. WEITZER: No. We are an importer.

CHAIRMAN SCHMIDTLEIN: You are? Okay.

MR. WEITZER: And also we pack domestic shrimp.

CHAIRMAN SCHMIDTLEIN: I see. Okay. And so as an importer you're selling to distributors?

MR. WEITZER: Yes, our customers are distributors and specialty seafood wholesalers. We really don't sell to
retail.

CHAIRMAN SCHMIDTLEIN: You don't sell to retail.

Okay. And are you able to pass on the cost of the duties?

MR. STERN: It is the cost of doing business, and we, again like Jeff said, we certainly try. We've found that our margins have not really changed since before the order to after, so we've been somewhat effective in doing that.

CHAIRMAN SCHMIDTLEIN: Okay, so you've been able to pass on those duties and not having to absorb them yourself. And so if the order was revoked, would you expect that you then would pass on the savings?

MR. STERN: That's a good question. I think it would depend a lot on what our competitors decided to do with their savings.

CHAIRMAN SCHMIDTLEIN: I see. Right. If at all, everyone would experience that, at least on this panel.

Okay, that's very helpful.

MR. NICELY: Chairman Schmidtlein?

CHAIRMAN SCHMIDTLEIN: Yes?

MR. NICELY: Could I offer another observation? And I wonder if there's any chance of bringing up one of our slides again, the slide regarding the dumping margins for India? I just want to make sure that everyone is focused on this, because I think it's one of the more important aspects
of--and something that you didn't see in our brief that we wanted to focus on because of the extent to which the Petitioners focus on this concept of the discipline of the order, which you're effectively talking about.

But, you know, they essentially are claiming that the dumping margins are setting a price floor. And I think this is a very, very good example of why that is not the case.

Throughout the entire POR, the dumping margins have remained pretty flat at around from zero to three percent, a tight band from zero to three percent for India. And yet the pricing, if you look at the pricing products, have changed dramatically. And in some instances, as Jim talked about during his testimony, declined by 20 percent.

Well if they decline by 20 percent, how is this--how are these orders establishing a price floor? The point therefore is that it isn't the dumping orders that are setting price. They're not setting a price floor.

What these companies --- the way pricing works in the United States from imports is based upon, as you've heard today, is the global market. And as supply moves, and supply moves, costs move, and hence prices move.

But I think this is an important slide to focus on to understand why this notion of a price floor isn't happening.
CHAIRMAN SCHMIDTLEIN: Okay. I will follow up in my next round as my time is up.

Vice Chairwoman Johanson: Thank you, Chairman Schmidtlein.

And I would like to thank all of you for appearing here today. This morning I gave my accolade to the domestic producers, thanking them for making such a great product, and thanks to all of you for importing this product. I enjoy seafood, try to eat it at least once a week, for health reasons and also just because it tastes so incredibly good. So thanks for your part in the seafood economy for bringing those products to all of us.

I'm going to talk a bit more about food, and this is going to be focused on the panel way in the back representing the Brazilian producers, Mr. Gosselink, Mr. Goldfeder and Ms. Eppard.

So I've been to Brazil. And when I was there --- I've been there twice and ate a whole lot of beef, and really enjoyed that. And it was my birthday three weekends ago, and I went to Fogo de Chao for the first time, and I was back this week again. I liked it so much.

And when I was there, I ate a lot of beef. They even had lamb; they had pork; they had chicken; but no shrimp. And with my knowledge of Brazil, I just don't think of folks eating shrimp. I think of a lot of red meat.
That's what the country is known for.

But you all have provided information showing that the consumption is growing rapidly in the Brazilian diet. Could you talk a bit more about that? Because this is just something, until I read your briefs, I had no idea this was going on.

MR. GOSSELINK: Rob Gosselink, Trade Pacific, again. I'd be happy to speak briefly about the topic, and we can follow up more in our post-hearing brief. My understanding is that currently the per capita consumption of meat in Brazil is about 55 pounds per person --- pardon me, 55 kilos per person --

VICE CHAIRMAN JOHANSON: I think it's like the highest in the world, right? That and Argentina, I believe?

MR. GOSSELINK: I believe so. And trim currently is only about half a kilo. So about one percent of that quantity. Really, before 2003 there was no home market consumption of shrimp. The original investigation and subsequent public information from U.S. Com. Trade Data shows that almost all of Brazilian production of shrimp was exporter, and almost none was consumed in the home market.

Unlike the United States, there is no tradition, as in the Gulf Coast area, of shrimp farming, or shrimp eating. And this product originally was destined for foreign consumption. With the diseases of 2004 and '06 and the
devaluation, or the appreciation of the Real, they really
had no choice but to find a consumer base in the domestic
market.

And both retailers, wholesalers, distributors, the whole chain made great efforts to try to develop that
taste for shrimp. And it's still extremely, extremely
small. It started with the fresh market and evolved into
some frozen consumption, but still was limited to the
coastal areas and the larger cities.

And it really hasn't even cracked the interior of
the country in terms of country-wide consumption. That's
why almost every pound of shrimp today consumer—or produced
in Brazil is actually consumed, but mostly consumed still
along the coast. And there's huge potential for increased
consumption in the interior.

Right now, however, there is still quite a lot of
restrictions and constraints on increasing that production
capacity. The, I guess the predictions that we saw on the
screen earlier about greater exports in 2013-2014, the proof
is in the pudding. They did not happen.

Right now, the production itself has decreased in
the last couple of years. Production volumes, if they
increase 10 or 20 percent in the next couple of years, would
only get back up to the levels they were in 2012 and 2013.

So the country still has a long way to go to get
to that beef level, and maybe will never reach that level. I will add, however, that, despite the foreign minister's claims for greater exports, the Government of Brazil is not helping the aquaculture sector at all. There are no incentives. There are subsidies for the aquaculture center. There's over taxation of production inputs. There's a highly complex environmental licensing regime. There's difficulties--the difficulties in the licensing lead to difficulties in getting access to credit. Bank collateral requirements are very high.

I see considerable constraints on aquaculture expansion in the near future.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Gosselink.

MR. CONNELLY: Can I talk to that briefly to that, Commission Johanson?

Slide five of the domestic said this morning "15 Brazilian seafood producers listed as exhibitors at the Boston Seafood Show, at least six of which produced shrimp" and that remark was repeated a couple of times today. I got to say that proves nothing. We don't know that those 15 companies are going to Boston to try to sell shrimp. All we know is they looked and they think they produce shrimp, but they could be going to Boston to sell something else, so I think that's entitled to no weight whatsoever as you try and
decide whether Brazil is export oriented.

MR. ZHOU: I can add a little bit to your question about the seafood consumption. I'm not from Brazil, but one of the things that happening Red Lobster just opened their own restaurants in Brazil. I'm sure business development people know something more better than I do about why they want to open a seafood restaurant in a beef market, per say. They opened two restaurants there.

VICE CHAIRMAN JOHANSON: Wonderful, thank you.

In sticking with the issue of Brazil, when I was reading the Petitioner briefs, one of them mentioned that shrimp is seen as a luxury product in the United States and fall under the recession that began in 2008/2009 consumption went down in the U.S. And I'm just curious, Brazil right now is being hit very hard by its economic problems and that's been going on for several years now, so I was surprised to see consumption of shrimp going up during that period of time because I considered shrimp as being somewhat of a luxury product. It's not something you eat every day, at least not here and I'm just curious as to why it's become so popular in Brazil and why you see that as it's continuing in the future as the economic in Brazil remains mired in a very bad recession.

MR. GOSSELINK: Well, I don't have the complete answer, but it's certainly the fact that all production of
shrimp is being consumed in Brazil by somebody. No, I don't
know if it's considered a luxury items at this point. It
was certainly consider it a luxury item in the United States
30 years until the increased farm-raised imports came into
the country.

I assume that there are still, out of a country
of 200 million people, a lot of people, middle class folks
who can still afford shrimp on a daily basis and see it as
an excellent protein alternative to red meat.

VICE-CHAIRMAN JOHANSON: Okay. I was just
wondering. I read once that oysters in the U.S. were seen
as like peasant food maybe a hundred or so years ago and
that's obviously changed, so maybe it's the same thing with
shrimp in Brazil; although I find that hard to imagine
'cause it's such a great product.

The Brazilian market appears to have largely
excluded imports. I think that's for disease purposes from
what I recall reading. Is this sustainable or will this
have to change, especially, given the consumption patterns
in Brazil and how large were imports into Brazil before they
were excluded?

MR. GOSSELINK: I think there have rarely been
exports to Brazil. We had a chart in our brief on behalf of
the Brazilian Respondents that showed historical levels of
exports to Brazil and they have always been very minimal.
VICE CHAIRMAN JOHANSON: Okay. But then again, imports have been excluded.

MR. GOSSELINK: Brazil, currently, is very concerned about bio-security issues. They have seen what has happened in Southeast Asia with EMS. Last year they had slightly lowered production because of an outbreak of white spot disease that is continuing even now. And again, back in 2004 and 2005, they had huge white spot disease problems that coincided with significant flooding in the country. Obviously, when there's both flooding and disease, it's easy to transfer the disease from pond to pond to pond. The water just flows that more easily.

They have a very stringent bio-security import system right now whereby all imports are subjected to inspection requirements. I think that that may change in the near future, but I can't speak more on that.

VICE-CHAIRMAN JOHANSON: Alright, thank you, Mr. Gosselink. My time is about to expire.

CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you. And I do want to express my appreciation to all the witnesses for your testimony this morning. You've also presented sort of a rich story.

I was wondering -- and I asked this, this morning too. Have there been any significant changes in
technology for shrimp processing in subject countries?

MR. PIZZUTI: I really haven't seen anything in my visits over the last four years from a technology standpoint. The one issue that I have seen has been a labor-related issue where they are looking to more automation, even in Asia. As that middle class begins to grow, there's less and less people willing to work in the processing plants. There's some degree of automation that they are looking at, but by and large, I haven't seen any technology changes at the processing levels.

MR. STERN: Jeff Stern.

I would agree with what Guy said, changes in the factory, but the one change we have seen is that they've embraced technology to provide complete traceability and we can go from pond to finished product and they can track that very, very well and they embrace that, so if there a problem ever in the supply chain it's easily identifiable and you know we really do have that perfect pond to plate traceability.

COMMISSIONER WILLIAMSON: Okay. Isn't it true in most globally traded products nowadays at set a certain standard that the purchasers are demanding that? I mean I can understand why you have it there, but I'm just raising this generally -- something very general.

MR. STERN: I can't talk about industries
outside of seafood, so I really can't comment.

COMMISSIONER WILLIAMSON: Okay.

Mr. Stafford from Costco.

MR. STAFFORD: Yeah, you are correct.

Traceability is a buzz word for everybody now. Everybody wants to know where their food is coming from and it's getting further down the chain in the ingredients and everything, so I don't think the industry is there in every case; but I think every industry is moving in that direction.

COMMISSIONER WILLIAMSON: Okay, thank you.

Just an aside, because I've noticed -- somebody I think mentioned black tiger shrimp are less popular; is there a shift from that -- away from that? Did someone mention that?

MR. PIZZUTI: I think tigers are actually beginning to make a small comeback. They were the predominate species throughout Southeast Asia years ago. The farmers began to switch to the vannamei shrimp because it had a higher survival rate, so they were able to grow that better. They were able to grow it faster. The other thing with the vannamei that was an advantage they could actually be breed in hatcheries where with the tigers you had to get wild brood stock to begin that farming operation. With the removal of tigers from the market, they've now
become a niche item and you're starting to see more and more players from the aquacultural standpoint come back with that because they can get a price premium for it at this point in time.

COMMISSIONER WILLIAMSON: Okay. I only ask that because every Saturday I'm on Costco and I go by the shrimp stand and I see the product offering has changed over the years, but thank you for that.

How difficult would it be to expand farm shrimp production in subject countries and how long does it take and how expensive is it and what constraints are there? You know what drives the expansion of the farms and all?

MR. CONNELLY: Commissioner, I'm not sure if I can answer that one here. I'll ask if the panel has any --

COMMISSIONER WILLIAMSON: I mean you've got a bunch of people who are purchasing this stuff, so I assume they --

MR. CONNELLY: They're purchasers. They're not farmers.

COMMISSIONER WILLIAMSON: But they're noisy. At least they just told me that.

MR. ZHOU: I can attempt to provide some --

COMMISSIONER WILLIAMSON: Okay, who is this?

MR. ZHOU: Joe Zhou.

COMMISSIONER WILLIAMSON: Okay, thank you.
MR. ZHOU: Based on you know my experiences is that to expand a shrimp pond is not as simple or expanding farming is not as simple as it sounds. You know you can dig a hole in a pond and start putting shrimp in there. I think there are increasing environmental regulations overseas as well as investments associated with land acquisition and all the standards that you have to comply with in addition to the capital investment they have, so it's not a very easy endeavor anybody wanted to get into shrimp farming. It's my understanding it's getting harder and harder to do so, especially, in more mature farming countries like Thailand, China, or Vietnam.

You know, typically, where you can farm and it seems like there's some kind of farming going on and it's hard to expand outside those areas. There are also environmental limitations to shrimp farming as well.

COMMISSIONER WILLIAMSON: Does this suggest new suppliers in places India easier?

MR. ZHOU: My assertion would be if there are -- there's less farming in an up and coming country, it's more than likely and also it depends on the cost associated with the investment in that particular country and location.

MR. WEITZER: Alan Weitzer. I would like to add to that.

We have a lot of partners -- supply partners in
India and we have asked them on numerous occasions what
drives the farming expansion and they really say it's the
price that they can garner for the shrimp on the global
market. It is surprisingly expensive to buy land; depending
on what your perception is of a country relative to land in
the U.S. sometimes land in India can be more expensive in
regions where they're harvesting shrimp. You know an
acreage in India compared to an acreage you know maybe 50
miles outside of a major city in the U.S. would be similarly
priced, so they have to -- you have to be able to sell the
shrimp for a reasonable price in order to get a return on
your investment and incentive to expand the farming.

COMMISSIONER WILLIAMSON: Okay. How much lead
time there is you know before someone is setting up a farm?

MR. CONNELLY: We're going to have to look into
that one for you.

COMMISSIONER WILLIAMSON: No, it's just kind of
helpful.

MR. CONNELLY: Yeah, we'll have to look into
that one.

COMMISSIONER WILLIAMSON: Okay.

MR. STAFFORD: Just to comment, though, on your
question that you lead with on what do we know about
expanding farms. And I think if you look what our biggest
challenge is in asking processors in countries to expand
it's looking at the population growth and the global demand
and all of the things and the way that we -- what we ask for
is more diversification from countries. We're not asking to
build more farms. We're looking for ways to just make sure
we protect our supply base with our expansion throughout the
globe and with the growing population that we're diverse in
our supply. So Guy may mention that he's got 12 plants,
we'll have a number of plants we work with, but we're
looking on continuing to expand that out so we're protected
against EMS and insulated against some of the things that
can happen and can keep up with population growth and
expansion.

MR. PIZZUTI: I believe Joe was accurate. You
know when I look at aquaculture, in general, you know
separating the shrimp from everything else everybody looks
to aquaculture as the future. That's were all the product
is going to be coming from.

The reality is in most cases the more mature
industries are mature. If you look at land acquisition for
shrimp farming, you need water access. Probably already
farms there right now, so I don't see the huge expansion
potential from new farm growth. It's going to come from
efficiency. The same way if you look at Chilean salmon
they're not going to be able to do more salmon pens.
They've taken up all the space they can take up. And I
believe we're getting to that point right now with shrimp aquaculture as well, that, as Joe said, if there's a farm there it's there. There's not space in Indonesia to start building out another farming system similar to some that are already there.

MR. CONNELLY: Commissioner, can I add one more point about the growth of shrimp farming? The number this morning that was repeatedly raised by the domestic parties was that shrimp production was projected to grow by 600 million pounds by 2018. That was repeatedly cited as a reason why the United States was going to absorb a lot more imported shrimp. Now the source of that data is Table IV-8 in the pre-hearing report.

Now they are relying on a difference of 600 million between 2015 and 2018 and those are all estimates, but if you go back to the real number in 2014, global production in the subject countries in 2014 was 6.8 million pounds, 6.8 million in the subject countries. In 2018, it's projected to be 6.4 million pounds. In other words, production is down 400 million pounds between 2014 and '18. It's only by taking a low base in 2015 that they come up with a 600 million pound increase. Go back one year and you get a 400 million pound decrease. So in fact, the experts are predicting that there's not going to be production growth if you rely on the information in these tables.
COMMISSIONER WILLIAMSON: Is that production

growth in the existing producers?

MR. CONNELLY: That's the subject countries.

This is one slide from one expert at one conference. That's

a whole other issue.

COMMISSIONER WILLIAMSON: Okay. Okay, thank you

for those answers.

CHAIRMAN SCHMIDTLEIN: Alright, Commissioner

Broadbent.

COMMISSIONER BROADBENT: I think a few witnesses

mentioned this, but I just wanted to clarify. Can anybody

on the panel indicate whether they've ever discussed import

prices with domestic suppliers as a means of explaining a

lost sell or a requested reduction in price?

MR. STERN: Jeff Stern.

No, we have not.

MR. SEIDEL: Mike Seidel with PFG.

When we shop for a domestic shrimp, we're

shopping with domestic suppliers. And when we're shopping

with imported shrimp, we're shopping with imported suppliers

and we do not discuss pricing in any of those scenarios.

That's my response.

MR. WEITZER: Alan Weitzer.

We actually sell both domestic and imported

shrimp and all of our customers are sourcing those from us
independent of each other. We don't have customers that
come to us and say I'm looking for a shrimp at its lowest
common denominator. We have a customer base that has to
have domestic shrimp. We sell that domestic shrimp to them.
Yeah, they may or may not understand what the import price
is. I don't know. But we have a customer base also that
buys the import shrimp from us. Many of those customers buy
both of them from us for what are supposedly interchangeable
products if you listen to the other argument at the same
time, at vastly different prices.

Even in today's current market, you know for an
interchangeable item you know we're selling domestic shrimp
at a 20 to 30 percent premium over the same item and that
product for us, since we're selling both sometimes to the
same customer at the same time is going on the same truck.
So for me, I don't know why that customer would do that or
why I also on my end would be buying at such different
prices.

MR. STAFFORD:  Jim Stafford with Costco.

The structure that we have -- buyers can say a
lot of different things in different places I'm sure, but
our structure is that all of our imported product that is
frozen is handled within our Kirkland signature brand, which
is negotiated out of Issaquah, Washington. All of our
purchases for domestic area bought regionally throughout our
regional offices throughout the country or globe in some
cases, so there are different individuals that are, in fact,
doing the purchasing.

The items that they did look at this morning --
I looked at the pink that I referenced that we sell in
Florida and it's a 40/50 pink that we sell for 15.79 for two
pounds. I think we all understand that the larger you go
with shrimp the more expensive it gets, but the smaller
imported item that we sell in that same location is a 31/40
raw for two pounds that is actually less, so we're willing
to pay that premium that we pay in Florida.

MR. SEIDEL: Mike Seidel.

I'd also like to add that when we sell to a
customer, the restaurateur or the chef, there will be --
some of those folks will kind of shop we call it as a
spreadsheeter. What's your price for French fries? What's
your price on a 16/20 shrimp? They're not very particular
as to what they need to have. They're just looking for a
low cost.

There'll be other folks that will say I need a
black tiger 16/20 or I need a white whatever, so they become
very specific as to what they want and the sizing while some
customers it's strictly just a value price. And I think
it's similar, you or I walk into a Costco or a Publix's and
shop. You know there's a lot of things that are helping us
make a decision as to what shrimp or what salmon we're going
to buy that day out of that case.

MR. PIZZUTI: For Publix, we are the same. As I
mentioned in my testimony, we operate parallel supply
chains, so we never compare the two side-by-side. In
addition, I'd like to add, to date, I've actually never
countered a domestic offer. The price they send for the
product quantity is what we pay. I've never went back
looking for lower pricing.

MR. ZHOU: Similar here with Red Lobster you
know there's two distinctive products and there's really no
confusion as to what we're buying and pricing was very
rarely discussed, except for do you have the product? When
can you deliver it? That's pretty important for us.

COMMISSIONER BROADBENT: Okay, that's helpful.
Thank you.

Maybe Mr. Connelly or Mr. Nicely on this one, do
subject countries maintain separate farms for shrimps
intended for export to the EU and Japan?

MR. CONNELLY: As far as I know, the answer to
that is no.

COMMISSIONER BROADBENT: And so how similar are
the health standards for EU and Japan versus the U.S.?

MR. CONNELLY: Commissioner, I actually don't
know the answer to that, but I do want to get into
responding to the suggestion that somehow there are stricter standards and greater inspection regimes in the EU and Japan. If that were true, then you would not see increases in the exports to those markets. But if you take India as an example, their exports to the EU, in particular, have increased significantly. So there can't be some sort of more rigid either standard or more rigid inspection regime that is somehow causing a diminishment in their exports to the EU, so we just don't buy that argument that there is going to be a greater incentive to export to the U.S. If that were the case, I mean you just wouldn't see these huge disproportionate export volumes around the world. You know only 27 percent to the U.S., the rest to the rest of the world.

I mean we'll look into those standards. We'll get those standards for you, but I think that the proof of the pudding is the actual volumes, what's going where.

MR. PIZZUTI: As far as the question goes, I know of one company in Thailand that operates a separate processing facility dedicated to the Japanese market and that is because the process efficiencies of the specific product that is being made, so they run out of a separate facility versus their regular processing plant.

The one thing you'll see in differences from farm to farm is really I believe a function of the U.S. and
the EU and that's with the global aquaculture BAP standards
and the ASE standards for sustainable aquaculture. There
are customers that want to buy a hormone, antibiotic-free
product. That will come from a specific farm dedicated to
that. There are four star and three star and two star
qualifications that will drive different farms to do
different things for different customers, but it's not a
food safety issue.

MR. CONNELLY: And also, if your pond is
certified -- if you're a farmer and your pond is certified
for BAP best agricultural practices, you can sell that
shrimp anywhere. It's not dedicated to a market if you've
got a BAP standard. A buyer in Europe may want the BAP
standard. A buyer in the U.S. may want the BAP standard.

COMMISSIONER BROADBENT: Good well I think that
concludes my questions and I just want to thank the panel.
I think it's really reassuring to see you all out there sort
of guaranteeing the quality of the products that you are
purchasing for U.S. consumers because we see a lot of
articles in the paper and it is good that you guys are all
taking responsibility so we appreciate it, thank you.

CHAIRMAN SCHMIDTLEIN: Alright thank you. I
asked this question this morning -- can any of you explain
what was driving the increase in apparent consumption in the
U.S. market from '13 to '14 and then from '14 to '15?
MR. DOUGAN: Madam Chairman Jim Dugan from ECS.

I'll let the industry guys respond to that question with real world -- real world information that is. But the apparent consumption increase that is observed in the data from 2013 to 2015 I think has a lot to do with the depressed level of imports because of EMS.

And so you know the consumption or the demand factors these guys can answer that but there was a lower level of imports associated with the EMS restriction on supply. And as that recovery happened you saw an increase in '14 and '15 -- if you guys have anything else to add.

MR. SEIDEL: Mike Seidel, I would agree absolutely with that because has EMS occurred and pricing rose and product became harder to get -- customers -- again I'm only going to speak to restaurant customers. You know they started taking shrimp off the menu and using some other protein or reducing the menu items that had shrimp on them.

And then as we got to the point where we got past the EMS and the market got -- the quantities got stable and the pricing again started to drop we started seeing restaurants start menuing again more shrimp items or even increasing sizes which generally we see as prices go down they may shift up a sight, as prices go up they may shift down a sight.

But during the EMS there were a lot of customers
that started taking it off the menu completely.

CHAIRMAN SCHMIDTLEIN: So right now you don't think EMS is affecting the market here in the United States?

MR. SEIDEL: No I don't think it is right now.

CHAIRMAN SCHMIDTLEIN: Okay, does anybody else have anything to add to that? Okay when I look at the staff report and this is confidential but at page I-7 -- Roman Numeral I-7 this is table Roman Numeral I-1 you see the subject quantity from the original investigations and then the subject quantity in the first reviews and the subject quantity in the second review.

And there is a substantial drop in the quantity from subject sources from 2003 and then the next number we have in this particular table is 2009 and if you have access to this Mr. Connelly or Mr. Nicely?

MR. CONNELLY: I'm looking at it, which page are you looking at?

CHAIRMAN SCHMIDTLEIN: I-7.

MR. CONNELLY: Page I-7, okay.

CHAIRMAN SCHMIDTLEIN: At the bottom there where it says subject sources.

MR. CONNELLY: Right.

CHAIRMAN SCHMIDTLEIN: Original quantity 1,000 pounds and then it shows a substantial drop from the original investigation to what was the first year of the
first review. And so my question is what caused subject
imports to leave the market from the first investigation to
the first review?

MR. NICELY: So I talked about that a little bit
in my testimony. There are essentially if you break it down
by country -- you have already heard about Brazil and China.
They ended up focusing on their home markets.

CHAIRMAN SCHMIDTLEIN: So that happened
immediately after the order went into place or how quickly
has that happened?

MR. NICELY: Well it has happened over time but
you are talking about the change from 2003 to 2015 right?

CHAIRMAN SCHMIDTLEIN: No I'm really talking
about the change from 2003 to the number in 2009 and that's
only because I don't have immediately handy the years in
between but I am planning to ask staff for those to see when
the drop actually occurred. Do you all know when the drop
actually occurred?

MR. NICELY: I don't recall.

MR. DOUGAN: I can't answer that specifically
without the information in front of me but I think there are
a couple of things -- one of them is between 2003 and 2009
Ecuador was released from the order so their volumes were
shifted basically to non-subject.

There also were some changed circumstances
reviews in between that period from '03 to '09 where some of
the exports from subject countries were no longer subject
imports. So that explains some of that shift.

I believe Mr. Gosselink also mentioned with
regard to Brazil that there was the appreciation of the Real
in 2004 is that right?

MR. GOSSELINK: It really started in 2004.

MR. DOUGAN: That led Brazil to be I guess less
competitive in the export markets. So there were a lot of
things that happened there. To just attribute this to the
effect of the imposition of the order is too simplistic.

CHAIRMAN SCHMIDTLEIN: Okay well why don't we get
the -- I don't know if the staff can do that I would like to
see the numbers for the subject quantities for the years
between 2003 and 2009 and maybe you could parse that for me
in the post-hearing brief in terms of what is going on.

If you don't I'm just not sure if those numbers
are already available in prior records or if we will just
produce them. Yeah but it wouldn't go through 2005 -- well
I guess it would, okay.

MR. DOUGAN: Madam Chairman staff has produced
the record from the earlier investigation.

CHAIRMAN SCHMIDTLEIN: They have.

MR. DOUGAN: So we will parse that together for
you.
CHAIRMAN SCHMIDTLEIN: Okay alright that would be helpful. Alright so in turning to this question about prices and Mr. Dougan I am looking at a slide that you had -- this was slide number 2 actually. This one right -- where you put the 2013 to 2015 and we have the U.S. processor net sales AUV and subject import AUV where we see this increase from 2013 to 2014 and I guess my question is -- and you heard me this morning, "From the joint respondent's brief the statement with regard to the price spike having to do with the EMS that was occurring, that was driving prices up."

So I guess my question is, were U.S. prices affected by that price spike?

MR. DOUGAN: It certainly appears so and I believe -- I don't want to mischaracterize the testimony but I believe I heard someone this morning also mention that that had an effect on the prices. So it was a global impact on pricing.

CHAIRMAN SCHMIDTLEIN: Okay so but my question is then if the EMS problem in Thailand and I guess there were a few other countries that were also experiencing this problem, was having an effect on U.S. domestic wild caught prices because of the supply shortage from subject countries and non-subject I suppose -- isn't that inconsistent with what you all just said about how you -- these are two
totally separate markets and the price of frozen subject
import shrimp does not impact the price that wild caught
shrimp is being paid?

If that's true and these prices have no effect
then why would the EMS problem that caused the price spike
have affected domestic wild-caught shrimp prices, Mr.
Dougan?

MR. DOUGAN: Well I think -- I'm not sure that we
are claiming there is absolutely no effect or no interaction
between these. We have not argued for zero competition but
there is attenuated competition between them.

For these people who -- I'm sorry the people on
the panel today who have said that they have parallel supply
chains, that is true with respect to them.

But I think if you have a global market of supply
and demand for shrimp and there is something so substantial
as this curtailment of supply in Asia it could have an
overall effect on that.

CHAIRMAN SCHMIDTLEIN: Yeah but isn't one of the
Respondent's arguments is that the total supply of imported
shrimp has remained constant over the term and therefore
there shouldn't be any affect if there is a revocation of
the order? So isn't that one of the Respondent's arguments
is that the supply has been constant but yet we see a spike
in price because of the fear of shortage because everyone
knew what was going on in Thailand which you say have affected U.S. domestic prices.

So isn't that inconsistent? Like which one is it?

MR. DOUGAN: Well there was -- first of all it wasn't just Thailand but Thailand was the country that was most greatly affected by it.

CHAIRMAN SCHMIDTLEIN: Mr. Seidel do you want to say something?

MR. SEIDEL: What we have seen -- this has also happened in the catfish industry is that you know when product starts getting tight say overseas that you will see domestic prices artificially increase.

And we have seen it with catfish. Catfish prices, catfish shortage in the overseas will cause an increase by the domestic suppliers raising their prices here.

CHAIRMAN SCHMIDTLEIN: For catfish you mean?

MR. SEIDEL: And shrimp as well.

CHAIRMAN SCHMIDTLEIN: So catfish -- I'm sorry so the shrimp prices are affected by catfish?

MR. SEIDEL: No, I would say that they have the same --

CHAIRMAN SCHMIDTLEIN: Same pattern.

MR. SEIDEL: Same penetrate, it's parallel.
CHAIRMAN SCHMIDTLEIN: Right.

MR. SEIDEL: But we have seen that you know, and yes shrimp wasn't affected here with the EMS but the shrimp pricing -- domestic shrimp pricing went up during that timeframe and the only thing I can attribute that to is an artificial increase based on what was occurring with the limited supply from overseas.

MR. WEITZER: Do you mind if I add some thoughts?

CHAIRMAN SCHMIDTLEIN: Sure go ahead.

MR. WEITZER: Alan Weitzer again. What we saw that year -- and I am speaking now as a domestic purchaser and seller -- was that yes the domestic prices did tend to track the import prices as a result of the supply shortage. But once a supply shortage goes over to Michael's point on the artificial price level for domestic shrimp is that domestic shrimp didn't sell through at those high prices. Yes, small volumes were selling at those prices but after the imports recovered there was a tremendous amount of domestic shrimp unsold and the industry by all accounts, had a tremendous hangover for about the next year where they were saddled with tremendously high inventories that they couldn't sell for anywhere near what they had paid for it.

I certainly couldn't sell my inventory for what I had paid for it.

CHAIRMAN SCHMIDTLEIN: Because the price of all
shrimp had come down right? So now buyers could get their
shrimp more cheaply than what was sitting in your inventory.

MR. WEITZER: Well the thing is -- the domestic
prices -- the inventory on the import side sold through
relatively quickly. The inventory on the domestic side did
not sell through quickly. There was a shortage of imports
and in response to that shortage the import price went up.

There was not a shortage of domestics yet the
price of domestics still went up because they thought that
they could get the price. When the price went up that high
the imports sold through because there was a shortage of
inventory. The domestics did not because there was not a
shortage for that segment of the market.

CHAIRMAN SCHMIDTLEIN: I see okay, alright thank
you.

MR. DOUGAN: Madam Chairman can I add one more
thing? If you go back to slide 3, could you please -- there
were declines in landings from '12 to '13 or from '13 to '14
so there was a reduction in U.S. supply as well -- not as
significant as what happened on the global stage.

But it was at a time when -- and as I mentioned
on slide 4 prices in landings have been moving in opposite
directions which again would make sense in supply and demand
terms right. So when supply goes down prices go up. You
saw that happening to some degree in those periods.
CHAIRMAN SCHMIDTLEIN: Yes I understand. The question here though is the effect of subject imports on the price of domestic product. So I understand that the supply of the domestic product also has an effect on the price of domestic product but I had understood your argument to be that these were two totally different markets.

And that you all negotiate the prices for these two different products separately and you never quote an imported price to a domestic buyer. And so that was my question. Well if that's true then are you saying that this price spike in 2013 did not have an effect on the price of domestic wild-caught?

That it would seem to be a logical extension of your argument but that's not consistent with what's in the brief so that was my question. And it wasn't clear to me -- you have it on your chart, why you have the U.S. price compared to the imported price.

So I just wanted to understand like what exactly, you know, what exactly is your argument with regard to the price effects?

MR. DOUGAN: Sure okay, well two things. The reason that that is -- could you go back to the slide 2. The reason that these prices are plotted next to these consumption numbers is to show that the per capita consumption of shrimp didn't change much in response to
changes in price. So people didn't start eating a lot more
shrimp because it got cheaper between '14 and '15 and they
didn't eat less between '13 and '14 when it got more
expensive.

Now if you are talking about the --

CHAIRMAN SCHMIDTLEIN: Well wouldn't they have
had to eaten more? I mean the consumption increased 15% but
the per capita -- you say the per capita -- but we didn't
have a 15% increase in population?

MR. DOUGAN: But there is the '13 number you can
see is slightly lower than '14 right? So that few tenths of
a percentage point again because import supply was reduced
-- if you multiply that over the population that has an
effect, from '14 to '15 the increase in consumption overall
was like 2 and %, 3% but sorry -- per capita consumption
was flat.

And you would expect if you know, demand was
sensitive to changes in price that a significant change in
-- sorry a significant decline in price between '14 and '15
would have led people to consume more and on a per capita
basis they didn't.

I think the example here -- and that's mostly the
point of what we are trying to accomplish here. If you go
back to slide 3 the variation in price prior to 2013 is much
more limited. And so I think the sort of limited effect and
attenuated competition and attenuated overlap in price is
sort of more observable there.

I think it is a different situation when you have
something like that global supply shock that you had in
2013. And especially when that is amplified by a reduction
in domestic supply -- so is that a sort of a systematically
different type of circumstance than you see in day to day
negotiations? I think the record would support that.

CHAIRMAN SCHMIDTLEIN: Okay thank you for that.
I have far exceeded my time so Vice Chairman Johanson?

VICE CHAIRMAN JOHANSON: Thank you Chairman
Schmidtlein. Getting back to Brazil for all of you in the
third row at page 55 of their brief the American Shrimp
Processors Association discuss awards that have been
provided to Brazilian shrimp producers.

It lists two awards that were provided to certain
producers in Brazil. Do recent awards to these Brazilian
producers make the Brazilian product more competitive in
export markets? In other words has production improved in
Brazil? Is quality improving in Brazil to the extent that
it will make them more competitive in the United States?

MR. GOSSELINK: I'll follow-up to see if we can
get additional information on that but my understanding is
that it has had no impact at all.

VICE CHAIRMAN JOHANSON: Okay thank you Mr.
Gosselink. And do you all know if there are any trade
restrictions on Brazilian shrimp in third country markets?
The staff report did not indicate that there are but I was
just wondering if you all knew if there might be?

MR. GOSSELINK: I believe that Petitioners this
morning mentioned the -- was it the European GSP? They
might not have access to the GSP preferences in Europe
anymore.

VICE CHAIRMAN JOHANSON: Okay but there is not a
restriction per se?

MR. GOSSELINK: No, no.

VICE CHAIRMAN JOHANSON: The traditional trade
talk okay. And in sticking with Brazil we all know that the
economy there is not in the best situation but the Real has
gone up a bit I think but then again the U.S. dollar just
keeps going up and up and up.

What impact does the strength of the U.S. dollar
have in making the U.S. market more attractive for product
from Brazil and for that matter for any of the subject
countries?

MR. GOSSELINK: As the Brazil I guess --
depreciated to I guess 4.1 in 2015 and 2016 I think the
export markets were obviously a lot more attractive. For
every 5 dollars that you could sell you could get 20 Real
instead of only about 10 a couple of years earlier.
But the fact is that even with those better exchange rates no Brazilian exporters existed. They focused entirely on the domestic market and in 2016 the rate is back down to 3.1 and currently is I think it is about 2.9 in 2017 so there's even less incentive this year than there was last year in 2015 to export.

VICE CHAIRMAN JOHANSON: Okay so I'm sorry so you agree with me that the Real has gone up is that what you are saying?

MR. GOSSELINK: The Real has gone up from 2016 to today.

VICE CHAIRMAN JOHANSON: Okay.

MR. GOSSELINK: And that has hurt their export opportunities.

VICE CHAIRMAN JOHANSON: Right, alright well thank you Mr. Gosselink. So Brazil has in effect exited the U.S. market but for the other countries -- some of the other subject countries excluding China imports have remained quite high and why are subject imports, these subject imports such a significant part of the market even with the orders in place?

MR. DOUGAN: I'm sorry -- could you repeat the question please?

VICE CHAIRMAN JOHANSON: Yeah so I'm just discussing that with the case of Brazil and China those
products have largely left the U.S. market correct?

MR. DOUGAN: Yes.

VICE CHAIRMAN JOHANSON: With other subject countries Vietnam and India and Thailand the product has kept coming into the United States in quite substantial amounts correct?

MR. DOUGAN: Correct.

VICE CHAIRMAN JOHANSON: Why is that the case with the dumping orders in place?

MR. DOUGAN: Well I think as the slide put up earlier slide 12 shows that you know, that there wasn't -- basically that suppliers were able to respond to the needs both in terms of price and volume without the order having particularly disciplining effect.

It shows I think that -- and given the predominance of the over-selling it shows that you know these producers don't need to under-sell to have a place in the market, to have a substantial place in the market.

And finally I think as some of these purchasers have noted you know having diversified supply chain is important to them. So they have wanted to maintain a diversified supply chain and that includes large producers in these countries and they have all you know, basically been willing to do that even with the order in place and paying the prices that they need to to maintain that
particular aspect of their supply chain.

So I mean it is a 1.3 billion pound market. The subject producers are a significant share of that and I think will continue to do so. What also is interesting though about that is that the non-subject sources who are unrestrained by any kind of order or trade restrictions didn't just automatically take over the rest of the market.

And you know this is a good question as to why they didn't do that. Why did they increase their exports to third country markets and there was some increase in non-subject shipments to the U.S. but you know again they maintained a steady supply base.

So you know it isn't necessarily this sort of zero sum game of replacement among them it is more of a balance over time about the supply sources and the kinds of relationships that these purchasers have with these suppliers.

MR. STERN: Could I add something -- Jeff Stern?

VICE CHAIRMAN JOHANSON: Yeah.

MR. STERN: Our relationships with our suppliers are so important. Some of our suppliers we have dealt with for 30 years. I have been with the company for 37 and just because of the order we are not going to abandon them. We are going to be loyal to them and they are going to be loyal to us.
And that diversified supply base we have is as a
critical part of why we are successful all the time. When
EMS hits we fortunately had very good relations in other
countries so we were able to make up for some of the
shortages in supply with those good suppliers that we had.

My largest supplier in Thailand -- EMS hit, he
didn't know what to do. We weren't going to abandon him
because he had problems with supply. We did everything we
could to assist them in surviving this critical period.

VICE CHAIRMAN JOHANSON: Thanks Mr. Stern. Mr.
Pizzuti?

MR. PIZZUTI: Yeah I was just going to actually
say very similar things. I think Jeff talked in his
testimony about the investment in developing overseas
suppliers to do it the way you want it done. And you know
that to us in terms of getting the quality we want at the
time we need it, that becomes much more important than
trying to chase the nickels and dimes and quarters around
and leaving those suppliers.

Once you develop them you want to continue to
support and work with them through any of the tough times.

VICE CHAIRMAN JOHANSON: And I assume the
Respondents would state that you would expect imports to
continue coming to the United States because the United
States producers can't supply the entire market, all the
demand in the market.

But the issue there is price though. And Respondents have argued that over-selling by subject imports predominates and this is based on the pricing data collected on the record -- but isn't this what you would expect to see given the anti-dumping duty orders in place on subject imports? Am I seeing this incorrectly?

MR. DOUGAN: Commissioner Johanson if there is -- we did a product by product analysis in our brief, I think it is pages 63 to 68 somewhere in the 60's. And if it really were the case that there's over-selling because of the orders you would see the same patterns from product to product but you don't, it's different.

In some products there's over-selling and in some products there's under-selling. You would also have seen a similar pattern between the original POR the first review period and the CVD period at least with respect to the overlapping countries and now.

And you don't. You see much more over-selling both in terms of percentage of instances and the percentage of volume now in this POR than you did in the original POR and in the CVD case.

And if it is because of the order then you would have seen similar relationships then as well. I thought it was telling that the Petitioner's slide talked about what
happened in the original investigation period versus now.

And that's because of the order. But it doesn't
explain why you see a different composition of over-selling
and under-selling now than you did in the first review
period or in the CVD case.

VICE CHAIRMAN JOHANSON: Alright thank you Mr.
Dougan my time is about to expire.

CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent, no
-- alright back to me, no wait did I skip you?

COMMISSIONER WILLIAMSON: Sure did.

CHAIRMAN SCHMIDTLEIN: Oh I'm so sorry.

Commissioner Williamson?

COMMISSIONER WILLIAMSON: Okay kind of a
follow-up on the question about enforcement health and
regulations and enforcement in Japan and the EU. And I
guess my question was if they sort of do a more extensive
enforcement than our FDA does in terms of higher rates of
inspections -- now I realize there are companies and farms
that they tailor to meet those higher standards.

I mean you mentioned certain suppliers that --
certain farms that go just to Japan because they cut it a
certain way. So I guess my question is if you didn't have
tighter inspections by the government there as opposed to
the U.S. fair approach where some suppliers -- some
purchasers are very strict and I imagine there are some
others that are not, does that effect the attractiveness of
the market for say those people that have an investment in
specialized servicing that particular Japanese or European
market?

MR. STERN: Jeff Stern.

I don't know the exact standards in the EU and
Japan. I know that the U.S. had a zero tolerance for banned
antibiotics. You often shrimp from one pond may end up
partially going to Jeff Stern and some of that may also go
to Japan because they may need certain sizes to fill orders
for a European order or Japanese order or an American order
and so I don't really think that there's different
standards.

You know are standards are as severe as anyone
can be because again we have a zero tolerance.

COMMISSIONER WILLIAMSON: And the Europeans and
the Japanese probably do too.

MR. STERN: They may or may not. I can't
comment about what their exact standards are. One thing I
can say, though, unrelated, I'm the chairman of the National
Fisheries Institute Importers Committee and you know back
six or seven years ago when FDA was asking for more money to
have better seafood enforcements, we were one of the major
supporter of increased funding for the agency that regulates
us most closely. Because again, we feel food safety is of
paramount importance.

COMMISSIONER WILLIAMSON: Okay.

MR. ZHOU: Can I add to what Jeff said.

COMMISSIONER WILLIAMSON: I don't want to drag this out because I've got a lot of other questions, but go ahead.

MR. ZHOU: Like Jeff said, I'm not aware of any exporters that I've dealt with somebody telling me I want to ship to the U.S. because you guys are easier. You know I've never heard that kind of statement before. Rather this is something which I think is pretty telling in practice whether one is more difficult than another. In the EU community or European community they have what they call MRL, Maximum Residue Limit. That's their regulatory term. In U.S., zero tolerance is the regulatory term. So by that alone, you can imply that's for veterinarian medicine products -- stopped.

COMMISSIONER WILLIAMSON: I understand. Okay, thank you.

MR. DOUGAN: When the Malaysian imports were stopped in 2016, it was the FDA that stopped them at the border. It wasn't Publix's or Costco, so it's not there's a Wild West thing were you know everything gets to come across the border unless these guys say it's okay.

MR. STAFFORD: And again, to clarify, with
Costco being a global company, they own a private label, when we develop the product and source it in the country, whether it's in the countries we're buying from, when we decide to ship that same product into the EU or Spain or Korea or Japan, Australia, it's a label requirement, maybe documentation requirements, but we're not changing what we put in the bag.

COMMISSIONER WILLIAMSON: Okay.

MR. STAFFORD: We're testing for the same things. It's the same standards.

COMMISSIONER WILLIAMSON: Okay, good. Thank you for those answers.

On this question of the long-term affects of the BP oil spill and hurricanes on shrimp supply in the U.S., and you've already addressed this somewhat, but just a question of whether or not there's any scientific analysis that you're aware of, of these long-term impacts? If you do have it, you can submit it in your post-hearing it'll be fine. If you don't, okay.

MR. CONNELLY: I don't think we've seen any of that, Commissioner Williamson. Maybe it's out there. The only thing I can refer to is some of the shrimpers themselves think that from their questionnaire responses. They themselves see a long-term impact from BP. I don't know if they've got any better evidence than anybody else.
COMMISSIONER WILLIAMSON: I was just asking if there's any independent -- good, okay. Thank you.

MR. PIZZUTI: I do have. We work closely with several environmental groups. Ocean Conservancy is one of those groups and I believe they were actually commissioned to do a study by BP following the spill, so that may be something to look into because they backed out of their seafood sustainability program to focus on that project. So Ocean Conservancy may be a source.

COMMISSIONER WILLIAMSON: Okay, thank you.

A quick question on the Brazilian restriction, the bio-security restrictions, I was just curious. How do imports of shrimp for human consumption -- you know the frozen shrimp pose a risk to the live shrimp in Brazil?

MR. GOSSELINK: The concern is the further processing that takes place in the processing facilities. Oftentimes, shrimp when it's exported is exported in either head on or headless form and is subject to further manufacturing processing and facilities and country. And viruses, these bacteria they have a way of traveling around and there's a real concern that any type of infection or virus within a processing facility could get back to the ponds. Oftentimes, they're located far away, but sometimes within very close proximity.

COMMISSIONER WILLIAMSON: Okay, thank you. And
I guess any idea how long these restrictions are going to remain in effect?

MR. GOSSELINK: No.

COMMISSIONER WILLIAMSON: Okay, thank you.

On page 80 of the Respondent's brief, you compare unit sales values from 2001 to the present; however, these are not adjusted for inflation. What would the numbers look like with such adjustments?

MR. DOUGAN: I can't say offhand, but we can look at that and provide some answer in the post-hearing because some of it's BPI also.

COMMISSIONER WILLIAMSON: Understood. Good, thank you.

Okay, you argue that anti-dumping margins in Thailand and Vietnam have been low for years. Is it your position that an order with low deposit rates doesn't have a disciplining effect on the market or doesn't the risk of higher rates and administrative reviews impose some discipline? I don't think you've answered that before.

MR. NICELY: Let's put of Slide 12 again. Not to keep flogging this, but let me flog it one more time. I think the critical point is that you've got -- in this example you've got I guess three periods of review, right?

Deposit rates were decided in three periods of review and notwithstanding a consistent ban of between you
know zero and 3 percent dumping margins by mandatory
Respondents in India. This is just India, but just to use
that as an example, you saw significant changes in price.
And the reason why it's important, Commissioner Williamson,
is because if, indeed, this was setting a floor, then you
wouldn't expect such a significant decline, a significant
move in --

COMMISSIONER WILLIAMSON: Except, isn't -- it's
a margin and the margin's the home market price and things
like changes in supply, disasters, all that, so you might
have a price that goes up and changes quite a bit; but the
question is what's the margin between that home market price
and what you're selling in the U.S. Isn't that the issue?

MR. NICELY: Exactly. That's exactly our point,
though, is that it's not as if the dumping order is setting
a price floor because, in fact, U.S. prices are determined
-- in effect, they're following what's happening with their
own costs, right?

COMMISSIONER WILLIAMSON: No, but isn't the
dumping margin really to sort of say kind of you're not
going to be able to sell too much below your home market
price or the fair market price; isn't that the floor? It's
not that the price is going ^^^^ there's going to be a
minimum price that you can import at.

MR. NICELY: Fair enough. But the point,
though, is that discipline of the order and in terms of market affect what matters is what are the prices that are going to be sold here in the United States market, right, because discipline only matters if it has some impact on what the prices are here, right? But if, as you say, normal value is changing, right? Permitting them to, in fact, lower their U.S. price then what discipline is there? It's not having an impact in terms of they're able to sell here in the United States.

COMMISSIONER WILLIAMSON: I mean it's not insulating you from business cycles. There are a lot of other things that could change the price, the fair market price of the product.

MR. NICELY: That's right.

COMMISSIONER WILLIAMSON: And the orders are not supposed to cut those off, are they, unless we're going to do a suspension agreement or something like that. That's a different matter.

MR. NICELY: You mean a minimum price, for instance?

COMMISSIONER WILLIAMSON: Yeah.

MR. NICELY: Right. That's exactly right, but the point is that if it was really going to have an impact on the domestic industry and when they talk about discipline if that's what really matters then you'd expect them to be
saying, well, we've gotten prices to stay up at a particular level and that hasn't happened, as this chart shows in stark relief.

COMMISSIONER WILLIAMSON: I don't agree with you, but that's okay. Thank you, because my time has expired.

CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent, you don't have any further questions?

COMMISSIONER BROADBENT: No.

CHAIRMAN SCHMIDTLEIN: Okay. I want to make sure I'm not skipping anybody.

So I actually have a question about that slide. When I looked at this, it jumped out at me that India lowered their prices substantially. You see there's a drop there in 2014 and we were just talking about the spike in prices in the United States in 2014 as a result of the EMS problem. And so my question is why is India dropping its prices by over 20 percent during that period when the rest of the world has raised or at least the rest of the world selling in the United States is raising their prices?

MR. NICELY: These are specific products. These are pricing products. The other example --

CHAIRMAN SCHMIDTLEIN: Was AUVs.

MR. NICELY: What we were looking at is overall average unit values, right? So the distinction is you know
the various products are moving in various directions.

CHAIRMAN SCHMIDTLEIN: So why did you choose these three products?

MR. DOUGAN: The reason that we chose these three products is because they were the products at least sold by India for this example. It had a price in every quarter, so we could do a quarter-by-quarter comparison. It's hard for me to get into more than that because some of it's BPI, but for some of the other products the coverage of the imports was more spotty. They either didn't sell it at all or didn't sell it in certain quarters and so you saw less of a longer time series. We can supply it and put the other ones on there, but this had the most likely comparison.

CHAIRMAN SCHMIDTLEIN: Does it strike you as unusual that India is dropping its price you know on at least two products? I mean the one with the purple line, which was Product 6, has not dropped as much, but I mean it looks like it's from 5 percent down. But Product 5 and Product 5 you know dropped substantially during this time period.

MR. DOUGAN: And that's true. And Madame Chairman, I think what might be sort of helpful is -- again, these are percent changes so as to not present the actual BPI prices, but if you look at the figures in the staff
report, while the average price in 2014 across the market, across the products, across all sources was higher than in '13. So you saw the increase from '13 to '14. There still were declines that began in, say, the middle of 2014 as the supply began to adjust. So you know it's almost like the peak of prices for some of these occurred in the first and second quarter of 2014, so by the third quarter what we're looking at here is you are starting to see declines in prices and you're starting to see them from other sources as well.

CHAIRMAN SCHMIDTLEIN: Okay. And this is sort of related to my second question, which is why was India increasing its shipments to the United States over this period? I mean they increased substantially.

MR. DOUGAN: I'll let Jeff answer that, but, in part, to make up for the shortage of supply from Thailand.

MR. STERN: Jeff Stern.

Two things, to answer that question, there was a tremendous conversion of black tiger farms to vannamei farms because of successful farming. And they get a much higher production per hectar impacting vannamei versus black tiger. They also get more crops per year because the shrimp are faster growing. So India took advantage of when EMS hit in 2013, they said this is an opportunity and they produced more vannamei. They produced more shipments to the U.S.
On your other questions, and I don't have exact dates and I'm just going from my memory, which is not as good as it used to be, you know prices really spiked in 2013. And as Alan said, the domestic prices went up for no real reason, other than import prices went up. We sold our inventories in 2013 at a very, very quick rate. We were turning our inventory much quicker than we normally would because prices were high. There were shortages, et cetera.

When supply started to pick up a little bit, particularly, in India and other places not affected by EMS, we said we've got to make sure we don't get caught with inventory because we had lost a lot of placements on menus. I think Mike mentioned that shrimp came off the menu in a lot of places. So what we did is we tried to be very nimble and to respond to the market changing as quickly as we could and therefore prices did come down in Q3 of 2014 only because there was less demand because we had lost a lot of placements on menus. I don't know if supermarkets stopped promoting. Guy could comment on that, but we saw at the restaurant level a lot less shrimp consumption.

MR. PIZZUTI; Just to follow up on that comment James had made earlier, had it not been for EMS Publix would not be buying out of India today. That was a direct move on our part to secure raw material.

CHAIRMAN SCHMIDTLEIN: Okay.
MR. STAFFORD: That was similar for Costco.

They were the beneficiary of Thailand falling off. India did pick up.

CHAIRMAN SCHMIDTLEIN: And I'm just curious why India? Why not one of the other suppliers that you were already working with?

MR. STAFFORD: For us, they were the most underdeveloped supplier at that time, so they had the ability to offset it and other countries did not.

CHAIRMAN SCHMIDTLEIN: I'm sorry; say that again?

MR. STAFFORD: Other countries did not have the same ability to offset it based on the needs that we had as quickly.

CHAIRMAN SCHMIDTLEIN: I see.

MR. STAFFORD: For us, it was diversifying the supply to get further away from that Thailand, Indonesia, Vietnam where problems had been occurring where India wasn't seeing that and that's where we were able to actually qualify suppliers versus some of the other countries we looked at.

CHAIRMAN SCHMIDTLEIN: Okay, anybody else? No?

My last question has to do with the interim period. And I'm not sure who should answer this. Maybe Mr. Dougan, you should start. Where we see the U.S. producers
losing some market share to subject sources and non-subject also lose share to subject sources, and so my question is why is that occurring?

MR. DOUGAN: I can answer that. There's two parts to that. One, the subject increase -- first of all, there was an increase in overall consumption, but the subject increase replaced a decrease from two large -- very large non-subject sources, Ecuador and Malaysia. Evaluator increased their exports to China, which was really because they could get a better price. They certainly weren't affected by the order here, and Malaysia was banned by the FDA. There were imports found that contained higher than allowable antibiotic levels and so they were all stopped at the border and sent back to Malaysia. So you had two very large suppliers to the U.S. And the decline in their shipments was pretty much equal to the increase in subject shipments such that the overall between those sources is very similar between those two interim periods.

The affect of the decline in domestic market share was landings were down. I mean you can see from 2015 to 2016 and there's all kinds of press articles that you could read. Landings in 2016 were way down, not just from the prior year, but from long-term averages, from short-term averages, and the articles talk about how prices were strong. Prices were strong and increasing and yet landings
were down. So this idea that you know prices are good that
you're going to fish more just doesn't match the data.

CHAIRMAN SCHMIDTLEIN: So your argument is they
couldn't have supplied that extra increase demand.

MR. DOUGAN: Correct.

CHAIRMAN SCHMIDTLEIN: But when I look at their
ending inventory quantities, they have 22 -- this is not
confidential, right, 22,000 or I guess 2.2 million, right?
This is in thousands. And when you look at the percentage
market share that they lost based on what the apparent
consumption was in that interim period the inventory
quantity exceeds that percentage, at least by my math. So
why couldn't they have sold it out of inventory?

MR. DOUGAN: There's a couple of things there,
one, the apparent consumption -- so the inventory data is
gathered from the processors' questionnaires, but the U.S.
shipments as reported in apparent consumptions aren't from
questionnaire data. They're from the methodology that the
Commission long has used where they basically take landings
and then convert it to the headless weight and then deduct
exports, so there's not really actually a match between
those. And in fact, the trends in the processor shipments
that you see in the data are actually a little bit different
than what you see in the apparent consumption table. I
think that might be BPI, so I want to stay away from it.
And also, we don't think that the decline in the
-- the observed decline in the U.S. market share from that
table is accurate. There's an exhibit in our pre-hearing
brief where we talk about this issue, but a lot of it had to
do with -- because of methodology it deducts exports and you
know the export data reported at this Table I-10 where the
apparent consumption is calculated just can't be right. It
basically assumes that domestic processors are exporting 20
percent of their production or something like that, which is
not at all consistent with history or -- so any kind of
decline in domestic market share here we think is
overstated to begin with.

CHAIRMAN SCHMIDTLEIN: Okay, I have to confess
I'm not sure I followed what your --

MR. DOUGAN: I'll give you the longer answer.
There's a lot of things going on, but the thing is there's
multiple data sources supposedly being used to measure the
same thing, but they're not. And so comparing from one
source and another source, you're going to get inconsistent
results and maybe things that don't make intuitive sense.
And I think that may be coming -- a little bit of where
you're coming from here.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. DOUGAN: I can provide a much longer
explanation with BPI data in the post-hearing.
CHAIRMAN SCHMIDTLEIN: Okay. And I would invite the Petitioners to respond to the same question in the post-hearing.

Alright, I don't have any other questions.

Vice-Chairman Johanson.

VICE CHAIRMAN JOHANSON: Alright, I've got a few more questions and thanks for putting up with all this today. I know it's a very long day, but you're here, so we might as well talk with you, right.

Why should we expect to see price stability in the absence of the orders rather than increasing price competition and declining prices? That's kind of the crux of why we're here, right, or one of the major questions?

MR. NICELY: Well, I think our witnesses have talked about what's changed in the global market since the last time that the Commission looked at this. Essentially, all of our industry witnesses here have talked to you about how they're essentially competing for supply with other markets. The extent to which are subject countries have ended up moving more of their product to non-U.S. markets as an example of that. So I think you know the fact that the global market has changed means that you can't assume that the same thing that was happening back in 2003 is going to happen as soon as you take away the orders.

MR. DOUGAN: I'll let Alan answer that. I can
add onto it later.

MR. WEITZER: Just to clarify the question, are we talking about stability in prices of imports or of domestic shrimp?

VICE CHAIRMAN JOHANSON: Well, the prices in the U.S. market overall.

MR. WEITZER: I think it depends on the premise of how much you think the price of an import influences the price of domestics. I mean we're seeing certainly over the last few years much more stability in the markets overseas for imported product. If anything, we've seen less stability in the United States for domestic product and that's pretty much a function of internal issues within the domestic industry.

Again, as an importer, I'm competing against other importers. As a co-packer of domestic shrimp, I'm competing with other packers of domestic shrimp. The price that we pay for domestic shrimp is generally determined by how the landings come in, the financial restrictions of the participants in the industry. We see prices go up and down, both lower and higher, over the past 12 months while import prices have remained very, very steady, remarkably steady, in fact.

So again, I think it's the premise under which you make the assumption. I personally don't believe that
the price of the imports is the primary factor determining what's happening with the stability of the domestic shrimp.

VICE CHAIRMAN JOHANSON: But it's part of the fact -- I mean it is a factor, though, right?

MR. WEITZER: When we're buying and we're looking at the prices we're paying -- again, I have numbers, internal company numbers for both because we're selling both. We do not see -- it's very difficult for me to say, hey, the price of domestic shrimp right now is 20 percent below the price of what we're paying for imports. You know why is that? Why aren't other importers stepping in to buy that product? If they could sell it to their customers, they could buy it 20 percent cheaper than they're paying for the imports. They don't do it because they can't sell it to their customers.

Similarly, when the price of domestics is 20 percent higher than imports, which it's also been in the past 12 months, why are domestic producers stepping in to buy imports? And it's because they cannot sell those imported shrimp to their customers.

VICE CHAIRMAN JOHANSON: Okay, thank you, Mr. Weitzer. Mr. Stafford?

MR. STAFFORD: When we look at the variability in pricing we've had just over the last five years and the swings. You know pick a size and it can swing two to three
dollars a pound over the course of those five years.

When we look at the blend of the duties on our subject to non-subject, I will put it in the pot and blend that with what it costs us. We're talking 14, 15 cents a pound.

That adds to our cost that is blended in somewhere. So the impact of us taking a bag from $14.99 to $14.69 to the consumer, if that were fully loaded, pales to what happens with the global demand swings, the disease swing, a environmental factor, anything else that hits it. The impact of managing that is huge on us. The impact of us trying to determine how we properly account for it.

But if you asked us today if the duty went away tomorrow, would we change where we buy from and how we price it, it would not change dramatically with any of those components because the diversification fees and protecting our supply is so much more important. Getting the right quality is so much more important, and even when we do all those things right, the swing of the global demand or the swing of an environmental consequence or something else has a far greater impact of the price that we sell it for to our consumer.

VICE CHAIRMAN JOHANSON: Okay, thank you, Mr. Stafford. Mr. Dougan?

MR. DOUGAN: Mr. Johanson, can I add something
to that? The idea that there would be increased competition and therefore lower prices among subject and nonsubject, or I guess what are now subject and nonsubject suppliers for volume in the United States, you know, presumes a picture of the world that just isn't in effect anymore.

That's sort of like a way to think of the world before the great increase in demand in China. You've heard these guys talk about how they are now competing to get that supply and China's bidding it up. And so if the U.S. were the only market in the world, then everybody we're trying to sell here, maybe that, maybe you'd see something like what you're describing, but there's not going to be this incentive for a race to the bottom when you have all these alternative markets and growing demand.

VICE CHAIRMAN JOHANSON: Okay, thank you, Mr. Dougan. And actually I have two more questions. I'm just gonna ask two of 'em because I think we're kind of -- did the court reporter hear that? [laughter] A snarky remark from another Commissioner who will not be named. Okay, I'm just gonna ask two more.

Okay, respondents have argued that domestic supply is limited due to biological factors and that's at Page 14 of your brief, and that kind of caught my attention. What are these biological fishing limits as relates to shrimp? And I'm asking this because we hear a lot about
limitations in the northeast on Cod. And I brought that up this morning. Just something I read about quite a bit. There're actual limits to how much you can catch, imposed by the federal government. I don't hear about that in the Gulf. Are there big biological limits? Are there problems there which are limiting fishing of shrimp? And I'm raising this because it's something you all brought up in your brief.

MR. DOUGAN: Commissioner Johanson, and I'll let the others respond to this. We don't have a complete explanation as to why, say, landings are down now relative to when they were in prior years. But they certainly are. And if you look, there's -- in the exhibit to our brief, Exhibit 5, that provides all the landings from 1970 to 2008. And there's a variability over time, but the average was about 260 million. And now the average over the last few years has certainly been lower than that. But prices have been pretty good. So if price is driving the incen--if it's relative to -- well, there's a biological limit to how many shrimp are growing and how many we can pull outta the water, yes, but we're inclined to fish more if prices are good.

Well, you know, the recent experience doesn't really support that contention, especially 2016. So there must be something that is not a government restraint, but
some sort of biological constraint that there just are fewer
shrimp out there in the Gulf. Anyone else want to answer
that?

MR. PIZZUTI: When you look at catch per unit
effort, there's only so many trips these boats can make over
the course of the year, and there's only so much shrimp that
can be caught, so when you look at what the industry is
capable of producing and you look at the U.S. market, it's
very limited.

Using myself as an example, domestic shrimp
represents about 10% of our total shrimp sales. I carry
twenty-two different wild domestic products to meet that 10%
versus nine imported products. So when you're looking at
what's available out there, for me to hit that consumer
demand that I have, for 10% of my shrimp business takes
twenty-two different items. That's across six species and
multiple sizes within those species.

So when we're talking about lack of
availability, that's really what we're discussing. It's
having to meet a demand across multiple species and multiple
sizes of those species versus hitting the other fourteen,

thirty and a half million pounds with nine items. And
that's really what I'm talking about, lack of availability,
that's what I'm talking about.

VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.
Pizzuti. And here's my last question. Respondents have commented that Vietnam is facing raw material supply constraints. What are these constraints? And are you claiming that these limit exports of supply and this issue is raised at Page 24 of your brief, at Footnote 33.

MR. NICELY: We'll talk about it further in our post-hearing brief. But there are weather related reasons that we can explain in greater detail.

VICE CHAIRMAN JOHANSON: Okay. I look forward to reading about that. And that concludes my questions. Thanks to all of you for appearing here today.

COMMISSIONER WILLIAMSON: Just one quick question. Petitioners on Page 8 of their brief, and this concerns Brazil--on Page 8 of their prehearing brief state that the Brazilian shrimp industry and the Brazilian government continue to express interest in exporting substantial quantities of shrimp. And they quote the president of the Brazilian Association of Shrimp Breeders. I was just wondering, how do you respond to that?

MR. GOSSELINK: Just as I said earlier, I think it's important to look at the actual numbers. It's one thing to try to promote exports, to try to improve the oppression of the industry, but we really just have to look at what actually happened to get the truth.

COMMISSIONER WILLIAMSON: Okay.
MR. GOSSELINK: And in this case, there have been almost no exports from Brazil in the last few years, and especially over the POR.

COMMISSIONER WILLIAMSON: Okay. Thank you. I used to be on Brazil estate and I know what you're talking about. Thank you. And thank all the responses we got today. Thank you.

CHAIRMAN SCHMIDTLEIN: All right. Seeing that there are no other questions from the Commissioners, do the staff have any questions for this panel?

MS. HAINES: Staff has no questions.

CHAIRMAN SCHMIDTLEIN: Thank you. Do the petitioners have any questions for this panel?

MS. DRAKE: We do not, Madam Chairman.

CHAIRMAN SCHMIDTLEIN: All right, thank you. So this will bring us to closing statements. I guess, Mr. Secretary, do you want to dismiss the panel?

MR. BISHOP: We thank all of you so much. You may be dismissed and we'll go to closing remarks.

CHAIRMAN SCHMIDTLEIN: For closing remarks, in support of the petition, you have seven minutes from direct, and five minutes for closing, for a total of twelve minutes. And opposition, you have zero minutes from direct, five minutes for closing, for a total of five minutes.

MR. BISHOP: Rebuttal and closing remarks on
behalf of those in support of continuation of the orders, will be given by Nathan M. Rickard, Picard, Kentz & Rowe, and Elizabeth Drake of Stewart and Stewart. You have a combined total of twelve minutes. You may begin.

CLOSING REMARKS BY ELIZABETH J. DRAKE

MS. DRAKE: Thank you very much, and thank you for your attention throughout this long day. I'm gonna keep my portion very brief, and just again--Elizabeth Drake from Stewart and Stewart for American Shrimp Processors Association--and make an attempt to defend my honor regarding the prehearing brief we submitted in the CBD investigation.

First of all, that brief was submitted with regard to all seven countries that were initially under investigation because we didn't have final commerce determinations at that time, so that covered China, India, Indonesia, Thailand, Malaysia, Vietnam and Ecuador, which was sort of a different group to compare to what's happened to subject countries since that time.

So if you actually look at what happened to all of those seven countries that were addressed in that prehearing brief, you will see that imports did go up after 2013 after the negative determination in October of 2013. They went up 18% from 2013 to 2015. So that was not a dire prediction. It turned out to be an accurate prediction.
We did say that we believed EMS was gonna start
to be addressed in 2013 or 2014 at the latest. That was
based on public statements by industry experts at that time,
and we did actually see that. After 2014, Thailand was able
to increase its exports to the United States by more than
12% in 2015 alone, and by another 18% in 2016. Another
panelist this afternoon seemed to confirm that the peak of
the impact of EMS was actually in 2014.

In terms of price effects, I don't have average
unit values for those seven countries, but after EMS
subsided, we did see all import unit values fall by 21% in
2015 and fall again in 2016. And we saw U.S. average unit
values fall by 27% during that same time, again, emphasizing
the correlation between import prices and domestic prices.

During that same time, we saw the processing
industry's operating income margin decline. We saw their
net income margin decline to zero. We saw the fishermen who
responded to these questionnaires, saw their operating
income actually go up a little bit from '13 to '15, but
their net income went down pretty significantly from '13 to
'15, reflecting reduced BP payments since 2013.

Now the only reason that we weren't injured even
more, perhaps than we predicted, was the continued existence
of these anti-dumping orders. And in fact, the Commission
itself stated in its majority determination in the CBD case,
that was these anti-dumping orders that would help protect
us from injury that have otherwise resulted from a negative
determination in the CBD case.

So I hope the Commission will again, in this
review, determine that those anti-dumping orders have
benefited the domestic industry and are important to keep in
place to keep our domestic industry viable. Thank you.

CLOSING REMARKS BY NATHAN M. RICKARD

MR. RICKARD: This is Nathan Rickard, Picard,
Kentz & Rowe, here on behalf of the Ad Hoc Shrimp Trade
Action Committee and the Ad Hoc Shrimp Industry Committee.

What has changed in the conditions of
competition? On the record of this review, compared to the
first reviews in the original investigations? For our part,
we ask the Commission to look at the significant growth
projected for farm production in the subject countries. As
respondents’ counsel indicated, these numbers are contained
in the staff report at Table 4-A on Page 417. The numbers
in that table are from two different sources. For 2013 to
2014 the numbers are from the FAO. For 2015 to 2018, the
numbers are from a global aquaculture alliance 2016 survey.

In comparing 2018 totals to a 2015 base as both
totals of us have done here today, we are comparing apples to
apples. Similarly, in Slide 28 of the National Fisheries
Institute presentation that was placed on this record, they
also use two different data sources. 2011 and 2012 are from the FAO data. And 2013 through 2017 are from the NFI panel. These data cover three of the subject countries, Thailand, India and Vietnam, and reach a similar conclusion to what the staff report reaches. In fact, the title of that is "Panel Underestimated Shrimp Recovery in 2016 and Expansion Should Continue in 2017."

Now, also on this record, because of this NFI presentation, there is evidence that shows that declining prices lead to increased demand for shrimp. Slide 34 says, as pricing declines, there is an improvement in household penetration of shrimp, but indicates the percentage of households that purchase shrimp is contingent on price. And that 47% of households purchased shrimp in 2016, an increase over previous years, tying that to price.

I find this presentation very interesting and I think that it merits looking through the presentation and checking the representations that have been made in the presentations today against things that were said in the NFI. That also includes issues regarding Brazil.

Now, on the other hand, at base the respondents are making are the same as they were in 2004. And that argument is that competition between the subject imports and the domestic like product is attenuated. Selling domestic shrimp as a separate product from imported shrimp is the
aspirational goal of the domestic industry, but it is not
the current reality. The record of these proceedings shows
that imported shrimp continues to compete directly with
domestic shrimp.

In a Sunset review, the Commission engages in a
counterfactual analysis of what happens in the reasonably
foreseeable future of an important change in the status quo.
The challenge for the parties seeking revocation is
threading the needle and arguing that the revocation of the
anti-dumping duty orders will not have a significant impact
in the market, while expanding significant time and
resources pursuing that outcome.

The domestic industry has set forth what we
believe will happen with revocation. Subject import prices
will decline. Subject import volumes will increase. Prices
for the domestic like product will decline, and domestic
production will decrease. The decline in prices and
production for the domestic industry will result in material
injury, just as it was in 2003.

The support for our claims is the comprehensive
records developed by the Commission in the original
investigation, the first Sunset reviews and these reviews.
Respondents argue that there will be no significant change
in the volume or prices of subject imports if the
anti-dumping orders are revoked. The support for their
claims are the same arguments that respondents have
presented and the Commission has rejected in all prior
proceedings related to these anti-dumping duty orders.

Stated differently, the legal standard incumbent
upon respondents is to demonstrate on this record before the
Commission what has changed such that the original material
injury determination is no longer relevant. That standard
is not satisfied by asserting that you were right all along.

These anti-dumping duties have had significant
positive impacts on an industry that faced an existential
crisis in 2003. As the industry faces the stable market
created by these anti-dumping duty orders, the industry
continues to take actions that are intended to ensure the
long-term survival and competitiveness of the industry.
Some of these steps have attempted to further distinguish
domestic shrimp from imported shrimp. The domestic industry
wants to build a market like wild salmon.

And I want to close on this point. The reason
why so much of the domestic industry continues to try and
market domestic shrimp as distinct from imported shrimp is
because, as this record shows, domestic shrimp and imported
shrimp are interchangeable and compete directly against each
other in the U.S. market. I thank you for your time and for
your consideration this afternoon.

MR. BISHOP: Rebuttal and closing remarks on
behalf of those in opposition to the continuation of the orders will be given by Matthew R. Nicely of Hughes Hubbard & Reed. Mr. Nicely, you have a total of five minutes. You may begin when you're ready.

CLOSING REMARKS BY MATTHEW R. NICELY

MR. NICELY: Good afternoon. I'll be brief, 'cuz I have to be. Matt Nicely for joint respondents.

Petitioners have fashioned a set of arguments in this case that would, if accepted, resolve in the continuation of the AD orders, no matter what the facts are, from now until eternity.

They apply essentially the same standard that the Commerce Department applies in its Sunset reviews. Their position is, if subject imports caused injury before there was an order, they'll do it again if the order's revoked. It doesn't matter to them that the market's changed. What matters is that they won an affirmative injury determination in 2004.

Here's the logic that they effectively adopt by taking such a position. If subject import volumes are down, well, that's because of the discipline of the order, and the order is needed to keep volumes down. If subject imports are up as they are for some of the countries that are subject, then that makes the industry vulnerable, and we need continued protection.
If prices are up, or if there's import overselling, well, that's because of the discipline of the order, and we need the order to keep prices up. But if prices are down, as they were in the first Sunset review, or if there is import underselling, then that makes us vulnerable and we need continued protection. You get the picture. They win either way.

They can't have it both ways. The facts have changed, and they've changed such that the orders are no longer relevant to the industry's performance. The petitioners know that they can only supply a limited proportion of demand in this market, as will always be the case, the rest of the market is served by a combination of subject and nonsubject sources.

Nonsubject sources are now the majority, not because of the orders, but because A) raw material supply shortages have hampered Thailand and Vietnam, B) home market demand has dramatically increased in Brazil and China, and C) various sources that used to be subject are now nonsubject.

But even if subject imports increase in the future like they did at the end of the POR in this review, they will merely replace other imports, as happened amongst the subject countries over the last five years. So when and if that happens, the real question is, will it have a price
effect?

The answer's no. Subject imports have a strong position in this market now, and yet they oversell on a whole, domestic producers in a large majority of pricing product comparisons. And an even greater majority when weighted by volume. And the extent of the price variation that has occurred over the POR demonstrates that the dumping orders do not explain the higher import prices.

After all, as Mr. Dougan showed earlier, Indian dumping margins remained low, from 0 to 3% over the POR, while prices moved all over the place. Variations in global supply and growing demand in third country markets drive prices for imports, not the anti-dumping order. That pricing data tells us something else that's critical to understand.

Prices of imported and domestic shrimp vary widely. Why? Because purchasers don't generally pit them against one another. Petitioners want you to believe that a shrimp is a shrimp is a shrimp. But it's simply not true. If it were true, you would expect all the volume to go to the imports, whether subject or nonsubject.

That hasn't happened because there are certain customers who want to buy and eat domestic shrimp. That's why Publix carries both farm-raised and wild-caught. That's why Arista buys and sells both, and has one person in charge
of buying domestic shrimp and another who buys imports.

That will continue to happen whether the orders remain in place or not. It's a different world now. This industry does not benefit from these anti-dumping orders and they won't experience adverse effects if they are eliminated. It's time for revocation. Thank you.

CHAIRMAN SCHMIDTLEIN: All right, thank you very much, Mr. Nicely. This brings us to the end of the hearing. Post-hearing briefs, statements responsive to questions and requests of the Commission and corrections to the transcript must be filed by March 27th, 2017. Closing of the record and final release of data to parties will be April 19th, 2017, and final comments are due April 21st, 2017. And with that, I want to thank you all again for being here for this long day, and we stand adjourned.

(Whereupon the hearing was adjourned at 4:59 p.m.)
CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Frozen Warmwater Shrim from Brazil, China, India, Thailand, and Vietnam

INVESTIGATION NOS.: 731-TA-1063-1064 and 1066-1068

HEARING DATE: 3-16-17

LOCATION: Washington, D.C.

NATURE OF HEARING: Second Review

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 3-16-17

SIGNED: Mark A. Jagan

Signature of the Contractor or the Authorized Contractor’s Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter’s notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

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I hereby certify that I reported the above-referenced proceedings 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 proceedings.

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