

## **EXHIBIT I-1**

ASPA Member Processors	Phone Number	Address				Contact Name	Email
Al's Shrimp Company	985-209-2083	840 Vice Road	Houma	LA	70363	Al Marmande	almarmande@yahoo.com ericmarmande@yahoo.com
Bayou Shrimp Processors, Inc.	337-685-5773	P.O. Box 247	Delcambre	LA	70528	Shep Baumer	shepabaumer@bayousp.com
Best Seapack	281-393-3500	12901 County Rd 171	Danbury	TX	77534	Cindy Nhan	<a href="mailto:Cindy.Nhan@bestseapack.com">Cindy.Nhan@bestseapack.com</a>
Biloxi Freezing & Processing, Inc./M&M Processing, LLC	228-436-0017	P.O. Box 730	Biloxi	MS	39533	Mark Mavar, Jonathan McLendon	mmavar@biloxifreezing.com, jonathan@mmshrimp.com
Bluewater Shrimp Company, Inc.	985-563-4801	P.O. Box 226	Dulac	LA	70344	Kim Chauvin	kimchauvin@yahoo.com, SHRIMPEXPRESS00@aol.com
C.F. Gollott and Son Seafood, Inc.	228-292-2747	P.O. Box 1191	Biloxi	MS	39533	Armond "Army" Gollott	<a href="mailto:arny.gollott.3@gollottseafood.com">arny.gollott.3@gollottseafood.com</a>
Cox's Wholesale Seafood, LLC	800-344-8461	5806 N. Occident	Tampa	FL	33614	Charley Price	<a href="mailto:cprice@coxseafood.com">cprice@coxseafood.com</a>
Dean Blanchard Seafood	985-787-3464	P.O. Box 1	Grand Isle	LA	70358	Dean Blanchard	<a href="mailto:dbsshrimp@gmail.com">dbsshrimp@gmail.com</a>
Dominick's Seafood, Inc.	251-824-7962	P.O. Box 692	Bayou La Batre	AL	36509	Dominick Ficarino	<a href="mailto:Dominick@Dominicks-seafood.com">Dominick@Dominicks-seafood.com</a>
Graham Shrimp Company	251-824-3536	13842 - Shellbelt Rd.	Bayou La Batre	AL	36509	Ernie Anderson	ernie@grahamshrimpco.com, and5612@comcast.net
Gulf Crown Seafood Co., Inc.	337-685-4721	500 John Floyd Road, P.O. Box 100	Delcambre	LA	70528	Jeff Floyd	gulfcrown@gulfcrown.us
Gulf Island Shrimp & Seafood, LLC-Big Easy	337-477-9296	3935 Ryan Street	Lake Charles	LA	70605	Larry Avery	<a href="mailto:lavery@bigeasyfoods.com">lavery@bigeasyfoods.com</a>
Gulf Pride Enterprises, Inc.	228-432-2488	P.O. Box 355	Biloxi	MS	39533	Wally Gollott	wally@gulfprideshrimp.com
Hi-Seas of Dulac, Inc.	985-563-7183	6570 Grand Caillou Rd.	Dulac	LA	70353	Lance Authement	<a href="mailto:lance@hiseas4.com">lance@hiseas4.com</a>
Indian Ridge Shrimp Co.	985-594-5869	120 Dr. Hugh St. Martin Drive	Chauvin	LA	70344	Andrew Blanchard	andrew@pearlbrandseafood.com
JBS Packing Company, Inc.	409-982-7659	P.O. Box 399	Port Arthur	TX	77640	Trey Pearson	<a href="mailto:trepjibs@aol.com">trepjibs@aol.com</a>
Lafitte Frozen Foods Corp.	504-689-2041	5165 Caroline Street	Lafitte	LA	70067	Raymond Poon, Bobbie Samanie	rayz1679@aol.com, captbob6888@aol.com, tbui70058@live.com
Ocean Select Seafood	337-228-1302	1019 Nina Hwy	Beaux Bridge	LA	70517	Jason, Josh, Cherrie Guidry	<a href="mailto:josh@oceanselectsfd.com">josh@oceanselectsfd.com</a>
Ocean Springs Seafood	228-436-0056	555 Bayview Avenue	Biloxi	MS	39530	Earl Fayard	OSSEAFood@yahoo.com
Palmer Foods	251-752-9929	13790 Tram Ave.	Bayou La Batre	LA	36509	Daria Seaman-Jones, Devan & Anna Bham	<a href="mailto:darlasi@hotmail.com">darlasi@hotmail.com</a> , <a href="mailto:Annaphan@gmail.com">Annaphan@gmail.com</a> <a href="mailto:Dvnphn3@aol.com">Dvnphn3@aol.com</a>
Pamlico Packing Company	252-745-3688	66 Cross Road	Grantsboro	NC	28529	Don Cross	don@bestseafood.com
Paul Piazza and Son, Inc.	504-934-4513	1152 St. Louis St.	New Orleans	LA	70112	Kristen Baumer	kbaumer@paulpiazza.com
Philly Seafood, Inc.	832-499-1900	6544 Greatwood Parkway, Suite B	Sugar Land	TX	77498	Regina Pena	<a href="mailto:regina.pena@phillyseafood.com">regina.pena@phillyseafood.com</a>
R.A. Lesso Seafood, Inc.	228-374-7200	P.O. Box 1428	Biloxi	MS	39533	Rudy Lesso	shrimp47@aol.com
RCP Seafood	985-790-6610	4678 Highway 56	Chauvin	LA	70344	Roxanne Sevin	roxannesevin@hotmail.com
Sea Pearl Seafood Company, Inc.	251-824-2129	14120 Shell Belt Rd.	Bayou La Batre	AL	36509	Greg Ladnier	<a href="mailto:greg@sea-pearl.com">greg@sea-pearl.com</a>
Seabrook Seafood, Inc.	281-334-2546	P.O. Box 776	Kemah	TX	77565	Tom Hults	tomhults@comcast.net
Smith & Sons Seafood	912-437-6471	P.O. Box 2118	Darlen	GA	31305	Walter Smith	bigjohnsmith7@gmail.com bigjohn@dariantel.net
Tidelands Seafood Company, Inc.	985-563-4516	P.O. Box 99	Dulac	LA	70353	Andy Gibson	ajgibson@charter.net
Tommy's Seafood	225-288-6391	148 Harbor Circle	New Orleans	LA	70126	Chalin Delaune	<a href="mailto:cd@tommysseafood.com">cd@tommysseafood.com</a> <a href="mailto:mdelaune@tommysseafood.com">mdelaune@tommysseafood.com</a>
Wood's Fisheries	800-309-6055	464 Angelfish Road	Port St. Joe	FL	32456	Edward Woods	<a href="mailto:edward@woodsfisheries.com">edward@woodsfisheries.com</a> <a href="mailto:reese@woodsfisheries.com">reese@woodsfisheries.com</a>
Z-Packed (Zirlott Trawlers Inc.)	251-873-5701, 251-802-2109	PO Box 583, 13856 Shell Belt Road	Bayou La Batre	AL	36523	Jeremy Zirlott, Kim Zirlott	JeremyZirlott@icloud.com; zirlottkim@centurytel.net

## **EXHIBIT I-2**

C-331-803  
Investigation  
POI: 01/01/2011 – 12/31/2011  
**Public Version**  
O1: AR

January 17, 2013

**IMPORT ADMINISTRATION  
OFFICE OF AD/CVD OPERATIONS  
COUNTERVAILING DUTY INVESTIGATION INITIATION CHECKLIST**

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**SUBJECT:** Frozen Warmwater Shrimp from Ecuador

**CASE NUMBER:** C-331-803

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**PETITIONER:**

Coalition of Gulf Shrimp Industries<sup>1</sup>  
C. David Veal, Executive Director  
2629 Park View  
Biloxi, MS 39531

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**COUNSEL TO PETITIONER:**

Terence P. Stewart  
Elizabeth J. Drake  
Stewart and Stewart

Edward T. Hayes  
Adam Whitworth  
Leake & Andersson, LLP

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<sup>1</sup> The members of the Coalition of Gulf Shrimp Industries are: Bayou Shrimp Processors, Inc.; Bluewater Shrimp Company, Inc.; Carson & Co., Inc.; C.F. Gollott & Sons Seafood, Inc.; Dean Blanchard Seafood, Inc.; Dominick Seafood; Fisherman’s Reef Packing Plant; Golden Gulf Coast Pkg. Co., Inc. (and Gollott’s Oil Dock & Ice House); Graham Fisheries, Inc.; Graham Shrimp, Inc.; Gulf Crown Seafood Co., Inc.; Gulf Fish Inc.; Gulf Island Shrimp & Seafood, LLC; Gulf Pride Enterprises, Inc.; Hi-Seas of Dulac, Inc.; Indian Ridge Shrimp Co.; JBS Packing Co., Inc.; Lafitte Frozen Foods Corp.; M&M Shrimp (Biloxi Freezing and Processing); Ocean Springs Seafood Market, Inc.; Paul Piazza & Sons, Inc.; R.A. Lesso Brokerage Co., Inc.; Sea Pearl Seafood Co., Inc.; Smith and Sons Seafood; Tideland Seafood Co., Inc.; Tommy’s Seafood; Vincent Piazza & Sons Seafood, Inc.; Wood’s Fisheries; David Chauvin’s Seafood Company, LLC; Mariah Jade Shrimp Company LLC; and Rountree Enterprises, Inc. (dba Leonard & Sons Shrimp Co. and R&R Fisheries). See Petition for the Imposition of Countervailing Duties on Certain Frozen Warmwater Shrimp from Ecuador, dated December 28, 2012 (“Petition”) at Volume I Exhibit I-1, and “Amendment to Petitions for the Imposition of Countervailing Duties on Certain Frozen Warmwater Shrimp from the People’s Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam – Notice of Additional Processors in Petitioner Association,” dated January 4, 2013 (“Petitioner Association Amendment”), at Exhibit 1; see also “Petitioner’s Response to the Thai Producers’ Comments on Industry Support”, dated January 15, 2013, at 14 and Exhibit 4.



2100 M Street NW, Suite 200  
Washington, DC 20037

1100 Poydras Street, Suite 1700  
New Orleans, LA 70163

### POTENTIAL RESPONDENTS:

A list of the producers of frozen warmwater shrimp (“frozen shrimp”) in Ecuador identified by the Coalition of Gulf Shrimp Industries (“the petitioner”) can be found in the Petition.<sup>2</sup>

**SCOPE:** See Attachment I to this checklist.

### IMPORT STATISTICS:

Ecuador	2009	2010	2011	YTD 2011 (Jan-Oct)	YTD 2012 (Jan-Oct)
<b>Quantity (kilograms)</b>	60,752,193	64,238,008	72,766,365	60,862,962	60,938,924
<b>Value (USD)</b>	339,850,222	418,570,879	540,443,215	452,368,064	434,515,998

Source: United States International Trade Commission (ITC) Dataweb available at <http://dataweb.usitc.gov/>. In 2012, imports of subject merchandise were classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 0306.17.0003, 0306.17.0006, 0306.17.0009, 0306.17.0012, 0306.17.0015, 0306.17.0018, 0306.17.0021, 0306.17.0024, 0306.17.0027, 0306.17.0040, 1605.21.1030, and 1605.29.1010. Prior to 2012, imports of subject merchandise were classified under HTSUS subheadings 0306.13.0003, 0306.13.0006, 0306.13.0009, 0306.13.0012, 0306.13.0012, 0306.13.0015, 0306.13.0018, 0306.13.0021, 0306.13.0024, 0306.13.0040, 1605.20.1010, and 1605.20.1030. The above values are “landed duty-paid” import values. See Volume I of the Petition, at 11 and Exhibit I-11; see also General Issues Supplement to the Petitions, dated January 9, 2013 (“General Issues Supplement”), at 6 and Exhibit I-SQ-12.

<sup>2</sup> See Volume I of the Petition, at 10 and Exhibit I-10.

**APPROXIMATE CASE CALENDAR:**

Event	No. of Days	Date of Action	Day of Week
<b>Countervailing Duty Investigation</b>			
Petition Filed	0	December 28, 2012	Friday
Initiation Date	20	January 17, 2013	Thursday
ITC Preliminary Determination	45	February 11, 2013	Monday
ITA Preliminary Determination†**	85	March 25, 2013	Monday*
ITA Final Determination†	160	June 6, 2013	Thursday
ITC Final Determination***	205	July 22, 2013	Monday*
Publication of Order****	212	July 29, 2013	Monday*

\* Where the deadline falls on a weekend/holiday, the appropriate date is the next business day.

† The deadline for the preliminary determination may be extended, while the deadline for the final determination is fixed at 75 days after the preliminary determination under the governing statute.

\*\* This will take place only in the event of a preliminary affirmative determination from the ITC.

\*\*\* This will take place only in the event of a final affirmative determination from the International Trade Administration ("ITA").

\*\*\*\* This will take place only in the event of a final affirmative determination from the ITA and the ITC.

Note: The ITC final determination will take place no later than 45 days after a final affirmative ITA determination.

Note: Publication of order will take place approximately 7 days after an affirmative ITC final determination.

**INDUSTRY SUPPORT:**

Do the petitioner and those expressing support for the Petition account for more than 50% of production of the domestic like product?

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No

If No, do those expressing support account for the majority of those expressing an opinion and at least 25% of domestic production?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input checked="" type="checkbox"/>	Not Applicable

Describe how industry support was established - specifically, describe the nature of any polling or other step undertaken to determine the level of domestic industry support.

See Attachment II, Analysis of Industry Support for the Petitions Covering Certain Frozen Warmwater Shrimp from the People's Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam, which is hereby adopted by this checklist.

Was there opposition to the Petition?

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

Are any of the parties who have expressed opposition to the Petition either importers or domestic producers affiliated with foreign producers?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input checked="" type="checkbox"/>	Not Applicable

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### INJURY TEST:

Because Ecuador is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the "Act"), Section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Ecuador materially injure, or threaten material injury to, a U.S. industry.

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### INJURY ALLEGATION:

We received a copy of the action notice from the Director of the Office of Investigations at the ITC on December 28, 2012. It indicates that the ITC has instituted an investigation to determine whether there is a reasonable indication that the domestic industry producing frozen shrimp is materially injured or threatened with material injury. See Attachment IV to this checklist, Action Letter from ITC.

The relevant injury data can be found in Volume I of the Petition, at I-11 through I-57 and Exhibits I-11, I-13 through I-32, Volume II of the Petitions, at Exhibit II-3, Volume III of the Petitions, at Exhibit III-4, Volume V of the Petitions, at Exhibits V-6 and V-7, Volume VI of the Petitions, at Exhibit VI-5, Volume VIII of the Petitions, at Exhibit VIII-5, and General Issues

Supplement, at 1, 6-7 and Exhibits I-SQ-1, I-SQ-2, I-SQ-12, and I-SQ-13. See Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Certain Frozen Warmwater Shrimp from the People’s Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam, which is hereby adopted by this checklist.

Does the Petition contain evidence of causation? Specifically, does the Petition contain information relative to:

- volume and value of imports (See Volume I of the Petition, at I-11, I-17, I-20, I-23 through -26 and Exhibits I-11 and I-13 through I-15; see also General Issues Supplement, at 6 and Exhibit I-SQ-12.)
  - U.S. market share (i.e., the ratio of imports to consumption) (See Volume I of the Petition, at I-24 through I-26, and I-29.)
  - actual pricing (i.e., evidence of decreased pricing) (See Volume I of the Petition, at I-28 through I-30, I-32, I-36 and Exhibits I-16, I-17, I-20, and I-26)
  - relative pricing (i.e., evidence of imports underselling U.S. products) (See Volume I of the Petition, at I-28 through I-33, I-35 through I-42, and Exhibits I-16, I-20 and I-26.)
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### PETITION REQUIREMENTS:

Does the Petition contain the following?

- the name, address, and telephone number of the petitioner (See Volume I of the Petition, at I-4 and Exhibit I-1 and “Amendment to Petitions for the Imposition of Countervailing Duties on Certain Frozen Warmwater Shrimp from the People’s Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam – Notice of Additional Processors in Petitioner Association,” dated January 4, 2013 (“Petitioner Association Amendment”), at Exhibit 1.)
- the names, addresses, and telephone numbers of all domestic producers of the domestic like product known to the petitioning company (See Volume I of the Petition, at I-4 and Exhibits I-2 and I-3; see also Petitioner Association Amendment, at Exhibit 1.)
- the volume or value of the domestic like product produced by the petitioner and each domestic producer identified for the most recently completed 12-month period for which data is available (See Volume I of the Petition, at I-6, I-7 and

Exhibits I-5 through I-7 and I-21; see also Petitioner Association Amendment, at Exhibit 1 and General Issues Supplement, at Exhibit I-SQ-4 through I-SQ-11.)

Was the entire domestic industry identified in the Petition?

Yes (See Volume I of the Petition, at I-4 and Exhibits I-2 and I-3; see also Petitioner Association Amendment, at Exhibit 1.)

No

a clear and detailed description of the merchandise to be investigated, including the appropriate Harmonized Tariff Schedule numbers (See Volume I of the Petition, at I-8 through I-10 and Exhibits I-8 and I-9; see also General Issues Supplement, at 1-2 and Exhibit I-SQ-3.)

the name of each country in which the merchandise originates or from which the merchandise is exported (See Volume I of the Petition, at I-10.)

the identity of each known exporter, foreign producer, and importer of the merchandise (See Volume I of the Petition, at I-10, I-11 and Exhibits I-10 and I-12.)

a statement indicating that the petition was filed simultaneously with the Department of Commerce and the ITC (See cover letter to the Petition, at 2; Petitioner Association Amendment, at 2; cover letter to the General Issues Supplement, at 2; cover letter to the Supplemental Questionnaire Response, at 2; and cover letter to the Second Supplemental Questionnaire Response at 2.)

an adequate summary of the proprietary data (See public version of the Petition, public version of the Petitioner Association Amendment, public version of the General Issues Supplement, and public version of the Supplemental Questionnaire Response.)

a statement regarding release under administrative protective order (See cover letter to the Petition, at pages 1 and 4; Petitioner Association Amendment, at 1 and 3; cover letter to the General Issues Supplement, at 1 and 3; cover letter to the Supplemental Questionnaire Response, at 1 and 3.)

a certification of the facts contained in the petition by an official of the petitioning firm(s) and its legal representative (if applicable) (See Petition cover letter attachments, Petitioner Association Amendment attachments, General Issues Supplement cover letter attachments, and Supplemental Questionnaire cover letter attachments, and Second Supplemental Questionnaire cover letter attachments.)

import volume and value information for the most recent two-year period (See Volume I of the Petition, at I-11 and Exhibit I-11; see also General Issues Supplement, at 6 and Exhibit I-SQ-12.)

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**COUNTERVAILING DUTY ALLEGATIONS:**

The proposed period of investigation (POI) is January 1, 2011, through December 31, 2011.

The Petition was filed on December 28, 2012. On January 4 and January 10, 2013, the Department sought clarification on certain issues in the Petition. In its January 9, 2013 response to the Department’s clarification questions, the petitioner modified the originally alleged “Provision of Shrimp for Less than Adequate Remuneration” to “Export Restraints on Raw and Unprocessed Shrimp.”

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**CONSULTATIONS:**

Pursuant to section 702(b)(4)(A)(ii) of the Act, on January 3, 2013, the Department invited representatives of the Government of Ecuador (GOE) for consultations with respect to the countervailing duty (CVD) petition. Those consultations were held on January 16, 2013, at the Department of Commerce.<sup>3</sup>

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**COUNTERVAILING DUTY INVESTIGATION INITIATION STANDARD:**

Section 702(b) of the Act states that petitioners must allege the elements necessary for the imposition of a CVD under section 701(a) Act, *i.e.*, the existence of countervailable subsidies and material injury, or threat of material injury, by reason of the subsidized imports. Section 702(b)(1) of the Act requires that these allegations be supported by information reasonably available to petitioners.

The petitioner alleges in the Petition that producers of frozen shrimp in Ecuador benefited from countervailable subsidies bestowed by the GOE, including provincial and local governments within Ecuador. In addition to subsidies allegedly provided to processors of frozen shrimp, the Petition includes subsidies allegedly provided producers of fresh shrimp. According to the petitioner, large Ecuadorian producers of frozen shrimp have their own integrated aquaculture operations or are cross-owned with farming operations that supply fresh shrimp.<sup>4</sup> In these situations, the petitioner states that subsidies tied to the production of fresh shrimp will be

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<sup>3</sup> See Ex-Parte Memorandum on Consultations with Officials from the Government of Ecuador on the Countervailing Duty Petition regarding Frozen Warmwater Shrimp from Ecuador, dated January 16, 2013.

<sup>4</sup> See Petition at Volume III-2 and Exhibit III-3, where petitioner submits company website excerpts suggesting producers of frozen shrimp in Ecuador have integrated aquaculture operations.

attributed to the processed product, citing 19 CFR 351.525(b)(5)(ii) and 351.525(b)(6)(iv). (With respect to cross-owned suppliers of fresh shrimp and the requirements of 19 CFR 351.525(b)(6)(iv), the petitioner points to the ITC's finding that fresh shrimp is overwhelmingly used to produce frozen shrimp<sup>5</sup> in support of its claim that fresh shrimp is "primarily dedicated" to the frozen product.) Alternatively, the petitioner claims that the Department should investigate subsidies to producers of fresh shrimp and deem such subsidies to be provided with respect to the frozen product under section 771B of the Act, which addresses processed agricultural products (including fishery products).<sup>6</sup> In support, the petitioner claims that: (i) the demand for fresh shrimp is substantially dependent on the demand for frozen shrimp and (ii) the processing of the fresh shrimp into frozen shrimp adds limited value and the essential character of the raw product is not changed. In support, the petitioner refers to the above-cited finding by the ITC and to its finding that processing adds 19-24 percent of the final value.<sup>7</sup> According to the petitioner, the Department has previously found this level of value added to be limited.<sup>8</sup> Moreover, the petitioner states, the essential character of the fresh shrimp is not changed with processing.

Based on the petitioner's allegation regarding the relationship between fresh and frozen shrimp, the Department recommends initiating an investigation of the programs listed in Section I below, "Programs on which the Department is Initiating an Investigation," including the programs that allegedly provide subsidies to producers of fresh shrimp. In particular, the petitioner has supported its allegations that subsidies for fresh shrimp may be attributable to frozen shrimp under 19 CFR 351.525(b)(5)(ii), 351.525(b)(6)(iv) and section 771B of the Act. Moreover, for each program, the petitioner has alleged the elements of a subsidy, that is, financial contribution, benefit, and specificity. The Department finds that the petitioner's allegations are supported by adequate and accurate information that was reasonably available to it. In Section II, "Alleged Programs on which the Department is Not Initiating an Investigation," the Department lists those programs that it does not recommend for initiation, describing the Department's decision under "*Recommendation.*"

<sup>5</sup> U.S. International Trade Commission, Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam, Inv. Nos. 731-TA-1063, 1064, 1066-1068 (Review), USITC Pub. 4221 (March 2011) (Shrimp AD Sunset) at 6.

<sup>6</sup> See Petition at III-3-4, citing section 771(4)(E)(iv) of the Act.

<sup>7</sup> Shrimp AD Sunset at Table III-11.

<sup>8</sup> The petitioner cites, Rice From Thailand; Final Results of Countervailing Duty Administrative Review, 56 FR 68, 69 (January 2, 1991) and Final Affirmative Countervailing Duty Determination: Fresh, Chilled, and Frozen Pork from Canada, 54 FR 30774, 30775 (July 24, 1989).

## ALLEGED SUBSIDY PROGRAMS

### I. PROGRAMS ON WHICH THE DEPARTMENT IS INITIATING AN INVESTIGATION

#### A. Income Tax Programs

##### 1. Tax Exemptions for Fishing, Aquaculture, Processing, and Trading Firms

*Description:* The petitioner alleges that Title IV, Chapter I of Ecuador's Fisheries and Fishery Development Law (Fishery Law) provides tax exemptions to incentivize the shrimp industry. The petitioner notes that the Fishery Law classifies fishing enterprises into three categories, "Special," "A," and "B."<sup>9</sup> While each category receives its own set of incentives (e.g., firms in the "Special" category are exempt from all taxes and duties at the national, municipal, and provincial level for the first five years of their operation<sup>10</sup>), the petitioner notes that firms in all categories are eligible for exemptions from taxes and duties relating to registration and inscription, raising capital limits, entering into contracts, and executing, exchanging, breaking up, or converting titles and deeds.<sup>11</sup>

To demonstrate that shrimp producers/processors are included in the categories of fishing enterprises listed in the Fishery Law, the petitioner points to Article 21 of the Fishery Law, which defines "Industrial" as a type of fishing that "is performed with boats fitted with major equipment and for commercial or processing purposes."<sup>12</sup> In addition, the petitioner points to Article 20 of the Fishery Law, which describes the extraction and cultivation stages as including "the activities whose purpose is to capture the bioaquatic species" and the "the spawning, breeding and production of the same."<sup>13</sup> Therefore, because the law describes industrial fishing and processing operations, extraction and cultivation processes, the petitioner concludes that shrimp producers and processors are included in the categories of the Fishery Law.

*Financial Contribution:* The tax exemptions are a financial contribution in the form of revenue forgone by the government under section 771(5)(D)(ii) of the Act.

*Benefit:* The exemptions provide a benefit to the recipient in the amount of the tax savings, pursuant to 19 CFR 351.509(a)(1).

<sup>9</sup> See Petition at Volume III (pages 8-11), Exhibit III-5, Article 53.

<sup>10</sup> See Petition at Volume III (page 9), Exhibit III-5, Article 62.

<sup>11</sup> Id.

<sup>12</sup> See Letter from the petitioner "Certain Frozen Warmwater Shrimp from the People's Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam -Petitioner's Response To The Department's January 4, 2013 Supplemental Questions on Ecuador on Behalf of Coalition of Gulf Shrimp Industries ("COGSI"),"dated January 9, 2013 ("Petition Supplemental Response") at 1-2 and Exhibit III-SQ-1.

<sup>13</sup> Id.



*Specificity:* The program is specific within the meaning of section 771(5A)(D)(i) of the Act because the exemptions are limited as a matter of law to a group of enterprises or industries (i.e., Fishing, Aquaculture, Processing, and Trading Firms placed into the categories under the Fishery Law).

*Support:* The GOE's Fishery Law;<sup>14</sup> Competitiveness Improvement Plan for the Shrimp Sector;<sup>15</sup> Executive Decree No. 1143, Official Register No. 282;<sup>16</sup> Regulations Pertaining to the Fishing and Fishery Development Law;<sup>17</sup> and the World Bank's Doing Business Ecuador.<sup>18</sup>

## 2. Tax Incentives for Priority Sectors under the 2010 Organic Production Code

*Description:* The petitioner alleges that the GOE provides tax incentives to the shrimp industry as stipulated in Ecuador's 2010 Organic Code for Production Trade, and Investment (Production Code). The petitioner states that the production of fresh, frozen, and processed foods is listed among nine other sectors identified for special treatment due to their priority to the state.<sup>19</sup> The petitioner further notes that Executive Decree 757, which enacted the Production Code, explains that the frozen and processed foods sector includes the fishing and aquaculture production chains that contribute to the production of such foods.<sup>20</sup> The petitioner argues that the Production Code allows for exemption from corporate income taxes for five years for firms in priority sectors.<sup>21</sup> Because the second corrective disposition of the Production Code states that the tax incentives apply to areas outside the urban jurisdiction of the Canton of Quito or the Canton of Guayaquil, the petitioner provided a map from an independent study of shrimp mariculture in two coastal villages showing the fishing villages are located outside of the Cantons of Quito and Guayaquil.<sup>22</sup>

*Financial Contribution:* The income tax exemption is a financial contribution in the form of revenue forgone by the government under section 771(5)(D)(ii) of the Act.

*Benefit:* The exemption provides a benefit to the recipient in the amount of the tax savings pursuant to 19 CFR 351.509(a)(1).

*Specificity:* The program is specific within the meaning of section 771(5A)(D)(i) of the Act because the exemption is limited as a matter of law to certain enterprises (i.e., one of the nine priority sectors identified by the GOE).

<sup>14</sup> See Petition at Volume III, Exhibit III-5, Articles 53-55 and 61-63.

<sup>15</sup> See Petition at Volume III, Exhibit III-4.

<sup>16</sup> See Petition at Volume III, Exhibit III-6.

<sup>17</sup> See Petition at Volume III, Exhibit III-7.

<sup>18</sup> See Petition at Volume III, Exhibit III-8.

<sup>19</sup> See Petition at Volume III, Exhibit III-9.

<sup>20</sup> See Petition at Volume III, Exhibit III-10.

<sup>21</sup> See Petition at Volume III, Exhibit III-9, Article 24(2)

<sup>22</sup> See Petition Supplemental Response at 3 and Exhibit III-SQ-2.



*Financial Contribution:* The provision of loans by state-owned banks constitutes a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act.

*Benefit:* The petitioner alleges that this program confers a benefit on the recipient, in the amount of the difference between what the recipient paid on the loan and the amount the recipient would have paid for a comparable commercial loan that it actually could have obtained on the market, pursuant to section 771(5)(E)(ii) of the Act.

*Specificity:* The petitioner alleges that the program is specific because the loans are limited by law to a group of enterprises or industries under section 771(5A)(D)(i) of the Act.

*Support:* The petitioner provided the WTO Report;<sup>35</sup> an article on CFN's lending policies;<sup>36</sup> the CFN's Operating Rules on Direct Credit Development;<sup>37</sup> the CFN's Operating Rules on Financeable Activities;<sup>38</sup> the CFN's Mission, Vision, Values;<sup>39</sup> the BNF's Organic Law;<sup>40</sup> the BNF's Purchase of Machinery information;<sup>41</sup> the BNF's Credit Guidelines for Fishing and Small-Scale Fishing;<sup>42</sup> and the Competitiveness Improvement Plan for the Shrimp Sector.<sup>43</sup>

## 2. Export Credits from CFN

*Description:* The petitioner alleges that the CFN provides export credits at concessional rates through its DICOMEX program, which was established in July of 2009.<sup>44</sup> The petitioner contends that the export credits are available to finance export activities up to 20 percent of the value of the firm's assets. The petitioner provided information from the CFN that export financing rates are between 7.7 percent and 8.75 percent.<sup>45</sup> The petitioner alleges that these are preferential rates and points to the WTO Report which states that interest rates of 8.75 percent to 11.5 percent are preferential rates within Ecuador and may be up to 16.06 percent lower than commercial rates.<sup>46</sup>

*Financial Contribution:* The export credits provide a financial contribution in the form of a direct transfer of funds from state-owned banks, pursuant to section 771(5)(D)(i) of the Act.

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<sup>35</sup> See Petition at Volume III, Exhibit III-12.

<sup>36</sup> See Petition at Volume III, Exhibit III-13.

<sup>37</sup> See Petition at Volume III, Exhibit III-14.

<sup>38</sup> See Petition at Volume III, Exhibit III-15.

<sup>39</sup> See Petition at Volume III, Exhibit III-16.

<sup>40</sup> See Petition at Volume III, Exhibit III-17.

<sup>41</sup> See Petition at Volume III, Exhibit III-18.

<sup>42</sup> See Petition at Volume III, Exhibit III-19.

<sup>43</sup> See Petition at Volume III, Exhibit III-4.

<sup>44</sup> See Petition at Volume III (page 21), Exhibit III-12.

<sup>45</sup> See Petition Supplemental Response at 8-9 and Exhibit III-SQ-5.

<sup>46</sup> See Petition at Volume III, Exhibit III-12.

*Benefit:* The export credits provide a benefit equal to the difference between the amount the recipient paid on the loan and the amount the recipient would pay for a comparable commercial loan that it could actually obtain on the market, under section 771(5)(E)(ii) of the Act.

*Specificity:* The export credits are specific because they are contingent upon export performance under section 771(5A)(B) of the Act.

*Support:* The petitioner provided the WTO Report;<sup>47</sup> and an excerpt from CFN’s website “Pre- and post-Shipment Export Financing.”<sup>48</sup>

## C. Grant Programs

### 1. Funding under the National Agro-Industrial Development Plan

*Description:* The petitioner alleges that the GOE’s National Agro-Industrial Development Plan (NAIDP) allocates \$7.96 million to the development of twenty priority agro-industrial value chains, including over \$1 million supporting export platforms. The petitioner alleges that the NAIDP identifies frozen shrimp as a top value chain among those principally destined for export.

*Financial Contribution:* The government financing provides a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act.

*Benefit:* The program confers a benefit equal to the amount of the funding shrimp producers receive, under 19 CFR 351.504(a).

*Specificity:* The program is specific under 771(5A)(D)(i) because it is explicitly limited to a group of industries. Because the program identifies shrimp as a priority export value chain, the program is also specific because it is contingent on export performance under section 771(5A)(B) of the Act.

*Support:* The GOE’s National Agro-Industrial Development Plan.<sup>49</sup>

### 2. Exemption of Land Fees to Shrimp Farmers and Processors<sup>50</sup>

*Description:* The petitioner alleges that shrimp farmers receive land rent exemptions for land located in inter-tidal zones in Ecuador. The petitioner states that these inter-tidal zones are public areas which require a concession from the GOE and that concessions are granted for ten year periods, with renewal fees due on an annual basis. The petitioner contends that the GOE

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<sup>47</sup> Id.

<sup>48</sup> See Petition Supplemental Response at Exhibit III-SQ-5.

<sup>49</sup> See Petition at Volume III, Exhibit III-20.

<sup>50</sup> This program was originally alleged as “Provision of Land for Less than Adequate Remuneration.” The information on the record, however, (i.e., the exemption of payment on a set amount of land followed by required payment at set prices for the remainder of the land tract, rather than land being provided at less than adequate remuneration) only supports initiation an initiation with respect to land fee exemptions.

allows entities engaged in the “breeding and farming of bioaquatic species and short-term agricultural farming” to pay an annual land rent of “USD 0.00...for the first 10 hectares and USD 25.00 for each additional hectare.” Furthermore, the petitioner alleges that 16 percent of Ecuadorian shrimp farmers operate less than ten hectares, and, therefore, do not pay the GOE any fees for land rent.

*Financial Contribution:* The exemption of land rent fees are a financial contribution in the form of revenue forgone by the government under section 771(5)(D)(ii) of the Act.

*Benefit:* The program confers a benefit to the recipient in the amount of the land fee exemption under 19 CFR 351.509(a)(1).

*Specificity:* The GOE’s exemption of land rent to shrimp farmers is specific because it is limited by law to aquaculture under 771(5A)(D)(i) of the Act.

*Support:* The Fisheries and Aquaculture Department’s National Aquaculture Legislation Overview of Ecuador;<sup>51</sup> independent study “Economic Analysis of Trends in the Shrimp Cultivation Industry in Ecuador;”<sup>52</sup> Fisheries and Fisheries Development Law;<sup>53</sup> Regulations Pertaining to the Fisheries and Fisheries Development Law;<sup>54</sup> Decree No. 1391;<sup>55</sup> article Ecuador Shrimp Farmers Concerned About New Taxes;<sup>56</sup> and study by the World Rainforest Movement.<sup>57</sup>

## **D. Export Restraints**

### **1. Export Restraints on Raw and Unprocessed Shrimp**

*Description:* The petitioner alleges that the GOE imposes export restraints on raw and unprocessed shrimp. The petitioner alleges that the GOE’s policy to limit exports of raw and unprocessed shrimp provides a subsidy manifested through: 1) the GOE’s prohibition of exports of shrimp caught or harvested by foreign firms;<sup>58</sup> 2) the GOE’s mandate that domestic demand be met at fixed quotas established by the GOE prior to firms eligibility to export;<sup>59</sup> and, 3) the imposition of minimum reference prices on exports of raw and unprocessed shrimp.<sup>60</sup> The petitioner alleges that these restrictions and limitations create a larger supply of raw and unprocessed shrimp available to shrimp producers and processors in Ecuador than would

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<sup>51</sup> See Petition at Volume III, Exhibit III-21.

<sup>52</sup> See Petition at Volume III, Exhibit III-22.

<sup>53</sup> See Petition at Volume III, Exhibit III-5.

<sup>54</sup> See Petition at Volume III, Exhibit III-7.

<sup>55</sup> See Petition Supplemental Response at Exhibit III-SQ-7.

<sup>56</sup> See Petition Supplemental Response at Exhibit III-SQ-8.

<sup>57</sup> See Petition Supplemental Response at Exhibit III-SQ-9.

<sup>58</sup> See Petition Supplemental Response at 12 and Petition at Volume III, Exhibit III-12.

<sup>59</sup> See Petition Supplemental Response at 13-14 and Petition at Volume III, Exhibits III-5 and III-7.

<sup>60</sup> See Petition Supplemental Response at 14 and Petition at Volume III, Exhibits III-12 and III-23.

otherwise be available, thereby keeping prices for raw and unprocessed shrimp below world market prices.

*Financial Contribution:* The petitioner alleges that the GOE's export restrictions on raw and unprocessed shrimp provide a financial contribution within the meaning of sections 771(5)(B)(iii) and (5)(D)(iii) of the Act because the GOE entrusts or directs input producers to provide the input to downstream producers.

*Benefit:* The petitioner alleges that the GOE's export restrictions on raw and unprocessed shrimp confer a benefit within the meaning of section 771(5)(E)(iv) of the Act in the amount of the difference in the artificially suppressed domestic prices and commercial benchmark prices of raw and unprocessed shrimp.

*Specificity:* The petitioner alleges that the export restrictions are specific as a matter of law under section 771(5A)(D)(i) of the Act because they are restricted to fishery products, the primary users of which are fish processors.

*Support:* The WTO Report;<sup>61</sup> the Fishery Law;<sup>62</sup> the Food and Agriculture Organization's National Aquaculture Legislation Overview of Ecuador;<sup>63</sup> independent study "Economic Analysis of Trends in the Shrimp Cultivation Industry in Ecuador;"<sup>64</sup> Mangrove Action Project's "Pescanova Acquires Two Domestic Shrimp Companies;"<sup>65</sup> Regulations Pertaining to the Fisheries and Fisheries Development Law;<sup>66</sup> Export Requirements and Procedures;<sup>67</sup> Aquaculture Reference Prices Bulletin; price calculation worksheet provided by the petitioner;<sup>68</sup> Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination, 72 FR 60642 (October 25, 2007) ("CFS from Indonesia"); Final Affirmative Countervailing Duty Determination: Fresh and Chilled Atlantic Salmon from Norway, 56 FR 7678 (February 25, 1991); and Certain Magnesia Carbon Bricks From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 75 FR 45472 (August 2, 2010).

## II. ALLEGED PROGRAMS ON WHICH THE DEPARTMENT IS NOT INITIATING AN INVESTIGATION

### 1. Tax Incentives for Special Economic Development Zones

*Description:* The petitioner alleges that the GOE provides tax incentives to enterprises located in Special Economic Development Zones (ZEDEs). The petitioner alleges that benefits to firms operating within a ZEDE include: 1) a five percentage point reduction in corporate income tax;

<sup>61</sup> See Petition at Volume III, Exhibit III-12.

<sup>62</sup> See Petition at Volume III, Exhibit III-5.

<sup>63</sup> See Petition at Volume III, Exhibit III-21.

<sup>64</sup> See Petition at Volume III, Exhibit III-22.

<sup>65</sup> See Petition at Volume III, Exhibit III-3

<sup>66</sup> See Petition at Volume III, Exhibit III-7

<sup>67</sup> See Petition at Volume III, Exhibit III-23.

<sup>68</sup> See Petition at Volume III, Exhibit III-24 and Petition Supplemental Response at Exhibit III-SQ-11.



2) a 0% VAT rate on imports; 3) a tax credit for the VAT paid on services, supplies, and raw materials for the production process; and 4) an exemption from the tax on payments made to foreign financial institutions for foreign loans.”<sup>69</sup> The petitioner also alleges that firms registered in free zones (a predecessor program replaced by establishment of ZEDEs) prior to 1999, and still in operation, are able to continue enjoying tax exemptions through 2019 and are able to continue their activities under the operational framework of the ZEDEs as established in the Production Code.<sup>70</sup>

*Financial Contribution:* The tax incentives are a financial contribution in the form of revenue forgone by the government under section 771(5)(D)(ii) of the Act.

*Benefit:* The program provides a benefit to the recipient in the amount of the tax savings under 19 CFR 351.509(a)(1) and 19 CFR 351.510(a)(1). The program also provides a benefit under 19 CFR 351.518(a)(1) regarding the program’s VAT exemptions.

*Specificity:* The tax incentives provided are specific under section 771(5A)(D)(iv) of the Act because they are limited to enterprises located in designated geographical regions. The program is specific within the meaning of section 771(5A)(B) of the Act because the incentives are contingent upon export.

*Support:* The Production Code;<sup>71</sup> the WTO Report;<sup>72</sup> presentation slides from the Ministry of Coordination of Production, Employment, and Productivity;<sup>73</sup> and the World Bank’s Doing Business in Ecuador.<sup>74</sup>

*Recommendation:* We asked the petitioner to identify shrimp producers and/or processors located in ZEDEs. The petitioner was unable to identify any shrimp producers or processors located either in ZEDEs or in the predecessor “free zones.” Therefore, we recommend not initiating an investigation with respect to this alleged subsidy program.

## 2. Loan Guarantees for Equipment Upgrades

*Description:* The petitioner alleges that the GOE’s Competitiveness Improvement Plan for the Shrimp Sector identifies the provision of government loan guarantees as a tool to help the shrimp industry secure financing for upgrades to shrimp pond machinery.<sup>75</sup> Specifically, the petitioner states that the GOE’s plan aims to benefit 2,000 shrimp operations, cover 70-100 percent of the costs of the equipment upgrades, achieve interest rates between 5-8 percent, and provide loan terms of one to five years with grace periods of up to one year.<sup>76</sup> The petitioner alleges that the

<sup>69</sup> See Petition at Volume III (page 14), Exhibit III-11.

<sup>70</sup> See Petition at Volume III (page 13-14), Exhibit III-12.

<sup>71</sup> See Petition at Volume III, Exhibit III-9.

<sup>72</sup> See Petition at Volume III, Exhibit III-12.

<sup>73</sup> See Petition at Volume III, Exhibit III-11.

<sup>74</sup> See Petition at Volume III, Exhibit III-8.

<sup>75</sup> See Petition at Volume III, Exhibit III-4.

<sup>76</sup> *Id.*





## Attachment I

### Scope of the Investigations

The scope of these investigations is certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,<sup>79</sup> deveined or not deveined, cooked or raw, or otherwise processed in frozen form, regardless of size.

The frozen warmwater shrimp and prawn products included in the scope, regardless of definitions in the Harmonized Tariff Schedule of the United States (“HTSUS”), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope. In addition, food preparations (including dusted shrimp), which are not “prepared meals,” that contain more than 20 percent by weight of shrimp or prawn are also included in the scope.

Excluded from the scope are: (1) Breaded shrimp and prawns; (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled; (4) shrimp and prawns in prepared meals; (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns; and (7) certain “battered shrimp” (see below).

“Battered shrimp” is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a “dusting” layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product’s total weight after being dusted, but prior to being frozen; and (5) that is subjected to individually quick frozen (“IQF”) freezing immediately after application of the dusting layer. When dusted in accordance with the definition of dusting

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<sup>79</sup> “Tails” in this context means the tail fan, which includes the telson and the uropods.

above, the battered shrimp product is also coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products included in the scope of these investigations are currently classified under the following HTSUS subheadings: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30 and 1605.29.10.10. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope is dispositive.

## Attachment II

### Analysis of Industry Support for the Petitions Covering Certain Frozen Warmwater Shrimp from the People's Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam

#### Background

Section 702(c)(4)(A) of the Tariff Act of 1930, as amended (“the Act”), states that the administering authority shall determine that a petition has been filed by or on behalf of the industry if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. The Petitions<sup>80</sup> provide data supporting a finding that the petitioner’s<sup>81</sup> share is at least 25 percent of total production of the domestic like product and more than 50 percent of the domestic like product production of those producers expressing support for, or opposition to, the Petitions.

Section 771(4)(A) of the Act defines the “industry” as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the Act directs the Department of Commerce (“the Department”) to look to producers and workers who produce the domestic like product. The United States International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate

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<sup>80</sup> Petitions for the Imposition of Countervailing Duties on Certain Frozen Warmwater Shrimp from the People’s Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand and the Socialist Republic of Vietnam, filed December 28, 2012 (collectively, “Petitions”).

<sup>81</sup> The petitioner is the Coalition of Gulf Shrimp Industries (“the petitioner”). The members of the Coalition of Gulf Shrimp Industries are: Bayou Shrimp Processors, Inc.; Bluewater Shrimp Company, Inc.; Carson & Co., Inc.; C.F. Gollott & Sons Seafood, Inc.; Dean Blanchard Seafood, Inc.; Dominick Seafood; Fisherman’s Reef Packing Plant; Golden Gulf Coast Pkg. Co., Inc. (and Gollott’s Oil Dock & Ice House); Graham Fisheries, Inc.; Graham Shrimp, Inc.; Gulf Crown Seafood Co., Inc.; Gulf Fish Inc.; Gulf Island Shrimp & Seafood, LLC; Gulf Pride Enterprises, Inc.; Hi-Seas of Dulac, Inc.; Indian Ridge Shrimp Co.; JBS Packing Co., Inc.; Lafitte Frozen Foods Corp.; M&M Shrimp (Biloxi Freezing and Processing); Ocean Springs Seafood Market, Inc.; Paul Piazza & Sons, Inc.; R.A. Lesso Brokerage Co., Inc.; Sea Pearl Seafood Co., Inc.; Smith and Sons Seafood; Tideland Seafood Co., Inc.; Tommy’s Seafood; Vincent Piazza & Sons Seafood, Inc.; Wood’s Fisheries; David Chauvin’s Seafood Company, LLC; Mariah Jade Shrimp Company LLC; and Rountree Enterprises, Inc. (dba Leonard & Sons Shrimp Co. and R&R Fisheries). See Volume I of the Petitions, at Exhibit I-1, and “Amendment to Petitions for the Imposition of Countervailing Duties on Certain Frozen Warmwater Shrimp from the People’s Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam – Notice of Additional Processors in Petitioner Association,” dated January 4, 2013 (“Petitioner Association Amendment”), at Exhibit 1; see also “Petitioner’s Response to the Thai Producers’ Comments on Industry Support”, dated January 15, 2013 (“Petitioner’s January 15 Response”), at 14 and Exhibit 4.

and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>82</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation,” *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition. With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigations.

The petitioner requests that the Department “define the domestic like product as co-extensive with the frozen warmwater shrimp that is the subject of the existing antidumping duty orders (including dusted shrimp).”<sup>83</sup> The petitioner notes that, the ITC, at the request of the Ad Hoc Shrimp Trade Action Committee, <sup>84</sup> the petitioner for antidumping orders<sup>85</sup> on the same product, used the “semifinished products” like product analysis to include fresh shrimp in the domestic like product in those antidumping proceedings;<sup>86</sup> however, the petitioner is not requesting that the Department or the ITC include fresh warmwater shrimp in the definition of the domestic like product in these petitions.<sup>87</sup>

We note that the petitioner's domestic like product definition in the Petitions is consistent with the domestic like product defined in our industry support analysis in the antidumping proceedings involving the same merchandise.<sup>88</sup> In those proceedings, we “determined there is a single domestic like product, frozen and canned warmwater shrimp.”<sup>89</sup> In its final

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<sup>82</sup> See USEC, Inc. v. United States, 132 F. Supp. 2d 1, 8 (CIT 2001), (citing Algoma Steel Corp. Ltd. v. United States, 688 F. Supp. 639, 644 (CIT 1988), aff'd 865 F.2d 240 (Fed. Cir. 1989)).

<sup>83</sup> See Volume I of the Petitions, at I-6.

<sup>84</sup> The petitioners in the antidumping duty petitions were the Ad Hoc Shrimp Trade Action Committee, a different coalition of petitioners than the ones who filed the countervailing duty petitions at issue here.

<sup>85</sup> See Notice of Initiation of Antidumping Duty Investigations: Certain Frozen and Canned Warmwater Shrimp from Brazil, Ecuador, India, Thailand, the People's Republic of China and the Socialist Republic of Vietnam, 69 FR 3876 (January 27, 2004).

<sup>86</sup> In the antidumping petitions, the Ad Hoc Shrimp Trade Committee requested that section 771(4)(E) of the Act be used to include the fresh shrimp producers for injury purposes. The ITC ultimately included fresh shrimp in the domestic like product definition under the “semifinished products” analysis. See Certain Frozen or Canned Warmwater Shrimp and Prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam, Inv. Nos. 731-TA-1063-1068 (Prelim), USITC Pub. 3672 (February 2004) (“Shrimp AD Injury Investigation Prelim”), at 13-14; and Certain Frozen or Canned Warmwater Shrimp and Prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam, Inv. Nos. 731-TA-1063-1068 (Final), USITC Pub. 3748 (January 2005) (“Shrimp AD Injury Investigation Final”), at 6.

<sup>87</sup> See Volume I of the Petitions, at I-4 and I-5, and General Issues Supplement to the Petitions, dated January 9, 2013 (“General Issues Supplement”), at Exhibit I-SQ-1; see also Shrimp AD Injury Investigation Prelim, at 13-14, and Shrimp AD Injury Investigation Final, at 6.

<sup>88</sup> See Volume I of the Petitions, at Exhibit I-4 (“AD Investigation Initiation Checklist: Certain Frozen and Canned Warmwater Shrimp from Thailand” (January 20, 2004) (“AD Initiation Checklist”), Attachment I at 3).

<sup>89</sup> See Volume I of the Petitions, at Exhibit I-4 (AD Initiation Checklist, Attachment I, at 3).

determination, the ITC found that canned warmwater shrimp constituted a separate domestic like product and determined that the domestic industry producing canned warmwater shrimp was not materially injured or threatened with material injury by reason of the subject imports.<sup>90</sup> The petitioner has not included canned warmwater shrimp in the domestic like product or scope in these Petitions. Furthermore, the petitioner has specifically included “dusted shrimp” in the scope and domestic like product definitions, consistent with the amended antidumping duty orders and revised scope language the Department issued pursuant to a remand redetermination that was affirmed by the Court of International Trade.<sup>91</sup> In addition, we note that in the antidumping duty proceedings the ITC found that all forms of certain frozen warmwater shrimp covered by the scope of the investigations (with the exception of canned warmwater shrimp, as discussed above), were part of the same domestic like product.<sup>92</sup> Based on our analysis of the information submitted in the Petitions, we have determined that the domestic like product consists of certain frozen warmwater shrimp (“frozen shrimp”), as defined in the scope of the Petitions.

### Industry Support Calculation

In determining whether the petitioner has standing (*i.e.*, those domestic workers and producers supporting the Petitions account for (1) at least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions), we conducted the following analysis.

We considered the industry support data contained in the Petitions with reference to the domestic like product as defined in Attachment I, “Scope of the Investigations,” to this Checklist and discussed in detail above. The petitioner established the universe of producers based on its knowledge of the industry and information from the ITC’s Sunset Review.<sup>93</sup>

To establish industry support, the petitioner provided the production volume of the domestic like product for calendar year 2011 for each of its member companies, as well as data from the National Oceanic and Atmospheric Administration (“NOAA”) on the volume of frozen shrimp produced in the United States in 2011.<sup>94</sup>

The petitioner collected the 2011 production of the domestic like product from its member companies in “headless, shell-on” weight.<sup>95</sup> To calculate total U.S. production of the domestic

<sup>90</sup> See Shrimp AD Injury Investigation Final, at 11 and 45.

<sup>91</sup> See Certain Frozen Warmwater Shrimp from Brazil, India, the People’s Republic of China, Thailand, and the Socialist Republic of Vietnam: Amended Antidumping Duty Orders in Accordance with Final Court Decision, 76 FR 23277 (April 26, 2011).

<sup>92</sup> See Shrimp AD Injury Investigation Prelim, at 6 and Shrimp AD Injury Investigation Final, at 11.

<sup>93</sup> See Volume I of the Petitions, at I-4 and Exhibit I-2; and General Issues Supplement, at Exhibit I-SQ-2.

<sup>94</sup> See Volume I of the Petitions, at I-6 and I-7, Exhibits I-5 through I-7, and I-21; Petitioner Association Amendment, at Exhibit 1; and General Issues Supplement, at 2-6 and Exhibits I-SQ-4 through I-SQ-11.

<sup>95</sup> See Volume I of the Petitions, at Exhibits I-6 and I-21; and General Issues Supplement, at Exhibit I-SQ-4 through I-SQ-6 and Exhibit I-SQ-13.

like product in 2011, the petitioner obtained data from NOAA's annual survey of shrimp processors on the volume and value of frozen shrimp produced in the United States.<sup>96</sup> The data the petitioner received from NOAA includes all forms of frozen shrimp processed in 2011, both warmwater and coldwater, in headless, shell-on weight, but excludes breaded shrimp, battered products, and egg rolls (all products that are not included in the scope or domestic like product).<sup>97</sup> The petitioner used data on landings of coldwater shrimp, also from NOAA, to adjust the data on frozen shrimp to reflect only processing of warmwater shrimp. Specifically, the petitioner obtained data from the "Fisheries of the United States 2011" publication of the National Marine Fisheries Service ("NMFS"), a division of NOAA, on "U.S. Commercial Landings" of coldwater shrimp.<sup>98</sup> As the Department concluded in its analysis of industry support for the AD investigations of frozen shrimp, since "coldwater shrimp are generally sold cooked and peeled, it is reasonable to infer that all landings of coldwater shrimp are processed."<sup>99</sup> Because the data in the NMFS publication are reported in "whole (live) weights," the petitioner converted the data on coldwater landings to headless, shell-on weight using the conversion identified in the NMFS report (0.57 for coldwater shrimp).<sup>100</sup> The petitioner deducted headless, shell-on weight of coldwater landings from the headless, shell-on weight of all frozen shrimp processed to derive the total 2011 production of the domestic like product, in headless, shell-on weight.<sup>101</sup> The petitioner notes that this methodology for calculating total production of the domestic like product is consistent with the methodology used by the Department in the prior antidumping investigations on frozen shrimp.<sup>102</sup>

Based on our conversations with NOAA, we obtained revised data on the volume and value of frozen shrimp produced in the United States and updated the denominator of the industry support calculation.<sup>103</sup> We compared the petitioner's production volume of the domestic like product to the total production volume of the domestic like product in 2011. Based on this comparison, the petitioner accounts for [ ] percent of total production of the domestic like product.<sup>104</sup>

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<sup>96</sup> On January 11 and 15, 2013, we discussed the data provided by NOAA to the petitioner with NOAA officials. NOAA officials described their survey methodology and discussed the data that they provided to the petitioner, including the conversions they used to calculate the headless, shell-on weight of the different products. We confirmed that the frozen processed shrimp data provided in the Petitions are the data NOAA gave to the petitioner. As a result of our conversations, NOAA provided revised 2011 data on frozen processed shrimp production. See Memorandum to the File from Vicki Flynn Regarding National Oceanic and Atmospheric Administration ("NOAA") Statistics, dated January 15, 2013 ("NOAA Statistics Memo").

<sup>97</sup> See Volume I of the Petitions, at I-6 and Exhibit I-5.

<sup>98</sup> See Volume I of the Petitions, at I-6 and Exhibits I-6 and I-7.

<sup>99</sup> See Volume I of the Petitions, at Exhibit I-4 (AD Initiation Checklist, Attachment I at 32 and footnote 31).

<sup>100</sup> See Volume I of the Petitions, at Exhibits I-6 and I-7.

<sup>101</sup> See Volume I of the Petitions, at Exhibit I-6; and General Issues Supplement, at Exhibit I-SQ-11.

<sup>102</sup> See Volume I of the Petitions, at I-6 and Exhibit I-4 (AD Initiation Checklist, Attachment I at 31-33).

<sup>103</sup> See NOAA Statistics Memo; see also Table 1, below.

<sup>104</sup> See General Issues Supplement, at Exhibit I-SQ-11 and Petitioner's January 15 Response, at Exhibit 2; see also, Table 1 below. At our request, the petitioner also provided an alternate calculation of industry support. See General Issues Supplement, at Exhibit I-SQ-10. For purposes of this alternate calculation, the petitioner identified the members of the Coalition of Gulf Shrimp Industries that do not report data to NOAA in the survey of shrimp processors. See General Issues Supplement, at Exhibit I-SQ-10. The petitioner added the production volume of its members that do not report data to NOAA to the denominator of the industry support calculation and demonstrated that the petitioner still has the requisite industry support. See General Issues Supplement, at Exhibit I-SQ-10.



**Table 1**  
**Calculation of Industry Support**

		<b>2011 Production (in headless, shell-on pounds)</b>
A	Coalition of Gulf Shrimp Industries (the petitioner)	[ ]105
B	NOAA 2011 Frozen Shrimp Production	
	Headless	44,847,265
	Whole	14,251,917
	Peeled Meat	100,493,432
	Peeled and Deveined	37,347,585
	Peeled Cooked Meat	21,948,130
	Peeled Cooked Deveined	5,559,444
	Misc Frozen Cooked Products	7,882,305
	<b>Total</b>	232,330,079106
C	2011 U.S. Commercial Landings of Coldwater Shrimp (converted to headless, shell-on weight using a conversion factor of 0.57)	44,723,340107
B-C = D	<b>Total 2011 U.S. Frozen Warmwater Shrimp Production</b>	187,606,739
(A/D)*100	<b>Total Industry Support</b>	[ ]%

However, the petitioner also argues that NOAA adjusts its data to account for non-participation; therefore, no adjustment to NOAA data or the denominator of the industry support calculation is necessary. See General Issues Supplement, at 4-5 and Exhibits I-SQ-7 through I-SQ-9. NOAA officials confirmed that they use estimation methods to account for companies that do not respond to the survey. See NOAA Statistics Memo. We discussed with NOAA officials how they account for missing data and are satisfied that their methodology is reasonable. Nevertheless, to be conservative, we 1) updated the numerator of the alternate industry support calculation to include the production of one additional processor that joined the petitioning coalition (the revised numerator is [ ]; see Table 1 below), 2) revised the denominator of the alternate industry support calculation to incorporate the revised data provided by NOAA (the revised number is 187,606,739; see Table 1 below), and 3) added the production of the members of the Coalition of Gulf Shrimp Industries that do not report data to NOAA ([ ]; see General Issues Supplement, at Exhibit I-SQ-10) to the denominator of the alternate industry support calculation. Using these updated data, the revised alternate industry support calculation is: [ ]/(187,606,739 + [ ]) = [ ]%. Even under this calculation, which may double count the production of non-responding processors for which NOAA makes an estimate, the petitioner still achieves the requisite level of industry support. 105 See General Issues Supplement, at Exhibit I-SQ-6; see also Petitioner's January 15 Response, at Exhibits 2 and 4.

106 See Volume I of the Petitions, at Exhibit I-5; see also NOAA Statistics Memo.

107 See Volume I of the Petitions, at Exhibits I-6 and I-7.

## Challenge to Industry Support

### A. Definition of the Domestic Like Product

On January 11, 2013, the Royal Thai Government (“RTG”)<sup>108</sup> raised concerns about industry support during its consultations with the Department. The RTG noted that the previous antidumping petitions were supported by U.S. fishermen and some processors, but the current Petitions were filed and supported by only processors.

On January 14, 2013, the Government of India (“GOI”)<sup>109</sup> also raised concerns about industry support during its consultations with the Department. In its January 16, 2013, submission (“GOI January 16 Submission”), the GOI contends that, consistent with the ITC determinations regarding the previous antidumping proceedings, the domestic like product should include fresh warmwater shrimp, and therefore, the domestic industry should also include “shrimp farmers.”<sup>110</sup>

On January 14, 2013, Marine Gold Products Limited, Thai Union Frozen Products Public Co., Ltd., Thai Union Seafood Co., Ltd., Pakfood Public Company Limited, and Thai Royal Frozen Food Co., Ltd. (hereinafter, “Thai Respondents”), producers and exporters of subject merchandise, filed a submission challenging industry support (“Thai Respondents’ January 14 Submission”). The Thai Respondents contend that the petitioner did not present any argument or reasonable basis for excluding from the domestic like product definition fresh warmwater shrimp, which was included in the ITC’s domestic like product analysis in previous antidumping proceedings; therefore, the petitioner should have included fresh warmwater shrimp in its industry support calculation. In their submission, the Thai Respondents state that the Department “relied on” the section 771(4)(E) provision in the initiation of the antidumping investigation of certain frozen and canned warmwater shrimp and considered shrimp processors and shrimp harvesters to be the collective domestic industry for purposes of determining industry support.<sup>111</sup> The Thai Respondents submit that if the production of warmwater shrimp harvesters and U.S. domestic landings were included in the support calculation, the petitioner would not meet the 50 percent threshold for industry support required to initiate the investigations. Furthermore, the Thai Respondents argue that the Department should poll the industry and, if polling does not establish the requisite level of industry support, dismiss the Petitions.

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<sup>108</sup> See Memorandum to the File from Mark Hoadley Regarding Consultations with Officials from the Royal Thai Government on the Countervailing Duty Petition regarding Frozen Warmwater Shrimp, dated January 11, 2013.

<sup>109</sup> See India Ex-Parte Memorandum, “Consultations with Officials from the Government of India on the Countervailing Duty Petition on Certain Frozen Warmwater Shrimp from India” (January 17, 2013).

<sup>110</sup> See “Comments on the CVD Petition on Certain Frozen Warm Water Shrimp” Submitted by Government of India on behalf of the Marine Products Exports Development Authority, dated January 16, 2013 (“GOI January 16 Submission”).

<sup>111</sup> See Thai Respondents’ January 14 Submission, at 3.



The Department received an additional submission challenging industry support on January 16, 2013, from The Seafood Exporters Association of India and its members (“Indian Respondents”), an association of foreign producers and exporters of subject merchandise. In their submission (“Indian Respondents’ January 16 Submission”), the Indian Respondents posit that the Petitions are “critically flawed” in that definitions of the domestic industry and domestic like product are “not compatible” and the industry support calculations are “erroneous.”<sup>112</sup> Referencing the section 771(4)(E) provision that was applied in the antidumping proceedings, the Indian Respondents submit that this provision should be applied in the domestic like product and domestic industry analysis for these Petitions. Specifically, they note that this agricultural provision “allows inclusion of the producers of a raw agricultural product in the definition of the {domestic} industry. . .if. . .there is a coincidence of economic interest” and contend that “economic interest coincides” in these Petitions, as made evident by the petitioner’s discussion of the economic interests of both fishermen and processors.<sup>113</sup> Moreover, the Indian Respondents argue that, since the ITC included fresh warmwater shrimp in its domestic like product definition in the antidumping proceedings, fresh warmwater shrimp should also be defined (along with frozen warmwater shrimp) as the domestic like product in these Petitions. As the Indian Respondents contend, the petitioner’s industry support calculation is not adequate without taking into account fresh warmwater shrimp production. In order to accurately calculate industry support, the Indian Respondents submit that the Department should poll the industry.<sup>114</sup>

The petitioner responded to the Thai Respondents’ January 14 Submission on January 15, 2013.<sup>115</sup> The petitioner also responded to the GOI’s letter on January 17, 2013.<sup>116</sup> In its January 15 submission, the petitioner notes that the Thai Respondents do not address any of the six factors typically examined when defining domestic like product and instead base their arguments on definitions of domestic like product from the earlier antidumping proceedings. First, the petitioner states that the Department and ITC are not bound by prior domestic like product determinations made in the antidumping proceedings, and thus, are not obligated to adopt the same definitions.<sup>117</sup> The petitioner highlights the fact that, unlike in the antidumping proceedings, the petitioner did not request to define the domestic like product under section 771(4)(E) of the Act in these Petitions. As explained by the petitioner, the purpose of section 771(4)(E) is to “ensure that {domestic} producers of raw agricultural products could bring petitions for relief from imports of processed agricultural goods” even if domestic processors do not provide support.<sup>118</sup> The petitioner emphasizes that this provision “was not enacted, and should not be used, to make it more difficult for domestic producers {of agricultural products} to obtain relief from unfairly traded imports. . . .”<sup>119</sup> Moreover, the petitioner argues that while

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112 See Indian Respondents’ January 16 Submission, at 3-4.

113 See id., at 5.

114 See id., at 6.

115 See Petitioner’s January 15 Response, at 2.

116 See Petitioner’s January 17 Response, at 2-3. In its response to the GOI’s letter, the petitioner reiterated the arguments it made in its January 15 Response.

117 See id., at 5-6.

118 See id., at 7.

119 Id.

the ITC “ultimately relied on a semi-finished product analysis to include fresh shrimp in the domestic like product,” the ITC’s reliance on the semi-finished domestic like product provision was “in response to petitioners’ request to include fishermen in the domestic industry.”<sup>120</sup> Furthermore, the petitioner contends that the ITC’s determinations in the antidumping proceedings were made under different facts and data and that the facts in the current Petitions do not warrant expanding the domestic like product beyond frozen shrimp to include fresh shrimp.

Second, the petitioner posits that, in their claim that the Department “relied on” the section 771(4)(E) provision, the Thai Respondents have “significantly distorted” statements from the Department’s initiation memo in the antidumping proceedings.<sup>121</sup> The petitioner notes the Department did not, in fact, make a determination on whether or not to include fresh shrimp in the domestic industry and analyzed support “under both scenarios (processors only and processors plus fishermen).”<sup>122</sup> According to the petitioner, the Department concluded that both industry support calculations met the required thresholds, but stopped short of finding that it was necessary to include the production of shrimp fishermen in the industry support calculation.

Third, the petitioner reiterates its discussion about section 771(4)(E) of the Act and the fact that relying on this provision would not only be “contrary to legislative intent,” but also “inconsistent” with prior Department proceedings and would yield “absurd results and thus be unreasonable and inappropriate” in these Petitions.<sup>123</sup> According to the petitioner, the Thai Respondents failed to identify any prior case proceeding in which the section 771(4)(E) provision was applied without a petitioner’s request for the provision’s application. Moreover, as the petitioner contends, applying this provision when the petitioner has not requested its application would create a “unique obstacle” and prove burdensome for domestic processors of agricultural products by requiring them to “demonstrate industry support not only among producers of the domestic like product but also among producers of inputs to that product.”<sup>124</sup> Per the petitioner, no other industry has such industry support petition requirements and the Thai Respondents cited no case precedents for such a requirement.

The petitioner contends that even if the domestic like product was defined as frozen and fresh shrimp, and thus the domestic industry encompassed processors and fishermen, the petitioner (and the fishermen supporting the petition) would still meet the 50% support threshold for industry support. To support this assertion, the petitioner obtained support statements for the Petitions from shrimp fishermen and calculated the industry support percentage by dividing the total production of the petitioner and landings of supporting fishermen by the NOAA total domestic production of the frozen shrimp producers and domestic landings of fresh shrimp producers.<sup>125</sup> Although the petitioner provided this alternative calculation, the petitioner again

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<sup>120</sup> See id., at 6.

<sup>121</sup> See id., at 8.

<sup>122</sup> See id., at 9.

<sup>123</sup> See id., at 10.

<sup>124</sup> See id., at 13.

<sup>125</sup> See id., at 13-14, and Exhibits 2 through 4.

submits that it is not requesting that fresh shrimp be included in the Department’s and ITC’s domestic like product definition nor in the Department’s industry support determination.

Finally, the petitioner notes that no domestic interested party has expressed opposition to the Petitions, and as such, the Department should reject the Thai Respondents’ arguments and initiate the investigations. The petitioner again submits that the domestic like product should be defined as coextensive with the scope of the Petitions (i.e., frozen shrimp) and that, for injury and standing determinations, the domestic industry should be limited to producers of frozen shrimp.<sup>126</sup>

**Department’s Position:**

With regard to claims made by the RTG, GOI, Thai Respondents, and Indian Respondents on the petitioner’s definition of the domestic like product, as noted above, in the previous antidumping duty investigations of frozen warmwater shrimp we did not include fresh shrimp in our definition of the domestic like product, but “determined there is a single domestic like product, frozen and canned warmwater shrimp.”<sup>127</sup>

With respect to the ITC’s inclusion of fresh shrimp in the domestic like product definition in the antidumping investigations, as a primary matter it is significant to note that those were different proceedings, and the ITC is a different administrative authority. Accordingly, despite the statements by some of those submitting comments, the Department is not “bound” by the ITC’s inclusion of fresh shrimp in its definition of the domestic like product in those proceedings in these investigations.

In fact, the Department and the ITC apply the statutory definition of “domestic like product” found in section 771(10) of the Act for different purposes and pursuant to separate and distinct analyses. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>128</sup> In the previous antidumping petitions, as discussed above, the Ad Hoc Shrimp Trade Action Committee (a different petitioning coalition than the petitioner in the countervailing duty petitions) requested the ITC include fresh shrimp in the domestic like product definition and examine injury to the producers of fresh shrimp, as well as the processors of certain frozen warmwater shrimp. As a result, we also examined whether there was industry support for the AD Petitions if the producers of fresh shrimp (i.e., the shrimp fishermen) were included in the industry support calculation under section 771(4)(E) of the Act (the “agricultural provision”), which provides that the producers or growers of the raw agricultural product may be considered part of the industry producing the processed product if certain conditions are met. In our industry support analysis for the antidumping duty investigations of frozen warmwater shrimp, we noted that “the share of total estimated U.S. production of the domestic like product in calendar year 2002 represented by

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126 See *id.*, at 14-15.

127 See Volume I of the Petitions, at Exhibit I-4 (AD Initiation Checklist, Attachment I, at 3).

128 See *USEC*, 132 F. Supp. 2d at 8.

the Petitioner and the supporting domestic producers equal {sic} over 50 percent of total domestic production regardless of whether harvesters are included.”<sup>129</sup> In those investigations, since the Ad Hoc Shrimp Trade Action Committee was arguing that injury to the shrimp fishermen be analyzed along with injury to the processors of certain frozen warmwater shrimp, we analyzed industry support both ways (including and excluding the shrimp fishermen) and found that the AD Petitions had the requisite level of industry support for initiation of the investigations either way. The facts are not the same in these CVD Petitions. In these Petitions, the petitioner has not requested that fresh shrimp be included in the domestic like product for any purpose and has not invoked the industry support provision under section 771(4)(E) of the Act.<sup>130</sup> Furthermore, as noted in the “Industry Support Calculation” section above, the industry support calculation methodology we are using here is the same as the methodology we used in the initiation of the AD investigations involving the same merchandise.<sup>131</sup>

In addition, the RTG, GOI, Thai Respondents, and Indian Respondents do not cite to any instances where the Department has expanded the definition of the domestic industry when the petitioner consisted solely of processors who did not request that the agricultural provision be applied. In cases where the Department has applied the agricultural provision, we have done so at the request of the petitioners because the petitioners included growers.<sup>132</sup> The agricultural provision exists to permit producers of raw agricultural products to have standing to petition for relief from imports of processed agricultural products in the absence of sufficient support from domestic processors. It does not exist to limit the ability of processors to petition for the same relief merely because they are processors.<sup>133</sup> Applying the agricultural provision in this case would be contrary to the Department’s consistent prior practice with respect to this provision. In addition, as the petitioner notes, if we were to require processors of agricultural products to prove industry support within the processing industry, as well as the combined processing and growing industry, in every case, we would impose a burden on processors of agricultural products that does not apply to any other industry. We agree with the petitioner that “{n}o other industry is required to demonstrate industry support not only among producers of the domestic like product but also among producers of inputs to that product. There is no basis in the statute or otherwise to create such a unique obstacle for producers of processed agricultural goods that seek relief from unfairly traded imports.”<sup>134</sup>

The statute compels us to make a determination of like product for purposes of these initiations based on the relevant facts on the record of these proceedings.<sup>135</sup> In these Petitions, the

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<sup>129</sup> See Volume I of the Petitions, at Exhibit I-4 (AD Initiation Checklist, Attachment I, at 37).

<sup>130</sup> See Volume I of the Petitions, at I-5.

<sup>131</sup> See Volume I of the Petitions, at I-6 and Exhibit I-4 (AD Initiation Checklist, Attachment I at 31-33).

<sup>132</sup> See, e.g., Notice of Initiation of Antidumping Duty Investigation: Certain Orange Juice from Brazil, 70 FR 7233, 7234 (February 11, 2005).

<sup>133</sup> See Petitioner’s January 15 Response, at 10-11; see also S. Rep. No. 100-71 at 109 (1987), and H. Rep. No. 100-40, pt. 2 at 111 (1987).

<sup>134</sup> See Petitioner’s January 15 Response, at 13.

<sup>135</sup> See Notice of Initiation of Antidumping Duty Investigations: Magnesium Metal from the People’s Republic of China and the Russian Federation, 69 FR 15293, 15295 (March 25, 2004); Notice of Initiation of Antidumping Duty Investigation: Certain Orange Juice from Brazil, 70 FR 7233, 7234 (February 11, 2005); Notice of Initiation of

petitioner has defined the domestic like product as coextensive with the proposed scope, which only covers frozen warmwater shrimp. Aside from citing to antidumping investigations of frozen warmwater shrimp, the RTG, GOI, Thai Respondents, and Indian Respondents make no substantive arguments as to why fresh shrimp should be considered part of the same domestic like product that encompasses frozen warmwater shrimp. Furthermore, as discussed below, we believe that the data used for the denominator for the industry support calculation, which was based upon information supplied by NOAA, is reliable and to the extent NOAA has updated that data, we have relied upon the updated figures.

Under most circumstances, the Department seeks to define the scope as set forth in the petition by the alleged injured party, the petitioner, and we find no reason to modify the scope in this case as articulated in the Petitions and subsequently modified on the record by the petitioner. Unless the Department finds the petitioner's definition of the domestic like product to be inaccurate, we will adopt the domestic like product definition set forth in the Petitions. This is consistent with the Department's broad discretion to define and clarify the scope of a countervailing duty investigation in a manner that reflects the intent of the petition.<sup>136</sup> Consequently, the Department's discretion permits interpreting the Petitions in such a way as to best effectuate not only the intent of the Petitions, but the overall purpose of the countervailing duty law as well.<sup>137</sup> Therefore, consistent with our past practice in defining the domestic like product, we have determined that the domestic like product consists of certain frozen warmwater shrimp, as defined in the scope of the Petitions.

## B. Data Used for the Denominator of the Industry Support Calculation

In consultations and its submission, the GOI also stated that it had reviewed information on the internet that called into question the production totals used by the petitioner with respect to the domestic industry, and requested that the Department analyze this issue in detail in making its decision as to whether or not initiation is warranted. The GOI provided U.S. domestic processed shrimp production data, sourced from the Southern Shrimp Alliance's website, and argued that the figure calculated by the Southern Shrimp Alliance was "far higher" than the figure referenced in the Petitions.<sup>138</sup> Moreover, the GOI contended that, when determining industry support based on the Southern Shrimp Alliance's calculated total production, the petitioner does not account for "a major proportion of the total domestic production."<sup>139</sup> In consultations, the RTG<sup>140</sup> and

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Antidumping Duty Investigation: Certain Activated Carbon from the People's Republic of China, 71 FR 16757, 16758 (April 4, 2006); and Notice of Initiation of Antidumping Duty Investigations: Oil Country Tubular Goods from Austria, Brazil, the People's Republic of China, France, Germany, India, Indonesia, Romania, South Africa, Spain, Turkey, Ukraine, and Venezuela, 67 FR 20730, 20731 (April 26, 2002).

<sup>136</sup> See, e.g., Fujitsu Ltd. v. United States, 36 F. Supp. 2d 394 (CIT 1999) (citing Kern-Liebers USA, Inc. v. United States, 881 F. Supp. 618, 621 (1995) (citation omitted)); and Initiation of Antidumping Duty Investigations: Spring Table Grapes From Chile and Mexico, 66 FR 26831 (May 15, 2001).

<sup>137</sup> Notice of Final Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat From The People's Republic of China, 62 FR 41347, 42357 (August 1, 1997).

<sup>138</sup> See GOI January 16 Submission, at 4 and Exhibit 1.

<sup>139</sup> Id.

<sup>140</sup> See Memorandum to the File from Mark Hoadley Regarding Consultations with Officials from the Royal Thai

Government of Vietnam (“GOV”)<sup>141</sup> also noted that they had seen the data on the Southern Shrimp Alliance’s website and expressed concern.

Furthermore, in their submission, the Indian Respondents also reference information on the internet (a press release from the Southern Shrimp Alliance found on the website <http://www.seafood.com/>) that raises questions regarding the data the petitioner used in the denominator of the industry support calculation.<sup>142</sup> They argued that, without complete data (including production data for shrimp fisherman) the Department cannot determine that the petitioner meets both industry support standing thresholds and, therefore, must either reject the Petitions or poll the industry.

In its January 17 Response, the petitioner notes that, using the revised data from NOAA that the Department put on the record, the petitioner continues to account for over 50 percent of domestic production and, therefore, continues to meet the level of industry support required for initiation.<sup>143</sup>

### **Department’s Position:**

We note that there are two significant problems with the data from the Southern Shrimp Alliance that is referenced by the GOI, RTG, GOV, and Indian Respondents. First, the data attached to the GOI’s letter (from the Southern Shrimp Alliance) report an overstated amount for the total “U.S. Shrimp Processing Production Volume” (by product weight) for 2011. In conversations with NOAA officials, we obtained the correct, updated data on the quantity of frozen shrimp processed in the United States in 2011 and confirmed that the revised data are accurate based on NOAA’s survey of shrimp processors.<sup>144</sup> Second, the data in the GOI’s letter (from the Southern Shrimp Alliance) are incorrectly converted from product weight to headless, shell-on weight. NOAA officials stated that, to convert the data to headless, shell-on weight, the final product weights must first be converted to a live weight. Then the live weights can be converted to headless, shell-on weights using NOAA’s standard conversions.<sup>145</sup> When providing revised data on the quantity of frozen shrimp processed in the United States in 2011, NOAA officials performed the correct conversions to report the data in headless, shell-on pounds.<sup>146</sup>

As a result of our conversations with NOAA, we have obtained the most up-to-date quantity of frozen shrimp processed in the United States in 2011, in headless, shell-on pounds, and updated the industry support calculation with these data. As previously described, this methodology is

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Government on the Countervailing Duty Petition regarding Frozen Warmwater Shrimp, dated January 11, 2013.

<sup>141</sup> See Memorandum to the File from Michael Romani Regarding Consultations with Officials from the Government of Vietnam on the Countervailing Duty Petition on Certain Frozen Warmwater Shrimp from Vietnam, dated January 16, 2013.

<sup>142</sup> See Indian Respondents’ January 16 Submission at 6-9 and Exhibit A.

<sup>143</sup> See Petitioner’s January 17 Response at 3.

<sup>144</sup> See NOAA Statistics Memo.

<sup>145</sup> Id.

<sup>146</sup> See id. at Table A.



identical to that used in the initiation of the AD investigations involving the same merchandise.<sup>147</sup>

Based on our revised calculation, discussed in detail in the "Industry Support Calculation" section above, we determined that domestic producers who support the Petitions account for [ ]% of total production of the domestic like product; therefore, it is unnecessary for us to poll the industry to determine industry support.

## Findings

We have conducted our own Internet research and have been unable to locate information that contradicts the petitioner's assertions. We do not believe the information relied upon by the GOI, RTG, GOV, and Indian Respondents undermine the validity of the NOAA data, and we believe the petitioner provided data that were reasonably available at the time it filed the Petitions. Accordingly, we find that the Petitions have satisfied the requirements of section 702(c)(4)(A) of the Act.

As described above, to establish total 2011 production of frozen shrimp, the petitioner provided production data supplied by NOAA. Subsequently, after we reviewed that data with NOAA officials, those officials sent us updated production figures using the same methodology upon which its previous figures were based. Using these data, as demonstrated above, we find the domestic producers who support the Petitions account for at least 25 percent of the total production of the domestic like product. We further find the domestic producers who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions. Therefore, we find that there is adequate industry support within the meaning of section 702(c)(4)(A) of the Act.

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<sup>147</sup> See Volume I of the Petitions, at I-6 and Exhibit I-4 (AD Initiation Checklist, Attachment I at 31-33).

### Attachment III

## **Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Certain Frozen Warmwater Shrimp from the People’s Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam**

### **I. Introduction**

When making a determination regarding the initiation of countervailing duty investigations, the Department examines whether the petitions allege the elements necessary for the imposition of countervailing duties and contain information reasonably available to the petitioner that supports the allegations.<sup>148</sup> This attachment analyzes the sufficiency of the allegations and supporting evidence regarding material injury and causation.

### **II. Definition of Domestic Industry**

The domestic industry is described with reference to producers of the domestic like product, as provided for in section 771(4)(A) of the Act. The Petitions<sup>149</sup> define the domestic industry as U.S. producers of certain frozen warmwater shrimp (“frozen shrimp”).<sup>150</sup> The petitioner identifies itself, the Coalition of Gulf Shrimp Industries (“the petitioner”),<sup>151</sup> a trade association, whose members all produce the domestic like product, and other producers of frozen shrimp as constituting the domestic industry in the United States.<sup>152</sup> For a discussion on the domestic like

<sup>148</sup> See section 702(c)(1)(A)(i) of the Tariff Act of 1930, as amended (“the Act”).

<sup>149</sup> See Petitions for the Imposition of Countervailing Duties: Certain Warmwater Frozen Shrimp from the People’s Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam, filed December 28, 2012 (collectively, “the Petitions”). On January 4, 2013, the petitioner filed an amendment to its trade association member list, titled “Amendment to Petitions for the Imposition of Countervailing Duties on Certain Frozen Warmwater Shrimp from the People’s Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam – Notice of Additional Processors in Petitioner Association,” dated January 4, 2013 (“Petitioner Association Amendment”). On January 9, 2013, the petitioner filed a supplement pertaining to the Department’s request for additional information regarding general issues, titled “General Issues Supplement to the Petitions, dated January 9, 2013” (hereinafter, “General Issues Supplement”). On January 15, 2013, an additional processor joined the petitioning coalition in the petitioner’s submission “Petitioner’s Response to the Thai Producers’ Comments on Industry Support, dated January 15, 2013 (“Petitioner’s January 15 Response”).

<sup>150</sup> See Volume I of the Petitions, at I-4.

<sup>151</sup> Members of the Coalition of Gulf Shrimp Industries are: Bayou Shrimp Processors Inc. (LA), Bluewater Shrimp Company Inc. (LA), Carson & Co., Inc. (AL), C.F. Gollott & Sons Seafood, Inc. (MS), David Chauvin’s Seafood Company LLC (LA), Dean Blanchard Seafood, Inc. (LA), Dominick Seafood (AL), Fisherman’s Reef Packing Plant (TX), Golden Gulf Coast Pkg. Co., Inc. (and Gollott’s Oil Dock & Ice House) (MS), Graham Fisheries, Inc. (AL), Graham Shrimp, Inc. (AL), Gulf Crown Seafood Co., Inc. (LA), Gulf Fish Inc. (LA), Gulf Island Shrimp & Seafood, LLC (LA), Gulf Pride Enterprises, Inc. (MS), Hi-Seas of Dulac, Inc. (LA), Indian Ridge Shrimp Co. (LA), JBS Packing Co., Inc. (TX), Lafitte Frozen Foods Corp. (LA), M&M Shrimp (Biloxi Freezing and Processing) (MS), Mariah Jade Shrimp Company LLC (LA), Ocean Springs Seafood Market, Inc. (MS), Paul Piazza & Sons, Inc. (LA), R.A. Lesso Brokerage Co., Inc. (MS), Rountree Enterprises, Inc. (dba Leonard & Sons Shrimp Co. and R&R Fisheries) (SC), Sea Pearl Seafood Co., Inc. (AL), Smith and Sons Seafood (GA), Tideland Seafood Co., Inc. (LA), Tommy’s Seafood (LA), Vincent Piazza & Sons Seafood, Inc. (LA), and Wood’s Fisheries (FL).

<sup>152</sup> See Volume I of the Petitions, at I-4 and Exhibits I-1, I-2 and I-3; see also Petitioner Association Amendment.





- 27, I-39, I-43, I-44, I-47 and Exhibits I-16 and I-21; see also General Issues Supplement, at 7 and Exhibit I-SQ-13);
- Reduction in employment and wages paid (Volume I of the Petitions, at I-33, I-43, I-44, I-47 and Exhibit I-21; see also General Issues Supplement, at 7 and Exhibit I-SQ-13); and
  - Decline in financial performance (Volume I of the Petitions, at I-33, I-43 through I-47 and Exhibit I-21; see also General Issues Supplement, at 7 and Exhibit I-SQ-13).

The Petitions also allege that the domestic industry could be threatened with further injury by reason of imports from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam:

- Continued increase of subject imports (Volume I of the Petitions, at I-49, I-50, I-56 and Exhibit I-28);
- Residual increased inventories (Volume I of the Petitions, at I-48 through I-50, I-56 and Exhibit I-17);
- Continued price depression or suppression and underselling (Volume I of the Petitions, at I-53, I-54, I-56 and Exhibits I-17 and I-32);
- Countervailable subsidies from all seven governments (Volume I of the Petitions, at I-54 through I-56);
- Substantial planned expansion of production capacity to aggressively increase exports (Volume I of the Petitions, at I-49 through I-52, I-56 and Exhibits I-28 through I-30; Volume II of the Petitions, at Exhibit II-3; Volume III of the Petitions, at Exhibit III-4; Volume V of the Petitions, at Exhibits V-6 and V-7; Volume VI of the Petitions, at Exhibit VI-5; and Volume VIII of the Petitions, at Exhibit VIII-5); and
- Diversion of exports to the U.S. market due to increased import barriers and reduced demand in the European Union and Japan (Volume I of the Petitions, at I-52, I-53, I-56 and Exhibits I-17 and I-31).

The information from the Petitions provides the Department with a sufficient basis to conclude that the allegations of material injury and threat of material injury as a result of imports of subject merchandise are adequately supported.

#### **IV. Cumulation**

Section 771(7)(G)(i) of the Act requires the International Trade Commission (“ITC”) to cumulate imports from all countries for which petitions were filed on the same day if such imports compete with each other and with the domestic like product in the U.S. market. On December 28, 2012, the petitioner filed the Petitions against the seven subject countries in these investigations. Citing to cumulation in affirmative injury determinations by the ITC in the most recent frozen shrimp antidumping proceedings,<sup>154</sup> the petitioner alleges that cumulation is

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<sup>154</sup> See U.S. International Trade Commission, Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and

appropriate and submits, “there is no reason to believe that conditions have changed to such an extent since those determinations, or differ to such an extent for the additional countries {Ecuador, Indonesia, and Malaysia} included in these petitions, to warrant a different result.”<sup>155</sup>

In determining whether cumulation is appropriate, the ITC uses a framework of four factors.<sup>156</sup> These factors, along with the sections of the Petitions in which they are addressed, are listed below.

- The degree of fungibility between imports from the seven subject countries and between the imports and the domestic like product.

Citing to the 2011 Shrimp AD Injury Sunset Review proceedings, which determined that the subject imports and domestic like product were “moderately interchangeable”, the petitioner argues again that there have been no changes in market conditions since 2011 that would preclude fungibility between imported frozen shrimp and domestic frozen shrimp, and that imports from Ecuador, Indonesia, and Malaysia do not differ from imports from China, India, Indonesia, and Vietnam “. . . to such a degree that they would not meet the fungibility criteria.”<sup>157</sup>

- The presence of sales or offers for sale of the imports and the domestic like product in the same geographic markets.

The petitioner submits that imported and domestic frozen shrimp “serve a nationwide market” and that, according to import data for 2009 through September 2012, frozen shrimp imports from all seven countries were present in the same geographic market as domestic frozen shrimp.<sup>158</sup>

- Whether the imports and the domestic like product are handled in common or similar channels of distribution.

The petitioner states that “{i}n the recent sunset review {2011 Shrimp AD Injury Sunset Review}, the Commission {ITC} found that most domestic shipments, as well as a substantial portion of subject import sales, were through distributors.”<sup>159</sup> Referencing one major food service provider’s product catalog offering both imported and domestic shrimp, the petitioner notes that “the same purchasers reported buying shrimp from domestic as well

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Vietnam, Inv. Nos. 731-TA-1063, 1064, 1066-1068 (Review), USITC Pub. 4221 (March 2011) (hereinafter “2011 Shrimp AD Injury Sunset Review”); see also General Issues Supplement, at 1 and Exhibit I-SQ-2.

<sup>155</sup> See Volume I of the Petitions, at I-14 through I-17.

<sup>156</sup> See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff’d, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int’l Trade 1988), aff’d, 859 F.2d 915 (Fed. Cir. 1988).

<sup>157</sup> See Volume I of the Petitions, at I-15.

<sup>158</sup> See id., at I-15, I-16 and Exhibit I-13.

<sup>159</sup> See Volume I of the Petitions, at I-16.

as subject sources”<sup>160</sup> Moreover, the petitioner again submits that market conditions have not changed “to such an extent that imported and domestic product would no longer be found in the same channels of distribution, or that imports from Ecuador, Indonesia, and Malaysia would occupy different channels than domestic product of other imports.”<sup>161</sup>

- Whether the imports are present in the U.S. market simultaneously.

The petitioner notes that subject imports and the domestic like product were simultaneously present in the U.S. market during the period of investigation.<sup>162</sup>

## V. Negligibility

Section 771(24)(A)(i) of the Act states that “imports from a country of merchandise corresponding to a domestic like product identified by the Commission are ‘negligible’ if such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which the data are available . . .” In the instance of countervailing duty petitions, section 771(24)(B) of the Act explains that imports of subject merchandise from developing countries that account for less than 4 percent of the volume of subject merchandise will be deemed negligible. According to ITC Dataweb import data provided by the petitioner for the most recent 12-month period for which the data were available (November 2011 through October 2012), the volume of imports from China and Vietnam accounted for 3.31% and 8.02%, respectively. The petitioner states that “Thailand accounted for 28.03% of import volume . . . Ecuador 15.59%, Indonesia 14.87%, India 12.29% . . . {and} Malaysia 4.49%.”<sup>163</sup> Since the volume of imports from each of the seven countries exceeds the respective negligibility thresholds, the petitioner submits that “negligibility considerations do not preclude affirmative injury determinations for any of the seven countries.”<sup>164</sup> Moreover, the petitioner argues that “. . . the volume of subject imports from the seven countries is significant.”<sup>165</sup>

## VI. Causation of Material Injury or Threat of Material Injury

The Petitions claim that the material injury and the threat of material injury to the domestic industry were caused by the impact of the allegedly subsidized imports from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam. In support of its argument, the petitioner provides information on the historical trend of the volume of the allegedly subsidized imports, focusing on the period beginning with 2009 and ending with the data for the first nine months of 2012 (the most recently available quarterly data at the time of filing).<sup>166</sup> In the Petitions, the

<sup>160</sup> See *id.*, at I-16 and Exhibit I-18.

<sup>161</sup> See *id.*, at I-16.

<sup>162</sup> See *id.*, at I-16 and Exhibit I-14; see also General Issues Supplement, at 6 and Exhibit I-SQ-12.

<sup>163</sup> See *id.*, at I-17 and Exhibit I-15; see also General Issues Supplement, at 6 and Exhibit I-SQ-12.

<sup>164</sup> See Volume I of the Petitions, at I-17.

<sup>165</sup> See *id.*, at I-23 and I-26.

<sup>166</sup> See Volume I of the Petitions, at I-11, I-17, I-20, I-23 through I-26 and Exhibits I-11 and I-13 through I-15; see also General Issues Supplement, at 6 and Exhibit I-SQ-12.





**ATTACHMENT IV**

**Action Letter from the ITC**



**UNITED STATES INTERNATIONAL TRADE COMMISSION  
DIRECTOR OF INVESTIGATIONS ACTION REQUEST**

Subject		Control No.	INV-12-122
Investigation Nos. 701-TA-491-497 (Preliminary): Frozen Warmwater Shrimp from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam—Notice of Institution and Scheduling		Office	Investigations
		Date Initiated	12-28-12
Signature of Initiator	DEC for <i>Catherine DeFilippo</i> Director, Office of Investigations	Date Out	12/28/12
		Date Due	Expedite

STAFF CONCURRENCES					
Office	Signature	Date	Office	Signature	Date
INV	<i>Amy Sherman</i>	12-28-12	TATA	<i>Jan Summers</i>	12-28-12
INV	<i>Betsy Haines</i>	12-28-12	GC	<i>[Signature]</i>	28 Dec 12

**PURPOSE OF REQUEST**

To obtain approval of the attached draft institution and scheduling notice and the proposed draft schedule.

**BACKGROUND INFORMATION**

The attached draft institution and scheduling notice and the proposed draft schedule are in response to a petition filed on December 28, 2012 by the Coalition of Gulf Shrimp Industries, Biloxi, MS. The petition alleges that an industry in the United States is materially injured or threatened with material injury by subsidized imports of frozen warmwater shrimp from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam.

**RECOMMENDATION**

That the Director approve the attached draft institution and scheduling notice and the proposed draft schedule.

**NATURE OF DIRECTOR'S ACTION**

<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Disapproved	<input type="checkbox"/> Other	DEC for <i>Catherine DeFilippo</i> Signature	Date
				12/28/12

**COMMENTS**

Staff assigned to the investigation are Amy Sherman, investigator (205-3289); Fred Ruggles, investigator (205-3187); Amelia Preece, economist (205-3250); David Boyland, accountant (708-4725); Renee Berry, industry analyst (205-3498); Robin Turner, attorney-advisor (205-3103); and Elizabeth Haines, supervisory investigator (205-3200).





## **EXHIBIT I-3**

FOR OFFICIAL FILE

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A-549-822

Investigation

~~Business Proprietary~~

IA 1/2: AG

Public Version

JAN 20 2004

IMPORT ADMINISTRATION  
AD INVESTIGATION INITIATION CHECKLIST

SUBJECT: Certain Frozen and Canned Warmwater Shrimp from Thailand

CASE NUMBER: A-549-822

Petitioner:

The Ad Hoc Shrimp Trade Action Committee

Counsel:

Bradford L. Ward  
Dewey Ballantine LLP  
1775 Pennsylvania Avenue, N.W.  
Washington, DC 20006-4605  
Phone: 202-862-1000  
Fax: 202-862-1093

CASE CALENDAR (no extensions):

Petition Filed:	December 31, 2003
Initiation Deadline:	January 20, 2004
ITC Preliminary Determination:	February 17, 2004
ITA Preliminary Determination:	June 8, 2004
ITA Final Determination:	August 23, 2004
ITC Final Determination:	October 7, 2004
Order, if final is affirmative (estimated):	October 14, 2004

POTENTIAL RESPONDENTS:

See Petition at Exhibit I-4



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Union Frozen Products Co., Ltd.  
1259 Wichianchodok Road  
Amphur Muang Samutsakorn, 74000  
Thailand

Pakfood Public Co., Ltd.  
103 Soi Ruammitr Nonsee Road  
Chongnonsee, Yannawa  
Bangkok 10120, Thailand

Thai I-Mei Frozen Foods Co., Ltd.  
65/137 Rama 9 Rd.  
Huaykwang, Bangkok 10310 Thailand

Thai Royal Frozen Food Co., Ltd.  
1265 Vichienchodok Rd Tambon Mahachai  
Amphur Mu Samutsakhon, Thailand, 32859

Thai International Seafoods Co., Ltd.  
592 Tambon Taiban Amphor Muang  
Samut Prakan, Thailand, 90058

May Ao Co., Ltd.  
95/10 Moo 7 Tienthong Rd  
Samaedum, Bangkokunthien  
Bangkok, Thailand, 10150

Asian Seafoods Cold Storage Public Co., Ltd.  
742 Soi Kluay Namthai, Ardnarong Road  
Klong Toey, Prakanong  
Bangkok, Thailand 10110

Xian-Ning Seafood Co., Ltd.  
254 Mu 7 Tambon Banlam  
Ampur Banlam, Petchburi  
Thailand

Thailand Fishery Cold Storage Public  
592 Tambol Taiban  
Ampur Muang Samut Prakan, 10260  
Thailand

Chanthaburi Seafoods Co., Ltd.  
1807/6-7 Soi Phrayanakorn 69  
Newpoad, Yannawa  
Bangkok, Thailand 10120

Good Fortune Cold Storage  
58/5 Moo 1 Klongpravet Baanpo  
Chachoengsao, Thailand 24120

Thai Union Frozen Products Limited  
72/1 Moo 7, Sethakit1 Road, Tambon Tarsrai  
Amphur Muangsamutsakorn, Samutsakorn  
74000, Thailand

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#### SCOPE OF INVESTIGATION:

The scope of this investigation includes certain warmwater shrimp and prawns, whether frozen or canned, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,<sup>1</sup> deveined or not deveined, cooked or raw, or otherwise processed in frozen or canned form.

The frozen or canned warmwater shrimp and prawn products included in the scope of the investigations, regardless of definitions in the Harmonized Tariff Schedule of the United States

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<sup>1</sup> "Tails" in this context means the tail fan, which includes the telson and the uropods.

("HTSUS"), are products which are processed from warmwater shrimp and prawns through either freezing or canning and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this investigation. In addition, food preparations, which are not "prepared meals," that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this investigation.

Excluded from this scope are (1) breaded shrimp and prawns (1605.20.10.20); (2) shrimp and prawns generally classified in the Pandalidae family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (1605.20.05.10); and (5) dried shrimp and prawns.

The products covered by this scope are currently classified under the following HTSUS subheadings; 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, 1605.20.10.30, and 1605.20.10.40. These HTSUS subheadings are provided for convenience and for Customs and Border Protection ("CBP") purposes only and are not dispositive, but rather the written descriptions of the scope of these investigations is dispositive.



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**IMPORTS OF SHRIMP PRODUCTS FROM THAILAND:**

In kgs.*	2001	2002	Jan. - Oct. 2002	Jan.-Oct. 2003
Thai Imports	134,456,059	112,333,757	86,204,706	98,541,095

\*headless, shell-on equivalent

In dollars	2001	2002	Jan. - Oct. 2002	Jan.-Oct. 2003
Thai Imports	\$1,253,321,999	\$956,439,633	\$724,411,804	\$752,626,760

Source: ITC DataWeb query for HTS categories 0306130003, 0306130006, 0306130009, 0306130012, 0306130015, 0306130018, 0306130021, 0306130024, 0306130027, 0306130040, 1605201010, 1605201030, and 1605201040.

**INDUSTRY SUPPORT:**

Does petitioner account for more than 50% of production of the domestic like product? (Note that the period examined when determining domestic production levels will normally be the 12-month period prior to the filing of the Petition.)

Yes  
 No - do not initiate

If No, do those expressing support account for the majority of those expressing an opinion and at least 25% of domestic production?

Yes  
 No - do not initiate  
 N/A

Describe how industry support was established. Specifically, describe the nature of any polling or other steps undertaken to determine the level of domestic industry support.

See Attachment I for a discussion of Industry Support.

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Was there opposition to the Petition?

Yes<sup>2</sup>  
 No

Are any of the parties who have expressed opposition to the Petition either importers or domestic producers affiliated with foreign producers?

Yes  
 No  
 N/A (not addressed because support exceeded 50 percent of the total industry)

### INJURY ALLEGATION:

The petitioner asserts that the industry's injured condition is demonstrated by (1) reduced sales; (2) reduced prices; (3) declining employment; (4) declining market share; and (5) significant financial losses. See Petition at Volume II. For a more detailed analysis on injury, see Attachment II.

Does the Petition contain evidence of causation? Specifically, does the Petition contain information relative to:

- Yes Volume and value of imports. See import volume and value exhibit included in Volume I of the Petition at Exhibit I-5.
- Yes U.S. market share (i.e., the ratio of imports to consumption) See Petition at Volume II, p. 26 and Exhibits II-16.
- Yes Actual pricing (i.e., evidence of decreased pricing) See Petition at Volume II, pp. 28, 31, 35, and 36, and Exhibits II-6, II-18 and II-27.
- Yes Relative pricing (i.e., evidence of imports under-selling U.S. products). See Petition at Volume II, pp. 27, 28, 42, 44, 47, 51, and 52, and Exhibits II-17 and II-18.

### PETITION REQUIREMENTS:

Does the Petition contain the following?:

- Yes The names and addresses of petitioner. See Petition at Exhibit I-2-A.
- Yes The names and addresses of all known domestic producers of the domestic like product. See Petition at Exhibit I-2-B (other known producers and farmers), Exhibit I-2-C (harvesters).

<sup>2</sup> In accordance with section 732(c)(4)(A)(ii) of the Tariff Act of 1930, as amended ("the Act"), the Department did not consider opposition, as documented support for the petition was above 50%.



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- Yes The volume of the domestic like product produced by Petitioners and each domestic producer identified for the most recently completed 12-month period for which data is available. See Petition at Exhibit I-2-C.
- Yes Was the entire domestic industry identified in the Petition? See Petition at Exhibit I-1.
- Yes A clear and detailed description of the merchandise to be investigated, including the appropriate HTSUS numbers. See Petition at Exhibit I-1.
- Yes The name of each country in which the merchandise originates or from which the merchandise is exported. See Petition at page 3.
- Yes The identity of each known exporter, foreign producer, and importer of the merchandise. See Petition at Exhibits I-4 and I-6.
- Yes A statement indicating that the Petition was filed simultaneously with the Department of Commerce ("DOC") and the International Trade Commission ("ITC"). See Petition at page 1.
- Yes An adequate summary of the proprietary data: numbers in body of text adequately ranged.
- Yes A statement regarding release under administrative protective order.
- Yes A certification of the facts contained in the Petition by an official of the Petitioning firm(s) and its legal representative (if applicable).
- Yes Import volume and value information for the most recent two-year period. See Petition at Exhibit I-5.

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#### LESS THAN FAIR VALUE ALLEGATION:

The petition was filed on December 31, 2003. The petitioner filed supplemental information on January 12, 2004 (Petition Supplement).

For this investigation, the period of investigation (POI) is October 1, 2002 through September 30, 2003.

#### U.S. Price

The petitioner based export price ("EP") on average unit values ("AUVs") of frozen, cooked and peeled warmwater shrimp for the POI from official U.S. import statistics. Although the AUVs used were net of international freight, insurance and import charges, the petitioner made a deduction for import charges, as well as foreign inland freight, to derive U.S. prices. We adjusted the petitioner's EP calculation by not deducting an amount for foreign inland freight and U.S. import charges because the petitioner either provided inadequate support to deduct these expenses from EP in the petition, or the starting price did not include them. See Attachment III for the revised margin calculations.



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### Normal Value

In the petition, the petitioner placed on the record information which indicated that there is no viable home market for certain frozen and canned warmwater shrimp from Thailand because the Thai market purchases only fresh (i.e., live, unchilled or else chilled, unprocessed) or traditional household industry-produced dried shrimp. See Petition Exhibits I-8-A, I-8-B, and Petition Supplement at page 30. We confirmed this information based on our conversation with the market researcher. See the January 16, 2004, Memorandum to the File from Elizabeth Eastwood and Jim Nunno entitled "Telephone Conversation with Foreign Market Researcher."

In selecting the third-country market, the petitioner chose Japan because: 1) it is the largest third-country market for scope merchandise outside of the United States during the POI; 2) the aggregate quantity of scope merchandise sold by Thai exporters to Japan accounted for more than five percent of the aggregate quantity of the scope merchandise sold in the United States; and 3) the product sold to the Japanese market is comparable to the product which served as the basis for EP. After examining this evidence, we found the petitioner's selection of Japan as the comparison market to be reasonable.

The petitioner based NV on AUVs of Thai exports of frozen, cooked shrimp to Japan during the POI. The petitioner adjusted its calculation of NV by deducting import charges into Japan.<sup>3</sup> We revised the petitioner's calculation of the average yen/U.S. dollar exchange rate by calculating a simple average of the daily rates as posted on the Department's website rather than monthly averages as posted on the Federal Reserve's website. In addition, as noted in the EP section above, we adjusted the petitioner's calculation by not deducting an amount for foreign inland freight expenses. Because the proposed foreign inland freight adjustment to NV is based on the identical information as the proposed adjustment to EP, we similarly find that the petitioner provided inadequate support to substantiate this adjustment. Therefore, we have also not deducted foreign inland freight expenses from NV.

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Does the Petition contain the following for producers of subject merchandise?:

- Yes support documentation for the alleged prices, surrogate country data or costs and claimed adjustments with the exception for foreign inland freight noted above.
- Yes any market research reports including affidavits referring to sources and how information was obtained. See Petition at Exhibits I-7-A and I-8-A.
- Yes current price data (no more than one year old). See Petition Supplement at Revised Exhibits I-7-B and I-7-C.
- N/A price and cost data from contemporaneous time periods.

<sup>3</sup>We note that, as a proxy, the petitioner based import charges into Japan on the difference between the CIF and FAS values of imported warmwater shrimp into the United States from Thailand during the POI. We allowed this adjustment to NV because the import values taken from the TRADSTAT database were clearly CIF values while the US AUV upon which EP is based is net of import charges.

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Yes correct currency rates used for all conversions to U.S. dollars.<sup>4</sup>  
N/A conversion factors for comparisons of differing units of measure.

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**ESTIMATED MARGINS:**

The estimated dumping margin in the petition supplemental for Thailand, based on a comparison between EP and third-country price, is 66 percent. See Petition Supplement Revised Exhibit I-9. After the Department's recalculations, the adjusted EP to NV comparison resulted in an estimated dumping margin of 57.64 percent.

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**RECOMMENDATION:**

We have examined the accuracy and adequacy of the evidence provided in the petition, and recommend determining that the evidence is sufficient to justify the initiation of an antidumping investigation. We also recommend determining that the petition has been filed by or on behalf of the domestic industry as defined by Section 732(c)(4)(A) of the Tariff Act of 1930, as amended. See Attachment I.

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<sup>4</sup>We revised the petitioner's calculation of the average yen/U.S. dollar exchange rate by calculating a simple average of the daily rates as posted on the Department's website rather than monthly averages as posted on the Federal Reserve's website.



# Attachment I

A-351-838, A-331-802, A-533-840  
A-549-822, A-570-893, A-552-802  
IA-IX/AS-OP: AV, CDR

~~PROPRIETARY DOCUMENT~~  
Public Version

January 20, 2004

**MEMORANDUM TO:** Joseph A. Spetrini  
Deputy Assistant Secretary, AD/CVD Enforcement, Group III

Jeffrey A. May  
Deputy Assistant Secretary, AD/CVD Enforcement, Group I

**THROUGH:** Edward C. Yang *ES*  
Director, Office IX, AD/CVD Enforcement, Group III

**FROM:** James C. Doyle *JK*  
Program Manager, AD/CVD Enforcement, Group III

Norbert O. Gannon *NOG*  
Program Manager, Office of Policy

Alex Villanueva *AV*  
Senior Case Analyst, AD/CVD Enforcement, Group III

Christopher Riker *CR*  
Senior Policy Analyst, Office of Policy

**RE:** *Antidumping Duty Petitions on Certain Frozen and Canned Warmwater Shrimp from Brazil, Ecuador, India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Domestic Like Product Analysis and Calculation of Industry Support*

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## BACKGROUND

On December 31, 2003, the Department of Commerce ("Department") received antidumping duty petitions on imports of certain frozen and canned warmwater shrimp from Brazil, Ecuador, India, the People's Republic of China, Thailand, and Vietnam filed in proper form by the Ad Hoc Shrimp Trade Action Committee ("Petitioners") on behalf of the domestic industry and workers producing frozen and canned warmwater shrimp ("Petition").



On January 8, 2004, the Department sent the Petitioner a deficiency questionnaire requesting clarifications of certain items in the Petition. On January 12, 2004, the Petitioner submitted their deficiency questionnaire response. On January 12, 2004, the Department received a challenge on the definition of the domestic like product and its relation to the industry support calculation from the National Chamber of Aquaculture of Ecuador, The Thai Frozen Foods Association and its members companies, the Vietnamese Shrimp Producers, the Coalition of Shrimp Exporters/Producers of South China, the Association of Brazilian Shrimp Producers, the Seafood Exporter's Association of India and Allied Pacific Group (collectively, "the Respondents"). On January 13, 2004, the Department received a challenge on the definition of the domestic like product and its relation to the industry support calculation by the Seafood Exporters Association of India. On January 13, 2004, the Department received an amendment to the Petition from the Petitioner. On January 15, 2004, the Department received a supplement to the industry support analysis from the Petitioner. On January 15, 2004, the Department received comments from the Respondents addressing the Petitioner's January 12, 2004 and January 13, 2004 submissions. On January 15, 2004, the Department received comments on the definition of the domestic like product and its relation to the industry support calculation from the Louisiana Shrimp Association ("LSA"). On January 16, 2004, the Department received rebuttal comments from the Petitioner addressing the Respondents comments of January 12, 2004 and January 15, 2004. On January 20, 2004, the Department received supplemental information on the Petition from the Petitioner.<sup>1</sup>

## STATUTORY REQUIREMENTS

Section 732(b)(1) of the Tariff Act of 1930, as amended ("the Act") requires that before the Department may initiate an antidumping investigation by Petition, the Department must determine whether the Petition was filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act defines "on behalf of the domestic industry." A Petition meets this requirement if the domestic producers or workers who support the Petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the Petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the Petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product.

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<sup>1</sup> On January 20, 2004, the Department received a letter of support from certain members of the South Carolina Shrimp Growers Association via facsimile. However, this letter was not filed in accordance with the filing requirements provided in section 351.303 of the Department's regulations.



Thus, to determine whether a Petition has the requisite industry support, the Act directs the Department to look to producers and workers who produce the domestic like product.

In investigations involving a processed agricultural product that is produced from a raw agricultural product, section 771(4)(E) of the Act provides that the producers or growers of the raw agricultural product may be considered part of the industry producing the processed product if (1) the processed agricultural product is produced from the raw agricultural product through a continuous line of production and (2) there is a substantial coincidence of economic interest between the producers or growers of the raw agricultural product and the processors of the processed agricultural product based upon relevant economic factors, which may include price, added market value, or other economic interrelationships. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to growers, processors, and workers who produce the domestic like product.

The International Trade Commission ("the Commission"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the Commission must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. See Algoma Steel Corp. Ltd. v. United States, 688 F. Supp. 639, 642-44 (Ct. Int'l Trade 1988).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition.

While the Department is not bound by the criteria used by the Commission to determine the domestic like product in answering this question, we have reviewed these factors as presented by parties on the record. The criteria are: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities, processes, and employees; and (6) price. See Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (CIT 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991). With regard to the domestic like product, the Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted in the Petition we have determined there is a single domestic like product, frozen and canned warmwater shrimp. Please see the "Analysis of Domestic Like Products" section below for a detailed analysis and discussion.



## ANALYSIS OF DOMESTIC LIKE PRODUCTS

### A. Warmwater vs. Coldwater Shrimp and Prawns<sup>2</sup>

The Petitioner argues that coldwater shrimp possess different physical characteristics from warmwater shrimp. Specifically, the Petitioner argues that coldwater shrimp do not possess a dark sand vein along their back, and are generally much smaller ("generally sold commercially in cooked and peeled form (but not deveined) in count sizes of 250/350 and 300/500"). See Petition at footnote 8, pages 2-3 of Exhibit I-1. The Petitioner further distinguishes coldwater shrimp from warmwater shrimp by the region in which they are harvested and processed (the Pacific Northwest and New England versus the Southeast), and the machinery (which is designed for smaller shrimp) used to process them. The Petitioner also states that coldwater shrimp must be cooked before peeling, where as warmwater do not. The Petitioner likewise states that warmwater shrimp processors exclusively process warmwater shrimp, and do not use coldwater shrimp.

In their January 16, 2004 submission, the Petitioner provided further evidence to distinguish coldwater shrimp from warmwater shrimp. Specifically, the Petitioner argues that the National Marine Fisheries Service's (NMFS) conversion factors indicate that warmwater shrimp meat is a significantly higher proportion of total body weight than coldwater shrimp meat. The Petitioner further contends that "coldwater shrimp are generally classified in scientific families distinct from those of warmwater shrimp." See Petitioner's January 16, 2004 submission at 1 of Like Product Analysis Summary. The Petitioners argue that warmwater shrimp are not interchangeable with coldwater shrimp because coldwater shrimp are primarily used as an additive while warmwater have a wider variety of uses, and coldwater shrimp are generally sold cooked and peeled. The Petitioners argue coldwater and warmwater shrimp are further distinguished in that the Fulton Street Fish Market in New York only lists prices for warmwater shrimp, while the Seattle and Oregon markets only list prices for coldwater shrimp. Additionally, the Petitioner provided supporting evidence to indicate that at least some prices, for example, the American Restaurant Association's 'Weekly Commodity Report' lists prices for warmwater species, does not report prices for coldwater shrimp species.

The Petitioner goes on to state that coldwater shrimp sellers label their product as being of coldwater origin, while warmwater shrimp sellers need not label their product given the larger volume available for purchase in the market, and consumer understanding that warmwater shrimp are larger in size and distinct from coldwater. The Petitioner also cited a statement from the Encyclopedia of Aquaculture that "warmwater species tend to . . . command a much higher price per unit weight on the world market." See *Id.* at 2, see also Walter R. Keithly and Kenneth J. Roberts, "Economics: Contrast with Wild Catch Fisheries" in Robert R. Stickney, Encyclopedia of Aquaculture at 265. Furthermore, the Petitioner provided evidence in their January 20, 2004 submission indicating the prices of coldwater shrimp have been constant during

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<sup>2</sup> The terms shrimp and prawn are used interchangeably to describe the same species.



the time period of January, 2000 through November, 2003, while warmwater shrimp prices, particularly Gulf shrimp prices, have been erratic and significantly different from the coldwater shrimp average. See Petitioner's January 20, 2004 submission at Attachment II. Therefore, because there are significant differences between warmwater and coldwater shrimp, the Petitioner argues that the Department should find that coldwater shrimp constitute a separate like product from warmwater shrimp.

The Respondents argue that if the Department rejects its arguments for separate like products between warmwater forms (addressed below), the single like product must be expanded to include coldwater shrimp; and, therefore, coldwater shrimp production must be included in the total U.S. shrimp production denominator for purposes of determining industry support. According to the Respondents, the Petitioner admits that there is no difference in the way in which these products are processed, and that coldwater and warmwater shrimp have a wide overlap in terms of size. The Respondents argue that "petitioners in the Coldwater Shrimp Petition noted that shrimp harvested off the coast of Maine have a finished count size range of 51/60 per pound." See Respondents January 15, 2004 submission at 5 of Attachment 1, see also Antidumping and Countervailing Duty Petition Concerning Cooked and Peeled Coldwater Shrimp, 250/350 and 350/500 count per pound from Canada, at 27 (June 13, 2002) (A-122-843, C-122-844) (Coldwater Shrimp Petition). Because the Commission stated in its 1985 report that "warmwater shrimp are landed in sizes as small as 51/61, 61/70, 71 and over per pound," the interchangeability between some species of warmwater and coldwater shrimp argues the two are like products.<sup>3</sup>

The Respondents further argue because "[p]etitioner makes no distinction as to how warmwater shrimp are processed (either in the cooked, raw, frozen, or canned forms)," it is not consistent to assume that coldwater shrimp are sold peeled and cooked in a manner which distinguishes it from warmwater shrimp. See Id. at 6 of Attachment 1, see also respondents January 12, 2004 submission at 15. The Respondents indicate that while coldwater shrimp are often sold undeveined, "warmwater shrimp sold frozen and raw are not deveined either." See Respondents January 15, 2004 submission at Attachment 1. The Respondents further contend that the Petitioner's contention that coldwater shrimp have more limited applications is irrelevant given the Petitioner's inclusion of several forms of warmwater shrimp. Finally, the Respondents argue that "the regions where shrimp are landed and ultimately processed and consumed cannot be relevant if how the shrimp are processed is not relevant." See Id. at 7 of Attachment 1. Therefore, the Respondents argue that if the differences in processed warmwater shrimp are to be overlooked, then the distinctions between warmwater and coldwater shrimp must also be overlooked, and the like product expanded.

In addition to the Respondents' comments, the Seafood Exporters Association of India (SEAI) submitted comments in the proposed investigation of Indian imports on the Petition on January

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<sup>3</sup> See Id., see also Conditions of Competition Affecting the U.S. Gulf and South Atlantic Shrimp Industry, USITC Pub. 1738, Inv. No. 332-201, at 27, Table 9 (August 1985).



13, 2004. SEAI contends that warmwater salad shrimp are generally found in size ranges from 100-200 or 300-500 count per pound, and believes these shrimp are more akin to coldwater shrimp which have been expressly excluded from the scope of the investigation. SEAI argues that these shrimp are sold as food additives, and are too small to be served as an entree. SEAI further argues that consumers recognize salad shrimp by name. Therefore, SEAI believes that if coldwater shrimp are a separate like product from large warmwater shrimp, then warmwater salad shrimp are analogous to that merchandise and thus a separate like product.

#### Department's Position:

As mentioned above, the Department is not bound by the criteria used by the Commission to determine the domestic like product in answering this question, however, we have reviewed these factors as presented by parties on the record. The criteria are: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities, processes, and employees; and (6) price. See Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (CIT 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

#### *Physical Characteristics and Uses*

We agree with the Petitioner that there are important and significant differences between warmwater and coldwater shrimp. Specifically, NMFS lists separate conversion rates which support the Petitioner's position that coldwater shrimp and warmwater shrimp are physically different with regard to size and the proportion of meat to total body weight. Furthermore, the Respondents do not challenge the validity of Petitioner's statement that coldwater shrimp veins are not removed. The fact that a significant amount of warmwater shrimp veins are removed, and that there is a market for deveined warmwater shrimp, further distinguishes the two forms. Additionally, according to the Scandinavian Fishing Year book, published by Urner Barry, coldwater shrimp (examples include: *Pandalus borealis* (male-120mm, female-165mm) and *Pandalus jordani* (male/female-160mm)) are not physically capable of reaching the same maximum sizes as most warmwater shrimp species (examples include: (*Penaeus duorarum* (male-269, female-280) and *Penaeus monodon* (male/female-336mm)).<sup>4</sup>

Finally, according to Pacific Seafood, a vertically integrated seafood company based in the Western United States, "{c}oldwater shrimp also can be distinguished from like-sized warmwater shrimp because they have a longer rostrum (beak) and claws on one pair of feet instead of three."<sup>5</sup>

<sup>4</sup> See <http://www.scandfish.com/test.asp?page=posters>

<sup>5</sup> See [http://www.pacseafood.com/products/cw\\_shrimp.html](http://www.pacseafood.com/products/cw_shrimp.html)



### *Interchangeability*

While the respondents cite the Coldwater Shrimp Petition, to further their argument that serious count size overlaps exist between warm and coldwater shrimp, a more detailed analysis of the Coldwater Shrimp Petition corroborates the Petitioner's and Department's position that these are separate like products. Specifically, the petitioners, in the Coldwater Shrimp Petition, stated that "Landings {in New England which the respondents argue are comparable to Gulf shrimp} are not significant and were expected to decline . . . . For 2002, the Atlantic States Marine Fisheries Commission has reduced the {fishing} season . . . to 25 days. Most likely there will be a corresponding drop in production." See Coldwater Shrimp Petition at 27. Therefore, because coldwater shrimp are physically smaller than most warmwater shrimp and the volume of coldwater shrimp landed in the New England region is considered "not significant," it appears that the vast majority of coldwater shrimp landings are not interchangeable with warmwater shrimp.

While SEAI argues warmwater salad shrimp are more akin to coldwater shrimp, information on the internet indicates that a species of small warmwater shrimp (*Xiphopenaeus kroyeri* or seabobs) can be as large as 90-110 count per pound.<sup>6</sup> The larger sized *Xiphopenaeus kroyeri* are of a significantly larger size than the 250/350 and 350/500 sizes common for coldwater shrimp.<sup>7</sup> No party has delineated the size overlap in terms of the precise size overlap or the volume included in the overlapping sizes, nor has the Department been able to find such information. However, no party contradicts the key points that a coldwater/warmwater shrimp distinction exists in the market, or that coldwater shrimp is smaller, on average, than warmwater shrimp.

### *Channels of Distribution*

Evidence on the record indicates that warmwater and coldwater shrimp are marketed as separate products. First, it is readily apparent that warmwater and coldwater shrimp enter the market from distinct geographic regions. The coldwater shrimp enter the market in the Pacific Northwest and New England, while warmwater shrimp enter the market in the Gulf of Mexico and South Atlantic regions. Additionally, record evidence further suggests that prices for cold and warmwater shrimp are not intermingled nor are they both always listed in the same pricing information. Specifically, the Fulton Street Fish Market in New York and the American Restaurant Association's "Weekly Commodity Report" only list prices for warmwater shrimp. The Petitioner adds that prices reported in the Seattle and Oregon markets specifically list prices for coldwater shrimp, but do not list prices for warmwater shrimp. Finally evidence on the internet indicates that coldwater shrimp meat is sold almost exclusively peeled and cooked in

<sup>6</sup> See <http://www.fao.org/fi/projects/fishcode/publications/fseries/F-7.pdf>

<sup>7</sup> See [http://www.pacseafood.com/products/cw\\_shrimp.html](http://www.pacseafood.com/products/cw_shrimp.html), see also Coldwater Shrimp Petition.



individually quick frozen (IQF) in five pound bags.<sup>8</sup> However, a point of agreement among all parties who have submitted comments during the initiation stage of the investigation is that warmwater shrimp is processed and sold in a multitude of forms.

#### *Customer and Producer Perceptions*

First, as previously stated, these products are processed and marketed in different regions of the country. Information on the record indicates that, at least to some extent, marketing of these forms is focused in the regions they are harvested in, specifically with regard to coldwater shrimp. Additionally, independent research done by the Department in order to corroborate assertions made on the record by all parties regarding customer perceptions indicates that Pacific Seafood contends coldwater shrimp have a "clean, sweet flavor," a description that is not used as a selling point by Pacific Seafood for warmwater shrimp.<sup>9</sup> There is also a distinction between the two forms with regard to price. Specifically, warmwater shrimp prices were significantly less from January, 2000 through November, 2003 than prices being charged for coldwater shrimp of a similar size.<sup>10</sup> This indicates that both customers and producers perceive a distinction between the two forms, and that customers are willing to pay a premium for coldwater shrimp. Furthermore, the evidence on the record also indicates that consumers generally perceive a difference between warmwater and coldwater shrimp as packaging for coldwater shrimp typically labels the product as originating from coldwater. See Petitioner's January 16, 2004 submission at 2 of Like Product Analysis Summary.

#### *Common Manufacturing Facilities, Processes, and Employees*

Laitram Machinery invented the world's first automated shrimp peeling machine and continues to manufacture such machinery. An analysis of the company's website, cited to in the petition, indicates that it produces peeling equipment for warmwater and coldwater shrimp separately from one another indicating these two forms are not processed using shared machinery.<sup>11</sup> Additionally, as previously stated, coldwater and warmwater shrimp are harvested in different regions of the country (the Pacific Northwest and New England versus the Gulf of Mexico and South Atlantic) and are typically processed by seafood processors directly located in those regions.

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<sup>8</sup> See [http://www.pacseafood.com/products/cw\\_shrimp.html](http://www.pacseafood.com/products/cw_shrimp.html)

<sup>9</sup> See *Id.*, see also [http://www.pacseafood.com/products/ww\\_shrimp.html](http://www.pacseafood.com/products/ww_shrimp.html)

<sup>10</sup> See Petitioner's January 20, 2004, submission at Attachment 2.

<sup>11</sup> See <http://www.laitrammachinery.com/products.htm>



### *Price*

The Petitioner has presented evidence in their January 20, 2004 submission supporting their assertion that warm and coldwater shrimp are priced differently from one another. Specifically, as previously stated, the Petitioners submitted data indicating prices of coldwater shrimp have been relatively constant and have moved in tandem with one another during the time period of January, 2000 through November, 2003. Meanwhile, warmwater shrimp prices for varying count sizes, particularly Gulf shrimp prices, have been erratic and significantly different from the coldwater shrimp (*Pandalus borealis*) demanding, on average, a smaller price. See Attachment A.

### *Conclusion*

While it is the position of the Respondents and SEAI that the Petitioner has not presented evidence to indicate a significant difference between cold and warmwater shrimp, we disagree. Pursuant to our analysis above, for purposes of this initiation, we have found coldwater and warmwater shrimp to be two separate like products distinct from one another.

### **B. Breaded Shrimp and Prawns**

The Respondents argue if the Department believes that all forms of processed warmwater shrimp are indistinguishable, and should be treated as one like product, then the logical consequence is that the Department should require the Petitioner to include breaded shrimp production in total U.S. shrimp production as a similar like product. Because the Petitioner has not demonstrated that breaded shrimp is clearly distinguishable from raw and cooked shrimp, the Respondents assert that the Department should collapse these forms into a single like product. The Respondents argue that "raw breaded shrimp is one form of raw frozen shrimp, and cooked breaded shrimp is one form of cooked frozen shrimp." Furthermore, the Respondents argue that raw and cooked shrimp may be breaded prior to freezing. The Respondents also cite the Commission's Certain Pasta from Italy and Turkey determination when arguing that definition of domestic like product can be broader than the scope of an investigation. The Respondents argue that all of the arguments indicate that breaded shrimp should be considered part of the same like product under investigation.

The Petitioner rebuts the argument stating that the Respondents have not provided the Department with an analysis of breaded shrimp, but merely assert it is a like product with the subject merchandise. The Petitioners argue that while breaded shrimp is produced from both raw and cooked shrimp, the Respondents do not explain how this observation overcomes the differences between breaded and frozen or canned warmwater shrimp presented by the Petitioner. The Petitioner claims that the Respondents citation of Certain Pasta from Italy and Turkey, in which the Commission determined that packages of pasta greater than five pounds were like those less than five pounds, is not sufficient to argue that breaded shrimp are like subject shrimp. It is the Petitioner's position that the lack of serious analysis, and supporting evidence, the



Department should treat breaded shrimp as a separate like product.

On January 20, 2004, the Petitioner furthered its argument that breaded shrimp is a separate like product from the subject warmwater shrimp. Specifically, the Petitioner argues that breaded shrimp prevent inspection of the exact size and quality of the shrimp. Breaded shrimp, are typically 50 percent breading, and 50 percent shrimp, and sometimes non-shrimp material can constitute the majority of the product. The product is substantially altered with the taste and texture substantially dissimilar from that of other forms of warmwater shrimp (e.g., canned shrimp which are only packed in a water-based solution). The Petitioner added that other forms of warmwater shrimp can be used in a wide variety of applications, where as breaded shrimp has limited uses. The Petitioner contends that breaded shrimp is marketed to consumers as a distinct product, and that consumers perceive breaded shrimp to be different from the subject forms of warmwater shrimp (e.g., frozen or canned warmwater shrimp). Finally, the Petitioner contends that breaded shrimp is produced on machinery separate from the machinery used to produce frozen and canned warmwater shrimp, and by employees who must operate on a different production line from those producing the subject merchandise. Specifically, the Petitioner states that the processors require special breading equipment, and must have the ability to clean-up the significant amount of wastewater generated from the breading process.

#### **Department's Position:**

##### *Physical Characteristics and Uses*

It is clear the breaded shrimp product, where more than 50 percent of the product may be comprised of non-shrimp material, alters the taste and texture of the shrimp meat. It is also clear that there is a distinction between a different form of shrimp and a new product made from shrimp. Changes to the form (e.g., peeling, deveining, cooking, etc.) are alterations to the body of the shrimp. Breading adds a significant new element to the shrimp meat creating a new product, but at the same time limiting the range of possible applications and uses of the underlying shrimp meat.

##### *Interchangeability*

It is also apparent that breaded and frozen/canned warmwater shrimp are not interchangeable in the market. Specifically, frozen and canned warmwater shrimp remain in a form allowing the consumer to utilize the shrimp in a wide a variety of applications. Breaded shrimp are clearly only suitable for limited applications (e.g., frying, baking, etc. . .).

##### *Channels of Distribution*

The Petitioner argues that unlike frozen and canned warmwater shrimp which is sold internationally, breaded shrimp is marketed to consumers as a distinct product. This point of contention was not rebutted by any other party.



### *Customer and Producer Perceptions*

As previously stated, frozen and canned warmwater shrimp are purchased in a form allowing the consumer to utilize the shrimp in a wide a variety of applications. Breaded shrimp present a limited variety of uses. Additionally, the inspection of the quality and size of the shrimp meat by the consumer is not a concern for processors in the breaded sector.

### *Common Manufacturing Facilities, Processes, and Employees*

First, processors of breaded shrimp use primarily imported material in their production process. See Petition Supplement at Attachment Regarding Question 15, see also Walter R. Keithly, Jr., et al., An Economic Analysis of the Southeast U.S. Shrimp Processing Industry Responses to an Increasing Import Base. This sets apart breaded shrimp from frozen/canned warmwater shrimp as frozen/canned warmwater shrimp processors use both domestically caught and imported shrimp to manufacture the scope merchandise. The breaded processors also produce the product using different machinery, different employees, and variety of inputs not necessary when producing frozen and canned warmwater shrimp.

### *Price*

Neither party has presented evidence on the record for which to compare and contrast the prices of breaded and frozen/canned warmwater shrimp.

### *Conclusion*

Based on our analysis of the above factors, most factors support finding breaded to be from distinct the like product defined in the Petition. Moreover, none of these factors provides clear support for finding breaded shrimp to be part of the domestic like product. Therefore, we consider breaded shrimp to be distinct from the processed shrimp that are within the domestic like product.

### **C. Raw, Cooked and Canned Shrimp and Prawns**

The Respondents submitted comments on the Petition on January 12 and January 15, 2004. The Respondents contend that the Petition incorrectly asserts that raw and cooked warmwater shrimp are the same like product. The Respondents argue that application of the criteria used by the the Commission to determine the domestic like product demonstrates that the subject merchandise described in the Petition constitutes three separate like products: (1) raw frozen shrimp; (2) cooked frozen shrimp; and (3) cooked canned shrimp. The Respondents argue that at the very least, cooked canned shrimp is a separate like product from frozen shrimp.

The Respondents argue that although the Petitioner states in the Petition at Volume II, page 7, that with respect to raw and cooked warmwater shrimp, "each of these products is immediately



recognizable as shrimp" and they are all "used for human food," there are clear differences in the physical characteristics and uses of raw versus cooked shrimp. First, according to the Respondents, the physical appearances of shrimp differ in the raw form versus the cooked form. Secondly, the Respondents maintain that a raw shrimp loses weight when it undergoes cooking. Third, the Respondents argue raw shrimp and cooked shrimp are better suited for different uses. They argue that raw shrimp is used for cooking; and once thawed, raw shrimp are cooked prior to consumption. However, cooked frozen shrimp are more often used for cocktail shrimp because all that is required is thawing, and cooked canned shrimp is better suited as an ingredient in recipes.

The Respondents maintain that cooked shrimp is a convenience food, and raw shrimp is not, especially when purchased in the shell-on form. According to the Respondents, hand-peeling and deveining are very time-consuming activities. In addition, the Respondents state that recipes often specify which of the three forms (i.e., raw, cooked frozen, or cooked canned) is best suited for the recipe because appearance, size of shrimp, and texture can be very important to the final product.

Moreover, the Respondents argue that, contrary to the Petitioner's assertion, raw shrimp is not only used for human consumption, but also as "bait shrimp", which is raw, frozen, head-on shrimp that is principally used for fishing. In addition, the Respondents state that another difference between forms is shelf-life: raw shrimp can be stored in a freezer for up to six months; cooked frozen shrimp can be stored for up to two months; and cooked canned shrimp can be stored for up to a year prior to unsealing.

In addition, the Respondents do not agree with the Petitioner's assertion that all frozen and canned shrimp, whether raw or cooked, are sold through the same channels of distribution. In addition, the Respondents maintain that the shrimp segment of the seafood industry is highly specialized, with some companies importing and distributing only raw shrimp or cooked frozen shrimp, but not both, and certainly not canned shrimp, as well.

The Respondents argue that although the Petitioner claims that the manufacturing facilities, processes, and employees overlap for raw and cooked shrimp, its description of the manufacturing facilities and production processes do not support this claim. Specifically, according to the Respondents, if the processor intends to sell shrimp in the cooked form, it must dehead and peel the shrimp prior to cooking. This process requires special equipment such as feeders, cookers, chillers, and freezers. According to the Respondents, this process, as well as others (i.e., canning), require substantial investments, as well as additional employees, that raw shrimp does not require.

The Respondents also seek to rebut the Petitioner's claim that "no clear distinction exists between any particular size or stage of processing of frozen and canned warmwater shrimp and any other size or stage of processing of frozen and canned warmwater shrimp." See Petition at Volume II at 8. The Respondents maintain that customers and producers perceive raw and



cooked shrimp differently because they desire different attributes, which lead to differing uses. The Respondents maintain that it is much easier to prepare certain meals using cooked shrimp rather than raw shrimp, which requires thawing, cooking, peeling, deveining, and cooling. In addition, according to the Respondents, restaurants can achieve substantial cost savings by purchasing cooked shrimp because they do not incur the labor costs associated with manually peeling and deveining shrimp.

On the other hand, according to the Respondents, many customers prefer raw shrimp if they want more control over the taste and appearance of the final product. The Respondents argue that, in fact, selection of cooked versus raw shrimp is a fundamental consumer choice and the two forms are not interchangeable because consumers strongly prefer either one or the other. Furthermore, the Respondents submit that processors do not perceive raw and cooked shrimp as substitutes in terms of production because of the additional production activities associated with cooked shrimp, particularly cooked shrimp that is canned.

The Respondents agree with the Petitioner that there is a direct correlation between shrimp prices and sizes, i.e., the larger the shrimp, the higher the price; however, they believe that the Petitioner incorrectly concludes that “{n}o clear dividing line exists between individual products within the spectrum on the basis of price.” See Petition at Volume II at 10. The Respondents maintain that cooked frozen shrimp is sold at a substantial price, typically in the range of \$1 to \$4 per pound in supermarkets, compared to raw shrimp of the same count sizes but do not provide support evidence.

The Respondents argue that the Petitioner’s exclusion of coldwater shrimp from the scope of the Petition implicitly confirms that raw and cooked shrimp constitute separate like products because the main reasons that the Petitioner cites as distinguishing coldwater shrimp from warmwater shrimp also distinguish raw shrimp from cooked shrimp.

The Respondents contend that case precedent supports three like products in this investigation, or, at the very least, two like products. The Respondents cite the Commission’s determinations in Certain Preserved Mushrooms From Chile, China, India, And Indonesia and Canned Pineapple Fruit from Thailand in support of its contention that there are clear differences between raw and cooked shrimp. (The Commission found that fresh and preserved mushrooms as well as fresh and canned pineapple constituted separate like products). Accordingly, the Respondents argue that the Department must require the Petitioner to provide separate standing analyses for (1) raw frozen shrimp; (2) cooked frozen shrimp; and (3) cooked canned shrimp before it can initiate an investigation of any of the three like products. Finally, the Respondents assert that even if the Department does not find substantial differences between raw shrimp and all cooked shrimp, it must still recognize the clear dividing line between frozen shrimp and canned shrimp and instruct the Petitioner to revise its standing analysis accordingly.

In a letter dated January 12, 2004, the Ministry of Commerce of the Royal Government of Thailand (“Thai Government”) submitted a letter arguing that the Petitioners have failed to



defend its like product definition with respect to customers' perception and common manufacturing facilities. They argue that the producers of canned shrimp and frozen shrimp should not be grouped into the same domestic industry. See Memo to the File from Norbert Gannon, Program Manager, Office of Policy to the File Regarding Meeting with Outside Party, dated January 15, 2004.

The Petitioner argues in their January 16, 2004, rebuttal submission that the Commission does not consider each item of merchandise which make up a continuum of similar products to be a separate domestic like product that is only like its counterpart within the scope, but rather the continuum itself is what constitutes the domestic like product. See Petitioner's January 16, 2004 rebuttal submission at Attachment B, see also Certain Cold-Rolled Steel Products from Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey and Venezuela. The Petitioner emphasizes that it is important to analyze whether the similarities outweigh the differences. The Petitioner argues that the Respondents have not provided the Department with "clear dividing lines between products contained within the continuum identified by the petitioner." It is the Petitioner's argument that the Commission ultimately rejected the Respondents' attempts at expanding the scopes in Certain Preserved Mushrooms From Chile, China, India, And Indonesia and Canned Pineapple Fruit from Thailand. The Petitioner argues that this case is set apart from those investigations because the domestic like product does not include unprocessed shrimp, but rather is a continuum of products in which similarities outweigh differences.

Finally, in a letter dated January 16, 2004, the LSA argue that fresh shrimp should not be excluded from the Petitioner's definition of like product and should be included in the scope. The LSA argues that deheading shrimp is a relatively minor operation and that the Commission has ruled in prior cases that freezing is not a process which establishes a clear dividing line for purposes of like product analysis.

#### **Department's Position:**

The Respondents argue that warmwater shrimp should be properly classified as three distinct like products: (1) raw frozen shrimp; (2) cooked frozen shrimp; and (3) cooked canned shrimp.

With regard to raw frozen and cooked frozen shrimp, the Department finds that the above-referenced distinguishing characteristics are not sufficient to warrant a separate like product distinction. First, while Respondents argue raw frozen shrimp and cooked shrimp are better suited for different uses (e.g., raw shrimp is used for cooking; cooked frozen shrimp are more often used for cocktail shrimp because all that is required is thawing), they have not stated that these are the only applications for these product forms. Additionally, while the Respondents state that recipes often specify which form of shrimp is best suited for that recipe, this general undocumented assertion is not indicative of a need to classify these forms as separate like products. Furthermore, while raw frozen shrimp may not only be used for human consumption,



raw frozen shrimp clearly is consumed as a food product just as cooked frozen shrimp. Therefore, while there may be differences in the physical characteristics and production processes between raw frozen and cooked frozen shrimp, with an additional degree of processing needed to produce the cooked product, the only ultimate distinguishing feature between these two different forms is that cooked frozen shrimp permit the consumer to prepare the product for its ultimate application in a quicker, more timely and efficient manner. Consequently, there does not appear to be such a distinct difference between the two forms to justify a separate like product classification.

With regard to raw frozen and cooked canned warmwater shrimp, the Petitioner states that both of these forms of warmwater shrimp are used for the same purpose (i.e., food preparations) and are interchangeable. The Department agrees that while these forms may be produced using different processing techniques, and the shelf-life between these forms may differ, the ultimate use of the product remains the same. Because raw frozen and cooked canned shrimp have not been altered to such an extent, they can both be used for a wide array of applications and are more similar than dissimilar when compared to, for example, breaded shrimp. While the Commission may have determined that certain fresh and canned/preserved products are separate like products, the Department is not bound by the decisions set forth in Certain Preserved Mushrooms From Chile, China, India, and Indonesia or other cited Commission determinations, nor are they relevant. Specifically, in the mushrooms case for example, the Commission analyzed whether fresh and preserved mushrooms were a like product.<sup>12</sup> In this case, we are not comparing fresh to canned warmwater shrimp; rather we are comparing raw frozen (shrimp which have already been processed to a certain extent) to cooked canned warmwater shrimp. Therefore, the Commission precedent cited to by the Respondents is not analogous to the facts of this case. While the Department agrees that some differences exist between the two product forms, it is the Department's position for purposes of this initiation that they are not so significant to warrant a separate like product determination.

With respect to the comments submitted by the Thai Government and the LSA, we have determined that these comments do not provide a compelling analysis as to why the Department should consider the shrimp product forms included in the scope of the investigation as separate like products. Specifically, these submissions did not provide a legal or factual basis for why separate like product determinations should be made. As such, we continue to consider the merchandise subject to this investigation as one single like product as discussed above.

#### **D. Black Tiger & Freshwater Shrimp and Prawns**

It is SEAI's position that black tiger shrimp are a product uniquely different from that harvested in the United States. Specifically, SEAI argues the black tiger is physically different from the Gulf of Mexico harvest due to its unique shell color and larger size than U.S. landed shrimp (i.e., Gulf Shrimp). It is also their position that it is not interchangeable with other warmwater species

<sup>12</sup> See e.g., Certain Preserved Mushrooms from Chile, Inv. No. 731-TA-776 (Final) at 4.



and consumers view it as a unique product. SEAI contends that black tiger shrimp are marketed independently of all other shrimp and are, in fact, marketed by name. Finally SEAI argues that price differences between black tiger shrimp and U.S. Gulf shrimp further distinguish the species as a separate like product.

SEAI further contends that the characteristics of freshwater shrimp distinguish it from warmwater shrimp. SEAI contends that freshwater shrimp has larger heads as compared to other shrimp, and due to its large size, it is used for entrees (e.g., broiling, grilling, etc.). SEAI argues freshwater shrimp are not interchangeable with warmwater shrimp because they are distinctive in taste and lower in fat and cholesterol than warmwater shrimp. Finally, SEAI indicates that freshwater shrimp prices are closer to lobster prices than shrimp prices which have been stable in the last year. SEAI states that the Commission has found distinct differences, for example between fresh and preserved mushrooms, between related foods in the past. As such, these differences in appearance and use among shrimp types should lead to separate like product distinctions in this case.

#### Department's Position:

We disagree with SEAI's argument that black tiger and freshwater shrimp are a separate like product from other species of warmwater shrimp. While the Department notes that black tiger and freshwater shrimp are somewhat larger than Gulf shrimp there is no clear dividing line to distinguish the sizes of the two. Moreover, record information indicates that most shrimp cook up pink and processors in the industry believe consumers generally consider most species of warmwater shrimp to be interchangeable even though wild shrimp have a stronger flavor than the farmed product (with brown shrimp being stronger in flavor than white or pink shrimp).<sup>13</sup> In fact, the Commission found that "the distinction between imported {which likely includes some volume of farmed black tiger and freshwater} and domestic shrimp" is imperceptible to the final customer.<sup>14</sup> Furthermore, the Petitioner cited to a statement in the Encyclopedia of Aquaculture which indicates that '{f}arm-raised shrimp {which include the black tiger, Western White shrimp, Western Blue shrimp, and Chinese White shrimp} are primarily of warm-water species and compete primarily with the U.S. captured warm-water production.'<sup>15</sup> Thus, it does not

<sup>13</sup> See [http://www.pacseafood.com/products/ww\\_shrimp.html](http://www.pacseafood.com/products/ww_shrimp.html)

<sup>14</sup> See Conditions of Competition Affecting the U.S. Gulf and South Atlantic Shrimp Industry at xviii, Report to the President on Investigation No. 332-201 Under Section 332 of the Tariff Act of 1930, as amended, USITC Publication 1738 (August 1985).

<sup>15</sup> See Rebuttal at 2 of Like Product Analysis Summary, see also Walter R. Keithly and Kenneth J. Roberts, "Economics: Contrast with Wild Catch Fisheries" in Robert R. Stickney, Encyclopedia of Aquaculture at 265, and [http://www.foodmarketexchange.com/datacenter/product/seafood/shrimp/detail/dc\\_pi\\_sf\\_shrimp\\_0204\\_01.htm](http://www.foodmarketexchange.com/datacenter/product/seafood/shrimp/detail/dc_pi_sf_shrimp_0204_01.htm)



appear that the factors identified by SEAI, clearly distinguish these products. Therefore, for purposes of this initiation, the Department find that all species of warmwater and freshwater shrimp constitute a single like product.

## **OTHER COMMENTS**

The following section addresses comments received from Respondents on January 12 and 15, 2004 and the Petitioner's comments of January 16 and 20, 2004. Also addressed below are comments submitted by the Royal Government of Thailand on January 12, 2004 and the LSA on January 16, 2004.

### **A. Inclusion of Processors That Import Shrimp In Industry Support**

The Respondents argue that the Petitioner failed to disclose whether it included processors that import shrimp in its standing calculation. The Respondents contend that although the Petitioner included in its standing calculation the supporting positions of some processors that import shrimp, it has not disclosed this fact in the Petition. In addition, the Respondents maintain that several such processors are not even identified in the petition. The Respondents argue that the Petitioner must identify all known importers from each country identified in the Petition, as well as all domestic processors that use imports, regardless of whether they are direct importers.

Additionally, the Respondents claim that they have reliable information that at least 33 domestic producers purchased imports during 2002, only some of which support the petition, or are even listed by the Petitioner as known producers. According to the Respondents, the Petitioners have not addressed the question of processors that support the petition, but which also import shrimp from other countries, including those named in the petition. Therefore, the Respondents contend that the Department does not have complete information to determine whether it should disregard the positions of any of the processors.

In their letter of January 15, 2004, the Respondents contend that the Department must include domestic production of shrimp that is processed from imports in its total production calculation, which is the denominator for the 25 percent test. The Respondents argue that the Petitioner's claim that the Department should not include shrimp processed from imports in the calculation is incorrect because processing is not a minor operation, as the Petitioner claims. According to the Respondents, the production steps undertaken in the United States constitute substantial processing that transforms the raw product into new and distinct articles with different physical characteristics and uses with significant value added. This processing also requires substantial investments in equipment and employees. Therefore, the Respondents assert that imported raw materials become part of the domestic like product after undergoing further processing steps in domestic processing facilities.

The Petitioner notes that they have provided the Department with an estimated amount of imports of warmwater shrimp that may have been used in the United States to process



merchandise within the scope of the Petition in their deficiency questionnaire response. According to the Petitioner, including this imported amount<sup>16</sup> going to processing increased total U.S. production in calendar year 2002.

The Petitioner argues that the Respondents misconstrue the statute and the regulations with regard to imports. According to the Petitioner, 19 C.F.R. 351.202(b)(8), the Petitioner provided publically available information identifying known importers (for each particular target country) of the subject merchandise which accounted for two percent or more by volume of imports. The Petitioner claims that this regulation does not require a Petitioner to identify domestic purchasers of imported merchandise covered by the scope of the petition and such information is not reasonably available to the Petitioner in any event.

The Petitioner argues that the Respondents did provide a single source in support of their allegations. According to the Petitioner, to the extent that the companies listed may be simply importers or use imports to produce merchandise beyond the scope of the Petition, such as breaded shrimp, the Respondents' list of 33 domestic producers is further suspect.

#### **Department's Position:**

First, we note that the NOAA data the Department used in its calculation of industry support reflects production of shrimp products regardless of the source of the shrimp to be processed; all import volumes processed by the Petitioner and other U.S. shrimp processors producing the domestic like product have been included. See NOAA Memo.<sup>17</sup> Therefore, any comments regarding the need to include processed shrimp produced from imported shrimp have been addressed by the use of this data. Additionally, the calculation of industry support shows that over 50 percent of total U.S. production supports the Petition. Therefore, the Department need not reach the issue of addressing any opposition by importers.

#### **B. Exclusion of Value and Calendar Year 2003 Data**

The Respondents argue that the Petition fails to demonstrate adequate support by the domestic shrimp industry because it does not contain the total volume and value of U.S. production of the domestic like product.

The Respondents assert that when reporting production data, the Petitioner failed to comply with

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<sup>16</sup> According to the Petitioner, breaded shrimp is excluded from the scope of the investigation and is a separate like product. Therefore, no imports used to produce breaded shrimp should be included in calculating the total U.S. production of the domestic like product to determine industry support.

<sup>17</sup> For a discussion of the NOAA Memo, please see the "Analysis of the Industry Support Calculations" section below.



several regulatory requirements for filing a petition. First, the Respondents maintain that no value data was reported for processors or harvesters, nor has the Petitioner attempted to show that this information is not available. Secondly, the Respondents maintain that the Petitioner made no effort to provide current data, either for total U.S. shrimp production or for the company-specific production data in support of the petition. Moreover, the Respondents allege that the Petitioner incorrectly claims that the most recently published aggregate data available from the NMFS is for calendar year 2002. According to the Respondents, the NMFS published aggregate shrimp landing data through November 2003 for five states, which account for 86 percent of total 2002 landings, and where the majority of the petitioning companies and others that support the petition are located. Therefore, the Respondents submit that the Petitioner can and should provide its volume and value data, at least for the period July 2002 through June 2003 for total U.S. shrimp production, as well as the data for the petitioning companies, and those known persons, whether processors or harvesters, that supported the petition.

Citing 19 C.F.R. 351.203(e)(1), the Petitioner argues that in determining industry support, the Department may measure production based on volume. In addition, the Petitioner cites this same regulation and argues that the Department has broad discretion to measure production based on a suitable twelve-month period, but does not specify that period must, by law, be the most recent twelve-month period. Moreover, the Petitioner argues that the data cited by the Petitioner obtained from NMFS is the most recent and only complete data available which is published by the NMFS. The Petitioner explained that the NMFS did not finalize calendar year 2002 data until September 2003. The Petitioner stated that NMFS indicates on its website that all 2003 landings are preliminary.

**Department's Position:**

19 C.F.R. 351.203(e)(1) states that:

"The Secretary normally will measure production over a twelve-month period specified by the Secretary, and may measure production based on either value or volume. Where a party to the proceeding establishes that production data for the relevant period, as specified by the Secretary, is unavailable, production levels may be established by reference to alternative data that the Secretary determines to be indicative of production levels."

Therefore, we agree with the Petitioner that volume may be used as the basis for calculating industry support. In addition, the evidence on the record demonstrates that the NMFS data was the most recent data available to the Petitioner. We agree with the Petitioner that finalized calendar year 2002 data are preferable to incomplete calendar year 2003 data. In a recent case involving Wooden Bedroom Furniture from China, the Department relied upon a previous calendar year period for purposes of calculating industry support. See Notice of Initiation Checklist: Antidumping Duty Investigation on Wooden Bedroom Furniture from the People's



Republic of China, dated December 10, 2003, at Attachment III. Therefore, given that the Department has accepted previous calendar year data as the basis for calculating industry support and that the NMFS data from 2003 has not been finalized, using calendar year 2002 in this case, the data provided by the Petitioner is acceptable for purposes of calculating industry support.

**C. Exclusion of Domestic Harvesters and Farmers from the Industry Support Calculation**

The Respondents argue that because the Petitioner defines the domestic industry to include harvesters and farmers it must separately demonstrate that both the harvesters and the farmers have standing. The Respondents claim that the Petitioner's reliance on IOF Red Raspberries from Chile, 66 FR 34407, 34408 (June 28, 2001), in which the Department based industry support solely on the processors' representation, even though the petition was brought by both processors and growers, is misplaced because the Department changed its standing methodology in the recent initiation of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, 67 FR 48437 (July 24, 2002) ("Certain Frozen Fish Fillets"). Therefore, the Respondents contend that the Petitioner must demonstrate industry support by both processors of frozen and canned shrimp and the harvesters and farmers of the raw agricultural product, in order to comply with the holding in Certain Frozen Fish Fillets.

Furthermore, the Respondents argue that the Petitioner has not demonstrated that harvesters and farmers satisfy the 25 percent or 50 percent standing requirements because there are several flaws in the Petitioner's calculation. First, the Respondents maintain that the Petitioners failed to show that it calculated the numerator and the denominator of the standing calculation on a consistent basis. In calculating the denominator, the Petitioner converted total commercial landings to a headless, shell-on equivalent weight; however, according to the Respondents, the numerator most likely reflects a head-on weight, which would overstate the extent of support from shrimp fishermen. The Respondents believe that due to the confusing nature of the forms sent to domestic shrimpers, there is no way to know if most of the shrimpers reported the headless equivalent; and the inference is just as likely that they reported head-on weight and never performed the conversion to a headless, shell-on equivalent weight. Accordingly, the Respondents assert that the Department should require the Petitioner to resubmit all of the forms using revised language.

The Respondents further argue that, if the Petitioner is not able to prove that each supporter reported its production on a headless weight basis, the Department should assume that the entire numerator is reported on a head-on basis, and convert that figure to a headless weight basis. Using a revised methodology would yield a figure of 32.1 percent of total U.S. production in support of the petition. Moreover, adding coldwater shrimp to the total U.S. production decreases the total U.S. production in support of the petition to 27.8 percent. Therefore, the Respondents submit that the Petitioner has not demonstrated domestic production in support of the Petition in excess of 50 percent. Accordingly, the Respondents argue that the Department must also poll shrimp harvesters and farmers to ascertain whether the Petitioner has satisfied the



Department's 25 percent and 50 percent industry support tests.

In addition, the Respondents advocate requiring the Petitioner to submit monthly production data from each of the domestic shrimpers and processors for the period July 2002 through June 2003, in order to ascertain the most recent 12-month period for which production data is reasonably available. However, if the Petitioner cannot obtain this data in a timely manner, the Respondents suggest that the Department consider the numerator to reflect a head-on weight, and apply a factor of 0.629 to derive the headless weight equivalent. Using this methodology, the Respondents argue that the resulting total share of production in support of the Petition is 24.11 percent, and adding coldwater shrimp to the total U.S. shrimp production yields an even lower figure of 20 percent in support of the petition.

Moreover, the Respondents contend that the Petitioner implicitly acknowledges that they have not been able to demonstrate industry support by fishermen accounting for more than 50 percent of total U.S. production. Based on deficiencies and issues that warrant further analysis, the Respondents believe that both polling and further information requests are necessary.

Citing 19 U.S.C. § 1673a(c)(4)(A)(I), the Petitioner argues that it did not separately calculate standing of harvesters of the raw agricultural product (i.e., commercial shrimp fisherman ("shrimpers") landing warmwater wild-caught shrimp to determine the standing of the Ad Hoc Shrimp Trade Action Committee because the statute requires only that the domestic production of domestic producers producing the domestic like product be taken account of to determine whether a Petitioner filed on behalf of the domestic industry. According to the Petitioner, the domestic like product is frozen and canned warmwater shrimp; only the production of the processed agricultural product legally can be take into account when measuring industry support. The Petitioner agrees, however, that the statute permits the growers of a raw agricultural product to be included as an interested party when the domestic like product is a processed agricultural product and considered for purposes of assessing injury. Consequently, the Petitioner believes that the Department's method of accounting for the harvesters raw production in Certain Frozen Fish Fillets is legally wrong and should not be applied in these investigations. Citing IOF Red Raspberries from Chile and other agricultural cases, the Petitioner argues that the Department's better measure of industry support is based on the production of the domestic like product. While not conceding that the harvester support is required by law to determine standing, notwithstanding, even were the Department to follow the Certain Frozen Fish Fillets method based on the support provided by the Petitioner, the Petitioner and supporters represent over 50 percent of the total U.S. production of frozen and canned warmwater shrimp in calendar year 2002 (including landings of warmwater and farmed production).

The Petitioner argues that the support form employed by the Petitioner clearly indicates that the volume of landings reported was to be reported in headless weight and the actual conversion factor was supplied on the form along with a sample calculation. According to the Petitioner, the Department should not countenance such an unwarranted and unsubstantiated demand which would unnecessarily waste resources and delay the relief to which Petitioner is entitled.



**Department's Position:**

We note that the Petition was filed on imports of certain frozen and canned warmwater shrimp and prawns (see the Industry Support Calculation Used for Initiation" section below). Under the statute, in a processed agricultural product investigation and when certain criteria are met (See Section 771(4)(E) of the Act), the Department has the discretion to include both harvesters (or "growers") and processors within the industry producing the domestic like product. Thus, when considering processed agricultural products, the statute allows the Department to consider harvesters and processors together as the industry and to determine industry support consistent with the industry determination.

With regard to the Respondents and Petitioner references to Certain Frozen Fish Fillets, we note that this case is different on several key points. Specifically, in Certain Frozen Fish Fillets, the harvester data used for purposes of calculating industry support was based on water acreage. The processor data was based on pounds processed by the processors. Therefore, the Department was unable to combine the volumes as they were not on a consistent unit of measure. See Certain Frozen Fish Fillets at Attachment II. In this case, however, headless, shell-on volumes are available for both the harvesters and processors. Therefore, the volumes can be combined in an accurate and consistent basis when calculating industry support permitting calculation of a combined figure.

With respect to the Respondents' arguments regarding the support-form submitted by the Petitioner and supporters, we disagree. The record evidence does not support a conclusion that the individual shrimpers that provided a response to the support-form employed by the Petitioner were confused and/or the form was unclear. The Respondents simply alleged that the support form was confusing, but provided no evidence (e.g., certified statements from shrimpers) to support their allegations. Moreover, the shrimpers' data the Petitioner provided has not been challenged with revised shrimper data presented by the Respondents. Therefore, given that the shrimper data provided by the Petitioner, is certified and not contradicted by record evidence, we find the data appropriate for use in the industry support calculation.

**D. Treatment of On-Board Processing**

The Respondents argue that the Petitioner failed to consider the fact that some shrimp is processed on-board and comes off the boat frozen. According to the Respondents, because the Petition reports that processors supporting the Petition purchased 41.8 million pounds of headless processed, shrimp, the Petitioner is, in effect, acknowledging that the raw agricultural product undergoes processing further upstream than its standing analysis indicates, in the form of deheading and freezing at sea. Because the Petitioner also concedes that freezing shrimp constitutes processing of the raw agricultural product into the subject merchandise, according to the respondents, the Petitioner's standing analysis of processors is incorrect since it omits consideration of processing by shrimpers.



The Petitioner disagrees that harvesters of shrimp are processors simply because some freezing of raw shrimp occurs at sea. The Petitioner argues that warmwater shrimp is a highly perishable agricultural product which spoils rapidly if not frozen (or consumed) within a day or so. The Petitioner explained that some commercial shrimping boats have the capacity to freeze on-board to permit them to remain at sea for several days or even weeks without spoilage to their wild-catch. According to the Petitioner, the freezing capacity exists solely to permit the shrimper to land his catch dockside in a saleable condition. The Petitioner explained that the portion of warmwater shrimp caught and frozen on freezer boats are counted by the NMFS as warmwater shrimp landings (i.e., as a raw agricultural product) and have always been so acknowledged; regardless of whether the wild-caught shrimp is landed in a frozen or unfrozen state, the shrimper receives the same dockside price. The Petitioner states that to their knowledge, freezer boats do not directly sell their frozen catch into frozen wholesale markets. The Petitioner concludes that shrimpers with on-board freezing capacity are not processors of warmwater shrimp, but merely harvesters of a raw agricultural product which must be kept from spoilage before being sold for processing into frozen or canned form for sale into the national wholesale market.

**Department's Position:**

The Department has relied on data from NOAA (NMFS) for industry support. NOAA explicitly does not classify and document the portion of warmwater shrimp caught and frozen on freezer boats as processed shrimp. See Petitioner's January 16, 2004 submission at 14. Therefore, warmwater shrimp that is frozen on-board is considered in our calculation of industry support as part of the harvester production.

**E. Treatment of Shrimp Sold Fresh Deduction from Total U.S. Shrimp Production**

The Respondents argue that the Petitioner has not provided credible support for its "shrimp sold fresh" deduction from total U.S. shrimp production. Instead, the Respondents argue that the Petitioner submitted a seven-year old survey that supposedly shows that 90 percent or more of warmwater shrimp landed by shrimp fishermen is sold to local seafood processors or wholesalers. In addition, given the likelihood that some portion of live shrimp are processed (frozen) at sea, the Respondents contend that the Department should not allow this deduction.

The Petitioner argues that a small, local fresh shrimp market for wild-caught warmwater shrimp exists and provided a recent press report and Petitioner's own survey of commercial shrimpers, dockside operators and shrimp processors. In addition, the Petitioner notes that even if the Department were to assume that no wild-caught shrimp are sold fresh, the Petitioner would retain sufficient industry support.

**Department's Position:**

The evidence on the record provided by the Petitioner demonstrates that there is a market for shrimp sold fresh. While Respondents have challenged the Petitioner's estimation of the extent



of the volume of the raw shrimp market, they have not challenged the existence of such a market. As such, the issue is the appropriate accounting for such sales. The Respondents provide no competing data as to the size of the raw market. In the absence of any other data, and given the unchallenged observation that the market exists, we have deducted from the total U.S. landings figure for harvesters the estimate of shrimp sold fresh provided by the Petitioner in our calculation of industry support.

#### **F. Processors Engaged in Breeding**

The Respondents argue that the Petitioner must identify all known processors in the domestic industry that engage in breeding, which, according to the Respondents, is a significant processed shrimp product, both in terms of weight and value. Although breaded shrimp is not included in the scope of the Petition, the respondents maintain that the like product definition requires that the petitioner identify all members of the domestic industry producing the like product, which would include domestic processors that produce breaded shrimp. Accordingly, the respondents request that the Department require the Petitioner to identify all known domestic producers of breaded shrimp and include them within the standing calculation, or else demonstrate that it has already included them.

The Respondents argue that the Department must reject the Petitioner's attempt to exclude breaded and coldwater shrimp from the definition of the "domestic like product" and increase the denominator in the 25 percent standing calculation to incorporate production for both of these products. The Respondents maintain that, at a minimum, breaded shrimp is indistinguishable, for like product purposes, from other forms of raw and cooked shrimp that domestic processors produce in their facilities.

The Respondents argue that even with a correction of the standing calculation to include in the denominator domestic processing of imported shrimp, as well as breaded and coldwater shrimp, the Petitioner fails to conclusively establish industry support. The Respondents note that the 2003 Keithly Study cited by the Petitioner underestimates domestic breaded shrimp production

The Petitioner argues that breaded shrimp is expressly excluded from the scope of the Petition and is a separate like product; therefore, no imports used to produce breaded shrimp can be included in calculating the total U.S. production of the domestic like product to determine industry support.

The Petitioner argues that based on the affidavits of persons with many years of experience in the domestic shrimp industry, submitted on January 16, 2004, only a relatively small portion of the frozen shrimp imports are processed at all, and the vast majority of that small amount is used to produce breaded shrimp. The Petitioner argues that while it certainly is the case that imports account for a high percentage of apparent U.S. consumption, it does not follow that domestic processors supporting the Petition must import large volumes of those imports to meet demand. According to the Petitioner, the Respondents are incorrect when claiming that the Petitioner and



those processors in support used large volumes of imported shrimp to product subject merchandise.

**Department's Position:**

As discussed above, we have determined that breaded shrimp is not the same like product; therefore, an analysis including domestic processors that produce breaded shrimp is not necessary.

**G. Polling Request**

The Respondents claim that the Petitioner also has not satisfied the 50 percent test. The Respondents submitted statements from eight domestic producers that opposed the petition, representing approximately 23 percent of those expressing support for or opposition to the Petition. While the Respondents admit that this does not demonstrate opposition in excess of 50 percent, they claim that numerous domestic processors have not yet had an opportunity to express support for, or opposition to, the petition. Accordingly, the Respondents request that the Department poll the domestic industry, or use another means to determine the level of industry support before initiating antidumping investigations.

**Department's Position:**

As discussed below, the Department has determined that the Petitioner and supporters represent over 50 percent of the total U.S. production of frozen and canned warmwater shrimp in calendar year 2002, therefore, the Respondents' implicit request that we poll the industry so that parties may offer an opinion on the Petition must be rejected.

**H. Royal Government of Thailand's January 12, 2004 Comments:<sup>18</sup>**

As noted above, the Thai Government submitted a letter dated January 12, 2004. In this letter the Thai Government expressed its concern over the calculation of industry support. See Memo to the File from Norbert Gannon, Program Manager, Office of Policy to the File Regarding Meeting with Outside Party, dated January 15, 2004. Specifically, the Thai Government explained in its letter that the industry support requirement had not been met. In addition, the Thai Government addressed its concern for the opinions of all U.S. shrimp processors, especially those U.S. shrimp processors who import shrimp.

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<sup>18</sup> With to regard to the Thai Government's comments regarding the anti-dumping calculations, we note that they are not being considered at this time in accordance with 732(c)(4)(E) of the Act, which limits comments from interested parties to only the issue of industry support.



**Department's Position:**

At the onset, we note that the Thai Government's comments addressed the Petitioner's industry support calculation from the Petition and not the revised calculation of industry support submitted by the Petitioners on January 12, 2004. Secondly, we note that the Department's final calculation of industry support included shrimp processors and also accounted for imports processed by U.S. shrimp processors. More importantly, however, the share of total estimated U.S. production of the domestic like product in calendar year 2002 represented by the Petitioner and the supporting domestic producers equal over 50 percent of total domestic production including imports.

**I. Louisiana Shrimp Association's January 16, 2004 Comments:**

In a letter dated January 16, 2004, the LSA expressed opposition to the Petition and requested that the Department poll the industry, including shrimpers, to determine whether the Petition was adequately supported by the relevant domestic industry.

**Department's Position:**

Because the share of total estimated U.S. production of the domestic like product in calendar year 2002 represented by the Petitioner and the supporting domestic producers equals over 50 percent of total domestic production, it is not necessary to poll those participants of the industry which have not yet voiced their opinion.

Additionally, while the LSA stated opposition to initiating an investigation based on the Petition in its current form, they did not provide a list of its members, actual production figures for its members nor the output of processed shrimp produced by the processing members of the LSA. No certifications from individual members certifying the accuracy of the responses or estimated figures which were provided. Therefore, the Department is unable to determine whether any members opposing the Petition were included as Petitioner or supporters in the Petition. However, the LSA did provide an approximation of 35-50 million pounds using the heads on weight of the product. Even if we assume that LSA landed 50 million pounds of headless, shell-on shrimp and if we assume there is no overlap between Petitioner's harvested support and the LSA, this does not alter the outcome of the industry support calculation.

**ANALYSIS OF INDUSTRY SUPPORT CALCULATIONS**

**A. Industry Support Calculation from Petition**

On December 31, 2003, the Petitioner included in the Petition a calculation of industry support. See Petition at Exhibit I-2-D. As the basis for the numerator in the industry support calculation, the Petitioner explained that the 120,789,779 pounds production figure was calculated by combining the following figures: 21,884,721 pounds of domestic shrimp processed by the



Petitioner and 98,945,058 pounds of domestic shrimp processed by other domestic producers supporting the Petition.

As the basis for the denominator, the Petitioner explained that the total estimated production of warmwater shrimp in the United States was calculated by summing the total live weight of wild-caught shrimp from states producing warmwater shrimp<sup>19</sup> and the total U.S. production of farm-raised warmwater shrimp for calendar year 2002.<sup>20</sup> The sum of these weights was then converted to a headless, shell-on equivalent weight. See Petition at Exhibit I-2-D. Once the sum of these weights was calculated, the Petitioner reduced the total figure of 169,737,256 pounds (headless, shell-on equivalent) by subtracting an estimate<sup>21</sup> of the pounds of fresh shrimp sold for consumption (8,463,863 pounds), yielding a revised total of 161,250,393 pounds of headless, shell-on weight. Additionally, the Petitioner reduced the 161,250,393 pound of headless, shell-on weight figure by a ratio of .96 of purchased to processed shrimp. See Petition at Exhibit I-2-D. Therefore, the final figure of 154,800,377 pounds was used as the denominator, which represents the total pounds of landings and farmed domestic shrimp processed excluding fresh shrimp sold for consumption.<sup>22</sup> As a result, the Petitioner's calculation of industry support as

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<sup>19</sup> According to the Petitioner, the total live weight of wild-caught warmwater shrimp was calculated as the sum of shrimp landings as reported by the National Oceanic and Atmospheric Administration ("NOAA") for all coastal states excluding Alaska, California, Maine, Massachusetts, New Hampshire, Oregon and Washington. See Petition at Exhibit I-2-D. The total live weight of wild-caught warmwater shrimp included shrimp caught in calendar year 2002 in the following states: Alabama, Connecticut, Florida, Georgia, Hawaii, Louisiana, Mississippi, New York, North Carolina, Rhode Island, South Carolina, Texas and Virginia.

<sup>20</sup> According to the Petitioner, the total live weight of farm-raised shrimp was taken from estimates by the U.S. Marine Shrimp Farming Program. See Petition at Exhibit I-2-D. The Petitioner explained that the landings were used as a proxy for total U.S. production because no independently available public data exists that tracks or maintains U.S. production of frozen and canned warmwater shrimp. See Petition at Exhibit I-2-D.

<sup>21</sup> The Respondents provided comments on the appropriateness of this estimate, which has been discussed at length above in the "Other Comments" section of this document.

<sup>22</sup> The Respondents indicate that three species of shrimp normally associated with warmwater may be theoretically landed in states (i.e., Massachusetts, New Jersey and California) normally associated with coldwater shrimp based on information presented in the Petition. As such, it is their position that landings from these states should be included in the industry support calculation. While it may be theoretically possible that out of the numerous species listed in the Petition of warmwater shrimp, these three species may be among those landed in these states, the Respondents provide no indication as to the relevant landings of these species in these states, nor evidence (or actual data) of any commercial landings at all. Additionally, the Respondents have not presented a methodology that the Department can implement to break these states'



mentioned above is seventy-eight percent.

This approach, however, does not account for any imports of frozen warmwater shrimp processed in the United States. Recently, the Department included in-scope imports that were subsequently processed in the United States but remained in-scope in the calculation of industry support. See Initiation Checklist on Antidumping Duty Investigation: Certain Processed Hazelnuts from Turkey ("Hazelnuts from Turkey") at Attachment I. In a letter dated January 8, 2004, the Department requested clarifications to the Petition calculation of industry support regarding the Petitioner's exclusion of imports of warmwater shrimp processed in the United States. Subsequently, the Petitioners submitted an alternative calculation of industry support inclusive of imports of warmwater shrimp processed, but remaining in-scope, in the United States on January 12, 2004. Therefore, we have determined that the methodology first proposed in the Petition is inconsistent with Department practice in Hazelnuts from Turkey and should be disregarded as the basis of calculating industry support.

Moreover, we find Petitioner's argument to exclude domestically processed shrimp that was produced from imports based on U.S. Customs and Border Protection ("Customs") country-of-origin rulings unpersuasive. The Department has repeatedly found that it is not bound by Customs country-of-origin determination because the Department's AD/CVD determinations reflect concerns specific to the enforcement of AD/CVD laws. Customs country of origin rulings serve distinct purposes. See E.g. Erasable Programmable Read Only Memories (EPROMs) From Japan: Final Determination of Sales at Less than Fair Value, 51 FR 39680 at Comment 28 (October 30, 1986 citing to Diversified Products Corp. v. United States, 5 ITRD 1263 (CIT 1983)). Moreover, the Statute does not limit the definition of domestic like product to products that are produced from domestic inputs. See Sec. 771(10) of the Act. In addition and as discussed above, in a recent processed agricultural product initiation the Department included domestic like product produced from imports within total production of the domestic like product. See Hazelnuts from Turkey. Therefore, for the aforementioned reasons and consistent with Hazelnuts from Turkey, the Department has based industry support on total production of the domestic like product including production based on imports.

#### **B. Industry Support Calculation from Deficiency Questionnaire Response**

As mentioned above, in the Petitioner's response dated January 12, 2004, the Department received an alternative calculation of industry support. In this alternative calculation of industry support, the Petitioner included an estimate of calendar year 2002 imports of frozen warmwater

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warmwater shrimp landings out from more typical coldwater landings. Therefore, because there is insufficient evidence on the record to indicate these species were actually landed in the aforementioned states in 2002 presented by the Respondents, we have not included these states' shrimp landings in the industry support calculation.



shrimp processed in the United States.<sup>23</sup>

As the basis for the numerator, the Petitioner used a figure of 127,043,254<sup>24</sup> pounds, which represents domestic shrimp processed by the Petitioner and other domestic producers supporting the Petition. According to the Petitioners, the 127,043,254 pound figure included pounds from additional warmwater shrimp processors in support of the Petition, that were not included in the 120,789,779 figure submitted in the Petition. In addition, the Petitioner notes that no imports used by the Petitioner and those processors supporting the Petition in calendar year 2002 to produce in-scope merchandise were included in this calculation. See Petitioner's January 12, 2004 Response at Attachment Regarding Question 15.

As the basis for the denominator, the Petitioner relied on two sources. According to the Petitioner, the NMFS has collected data regarding domestic warmwater shrimp processing operations and requests researchers to provide studies of that industry from time to time over a period of several years. The Petitioner stated that in 2003, a study done by Walter Keithly<sup>25</sup> and others, including Mike Travis of the NMFS, examined the impact of increasing warmwater shrimp imports and the change in the composition of such shrimp imports. The Petitioner asserts by focusing solely on the Southeastern United States in its analysis of the warmwater shrimp processing industry, the 2003 Keithly Study implies that the U.S. warmwater shrimp processing industry is located in the Southeastern United States (i.e., North Carolina through Texas). The Petitioner claims that the 2003 Keithly Study is the most recent of several such studies requested and funded, at least in part, by the NMFS to examine the U.S. (Southeast) shrimp processing industry. The Petitioner explained that they relied upon this information as the best publically available information concerning the extent and condition of the warmwater shrimp processing industry in the United States.

According to the Petitioner, the 2003 Keithly Study examined world warmwater shrimp supply and production (farmed and wild-caught). Moreover, the Petitioner stated that this study measured the amount of warmwater shrimp imports that were processed (in all forms) by the U.S. warmwater shrimp processing industry relative to the total amount of domestic production

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<sup>23</sup> The Petitioner's estimation of U.S. production excluded imports which were not covered (not intended to be covered) by the scope of the Petition, i.e., coldwater shrimp, fresh shrimp, breaded shrimp and shrimp prepared in meals. See Petitioner's January 12, 2004 Response at Attachment Regarding Question 15.

<sup>24</sup> On January 13, 2004, the Petitioner submitted support certifications from additional processors of frozen and canned warmwater shrimp and prawns and harvesters of wild-caught warmwater shrimp and prawns.

<sup>25</sup> An Economic Analysis of the Southeast U.S. Shrimp Processing Industry: Responses to an Increasing Import Base ("2003 Keithly Study") was authored by Walter R. Keithly, Jr., Hamady Diop, Richard F. Kazmierczak, Jr. and Mike D. Travis, 2003.



(imports and domestically-sourced production). According to the Petitioner, the 2003 Keithly Study reveals that 110,000,000 pounds (in headless, shell-on equivalent weight) of warmwater imports were processed (all forms) by entities in the (Southeast) United States in calendar year 2001.

The Petitioner explained that according to the 2003 Keithly Study, the 110,000,000 pound volume includes warmwater shrimp imports subsequently used in U.S. production of breaded shrimp products. The Petitioner also explained that according to the 2003 Keithly Study, in 2001 U.S. processors produced over 80,000,000 pounds (in shell-on headless equivalent weight) of breaded shrimp and less than one percent of domestically-sourced shrimp was processed into breaded shrimp. See Petitioner's January 12, 2004 Response at Attachment Regarding Question 15. Therefore, the Petitioner explained, the 110,000,000 pounds amount substantially overestimates the amount of shrimp that was processed into in-scope merchandise in the United States in calendar year 2001.<sup>26</sup> Therefore, the Petitioner deducted 80,000,000 pounds from the 110,000,000 amount, resulting in 30,000,000 pounds of warmwater shrimp imports as the estimate of warmwater shrimp imports that were processed in the United States into shrimp products covered by these investigations.

The second source, 154,800,377 pounds, discussed above was added to the 30,000,000 pounds by the Petitioner. Therefore, the Petitioner's final denominator figure used in the industry support calculation was 184,800,377, which represents pounds of landings and farmed domestic shrimp processed, excluding fresh shrimp sold for consumption, and warmwater shrimp imports that were processed in the United States into shrimp products covered by these investigations. As a result, the Petitioner's alternative calculation of industry support as mentioned above is sixty-nine percent.

We noted that the 2003 Keithly Study, figure of 110,000,000 is an approximation (using a 1995 based average). During the course of this initiation, the Department was able to obtain actual total processor output figures collected by NOAA<sup>27</sup> and concluded that because the 2003 Keithly

<sup>26</sup> According to the Petitioner, this is conservative also in that the Petitioner is not making any reductions to this amount to account for the processing of some portion of imports to produce other products not covered by this investigation, such as prepared meals.

<sup>27</sup> In performing its obligation to examine the accuracy of this data provided by the Petitioner, the Department found that the 110 million pounds figure in the 2003 Keithly Study was based on information collected by NMFS a division of NOAA. See Memo to the File from Nicole Bankhead Regarding Phone Conversation With Walter Keithly About His Report "An Economic Analysis of the Southeast U.S. Shrimp Processing Industry Responses To An Increasing Import Base", dated January 20, 2004. In order to examine this data, the Department contacted NOAA officials responsible for the generation of that data. See NOAA Memo. The total processor output (regardless of the source) provided by NOAA during calendar year 2002 is 247,556,885 pounds of headless, shell-on shrimp. See Id. and Attachment B.



Study figure of 110,000,000 is an approximation (using a 1995 based average), the Department preferred to rely upon actual calendar year 2002 processor figures because they were reliable and available to the Department. See Memorandum To The File From Nicole Bankhead, Policy Analyst, Through Norbert Gannon, Program Manager, Regarding NOAA Statistics ("NOAA Memo"), dated January 20, 2004. Substantively, the data from NOAA is more appropriate because it is a direct measurement of the volume of shrimp processed in the United States, whereas both of Petitioner's calculations relied on an approximation by the landings data. Therefore, we did not rely on the Petitioner's alternative industry support calculation.

### C. Industry Support Calculation Used For Initiation

As stated above, the Department obtained total processor output figures during calendar year 2002, which represents total U.S. production of the domestic like during calendar year 2002. See NOAA Memo at 2. We have relied on information provided by NOAA to establish the total 2002 production volume of certain frozen and canned warmwater shrimp and prawns. Using this data, as demonstrated below, we find that the domestic processors and domestic processors with harvesters, who support the Petition account for at least 25 percent of the total production of the domestic like product. We find further that the domestic processors and domestic processors with harvesters who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.

#### U.S. Processor Support Over Total Warmwater Processing

As the basis for the numerator, we combined 127,043,254<sup>28</sup> pounds of headless, shell-on shrimp, which represents the volume of the domestic shrimp processed by the Petitioner and other domestic producers supporting the Petition, and 5,879,885<sup>29</sup> pounds (headless, shell-on) the total volume of imports pounds processed by the Petitioner and supporters of the Petition. The resulting total used as the numerator is 132,923,139 pounds of headless, shell-on shrimp.

As the basis for the denominator, we used 247,556,885<sup>30</sup> pounds, headless, shell-on (which includes coldwater shrimp), the total volume of U.S. production of the domestic like product

<sup>28</sup> See Petition at Volume I, Exhibit I-2-D and the amendment to the Petition, dated January 13, 2004 at Exhibit IV-I.

<sup>29</sup> See Amendment to the Petition, dated January 20, 2004 at 3 and Attachment I.

<sup>30</sup> See NOAA Memo. This figure includes processed shrimp from both domestic and imported sources of shrimp.



during calendar year 2002 and reduced this figure by 34,084,148<sup>31</sup> pounds (headless, shell-on), total U.S. coldwater harvest which was have determined to be a separate like product as discussed above. The resulting figure used as the denominator is 213,472,737 pounds.

Therefore, using 132,923,139 pounds as the numerator and 213,472,737 pounds as the denominator, the resulting industry support percentage is 62.27 percent. See Attachment C.

While the Petitioner has argued the Department need not consider the production of harvesters for industry support purposes, as discussed above, they have argued that, consistent with the processed agricultural product provision (section 771(4)(E) of the Act), harvesters may be considered part of the industry. The Petitioner provided a detailed analysis indicating that the domestic industry consists of both processors and harvesters/growers, indicating that processed shrimp/grown shrimp move through a single continuous line of production (i.e., (1) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and (2) the processed agricultural product is produced substantially or complete from the raw product, see Petition at Volume II at 13) and that there is a substantial coincidence of economic interest between the processors and harvesters/growers of shrimp (i.e., (1) if price is taken into account, consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product, and (2) if added market value is taken into account consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product, see Petition at Volume II at 14). Accordingly, we find that this provision is satisfied for purposes of this initiation.

While the Petitioner clearly have sufficient industry support consistent with the above analysis, the Department also noted that they have sufficient industry support when the production and positions of the harvesters is considered, as discussed below.

#### U.S. Processor and Harvester Support Over Warmwater Processing and Warmwater Harvest

As the basis for the numerator, we started with the 132,923,139 pounds discussed above and added 86,534,465<sup>32</sup> pounds (headless, shell-on), the total production volume of the U.S. shrimp

<sup>31</sup> See Respondents' submission dated January 15, 2004 at 8. The Respondents figure (59,796,750) for coldwater harvest was taken from NMFS and converted to a headless, shell-off basis using the following conversion (.57 (headless conversion) and .96 (shell-off)), resulting in 32,720,782 pounds. However, for use in our industry support calculation, we only used the .57 conversion (headless) since the basis for our figures are headless, shell-on. We note that the 34,084,148 pounds were deducted as "coldwater shrimp are generally sold cooked and peeled" it is reasonable to infer that all landings of coldwater shrimp are processed. See Petitioner's January 16, 2003 submission at 1 of Like Product Analysis Summary.

<sup>32</sup> This figure represents the total output for all harvesters from the Petitioner's January 12, 2004 amendment to the Petition at Exhibit IV-2 at 10 and the Petition at Exhibit I-2-C at 39.



harvesters supporting the Petition. The resulting total used as the numerator is 219,457,604 pounds.

As the basis for the denominator, we started with the 213,472,737 pounds determined above and added 154,800,377 pounds, the total landings of U.S. harvested shrimp on a headless, shell-on basis (as discussed above). The resulting total used as the denominator is 368,273,114 pounds.<sup>33</sup>

Therefore, using the 219,457,604 pounds as the numerator and 368,273,114 as the denominator, the resulting industry support percentage is 59.59 percent. See Attachment D.

Consequently, based on information provided in the Petition and additional information on U.S. production obtained by the Department, the share of total estimated U.S. production of the domestic like product in calendar year 2002 represented by the Petitioner and the supporting domestic producers equal over 50 percent of total domestic production regardless of whether harvesters are included. Therefore, we find that the Petition meets the requirements of section 732(c)(4)(A) of the Act.

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<sup>33</sup> We recognize that harvested shrimp is also processed so as to provide the harvesters with the ability to take a position on the petition, we added the total U.S. landings figure of 154,800,377 to the denominator, and the 86,534,465 landings figure from harvesters supporting the petition to the numerator. We are not double counting because we are adding the harvesters' landings to both the numerator and the denominator.

## **EXHIBIT I-4**

# **Certain Frozen or Canned Warmwater Shrimp and Prawns From Brazil, China, Ecuador, India, Thailand, and Vietnam**

Investigations Nos. 731-TA-1063-1068 (Preliminary)

Publication 3672

February 2004

**U.S. International Trade Commission**



Washington, DC 20436



# U.S. International Trade Commission

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# U.S. International Trade Commission

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## **Certain Frozen or Canned Warmwater Shrimp and Prawns From Brazil, China, Ecuador, India, Thailand, and Vietnam**

Investigations Nos. 731-TA-1063-1068 (Preliminary)



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Note.—Information that would reveal confidential operations of individual concerns may not be published and, therefore, has been deleted from this report. Such deletions are indicated by asterisks.



*Conclusion.* We acknowledge that there are several distinctions between canned and frozen shrimp. Canned shrimp and frozen shrimp are made by different producers and appear to be perceived as different products by producers and customers. Additionally, canned shrimp are distinct from frozen shrimp in the way they are packaged to the end user.

On the other hand, physical distinctions between canned and frozen shrimp are largely limited to the manner of packaging. Canned shrimp are offered in a range of sizes that overlap the range in which frozen shrimp are offered. The information available indicates that canned and frozen shrimp are distributed through overlapping channels. Although the range of uses for canned shrimp is less broad than those for frozen shrimp, there are overlapping end uses in which there is some degree of interchangeability between the canned and frozen products. Additionally, the initial steps of the production process for canned shrimp parallel those for frozen shrimp. While subsequent production processes are unique to canned shrimp, there are also production processes unique to various types of frozen shrimp.

In light of the overlaps between canned and frozen shrimp in physical characteristics, end uses, channels of distribution, and processing methods, we find for purposes of these preliminary determinations that canned shrimp is not a separate domestic like product from frozen shrimp. In any final phase investigations we will again examine whether canned shrimp should be defined as a separate domestic like product.<sup>70</sup>

## 5. Fresh Shrimp

It is undisputed that the overwhelming majority of fresh warmwater shrimp is not sold as a “finished” product, but is used as an input for further processing into frozen products. Consequently, a comparison between fresh and processed shrimp is one involving two products at different stages of the same production process. We consequently consider the appropriate like product treatment of fresh warmwater shrimp by using the Commission’s “semifinished products” like product analysis.<sup>71</sup>

*Dedication for Use.* The vast majority of fresh warmwater shrimp undergo further processing. No party has disputed petitioner’s estimate that over 90 percent of fresh warmwater shrimp are processed.<sup>72</sup>

*Separate Markets.* There are separate markets for fresh and processed warmwater shrimp in the sense that vessels sell their catch to a dock house or processor, while processors sell shrimp to end users and distributors.<sup>73</sup> However, this distinction may more properly be characterized as one between harvested shrimp and processed shrimp than between “fresh” shrimp and processed shrimp. Because

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<sup>70</sup> We will also seek trade, pricing, financial, and foreign industry data specifically pertaining to canned shrimp in the questionnaires in any final phase investigations.

<sup>71</sup> Under this analysis, the Commission examines: (1) whether the upstream article is dedicated to the production of the downstream article or has independent uses; (2) whether there are perceived to be separate markets for the upstream and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in the cost or value of the vertically differentiated articles; and (5) the significance and extent of the processes used to transform the upstream into the downstream articles. E.g., Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom, Inv. Nos. 701-TA-409-412, 731-TA-909-912 (Preliminary), USITC Pub. 3388 at 5-6 (Jan. 2001); Uranium from Kazakhstan, Inv. No. 731-TA-539A (Final), USITC Pub. 3213 at 6 n. 23 (July 1999).

<sup>72</sup> Petition, vol. 2, at 13 & n.35; Brazil Petition, vol. 1, ex. I-2-D, n. 6 and accompanying text.

<sup>73</sup> See Tr. at 22 (Versaggi), 27 (St. Pierre), Petition, vol. 2, at 8.



warmwater shrimp is commonly frozen and deheaded on the vessel, the product a vessel sells at the dock is not necessarily “fresh” shrimp.<sup>74</sup>

*Differences in Physical Characteristics and Functions of the Upstream and Downstream Articles.* At its least processed stage, frozen shrimp is cleaned, frozen, and deheaded. Such a product is not substantially different in any physical sense from the fresh product the vessel sells at the dock. Further processing of the shrimp will result in additional physical changes to the product. The ultimate use of both fresh and frozen shrimp is in food preparations. The limited information available in the record concerning fresh warmwater shrimp sold as such to end users indicates that fresh shrimp does not have any different product characteristics, aside from shorter shelf life, than frozen shrimp.<sup>75</sup>

*Differences in Value.* Information submitted by petitioner indicates that the price the processor receives for a processed, frozen, headless shell-on product is approximately 25 to 40 percent more than the price the vessel receives at the dock for the same size shrimp product.<sup>76</sup>

*Extent of Processes Used to Transform Downstream Product into Upstream Product.* The basic processing needed to transform fresh warmwater shrimp to processed shrimp – freezing and deheading – can be and is performed directly on the vessel. As discussed above, processors use a variety of cleaning, weighing, and sorting equipment, as well as blast freezers, to process frozen, shell-on shrimp. Further processed forms of frozen shrimp require additional processing steps and equipment.

*Conclusion.* Fresh warmwater shrimp is overwhelmingly sold in a processed form, and the initial stages of processing do not significantly change the physical characteristics and uses of the product and appear to add at most moderate value to the product. In light of this, we conclude that fresh warmwater shrimp should be included in the same domestic like product as the processed warmwater shrimp products within the scope definition.

## 6. Breaded Shrimp

ASDA argues that the Commission should include breaded shrimp in its domestic like product even if it should not find that “value added shrimp” is a separate domestic like product. Commerce’s scope determination expressly excludes breaded shrimp.<sup>77</sup> The record indicates that producers of breaded shrimp typically purchase frozen shrimp that has previously undergone some processing and process it further.<sup>78</sup> Consequently, the record indicates that breaded shrimp is a further processed version of the product within the scope.

The Commission’s practice is not to expand the domestic like product to include domestically-produced downstream articles when there is no corresponding downstream imported article within the

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<sup>74</sup> See Tr. at 21-22 (Versaggi); Petitioner Postconference Brief, ex. 5 at 03-22; ASDA Postconference Brief, ex. 28 at 52-53.

<sup>75</sup> See SEAI Postconference Brief, ex. 5 (“Fresh Kentucky-grown shrimp available tomorrow”).

<sup>76</sup> See Petition, vol. 2, ex. II-5.

<sup>77</sup> 69 Fed. Reg. at 3877.

<sup>78</sup> See Tr. at 162 (Mentzer), 167 (Jones); ASDA Postconference Brief, ex. 37. According to ASDA’s compilation of the questionnaire data, none of the producers that are responsible for \*\*\* of U.S. breaded shrimp production perform what ASDA has described as primary processing of shrimp. ASDA Postconference Brief, ex. 6. Consequently, \*\*\* U.S. production of breaded shrimp uses frozen shrimp within the scope definition as an input.



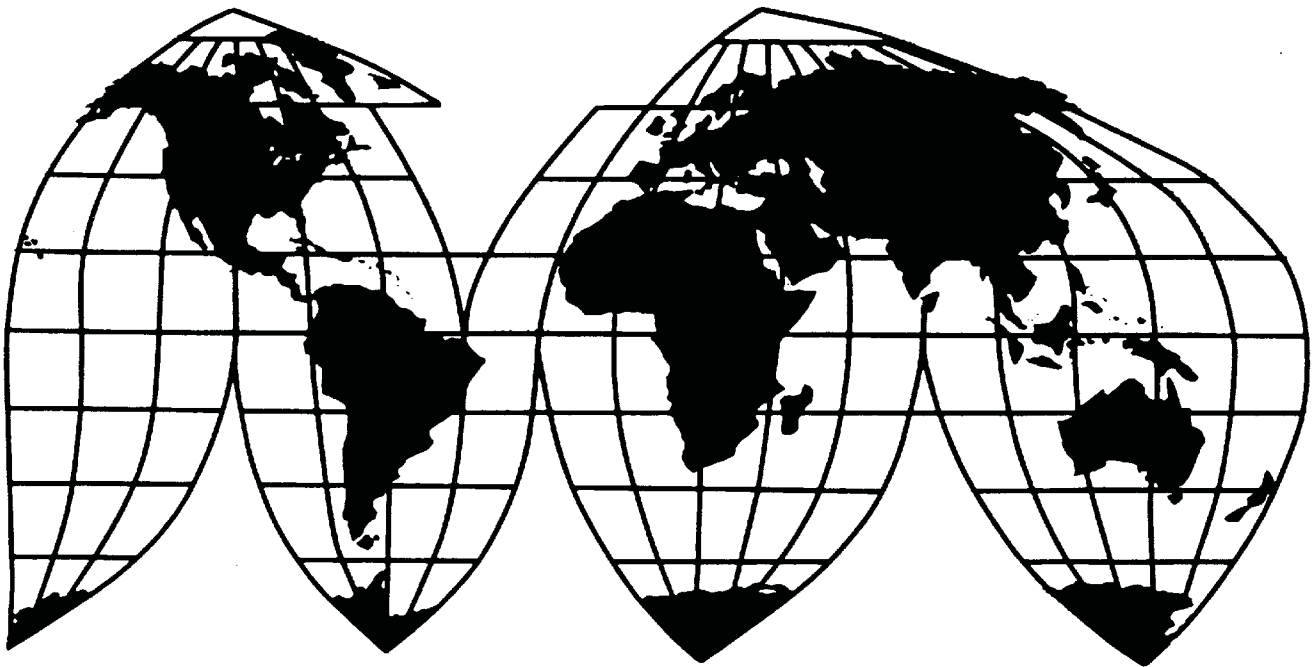
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Investigations Nos. 731-TA-1063-1068 (Final)

Publication 3748

January 2005

**U.S. International Trade Commission**



Washington, DC 20436

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**Publication 3748**

**January 2005**

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.



## UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-1063-1068 (Final)

CERTAIN FROZEN OR CANNED WARMWATER SHRIMP AND PRAWNS  
FROM BRAZIL, CHINA, ECUADOR, INDIA, THAILAND, AND VIETNAM

### DETERMINATIONS

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Brazil, China, Ecuador, India, Thailand, and Vietnam of certain non-canned warmwater shrimp and prawns, provided for in subheadings 0306.13.00 and 1605.20.10 of the Harmonized Tariff Schedule of the United States (HTSUS), that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).<sup>2</sup>

The Commission further determines that an industry in the United States is not materially injured by reason of imports from China, Thailand, and Vietnam of canned warmwater shrimp and prawns, provided for in subheading 1605.20.10 of the HTSUS, that have been found by Commerce to be sold in the United States at LTFV.<sup>3</sup> The Commission also determines that imports from Brazil, Ecuador, and India of canned warmwater shrimp and prawns are negligible.

### BACKGROUND

The Commission instituted these investigations effective December 31, 2003, following receipt of a petition filed with the Commission and Commerce by the Ad Hoc Shrimp Trade Action Committee, Washington, DC; the Versaggi Shrimp Corp., Tampa, FL; and the Indian River Shrimp Co., Chauvin, LA. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of certain frozen or canned warmwater shrimp and prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of August 19, 2004 (69 FR 51472). The hearing was held in Washington, DC, on December 1, 2004, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

<sup>2</sup> The Commission further determines that critical circumstances do not exist with respect to those imports of the subject merchandise from China that were subject to the affirmative critical circumstances determination by the Department of Commerce.

<sup>3</sup> Chairman Koplman and Commissioner Lane determine that an industry in the United States is materially injured by reason of imports of certain frozen or canned warmwater shrimp or prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam that were found by Commerce to be sold in the United States at LTFV.

prawns”) and one on the basis of packaging (pertaining to canned shrimp). The Commission did not accept any of these arguments, but stated it would again in any final phase investigations examine whether it was appropriate to define canned shrimp as a separate domestic like product.<sup>11</sup> In the final phase, the parties have asserted two domestic like product arguments that seek to divide articles within the scope. One concerns a product called “shrimp scampi,” which was not discussed in the preliminary determination. The second concerns canned shrimp.

The Commission also considered in the preliminary determination whether to include breaded shrimp, a further-processed product that Commerce has expressly excluded from the scope, in the domestic like product. The Commission declined to do so,<sup>12</sup> and no party has argued in the final phase that breaded shrimp should be included in the domestic like product.

In the preliminary determination, the Commission accepted the argument that the domestic like product should be defined more broadly to encompass fresh warmwater shrimp, an item excluded from the scope. In evaluating this argument, the Commission used the “semifinished products” like product analysis, because fresh shrimp is overwhelmingly used as an input in the production of the frozen product. It found that fresh warmwater shrimp should be included in the same domestic like product as the frozen article because it “is overwhelmingly sold in a processed form, and the initial stages of processing do not significantly change the physical characteristics and uses of the product and appear to add at most moderate value to the product.”<sup>13</sup> There were no new arguments in the final phase of the investigations concerning the inclusion of fresh warmwater shrimp in the domestic like product,<sup>14</sup> and the record concerning fresh warmwater shrimp has not changed since the preliminary determination. Consequently, we again find fresh warmwater shrimp to be part of the domestic like product for the reasons stated in the preliminary determination.

## 2. “Shrimp Scampi”

Xian-Ning Seafood Co. (“Xian-Ning”), an exporter of subject merchandise from Thailand, argues that the Commission should define “shrimp scampi” as a distinct domestic like product. Xian-Ning describes the product as a battered product which contains a coating typically consisting of a mixture of soybean oil, seasoned dry ingredients, and a liquid butter alternative. Petitioner opposes defining “shrimp scampi” as a separate domestic like product. We examine Xian-Ning’s arguments concerning “shrimp scampi” using the “traditional” like product analysis.<sup>15</sup>

*Physical Characteristics and End Uses.* One basic problem with Xian-Ning’s proposed “shrimp scampi” domestic like product is its failure to provide any meaningful definition of the product. It characterizes the product as a coated product that “typically consists of a mixture of soybean oil, seasoned

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<sup>11</sup> Certain Frozen or Canned Warmwater Shrimp and Prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam, Inv. Nos. 731-TA-1063-1068 (Preliminary), USITC Pub. 3672 at 6-13 (Feb. 2004) (“Preliminary Determination”).

<sup>12</sup> Preliminary Determination, USITC Pub. 3672 at 14-15.

<sup>13</sup> Preliminary Determination, USITC Pub. 3672 at 14.

<sup>14</sup> Petitioner agrees with the analysis of fresh shrimp provided in the preliminary determination. Petitioner Prehearing Brief at 20-23. The American Seafood Distributors Ass’n (ASDA), the sole respondent to address the issue, has stated that it does not challenge the Commission’s analysis in its preliminary determination that fresh shrimp should be included in the domestic like product. ASDA Posthearing Brief at A-57.

<sup>15</sup> The Commission did not collect pricing data for a “shrimp scampi” product, or for other types of flavored or prepared shrimp products within the scope. The argument that “shrimp scampi” should be a separate domestic like product was first presented to the Commission in a prehearing brief, several months after the questionnaires had been circulated.



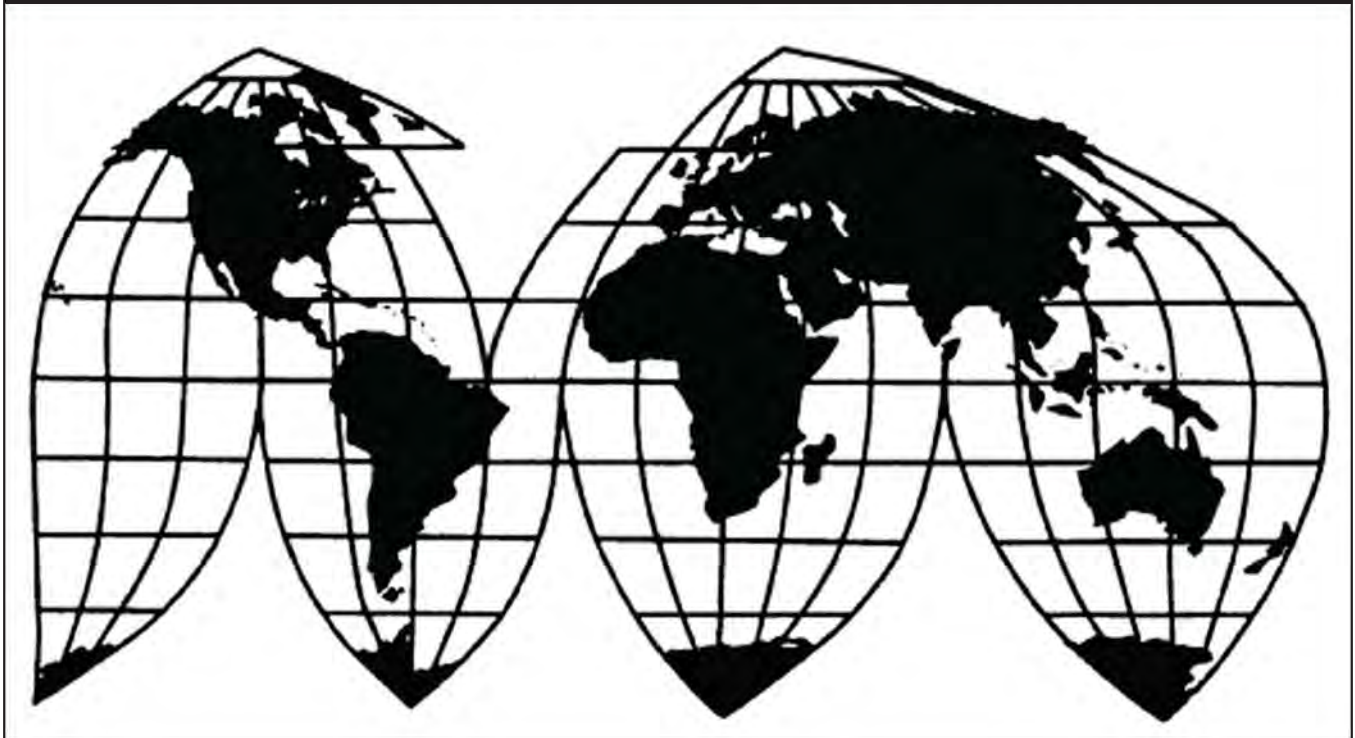
# Frozen Warmwater Shrimp From China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam

Investigation Nos. 701-TA-491-497 (Preliminary)

Publication 4380

February 2013

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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## Frozen Warmwater Shrimp From China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam

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#### D. Analysis

As discussed below, we find a single domestic like product, encompassing both fresh warmwater shrimp and the frozen warmwater shrimp described in the scope of the investigations.

The record in these investigations does not indicate that there have been any changes in the product characteristics of either fresh or frozen warmwater shrimp since the prior investigations and reviews.<sup>26</sup> Indeed, as previously stated, Petitioner acknowledges that the product characteristics have not changed.<sup>27</sup> Moreover, Petitioner does not argue that the factors the Commission would apply in its semifinished product analysis support a domestic like product definition different from the one the Commission has found in prior proceedings involving virtually the same scope of investigation. Rather, it argues that the Commission should not apply the analysis because it would result in a definition of the domestic industry that Petitioner does not prefer. Under the statute, however, the domestic industry definition is not the starting point of the Commission's analysis, but instead follows from the definition of the domestic like product.<sup>28</sup>

Moreover, Petitioner begins with the premise that the scope definition only includes frozen shrimp that has been further processed and is suitable for commercial use or sale, and not shrimp that has been frozen on board the fishing boats. Offshore shrimping vessels brine-freeze shrimp on board the boat to temporarily preserve the shrimp while the boats are fishing. This permits the boats to make longer offshore trips, perhaps lasting as long as several weeks.<sup>29</sup> Inshore shrimp boats place shrimp on ice or in ice slush in vats during their shorter voyages, such that the shrimp arriving at the dock is fresh, *i.e.*, never frozen. Petitioner argues that the “forms [fresh shrimp and brine-frozen shrimp] of the shrimp processors buy from boats and docks are completely different from the final processed product that U.S. processors produce.”<sup>30</sup> It relies on the FDA standard governing processed shrimp, which it contends “has excluded onboard freezing from its definition of ‘processing’ because ‘freezing is an operation that is routinely used onboard a harvest vessel in order to preserve the quality of the fish until it is landed for further processing.’”<sup>31</sup>

While frozen shrimp suitable for commercial use or sale may arguably be the stage at which all subject imports enter the U.S. market and FDA standards applicable to processed shrimp may arguably not apply to shrimp that is frozen on board vessels, the scope language in these investigations refers simply to “frozen shrimp” without reference or limitation to any specific method of freezing or any stage of processing at which the freezing must occur.<sup>32</sup> The scope states as follows in relevant part:

The scope of these investigations is certain **frozen** warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off, deveined or not deveined, cooked or raw, or **otherwise processed in frozen form**, regardless of size.

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<sup>26</sup> CR at I-11-16; PR at I-10-13.

<sup>27</sup> Petitioner's Postconference Brief, Staff Question 4 at 1; Conf. Tr. at 66.

<sup>28</sup> Compare 19 U.S.C. § 1677 (4)(A) with 19 U.S.C. § 1677 (10).

<sup>29</sup> Petitioner's Postconference Brief, Question 2 at 2 and Question 3 at 4.

<sup>30</sup> Petitioner's Postconference Brief, Question 2 at 1-5.

<sup>31</sup> Petitioner' Postconference Brief, Question 2 at 2-3.

<sup>32</sup> We do not find the scope language in question to be ambiguous. Even if there were an ambiguity concerning whether a given product is in or out of the scope, the Commission will decide the issue for purposes of its injury determination, while still deferring to the language and intent of Commerce's rulings. See generally e.g., Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from China and Indonesia, Inv. Nos. 701-TA-470-471 and 731-TA-1169-1170 (Final), USITC Pub. 4192 at 4-6 (Nov. 2010).

**The frozen warmwater shrimp and prawn products included in the scope, regardless of definitions in the Harmonized Tariff Schedule of the United States (“HTSUS”), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.<sup>33</sup>**

Moreover, in the original antidumping duty investigations, the Commission stated in its analysis of whether to include fresh shrimp in the domestic like product that the scope of those investigations (which is nearly identical to the current scope) included onboard frozen shrimp. In discussing separate markets, the Commission stated as follows:

*Separate Markets.* There are separate markets for fresh and processed warmwater shrimp in the sense that vessels sell their catch to a dock house or processor, while processors sell shrimp to end users and distributors. However, this distinction may more properly be characterized as one between harvested shrimp and processed shrimp than between “fresh” shrimp and processed shrimp. Because warmwater shrimp is commonly frozen and deheaded on the vessel, the product a vessel sells at the dock is not necessarily “fresh” shrimp.<sup>34</sup>

Petitioner’s argument would have the effect of including some but not all shrimp fishermen in the definition of the domestic industry. Since some of the shrimp sold at the dock is in fresh form (not in scope) and some has already been brine-frozen (included in the scope),<sup>35</sup> those shrimp fishermen that further process by freezing shrimp on board their vessels would produce the domestic like product and thus would be included in the domestic industry under either Petitioner’s proposed domestic like product definition or the one that the other parties advocate. Only under Petitioner’s proposal, however, would the shrimp fishermen who sell only fresh warmwater shrimp not be included in the domestic industry.<sup>36</sup>

It is undisputed that the overwhelming majority of fresh shrimp is not sold as a “finished” product, but is used as an input (as is onboard frozen shrimp) for further processing into frozen products suitable for commercial use or sale. Consequently, fresh and processed shrimp are products at different stages of the same production process. In light of this, we conclude that use of the “semifinished product” like product analysis is appropriate to determine whether fresh shrimp should be included in the same like product as the processed frozen shrimp products within the scope, as it was in prior Commission proceedings concerning this product.<sup>37</sup>

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<sup>33</sup> 78 Fed. Reg. 5416, 5420-21 (Jan. 25, 2013) (emphasis added).

<sup>34</sup> USITC Pub. 3748 at 13-14.

<sup>35</sup> See CR at I-13; PR at I-12; and Conf. Tr. at 70-72.

<sup>36</sup> The Commission may, when appropriate, include domestic articles in the domestic like product that are in addition to those described in the scope. See, e.g., USEC, Inc. v. United States, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Certain Lined School Paper Supplies from China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final), USITC Pub. 3884 at 10-11 (Sept. 2006); Professional Electric Cutting and Sanding/Grinding Tools from Japan, Inv. No. 731-TA-571 (Final), USITC Pub. 2536 at 62 (July 1992), aff’d Makita Corp. v. United States, 974 F. Supp. 770, 785 (CIT 1997) (affirming domestic like product definitions expanded beyond scope of professional tools to also include consumer electric cutting and sanding/grinding tools); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations in which Commerce found five classes or kinds); see also Cleo Inc. v. United States, 501 F.3d 1291, 1298, n.1 (Fed. Cir. 2007) (“Commerce’s [scope] finding does not control the Commission’s [like product] determination”).

<sup>37</sup> In a semifinished product analysis, the Commission examines the following: (1) whether the upstream article is dedicated to the production of the downstream article or has independent uses; (2) whether there are perceived to be (continued...)

Petitioner concedes that the facts on the record of the current investigations are the same as the facts in the prior proceedings. We agree that when the semifinished product analysis is applied to the record in these investigations, it supports the findings the Commission made in the 2004 antidumping duty investigations.<sup>38</sup>

- *Dedication for Use.* The vast majority of fresh warmwater shrimp undergoes further processing. Petitioner has estimated that 95 percent of fresh warmwater shrimp is dedicated for processing.<sup>39</sup>
- *Separate Markets.* There are separate markets for harvested (whether fresh or brine-frozen) shrimp and processed warmwater shrimp in the sense that vessels sell their catch to a dock house or processor, while processors sell shrimp to end users and distributors. However, fresh shrimp and shrimp frozen on the vessel are both sold at the dock.<sup>40</sup>
- *Differences in Physical Characteristics and Functions of the Upstream and Downstream Articles.* The processing of fresh and brine-frozen shrimp does not change the essential character or functions of the upstream article.<sup>41</sup>
- *Differences in Value.* Based on shrimp input costs for domestic processors provided in the petition, it is estimated that frozen processed shrimp has about a 20 to 25 percent higher value than fresh and brine-frozen shrimp.<sup>42</sup>
- *Extent of Processes Used to Transform Downstream Product into Upstream Product.* The basic processing needed to transform fresh shrimp to processed shrimp – freezing and deheading – can be and is performed directly on the vessel. Processors use a variety of cleaning, weighing, and sorting equipment, as well as blast freezers, to further process frozen, shell-on shrimp.<sup>43</sup>

*Conclusion.* Based on the record in these preliminary phase investigations and on application of the semifinished products like product analysis, we include fresh shrimp in the same domestic like product as frozen shrimp, whether frozen on board a vessel or further processed suitable for commercial use or sale. Fresh shrimp is overwhelmingly sold in a processed form, and the initial stages of processing do not significantly change the physical characteristics and uses of the product and appear to add at most moderate value to the product. Based on these factors, we define a single domestic like product

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<sup>37</sup> (...continued)

separate markets for the upstream and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in the costs or value of the vertically differentiated articles; and (5) the significance and extent of the processes used to transform the upstream into the downstream articles. *E.g., Crystalline Silicon Photovoltaic Cells and Modules from China*, Inv. Nos. 701-TA-481 and 731-TA-1190 (Preliminary), USITC Pub. 4295 at 10, n.47 (Dec. 2011); *Drill Pipe and Drill Collars from China*, Inv. Nos. 701-TA-474 and 731-TA-1176 (Preliminary), USITC Pub. 4127 at 7 (Mar. 2010) (involving green tubes and finished drill pipe); *Live Swine from Canada*, Inv. No. 731-TA-1076 (Final), USITC Pub. 3766 at 8, n.40 (Apr. 2005); *Certain Frozen Fish Fillets from Vietnam*, Inv. No. 731-TA-1012 (Preliminary), USITC Pub. 3533 at 7 (Aug. 2002).

<sup>38</sup> See *2004 Preliminary Determinations*, USITC Pub. 3672 at 14-15 (2004).

<sup>39</sup> AHSIC's Postconference Brief at 5, referring to Petitioner's January 15, 2012 Submission to Commerce and the USITC.

<sup>40</sup> See generally CR at I-13-14; PR at I-11-12.

<sup>41</sup> See generally CR at I-14-15; PR at I-12-13.

<sup>42</sup> AHSIC's Postconference Brief at 12, calculated from Petition at I-33 and I-45. In the 2004 preliminary antidumping duty determination, the Commission found that the price the processor receives for a processed frozen headless shell-on product is approximately 25 to 40 percent more than the price the vessel receives at the dock for the same size shrimp product. USITC Pub. 3672 at 15.

<sup>43</sup> See generally CR at I-13-14; PR at I-11-12.



encompassing both fresh warmwater shrimp and the frozen warmwater shrimp described in the scope definition.

#### IV. DOMESTIC INDUSTRY

The domestic industry is defined as the domestic “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>44</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.<sup>45</sup>

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.<sup>46</sup> Exclusion of such a producer is within the Commission’s discretion based upon the facts presented in each investigation.<sup>47</sup>

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<sup>44</sup> 19 U.S.C. § 1677(4)(A).

<sup>45</sup> In the prior antidumping duty investigations and reviews, the Commission found that processing activities such as deheading, grading, machine peeling, deveining, and cooking were all sufficient activities to constitute domestic production because these operations typically each required specialized equipment and added more value to the process than any preceding stage. By contrast, the Commission found that marinating and skewering did not constitute domestic production because they involved no specialized equipment and added relatively modest value to the processed shrimp product. Finally, the Commission found that breading could not constitute domestic production activity because breaded shrimp was not part of the domestic like product in the prior antidumping duty investigations and reviews. Antidumping Duty Final Determinations, USITC Pub. 3748 at 12-13; 2011 Review Determinations, USITC Pub. 4221 at 8-9. The record does not indicate any change in the nature of shrimp processing since the time of the antidumping duty investigations and reviews. CR at I-14-16; PR at I-12-13. Petitioner agrees with the findings that the Commission made in the prior investigations and reviews, and Respondents have not addressed the issue. Conf. Tr. at 77. Thus, we make the same findings as we did in the prior antidumping duty investigations and reviews concerning what shrimp processing activities constitute domestic production. Based on these findings, we find that all responding firms engage in sufficient production-related activities to be considered domestic producers.

<sup>46</sup> 19 U.S.C. § 1677(4)(B).

<sup>47</sup> The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producer vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. *See, e.g., Torrington Co. v. United States*, 790 F. Supp. 1161 (Ct. Int’l Trade 1992), *aff’d mem.*, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. These latter two considerations were cited as appropriate factors in Allied Mineral Products, Inc. v. United States, 28 CIT 1861, 1865 (2004) (“The most significant factor considered by the Commission in making the ‘appropriate circumstances’ determination is whether the domestic producer accrued a substantial benefit from its importation of the subject merchandise.”); USEC, Inc. v. United States, 132 F. Supp. 2d 1, 12 (Ct. Int’l Trade 2001) (“the provision’s purpose is to exclude from the industry headcount domestic producers substantially benefitting from their relationships with foreign exporters.”), *aff’d*, 34 Fed. Appx. 725 (Fed. Cir. 2002); S. Rep. No. 249, 96th Cong. 1st Sess. at 83 (1979) (“where a U.S. producer is related to a foreign exporter and the foreign exporter directs his exports to the United

(continued...)

*Fungibility.* The record in these investigations indicates that there is a moderate degree of substitutability between U.S.-produced frozen shrimp and that imported from subject countries.<sup>70</sup> Most responding domestic processors reported that subject imports from all subject countries are “always” or “frequently” used interchangeably with each other and with the domestic like product.<sup>71</sup> While most responding importers reported that subject imports are “sometimes” or “frequently” used interchangeably with each other and with the domestic like product, there also were a number of importers reporting the subject imports and U.S. product are “never” interchangeable.<sup>72</sup> Factors cited as limiting interchangeability include differences between wild-caught and farm-raised shrimp; species of shrimp; size, flavor and texture of shrimp; type of processing; country of origin; and other factors.<sup>73</sup> When asked whether differences other than price are ever significant to purchasers in choosing between shrimp from subject countries and from the United States, a plurality of responding domestic processors reported “never.”<sup>74</sup> Responding importers were divided on the question, with a plurality reporting that differences other than price are “always” significant between the U.S. product and subject sources, but only “sometimes” between subject sources.<sup>75</sup>

*Geographic Overlap.* Both U.S. producers and importers reported selling frozen shrimp to all regions in the contiguous United States during the period of investigation.<sup>76</sup> Thus, frozen shrimp from all sources served a nationwide market.

*Channels of Distribution.* Both the domestic like product and the subject imports are sold to distributors, end users, and retail/institutional customers such as grocers and restaurants. While the majority of domestically produced product and subject imports from China is sold to distributors and the majority of subject imports from the other six countries is sold to retail/institutional customers, the share to each channel of distribution has varied between countries and changed over the period of investigation.<sup>77</sup>

*Simultaneous presence.* During the period of investigation, subject imports from all seven countries entered the United States in every month and the domestic industry reported selling in every quarter.<sup>78</sup> Therefore, frozen shrimp from all sources was simultaneously present in the U.S. market during the period of investigation.

For the foregoing reasons, we cumulate subject imports from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam for purposes of our analysis of whether there is a reasonable indication of material injury to the domestic industry by reason of subject imports.

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<sup>69</sup> (...continued)

presence and a general perception among market participants of at least some degree of interchangeability between the domestic like product and the subject imports. Antidumping Duty Final Determinations, USITC Pub. 3748 at 19-21; 2011 Review Determinations, USITC Pub. 4221 at 15 and 16.

<sup>70</sup> CR at II-14; PR at II-11.

<sup>71</sup> CR/PR at Table II-6.

<sup>72</sup> CR/PR at Table II-6.

<sup>73</sup> CR at II-17; PR at II-14.

<sup>74</sup> CR/PR at Table II-7.

<sup>75</sup> CR/PR at Table II-7.

<sup>76</sup> CR at II-3 and Table II-2; PR at II-3 and Table II-2.

<sup>77</sup> CR/PR at Table II-1.

<sup>78</sup> CR at IV-8-9; PR at IV-8; CR/PR at Tables V-1 to V-4.

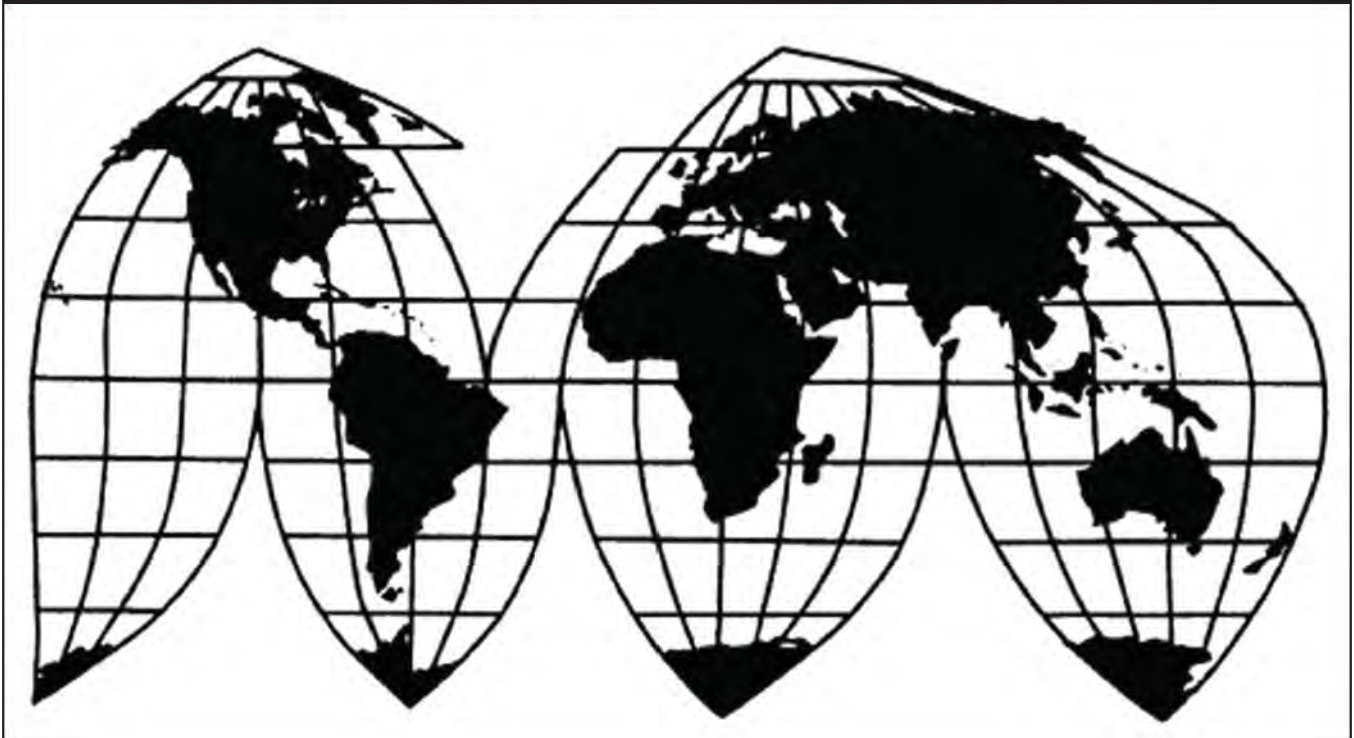
# Frozen Warmwater Shrimp from China, Ecuador, India, Malaysia, and Vietnam

Investigation Nos. 701-TA-491-493, 495, and 497 (Final)

Publication 4429

October 2013

**U.S. International Trade Commission**



Washington, DC 20436



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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted. Such deletions are indicated by asterisks.



## UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-491-493, 495, and 497 (Final)

FROZEN WARMWATER SHRIMP FROM CHINA, ECUADOR, INDIA, MALAYSIA, AND VIETNAM

### DETERMINATIONS

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded by reason of imports from China, Ecuador, India, Malaysia, and Vietnam of frozen warmwater shrimp, provided for in subheadings 0306.17.00, 1605.21.10, and 1605.29.10 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be subsidized by the Governments of China, Ecuador, India, Malaysia, and Vietnam.<sup>2</sup>

### BACKGROUND

The Commission instituted these investigations effective December 28, 2012, following receipt of a petition filed with the Commission and Commerce by the Coalition of Gulf Shrimp Industries, Biloxi, MS. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of frozen warmwater shrimp from countries under investigation were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)).<sup>3</sup> Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S.

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<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

<sup>2</sup> Chairman Irving A. Williamson and Commissioner Shara L. Aranoff dissenting.

<sup>3</sup> In its preliminary determinations, Commerce found that imports of frozen warmwater shrimp from Ecuador and Indonesia were not being and not likely to be subsidized by the Governments of Ecuador or Indonesia (78 FR 33342-33351, June 4, 2013). However, in its final determinations, Commerce found imports of frozen warmwater shrimp from Ecuador were being subsidized, but that imports of frozen warmwater shrimp from Thailand in addition to those from Indonesia were not being and not likely to be subsidized by the Governments of Indonesia and Thailand. Following final negative determinations by Commerce with respect to frozen warmwater shrimp from Indonesia and Thailand (78 FR 50379-50394, August 19, 2013), the Commission terminated investigation Nos. 701-TA-494 and 496 (78 FR 54912, September 6, 2013).

International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 13, 2013 (78 FR 35643). The hearing was held in Washington, DC, on August 13, 2013, and all persons who requested the opportunity were permitted to appear in person or by counsel.

#### D. Domestic Like Product Analysis

We find a single domestic like product, encompassing both fresh warmwater shrimp and the frozen warmwater shrimp described in the scope of the investigations. As previously discussed, Commerce has clarified that the scope of the investigations includes onboard brine-frozen shrimp in addition to frozen further processed shrimp,<sup>26</sup> consistent with the Commission's view in defining the domestic like product in the preliminary determinations.

In the preliminary determinations, the Commission also considered whether to include fresh warmwater shrimp in the definition of the domestic like product, as it did in prior Commission proceedings concerning this product.<sup>27</sup> Because fresh and processed frozen shrimp are products at different stages of the same production process, the Commission concluded that use of the "semifinished product" like product analysis was appropriate. The Commission found that the vast majority of fresh warmwater shrimp is dedicated for further processing into frozen shrimp; the initial stages of processing do not significantly change the physical characteristics and uses of the product and appear to add at most moderate value to the product; the basic processing needed to transform fresh shrimp to processed shrimp – freezing and deheading – can be and is performed directly on the vessel; and there are separate markets for harvested (whether fresh or brine-frozen) shrimp and processed warmwater shrimp in the sense that vessels sell their catch to a dock house or processor, while processors sell shrimp to end users and distributors. However, fresh shrimp and shrimp frozen on the vessel are both sold at the dock.<sup>28</sup>

The record in the final phase of these investigations does not indicate that there have been any changes in the product characteristics of either fresh or frozen warmwater shrimp since the preliminary phase of the investigations to warrant defining the domestic like product differently.<sup>29</sup> Therefore, for the same reasons discussed in the preliminary determinations, we include fresh shrimp in the definition of the domestic like product, whether frozen on board a vessel or further processed suitable for commercial use or sale. In light of these factors, we define a single domestic like product encompassing both fresh warmwater shrimp and the frozen warmwater shrimp described in the scope definition.

---

<sup>26</sup> *Final Scope Ruling* at 6. Offshore shrimping vessels brine-freeze shrimp on board the boat to temporarily preserve the shrimp while the boats are fishing. This permits the boats to make longer offshore trips, perhaps lasting as long as several weeks. Inshore shrimp boats place shrimp on ice or in ice slush in vats during their shorter voyages, so the shrimp arriving at the dock is fresh, i.e., never frozen. *Frozen Warmwater Shrimp from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam*, Inv. Nos. 701-TA-491-497 (Preliminary), USITC Pub. 4380 at 8 (Feb. 2013) ("*Preliminary CVD Determinations*").

<sup>27</sup> *Preliminary CVD Determinations*, USITC Pub. 4380 at 8-11.

<sup>28</sup> *Preliminary CVD Determinations*, USITC Pub. 4380 at 10. Some of the shrimp sold at the dock is in fresh form (not in scope) and some has already been brine-frozen (included in the scope). *See, e.g., id.* at 9.

<sup>29</sup> CR at I-10-19; PR at I-8-14. Moreover, the domestic like product arguments Petitioner asserted in its prehearing brief were premised on an analysis of the scope that Commerce concluded were incorrect.



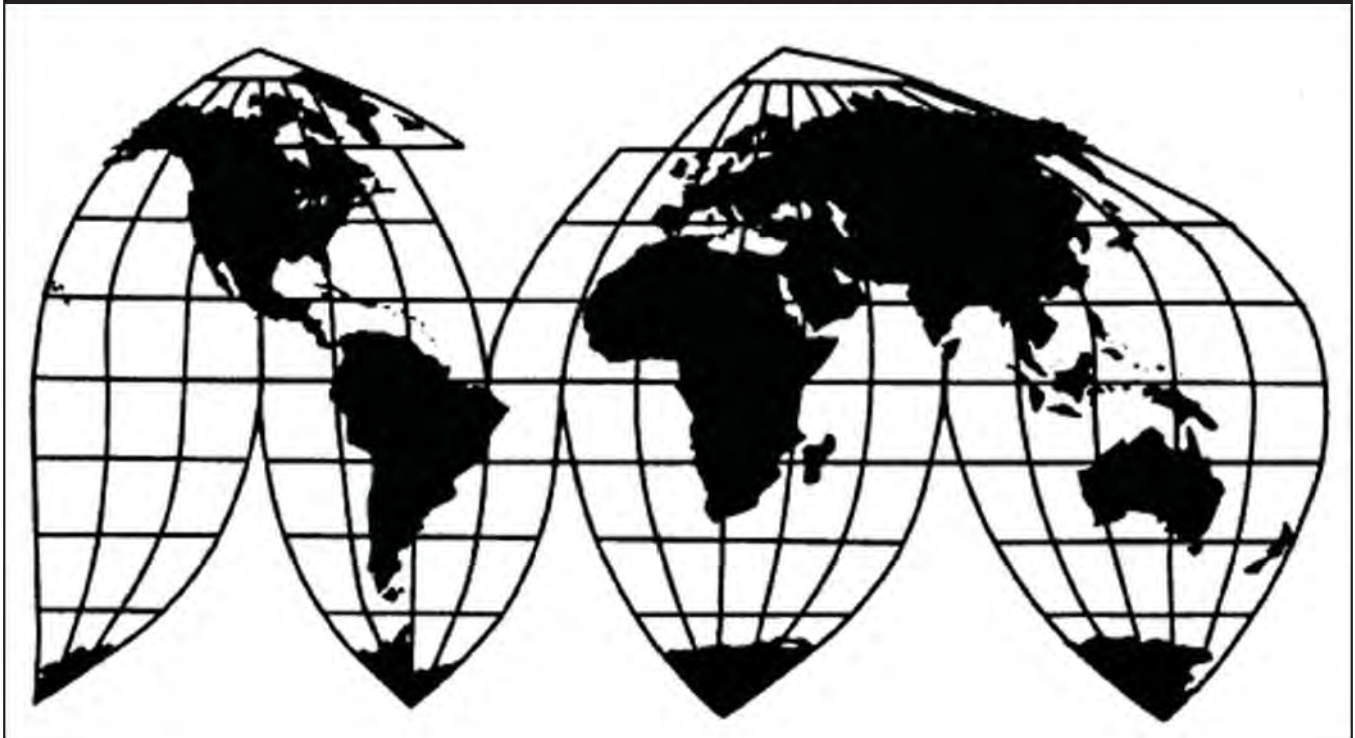
# **Frozen Warmwater Shrimp from China, India, Thailand, and Vietnam**

Investigation Nos. 731-TA-1064 and 1066-1068 (Third Review)

**Publication 5432**

**June 2023**

**U.S. International Trade Commission**



Washington, DC 20436

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medium shrimp (36 to 60 per pound) to be breaded, canned, or sold at retail; and for extra small (61 to 70 per pound) and tiny shrimp (more than 70 per pound) to be used by canners, dryers, and producers of specialty products. In the original investigations it was estimated that 80 percent of frozen warmwater shrimp in the U.S. market are bought by restaurants. Since that time, U.S. individually quick frozen (“IQF”) production as a share of total shipments has increased, suggesting that retail markets have become more important to U.S. processors.<sup>34</sup>

### **3. The Original Investigations**

In the original investigations, the Commission addressed three issues pertinent to the definition of the domestic like product. First, the Commission determined that the domestic like product should be defined to include fresh frozen warmwater shrimp, an item excluded from the scope. Using the “semifinished products” analysis, the Commission found that fresh frozen warmwater shrimp should be included in the domestic like product because fresh frozen warmwater shrimp was overwhelmingly used as an input in the production of the frozen product, frozen warmwater shrimp was overwhelmingly sold in a processed form, and the initial stages of processing did not significantly change the physical characteristics and uses of the product and appeared to add at most moderate value to the product.<sup>35</sup> Second, the Commission rejected an argument that “shrimp scampi” should be defined as a separate domestic like product, observing that the proponent of this domestic like product failed to define it meaningfully and that there were no clear distinctions between “shrimp scampi” and

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<sup>34</sup> CR/PR at I-24-I-25.

<sup>35</sup> *Original Determinations*, USITC Pub. 3748 at 6.

other domestically produced products described by the scope.<sup>36</sup> Third, the Commission found that canned shrimp, which was then within the scope definition, should be defined as a domestic like product separate from fresh and frozen warmwater shrimp.<sup>37</sup> The Commission made negative or negligible import determinations for canned shrimp from all subject countries. Consequently, the single domestic like product for which the Commission reached affirmative determinations consisted of fresh warmwater shrimp and those frozen warmwater shrimp products described in the scope.<sup>38</sup>

#### **4. The Prior Reviews**

In each of the prior five-year reviews, the Commission found that the record did not indicate any changes in product characteristics or uses since the original investigations and no party argued for a different definition for the domestic like product. Thus, the Commission defined a single domestic like product encompassing fresh warmwater shrimp and frozen warmwater shrimp as described by the scope definition.<sup>39</sup>

#### **5. The Current Reviews**

In these reviews, the Commission solicited comments from interested parties regarding the appropriate definition of the domestic like product.<sup>40</sup> Domestic Parties agreed with the Commission's definition of the domestic like product from the prior proceedings.<sup>41</sup>

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<sup>36</sup> *Original Determinations*, USITC Pub. 3748 at 6-8.

<sup>37</sup> *Original Determinations*, USITC Pub. 3748 at 8-10. Commissioners Koplan and Lane did not define canned warmwater shrimp as a separate domestic like product.

<sup>38</sup> *Original Determinations*, USITC Pub. 3748 at 11.

<sup>39</sup> *First Reviews*, USITC Pub. 4221 at 6; *Second Reviews*, USITC Pub. 4688 at 9.

<sup>40</sup> 87 FR 25665, 25667 (May 2, 2022).

<sup>41</sup> AHSTAC/AHSIC Prehearing Br. at 2-3; ASPA Prehearing Br. at 9.

Respondents have not requested an alternative definition.<sup>42</sup> The record in these reviews does not indicate that there have been any changes in the characteristics or uses of either fresh or frozen warmwater shrimp since the prior proceedings.<sup>43</sup> Given this, and the lack of any contrary argument, we again define a single domestic like product encompassing fresh warmwater shrimp and the frozen warmwater shrimp described by the scope definition.

## **B. Domestic Industry**

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>44</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

### **1. The Prior Proceedings**

The prior proceedings raised two sets of domestic industry issues. The first concerned what processing activities are sufficient to constitute domestic production. The second concerned whether appropriate circumstances existed to exclude any domestic producers from the domestic industry pursuant to the related parties provision.

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<sup>42</sup> SEAI Prehearing Br. at 3. Moreover, no party requested that the Commission collect data concerning other possible domestic like products in the comments on the Commission’s draft questionnaires. CR/PR at I-28-I-29.

<sup>43</sup> See generally CR/PR at I-23-I-27.

<sup>44</sup> 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.



## Tariff treatment

Warmwater shrimp is classifiable in the Harmonized Tariff Schedule of the United States (“HTS”) under subheadings 0306.17.00 (frozen warmwater shrimps and prawns, whether or not farmed, whether or not in shell), 1605.21.10 (prepared or preserved shrimps and prawns, not in airtight containers), and 1605.29.10 (other prepared or preserved shrimps and prawns). Such shrimp are currently imported under the following HTS statistical reporting numbers: 0306.17.0004, 0306.17.0005, 0306.17.0007, 0306.17.0008, 0306.17.0010, 0306.17.0011, 0306.17.0013, 0306.17.0014, 0306.17.0016, 0306.17.0017, 0306.17.0019, 0306.17.0020, 0306.17.0022, 0306.17.0023, 0306.17.0025, 0306.17.0026, 0306.17.0028, 0306.17.0029, 0306.17.0041, 0306.17.0042, 1605.21.1030, and 1605.29.1010. Warmwater shrimp imported from the subject countries enter the U.S. market at a column 1-general duty rate of “free” under all three HTS subheadings. As of September 24, 2018, warmwater shrimp originating in China were subject to an additional 10 percent ad valorem duty under Section 301 of the Trade Act of 1974.<sup>52</sup> On May 10, 2019, the additional duty on such warmwater shrimp from China was raised to 25 percent, and the 25 percent additional duty remains in effect.<sup>53</sup> Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

## The product

### Description and applications<sup>54</sup>

The imported products subject to these investigations are warmwater shrimp. The subject product can be any species of warmwater shrimp and includes both shrimp that were harvested from the ocean (wild-caught) and those produced by aquaculture (farm-raised). The shrimp can be in a wide variety of processed forms including head-on or head-off, tail-on or tail-off, shell-on or peeled, and deveined or not deveined. They may be raw or further processed by cooking, skewering, or processing with marinades, spices, or sauces. Food preparations containing more than 20 percent by weight of shrimp are included in the subject product, as are dusted shrimp. Fresh shrimp (never frozen) in any form are excluded from Commerce’s

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<sup>52</sup> 83 FR 47974, September 21, 2018.

<sup>53</sup> 84 FR 20459, May 9, 2019.

<sup>54</sup> Unless otherwise noted, this information is based on Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam, Nos. 731-TA-1063, 1064, 1066-1068 (Review) USITC Publication 4221, March 2011 (“First review publication”), pp. I-22 through I-23.

scope definition. Likewise, coldwater shrimp in any form, shrimp in prepared meals, breaded shrimp, and dried shrimp are excluded from the subject product.

Warmwater shrimp are crustaceans that usually inhabit salt waters in coastal regions in the tropics and subtropics. There are also freshwater species of shrimp. The warmwater shrimp subject to these investigations are either wild-caught or farm-raised in tropical or subtropical regions, are mostly classified in the Penaeidae family, and comprise shrimp of several genera and species.<sup>55</sup>

Imported shrimp are often farm-raised in ponds. One advantage of producing shrimp through aquaculture is that harvests of farm-raised shrimp are available year-round. Also, farmers can adjust production to respond to demand for different sizes and species. A downside of shrimp farming, however, is that shrimp ponds are periodically affected by diseases that can dramatically reduce harvest levels. While these diseases can also affect wild shrimp, they are more common in farming because shrimp populations in ponds are much denser. For example, an outbreak of a disease called Early Mortality Syndrome (“EMS”) began in China in 2009 and spread to shrimp farms in Southeast Asia between 2010 and 2012. The outbreak severely curtailed production in some of the subject countries for several years thereafter. Management and prevention of this disease and others that affect farmed shrimp is an ongoing process, and the losses and costs associated with outbreaks have been known to force smaller producers out of business.<sup>56</sup>

In the United States, virtually all warmwater shrimp production is wild-caught. The catch is composed primarily of brown shrimp (*Penaeus aztecus*), white shrimp (*Penaeus setiferus*), and pink shrimp (*Penaeus duorarum*). Shrimp vary greatly in size, depending on age and species. They typically grow to a harvestable size within one year; their size largely depends on the time of year they are harvested.<sup>57</sup>

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<sup>55</sup> In the original investigations, it was noted that subject imports included, but were not limited to, shrimp from the following species: whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Machrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*). Petition, Exhibit I-1, Scope of investigation.

<sup>56</sup> Alune, “Everything You Need to Know about EMS in Shrimp Farming,” *The Fish Site*, November 30, 2020.

<sup>57</sup> U.S. shrimp fisheries in both the South Atlantic and the Gulf of Mexico are seasonal, and seasonal peaks vary by species.

Warmwater shrimp are used principally for human consumption and are sold primarily on the basis of size. Because the tail section is the edible portion and spoilage is more rapid with the head on, most shrimp are marketed raw and frozen with the heads off. The market tendency is for large shrimp (less than 36 per pound, heads-off, shell-on basis) to be sold raw and frozen to restaurants, hotels, and other food institutions; for small to medium shrimp (36 to 60 per pound) to be breaded, canned, or sold at retail; and for extra small (61 to 70 per pound) and tiny shrimp (more than 70 per pound) to be used by canners, dryers, and producers of specialty products. In the original investigations it was estimated that 80 percent of shrimp in the U.S. market are bought by restaurants.<sup>58</sup> Since that time, U.S. IQF production as a share of total shipments has increased, suggesting that retail markets have become more important to U.S. processors (see the next section for a description of IQF freezing, and Part IV for data on shipments by product type).

## Manufacturing processes

### Harvesting

The U.S. Gulf and South Atlantic warmwater shrimp fleet<sup>59</sup> is composed of thousands of vessels and is spread across about two dozen port communities. The vessels fall into one of three broad categories: recreational shrimpers, commercial bait shrimpers, and commercial shrimpers. Commercial shrimpers account for the bulk of all U.S. Gulf and South Atlantic warmwater shrimp landings; the catch of recreational shrimpers and commercial bait shrimpers is relatively small. There are two categories of commercial shrimpers. Inshore shrimpers operate small boats typically manned by one person on day-long trips in bays, estuaries, and shallow near-shore waters. Offshore shrimpers operate larger vessels typically manned by a crew of three in deeper waters up to the 200-mile U.S. territorial limit.<sup>60</sup> Some offshore vessels can freeze their catch and thus make trips lasting several weeks. Most vessels are individually owned, often by the skipper. While horizontal and vertical integration is limited, some shrimpers also process shrimp and/or own multiple vessels.

Offshore shrimpers use vessels that are typically 56 to 85 feet long, constructed of steel, and diesel-powered. Such vessels are often equipped with sophisticated electronic gear for navigating, communicating, and locating shrimp. Major costs of operating a vessel include crew

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<sup>58</sup> Original publication, p. I-6.

<sup>59</sup> Shrimp harvested off the Pacific and Northern Atlantic coasts is coldwater shrimp.

<sup>60</sup> In 2019, shrimp caught within 3 miles of shore accounted for approximately 46 percent of total commercial shrimp landings. *NMFS, Fisheries of the United States, 2019*, May 2021, p. 18.



share (wages) and fuel as well as depreciation, mortgage payments, insurance, and maintenance on the vessel. Vessels catch shrimp by towing one or more large, funnel-shaped nets. The U.S. fleet, particularly that portion in the Gulf, is relatively mobile and migrates with the seasonal warmwater shrimp populations, or away from areas of poor fishing. As a result, vessels may land shrimp at different ports in different states. Some shrimp vessels are equipped to perform simple processing steps (e.g., deheading, washing, grading, icing, or freezing) while at sea.<sup>61</sup> Shrimp may be placed in mesh bags prior to freezing. Thus, warmwater shrimp can be landed either whole or headed (heads-off) and either fresh or frozen, and shrimp in different forms can be landed from the same trip. Upon unloading, shrimp are generally sold at dockside to dealers or processors. The vessel's crew typically are paid a percentage of the revenue generated by the catch. Because of the differing feeding habits, migration patterns, and habitats of the different species, Gulf and South Atlantic shrimp vessels usually land one species at a time. Likewise, harvesting activities and hence, landings in the U.S. Gulf and South Atlantic, exhibit seasonal patterns that are influenced by the natural patterns of development of the different species of warmwater shrimp.

### **Processing**

While some processors own their boats, most have buying arrangements with several shrimp vessels. After unloading, shrimp are transferred to processing facilities, which are often located dockside. The shrimp may be held frozen in storage for later processing or may immediately undergo initial processing such as separating shrimp from ice, weighing, washing, sizing, and grading. At this stage, shrimp may either be frozen in whole form (head-on, shell-on) or may undergo a number of further steps such as deheading, peeling, deveining, and cooking. Resulting from these steps are shrimp in a variety of forms (e.g., head-on, shell-on; headless, shell-on; raw, peeled; and cooked, peeled). Regardless of their specific processed form, shrimp then are typically frozen with the exception that cooked, peeled shrimp may be canned rather than frozen. Shrimp may be frozen either in block form or individually quick frozen ("IQF"). Block frozen shrimp is typically sold to foodservice or restaurant buyers because the entire block must be thawed at one time. IQF shrimp are typically sold to grocery retailers for the consumer market, since they offer the convenience of thawing only as many shrimp as needed.

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<sup>61</sup> Original publication, p. I-7.

An IQF line is relatively expensive to install, as it requires either a tunnel or spiral freezer built for this purpose.<sup>62</sup>

Many of the processing steps (e.g., washing, grading, peeling, deveining, and cooking) may be performed manually or mechanically using purpose-built machinery, but much of the process is performed mechanically in most U.S. processing facilities. Shrimp grading or sorting machines are available from approximately five companies<sup>63</sup> and can be installed onboard shrimp vessels, but they are more often found in shrimp processing facilities. Peeling can be done by one of two types of machines – the Laitram machine that operates by pushing the shrimp out of its shell, or the Jonsson machine that must be fed manually and that peels the shrimp with cutting equipment.

Processing of warmwater shrimp is conducted by a variety of types of operations. Dealers (a.k.a. shrimp houses or fish houses) and packing houses perform minimal processing steps (e.g., weighing, washing, sorting, and packing) for other processors or distributors. Various types of processors produce the range of processed forms of shrimp noted previously and perform additional steps such as breading, cutting, and preparing specialty items.

## **Aquaculture**

A small share of U.S. domestic production of warmwater shrimp is produced by aquaculture (i.e., farm-raised). In 2021, an estimated 2.2 percent of U.S. production of warmwater shrimp was farm-raised. The major producing state is Texas.<sup>64</sup> U.S. aquaculture of shrimp reached a maximum of 13 million pounds (approximately 4.5 percent of total production) in 2003 prior to the imposition of antidumping duties. The decline in shrimp farming since then has reportedly been because of price pressure, high feed costs, and environmental regulations.<sup>65</sup> While outdoor shrimp aquaculture remains the dominant model in the United States, shrimp are occasionally grown in indoor aquaculture facilities, and the production capacity of these facilities has increased in recent years.<sup>66</sup> However, this type of

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<sup>62</sup> Advanced Equipment webpage, “IQF Spiral and Tunnel Freezers for the Seafood Industry,” <https://advancedfreezer.com/seafood-industry-tunnel-freezers-spiral-freezers/>, retrieved March 20, 2023.

<sup>63</sup> Such companies include those that specialize only in sorting or grading, such as Tomra, and those that offer machinery for all stages of shrimp processing, such as Laitram. North Carolina State University, “Feasibility Study for a Shrimp Processing Line,” 2013.

<sup>64</sup> Texas Aquaculture Association, “2018 Texas Shrimp Farm Production,” accessed March 3, 2023.

<sup>65</sup> Treece, “The Rise and Decline in U.S. Shrimp Farming,” Texas Aquaculture Association, 2017.

<sup>66</sup> Howell, “A Quick Introduction to Indoor Shrimp Farming,” *The Fish Site*, December 26, 2022.

production (which faces a somewhat different cost structure from outdoor aquaculture) still accounts for a small share of even the minor total U.S. shrimp aquaculture production.

## Domestic like product issues

In its original determinations, the Commission defined the domestic like product as non-canned fresh warmwater shrimp and prawns and those frozen warmwater shrimp and prawn products described in Commerce's scope definition.<sup>67</sup> In its full first five-year review determinations, the Commission defined a single domestic like product encompassing fresh warmwater shrimp and frozen warmwater shrimp as described by the scope definition.<sup>68</sup> In its full second five-year review determinations, the Commission also defined a single domestic like product encompassing fresh warmwater shrimp and frozen warmwater shrimp as described by the scope definition.<sup>69</sup>

In its notice of institution in these current five-year reviews, the Commission solicited comments from interested parties regarding the appropriate definitions of the domestic like product and domestic industry.<sup>70</sup> According to their responses to the notice of institution, domestic interested parties American Shrimp Processors Association ("ASPA"), AHSTAC, and Ad Hoc Shrimp Industry Committee ("AHSIC") agree with the definitions as provided in the notice.<sup>71</sup> The Indian respondent interested parties did not contest the definitions but reserved the right to do so at a later stage in the proceeding.<sup>72</sup> No other interested party provided further comment on the domestic like product.<sup>73</sup> No party requested that the Commission

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<sup>67</sup> Original publication, p. 11. The Commission found canned shrimp to be a separate domestic like product and made negative or negligible import determinations with respect to canned shrimp from each subject country.

<sup>68</sup> First review publication, p. 6. The Commission also found during the first full five-year reviews that because the scope definition included dusted shrimp, and the record provided no basis for treating dusted shrimp as a distinct like product, the domestic like product included dusted shrimp.

<sup>69</sup> Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam, Inv. Nos. 731-TA-1063-1064 and 1066-1068 (Second Review), USITC Publication 4688, May 2017 ("Second review publication"), p. 9.

<sup>70</sup> 87 FR 25665, May 2, 2022.

<sup>71</sup> Domestic interested party ASPA's response to the notice of institution, June 1, 2022, p. 36; and domestic interested parties AHSTAC and AHSIC's response to the notice of institution, June 1, 2022, pp. 45-46.

<sup>72</sup> Indian respondent interested parties' response to the notice of institution, June 1, 2022, p. 9.

<sup>73</sup> See generally Thai respondent interested parties' response to the notice of institution, June 1, 2022; and Vietnamese respondent interested parties' response to the notice of institution, June 1, 2022.



collect data concerning other possible domestic like products in their comments on the Commission's draft questionnaires.<sup>74</sup>

In their prehearing briefs, domestic interested parties ASPA and AHSTAC and domestic interested party ASPA stated that the Commission should continue to define a single domestic like product comprised of fresh warmwater shrimp and frozen warmwater shrimp as defined in Commerce's scope.<sup>75</sup> The Indian respondent interested parties did not contest the definition of the domestic like product.<sup>76</sup> No other interested party provided further comment on the domestic like product.<sup>77</sup>

## U.S. market participants

### U.S. producers

During the final phase of the original investigations, the Commission received usable questionnaire responses from 37 U.S. processors, which accounted for approximately \*\*\* percent of U.S. production of warmwater shrimp based on live (head-on, shell-on) weight or \*\*\* percent of U.S. production of warmwater shrimp based on headless, shell-on weight during 2003.<sup>78</sup> The Commission also received usable questionnaire responses from 130 fishermen, which were believed to have accounted for approximately 6.5 percent of U.S. wild-caught landings of warmwater shrimp during 2003.<sup>79</sup>

During the first full five-year reviews, the Commission received usable questionnaire responses from 31 U.S. processors, which accounted for \*\*\* percent of U.S. production of warmwater shrimp based on live (head-on, shell-on) weight or \*\*\* percent of U.S. production

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<sup>74</sup> See generally domestic interested party ASPA's comments on draft questionnaires, December 12, 2022; domestic interested parties AHSTAC and AHSIC's comments on draft questionnaires, December 12, 2022; and Indian, Thai, and Vietnamese respondent interested parties' joint comments on draft questionnaires, December 12, 2022.

<sup>75</sup> Domestic interested parties AHTAC and AHSIC's prehearing brief, pp. 2-3; and domestic interested party ASPA's prehearing brief, p. 9.

<sup>76</sup> Indian respondent interested parties' prehearing brief, p. 3.

<sup>77</sup> See generally Thai respondent interested parties' prehearing brief and Vietnamese respondent interested parties' prehearing brief.

<sup>78</sup> Investigation Nos. 731-TA-1063-1068 (Final): Certain Frozen or Canned Warmwater Shrimp and Prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam, Confidential Report, INV-BB-156, December 21, 2004, as supplemented in INV-CC-002, January 6, 2005 ("Original confidential report"), pp. III-1-III-2.

<sup>79</sup> Original publication, p. III-1.

## Apparent U.S. consumption and market shares

### Quantity

Table I-13 and figure I-2 present data on apparent U.S. consumption and U.S. market shares by quantity for warmwater shrimp. The quantity of apparent U.S. consumption increased by 25.1 percent during 2019-21, increasing from 1.5 billion pounds in 2019 to 1.6 billion pounds in 2020 then increasing to 1.9 billion pounds in 2021. Apparent U.S. consumption was 0.7 percent lower in January-September 2022 than in January-September 2021. U.S. processors' market share based on quantity ranged from 4.4 to 8.9 percent during the period for which data were collected, while subject import market share ranged from \*\*\* to \*\*\* percent. U.S. processors' market share decreased in each year during 2019-21, while subject import market share decreased irregularly and nonsubject import market share increased irregularly. U.S. processors' market share decreased from 8.9 percent in 2019 to 8.1 percent in 2020 then decreased to 6.3 percent in 2021, ending 2.6 percentage points lower in 2021 than in 2019. U.S. processors' market share was 0.5 percentage points higher in January-September 2022 (4.9 percent) than in January-September 2021 (4.4 percent). Subject import market share decreased from \*\*\* percent in 2019 to \*\*\* percent in 2020 then increased to \*\*\* percent in 2021, ending \*\*\* percentage points lower in 2021 than in 2019. Subject import market share was \*\*\* percentage points lower in January-September 2022 (\*\*\* percent) than in January-September 2021 (\*\*\* percent). Nonsubject import market share increased from \*\*\* percent in 2019 to \*\*\* percent in 2020 then decreased to \*\*\* percent in 2021, increasing by \*\*\* percentage points during 2019-21. Following a similar trend, nonsubject import market share was higher in January-September 2022 (\*\*\* percent) than in January-September 2021 (\*\*\* percent).

**Table I-13****Warmwater shrimp: Apparent U.S. consumption and market shares based on quantity, by source and period**

Quantity in 1,000 pounds

Source	Measure	2019	2020	2021	Jan-Sep 2021	Jan-Sep 2022
Wild catch landings (gross weight)	Quantity	229,935	218,634	225,864	100,355	129,833
Farmed production (gross weight)	Quantity	5,185	5,185	5,185	3,889	3,889
Domestic production (gross weight)	Quantity	235,120	223,819	231,049	104,244	133,722
Domestic production (processed weight)	Quantity	147,891	140,782	145,330	65,569	84,111
U.S. Exports	Quantity	10,181	7,842	22,489	5,876	18,632
Calculated U.S. shipments	Quantity	137,710	132,940	122,841	59,694	65,479
China, subject	Quantity	***	***	***	***	***
India, subject	Quantity	***	***	***	***	***
Thailand, subject	Quantity	***	***	***	***	***
Vietnam, subject	Quantity	***	***	***	***	***
Subject sources	Quantity	***	***	***	***	***
China, nonsubject	Quantity	***	***	***	***	***
India, nonsubject	Quantity	***	***	***	***	***
Thailand, nonsubject	Quantity	***	***	***	***	***
Vietnam, nonsubject	Quantity	***	***	***	***	***
All other sources	Quantity	611,001	733,888	849,081	618,050	645,867
Nonsubject sources	Quantity	***	***	***	***	***
All import sources	Quantity	1,411,504	1,515,039	1,815,253	1,297,731	1,282,493
All sources	Quantity	1,549,214	1,647,979	1,938,094	1,357,425	1,347,972

Table continued.



**Table I-13 Continued****Warmwater shrimp: Apparent U.S. consumption and market shares based on quantity, by source and period**

Share in percent

Source	Measure	2019	2020	2021	Jan-Sep 2021	Jan-Sep 2022
U.S. processors	Share	8.9	8.1	6.3	4.4	4.9
China, subject	Share	***	***	***	***	***
India, subject	Share	***	***	***	***	***
Thailand, subject	Share	***	***	***	***	***
Vietnam, subject	Share	***	***	***	***	***
Subject sources	Share	***	***	***	***	***
China, nonsubject	Share	***	***	***	***	***
India, nonsubject	Share	***	***	***	***	***
Thailand, nonsubject	Share	***	***	***	***	***
Vietnam, nonsubject	Share	***	***	***	***	***
All other sources	Share	39.4	44.5	43.8	45.5	47.9
Nonsubject sources	Share	***	***	***	***	***
All import sources	Share	91.1	91.9	93.7	95.6	95.1
All sources	Share	100.0	100.0	100.0	100.0	100.0

Source: Compiled from official U.S. imports statistics of the U.S. Department of Commerce using HTS statistical reporting numbers 0306.17.0003, 0306.17.0004, 0306.17.0005, 0306.17.0006, 0306.17.0007, 0306.17.0008, 0306.17.0009, 0306.17.0010, 0306.17.0011, 0306.17.0012, 0306.17.0013, 0306.17.0014, 0306.17.0015, 0306.17.0016, 0306.17.0017, 0306.17.0018, 0306.17.0019, 0306.17.0020, 0306.17.0021, 0306.17.0022, 0306.17.0023, 0306.17.0024, 0306.17.0025, 0306.17.0026, 0306.17.0027, 0306.17.0028, 0306.17.0029, 0306.17.0040, 0306.17.0041, 0306.17.0042, 1605.21.1030, and 1605.29.1010, accessed February 28, 2023; official U.S. exports statistics of the U.S. Department of Commerce using HS subheadings 0306.17, 1605.21, and 1605.29, accessed March 6, 2023; data submitted in response to Commission questionnaires; wild catch landings data using the National Marine Fisheries Services' commercial landings database; and farmed production data estimated using the following sources: Howell, "A Quick Introduction to Indoor Shrimp Farming," The Fish Site, December 26, 2022; Texas Aquaculture Alliance, "2018 Texas Shrimp Farm Production," accessed March 3, 2023; and Gulf American Shrimp LLC, "Our Story," accessed March 3, 2023.

Note: Import data in this report are based on official import statistics, adjusted with questionnaire data to reclassify certain imports that are no longer subject to the orders. Due to less than complete questionnaire coverage, subject imports are likely overstated.

Note: Wild catch landings quantities are for the Gulf and South Atlantic regions as collected by the National Marine Fisheries Service (NMFS). For January-September 2021 and January-September 2022, wild catch landings are NMFS data as reported by the Southern Shrimp Alliance.

Note: U.S. production quantities have been converted to headless, shell-on weight using a conversion factor of 0.629.

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

**Figure I-2**  
**Warmwater shrimp: Apparent U.S. consumption based on quantity, by source and period**

\* \* \* \* \*

Source: Compiled from official U.S. imports statistics of the U.S. Department of Commerce using HTS statistical reporting numbers 0306.17.0003, 0306.17.0004, 0306.17.0005, 0306.17.0006, 0306.17.0007, 0306.17.0008, 0306.17.0009, 0306.17.0010, 0306.17.0011, 0306.17.0012, 0306.17.0013, 0306.17.0014, 0306.17.0015, 0306.17.0016, 0306.17.0017, 0306.17.0018, 0306.17.0019, 0306.17.0020, 0306.17.0021, 0306.17.0022, 0306.17.0023, 0306.17.0024, 0306.17.0025, 0306.17.0026, 0306.17.0027, 0306.17.0028, 0306.17.0029, 0306.17.0040, 0306.17.0041, 0306.17.0042, 1605.21.1030, and 1605.29.1010, accessed February 28, 2023; official U.S. exports statistics of the U.S. Department of Commerce using HS subheadings 0306.17, 1605.21, and 1605.29, accessed March 6, 2023; data submitted in response to Commission questionnaires; wild catch landings data using the National Marine Fisheries Services' commercial landings database; and farmed production data estimated using the following sources: Howell, "A Quick Introduction to Indoor Shrimp Farming," The Fish Site, December 26, 2022; Texas Aquaculture Alliance, "2018 Texas Shrimp Farm Production," accessed March 3, 2023; and Gulf American Shrimp LLC, "Our Story," accessed March 3, 2023.

## Operations on warmwater shrimp

Table III-12 presents aggregated data on U.S. processors' operations in relation to warmwater shrimp, while table III-13 presents corresponding changes in AUVs. Table III-14 presents selected company-specific financial data.<sup>11 12 13</sup>

**Table III-12**  
**Warmwater shrimp: Results of operations of U.S. processors, by item and period**

Quantity in 1,000 pounds; Value in 1,000 dollars; Ratios in percent

Item	Measure	2019	2020	2021	Jan-Sep 2021	Jan-Sep 2022
Total net sales	Quantity	112,540	116,394	124,802	89,179	79,875
Total net sales	Value	437,858	488,274	546,888	393,980	339,752
COGS: Raw materials	Value	332,858	361,620	433,510	308,672	255,478
COGS: All other	Value	64,367	75,262	65,188	47,589	44,802
COGS: Total	Value	397,225	436,882	498,698	356,261	300,280
Gross profit or (loss)	Value	40,633	51,392	48,190	37,719	39,472
SG&A expenses	Value	36,845	37,423	39,589	26,344	29,242
Operating income or (loss)	Value	3,788	13,969	8,601	11,375	10,230
Interest expense	Value	5,908	4,053	3,257	2,158	3,244
All other expenses	Value	2,252	9,011	5,448	2,312	2,346
All other income	Value	9,913	19,550	20,294	5,768	6,578
Net income or (loss)	Value	5,541	20,455	20,190	12,673	11,218
Depreciation/amortization	Value	5,648	6,179	5,999	3,553	2,981
Cash flow	Value	11,189	26,634	26,189	16,226	14,199
COGS: Raw materials	Ratio to NS	76.0	74.1	79.3	78.3	75.2
COGS: All other	Ratio to NS	14.7	15.4	11.9	12.1	13.2
COGS: Total	Ratio to NS	90.7	89.5	91.2	90.4	88.4
Gross profit	Ratio to NS	9.3	10.5	8.8	9.6	11.6
SG&A expense	Ratio to NS	8.4	7.7	7.2	6.7	8.6
Operating income or (loss)	Ratio to NS	0.9	2.9	1.6	2.9	3.0
Net income or (loss)	Ratio to NS	1.3	4.2	3.7	3.2	3.3

Table continued.

<sup>11</sup> \*\*\*.

<sup>12</sup> Income-and-loss data for U.S. farmers/fishermen are presented in appendix E.

<sup>13</sup> A variance analysis is most useful for products that do not have substantial changes in product mix over the period investigated, and the methodology is most sensitive at the plant or firm level, rather than the aggregated industry level. Because of the \*\*\*, a variance analysis is not presented.



Raw material costs include Shrimp/prawns and various other raw materials such as \*\*\*. Table III-15 presents raw materials, by type in 2021.<sup>17</sup>

**Table III-15**  
**Warmwater shrimp: Raw material costs, 2021**

Values in 1,000 dollars; Unit values in dollars per pound; Share of value in percent

Item	Value	Unit value	Share of value
Shrimp and prawns	418,495	3.35	96.5
Other material inputs	15,015	0.12	3.5
All raw materials	433,510	3.47	100.0

Source: Compiled from data submitted in response to Commission questionnaires.

### All other COGS

All other COGS accounted for between 13.1 percent (2021) and 17.2 percent (2020) of total COGS. All other COGS per pound decreased irregularly from 2019 to 2021, and were higher in interim 2022 than in interim 2021. All other COGS as a ratio to net sales declined irregularly from 2019 to 2021 but was higher in interim 2022 than in interim 2021. As shown in table III-14, \*\*\*.<sup>18</sup>

### COGS and gross profit or loss

The value of total COGS, its ratio to net sales, and its unit value increased overall from 2019 to 2021 and these items were each lower in interim 2022 than in interim 2021. However, the increase in net sales value from 2019 to 2021 exceeded the corresponding increase in COGS, thus the industry's gross profit increased irregularly from 2019 to 2021. On a per pound basis, net sales increased by \$0.49 between 2019 and 2021 compared with an increase of \$0.47 in total COGS (led by raw materials). The industry's gross profit was higher in interim 2022 than

<sup>17</sup> \*\*\*. U.S. producers' questionnaire response of \*\*\*, sections III-6 and III-7.

<sup>18</sup> Among the 12 smaller firms, \*\*\*.

## Operations on warmwater shrimp

Tables IV-13 and IV-14 present information on the warmwater shrimp operations of the responding processors in India. Capacity and production increased between 2019 and 2021, by 12.9 percent and 7.5 percent, respectively. Capacity and production were higher in January-September 2022 than in January-September 2021, by 0.6 percent and 6.7 percent, respectively. Capacity utilization ranged between 47.6 percent and 56.2 percent between 2019 and 2021.

Exports accounted for nearly all shipments, with exports to the United States accounting for around 75 percent of total exports in each full year. Exports to the United States increased by 11.8 percent during 2019-21 and were 12.9 percent lower in interim 2022 than in interim 2021. The unit value of export shipments to the United States was higher than the unit values for other export markets in each period.

Inventories increased by 59.1 percent during 2019-21 and were 14.0 percent higher in January-September 2022 than in January-September 2021. Inventories as a ratio to production increased by 6.2 percentage points between 2019 and 2021, from 12.8 percent to 19.0 percent, and was higher in interim 2022 than in interim 2021.

Tables IV-15 and IV-16 presents responding firms' reported production constraints on their warmwater shrimp operations. Eleven responding firms reported availability of skilled labor, eight firms reported availability of raw materials, and five firms reported logistics/transportation challenges, such as increased shipping costs, container shortages, and COVID-19 protocols, as constraints in the production process.

**Table IV-13**  
**Warmwater shrimp: Data on industry in India, by period**

Quantity in 1,000 pounds; value in 1,000 dollars

Item	Measure	2019	2020	2021	Jan-Sep 2021	Jan-Sep 2022
Capacity	Quantity	915,310	960,939	1,033,603	772,327	777,117
Production	Quantity	514,812	456,941	553,210	415,800	443,592
End-of-period inventories	Quantity	66,143	95,565	105,214	113,946	129,898
Internal consumption and transfers	Quantity	***	***	***	***	***
Commercial home market shipments	Quantity	***	***	***	***	***
Home market shipments	Quantity	***	***	***	***	***
Export shipments	Quantity	501,881	427,124	543,039	397,104	418,585
Total shipments	Quantity	***	***	***	***	***
Internal consumption and transfers	Value	***	***	***	***	***
Commercial home market shipments	Value	***	***	***	***	***
Home market shipments	Value	***	***	***	***	***
Export shipments	Value	1,936,502	1,691,405	2,306,325	1,649,491	1,791,961
Total shipments	Value	***	***	***	***	***

Table continued.

**Table IV-13 Continued**  
**Warmwater shrimp: Data on industry in India, by period**

Unit value in dollars per pound; ratio and share in percent

Item	Measure	2019	2020	2021	Jan-Sep 2021	Jan-Sep 2022
Internal consumption and transfers	Unit value	***	***	***	***	***
Commercial home market shipments	Unit value	***	***	***	***	***
Home market shipments	Unit value	***	***	***	***	***
Export shipments	Unit value	3.86	3.96	4.25	4.15	4.28
Total shipments	Unit value	***	***	***	***	***
Capacity utilization ratio	Ratio	56.2	47.6	53.5	53.8	57.1
Inventory ratio to production	Ratio	12.8	20.9	19.0	20.6	22.0
Inventory ratio to total shipments	Ratio	***	***	***	***	***
Internal consumption and transfers	Share	***	***	***	***	***
Commercial home market shipments	Share	***	***	***	***	***
Home market shipments	Share	***	***	***	***	***
Export shipments	Share	***	***	***	***	***
Total shipments	Share	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.



## Operations on warmwater shrimp

Tables IV-31 and IV-32 present data on the warmwater shrimp operations of the responding processors in Vietnam. Capacity and production increased between 2019 and 2021, by 15.1 percent and 23.7 percent, respectively. Capacity and production were higher in January-September 2022 than in January-September 2021, by 1.0 percent and 5.0 percent, respectively. Capacity utilization ranged between 70.5 percent and 80.3 percent between 2019 and 2021.

Home market shipments as a share of total shipments increased during 2019-21, from 14.6 percent to 20.3 percent. Exports as a share of total shipments accounted for about 80-85 percent in each full year and were 5.0 percentage points lower in interim 2022 than in interim 2021.

Exports to the United States more than doubled during 2019-21 and were 33.0 percent lower in interim 2022 than in interim 2021. Export shipments to the United States as a share of total exports increased by 18.8 percentage points between 2019 and 2021, from 20.7 percent to 39.5 percent, and were 16.0 percentage points lower in interim 2022 than in interim 2021. The unit value of export shipments to the United States was higher than the unit values for other export markets in each period.

Inventories increased by 25.3 percent during 2019-21 and were 19.7 percent lower in January-September 2022 than in January-September 2021. Inventories as a ratio to production ranged between 16.8 percent and 17.7 percent during 2019-21.

Tables IV-33 and IV-34 present responding firms' reported production constraints on their warmwater shrimp operations. Six firms reported availability of raw materials and 5 firms reported existing labor force as constraints in the production process.

**Table IV-31**  
**Warmwater shrimp: Data on industry in Vietnam, by period**

Quantity in 1,000 pounds; value in 1,000 dollars

Item	Measure	2019	2020	2021	Jan-Sep 2021	Jan-Sep 2022
Capacity	Quantity	266,480	269,693	306,602	230,643	232,893
Production	Quantity	187,740	216,612	232,328	177,048	185,866
End-of-period inventories	Quantity	32,760	36,491	41,043	52,012	41,779
Internal consumption and transfers	Quantity	***	***	***	***	***
Commercial home market shipments	Quantity	***	***	***	***	***
Home market shipments	Quantity	28,365	32,150	46,162	28,730	42,209
Export shipments	Quantity	165,509	180,892	181,271	133,322	143,792
Total shipments	Quantity	193,874	213,042	227,433	162,052	186,001
Internal consumption and transfers	Value	***	***	***	***	***
Commercial home market shipments	Value	***	***	***	***	***
Home market shipments	Value	89,944	108,907	167,040	105,821	164,539
Export shipments	Value	734,632	830,583	902,789	658,269	735,763
Total shipments	Value	824,576	939,490	1,069,829	764,090	900,302

Table continued.

**Table IV-31 Continued**  
**Warmwater shrimp: Data on industry in Vietnam, by period**

Unit value in dollars per pound; ratio and share in percent

Item	Measure	2019	2020	2021	Jan-Sep 2021	Jan-Sep 2022
Internal consumption and transfers	Unit value	***	***	***	***	***
Commercial home market shipments	Unit value	***	***	***	***	***
Home market shipments	Unit value	3.17	3.39	3.62	3.68	3.90
Export shipments	Unit value	4.44	4.59	4.98	4.94	5.12
Total shipments	Unit value	4.25	4.41	4.70	4.72	4.84
Capacity utilization ratio	Ratio	70.5	80.3	75.8	76.8	79.8
Inventory ratio to production	Ratio	17.4	16.8	17.7	22.0	16.9
Inventory ratio to total shipments	Ratio	16.9	17.1	18.0	24.1	16.8
Internal consumption and transfers	Share	***	***	***	***	***
Commercial home market shipments	Share	***	***	***	***	***
Home market shipments	Share	14.6	15.1	20.3	17.7	22.7
Export shipments	Share	85.4	84.9	79.7	82.3	77.3
Total shipments	Share	100.0	100.0	100.0	100.0	100.0

Source: Compiled from data submitted in response to Commission questionnaires.

Note: \*\*\* reported capacity equal to production.

## Third-country trade actions

Based on available information, warmwater shrimp from the subject countries has not been subject to other antidumping or countervailing duty investigations outside the United States.

## Global market

Outside of the subject countries, the most significant change in the global market between 2016 and 2021 was the growth of exports from Ecuador, from around 715 million pounds in 2016 to nearly 1.8 billion pounds in 2021. Ecuador was a major supplier of farmed warmwater shrimp during the 1980s and 1990s, but suffered major shrimp disease outbreaks that resulted in lower production. However, improved environmental standards and increased investment have led to a recovery of the sector and steady growth in recent years.<sup>31</sup>

Table IV-39 presents global export data for warmwater shrimp from 2019 to 2021. During 2021, Ecuador and India were the leading exporters of warmwater shrimp, accounting 31.4 percent and 26.2 percent, respectively.

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<sup>31</sup> RTS International, "A Look at the Shrimp Industry in Ecuador," July 13, 2020.



**Table IV-39**  
**Warmwater shrimp: Global exports, by reporting country and by period**

Quantity in 1,000 pounds; value in 1,000 dollars

Exporting country	Measure	2019	2020	2021
United States	Quantity	6,096	5,284	7,828
Ecuador	Quantity	1,355,508	1,441,053	1,783,451
India	Quantity	1,390,217	1,158,067	1,488,480
Vietnam	Quantity	415,346	402,846	432,916
Indonesia	Quantity	328,820	361,945	368,442
Argentina	Quantity	341,130	269,264	341,590
Honduras	Quantity	79,848	166,113	190,405
China	Quantity	117,526	131,776	133,244
Thailand	Quantity	148,249	121,916	131,763
Spain	Quantity	75,040	74,859	93,761
Peru	Quantity	73,902	67,278	76,661
Netherlands	Quantity	65,489	62,055	73,863
All other exporters	Quantity	540,862	432,828	560,911
All reporting exporters	Quantity	4,938,031	4,695,283	5,683,314
United States	Value	28,962	24,396	38,288
Ecuador	Value	3,675,300	3,626,519	5,090,381
India	Value	4,551,810	3,782,188	5,141,756
Vietnam	Value	1,750,575	1,735,740	2,015,644
Indonesia	Value	1,269,251	1,416,443	1,530,310
Argentina	Value	976,453	780,957	1,118,041
Honduras	Value	153,495	390,560	447,440
China	Value	507,331	461,226	441,783
Thailand	Value	664,749	561,641	617,193
Spain	Value	306,738	294,216	428,994
Peru	Value	230,927	200,892	249,880
Netherlands	Value	277,801	281,315	347,863
All other exporters	Value	1,935,388	1,578,594	1,911,419
All reporting exporters	Value	16,328,780	15,134,687	19,378,990

Table continued.

**Table IV-39 Continued**  
**Warmwater shrimp: Global exports, by reporting country and by period**

Unit value in dollars per pound; share in percent

Exporting country	Measure	2019	2020	2021
United States	Unit value	4.75	4.62	4.89
Ecuador	Unit value	2.71	2.52	2.85
India	Unit value	3.27	3.27	3.45
Vietnam	Unit value	4.21	4.31	4.66
Indonesia	Unit value	3.86	3.91	4.15
Argentina	Unit value	2.86	2.90	3.27
Honduras	Unit value	1.92	2.35	2.35
China	Unit value	4.32	3.50	3.32
Thailand	Unit value	4.48	4.61	4.68
Spain	Unit value	4.09	3.93	4.58
Peru	Unit value	3.12	2.99	3.26
Netherlands	Unit value	4.24	4.53	4.71
All other exporters	Unit value	3.58	3.65	3.41
All reporting exporters	Unit value	3.31	3.22	3.41
United States	Share of quantity	0.1	0.1	0.1
Ecuador	Share of quantity	27.5	30.7	31.4
India	Share of quantity	28.2	24.7	26.2
Vietnam	Share of quantity	8.4	8.6	7.6
Indonesia	Share of quantity	6.7	7.7	6.5
Argentina	Share of quantity	6.9	5.7	6.0
Honduras	Share of quantity	1.6	3.5	3.4
China	Share of quantity	2.4	2.8	2.3
Thailand	Share of quantity	3.0	2.6	2.3
Spain	Share of quantity	1.5	1.6	1.6
Peru	Share of quantity	1.5	1.4	1.3
Netherlands	Share of quantity	1.3	1.3	1.3
All other exporters	Share of quantity	11.0	9.2	9.9
All reporting exporters	Share of quantity	100.0	100.0	100.0

Source: Official exports statistics under HS subheading 0306.17 reported by various national statistical authorities in the Global Trade Atlas database, accessed February 28, 2023.

Note: All or virtually all exports under subheading 0306.17 are of in-scope warmwater shrimp. In-scope processed shrimp classifiable under subheadings 1605.21 and 1605.29 are not included because, at the 6-digit subheading level, these subheadings include substantial amounts of out-of-scope product. As a result, figures presented may not match those presented elsewhere in the report. United States is shown at the top followed by all remaining top exporting countries in descending order of 2021 data.

## Price leadership

Only two purchasers reported that there were price leaders in the warmwater shrimp market, one firm listed Cox Seafood (domestic) and Chicken of the Sea (import) and one listed Fortune Fish. These purchasers reported that Cox Seafood led because its large size influencing the boat prices, Chicken of the Sea lead because of its large size, and Fortune Fish lead because it set loss leader prices.<sup>6</sup>

## Price data

The Commission requested U.S. processors and importers to provide quarterly data for the total quantity and f.o.b. value of the following warmwater shrimp products shipped to unrelated U.S. customers during January 2019 to September 2022.

**Product 1.**-- Frozen, raw warmwater shrimp or prawns, all species, 71 to 90 count, headless, peeled and deveined (P&D), tail-off, block frozen (cut or not cut).

**Product 2.**-- Frozen, raw warmwater shrimp or prawns, all species, 31 to 40 count, headless, shell-on, block frozen.

**Product 3.**-- Frozen, raw warmwater shrimp or prawns, all species, 26 to 30 count, headless, shell-on, block frozen.

**Product 4.**— Frozen, cooked warmwater shrimp or prawns, all species, 26 to 30 count, P&D, headless, tail-on or-tail off, individually quick frozen (IQF).

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<sup>6</sup> One purchaser (\*\*\*) reported that “The shrimp industry is huge, I don't know of any one party that has the ability to change market pricing other than the basic principles of supply and demand.”



**Table V-9****Warmwater shrimp: Instances of underselling and overselling and the range and average of margins, by product**

Quantity in pounds; margin in percent

Product	Type	Number of quarters	Quantity	Average margin	Min margin	Max margin
Product 1	Underselling	15	***	***	***	***
Product 2	Underselling	20	***	***	***	***
Product 3	Underselling	25	***	***	***	***
Product 4	Underselling	30	***	***	***	***
Total, all products	Underselling	90	86,531,159	22.5	0.3	43.3
Product 1	Overselling	0	---	---	---	---
Product 2	Overselling	3	***	***	***	***
Product 3	Overselling	4	***	***	***	***
Product 4	Overselling	15	***	***	***	***
Total, all products	Overselling	22	4,992,177	(20.9)	(0.1)	(61.3)

Source: Compiled from data submitted in response to Commission questionnaires.

**Table V-10****Warmwater shrimp: Instances of underselling and overselling and the range and average of margins, by source**

Quantity in pounds; margin in percent

Source	Type	Number of quarters	Quantity	Average margin	Min margin	Max margin
India, subject	Underselling	60	***	***	***	***
Thailand, subject	Underselling	16	***	***	***	***
Vietnam, subject	Underselling	14	***	***	***	***
Total, all subject sources	Underselling	90	86,531,159	22.5	0.3	43.3
India, subject	Overselling	0	---	---	---	---
Thailand, subject	Overselling	19	***	***	***	***
Vietnam, subject	Overselling	3	***	***	***	***
Total, all subject sources	Overselling	22	4,992,177	(20.9)	(0.1)	(61.3)

Source: Compiled from data submitted in response to Commission questionnaires.

## **EXHIBIT I-5**

**Appendix I****Membership of the Ad Hoc Shrimp Industry Committee**

<p><b>Georgia Shrimp Association (SA)</b> John Wallace P.O. Box 2339 Darien, GA 31305 (912) 270-0437</p>	<p><b>Lake Pontchartrain Fishermen's Association (SA)</b> Peter Gerica 19757 Chef Menteur Hwy New Orleans, LA 70129 (504) 669-4390</p>	<p><b>Louisiana Shrimp Association (SA)</b> Acy Cooper Jr. 109 East 17<sup>th</sup> Place Larose, LA 70373 (504) 382-9341</p>
<p><b>Mississippi Commercial Fisheries United (SA)</b> Ryan Bradley 6421 Beatline Road Long Beach, MS 39560 (228) 254-3068</p>	<p><b>North Carolina Fisheries Association, Inc. (SA)</b> Glenn Skinner 101 N. 5<sup>th</sup> Street Morehead City, NC 28557 (252) 726-6232</p>	<p><b>Port Arthur Area Shrimpers' Association (SA)</b> Captain Kyle Kimble 3020 Canal Avenue Nederland, TX 77627 (409) 527-0378</p>
<p><b>Port Arthur International Seafarers' Center (SA)</b> Jim Roberson P.O. Box 1646 Port Arthur, TX 77641-1646 (409) 982-4504</p>	<p><b>South Carolina Shrimpers Association (SA)</b> Richard Billington P.O. Box 66 McClellanville, SC 29458 (843) 830-1539</p>	<p><b>Southern Shrimp Alliance (SA)</b> John A. Williams <b>(Executive Director)</b> 955 E. MLK Drive, Suite D Tarpon Springs, FL 34689 (727) 934-5090</p>
<p><b>Stella Maris – Diocese of Beaumont (SA)</b> Very Rev. Sinclair Oubre, J.C.L., AFNI 1500 Jefferson Drive Port Arthur, TX 77642 (409) 749-0171</p>	<p><b>Texas Shrimp Association (SA)</b> Andrea Hance 1000 Everglades Road Brownsville, TX 78521 (956) 831-6550</p>	<p><b>Aransas Pass Seafood Packers (SD)</b> Grant Erickson 420 Bigelow, Conn Brown Harbor Aransas Pass, TX 78336 (361) 758-5642</p>
<p><b>Cherry Point Seafood Company, Inc. (SD)</b> 2789 Cherry Point Rd. Wadmalaw Island, SC 29487 (843) 559-0858</p>	<p><b>Howerin Boats LLC (SD)</b> Billy Howerin 10870-C Beverly Road Irvington, AL 36544 (251) 421-9111</p>	<p><b>Howerin Trawlers Inc. (SD)</b> BBJ's Wild Seafood Billy Howerin 10870-C Beverly Road Irvington, AL 36544 (251) 421-9111</p>



<p><b>Palacios Shrimp Co. LLC (SD)</b> John Huynh 107 12<sup>th</sup> Street, Turning Basin #2 Palacios, TX 77465 (281) 623-9969</p>	<p><b>Rodco Marine Supply, Inc. (SD)</b> Gloria Almaguer 1750 Angler's Place Road Brownsville, TX 78521 (956) 831-8271</p>	<p><b>Sapelo Shrimp Co. Inc. (SD)</b> William Harris 1319 Sapelo Avenue Townsend, GA 31331 (912) 237-0874</p>
<p><b>Texas Gulf Seafood, Inc. (SD)</b> Cathy Huynh 7<sup>th</sup> and Wharf Galveston, TX 77550 (409) 762-7822</p>	<p><b>Tropical Seafood (SD)</b> Son Tran 242291 Highway 1 Galliano, LA 70357 (985) 291-1147</p>	<p><b>Erickson &amp; Jensen Seafood Packers LLP (SW &amp; SD)</b> Grant Erickson 1100 Shrimp Boat Lane Fort Myers Beach, FL 33931 (239) 463-6353</p>
<p><b>B &amp; J Seafood Co., Inc. (SP)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552</p>	<p><b>Beaufort Inlet Seafood Co., Inc. (SP)</b> Brent Fulcher 476 Old Causeway Beaufort, NC 28516 (252) 504-2036</p>	<p><b>Bon Secour Fisheries (SP)</b> David B. Nelson 17449 Co. Rd. 49 So. Bon Secour, AL 36511 (251) 949-7411</p>
<p><b>Bowers Seafood LLC (SP)</b> Michael Hooper 24781 SH 35 S Palacios, TX 77465 (361) 972-2414</p>	<p><b>Deep Sea Foods Inc. (SP)</b> Shannon Woods 14530 Shell Belt Rd. Bayou La Batre, AL 36509 (251) 824-2107</p>	<p><b>Dubberly's Seafood (SP &amp; SW)</b> James F. Dubberly 214 Vernonburg Avenue Savannah, GA 31419 (912) 925-6433</p>
<p><b>Texas Pack Inc. (SP)</b> Ray McLaughlin 508 Port Road Port Isabel, TX 78578 (956) 943-5461</p>	<p><b>Thunderbolt Fisherman's Seafood Inc. (SP &amp; SW)</b> James F. Dubberly 3110 River Drive Thunderbolt, GA 31404 (912) 925-6433</p>	<p><b>Wait-N-Sea, Inc. dba Anchored Shrimp Company (SP)</b> John Wallace 107 Speedy Tostensen Blvd. Brunswick, GA 31520 (912) 264-5340</p>
<p><b>Bowers Shrimp Farm (Shrimp Farm)</b> Michael Hooper 24781 SH 35 S Palacios, TX 77465 (361) 972-2414</p>	<p><b>A &amp; C Boat Rentals, LLC (SF)</b> Angela Portier 5052 Bayouside Drive Chauvin, LA 70344 (985) 637-0896</p>	<p><b>A &amp; P Trawlers (SF)</b> Preston Hance 6001 FM 509 San Benito, TX 78586 (956) 279-4085</p>

<p><b>Alfred Trawlers Inc. (SF)</b>  Jasper Bodden  310 South Shore Drive  Port Isabel, TX 78578  (956) 943-5182</p>	<p><b>Amanda Marie, LLC (SF)</b>  Angela Portier  5052 Bayouside Drive  Chauvin, LA 70344  (985) 637-0896</p>	<p><b>Angelina, Inc. (SF)</b>  M/V Kayla Nicole  Chris Gala  1300 Main Street  Ft. Myers Beach, FL 33931  (239) 765-1828</p>
<p><b>Anh Dao Nguyen (SF)</b>  P.O. Box 19  Palacios, TX 77465  (817) 501-7243</p>	<p><b>Arroya Cruz, LLC (SF)</b>  Harley Londrie  1430 Everglades Rd.  Brownsville, TX 78521  (956) 831-7828</p>	<p><b>B &amp; B Boats, Inc. (SF)</b>  Steve Bosarge  705 Washington Avenue  Pascagoula, MS 39567  (228) 762-0888</p>
<p><b>B &amp; B Trawlers, Inc. (SF)</b>  William Harris  1319 Sapelo Avenue  Townsend, GA 31331  (912) 258-0604</p>	<p><b>Bao Family, LLC (SF)</b>  Vessel Tony Tran  Day Vo  1709 Carriage Lane  Harvey, LA 70058  (504) 342-2570</p>	<p><b>BBC Trawlers Inc. (SF)</b>  Jasper Bodden  310 South Shore Drive  Port Isabel, TX 78578  (956) 943-5182</p>
<p><b>Big Grapes Inc. (SF)</b>  James Blanchard  3389 Caleb Drive  Houma, LA 70360  (985) 688-3494</p>	<p><b>Bill Nguyen (SF)</b>  3106 Bay Creek Drive  Dickinson, TX 77539  (832) 425-3279</p>	<p><b>Billy Nghiem (SF)</b>  108 Bending Brook Lane  Dickinson, TX 77539  (409) 762-7822</p>
<p><b>Bill Sessions Jr. (SF)</b>  9239 McFarland Way  Mobile, AL 36695  (251) 402-6658</p>	<p><b>Bonnie Lass, Inc. (SF)</b>  F/V Babe  Grant Erickson  1100 Shrimp Boat Lane  Ft. Myers Beach, FL 33931  (239) 463-6353</p>	<p><b>Bosarge Boats, Inc. (SF)</b>  Steve Bosarge  705 Washington Avenue  Pascagoula, MS 39567  (228) 762-0888</p>
<p><b>Boudreaux Shrimp (SF)</b>  Penny Loupe  901 S. Shore Drive  Port Isabel, TX 78578  (956) 943-2656</p>	<p><b>Brava Cruz, LLC (SF)</b>  Harley Londrie  1430 Everglades Rd.  Brownsville, TX 78521  (956) 831-7828</p>	<p><b>Calvin W. Lang Jr. (SF)</b>  104 Nancy Drive  St. Marys, GA 31558  (912) 674-8062</p>
<p><b>Cam Ranh Bay LLC (SF)</b>  Dany Vo  1606 Heatherwood Drive  Harvey, LA 70058  (504) 912-5551</p>	<p><b>Capitan Jairo (SF)</b>  Jose Castillo Rocha  1916 Algee Street  Port Lavaca, TX 77979  (361) 220-8618</p>	<p><b>Capn Jasper's Seafood Inc. (SF)</b>  Jasper Bodden  310 W. South Shore Drive  Port Isabel, TX 78578  (956) 943-5182</p>

<p><b>Capt Bill Jr Inc (SF)</b>  Capt Bill Jr  Billy R. Howerin Jr.  10870-C Beverly Road  Irvington, AL 36544  (251) 421-9111</p>	<p><b>Capt Carlos Trawlers Inc. (SF)</b>  M-V Capt C  Jasper Bodden  310 South Shore Drive  Port Isabel, TX 78578  (956) 943-5182</p>	<p><b>Capt. Doan (SF)</b>  Tran Van Doan  800 2<sup>nd</sup> Street  Palacios, TX 77465  (361) 550-4334</p>
<p><b>Capt. Doan II (SF)</b>  Joan Thu Doan  800 2<sup>nd</sup> Street  Palacios, TX 77465  (361) 550-4334</p>	<p><b>Capt Jerry (SF)</b>  Enequina Alamo  2025 Anglers Place Road  Brownsville, TX 78521  (956) 831-2846</p>	<p><b>Capt Pappie Inc. (SF)</b>  M/V Capt. Lain  Chris Gala  1300 Main Street  Ft. Myers Beach, FL 33931  (239) 765-1828</p>
<p><b>Capt Sam (SF)</b>  Enequina Alamo  2025 Anglers Place Road  Brownsville, TX 78521  (956) 831-2846</p>	<p><b>Capt Vance LLC (SF)</b>  8350 McKee Road  Irvington, AL 36544  (251) 259-7781</p>	<p><b>Captain HW LLC (SF)</b>  Debra Branning Hicks  4900 Hensey Avenue  Panama City, FL 32404  (850) 814-9510</p>
<p><b>Carlton Reyes (SF)</b>  2020 Bayou Court  Brownsville, TX 78521  (956) 572-1990</p>	<p><b>Carmelita, LLC (SF)</b>  Harley Londrie  1430 Everglades Rd.  Brownsville, TX 78521  (956) 831-7828</p>	<p><b>Chaddy Boy, LLC (SF)</b>  Angela Portier  5052 Bayouside Drive  Chauvin, LA 70344  (985) 637-0896</p>
<p><b>Challenge (SF)</b>  Enequina Alamo  2025 Anglers Place Road  Brownsville, TX 78521  (956) 831-2846</p>	<p><b>Challenger Shrimp Co., Inc. (SF)</b>  M/V Capt. Ryan  Chris Gala  1300 Main Street  Ft. Myers Beach, FL 33931  (239) 765-1828</p>	<p><b>Chato Trawlers LLC (SF)</b>  Edward Cuevas Jr.  725 South Shore Drive  Port Isabel, TX 78578  (956) 434-6131</p>
<p><b>Chico Boy Inc. (SF)</b>  Edward Cuevas Jr.  725 South Shore Drive  Port Isabel, TX 78578  (956) 434-6131</p>	<p><b>Choktal Inc. (SF)</b>  Gerald Pockrus  2315 Bayou Road  Brownsville, TX 78521  (956) 243-2154</p>	<p><b>Christine Ho (SF)</b>  12527 Katrina Ct.  Houston, TX 77089</p>
<p><b>Corinne Portier (SF)</b>  5068 Bayouside Drive  Chauvin, LA 70344  (985) 665-9016</p>	<p><b>Country, Inc. (SF)</b>  Shannon Woods  14530 Shell Belt Road  Bayou La Batre, AL 36509  (251) 824-2107</p>	<p><b>Craig Theriot (SF)</b>  5465 Bayouside Drive  Chauvin, LA 70344  (985) 852-8427</p>



<p><b>Cruzito, Inc. (SF)</b> Emigdio Cruz 933 Katy Lane Brownsville, TX 78520 (956) 572-7658</p>	<p><b>Cuevas Martinez Inc. (SF)</b> Jose L. Martinez 301 Industrial Drive Port Isabel, TX 78578 (956) 433-1147</p>	<p><b>Cuevas Pride Inc. (SF)</b> Edward Cuevas Jr. 725 South Shore Drive Port Isabel, TX 78578 (956) 434-6131</p>
<p><b>Damien Solorzano (SF)</b> 4049 Starratt Road Jacksonville, FL 32226 (904) 219-0697</p>	<p><b>Dang Nguyen (SF)</b> 18223 Newmachar Way Richmond, TX 77407 (281) 301-9376</p>	<p><b>Dawn Renee LLC (SF)</b> Debra Branning Hicks 4900 Hensey Avenue Panama City, FL 32404 (850) 814-9510</p>
<p><b>Diem Nguyen (SF)</b> 12122 Shadowpoint Drive Houston, TX 77082 (713) 377-8440</p>	<p><b>Dinh Nguyen (SF)</b> 12318 Amanda Meadow Houston, TX 77089 (409) 762-7822</p>	<p><b>Donald E. Gordon (SF)</b> 1212 Sapelo Avenue, N.E. Townsend, GA 31331</p>
<p><b>Dong Anh Nguyen (SF)</b> 7886 Regency Drive Port Arthur, TX 77642 (409) 543-2536</p>	<p><b>Dorada Cruz, LLC (SF)</b> Harley Londrie 1430 Everglades Rd. Brownsville, TX 78521 (956) 831-7828</p>	<p><b>Dragnet Sfd. LLC (SF)</b> M/V Salty Dog Lucy Pinell 5280 Bayouside Drive Chauvin, LA 70344 (985) 860-2007</p>
<p><b>Dung Van Lai (SF)</b> 928 Paulette Lane Dickinson, TX 77539 (409) 762-7822</p>	<p><b>Duong Anh Nguyen (SF)</b> 7886 Regency Drive Port Arthur, TX 77642 (409) 543-2536</p>	<p><b>Dylan Boy, LLC (SF)</b> Danh Kien 335 N. Major Drive Beaumont, TX 77706 (409) 338-6234</p>
<p><b>Eliminator, Inc. (SF)</b> M/V Miss Amy I Chris Gala 1300 Main Street Ft. Myers Beach, FL 33931 (239) 765-1828</p>	<p><b>Equalizer Shrimp, Inc. (SF)</b> M/V Big Daddy Chris Gala 1300 Main Street Ft. Myers Beach, FL 33931 (239) 765-1828</p>	<p><b>Eric Kyle Kimball (SF)</b> 3020 Canal Avenue Nederland, TX 77627 (409) 527-0378</p>
<p><b>Errol H. Hattaway (SF)</b> 221 Charlotte Street McClellanville, SC 29458 (843) 887-3446</p>	<p><b>Fiesta Cruz, LLC (SF)</b> Harley Londrie 1430 Everglades Rd. Brownsville, TX 78521 (956) 831-7828</p>	<p><b>Frances Brander, Inc. (SF)</b> Barbara Kain P.O. Box 815 Aransas Pass, TX 78335 (361) 548-0404</p>

<b>Fulcher Trawling, LLC (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552	<b>F/V Anna (SF)</b> Grant Erickson 1100 Shrimp Boat Lane Ft. Myers Beach, FL 33931 (239) 463-6353	<b>F/V Big Ben, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217
<b>F/V Capt Phillip, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217	<b>F/V Daddy's Boy (SF)</b> James F. Dubberly 214 Vernonburg Avenue Savannah, GA 31419 (912) 925-6433	<b>F/V Double EE (SF)</b> Grant Erickson 1100 Shrimp Boat Lane Ft. Myers Beach, FL 33931 (239) 463-6353
<b>F/V Galaxy (SF)</b> Grant Erickson 1100 Shrimp Boat Lane Ft. Myers Beach, FL 33931 (239) 463-6353	<b>F/V Gale Force, Inc. (SF)</b> John Wallace 1206 Woodville Road Meridian, GA 31319 (912) 270-0437	<b>F/V Green Flash (SF)</b> Grant Erickson 1100 Shrimp Boat Lane Ft. Myers Beach, FL 33931 (239) 463-6353
<b>F/V Jenna Dawn (SF)</b> Grant Erickson 1100 Shrimp Boat Lane Ft. Myers Beach, FL 33931 (239) 463-6353	<b>F/V Jenna Renee (SF)</b> James F. Dubberly 214 Vernonburg Avenue Savannah, GA 31419 (912) 925-6433	<b>F/V Lady Alison, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217
<b>F/V Lady Gillian, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217	<b>F/V Lady Jennie, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217	<b>F/V Lady Madison, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217
<b>F/V Lady Makaela, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217	<b>F/V Malolo (SF)</b> Grant Erickson 1100 Shrimp Boat Lane Ft. Myers Beach, FL 33931 (239) 463-6353	<b>F/V Master Andrew, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217
<b>F/V Master Kingston, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217	<b>F/V Master Preston, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217	<b>F/V Master Tony, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217

<p><b>F/V Miss Leah (SF)</b> Viet Tien Ly 11665 Ridgemont Drive Beaumont, TX 77705 (409) 549-4776</p>	<p><b>F/V Miss Theresa (SF)</b> Lynn Nguyen 9428 Kainui Drive Pensacola, FL 32526 (850) 292-5848</p>	<p><b>F/V Mississippi IV, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217</p>
<p><b>F/V Nautilus (SF)</b> Grant Erickson 1100 Shrimp Boat Lane Ft. Myers Beach, FL 33931 (239) 463-6353</p>	<p><b>F/V Odin (SF)</b> Grant Erickson 1100 Shrimp Boat Lane Ft. Myers Beach, FL 33931 (239) 463-6353</p>	<p><b>F/V Penny V (SF)</b> Grant Erickson 1100 Shrimp Boat Lane Ft. Myers Beach, FL 33931 (239) 463-6353</p>
<p><b>F/V Perseverance I (SF)</b> Grant Erickson 1100 Shrimp Boat Lane Ft. Myers Beach, FL 33931 (239) 463-6353</p>	<p><b>F/V Pleiades (SF)</b> Grant Erickson 1100 Shrimp Boat Lane Ft. Myers Beach, FL 33931 (239) 463-6353</p>	<p><b>F/V Princess Jasmine II, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217</p>
<p><b>F/V Princess Kelly, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217</p>	<p><b>F/V Sea Goddess, LLC (SF)</b> Anna Phan 5458 Dawes Lane Ext. Theodore, AL 36582 (251) 824-1217</p>	<p><b>Gen 4 LLC (SF)</b> F/V Sans Souci Pride 8350 McKee Road Irvington, AL 36544 (251) 259-7781</p>
<p><b>Gina Ann LLC (SF)</b> Debra Branning Hicks 4900 Hensey Avenue Panama City, FL 32404 (850) 814-9510</p>	<p><b>Gore Seafood, Inc. (SF)</b> Tracey Gore 223 Primo Drive Ft. Myers Beach, FL 33931 (239) 463-1714</p>	<p><b>Gracie Belle (SF)</b> Craig Reaves 13 Mystic Circle Beaufort, SC 29901 (843) 812-2489</p>
<p><b>Gulfbound LLC (SF)</b> M/V Risky Business 5280 Bayouside Drive Chauvin, LA 70344 (985) 860-2007</p>	<p><b>Hai Pham (SF)</b> 8215 Sarah Ln Nederland, TX 77627 (409) 293-1105</p>	<p><b>Hailey Marie, Inc. (SF)</b> M/V Hailey Marie Chris Gala 1300 Main Street Ft. Myers Beach, FL 33931 (239) 765-1828</p>
<p><b>Hermosa Cruz, LLC (SF)</b> Harley Londrie 1430 Everglades Rd. Brownsville, TX 78521 (956) 831-7828</p>	<p><b>Hieu Vo (SF)</b> 3200 Carol Avenue Groves, TX 77619 (409) 549-9972</p>	<p><b>Hongri Inc. (SF)</b> Jasper Bodden 310 South Shore Drive Port Isabel, TX 78578 (956) 943-5182</p>

<p><b>Howerin Trawlers Inc. (SF)</b> Miss Jeanette B Billy Howerin 10870-C Beverly Road Irvington, AL 36544 (251) 421-9111</p>	<p><b>Hung Thanh Phan (SF)</b> 7600 Springmeadow Ln Port Arthur, TX 77642 (409) 729-5874</p>	<p><b>Hurricane Emily Seafood, Inc. (SF)</b> William Harris 1319 Sapelo Drive Townsend, GA 31331 (912) 258-0604</p>
<p><b>J. Logan Toomer (SF)</b> 27 Big Oak Street Hilton Head, SC 29926 (843) 540-7697</p>	<p><b>James Quach (SF)</b> 3446 Wescalder Road Beaumont, TX 77707 (409) 200-1985</p>	<p><b>JD Land Co. Inc. (SF)</b> Jasper Bodden 310 South Shore Drive Port Isabel, TX 78578 (956) 943-5182</p>
<p><b>Jeffrey E. Toomer (SF)</b> 27 Big Oak Street Hilton Head, SC 29926 (843) 247-7747</p>	<p><b>Jenson Joseph LLC (SF)</b> Angela Portier 5052 Bayouside Drive Chauvin, LA 70344 (985) 637-0896</p>	<p><b>Jim Thanh Nguyen (SF)</b> 118 St. Joseph Street Palacios, TX 77465 (365) 655-8519</p>
<p><b>JJ Rentals Inc. (SF)</b> Jose G. Garcia 310 South Shore Drive Port Isabel, TX 78578 (956) 943-5182</p>	<p><b>John Chabert (SF)</b> 133 West 188<sup>th</sup> Street Galliano, LA 70354 (985) 475-6317</p>	<p><b>John Woods (SF)</b> 121 Maxwell Street Midway, GA 31320 (912) 658-2784</p>
<p><b>Johnny Le (SF)</b> 523 Roanoke Drive Port Neches, TX 77651 (409) 549-6976</p>	<p><b>Joya Cruz, LLC (SF)</b> Harley Londrie 1430 Everglades Rd. Brownsville, TX 78521 (956) 831-7828</p>	<p><b>Julie Russell (SF)</b> 933 Dodecanese Boulevard Tarpon Springs, FL 34689 (727) 934-3134</p>
<p><b>Ken Strickland (SF)</b> 1378 Hawthorne Road, NE Townsend, GA 31331 (912) 266-3560</p>	<p><b>Kenneth Rustick (SF)</b> 1005 Pigott Road Gloucester, NC 28528 (252) 729-6041</p>	<p><b>Kim Mai Nguyen (SF)</b> M/V Kevin Rico 1906 Avenue N. Nederland, TX 77627 (409) 982-8348</p>
<p><b>Kim Nguyen (Thoa) (SF)</b> P.O. Box 401 Palacios, TX 77465 (361) 550-9500</p>	<p><b>Lady Lisa Inc. (SF)</b> Edward Cuevas Jr. 725 South Shore Drive Port Isabel, TX 78578 (956) 434-6131</p>	<p><b>Lady Marie Inc. (SF)</b> F/V Lady Marie Thuy Vu P.O. Box 325 Palacios, TX 77465 (361) 660-9277</p>



<p><b>Lady Snow, Inc. (SF)</b> M/V Capt. Joseph II Muoi Tran 1710 Braxton Circle Nederland, TX 77627 (409) 331-4323</p>	<p><b>Lamar Toomer (SF)</b> 104 Hampton Hall Boulevard Bluffton, SC 29910 (843) 368-5317</p>	<p><b>Lancero, Inc. (SF)</b> Jorge Gonzalez Jr. 3805 Dry Dock Court Brownsville, TX 78521 (956) 792-6997</p>
<p><b>Legacy Trawling, Inc. (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552</p>	<p><b>Libertad Fisheries, Inc. (SF)</b> Jorge Gonzalez Jr. 3805 Dry Dock Court Brownsville, TX 78521 (956) 792-6997</p>	<p><b>Lien-Chau Vu Nguyen (SF)</b> 8623 Kingston Hollow Ct. Richmond, TX 77407 (832) 798-8531</p>
<p><b>Lisa Suzanne (SF)</b> John Coursey 10169 Ferguson Avenue Savannah, GA 31406</p>	<p><b>LOS MOP Inc. (SF)</b> Jose Martinez 301 Industrial Drive Port Isabel, TX 78578 (956) 433-1147</p>	<p><b>L-T Inc. (SF)</b> F/V Kelsey &amp; Madie Thuy Vu P.O. Box 852 Palacios, TX 77465 (361) 660-9277</p>
<p><b>Lucky Timmy (SF)</b> Nisa Pham 4525 Angel Fire Cove Port Arthur, TX 77642 (409) 332-1348</p>	<p><b>Lydia Leigh, LLC (SF)</b> Craig Reaves 13 Mystic Circle Beaufort, SC 29901 (843) 812-6344</p>	<p><b>Lydia Shrimp (SF)</b> M/V Mr. Webb Penny Loupe 901 S. Shore Drive Port Isabel, TX 78578 (956) 943-2656</p>
<p><b>Madera Cruz, LLC (SF)</b> Harley Londrie 1430 Everglades Rd. Brownsville, TX 78521 (956) 831-7828</p>	<p><b>Mariachi Trawlers, Inc. (SF)</b> Jorge Gonzalez Jr. 3805 Dry Dock Court Brownsville, TX 78521 (956) 792-6997</p>	<p><b>Marie Teresa, Inc. (SF)</b> Thuy Vu P.O. Box 325 Palacios, TX 77465 (361) 660-9277</p>
<p><b>Marilyn Solorzano (SF)</b> 4061 Starratt Road Jacksonville, FL 32226 (904) 219-0697</p>	<p><b>Mario Vallejo Jr. (SF)</b> P.O. Box 36 Seadrift, TX 77983 (361) 218-5218</p>	<p><b>Martinez Trawlers LLC (SF)</b> Jose E. Martinez 2130 Cajun Court Brownsville, TX 78521 (956) 299-1987</p>
<p><b>Mary Dang Nguyen (SF)</b> 748 Olympia Drive Port Arthur, TX 77651 (409) 549-6911</p>	<p><b>Mary Kalei Shrimp (SF)</b> M/V Mary Kalei Penny Loupe 901 S. Shore Drive Port Isabel, TX 78578 (956) 943-2656</p>	<p><b>Master Anthony (SF)</b> Nisa Pham 4525 Angel Fire Cove Port Arthur, TX 77642 (409) 332-1348</p>

<p><b>Michael S (SF)</b>  Enedina Alamo  2025 Anglers Place Road  Brownsville, TX 78521  (956) 831-2846</p>	<p><b>Mighty B Shrimp Co. (SF)</b>  M/V Capt. Wallace B.  Penny Loupe  901 S. Shore Drive  Port Isabel, TX 78578  (956) 943-2656</p>	<p><b>Mike H. Tran (SF)</b>  7965 Brittani Court  Port Arthur, TX 77642  (409) 543-3808</p>
<p><b>Minh Le (SF)</b>  108 Vietnam Street  Palacios, TX 77465  (361) 660-9277</p>	<p><b>Miss Adaelisa Inc. (SF)</b>  Jose L. Martinez  301 Industrial Drive  Port Isabel, TX 78578  (956) 433-1147</p>	<p><b>Miss Becky (SF)</b>  Enedina Alamo  2025 Anglers Place Road  Brownsville, TX 78521  (956) 831-2846</p>
<p><b>Miss Ellie, Inc. (SF)</b>  M/V Big Pappa  Chris Gala  1300 Main Street  Ft. Myers Beach, FL 33931  (239) 765-1828</p>	<p><b>Miss Fina Inc. (SF)</b>  Jose G. Garcia  310 South Shore Drive  Port Isabel, TX 78578  (956) 943-5182</p>	<p><b>Miss Kayden (SF)</b>  Jimmy Hancock  990 Callison Road  Oriental, NC 28571</p>
<p><b>Miss Kinslee LLC (SF)</b>  Tracie Defelice  5054 Bayouside Drive  Chauvin, LA 70344  (985) 852-2890</p>	<p><b>Miss Maria Inez Inc. (SF)</b>  Edward Cuevas Jr.  725 South Shore Drive  Port Isabel, TX 78578  (956) 434-6131</p>	<p><b>Miss Opal Inc. (SF)</b>  Preston Hance  6001 FM 509  San Benito, TX 78586  (956) 279-4085</p>
<p><b>Miz Shirley Inc. (SF)</b>  James Driggers  5082 Sandpiper Drive  Saint James City, FL 33956  (239) 283-4686</p>	<p><b>Moon Glow (SF)</b>  Enedina Alamo  2025 Anglers Place Road  Brownsville, TX 78521  (956) 831-2846</p>	<p><b>Mr. K LLC (SF)</b>  Khanh Hong Nguyen  4614 Ridgewood Avenue  Morgan City, LA 70380  (409) 718-8571</p>
<p><b>Mucho Loco Inc. (SF)</b>  Edward Cuevas Jr.  725 South Shore Drive  Port Isabel, TX 78578  (956) 434-6131</p>	<p><b>Nam Van Le (SF)</b>  311 E. Tres Palacios Avenue  Palacios, TX 77465  (361) 331-2083</p>	<p><b>Nguyen Hoan (SF)</b>  3400 Lake Arthur Drive  Port Arthur, TX 77642  (409) 460-3054</p>
<p><b>Nhan Q. Tran (SF)</b>  411 Primrose Ln  League City, TX 77573  (409) 762-7822</p>	<p><b>Ocean Wind Inc. (SF)</b>  Thuy Vu  104 Sweetwater  Palacios, TX 77465  (361) 660-9277</p>	<p><b>Oceanica Cruz, LLC (SF)</b>  Harley Londrie  1430 Everglades Rd.  Brownsville, TX 78521  (956) 831-7828</p>

<p><b>Papa Rod / Lillian (SF)</b> Joseph C. Rodriguez 14843 Alba Avenue Codon, AL 36523 (251) 824-4067</p>	<p><b>Patricia Lee LLC (SF)</b> Debra Branning Hicks 4900 Hensey Avenue Panama City, FL 32404 (850) 814-9510</p>	<p><b>Patron, Inc. (SF)</b> M/V Miss Maddie Chris Gala 1300 Main Street Ft. Myers Beach, FL 33931 (239) 765-1828</p>
<p><b>Patron, Inc. (SF)</b> M/V Ray &amp; Wease Chris Gala 1300 Main Street Ft. Myers Beach, FL 33931 (239) 765-1828</p>	<p><b>Patron Seafood, Inc. (SF)</b> M/V Baby Girl Chris Gala 1300 Main Street Ft. Myers Beach, FL 33931 (239) 765-1828</p>	<p><b>Pepe Trawlers Inc. (SF)</b> Edward Cuevas Jr. 725 South Shore Drive Port Isabel, TX 78578 (956) 434-6131</p>
<p><b>Phe Nguyen (SF)</b> 147 Chouest Lane Buras, LA 70041 (504) 812-8092</p>	<p><b>Plata Cruz, LLC (SF)</b> Harley Londrie 1430 Everglades Rd. Brownsville, TX 78521 (956) 831-7828</p>	<p><b>Purata Trawlers Inc. (SF)</b> Maria Purata 25470 Ted Hunt Road Los Frenos, TX 78566 (956) 456-9688</p>
<p><b>Pursuer, Inc. (SF)</b> M/V Julia Victoria Chris Gala 1300 Main Street Ft. Myers Beach, FL 33931 (239) 765-1828</p>	<p><b>Quang Van Tran (SF)</b> 3165 Forest Oaks Drive Port Neches, TX 77651 (409) 540-6064</p>	<p><b>Queen Mary, LLC (SF)</b> Harley Londrie 1430 Everglades Rd. Brownsville, TX 78521 (956) 831-7828</p>
<p><b>R &amp; R Trawlers Inc. (SF)</b> Ronald Pockrus 2315 Bayou Ct. Brownsville, TX 78521 (956) 243-2154</p>	<p><b>R &amp; T Atocha LLC (SF)</b> Troy Lecompte 5144 Bayouside Drive Chauvin, LA 70344 (985) 601-1134</p>	<p><b>Ranchero Trawlers, Inc. (SF)</b> Jorge Gonzalez Jr. 3805 Dry Dock Court Brownsville, TX 78521 (956) 792-6997</p>
<p><b>Randall Pinell Inc. (SF)</b> Lucy Pinell M/V Brandon James 5280 Bayouside Drive Chauvin, LA 70344 (985) 860-2007</p>	<p><b>Red Sea Dragon, LLC (SF)</b> Hien Nguyen 632 Lakeshore Drive Sugarland, TX 77478 (713) 204-4314</p>	<p><b>Richard Skinner (SF)</b> 1346 Sapelo Avenue, NE Townsend, GA 31331 (912) 832-5730</p>

<b>Rodriguez Trawlers LLC (SF)</b> Juan Rodriguez 34493 Calle de Cruces, Lot 28 Los Fresnos, TX 78566 (956) 525-5157	<b>Ronnie Williams (SF)</b> 116 West 188 <sup>th</sup> Street Galliano, LA 70354 (985) 258-3087	<b>Rose Le (SF)</b> 12211 Corona LN Houston, TX 77072 (713) 306-4935
<b>Roy Reagan (SF)</b> 18920 Watson Drive Metter, GA 30439 (912) 314-1497	<b>Rpock1 Inc. (SF)</b> Ronald Pockrus 2315 Bayou Ct. Brownsville, TX 78521 (956) 243-2154	<b>Salvatore J. Versaggi (SF)</b> 2633 Causeway Boulevard Tampa, FL 33619 (813) 248-5089
<b>Santa Fe, LLC (SF)</b> Harley Londrie 1430 Everglades Rd. Brownsville, TX 78521 (956) 831-7828	<b>Santa Monica, LLC (SF)</b> Harley Londrie 1430 Everglades Rd. Brownsville, TX 78521 (956) 831-7828	<b>Sinh Thien Tran (SF)</b> 3931 MLK Drive Port Arthur, TX 77642 (346) 234-0419
<b>Southern Cross (SF)</b> Enedina Alamo 2025 Anglers Place Road Brownsville, TX 78521 (956) 831-2846	<b>St. Joseph (SF)</b> Jose Luiz Cruz 418 W. Mahan Street Port Lavaca, TX 77979 (361) 676-4460	<b>St. Pedro (SF)</b> Valerie Tovar 322 Ramona Road Seadrift, TX 77983 (361) 703-3497
<b>Stephen Morrison (SF)</b> 258-C Shipyard Road Savannah, GA 31406 (912) 663-5562	<b>TCG Co., Inc. (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552	<b>TCL, Inc. (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552
<b>Ted W. Smithwick (SF)</b> 1429 Norman Avenue NE Townsend, GA 31331 (912) 832-7005	<b>Terry Luke Jr. (SF)</b> 6671 Shrimper's Row Dulac, LA 70353	<b>Thanh Van Dang (SF)</b> M/V Tiffany Lady P.O. Box 418 Bacliff, TX 77518 (409) 765-5829
<b>Tho Le (SF)</b> 523 Roanoke Drive Port Neches, TX 77651 (409) 549-6976	<b>Tien Van Nguyen (SF)</b> 3325 Roanoke Avenue Port Arthur, TX 77642 (409) 999-1786	<b>Tiffani Claire Inc. (SF)</b> Tracie Defelice 5054 Bayouside Drive Chauvin, LA 70344 (985) 852-2890



<p><b>Tim Nguyen (Boat 1) (SF)</b> 4529 Clermont Avenue Groves, TX 77619 (224) 558-7324</p>	<p><b>Tim Nguyen (Boat 2) (SF)</b> 4529 Clermont Avenue Groves, TX 77619 (224) 558-7324</p>	<p><b>Trang Le (SF)</b> 4149 Redwood Street Groves, TX 77619-6416</p>
<p><b>Trawler Becky Lyn, Inc. (SF)</b> Lindsey Burrough 22037 County Road 62 North Robertsdale, AL 30567 (251) 747-6274</p>	<p><b>Trawler Cameron Scott, LLC (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552</p>	<p><b>Trawler Capt Carl, LLC (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552</p>
<p><b>Trawler Capt Fud, LLC (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552</p>	<p><b>Trawler Capt Ryan Co., Inc. (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552</p>	<p><b>Trawler Carolina Lady, Inc. (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552</p>
<p><b>Trawler Catherine Lane, Inc. (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552</p>	<p><b>Trawler Doctor Bill (SF)</b> Craig Wallis 889 CR 305 / P.O. Box 540 Palacios, TX 77465 (361) 972-2045</p>	<p><b>Trawler Gulf Runner (SF)</b> Craig Wallis 889 CR 305 / P.O. Box 540 Palacios, TX 77465 (361) 972-2045</p>
<p><b>Trawler Jonathan Ryan, Inc. (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552</p>	<p><b>Trawler Jonathan Ryan Co., LLC (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552</p>	<p><b>Trawler Master Alston (SF)</b> Craig Wallis 889 CR 305 / P.O. Box 540 Palacios, TX 77465 (361) 972-2045</p>
<p><b>Trawler Micah Bell, LLC (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552</p>	<p><b>Trawler Miss Kelsey (SF)</b> Craig Wallis 889 CR 305 / P.O. Box 540 Palacios, TX 77465 (361) 972-2045</p>	<p><b>Trawler Pop's Pride (SF)</b> Craig Wallis 889 CR 305 / P.O. Box 540 Palacios, TX 77465 (361) 972-2045</p>
<p><b>Trawler Richard Heath, Inc. (SF)</b> Brent Fulcher 1101 Highway 70 E New Bern, NC 28562 (252) 637-1552</p>	<p><b>Trawler Sandra Kay (SF)</b> Keith Wallis 4885 FM 2853 Palacios, TX 77465 (361) 972-2045</p>	<p><b>Trawler Wallace B (SF)</b> Craig Wallis 889 CR 305 / P.O. Box 540 Palacios, TX 77465 (361) 972-2045</p>

<p><b>Trung Viet Vu (SF)</b> 111 Saint Mary Street Palacios, TX 77465 (361) 404-1021</p>	<p><b>Tu Tran (SF)</b> 7450 Lisawood Court Port Arthur, TX 77642 (409) 540-0849</p>	<p><b>Two Girls Inc. (SF)</b> Edward Cuevas Jr. 725 South Shore Drive Port Isabel, TX 78578 (956) 434-6131</p>
<p><b>Uncle Billy (SF)</b> Enedina Alamo 2025 Anglers Place Road Brownsville, TX 78521 (956) 831-2846</p>	<p><b>Vally (SF)</b> Enedina Alamo 2025 Anglers Place Road Brownsville, TX 78521 (956) 831-2846</p>	<p><b>Varon, Inc. (SF)</b> Jorge Gonzalez Jr. 3805 Dry Dock Court Brownsville, TX 78521 (956) 792-6997</p>
<p><b>Vera Cruz, LLC (SF)</b> Harley Londrie 1430 Everglades Rd. Brownsville, TX 78521 (956) 831-7828</p>	<p><b>Victor Tran (SF)</b> 2885 Morning Pond Ln Dickinson, TX 77539 (409) 762-7822</p>	<p><b>Vigilante, Inc. (SF)</b> M/V Hercules Jorge Gonzalez Jr. 3805 Dry Dock Court Brownsville, TX 78521 (956) 792-6997</p>
<p><b>Wendy &amp; Eric Inc. (SF)</b> M/V Jacob Chris Gala 1300 Main Street Ft. Myers Beach, FL 33931 (239) 765-1828</p>	<p><b>William Brannan (SF)</b> 1113 Tamara Drive, SE Darien, GA 31305</p>	<p><b>YDT Holding LLC (SF)</b> Dung Y. Van 410 Lookout Ln Dickinson, TX 77539 (409) 762-7822</p>
<p><b>Zaragoza Inc. (SF)</b> Jose G. Garcia 310 South Shore Drive Port Isabel, TX 78578 (956) 943-5182</p>		

## **EXHIBIT I-6**

TEXAS SHRIMP ASSOCIATION

1000 Everglades Road  
Brownsville, TX 78521

October 12, 2023

Ms. Elizabeth J. Drake  
Schagrin Associates  
900 Seventh Street, NW, Suite 500  
Washington, DC 20001

Dear Ms. Drake:

On behalf of the Texas Shrimp Association, I would like to express strong support for the efforts of the American Seafood Producers Association (ASPA) who seek to raise tariffs in the countries of Ecuador, India, Indonesia and Vietnam.

The U.S. commercial shrimp industry is suffering from the excess of imported shrimp flooding the U.S. market and driving the price of shrimp to as low as one dollar a pound. This is creating an unlevel playing field and could have the net effect of eventually eliminating the U.S. commercial shrimp industry entirely. At the height of the season, many shrimp boats remain tied at docks unable to operate because to do so would result in a loss of income due to the low price of shrimp.

Since as far back as 2003, elements of the U.S. shrimp industry began efforts to pursue shrimp trade remedies. We applaud the success achieved by the Southern Shrimp Alliance and others who have led the cause to work with the U.S. International Trade Commission to issue antidumping orders on the six countries of China, Vietnam, Brazil, Ecuador, India and Thailand. It is my understanding that the U.S. International Trade Commission has maintained anti-dumping duties on frozen warm-water shrimp since 2005 and in June renewed those duties on product from China, India, Thailand and Vietnam for another five years.

The domestic shrimp industry has a longstanding and proud history of producing shrimp in the State of Texas without any assistance from the federal government. Shrimpers are simply seeking a fair and stable market price for their wildcaught product which is superior to the inferior aquaculture shrimp that is imported into the United States in excessive volume with little to no inspection. Further, U.S. seafood distributors and marketers make excessive profits from low-cost imported shrimp and do not pass substantial savings on to consumers.

Thank you for your efforts to raise tariffs in the countries of Ecuador, India, Indonesia and Vietnam and to stop excessive farm-raised shrimp being imported to the United States because of the negative impact it has on the Texas and United States shrimp industry.

If you have any questions or would like additional information, please feel free to contact me at (956) 479-8976 or (956) 466-2845 or [mjaross711@yahoo.com](mailto:mjaross711@yahoo.com).

Sincerely,

*Maria Barrera-Jaross*

Maria Barrera-Jaross  
Executive Director  
Texas Shrimp Association





**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Company name	
Signatory name	WOL CHA NICHOLS
Street address	1813 - 15 AVE. N. TEXAS CITY, TX. 77590
Telephone	409 - 497 - 1319
Fax	
Email	cjane68@aol.com
Website address	

My firm is (check all that apply):

- |   |  |
|---|--|
| <input type="checkbox"/> A dock that unloads domestic warmwater shrimp                                      | <input type="checkbox"/> A fishhouse that deals in domestic warmwater shrimp       |
| <input type="checkbox"/> A wholesaler of domestic warmwater shrimp  | <input type="checkbox"/> A freezer truck that transports domestic warmwater shrimp |
| <input checked="" type="checkbox"/> Another business involving domestic warmwater shrimp (please describe): |  |

DECKHAND      CAPT PETER II

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Ecuador Antidumping         | <input checked="" type="checkbox"/> Indonesia Antidumping         |
| <input checked="" type="checkbox"/> Ecuador Countervailing Duty | <input checked="" type="checkbox"/> Indonesia Countervailing Duty |
| <input checked="" type="checkbox"/> India Countervailing Duty   | <input checked="" type="checkbox"/> Vietnam Countervailing Duty   |

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: Wolcha Nichols

Date: 10-04-23

Please return to:  
Elizabeth J. Drake  
Schagrin Associates  
900 Seventh Street, NW, Suite 500  
Washington, DC 20001  
Email: edrake@schagrinassociates.com  
Fax: 1-202-429-2522

**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Company name	
Signatory name	PHONG VAN
Street address	410 LOOKOUT LN. DICKINSON, TX 77539
Telephone	832.820.6426
Fax	
Email	phongsongcan68@gmail.com
Website address	

My firm is (check all that apply):

- |  |  |
|--|--|
| <input type="checkbox"/> A dock that unloads domestic warmwater shrimp                           | <input type="checkbox"/> A fishhouse that deals in domestic warmwater shrimp       |
| <input checked="" type="checkbox"/> A wholesaler of domestic warmwater shrimp                    | <input type="checkbox"/> A freezer truck that transports domestic warmwater shrimp |
| <input type="checkbox"/> Another business involving domestic warmwater shrimp (please describe): |  |
| <u>Fisherman who harvests warmwater shrimp</u>   |  |

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Ecuador Antidumping         | <input checked="" type="checkbox"/> Indonesia Antidumping         |
| <input checked="" type="checkbox"/> Ecuador Countervailing Duty | <input checked="" type="checkbox"/> Indonesia Countervailing Duty |
| <input type="checkbox"/> India Countervailing Duty              | <input checked="" type="checkbox"/> Vietnam Countervailing Duty   |

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: Phong Van

Date: 10-15-23

Please return to:  
 Elizabeth J. Drake  
 Schagrin Associates  
 900 Seventh Street, NW, Suite 500  
 Washington, DC 20001  
 Email: edrake@schagrinassociates.com  
 Fax: 1-202-429-2522



**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Company name	
Signatory name	ngon VAN Pham
Street address	8200 Broad Way, ST APT 205N
Telephone	Houston, TX 77861, 832 7200249
Fax	832 7200249
Email	
Website address	

My firm is (check all that apply):

- A dock that unloads domestic warmwater shrimp       A fishhouse that deals in domestic warmwater shrimp  
 A wholesaler of domestic warmwater shrimp       A freezer truck that transports domestic warmwater shrimp  
 Another business involving domestic warmwater shrimp (please describe):

Fisherman who harvest Warm water shrimp

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- Ecuador Antidumping       Indonesia Antidumping  
 Ecuador Countervailing Duty       Indonesia Countervailing Duty  
 India Countervailing Duty       Vietnam Countervailing Duty

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: 

Date: 10-15-23

Please return to:  
 Elizabeth J. Drake  
 Schagrin Associates  
 900 Seventh Street, NW, Suite 500  
 Washington, DC 20001  
 Email: edrake@schagrinassociates.com  
 Fax: 1-202-429-2522



Support for Petitions on Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and Vietnam

Company name N/A  
Signatory name Binh Truong  
Street address 222 East Spring Street, Lafayette, LA 70501  
Telephone 337-366-2648  
Fax N/A  
Email N/A  
Website address N/A

My firm is (check all that apply):

- A dock that unloads domestic warmwater shrimp
- A fishhouse that deals in domestic warmwater shrimp
- A wholesaler of domestic warmwater shrimp
- A freezer truck that transports domestic warmwater shrimp
- Another business involving domestic warmwater shrimp (please describe):  
commercial fishermen - captain

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- Ecuador Antidumping
- Indonesia Antidumping
- Ecuador Countervailing Duty
- Indonesia Countervailing Duty
- India Countervailing Duty
- Vietnam Countervailing Duty

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: [Handwritten Signature]

Date: 10/12/23

Please return to:  
Elizabeth J. Drake  
Schagrin Associates  
900 Seventh Street, NW, Suite 500  
Washington, DC 20001  
Email: edrake@schagrinassociates.com  
Fax: 1-202-429-2522

Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam

Company name N/A  
Signatory name Nhut Van Nguyen  
Street address 11019 Hare Street Perry, LA ~~70577~~ 70575  
Telephone 337-400-3081  
Fax N/A  
Email minhmainguyen234@gmail.com  
Website address N/A

My firm is (check all that apply):

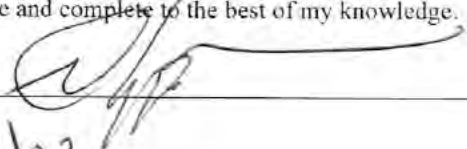
- A dock that unloads domestic warmwater shrimp
- A fishhouse that deals in domestic warmwater shrimp
- A wholesaler of domestic warmwater shrimp
- A freezer truck that transports domestic warmwater shrimp
- Another business involving domestic warmwater shrimp (please describe):

commercial fishermen - captain

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- Ecuador Antidumping
- Indonesia Antidumping
- Ecuador Countervailing Duty
- Indonesia Countervailing Duty
- India Countervailing Duty
- Vietnam Countervailing Duty

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: 

Date: 10/13/23

Please return to:  
Elizabeth J. Drake  
Schagrin Associates  
900 Seventh Street, NW, Suite 500  
Washington, DC 20001  
Email: edrake@schagrinassociates.com  
Fax: 1-202-429-2522

**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Company name

Signatory name Jared Theriot  
Street address 5102 Bayou Side Drive Chauvin, LA 70344  
Telephone 985-804-9544

Fax

Email portierj1j@aol.com

Website address

My firm is (check all that apply):

- A dock that unloads domestic warmwater shrimp
- A wholesaler of domestic warmwater shrimp
- Another business involving domestic warmwater shrimp (please describe):  
\_\_\_\_\_
- A fishhouse that deals in domestic warmwater shrimp
- A freezer truck that transports domestic warmwater shrimp

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- Ecuador Antidumping
- Ecuador Countervailing Duty
- India Countervailing Duty
- Indonesia Antidumping
- Indonesia Countervailing Duty
- Vietnam Countervailing Duty

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: Jared Theriot

Date: 10/4/2023

Please return to:  
Elizabeth J. Drake  
Schagrin Associates  
900 Seventh Street, NW, Suite 500  
Washington, DC 20001  
Email: [edrake@schagrinassociates.com](mailto:edrake@schagrinassociates.com)  
Fax: 1-202-429-2522

Support for Petitions on Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and Vietnam

Boat Company name PJ; Jackie Foret  
Signatory name Jackie Foret  
Street address 211 original court Hauma, LA 70360  
Telephone 985-791-6955 or 985-381-1094  
Fax \_\_\_\_\_  
Email \_\_\_\_\_  
Website address \_\_\_\_\_

My firm is (check all that apply):

- \_\_\_\_\_ A dock that unloads domestic warmwater shrimp
- \_\_\_\_\_ A fishhouse that deals in domestic warmwater shrimp
- A wholesaler of domestic warmwater shrimp
- \_\_\_\_\_ A freezer truck that transports domestic warmwater shrimp
- \_\_\_\_\_ Another business involving domestic warmwater shrimp (please describe):

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- Ecuador Antidumping
- Indonesia Antidumping
- Ecuador Countervailing Duty
- Indonesia Countervailing Duty
- India Countervailing Duty
- Vietnam Countervailing Duty

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: Jackie Foret  
Date: 10-6-23

Please return to:  
Elizabeth J. Drake  
Schagrin Associates  
900 Seventh Street, NW, Suite 500  
Washington, DC 20001  
Email: edrake@schagrinassociates.com  
Fax: 1-202-429-2522



**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Company name	
Signatory name	Hill C NGUYEN
Street address	228 GLADE BRIDGE DR DICKINSON TX 77539
Telephone	409-293-1166
Fax	
Email	JulieReadthis@gmail.com
Website address	

My firm is (check all that apply):

- A dock that unloads domestic warmwater shrimp
- A fishhouse that deals in domestic warmwater shrimp
- A wholesaler of domestic warmwater shrimp
- A freezer truck that transports domestic warmwater shrimp
- Another business involving domestic warmwater shrimp (please describe):

CAPTAIN FOR VESSEL / CAPT MINGIE LL, 1141628

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- Ecuador Antidumping
- Indonesia Antidumping
- Ecuador Countervailing Duty
- Indonesia Countervailing Duty
- India Countervailing Duty
- Vietnam Countervailing Duty

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: Hill C Nguyen

Date: 10/10/2023

Please return to:  
Elizabeth J. Drake  
Schagrin Associates  
900 Seventh Street, NW, Suite 500  
Washington, DC 20001  
Email: edrake@schagrinassociates.com  
Fax: 1-202-429-2522

Support for Petitions on Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and Vietnam

Company name	
Signatory name	PHONG HONG PHONG
Street address	4424 14 <sup>TH</sup> ST BACHETTX 77518-0000
Telephone	832 909 3456
Fax	
Email	Julie.read.this@gmail.com
Website address	

My firm is (check all that apply):

- A dock that unloads domestic warmwater shrimp
- A fishhouse that deals in domestic warmwater shrimp
- A wholesaler of domestic warmwater shrimp
- A freezer truck that transports domestic warmwater shrimp
- Another business involving domestic warmwater shrimp (please describe):

DECISION FOR VESSEL CAPTIVITY LLC.

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- Ecuador Antidumping
- Indonesia Antidumping
- Ecuador Countervailing Duty
- Indonesia Countervailing Duty
- India Countervailing Duty
- Vietnam Countervailing Duty

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: [Handwritten Signature]

Date: 10/10/23

Please return to:  
 Elizabeth J. Drake  
 Schagrín Associates  
 900 Seventh Street, NW, Suite 500  
 Washington, DC 20001  
 Email: edrake@schagrínassociates.com  
 Fax: 1-202-429-2522



**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Vessel Name(s)	
Certifying official name	RAMIRO LOPEZ
Street address	24375 RESACA MEDIA DR. SAN BENITO TX 78586
Telephone	(956) 202-2676
Fax	956-943-7519
Email	deanarestes@aol.com
Website address	N/A

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Ecuador Antidumping         | <input checked="" type="checkbox"/> Indonesia Antidumping         |
| <input checked="" type="checkbox"/> Ecuador Countervailing Duty | <input checked="" type="checkbox"/> Indonesia Countervailing Duty |
| <input checked="" type="checkbox"/> India Countervailing Duty   | <input checked="" type="checkbox"/> Vietnam Countervailing Duty   |

In 2022, my firm harvested [ \_\_\_\_\_ ] pounds of headless warmwater shrimp.

Is your firm related to a foreign producer or exporter of frozen warmwater shrimp? [ Yes / No ]

Is your firm an importer or related to an importer of frozen warmwater shrimp? [ Yes / No ]

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: X Ramiro Lopez

Date: 10/03/2023

Please return to:  
Elizabeth J. Drake  
Schagrin Associates  
900 Seventh Street, NW, Suite 500  
Washington, DC 20001  
Email: edrake@schagrinassociates.com  
Fax: 1-202-429-2522

**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Vessel Name(s)	—
Certifying official name	AURELIANO MIRANDA
Street address	390 GENE MOODY ST SAN BENITO TX. 78586
Telephone	(956) 241-7783
Fax	956-943-7519
Email	AURONIA.MIRANDA@GMAIL.COM
Website address	N/A

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

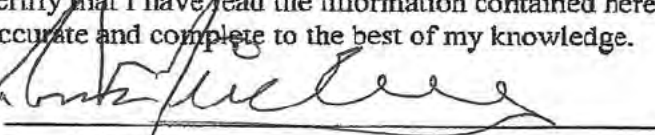
- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Ecuador Antidumping         | <input checked="" type="checkbox"/> Indonesia Antidumping         |
| <input checked="" type="checkbox"/> Ecuador Countervailing Duty | <input checked="" type="checkbox"/> Indonesia Countervailing Duty |
| <input checked="" type="checkbox"/> India Countervailing Duty   | <input checked="" type="checkbox"/> Vietnam Countervailing Duty   |

In 2022, my firm harvested [ — ] pounds of headless warmwater shrimp.

Is your firm related to a foreign producer or exporter of frozen warmwater shrimp? [ Yes / No ]

Is your firm an importer or related to an importer of frozen warmwater shrimp? [ Yes / No ]

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: 

Date: 10/03/2023

Please return to:  
Elizabeth J. Drake  
Schagrin Associates  
900 Seventh Street, NW, Suite 500  
Washington, DC 20001  
Email: edrake@schagrinassociates.com  
Fax: 1-202-429-2522



**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Vessel Name(s)	—
Certifying official name	Jose A. Ruiz
Street address	1224 Calle Galaxia Brownsville TX
Telephone	(956) 551-77-00
Fax	956-943-7519
Email	ruiz.armin348@gmail.com
Website address	N/A

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Ecuador Antidumping         | <input checked="" type="checkbox"/> Indonesia Antidumping         |
| <input checked="" type="checkbox"/> Ecuador Countervailing Duty | <input checked="" type="checkbox"/> Indonesia Countervailing Duty |
| <input checked="" type="checkbox"/> India Countervailing Duty   | <input checked="" type="checkbox"/> Vietnam Countervailing Duty   |

In 2022, my firm harvested [ — ] pounds of headless warmwater shrimp.

Is your firm related to a foreign producer or exporter of frozen warmwater shrimp? [ Yes / No ]

Is your firm an importer or related to an importer of frozen warmwater shrimp? [ Yes / No ]

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: Jose A. Ruiz - Crew member

Date: 10/03/2023

Please return to:  
Elizabeth J. Drake  
Schagrin Associates  
900 Seventh Street, NW, Suite 500  
Washington, DC 20001  
Email: edrake@schagrinassociates.com  
Fax: 1-202-429-2522

**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Company name	
Signatory name	QUANG BRYAN NGUYEN
Street address	118 SAINT JOSEPH ST.
Telephone	469-534-3985
Fax	
Email	BRYANQ361@GMAIL.COM
Website address	

My firm is (check all that apply):

- A dock that unloads domestic warmwater shrimp       A fishhouse that deals in domestic warmwater shrimp  
 A wholesaler of domestic warmwater shrimp       A freezer truck that transports domestic warmwater shrimp  
 Another business involving domestic warmwater shrimp (please describe):

Captain for vessel "St. Clara"

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- Ecuador Antidumping       Indonesia Antidumping  
 Ecuador Countervailing Duty       Indonesia Countervailing Duty  
 India Countervailing Duty       Vietnam Countervailing Duty

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: 

Date: 10-6-23

Please return to:  
 Elizabeth J. Drake  
 Schagrin Associates  
 900 Seventh Street, NW, Suite 500  
 Washington, DC 20001  
 Email: edrake@schagrinassociates.com  
 Fax: 1-202-429-2522

**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Company name	
Signatory name	LONG Phan
Street address	8515 SOLITUDE HILL LN RICHMOND, TX 77407
Telephone	832-997-7939
Fax	
Email	MINHPHAN480@ICLOUD.COM
Website address	

My firm is (check all that apply):

- A dock that unloads domestic warmwater shrimp       A fishhouse that deals in domestic warmwater shrimp  
 A wholesaler of domestic warmwater shrimp       A freezer truck that transports domestic warmwater shrimp  
 Another business involving domestic warmwater shrimp (please describe):

Deckhand for vessel "St. Clara"

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- Ecuador Antidumping       Indonesia Antidumping  
 Ecuador Countervailing Duty       Indonesia Countervailing Duty  
 India Countervailing Duty       Vietnam Countervailing Duty

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: Long Phan

Date: 10-6-23

Please return to:  
 Elizabeth J. Drake  
 Schagrin Associates  
 900 Seventh Street, NW, Suite 500  
 Washington, DC 20001  
 Email: edrake@schagrinassociates.com  
 Fax: 1-202-429-2522



**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Company name	
Signatory name	THU VAN HUYNH
Street address	15838 CLAYTON BEND DR HOUSTON, TX 77082
Telephone	832-520-8414
Fax	
Email	THUHUYNH25@YAHOO.COM
Website address	

My firm is (check all that apply):

- A dock that unloads domestic warmwater shrimp       A fishhouse that deals in domestic warmwater shrimp  
 A wholesaler of domestic warmwater shrimp       A freezer truck that transports domestic warmwater shrimp  
 Another business involving domestic warmwater shrimp (please describe):

Deckhand for vessel "St. Clara"

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- Ecuador Antidumping       Indonesia Antidumping  
 Ecuador Countervailing Duty       Indonesia Countervailing Duty  
 India Countervailing Duty       Vietnam Countervailing Duty

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: \_\_\_\_\_

Date: 10-6-23

Please return to:  
 Elizabeth J. Drake  
 Schagrin Associates  
 900 Seventh Street, NW, Suite 500  
 Washington, DC 20001  
 Email: edrake@schagrinassociates.com  
 Fax: 1-202-429-2522



**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Company name	
Signatory name	Mau Duong
Street address	206 Sterling Ridge Dr., Nederland, TX 77627
Telephone	409-999-2127
Fax	N/A
Email	<a href="mailto:emilyseafoodllc@gmail.com">emilyseafoodllc@gmail.com</a>
Website address	


My firm is (check all that apply):

- A dock that unloads domestic warmwater shrimp       A fishhouse that deals in domestic warmwater shrimp  
 A wholesaler of domestic warmwater shrimp       A freezer truck that transports domestic warmwater shrimp  
 Another business involving domestic warmwater shrimp (please describe):  
      Captain for fishing vessel "Lucky Lily" \_\_\_\_\_

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- Ecuador Antidumping       Indonesia Antidumping  
 Ecuador Countervailing Duty       Indonesia Countervailing Duty  
 India Countervailing Duty       Vietnam Countervailing Duty

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: 

Date: 10-14-23

Please return to:  
 Elizabeth J. Drake  
 Schagrin Associates  
 900 Seventh Street, NW, Suite 500  
 Washington, DC 20001  
 Email: [edrake@schagrinassociates.com](mailto:edrake@schagrinassociates.com)  
 Fax: 1-202-429-2522

**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Company name	
Signatory name	Su Trang Ho
Street address	3305 30 <sup>th</sup> St, Port Arthur, TX 77642
Telephone	409-234-0121
Fax	N/A
Email	luckyduongseafood@gmail.com
Website address	

My firm is (check all that apply):

- A dock that unloads domestic warmwater shrimp       A fishhouse that deals in domestic warmwater shrimp  
 A wholesaler of domestic warmwater shrimp       A freezer truck that transports domestic warmwater shrimp  
 Another business involving domestic warmwater shrimp (please describe):  
      Deckhand for fishing vessel "Lucky Duong" \_\_\_\_\_

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- Ecuador Antidumping       Indonesia Antidumping  
 Ecuador Countervailing Duty       Indonesia Countervailing Duty  
 India Countervailing Duty       Vietnam Countervailing Duty

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: SV/HO

Date: \_\_\_\_\_

Please return to:  
 Elizabeth J. Drake  
 Schagrin Associates  
 900 Seventh Street, NW, Suite 500  
 Washington, DC 20001  
 Email: edrake@schagrinassociates.com  
 Fax: 1-202-429-2522

**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Company name	Emily Seafood LLC
Signatory name	Phuong Lam
Street address	206 Sterling Ridge Dr., Nederland, TX 77627
Telephone	409-293-1866
Fax	N/A
Email	<a href="mailto:emilyseafoodllc@gmail.com">emilyseafoodllc@gmail.com</a>
Website address	

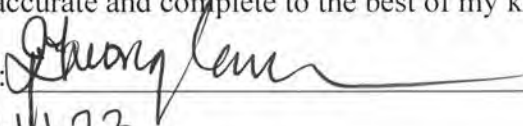
My firm is (check all that apply):

- A dock that unloads domestic warmwater shrimp  
 A fishhouse that deals in domestic warmwater shrimp  
 A wholesaler of domestic warmwater shrimp  
 A freezer truck that transports domestic warmwater shrimp  
 Another business involving domestic warmwater shrimp (please describe):  
\_\_\_\_\_

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- Ecuador Antidumping  
 Indonesia Antidumping  
 Ecuador Countervailing Duty  
 Indonesia Countervailing Duty  
 India Countervailing Duty  
 Vietnam Countervailing Duty

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: 

Date: 10-14-23

Please return to:  
Elizabeth J. Drake  
Schagrin Associates  
900 Seventh Street, NW, Suite 500  
Washington, DC 20001  
Email: [edrake@schagrinassociates.com](mailto:edrake@schagrinassociates.com)  
Fax: 1-202-429-2522



**Support for Petitions on Frozen Warmwater Shrimp  
from Ecuador, India, Indonesia, and Vietnam**

Company name	
Signatory name	Peter Nguyen
Street address	2320 FM 3280, Palacios, TX 77465
Telephone	361-237-9273
Fax	
Email	peternguyen260@gmail.com
Website address	

My firm is (check all that apply):


- |   |  |
|---|--|
| <input type="checkbox"/> A dock that unloads domestic warmwater shrimp                                      | <input type="checkbox"/> A fishhouse that deals in domestic warmwater shrimp       |
| <input type="checkbox"/> A wholesaler of domestic warmwater shrimp  | <input type="checkbox"/> A freezer truck that transports domestic warmwater shrimp |
| <input checked="" type="checkbox"/> Another business involving domestic warmwater shrimp (please describe): |  |

Deckhand for vessel "ST. Anthony"

My firm supports the petitions on imports of frozen warmwater shrimp (check all that apply):

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Ecuador Antidumping         | <input checked="" type="checkbox"/> Indonesia Antidumping         |
| <input checked="" type="checkbox"/> Ecuador Countervailing Duty | <input checked="" type="checkbox"/> Indonesia Countervailing Duty |
| <input checked="" type="checkbox"/> India Countervailing Duty   | <input checked="" type="checkbox"/> Vietnam Countervailing Duty   |

I hereby certify that I have read the information contained herein, and the information contained herein is accurate and complete to the best of my knowledge.

Signature: 

Date: 10-6-2023

Please return to:  
Elizabeth J. Drake  
Schagrin Associates  
900 Seventh Street, NW, Suite 500  
Washington, DC 20001  
Email: edrake@schagrinassociates.com  
Fax: 1-202-429-2522