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December 28, 2012

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DEPT. OF COMMERCE
ITA
IMPORT ADMINISTRATION

Inv. Nos. C-570-988, C-331-803, C-533-854, C-560-825, C-557-814, C-549-828, and **C-552-815**
701-TA-____, _____, _____, _____, _____
Total Pages: 6,232
Investigation

PUBLIC VERSION

Proprietary Information for which Business
Proprietary Treatment is Requested is Deleted from
Brackets in the Enclosed Submission on Pages I-39
– I-42 and Exhibits I-21, I-25, and I-26 of Volume I

VIA HAND DELIVERY

The Honorable Rebecca Blank
Acting Secretary of Commerce
Attention: Import Administration
Central Records Unit, Room 1870
U.S. Department of Commerce
International Trade Administration
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

VIA HAND DELIVERY

The Honorable Lisa R. Barton
Acting Secretary
U.S. International Trade Commission
500 E Street, S.W.
Washington, DC 20436

Re: *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*

Dear Acting Secretary Blank and Acting Secretary Barton:

On behalf of the Coalition of Gulf Shrimp Industries (“COGSI” or “the petitioner”), we respectfully submit to the U.S. Department of Commerce (“the Department”) and the U.S. International Trade Commission (“the Commission”) the enclosed petitions for the imposition of countervailing duties on U.S. imports of Certain Frozen Warmwater Shrimp from the People’s



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The Honorable Rebecca Blank
The Honorable Lisa R. Barton
December 28, 2012

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Republic of China (“China”), Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam (“Vietnam”). COGSI is a trade or business association all of whose members manufacture, produce, or wholesale a domestic like product in the United States and thus is an interested party within the meaning of 19 U.S.C. § 1677(9)(E).

These petitions are organized as follows:

- Volume I – General Issues and Injury;
- Volume II – Countervailing Duty Allegations for China;
- Volume III – Countervailing Duty Allegations for Ecuador;
- Volume IV – Countervailing Duty Allegations for India;
- Volume V – Countervailing Duty Allegations for Indonesia;
- Volume VI – Countervailing Duty Allegations for Malaysia;
- Volume VII – Countervailing Duty Allegations for Thailand; and
- Volume VIII – Countervailing Duty Allegations for Vietnam.

Certification of Simultaneous Filing: Pursuant to section 351.202(c) of the Department’s regulations and section 207.10(a) of the Commission’s regulations, we hereby certify that the petitions and all required copies were filed simultaneously today with both the Department and the Commission.

Request for Confidential Treatment: Pursuant to paragraph 777(b)(1) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1677f(b)(1), sections 351.105(c), 351.202(d), and 351.304 of the Department’s regulations, and section 201.6 of the Commission’s regulations, petitioner hereby requests proprietary treatment for certain information in the petitions, which we designate by

The Honorable Rebecca Blank
 The Honorable Lisa R. Barton
 December 28, 2012

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placing it within brackets. The nature of the information, and the basis for this request, is as follows:

<u>Page or Exhibit</u>	<u>Nature of Information</u>	<u>Authority</u>
VOLUME I – GENERAL ISSUES AND INJURY		
Pages I-39 – I-42	Information related to individual COGSI members' sales volume and value and potential sales volume and value, as well as identification of individual COGSI members' customers and the name of the particular person from whom the business proprietary information was obtained	19 C.F.R. §§ 201.6(a) and 351.105(c)(6), (9), and (11)
Exhibit I-21	Information on individual COGSI members' production, sales, shipments, purchases, income, production costs, expenditures, profits, and losses	19 C.F.R. §§ 201.6(a) and 351.105(c)(2) and (11)
Exhibit I-25	The identification of the customers of an individual COGSI member, as well as the name of the particular person from whom the business proprietary information was obtained	19 C.F.R. §§ 201.6(a) and 351.105(c)(6), (9), and (11)
Exhibit I-26	Information related to individual COGSI members' sales volume and value and potential sales volume and value, as well as identification of individual COGSI members' customers and the names of the particular persons from whom the business proprietary information was obtained	19 C.F.R. §§ 201.6(a) and 351.105(c)(6), (9), and (11)

All of the above information is proprietary and not otherwise available to the public, or is information that directly would lead to or disclose proprietary information. We further represent that disclosure of the same would cause substantial harm to the competitive position of one or more of the members of COGSI, and would impair the ability of the Department and the Commission to obtain comparable information in the future in fulfillment of their statutory functions. A public version of the petitions has been prepared and is being filed simultaneously

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December 28, 2012

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with this submission pursuant to section 351.304(c)(1) of the Department's regulations and section 201.8(d) of the Commission's regulations.

Pursuant to paragraph 351.304(b)(1)(i) of the Department's regulations, the petitioner agrees to permit disclosure of all proprietary information under an administrative protective order ("APO"). The petitioner, however, reserves the right to comment on all APO applications prior to any requested disclosure, or to withdraw information in the event that the agency declines to afford proprietary treatment to any information.

Certifications: We attach to this cover letter all appropriate certifications required by the regulations. These include the certification that information substantially identical to the above-claimed proprietary information is not available to the public, in accordance with 19 C.F.R. § 201.6(b)(3)(iii), or would otherwise reveal proprietary information. They also include the requisite company and counsel certifications regarding the completeness and accuracy of the information contained in the petitions.

The Honorable Rebecca Blank
The Honorable Lisa R. Barton
December 28, 2012

Page 5

If you have any questions regarding this petition, please contact the undersigned.

Respectfully submitted,



Trade Consultants:

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Nobutami Shimomoto
Jessica Wang
Ni Yuan Meggers
David DePrest
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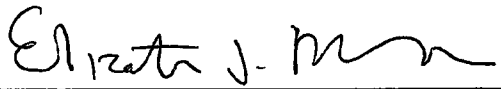
CERTIFICATION OF COUNSEL

City of Washington)
)
District of Columbia) ss

In accordance with section 201.6(b)(3)(iii) of the Commission's rules, I, Elizabeth J. Drake, of Stewart and Stewart, counsel to Petitioner, the Coalition of Gulf Shrimp Industries, certify that information substantially identical to the information for which we are requesting proprietary treatment in the attached petition is not available to the public.

In accordance with section 207.3(a) of the Commission's rules, I further certify that (1) I have read the attached petition, (2) based on the information made available to me by the Petitioner, I have no reason to believe that this petition contains any material misrepresentation or omission of fact, and (3) the information contained in this petition is accurate and complete to the best of my knowledge.

Dated: December 27, 2012

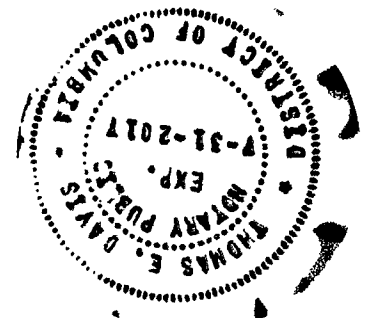


Elizabeth J. Drake

Subscribed and sworn before me this 27 day of December 2012:



NOTARY PUBLIC



COUNSEL CERTIFICATION

I, Elizabeth J. Drake, with Stewart and Stewart, counsel to Petitioner, the Coalition of Gulf Shrimp Industries, certify that I have read the attached submission of Petitions for the Imposition of Countervailing Duties on Certain Frozen Warmwater Shrimp from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam, filed on behalf of the Coalition of Gulf Shrimp Industries (petitions dated December 28, 2012) (case numbers C-570-988 (China), C-331-803 (Ecuador), C-533-854 (India), C-560-825 (Indonesia), C-557-814 (Malaysia), C-549-828 (Thailand), C-552-815 (Vietnam)). In my capacity as an adviser, counsel, preparer or reviewer of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature: _____



Date: _____

December 27, 2012

CERTIFICATION OF COUNSEL

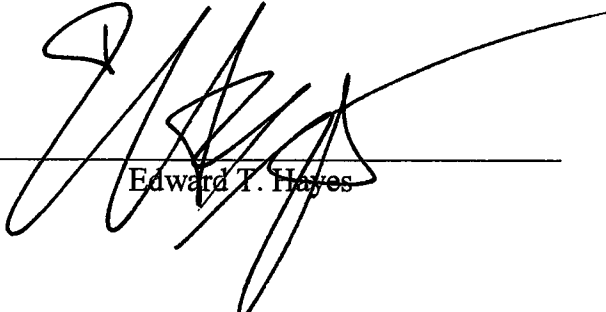
Parish of Orleans

State of Louisiana

In accordance with section 201.6(b)(3)(iii) of the Commission's rules, I, Edward T. Hayes, of Leake & Andersson, LLP, counsel to Petitioner, the Coalition of Gulf Shrimp Industries, certify that information substantially identical to the information for which we are requesting proprietary treatment in the attached petition is not available to the public.

In accordance with section 207.3(a) of the Commission's rules, I further certify that (1) I have read the attached petition, (2) based on the information made available to me by the Petitioner, I have no reason to believe that this petition contains any material misrepresentation or omission of fact, and (3) the information contained in this petition is accurate and complete to the best of my knowledge.

Dated: December 21, 2012



Edward T. Hayes

Subscribed and sworn before me this 21st day of December 2012:



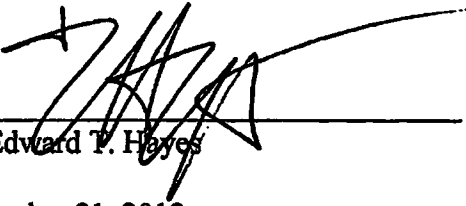
NOTARY PUBLIC

**JEFFREY M. BURG
NOTARY PUBLIC
LSBA # 25093
STATE OF LOUISIANA
MY COMMISSION IS ISSUED FOR LIFE.**

COUNSEL CERTIFICATION

I, Edward T. Hayes, with Leake & Andersson, LLP, counsel to Petitioner, the Coalition of Gulf Shrimp Industries, certify that I have read the attached submission of Petitions for the Imposition of Countervailing Duties on Certain Frozen Warmwater Shrimp from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam, filed on behalf of the Coalition of Gulf Shrimp Industries (petitions dated December 28, 2012). In my capacity as an adviser, counsel, preparer or reviewer of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature: _____


Edward T. Hayes

Date: December 21, 2012

PETITIONER CERTIFICATION

I, C. David Veal, Executive Director of the Coalition of Gulf Shrimp Industries, certify that I prepared or otherwise supervised the preparation of the attached submission of Petitions for the Imposition of Countervailing Duties on Certain Frozen Warmwater Shrimp from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam, filed on behalf of the Coalition of Gulf Shrimp Industries (petitions dated December 28, 2012). I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature:  _____Date: 12-28-12

PUBLIC VERSION

Inv. Nos. C-570-988, C-331-803, C-533-854, C-560-825, C-557-814, C-549-828, and C-552-815
701-TA-____, _____, _____, _____, _____, _____, _____

Business Proprietary Information for which
Proprietary Treatment is Requested is Deleted from
Brackets on Pages I-39 – I-42 and Exhibits I-21, I-25, and I-26 of this Volume

**BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE
AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION**

In the Matter of:

**CERTAIN FROZEN WARMWATER SHRIMP FROM
CHINA, ECUADOR, INDIA, INDONESIA,
MALAYSIA, THAILAND, AND VIETNAM**

**VOLUME I:
GENERAL ISSUES AND INJURY**

**PETITIONS FOR THE IMPOSITION OF COUNTERVAILING DUTIES
ON BEHALF OF THE COALITION OF GULF SHRIMP INDUSTRIES**

Trade Consultants:

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Nobutami Shimomoto
Jessica Wang
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David T. DePrest
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William A. Fennell, Esq.
Eric P. Salonen, Esq.
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December 28, 2012

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** Not admitted to the D.C. Bar. Admitted to the Bar of Louisiana only. Practice limited to matters and proceedings before federal courts and agencies.

PUBLIC VERSION

PETITIONS FOR THE IMPOSITION OF COUNTERVAILING DUTIES ON IMPORTS OF CERTAIN FROZEN WARMWATER SHRIMP FROM CHINA, ECUADOR, INDIA, INDONESIA, MALAYSIA, THAILAND, AND VIETNAM

VOLUME I – GENERAL ISSUES AND INJURY

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These petitions are filed on behalf of the Coalition of Gulf Shrimp Industries (“the petitioner”). These petitions seek the imposition of countervailing duties on imports of Certain Frozen Warmwater Shrimp (“frozen shrimp” or “subject shrimp”) from the People’s Republic of China (“China”), Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam (“Vietnam”), pursuant to section 701 of the Tariff Act of 1930, as amended (“the Act”), 19 U.S.C. § 1671 *et seq.* The petitioner, identified more fully below, is a trade association, all of whose members produce the domestic like product in the United States, within the meaning of 19 U.S.C. § 1677(9)(E) and (10). Based on the information reasonably available to the petitioner and contained herein, the petitioner believes that imports of frozen shrimp from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam are benefitting from countervailable subsidies and that such imports are causing material injury, or threaten material injury, to the domestic industry producing frozen shrimp.

Volume I of these petitions contains general information (*e.g.*, the identity of the petitioner, the domestic industry, industry support, and the description of subject merchandise) and information supporting allegations that the subject imports are causing or threatening to cause material injury to the domestic frozen shrimp industry. Volumes II through VIII of these petitions contain information reasonably available to the petitioner supporting allegations that the subject merchandise is benefitting from

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countervailable subsidies. Each volume contains such information for one of the countries subject to the petition: China (Vol. II), Ecuador (Vol. III), India (Vol. IV), Indonesia (Vol. V), Malaysia (Vol. VI), Thailand (Vol. VII), and Vietnam (Vol. VIII).

II. EXECUTIVE SUMMARY

These petitions provide information reasonably available to the petitioner demonstrating that aggressive government subsidy programs in the world's largest shrimp producing and exporting countries are causing material injury to the domestic shrimp industry in the United States. These petitions cover seven countries – China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam – that collectively account for 85% of U.S. shrimp imports and more than three-quarters of the U.S. market. Shrimp production by heavily export-oriented producers in these countries is projected to grow in coming years, with the U.S. as a prime destination for these exports.

Production and exports in the seven countries are fueled by explicit government growth plans and backed by billions of government dollars. Shrimp is a key export for many of the countries subject to this petition, and government plans to increase the volume of those exports are central to national economic development strategies. These petitions document over \$13.5 billion in government support to the fishing and aquaculture industries in these seven countries, with the shrimp industry often leading the sector in each country. The petitions detail more than one hundred separate subsidy programs, including government grants, low-interest loans, price controls and export restrictions on key inputs such as shrimp feed and raw shrimp, the provision of land, equipment, and other goods at below-market prices, generous tax incentives, and subsidized export credits, insurance, and guarantees. In addition, a large number of the

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subsidies documented herein are export subsidies that pose a particularly dire threat to U.S. producers. While comprehensive public data on the full amount of subsidy benefits enjoyed by shrimp producers in each of the seven countries is not available, the information that is available indicates that producers in each of the seven countries enjoy subsidies equal to 10 to 20% of their sales revenue, if not higher.

Exports that benefit from these massive government subsidies are causing material injury to the domestic shrimp industry. U.S. imports from the seven countries have gained market share since 2009, and the prices at which the imports enter the U.S. market are significantly below domestic prices. Indeed, in the most common count sizes for which data are available, imports undersold domestic product in 90% of the monthly comparisons reviewed since 2009. The frequency and intensity of this price undercutting has increased in 2012, causing prices to fall in absolute terms for the first time in years.

This cut-throat competition has suppressed the prices that domestic shrimp processors are able to receive, preventing them from keeping up with rising costs of production. As a result, the industry's thin margin of profitability in 2009 nearly disappeared in 2010 and 2011. As prices began to fall in 2012, the domestic industry's minimal returns turned into losses. The domestic shrimp fishing industry has suffered as well, as dockside prices have lagged behind increases in fuel costs. These trends deteriorated in 2012 as price undercutting intensified and domestic fishermen continued to struggle with rising costs.

These facts support the imposition of countervailing duty orders on shrimp imports from each of the seven countries. Orders are necessary to offset the significant benefits conferred by government subsidies to shrimp producers in each country and to

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remedy the material injury these subsidized imports are causing to the U.S. shrimp industry.

III. GENERAL INFORMATION

A. The Petitioner (19 C.F.R. § 351.202(b)(1))

The petitioner is the Coalition of Gulf Shrimp Industries, a trade association, all of whose members produce the domestic like product in the United States, within the meaning of 19 U.S.C. § 1677(9)(E) and (10). The address and telephone number of the Executive Director of the Coalition of Gulf Shrimp Industries is:

C. David Veal
2629 Park View
Biloxi, MS 39531
(228) 806-9600

Names, addresses, and telephone numbers for the members of the Coalition of Gulf Shrimp Industries are attached at **Exhibit I-1**.

B. The Domestic Like Product and the Domestic Industry (19 C.F.R. §§ 207.11(b)(2)(i) and (ii), 351.202(b)(2))

These petitions are filed on behalf of the U.S. industry that produces frozen shrimp in the United States. The domestic like product is co-extensive with the product that is the subject of these petitions: certain frozen warmwater shrimp. A description of the subject merchandise is provided in Section II.E, below. The names, addresses, and telephone numbers of all other known persons in the industry is attached at **Exhibit I-2**.

We note that the Commission, at the request of petitioners for antidumping orders on the same product that is the subject of these petitions, used the “semifinished products” like product analysis to include fresh shrimp in the domestic like product in

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those antidumping proceedings.¹ The petitioner is not requesting that the Commission add fresh warmwater shrimp to the definition of the domestic like product in these petitions. Nonetheless, in recognition of the fact that fresh shrimp has been included in the domestic like product definition in other proceedings involving the same subject merchandise, we include the names and contact information for other known persons in the fresh shrimp industry (*i.e.*, shrimp fishermen) in **Exhibit I-3**. We also provide information reasonably available to the petitioner indicating that producers of fresh shrimp are being materially injured and threatened with material injury by imports of the subject merchandise in Section IV, below.

Furthermore, we note that opponents to relief contested various aspects of the domestic like product determination in the previous antidumping investigations. At the Department of Commerce, for example, certain parties sought to have coldwater shrimp and breaded shrimp added to the domestic like product, to define separate like products for raw and cooked frozen shrimp, and/or to obtain an exclusion for black tiger shrimp.² The Department rejected each of these contentions.³ Additional factual information relied upon by the Department in making that determination is attached at **Exhibits I-4A**

¹ See U.S. International Trade Commission, *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 (Feb. 2004) (hereinafter "*Shrimp AD Investigation Prelim*") at 13-14. See also U.S. International Trade Commission, *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 (Jan. 2005) (hereinafter "*Shrimp AD Investigation Final*") at 6. This definition of the domestic like product was not contested in a recent sunset review of the antidumping orders. 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) (hereinafter "*Shrimp AD Sunset*") at 6.

² Import Administration, *AD Investigation Initiation Checklist: Certain Frozen and Canned Warmwater Shrimp from Thailand* (PUBLIC VERSION) (Jan. 20, 2004) at Attachment I, excerpt attached at **Exhibit I-4** (hereinafter "*AD Checklist*").

³ *Id.*

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and **I-4B**. The facts remain the same today, and the Department should reject any similar contentions in this proceeding and 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).

C. Industry Support for the Petitions (19 C.F.R. §351.202(b)(3))

Under the statute, the petitioner and any other producers supporting a petition must account for more than 25 percent of the production of the domestic like product and more than 50 percent of those expressing a position on the petition. 19 U.S.C. § 1671a(c)(4)(A). Industry support may be measured on the basis of volume or value. 19 C.F.R. § 351.203(e)(1).

The National Oceanic and Atmospheric Administration (“NOAA”) conducts an annual survey of shrimp processors through which it gathers data on the volume and value of frozen shrimp produced in the United States. The Department of Commerce used this survey data to calculate the size of the domestic shrimp processing industry for its industry support analysis in the prior antidumping investigations on frozen warmwater shrimp.⁴ Petitioner requested a summary of the results of the same processor survey from NOAA for 2011, and the summary NOAA provided is attached at **Exhibit I-5**. The summary includes all forms of frozen shrimp processed in 2011, both warmwater and coldwater, excluding breaded shrimp, battered products, and egg rolls, in headless weight.⁵ Consistent with the Department’s prior practice, we have used data on landings of coldwater shrimp to adjust the numbers provided by NOAA so they reflect only

⁴ *Id.*

⁵ Message from NOAA-NMFS Office of Science and Technology, attached at **Exhibit I-5**.

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processing of warmwater shrimp.⁶ After making this adjustment, the domestic industry produced 148 million pounds of frozen warmwater shrimp in 2011.⁷ In 2011, the petitioner produced 139 million pounds of frozen warmwater shrimp.⁸ Accordingly, the petitioner accounts for 94% of domestic industry production in the most recently completed calendar year. The petitioner thus exceeds both the 25 percent and 50 percent thresholds for industry support in the statute. 19 U.S.C. § 1671a(c)(4)(A).

D. Other Forms of Relief (19 C.F.R. § 351.202(b)(4))

The petitioner has not filed for relief from imports of the subject merchandise under section 337 of the Act (19 U.S.C. § 1337), sections 201 or 301 of the Trade Act of 1974 (19 U.S.C. §§ 2251 and 2411), or section 232 of the Trade Expansion Act of 1962 (19 U.S.C. § 1862). Petitions for antidumping duty orders on imports of certain frozen warmwater shrimp from Brazil, China, Ecuador, India, Thailand, and Vietnam were filed on behalf of the domestic industry in December of 2003, and antidumping orders were imposed in February of 2005.⁹ One Chinese producer was excluded from the original order, the order on Ecuador was subsequently revoked, and certain producers in India and

⁶ These calculations are attached at **Exhibit I-6**.

⁷ *Id.*

⁸ *Id.* See also **Exhibit I-21**.

⁹ *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Brazil*, 70 Fed. Reg. 5143 (Dep't Commerce Feb. 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the People's Republic of China*, 70 Fed. Reg. 5149 (Dep't Commerce Feb. 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Ecuador*, 70 Fed. Reg. 5156 (Dep't Commerce Feb. 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India*, 70 Fed. Reg. 5147 (Dep't Commerce Feb. 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand*, 70 Fed. Reg. 5145 (Dep't Commerce Feb. 1, 2005); and *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam*, 70 Fed. Reg. 5152 (Dep't Commerce Feb. 1, 2005).

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Thailand were also subsequently excluded from the orders.¹⁰ The orders otherwise remain in effect on Brazil, China, India, Thailand, and Vietnam at the time of the filing of these petitions. Members of the Coalition of Gulf Shrimp Industries were among the original petitioners and/or supporters of those antidumping duty petitions. Members of the Coalition have also participated actively in a number of administrative reviews of the resulting orders and in the sunset review of the orders that concluded in 2011.

E. Description of the Subject Merchandise (19 C.F.R. § 351.202(b)(5))

The subject merchandise covered by these petitions is Certain Frozen Warmwater Shrimp. The subject merchandise includes 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.

The frozen warmwater shrimp and prawn products included in the subject merchandise, regardless of definitions in the Harmonized Tariff Schedule of the United States, are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The subject merchandise 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

¹⁰ *Shrimp AD Sunset* at I-3, IV-1, n.2.

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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 subject merchandise. 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 subject merchandise.

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

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The products covered by the order 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. We note that these HTSUS subheadings for imports of frozen shrimp are new for 2012, and the relevant subheadings were different in prior years. For ease of reference, we attached at **Exhibit I-8** excerpts from the 2012 edition of the Harmonized Tariff Schedule and corresponding classifications from the 2011 edition. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

The requested scope of the investigations is attached at **Exhibit I-9**.

F. Names of the Countries of Manufacture of Subject Merchandise (19 C.F.R. § 351.202(b)(6))

The names of countries in which subject merchandise is manufactured are the People's Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam.

G. Foreign Producers and Exporters (19 C.F.R. § 351.202(b)(7)(ii)(A))

The names and addresses of companies believed to benefit from countervailable subsidies and export the subject merchandise to the United States, based on data from the Automated Manifest System, are provided at **Exhibit I-10**. The proportion of exports to the United States that each person accounted for in the most recent 12-month period is not publicly available to the petitioner. While there is some volume reported in the Automated Manifest System, a significant portion of the volume of exports enters as undisclosed and thus is not identified with any individual foreign producer or exporter.

PUBLIC VERSION**H. Subsidy Allegations and Supporting Factual Information (19 C.F.R. § 351.202(b)(7)(ii)(B) and (C))**

Subsidy allegations and supporting factual information reasonably available to petitioner to support these allegations are provided in Volumes II through VIII of these petitions. The volumes are organized as follows:

Volume II	China
Volume III	Ecuador
Volume IV	India
Volume V	Indonesia
Volume VI	Malaysia
Volume VII	Thailand
Volume VIII	Vietnam

I. Volume and Value of Imports (19 C.F.R. § 351.202(b)(8))

The volume and value of the subject merchandise imported during the most recent two-year period and other recent periods (2009 through September 2012) are attached at **Exhibit I-11.**

J. Importers (19 C.F.R. §§ 207.11(b)(2)(iii), 351.202(b)(9))

The names, addresses, and other reasonably available contact information for companies that the petitioner believes import the subject merchandise are attached at **Exhibit I-12.**

K. Pricing Products (19 C.F.R. § 207.11(b)(2)(iv))

The petitioner requests the Commission seek pricing information on the following products:

Product 1: Frozen, raw warmwater shrimp or prawns, all species, 71 to 90 count, headless, peeled (whether or not deveined), tail-off, block frozen (cut or not cut).

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- Product 2: Frozen, raw warmwater shrimp or prawns, all species, 41 to 50 count, P&D (peeled and deveined), tail-off, block frozen (cut or not cut).
- Product 3: Frozen, raw warmwater shrimp or prawns, all species, 10 to 15 count, headless, shell-on, block frozen.
- Product 4: Frozen, cooked warmwater shrimp or prawns, all species, 26 to 30 count, P&D (peeled and deveined), headless, tail-on or tail-off, IQF.

L. Lost Sales and Revenues (19 C.F.R. § 207.11(b)(2)(v))

Please see section IV.F, below, for information on sales and revenues lost by petitioning firms by reason of the subject merchandise during the three years preceding the filing of these petitions.

IV. MATERIAL INJURY AND THREAT OF MATERIAL INJURY

This section provides information reasonably available to the petitioner indicating that the domestic industry is suffering material injury, or threat of material injury, by reason of subject shrimp imports from the seven countries that are the subject of these petitions.¹¹ In a preliminary determination, the Commission determines whether there is a “reasonable indication” that an industry in the United States is materially injured, or threatened with material injury, by reason of subject imports.¹² The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”¹³ In making its injury determination, the Commission considers the volume of imports, their effect on prices of the domestic like product, and their impact on producers of the domestic like product.¹⁴ While the statute does not define “by reason of” – the causal

¹¹ This section thus complies with the petition requirements set out at 19 C.F.R. § 351.202(b)(10).

¹² 19 U.S.C. § 1671b(a)(1).

¹³ 19 U.S.C. § 1677(7)(A).

¹⁴ 19 U.S.C. § 1677(7)(B)(i).

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link that must exist between subject imports and material injury – the Commission determines that injury is by reason of subject imports where subject imports are “more than a minimal or tangential cause of injury” and where there is a sufficient causal (not merely temporal) nexus between subject imports and material injury.¹⁵

The Commission considers all relevant factors that bear on the state of the domestic industry within the context of the business cycle and the industry’s conditions of competition; no single factor is dispositive in the Commission’s determination.¹⁶ While the Commission must examine factors other than subject imports (such as changes in demand and trends in non-subject imports) to ensure that it is not attributing injury from these other factors to subject imports,¹⁷ the Commission need not isolate the injury caused by subject imports from other factors, weigh the injury from subject imports against the injury from other factors, or determine that subject imports are the principal cause of injury – the existence of injury caused by other factors does not, in and of itself, require the Commission to make a negative injury determination.¹⁸

This section is organized as follows. Section IV.A reviews the factual information supporting a determination to assess the impact of subject imports on a cumulated basis, and section IV.B provides information demonstrating that imports from each of the seven subject countries are not negligible. Section IV.C describes the conditions of competition in the market for frozen shrimp. Section IV.D provides

¹⁵ U.S. International Trade Commission, *Certain Aluminum Extrusions from China*, Inv. Nos. 701-TA-475 and 731-TA-1177 (Final), USITC Pub. 4229 (May 2011) at 15.

¹⁶ 19 U.S.C. § 1677(7)(C)(iii).

¹⁷ Statement of Administrative Action (“SAA”) on Uruguay Round Agreements Act, H.R. Rep. 103-316, Vol. I at 851-52 (1994); S. Rep. 96-249 at 75 (1979); H.R. Rep. 96-317 at 47 (1979).

¹⁸ U.S. International Trade Commission, *Certain Aluminum Extrusions from China*, Inv. Nos. 701-TA-475 and 731-TA-1177 (Final), USITC Pub. 4229 (May 2011) at 16.

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information on the volume of subject imports, and section IV.E provides data on the price effects of subject imports. Section IV.F provides information regarding lost sales and revenues due to subject imports. Section IV.G contains evidence that cumulated subject imports are having significant adverse effects on the domestic industry. Section IV.H addresses the threat of material injury by reason of subject imports.

A. Cumulation

In determinations regarding present material injury in an original investigation, the Commission is required to assess the volume and impact of subject imports from all subject countries on a cumulative basis when petitions on each country are filed on the same day and when the imports compete with one another and domestic product in the U.S. market.¹⁹ The Commission looks at four factors to assess whether subject imports compete with one another and the domestic like product, and thus whether cumulation is required: 1) the degree of fungibility among the products; 2) whether the goods are present in the same geographic markets; 3) whether they are sold through common channels of distribution; and 4) whether they are simultaneously present in the market.²⁰ Only a “reasonable overlap” of competition is required.²¹

In previous injury determinations in proceedings related to the antidumping orders on imports of frozen warmwater shrimp, the Commission has cumulated all subject imports, including in the sunset review concluded in 2011, where cumulation was

¹⁹ 19 U.S.C. § 1677(7)(G)(i). The requirement is subject to several exceptions which should not apply in this case. In addition, cumulation is discretionary where the Commission bases its determination on the threat of injury (rather than present injury). As indicated in section IV.G, below the information reasonably available to the petitioner indicates there is present material injury by reason of subject imports. Section IV.H addresses the threat of material injury.

²⁰ *Shrimp AD Investigation Final* at 18 -19.

²¹ *Id.* at 9.

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discretionary.²² Five of the countries that are the subject of these petitions were also subject to one or both of those determinations: China (both), Ecuador (original investigation only), India (both), Thailand (both), and Vietnam (both). According to the information reasonably available to the petitioner, 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 included in these petitions, to warrant a different result. As reviewed in more detail below, each of the four factors supports cumulation in this case.

1. Fungibility. In the sunset review completed in early 2011, the Commission found that subject imports and domestic product were at least moderately interchangeable – majorities of purchasers reported that products from different sources were frequently or always interchangeable; majorities of importers reported they were at least sometimes interchangeable; and pricing data showed that domestic and imported product competed across various product forms.²³ There is no reason to believe that conditions in the market have changed in the last year such that imported and domestic product would no longer be considered fungible, or that imports from Ecuador, Indonesia, and Malaysia would differ from imports currently subject to the antidumping orders to such a degree that they would not meet the fungibility criteria.

2. Geographic Overlap. In the recent sunset review, the Commission found that processors and importers serve a nationwide market.²⁴ Import data from 2009 through September of 2012 confirm that frozen shrimp from each of the seven countries

²² *Id.* at 19 – 21. See also *Shrimp AD Sunset* at 10 – 17.

²³ *Shrimp AD Sunset* at 15.

²⁴ *Id.* at 16.

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continued to enter the U.S. through ports in the East, West, Midwest, and South throughout the period.²⁵

3. Channels of Distribution. In the recent sunset review, the Commission found that most domestic shipments, as well as a substantial portion of subject import sales, were through distributors.²⁶ In addition, the same purchasers reported buying shrimp from domestic as well as subject sources.²⁷ There is no reason to believe that conditions in the market have changed in the last year 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 or other imports. Indeed, Sysco Corporation, a major provider to foodservice operators, advertises the fact that it sources and sells domestic shrimp as well as imports from numerous countries, including China, Ecuador, Indonesia, Thailand, and Vietnam.²⁸

4. Simultaneous Presence. In the sunset review, the Commission found that imports from each of the subject countries except Brazil were present throughout the period of review.²⁹ Monthly import data from 2009 through September of 2012 confirms that imports from each of the seven countries in these cases were similarly present throughout the period.³⁰

²⁵ Data on scope imports by district from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam are attached at **Exhibit I-13**.

²⁶ *Shrimp AD Sunset* at 16.

²⁷ *Id.*

²⁸ *The Sysco Seafood Product Catalogue* at 11, attached at **Exhibit I-18**.

²⁹ *Shrimp AD Sunset* at 16.

³⁰ Data on scope imports by month from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam are attached at **Exhibit I-14**.

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Because the facts support cumulation of imports from the seven countries, we provide an analysis of the volume of subject imports, their price effects, and their impact on the domestic industry on a cumulated basis in sections IV.D through H, below.

B. Negligibility

Imports from a country are considered negligible if they account for less than three percent of the volume of all merchandise imported into the United States during the most recent 12-month period for which data is available immediately preceding the filing of the petition.³¹ In countervailing duty investigations, countries that are designated as developing countries by the U.S. Trade Representative are entitled to a higher negligibility threshold of four percent.³² The most recent list of countries designated as developing countries includes Ecuador, India, Indonesia, Malaysia, and Thailand.³³

The most recent 12-month period for which import data is currently available as of the filing of these petitions is the period of November 2011 through October 2012. Each of the seven countries accounted for a non-negligible volume of imports during the period. Thailand accounted for 28.03% of import volume during the period, Ecuador 15.59%, Indonesia 14.87%, India 12.29%, Vietnam 8.02%, Malaysia 4.49%, and China 3.31%.³⁴ Thus, negligibility considerations do not preclude affirmative injury determinations for any of the seven countries.

³¹ 19 U.S.C. § 1677(24)(A)(i).

³² 19 U.S.C. § 1677(24)(B).

³³ 19 C.F.R. § 2013.1 (2012). The U.S. Trade Representative does not include China and Vietnam in the list.

³⁴ Data on scope imports over the last twelve months are attached at **Exhibit I-15**. These shares are conservative, as the denominator includes imports in November and December of 2011 from countries that produce coldwater shrimp.

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C. Conditions of Competition

1. Demand

In the recent sunset review, the Commission found that demand fluctuated within a narrow range from 2005 through 2009, stabilizing at around 1.25 billion pounds in the last three years of the period, and falling in the first three quarters of 2010 due at least in part to the Deepwater Horizon oil spill that began in April of 2010.³⁵ Most parties indicated they expected demand to fluctuate in the future or increase somewhat as the economy improved and the oil spill receded in consumer perceptions.³⁶

Apparent U.S. Consumption of Frozen Warmwater Shrimp³⁷
(million pounds, headless)

2009	2010	2011	3Q 2011	3Q 2012
1,272	1,245	1,289	913	816

The data for 2009 through September of 2012 confirm that domestic demand for frozen shrimp was lower in the full calendar year of 2010 than it had been in any year since 2006. Demand recovered in 2011, though it remained below the peak of 1,335 million pounds achieved in 2006. Demand fell by 26 million pounds, or 2.06%, from 2009 to 2010, and it rose by 43 million pounds, or 3.49%, from 2010 to 2011. Apparent consumption appears to have fallen in the first three quarters of 2012, dropping by 97 million pounds, or 10.63%.

³⁵ *Shrimp AD Sunset* at 21 – 22.

³⁶ *Id.*

³⁷ Details of these calculations, which are based on the methodology used by the Commission in the sunset review, are attached at **Exhibit I-16**. The Commission data excluded individual producers not subject to the antidumping orders. Since there are no non-subject producers for the purpose of these petitions, they are included here. In addition, non-subject imports may be somewhat overstated as they include coldwater shrimp prior to 2012.

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We note that the apparent consumption for 2012 may understate total demand, as information reasonably available to the petitioner indicates that there were significant inventories of imports in the U.S. at the end of 2011, and new shipments in 2012 may have been constrained as those inventories were worked down. A market report in the late spring of 2012 noted that imports of frozen shrimp had risen in January of 2012 as compared with January of 2011, but explained that “most importers indicated that due to ample U.S. inventories, shrimp imports for the remainder of the first quarter were expected to decline.”³⁸ It appears there continued to be some inventory overhang later in the year. In August of 2012, for example, a buyer of shrimp for Slade Gorton stated that there was probably enough inventory in the United States to last through December.³⁹

2. Supply

In the original investigations and sunset review, the Commission noted that U.S. shrimp is overwhelmingly wild-caught, while the vast majority of imported shrimp is farm-raised.⁴⁰ While the bulk of domestic shrimp is caught between May and December, processors freeze a portion of their production to be available throughout the year.⁴¹ Imports are generally available throughout the year, and farming permits producers to harvest shrimp over two to three “seasons” per year.⁴²

The supply of domestic shrimp was also impacted by the Deepwater Horizon oil spill in 2010. While landings fluctuate from year to year based on the amount of shrimp

³⁸ Paul Brown, Jr., “Shrimp Imports From Major Producers Up 15% YTD; Larger, Smaller Shrimp See Market Strength,” *Global Aquaculture Advocate* (May/June 2012), attached at Exhibit I-17.

³⁹ Jeanine Stewart, “Mazzetta: Indian shrimp glut ‘has affected everything,’” *IntraFish* (Aug. 2, 2012), attached at Exhibit I-17.

⁴⁰ *Shrimp AD Sunset* at 22 – 23.

⁴¹ *Id.*

⁴² *Id.*

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available and the economic incentive that fishermen have to catch shrimp, landings in 2010 fell to a level lower than that seen in the past decade. From 2009 to 2010, landings fell by 63 million pounds (live weight), or 24%. Landings recovered somewhat in 2011, though they were still 28 million pounds (10.55%) below 2009 levels. During the same period from 2009 to 2011, the supply of subject imports increased by 90 million pounds, or 10%. Non-subject imports fell by 47 million pounds, or 22%, from 2009 to 2011.

U.S. Supply of Frozen Warmwater Shrimp⁴³
(million pounds)

	2009	2010	2011	3Q 2011	3Q 2012
U.S. Landings	262	199	234	181	167
U.S. Farmed (e)	4	3	3	2	2
U.S. Supply Head-on	266	202	237	184	170
U.S. Supply Headless	167	127	149	116	107
U.S. Exports	12	11	19	14	7
U.S. Dom. Shipments	155	116	130	101	100
Subject Imports	894	957	984	701	628
Non-Subject Imports	223	172	175	111	87
Total Imports	1,117	1,129	1,159	811	716
Total Consumption	1,272	1,245	1,289	913	816

In the first three quarters of 2012, landings fell by 14 million pounds, or 7.75%. Subject and non-subject imports also fell in the first three quarters of 2012, by 10.29 and 21.09%, respectively. The decline in subject imports in 2012 is due to declines from four countries – principally Thailand, but also China, Malaysia, and Vietnam to some extent. These declines appear to be due to temporary conditions, primarily

⁴³ Details of these calculations, which are based on the methodology used by the Commission in the sunset review, are attached at Exhibit I-16. The Commission data excluded individual producers not subject to the antidumping orders. Since there are no non-subject producers for the purpose of these petitions, they are included here. In addition, non-subject imports are somewhat overstated as they include coldwater shrimp prior to 2012.

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instances of disease in each of the four countries.⁴⁴ As noted by one expert on shrimp diseases, there are already effective breeding and pond management techniques that can either “prevent or eliminate” problems due to the disease outbreak, and there are active efforts underway to implement those practices throughout the region.⁴⁵ When these temporary conditions subside, production is projected to return to prior levels and to increase. In Thailand, for example, where shrimp exports are projected to decline by 3.5% overall in 2012, they are expected to expand 5.0-5.5% in the fourth quarter of 2012.⁴⁶

In addition, as noted above, there appears to have been “ample” import inventory in the United States at the end of 2011, which importers predicted would suppress import volumes later in the year.⁴⁷ This inventory overhang was still significant in the summer of 2012, with at least one shrimp buyer predicting levels were sufficient to last until the end of the year.⁴⁸ When these inventories return to normal levels, imports are likely to start increasing again, as they did in prior periods. Additional information on the likely supply situation in the reasonably foreseeable future is provided in Section IV.H, below.

⁴⁴ Dr. Matthew Briggs, “EMS (Early Mortality Syndrome) and AHPNS (Acute HepatoPancreatic Necrosis Syndrome): History, Causes and Possible Control,” attached at **Exhibit I-27**.

⁴⁵ *Id.* at slide 51.

⁴⁶ Tinnakorn Chaowachuen, “NFI forecasts 5-15 % increase in food exports,” *The Nation* (Oct. 9, 2012), attached at **Exhibit I-28**.

⁴⁷ Paul Brown, Jr., “Shrimp Imports From Major Producers Up 15% YTD; Larger, Smaller Shrimp See Market Strength,” *Global Aquaculture Advocate* (May/June 2012), attached at **Exhibit I-17**.

⁴⁸ Jeanine Stewart, “Mazzetta: Indian shrimp glut ‘has affected everything’,” *IntraFish* (Aug. 2, 2012), attached at **Exhibit I-17**.

PUBLIC VERSION**3. Substitutability**

In the original investigations and sunset review, the Commission found that subject imports and domestic shrimp were at least moderate substitutes.⁴⁹ In its 2011 sunset review determination, the Commission noted that there were no clear distinctions in the markets or customers served by domestic product and subject imports, and leading purchasers bought both domestic and subject shrimp.⁵⁰ While domestic shrimp is wild-caught and subject imports are farmed, most purchasers bought the two types for the same end uses.⁵¹ The Commission found that both domestic and import suppliers sold all product forms and sizes, and most domestic and imported product met minimum quality standards.⁵²

There is no reason to believe that conditions in the market have changed to such an extent since early 2011 that imported and domestic product would no longer be considered substitutable, or that imports from Ecuador, Indonesia, and Malaysia would differ from imports currently subject to the antidumping orders to such a degree that they would not be similarly substitutable. To the contrary, more recent information supports the conclusion that leading purchasers source both domestic and imported shrimp, that domestic and foreign producers compete across the market, and that consumers do not distinguish shrimp based on origin or the method by which it is produced. Sysco Corporation, for example, a major provider to foodservice operators, describes its “Portico” brand of frozen shrimp as follows: “Whatever your choice – Tigers, whites,

⁴⁹ *Shrimp AD Sunset* at 25.

⁵⁰ *Id.* at 23-24.

⁵¹ *Id.* at 24.

⁵² *Id.*

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browns, domestic, China, Vietnam, Indonesia, Thailand, Ecuador, cooked, breaded, raw, peeled – Portico has you covered!”⁵³ In addition, the fact that most consumers do not distinguish between shrimp based on its country of origin or method of production (harvesting vs. farming) was confirmed in a 2010 study of the effects of Country-of-Origin labeling for frozen shrimp (which includes information on the source of the shrimp as well as whether it is farmed or wild-caught). The study found that the labeling measure had no impact on demand patterns, and concluded that consumers did not respond to the new label information.⁵⁴ Thus, imported and domestic shrimp continue to be substitutable.

D. Volume of Subject Imports

The volume of subject imports from the seven countries is significant. The volume of subject imports increased substantially from 2009 to 2011, whether viewed in absolute terms, relative to domestic consumption, or relative to domestic production. In 2011, the U.S. imported 984 million pounds of frozen warmwater shrimp from the seven countries, totaling \$4.3 billion dollars. By 2011, subject imports accounted for 76% of domestic consumption, whether measured by volume or value.

⁵³ *The Sysco Seafood Product Catalogue* at 11, attached at **Exhibit I-18**.

⁵⁴ F. Kuchler, et al., *Do Consumers Respond to Country-of-Origin Labeling?* J. CONSUM. POL’Y (2010) 33:323-337, attached at **Exhibit I-19**.

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Volume of Imports and Domestic Shipments⁵⁵

<i>Million Pounds</i>	2009	2010	2011	3Q 2011	3Q 2012
U.S. Dom. Shipments	155	116	130	101	100
Subject Imports	894	957	984	701	628
Non-Subject Imports	223	172	175	111	87
Total Consumption	1,272	1,245	1,289	913	816

<i>Market Share (qty)</i>	2009	2010	2011	3Q 2011	3Q 2012
U.S. Dom. Shipments	12.18%	9.32%	10.09%	11.11%	12.23%
Subject Imports	70.28%	76.83%	76.36%	76.76%	77.06%
Non-Subject Imports	17.53%	13.85%	13.54%	12.13%	10.71%

<i>Million Dollars</i>	2009	2010	2011	3Q 2011	3Q 2012
U.S. Dom. Shipments	606	523	664	523	513
Subject Imports	2,952	3,534	4,289	3,030	2,563
Non-Subject Imports	720	639	682	419	307
Total Consumption	4,278	4,696	5,634	3,973	3,383

<i>Market Share (val)</i>	2009	2010	2011	3Q 2011	3Q 2012
U.S. Dom. Shipments	14.16%	11.14%	11.78%	13.19%	15.16%
Subject Imports	69.00%	75.26%	76.12%	76.26%	75.76%
Non-Subject Imports	16.84%	13.60%	12.10%	10.55%	9.09%

Subject imports increased by 63 million pounds, or 7% from 2009 to 2010 and by another 27 million pounds, or 3%, from 2010 to 2011, for a total increase of 90 million pounds, or 10%. Subject imports also increased when measured by value, which rose by \$1.3 billion, or 45%, from 2009 to 2011.

Subject imports also gained market share over the period. Subject imports had 70.28% of the domestic market, by volume, in 2009; their share increased to 76.83% of the domestic market in 2010 and was at 76.36% in 2011. Though their market share

⁵⁵ Details of these calculations, which are based on the methodology used by the Commission in the sunset review, are attached at **Exhibit I-16**. The value of U.S. shipments is estimated based on prices for six intermediate sizes of brown and white shrimp from Uner Barry, the same source used by the Commission. The Commission data excluded individual producers not subject to the antidumping orders. Since there are no non-subject producers for the purpose of these petitions, they are included here. In addition, non-subject imports are somewhat overstated as they include coldwater shrimp prior to 2012.

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dipped slightly in 2011, it remained more than six percentage points higher than it had been in 2009. Similar increases in market share occurred on a value basis. The subject imports' increase in market share came at the expense of domestic producers as well as non-subject imports. Domestic producers lost more than two percentage points of market share from 2009 to 2011, whether measured by volume or value. While domestic producers suffered the largest decline from 2009 to 2010 and recovered somewhat in 2011, they failed to fully return to 2009 or prior levels in 2011 as subject imports continued to increase.

Subject imports also increased significantly relative to domestic shipments. In 2009, the U.S. imported 5.77 pounds of subject shrimp for every pound of domestic shipments. In 2010, that ratio rose sharply to 8.25 pounds of subject imports for each pound of domestic shipments; the ratio moderated, but remained elevated, in 2011, when the U.S. imported 7.56 pounds of shrimp from the subject countries for every pound of shipments by domestic processors.

In interim 2012, as noted above, apparent consumption contracted by 10.65%, not including movements in inventory levels. As noted above, market reports indicate that importers expected import volume to contract in 2012 due to ample inventories left over from 2011.⁵⁶ In addition, temporary supply issues such as disease outbreaks also affected export volume from some countries. Overall, the volume of subject imports declined by 10.29% in the interim 2012 period. U.S. landings also fell, by 7.75%. Domestic shipments fell as well in 2012, but by a smaller margin than landings due to a contraction in U.S. exports. While domestic shipments gained one percentage point of market share

⁵⁶ Paul Brown, Jr., "Shrimp Imports From Major Producers Up 15% YTD; Larger, Smaller Shrimp See Market Strength," *Global Aquaculture Advocate* (May/June 2012), attached at Exhibit I-17.

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(by volume) during the interim period, that increase appears to have been entirely at the expense of non-subject imports. Subject imports achieved their highest market share of the period in interim 2012, at 77% of the volume of domestic consumption. Interim period market share for subject imports is slightly lower when measured by value, due to increased price undercutting, discussed in more detail in Section IV.E, below. Finally, the ratio of subject imports to domestic shipments in interim 2012 remained above the 2009 level, with 6.3 pounds of subject imports for every pound of domestic shipments in the first three quarters of 2012. In short, despite an absolute decline in subject imports in the interim period due to disease outbreaks and an inventory overhang, the import volume remained significant in both absolute terms (628 million pounds and \$2.6 billion dollars) and relative terms (77% of the market by quantity and more than six times the volume of domestic shipments).

In sum, whether viewed by volume or value, and whether on an absolute or relative basis, the data support a finding that the volume of subject imports from the seven countries is significant. The sharpest increase in subject imports, and sharpest decline in domestic shipments, occurred in 2010, when the Deepwater Horizon oil spill forced the closure of shrimping grounds in the Gulf for a number of months. Yet there were no closures affecting the domestic industry in 2011, and while landings recovered somewhat as a result, they were still below 2009 levels and domestic market share was still lower than it had been in 2009, due to the continuing increase in subject imports. In 2012, subject imports declined as disease incidents impacted production and inventories constrained new shipments, but subject producers maintained an elevated 77% share of the market, nearly seven percentage points higher than in 2009. Landings and domestic

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shipments were also down in interim 2012, but fell somewhat less than apparent consumption; the small resulting increase in domestic market share was entirely at the expense of non-subject imports.

E. Price Effects of Subject Imports

In evaluating the price effects of subject imports, the statute directs the Commission to consider whether: 1) there has been significant price underselling by the imported merchandise; and 2) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.⁵⁷

The Commission has found that price is at least a moderately important factor in purchasing decisions for frozen warmwater shrimp.⁵⁸ Most sales are on a transaction-by-transaction and spot basis, buyers and sellers constantly monitor prices to stay apprised of trends for negotiating purposes, purchasers routinely quote import prices to domestic producers in price negotiations, and most purchasers report that price is an important factor in their purchasing decisions – indeed, it is the factor cited most frequently as most important behind only quality.⁵⁹ Based on these facts, the Commission found that changes in import prices affect the prices of domestically produced shrimp to a significant degree.⁶⁰

We believe the record will continue to support a determination that price is an important factor in purchasing decisions for frozen warmwater shrimp. In August of this

⁵⁷ 19 U.S.C. § 1677(7)(C)(ii).

⁵⁸ *Shrimp AD Investigation Final* at 28.

⁵⁹ *Id.*

⁶⁰ *Id.* See also *Shrimp AD Sunset* at 29 – 30.

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year, for example, an official at the Mazzetta Company, a U.S. shrimp distributor, explained that the rising volume of low-priced shrimp from one country “has affected everything,” and is bringing down prices on product from other countries.⁶¹ Moreover, noted the official, even where quality differences are perceived to exist, most U.S. buyers “only look at price.”⁶²

In the most recent sunset review, the Commission collected pricing data on eight products from January of 2005 through September of 2010, and found that subject imports undersold domestic product in 336 out of 559 comparisons, or 60% of the time.⁶³ The average margin of underselling was 16.6%.⁶⁴ Unfortunately, detailed data from the sunset review on pricing by period is not public, so it is not possible for the petitioner to isolate prices for the more recent years in the sunset review period that would be examined by the Commission in its investigation of these petitions.

Other publicly available data, however, indicate that underselling has continued since 2009 and worsened significantly in 2012. One way to evaluate prices is to look at average unit values. While these data do not account for product mix, more detailed product-specific data below confirm the underselling apparent in average unit values. The table below compares average unit values for subject imports, non-subject imports, and domestic product across the period.

⁶¹ Jeanine Stewart, “Mazzetta: Indian shrimp glut ‘has affected everything’,” *IntraFish* (Aug. 2, 2012), attached at **Exhibit I-17**.

⁶² *Id.*

⁶³ *Shrimp AD Sunset* at 30, V-8.

⁶⁴ *Id.* at V-8.

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Average Unit Values of Imported and Domestic Shrimp⁶⁵
(\$/lb, headless)

	2009	2010	2011	3Q 2011	3Q 2012
Domestic	\$3.91	\$4.51	\$5.10	\$5.17	\$5.14
Subject Imports	\$3.30	\$3.69	\$4.36	\$4.33	\$4.08
Non-Subject Imports	\$3.23	\$3.70	\$3.90	\$3.79	\$3.52

In 2009, subject imports undersold domestic product by 16%. The margin of underselling increased to 18% in 2010 and moderated, though was still significant, at 15% in 2011. The margin of underselling for the first three quarters of 2012 was 21%, higher than any other period. This recent increase in the margin of underselling indicates that the adverse price effects of subject imports are intensifying. In addition, the average unit values reveal that price undercutting was so severe in the interim period that prices actually began to fall, indicating price depression by reason of subject imports. The average unit value of subject imports fell by 25 cents a pound in the first three quarters of 2012, while the average unit value of domestic product was pulled down by three cents a pound.

While non-subject imports also undersold domestic product, they were a much less significant presence in the market (accounting for only 13.54% of the market in 2011, compared to subject imports' market share of 76.36%), indicating their lower price levels were not having an injurious impact anywhere near as immediate as the larger volumes of subject imports.

Individual product price trends illustrate this persistent and intensifying underselling, leading to price depression in 2012, even more clearly. The following table

⁶⁵ Domestic unit values are based on an average of six intermediate sizes of frozen, headless, shell-on brown and white shrimp reported by Urner Barry (same basis used by the Commission in the sunset); import unit values from U.S. import statistics. Calculations from Urner Barry data are attached at Exhibit I-16, Attachment 2.

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compares the average price for headless, shell-on frozen shrimp for specific count sizes reported by Uner Barry for domestic white and brown shrimp with the average unit value of imports of shell-on, frozen shrimp in that count size as reported in U.S. import statistics. The data below cover some of the most common count sizes in the market.

Domestic and Subject Import Prices by Count Size⁶⁶

Size	2009	2010	2011	3Q 2011	3Q 2012
16 – 20/lb					
Domestic	\$4.59	\$6.34	\$7.05	\$7.24	\$6.25
Subject	\$4.01	\$5.11	\$5.33	\$5.36	\$4.26
Underselling	-12.68%	-19.34%	-24.37%	-25.92%	-31.81%
21 – 25/lb					
Domestic	\$4.22	\$5.36	\$6.09	\$6.18	\$5.75
Subject	\$3.42	\$4.13	\$4.59	\$4.67	\$3.87
Underselling	-19.12%	-22.87%	-24.56%	-24.43%	-32.72%
26 – 30/lb					
Domestic	\$3.98	\$4.77	\$5.47	\$5.51	\$5.40
Subject	\$3.09	\$3.59	\$4.13	\$4.14	\$3.76
Underselling	-22.52%	-24.70%	-24.47%	-24.82%	-30.41%

The data show two troubling trends. First, the margins of underselling have increased dramatically over the period. Underselling margins that ranged from 12.68 to 22.52% in 2009 rose to over 30% for each of the individual products by 2012. Second, while prices for all products increased from 2009 through 2011, they all decreased in interim 2012, some of them quite sharply.

Evidence of underselling by subject imports is also apparent in count size-specific pricing data for both imported and domestic product reported by Uner Barry. The market information service reports price quotes for several varieties of shrimp by form

⁶⁶ Import unit values for the subject countries by count size are landed, duty-paid values from the USITC Trade DataWeb. The count sizes in the Uner Barry data and the import statistics are the same in the categories reported above, with the exception that the first count size is 15/20 in the import statistics and reported as 16/20 by Uner Barry. Comparison of the two is thus likely conservative, as the inclusion of slightly larger shrimp in the import statistics but not the domestic data would tend to understate the extent of underselling (larger shrimp tend to be more expensive).

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and count size. The greatest number of comparisons is available for frozen, headless, shell-on white shrimp, a high-volume product. Prices are available for this specification for domestic product, farm-raised Central and South American product (Ecuador being the primary source), and farm-raised Asian product (other subject countries being the top sources). Comparable prices are not available by country for the seven countries examined in this petition.

Comparisons for the highest-volume count sizes show consistent underselling over the 2009 through 2011 period and in the first nine months of 2012. The data show remarkably persistent underselling, with imports priced lower than domestic product in 466 out of the 519 monthly comparisons available, or 90% of the comparisons. The average of the margins of underselling for the various count sizes range from 7.34 to 16.74%. The count sizes listed below accounted for more than 75% of the volume of frozen, shell-on imports from the subject countries.

Urner Barry Price Comparisons, 2009 - 2012⁶⁷

Count Size	Asian White Shrimp		South American White Shrimp	
	Months of Underselling / Overselling	Avg. Margin of Underselling	Months of Underselling / Overselling	Avg. Margin of Underselling
16 – 20/lb	36 / 9	11.04%	27 / 2	7.34%
21 – 25/lb	44 / 1	12.99%	36 / 9	10.60%
26 – 30/lb	40 / 5	16.74%	36 / 9	15.98%
31 – 35/lb	45 / 0	15.26%	43 / 2	15.83%
36 – 40/lb	45 / 0	12.98%	41 / 4	15.55%
41 – 50/lb	36 / 4	11.82%	37 / 6	14.03%

⁶⁷ Urner Barry prices for frozen, headless, shell-on, white shrimp. Calculations from Urner Barry are attached at Exhibit I-20. This table does not reflect two monthly instances in which size 41-50 white shrimp from Central and South America were sold at a price equal to domestic white shrimp in that count size. Those comparisons are included in the total number of 519 monthly comparisons.

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The underselling intensified dramatically in 2012. Imports from both Asia and Central and South America undersold domestic product in each of the nine months of 2012 for each of the count sizes for which data is available, with the average margins of underselling in 2012 among the highest of the period for each of the count sizes examined. Indeed, imported products undersold domestic product by margins exceeding 20% for three common count sizes from each region, and by margins of 18 to 19% for two additional products from Asia and one additional product from Central and South America.

Urner Barry Underselling Margins, 2009 - 2012⁶⁸

Size	Average of Underselling Margins							
	Asian				Central & South American			
	2009	2010	2011	2012	2009	2010	2011	2012
16-20	-4.4%	-7.8%	-11.3%	-18.8%	-4.2%	-4.4%	-5.7%	-13.2%
21-25	-9.2%	-7.1%	-14.0%	-23.8%	-9.6%	-3.8%	-8.1%	-19.1%
26-30	-15.8%	-10.9%	-17.7%	-24.0%	-12.4%	-9.2%	-18.2%	-21.4%
31-35	-15.5%	-9.2%	-14.1%	-24.5%	-16.9%	-5.8%	-16.6%	-25.8%
36-40	-19.7%	-7.2%	-7.3%	-19.2%	-21.1%	-6.9%	-10.2%	-23.0%
41-50	-22.4%	-7.4%	-3.5%	-10.1%	-22.8%	-8.4%	-6.3%	-15.9%

The Urner Barry price data further support a finding of persistent and significant underselling by subject imports over the entire period, with a steep acceleration in that underselling in 2012.

As demonstrated above, this persistent and significant underselling led to price depression in 2012. Domestic industry data demonstrate that the underselling also caused price suppression over the period. The data demonstrate a worsening cost/price squeeze for the industry from 2009 to 2011 and continuing in 2012. While prices rose from 2009

⁶⁸ *Id.*

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to 2011, continued underselling by subject imports prevented domestic producers from increasing their prices sufficiently to cover their even more rapidly rising costs.

Frozen Shrimp Industry Sales Revenue and Costs⁶⁹

US\$ thousands	2009	2010	2011	3Q 2011	3Q 2012
Net Sales	393,659	399,839	449,320	342,010	328,486
Cost of Goods Sold	349,924	367,180	409,780	311,721	300,818
Shrimp Input	294,114	314,539	355,645	272,385	261,992
Wages	29,720	23,114	25,834	19,408	20,083
Other	26,090	29,527	28,301	19,929	18,743
COGS/Sales (%)	88.89%	91.83%	91.20%	91.14%	91.58%

\$/lb	2009	2010	2011	3Q 2011	3Q 2012
Net Sales	\$2.75	\$3.42	\$3.46	\$3.30	\$3.49
Cost of Goods Sold	\$2.45	\$3.14	\$3.16	\$3.01	\$3.20
Shrimp Input	\$2.06	\$2.69	\$2.74	\$2.63	\$2.79
Wages	\$0.21	\$0.20	\$0.20	\$0.19	\$0.21
Other	\$0.18	\$0.25	\$0.22	\$0.19	\$0.20

For the domestic frozen shrimp industry, the greatest source of rising costs is their biggest input – purchased shrimp. The cost of shrimp increased by 73 cents a pound, or 35.5%, from 2009 to interim 2012. Other costs besides wages also rose from 2009 to 2012, by 9.28% per pound of shrimp sold. Wages fell from 2009 to 2011, but were up slightly per pound of shrimp sold in interim 2012. Overall, total costs of goods sold rose by 30.77% per pound from 2009 to 2012, but the industry was only able to increase prices by 26.93% over the period, resulting in a growing cost/price squeeze. While costs were already a very high 88.89% of sales in 2009, they rose to 91.83% in 2010 and remained above 91% through the rest of the period. Given the already narrow margins of the industry, the inability to fully recover rising costs eroded the industry's operating income in 2010, 2011 and 2012, as discussed in more detail in Section IV.G, below.

⁶⁹ Consolidated from confidential information of processors who are members of the Coalition of Gulf Shrimp Industries. Individual responses from which this table was compiled are attached at Exhibit I-21.

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As noted in section III.B, above, the petitioner is not requesting that the Commission include raw shrimp in the domestic like product and thus is not requesting that fishermen be included in the domestic industry. Nonetheless, below we provide information reasonably available to the petitioner indicating that shrimp fishermen have also experienced price suppression over the period, and price depression in 2012. Though the prices fishermen received increased from 2009 to 2011, public data indicate those prices were unable to keep pace with rising costs. The situation worsened in 2012 as prices began to fall while costs were still rising.

Fishermen's Sales Revenue and Costs⁷⁰

\$/lb	2009	2010 (I)	2011 (e)	2012 (e)
Sales Revenue	\$1.88	\$2.53	\$2.73	\$2.66
Cost of Goods Sold	\$1.89	\$2.64	\$2.88	\$2.91
Fuel	\$0.65	\$0.95	\$1.22	\$1.26
Crew Labor	\$0.41	\$0.71	\$0.68	\$0.66
Other	\$0.83	\$0.98	\$0.98	\$0.98
COGS/Sales (%)	101%	104%	106%	109%

For fishermen, fuel, which makes up the single largest component of operating costs, drove costs significantly higher during the period. From 2009 to 2010, fishermen reported to the Commission that their fuel costs rose by 46% per pound and other costs rose by 36%. The increase in other costs was driven almost entirely by an increase in

⁷⁰ 2009 and interim 2010 data is taken from the Commission's sunset review. *Shrimp AD Sunset* at Appendix E. Data for 2011 and 2012 is based on the following sources: sales value is the product of the prior year's sales value per pound and the percent change in a straight average of all ex-vessel prices for the Gulf region reported by NOAA (*Shrimp Statistics – September 2012*, attached at **Exhibit I-22**); fuel cost is the product of the prior year's fuel cost per pound and the percent change in diesel prices reported by the U.S. Energy Information Administration (U.S. Energy Information Administration, *Short-Term Energy Outlook*, attached at **Exhibit I-23**); crew labor is equal to 25% of sales value, the average ratio of labor costs to sales revenue in 2009 and interim 2010; and, to be conservative, all other costs are held steady at the most recent rate found in the sunset review.

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crew labor costs, because the practice in the industry is to pay the crew a fixed share of the dockside price – as prices rise, crew pay rises by a similar amount.

Though NOAA landings statistics show that dockside prices rose by 7.8% from 2010 to 2011,⁷¹ the U.S. Energy Information Administration reports diesel prices rose much faster, increasing by 28.43% from 2010 to 2011.⁷² Thus, even if crew labor is held steady at an average 25% of sales revenue and all other costs are held flat, the fishing industry likely experienced a growing cost/price squeeze from 2010 to 2011. The situation worsened further in 2012, as dockside prices as reported by NOAA dropped by an average 2.41% and diesel costs rose by a reported 3.39%.⁷³

There is also anecdotal evidence to support the conclusion that shrimpers felt a growing cost/price squeeze, including reports of shrimp fishermen stating that they could not break even due to high fuel costs and tying up their boats due to their inability to cover these costs.⁷⁴ In sum, the negative operating results reported by the fishing industry in 2009 worsened in 2010, and are likely to have continued to deteriorate further in 2011 and 2012 as fuel costs continued to increase while dockside prices rose more slowly in 2011 and then fell in interim 2012.

In short, in a very price-competitive market, significant volumes of subject imports from 2009 through 2011 persistently undersold domestic product, preventing the domestic frozen shrimp industry from raising their prices sufficiently to cover the rising

⁷¹ See *Shrimp Statistics – September 2012*, attached at **Exhibit I-22**. The percent increase is based on a straight average of the ex-vessel prices reported for different parts of the Gulf and different count sizes.

⁷² U.S. Energy Information Administration, *Short-Term Energy Outlook*, attached at **Exhibit I-23**.

⁷³ See *Shrimp Statistics – September 2012*, attached at **Exhibit I-22**; U.S. Energy Information Administration, *Short-Term Energy Outlook*, attached at **Exhibit I-23**.

⁷⁴ Rhonda Miller, "Some Mississippi Shrimpers Parking Boats Due to High Cost of Fuel, Low Price of Shrimp," Mississippi Public Broadcasting (June 2011), attached at **Exhibit I-24**.

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cost of shrimp they bought from fishermen. For fishermen, ex-vessel prices failed to keep up with increases in the price of fuel, their top operating expense, throughout the period. As a result of the price suppression, both fishermen and frozen shrimp producers suffered an increasing cost/price squeeze over the period.

In 2012, the absolute volume of imports fell due to temporary supply issues in a few countries and as 2011 inventories were being worked down, but the volume of imports continued to be significant, and those imports undersold domestic producers even more aggressively than before. Given the strategic importance of the shrimp industry in subject countries, as evidenced by explicit government growth plans and massive government subsidies, including export subsidies, it is not surprising that subject countries would drive down prices in an effort to maintain precious market share in the U.S. even as supplies were temporarily diminished. As a result of this aggressive price undercutting by subsidized imports, prices started to decline in absolute terms in 2012. Price depression in 2012 has further undermined the industry's performance. This evidence of price underselling and price suppression and depression demonstrates that subject imports have had adverse price effects on the domestic industry.

F. Lost Sales and Lost Revenues

In its investigations on the antidumping petitions on imports of frozen shrimp, the Commission noted that shrimp processors had difficulty supplying lost sales allegations because sales negotiations are usually conducted by telephone and the competitors are not usually known.⁷⁵ These conditions continue today. However, the petitioner has endeavored to provide examples of lost sales and revenue in a few instances where they

⁷⁵ *Shrimp AD Investigation Final* at 29, n. 202.

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could be specifically identified. One such example is described in more detail below, with documentation attached at **Exhibit I-25**. Additional examples are also described below and substantiated by certified statements attached at **Exhibit I-26**. These examples provide only a small snapshot of the full scale of lost sales and lost revenues the petitioner believes have occurred since 2009.

As a preliminary matter, we note that public information indicates that significant amounts of lost sales and revenue likely occurred since 2009 as the volume and market share of subject imports increased and persistent price undercutting intensified. In the sunset review of the antidumping orders, the Commission noted the largest purchasers responding to the Commission's questionnaires each reported purchasing both domestic shrimp and shrimp from all or some of the subject countries in that review (four of which are included in these petitions). One of the largest purchasers reported buying domestic shrimp and shrimp imported from each of the five subject countries; another of the largest purchasers bought domestic shrimp as well as imports from China, India, Thailand, and Vietnam; one purchased domestic shrimp and imports from India, Thailand, and Vietnam; one purchased domestic shrimp and imports from China and Thailand; and the last purchased both domestic and Vietnamese shrimp.⁷⁶ Information publicly available to the petitioner indicates that this is still the case today. Sysco Corporation, for example, advertises that it makes shrimp from the U.S., China, Ecuador, Indonesia, Thailand, and Vietnam all available to its food service customers.⁷⁷ In addition, in the sunset review, purchasers reported that they regularly contacted two to five suppliers when making a

⁷⁶ *Shrimp AD Sunset* at 16.

⁷⁷ *The Sysco Seafood Product Catalogue* at 11, attached at **Exhibit I-18**.

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purchase, with most reporting they made purchases on a daily or weekly basis.⁷⁸ The vast majority of both domestic processors and importers reported selling shrimp on a spot basis.⁷⁹

Furthermore, when domestic and imported shrimp do compete head-to-head for sales, price is an important factor in that competition. As noted by the Commission:

Of 33 responding purchasers, 27 reported price as a very important purchasing consideration. Moreover, purchasers most commonly listed price as the number two factor in purchasing decisions. Although a large majority of purchasers named quality as the number one factor in purchasing decisions, the domestic like product was at least as likely as the subject imports to satisfy purchasers' quality requirements.⁸⁰

In addition, the majority of purchasers reported that shrimp from the U.S. and each of the other subject countries was always or frequently interchangeable,⁸¹ and most purchasers reported that they sometimes, usually, or always purchased the shrimp offered at the lowest price.⁸² Thus, the Commission noted that changes in the prices of subject imports generally affect the prices at which domestic product can be sold.⁸³ These conditions persist today. As noted above, in 2012 a shrimp distributor explained that low-priced imports were affecting sales of products from other countries, because most U.S. buyers "only look at price."⁸⁴

⁷⁸ *Shrimp AD Sunset* at II-27.

⁷⁹ *Id.* at V-4, n.3.

⁸⁰ *Id.* at 30.

⁸¹ *Id.* at II-27.

⁸² *Id.* at II-31.

⁸³ *Id.* at 29.

⁸⁴ Jeanine Stewart, "Mazzetta: Indian shrimp glut 'has affected everything,'" *IntraFish* (Aug. 2, 2012), attached at Exhibit I-17.

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In short, major purchasers of domestic shrimp also regularly purchase imported shrimp from one or more of the countries subject to these petitions, domestic and imported shrimp compete head-to-head for sales to these purchasers, and price is an important consideration in purchasing decisions. Therefore, as the volume and market share of imports from these countries has grown and the volume of domestic production and sales have fallen, and as underselling by imported product has persisted and even intensified, it is reasonable to conclude that domestic processors have lost sales to the customers that also source imported product and lost revenue as underselling has suppressed and depressed domestic prices. This conclusion is reasonably supported by public information, even in the absence of information available to the petitioner sufficient to document the full scope of specific instances of such lost sales and revenue.

Moreover, this conclusion is further supported by an examination of domestic processors' customer lists compared to importers of record identified in Automated Manifest Data. Unfortunately, a comparison of the data falls far short of documenting the full extent of lost sales and revenue, as customers may not act as importers of record even if they are substituting imported for domestic product, and many imports that do enter the United States have undisclosed importers in the Automated Manifest System. Nonetheless, based on the data that are publicly available, we have been able to identify at least one customer to whom one major processor appears to have lost sales due to subject imports since 2009. [

] ⁸⁵ [

⁸⁵ See Exhibit I-25.

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] ⁸⁶ [

] ⁸⁷ According to the Automated

Manifest System data, [

] ⁸⁸ [

] ⁸⁹ [

] ⁹⁰ This example strongly supports the conclusion that subject imports have caused domestic processors to lose sales and revenue since 2009.

Finally, this conclusion is supported by the certified statements of processors whose relationships with the end users of their product allow them to identify lost sales and revenue more specifically than was the case in the antidumping investigations on frozen shrimp. For example, [

⁸⁶ *Id.*

⁸⁷ *See Exhibit I-21.*

⁸⁸ Automated Manifest System data, attached at **Exhibit I-25.**

⁸⁹ *Id.*

⁹⁰ *Id.*

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] ⁹¹ [

] ⁹² [

] ⁹³ [

] ⁹⁴

In addition, [

] ⁹⁵ [

] ⁹⁶ [

] ⁹⁷

In another example, [

⁹¹ Certified Statement of [

], attached at **Exhibit I-26**.

⁹² *Id.* at [].

⁹³ *Id.* at [].

⁹⁴ *Id.*

⁹⁵ *Id.* at [].

⁹⁶ *Id.*

⁹⁷ *Id.* at [].

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] ⁹⁸ [

] ⁹⁹ [

] ¹⁰⁰ [

] ¹⁰¹ [

] ¹⁰² [

] ¹⁰³

[

] ¹⁰⁴

The petitioner believes these specific examples are only a very small portion of the many instances of lost sales and lost revenue that have occurred since 2009. These examples typify the market across the country. They reflect the pressure on prices that

⁹⁸ Certified Statement of [

], attached at Exhibit I-26.

⁹⁹ *Id.* at [].

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.* at [].

¹⁰³ *Id.*

¹⁰⁴ *Id.*

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shrimp processors regularly experience at nearly every customer and that their customers themselves experience in competing with imports at specific accounts.

G. Impact of Subject Imports on the Domestic Industry

Information reasonably available to the petitioner indicates that the domestic industry is experiencing material injury by reason of subject imports. The domestic frozen shrimp industry experienced declines in production, shipments, employment, gross profits, and operating income from 2009 to 2011 and again from interim 2011 to interim 2012.

The domestic frozen shrimp industry's production dropped sharply in 2010 and failed to fully recover in 2011, resulting in a net decline of 10.76% from 2009 to 2011. Production declined again in interim 2012. Shipments also declined, falling by 9.22% by volume from 2009 to 2011 and another 9.34% in interim 2012. The fact that shipments declined more steeply than production in 2012 indicates that the industry is likely weighed down with growing inventories that are not commercially feasible to sell into current market conditions. As production fell over the period, so did employment, and the number of production related workers plummeted by more than 31.24% from 2009 to 2011 and also fell in interim 2012.

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Frozen Shrimp Industry Production, Shipments, and Employment¹⁰⁵
Quantity in 1,000s of pounds, Value in \$1,000s

	2009	2010	2011	3Q 2011	3Q 2012
Average Production Capacity (quantity)	437,333	467,654	483,061	350,707	364,667
Production (quantity)	148,858	103,500	132,839	101,976	101,915
U.S. Commercial Shipments:					
Quantity of commercial shipments	138,684	114,113	126,468	101,229	91,592
Value of commercial shipments	374,547	389,975	435,788	338,760	326,357
Quantity of transfers	4,291	2,899	3,328	2,446	2,401
Value of transfers	5,835	4,932	6,393	4,635	5,930
Average Number of Production- Related Workers	1,610	1,089	1,107	1,120	1,095
Wages Paid to Production-Related Workers	29,720	23,114	25,834	19,408	20,083

The domestic industry's financial performance deteriorated as it lost volume to subject imports and suffered underselling and price suppression and depression by reason of those imports. While sales revenue rose by 14.14% from 2009 to 2011, the cost of goods sold increased even more, by 17.11%, driven primarily by an increase in shrimp raw material prices. In interim 2012, sales revenue fell, and it fell more quickly than the cost of goods sold. As a result, the cost of goods sold as a percent of sales increased from 88.9% in 2009 to 91.8% in 2010, and stayed above 91% in 2011 and interim 2012.

These shrinking margins led to the near-elimination of the industry's operating income once selling, general, and administrative expenses are accounted for. Because of the growing cost/price squeeze, the domestic industry saw their operating income of \$9.8 million in 2009 shrink to a mere \$444 thousand in 2010. It is worth noting that the Commission considered the industry's returns in interim 2010 to be so poor that it found

¹⁰⁵ Consolidated from confidential information reported by members of the Coalition of Gulf Shrimp Industries, attached at Exhibit I-21.

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the industry to be vulnerable to import injury in the sunset review completed in 2011.¹⁰⁶

While operating income increased in 2011, it was still less than half what it had been in 2009, a year the Commission characterized as “marginally profitable” for the industry.¹⁰⁷

In interim 2012, the growing cost/price squeeze, together with an increase in SG&A expenses, drove the industry into negative territory, with an operating loss of more than \$7.5 million in the first nine months of the year. As a result, the industry’s already narrow operating margin of 2.48% in 2009 basically disappeared – it shrank to 0.11% in 2010, stayed depressed at 0.84% in 2011, and became a negative 2.3% in interim 2012.

Frozen Shrimp Industry Financial Performance¹⁰⁸
Value in \$1,000s

	2009	2010	2011	3Q 2011	3Q 2012
Net Sales Value	393,659	399,839	449,320	342,010	328,486
Total Cost of Goods Sold	349,924	367,180	409,780	311,721	300,818
Value of domestic shrimp purchases	283,378	297,093	344,787	264,821	254,377
Value of imported shrimp purchases	10,736	17,446	10,858	7,564	7,615
Gross Profit or (Loss)	43,733	32,658	39,543	30,288	27,669
Selling, General, and Administrative Expenses	33,970	32,215	35,765	25,177	35,218
Operating Income or (Loss)	9,761	444	3,777	5,110	-7,552
COGS / Sales (%)	88.9%	91.8%	91.2%	91.1%	91.6%
OI / Sales (%)	2.48%	0.11%	0.84%	1.49%	-2.30%

As noted above, the frozen shrimp industry’s inability to pass on rising input costs is a direct result of the price suppression, and, more recently, price depression, caused by subject imports that consistently undersell domestic product. Even while the 2010 Deepwater Horizon spill affected landings in 2010, imports from subject countries

¹⁰⁶ *Shrimp AD Sunset* at 34.

¹⁰⁷ *Id.*

¹⁰⁸ Consolidated from confidential information reported by members of the Coalition of Gulf Shrimp Industries, attached at Exhibit I-21.

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continued to undersell domestic product despite the temporary reduction in domestic supplies due to the oil spill. Subject imports also continued to consistently undersell domestic product after the oil spill ended and fishing waters were re-opened, preventing the domestic industry from passing on rising fresh shrimp prices. The underselling has become most severe in the interim 2012 period. As a result of this price suppression and depression, the financial performance of the industry worsened over the period, even after the oil spill ended. Operating income remained below 1% in 2011 and turned negative in interim 2012. In short, the poor returns that led the Commission to find the industry vulnerable in the sunset review have persisted and even worsened due to competition with unfairly subsidized imports.

While the petitioner does not advocate including producers of raw shrimp (fishermen) in the domestic industry, publicly available data indicate that shrimp fishermen are also being adversely impacted by rising volumes of subject imports, price undercutting, and price suppression and depression. As noted above, landings dropped precipitously in 2010 due to the Deepwater Horizon spill, and they remained below 2009 levels in 2011. As detailed in section IV.E, above, dockside prices in 2010 and 2011 failed to keep pace with rising fuel costs, the largest single component of the fleet's operating expenses. In 2012, with aggressive underselling and price depression due to imports, dockside prices fell even as fuel costs continued to rise. As a result, an industry that already suffered a loss in 2009 and the first three quarters of 2010 likely saw that pain continue, if not intensify, in 2011 and 2012. Operating income before owner salaries deteriorated from a negative 1% of sales in 2009 to a negative 4% of sales in the first three quarters of 2010. Based on public data, we estimate that operating income

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before owner salaries further declined to a negative 6% of sales in 2011 and a negative 9% of sales in 2012.¹⁰⁹

In sum, cumulated subject imports are having a significant adverse impact on the domestic frozen shrimp industry, which has suffered declines in production, shipments, and employment, endured a growing cost/price squeeze, and seen their already low operating margins shrink to almost nothing and turn negative in the most recent period. Shrimp fishermen, while not part of the frozen shrimp industry, appear to also be suffering material injury by reason of subject imports as suppressed and depressed dockside prices have failed to cover rising costs.

H. Threat of Material Injury

The domestic industry is not only suffering material injury at the present time; it is also imminently threatened with additional material injury absent relief from subsidized imports.

As a preliminary matter, we note that the Commission should exercise its discretion to cumulate imports in assessing the threat of material injury. The same factors that require the Commission to cumulate all subject imports in analyzing present material injury should lead the Commission to exercise its discretion to cumulate those imports for the purposes of a threat analysis. As noted in Section IV.A, above, subject imports from all seven countries are fungible, present in the same geographic markets, sold through common channels of distribution, and simultaneously present in the market. In addition, the Commission exercised its discretion to cumulate imports from China, India, Thailand, and Vietnam in its recent sunset review, and there is no reason to believe that the same

¹⁰⁹ See Section IV.E, above.

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considerations do not support cumulation for the seven countries that are the subject of this petition.

In assessing the threat of material injury, the statute directs the Commission to consider, among other factors, the extent of subsidies involved and whether any such subsidies are prohibited subsidies, unused capacity and capacity expansions, and the volume and prices of subject imports.¹¹⁰ In addition, the Commission has found that evidence of an inventory overhang in the most recent period supports an affirmative threat determination.¹¹¹ The Commission will also consider a domestic industry's vulnerability in making a threat determination.¹¹² Each of these factors is met in this case.

First, the domestic industry is vulnerable. In the recent sunset review, the Commission determined that the domestic shrimp industry was vulnerable due to the industry's poor financial performance and declines in employment and output that occurred with the 2010 oil spill.¹¹³ As reviewed in Section IV.F, above, the industry's financial performance has only deteriorated since that time. In addition, it appears that processors may be grappling with increased inventories in 2012, making them especially vulnerable to price undercutting in the off-season when they must compete with imports by selling from product they have already purchased. Finally, apparent consumption appears to have contracted in 2012, and it is not clear when it may recover given the

¹¹⁰ 19 U.S.C. § 1677(7)(F).

¹¹¹ U.S. International Trade Commission, *Prestressed Concrete Steel Wire Strand from China*, Inv. Nos. 701-TA-464 and 731-TA-1160 (Prelim), USITC Pub. 4086 (July 2009) at 17.

¹¹² *Id.* at 21, n. 132 – 133.

¹¹³ *Shrimp AD Sunset* at 34. The dissent concurred that the domestic industry “is vulnerable by any measure.” *Id.* at 44.

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continued fragility of the economic recovery. Thus, the industry continues to be vulnerable to material injury by reason of subject imports.

Second, the volume of subject imports is significant, and is likely to increase in the imminent future, further supporting a finding of threat of material injury. While the volume of subject imports decreased in 2012, subject imports maintained their elevated market share during the interim period. In addition, it is worth noting that the entire decline in subject imports in the first nine months of 2012 is due to declines from four countries – principally Thailand, but also China, Malaysia, and Vietnam to some extent. These declines appear to be due to temporary conditions, primarily instances of disease in each of the four countries.¹¹⁴ As noted above, effective breeding and pond management techniques can prevent or eliminate problems due to the disease outbreak, and there are active efforts underway to implement those practices throughout the region.¹¹⁵ When these transient events subside, production is projected to return to prior levels and to increase. In Thailand, for example, where shrimp exports are projected to decline by 3.5% overall in 2012, they are expected to expand 5.0-5.5% in the fourth quarter of 2012.¹¹⁶

Moreover, as noted above, it appears that the decline in imports in 2012 reflects an inventory overhang in the U.S. market left over from 2011. A market report in the late spring of 2012 states that “most importers indicated that due to ample U.S. inventories,

¹¹⁴ Dr. Matthew Briggs, “EMS (Early Mortality Syndrome) and AHPNS (Acute HepatoPancreatic Necrosis Syndrome): History, Causes and Possible Control,” attached at **Exhibit I-27**.

¹¹⁵ *Id.* at slide 51.

¹¹⁶ Tinnakorn Chaowachuen, “NFI forecasts 5-15 % increase in food exports,” *The Nation* (Oct. 9, 2012), attached at **Exhibit I-28**.

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shrimp imports for the remainder of the first quarter were expected to decline.”¹¹⁷ In August of 2012, a buyer of shrimp for Slade Gorton stated that there was probably enough inventory in the United States to last through December.¹¹⁸ Once this inventory is worked down, imports are likely to resume their trajectory of upward growth, posing an imminent threat to the domestic industry.

Third, each of the countries from which imports have declined in 2012 has aggressive plans to increase production and exports in 2013 and beyond. Capacity expansions in these highly export-oriented industries will result in growing volumes of exports that pose a significant threat to the domestic industry.

- According to the website of the Thailand Department of Fisheries, the nation’s fisheries development policy aims to increase aquaculture production by 5 percent each year, to export not less than 1 million tons of fishery products each year, and to increase the value of fishery products produced in Thailand by 10 percent per year.¹¹⁹
- The Government of Vietnam plans to increase exports of processed seafood by 3.4% per year by volume through 2020, with shrimp as the largest export product.¹²⁰ The Government of Vietnam will invest over \$3 billion in its aquaculture and seafood processing industries through 2020 in order to reach this goal.¹²¹
- The Government of Malaysia’s Economic Transformation Program through 2020 focuses the government’s economic development strategy “on large global

¹¹⁷ Paul Brown, Jr., “Shrimp Imports From Major Producers Up 15% YTD; Larger, Smaller Shrimp See Market Strength,” *Global Aquaculture Advocate* (May/June 2012), attached at Exhibit I-17.

¹¹⁸ Jeanine Stewart, “Mazzetta: Indian shrimp glut ‘has affected everything’,” *IntraFish* (Aug. 2, 2012), attached at Exhibit I-17.

¹¹⁹ Thailand Department of Fisheries, “Responsibility,” available on-line at http://www.fisheries.go.th/dof/en/index.php?option=com_content&view=article&id=2&Itemid=4, attached at Exhibit I-29.

¹²⁰ Nguyen Khai, “Planning for seafood processing,” *Vietfish*, Vol. 8, Issue 2 (Mar/Apr 2011) at 54-56, attached at Exhibit VIII-5 to Volume VIII.

¹²¹ See Volume VIII at Section V.A.

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markets with high growth potential such as aquaculture and premium processed foods.”¹²²

- The Government of China sets out specific growth targets for its aquaculture sector, aiming for exports of aquatic products to reach USD 18 billion in 2015.¹²³
- In 2011, in recognition of the fact that shrimp is Ecuador’s most valuable non-oil export, the Government of Ecuador released its Competitiveness Improvement Plan for the shrimp sector, which aims to improve the productivity of the sector to enhance its competitiveness in world markets.¹²⁴
- The Government of Indonesia aims to allocate \$3 billion to the fisheries sector over the next five years, and has particularly targeted the shrimp industry, where it plans to increase production by 18 to 19% per year between 2010 and 2014.¹²⁵

These plans are not just aspirational. Foreign shrimp processors are actively investing in capacity expansions in the subject countries. Thai Union, a major Thai producer, plans to invest 12 billion baht in capacity expansions and upgrades in 2013 and 2014, twice the amount expended annually in 2010 through 2012.¹²⁶ The same company also announced investments in late 2012 to ramp up its production of value-added shrimp products.¹²⁷ A September 2012 article indicates that shrimp processors in Vietnam also have plans to upgrade their production lines to increase both quality and productivity.¹²⁸

¹²² The Economic Transformation Program, A Roadmap for Malaysia, available at http://etp.pemandu.gov.my/Agriculture-@-More_on_Agriculture.aspx, attached at Exhibit VI-5 to Volume VI.

¹²³ MOA, *National Fishery Industry 12th Five-Year Development Plan (2011-2015)* (October 17, 2011), attached at Exhibit II-3 to Volume II.

¹²⁴ Government of Ecuador, *Plan de Mejor Competitivo: Sector Camaronero* (June 22, 2011), attached at Exhibit III-4 to Volume III.

¹²⁵ Network of Aquaculture Centres in Asia-Pacific, *Shrimp Price Study, Phase III: Case studies in Vietnam, Indonesia and Bangladesh* (Nov. 2011) at 21, attached at Exhibit V-6 to Volume V. Eric Bellman, “Thousands of islands, many fish,” *The Wall Street Journal* (April 19, 2011), attached at Exhibit V-7 to Volume V.

¹²⁶ “Thai Union to upgrade production facilities in Samut Sakhorn to meet ‘global standards’,” *Seafood.com* (Nov. 9, 2012), attached at Exhibit I-30.

¹²⁷ “Thai Union to expand stake in Pak Foods to ramp up value-added production,” *Seafood.com* (Dec. 18, 2012), attached at Exhibit I-30.

¹²⁸ “Mekong Delta seafood export values total \$560 million through Sep., half of \$1 billion 2012 goal,” *Seafood.com* (Sep. 20, 2012), attached at Exhibit I-30.

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In Indonesia, CP Prima plans to build a new 30,000 metric ton aquafeed plant to produce fish and shrimp feed “to meet the demand in the growing area of Sumatra.”¹²⁹ In Malaysia, a major Chinese producer is investing RM 1 billion in an integrated shrimp farm targeted at the U.S. and European markets.¹³⁰

Fourth, the U.S. will be a prime destination for much of this increased production. As noted by the Commission in its recent sunset review on shrimp from five countries, including four of the countries subject to this petition, producers in those countries are “heavily export-oriented.”¹³¹ In addition, the Commission found that the United States is a large and important market for subject producers and an attractive market for exporters.¹³²

The U.S. is likely to be an even more attractive market in the imminent future, due to reduced demand and increased import barriers in both Europe and Japan. One market news report from October of 2012 noted that reduced demand in Japan “means that the US is the preferred target of producers.”¹³³ Ecuador is also expected to shift volume to the U.S. in response to the weakness in the European economy, particularly in Spain, one of its key markets.¹³⁴ In addition, in May and June of 2012 Japan began rejecting imports of frozen shrimp from India and Vietnam as it imposed more stringent

¹²⁹ “CP Prima plans new 30,000 ton capacity aquafeed plant to supply Sumatra,” Seafood.com (Nov. 5, 20120, attached at **Exhibit I-30**).

¹³⁰ “Zhanjiang Guolian investing in huge Malaysian shrimp farming project,” Seafood.com (Feb. 29, 2012), attached at **Exhibit I-30**.

¹³¹ *Shrimp AD Sunset* at 27.

¹³² *Id.* at 27 – 28.

¹³³ *Shrimp, Asia – October 2012*, attached at **Exhibit I-31**.

¹³⁴ Tom Seaman, “Ecuador could shift Spain shrimp volumes to US,” Intrafish.com (June 4, 2012), attached at **Exhibit I-31**.

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testing requirements for ethoxyquin, an ingredient in shrimp feed.¹³⁵ The U.S., by contrast, does not regulate levels of ethoxyquin in seafood products at all.¹³⁶ As a result of these requirements and the economic downturn in Europe and Japan, subject countries are likely to rely increasingly on the U.S. market. Finally, Thailand's shrimp exports to Europe are currently subject to tariffs of 4.2 to 7% under Europe's GSP program, and those tariffs are scheduled to rise to 12 and 20%, respectively on January 1, 2014, raising serious concerns for Thai shrimp producers.¹³⁷ If these changes take effect as planned, the U.S. will become an even more attractive market for Thai producers.

Fifth, the extent of underselling by subject producers is significant, and it is intensifying in 2012. These trends are likely to continue and even accelerate in the near future as shrimp production expands in each of the subject countries and demand continues to stagnate in other markets. As noted in Section IV.E, above, margins of underselling increased significantly in interim 2012, and prices began to decline absolutely for the first time during the period. In light of this aggressive price undercutting and price depression, a shrimp buyer for Slade Gorton stated in August of 2012 that he didn't "know where the bottom is" in the market.¹³⁸ Vietnam's Ministry of Trade stated in November of 2012 that Vietnamese producers were being forced to lower prices to compete with other exporters, noting that price competition in global markets "is

¹³⁵ See articles on ethoxyquin ban attached at **Exhibit I-31**.

¹³⁶ "VASEP says Japan's ethoxyquin restrictions in shrimp imports are unreasonable compared to US, EU," *Seafood.com* (Sept. 17, 2012), attached at **Exhibit I-31**.

¹³⁷ *Shrimp, Asia – October 2012*, attached at **Exhibit I-17**.

¹³⁸ Jeanine Stewart, "Mazzetta: Indian shrimp glut 'has affected everything'," *IntraFish* (Aug. 2, 2012), attached at **Exhibit I-17**.

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becoming fierce.”¹³⁹ Producers in Ecuador also expressed concern about intensifying price pressure in September of 2012, with one exporter noting that oversupply in certain countries, as well as the crisis in Europe, had pushed down prices in key export markets.¹⁴⁰

Sixth, and finally, the last remaining factor in the statute – the existence of subsidies, and particularly export subsidies – strongly supports an affirmative threat determination in this case. Aggressive government support policies and generous subsidy programs benefitting the shrimp industry in each of the subject countries are detailed in Volumes II through VIII of these petitions. We note that a number of these programs appear to be export subsidies, demonstrating a particularly acute threat to the domestic industry in the United States.

Export Subsidies for Shrimp in Subject Countries¹⁴¹

Country	Export Subsidies
China	Zhanjiang city seafood export platform Guangdong Province grants for outward expansion of enterprises Export awards Export-contingent tax incentives Loans for export-oriented projects Export credits Export credit insurance
Ecuador	Tax incentives for free zones and special economic development zones Export credits Government financing under the National Agro-Industrial Development Plan

¹³⁹ Nguyen Duy, “Seafood exports unable to meet annual target,” *Saigon Daily*, attached at **Exhibit I-32**.

¹⁴⁰ “Ecuador shrimp producers see lower margins due to price pressure in first half,” *Seafood.com* (Sept. 24, 2012), attached at **Exhibit I-32**.

¹⁴¹ See Volumes II through VIII.

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Country	Export Subsidies
India	Duty Entitlement Passbook Scheme and successor programs Special economic zone tax and duty incentives Export-oriented unit tax incentives Export promotion capital goods program Export credits Export credit guarantees and insurance MPEDA seafreight assistance scheme
Indonesia	Export credits Export insurance Tax and duty incentives for goods used to manufacture exports VAT exemptions for equipment and machinery used to produce exports
Malaysia	Replicating Integrated Aquaculture Model (iZAQs) program Pioneer Status Program Investment Tax Allowance Double deduction for promotion of exports Export credits Export credit guarantees Double deduction on export insurance premiums Free trade zone tax and duty exemptions
Thailand	Investment Promotion Act: tax, duty, and other benefits Industrial Estate Tax incentives Export credits Tax coupons for exports Export incentives
Vietnam	Subsidized loans for exporters Land use levy reductions and exemptions Land rent reductions and exemptions Land-use tax reductions and exemptions Enterprise income tax preferences Income tax preferences for business expansion and intensive investment projects Import tax exemptions for machinery imported to create fixed assets Tax preferences for investors that produce and/or deal in exports Export credits and guarantees Tax preferences for encouraged industries Tax preferences for exporters Tax preferences for foreign-invested enterprises Land and water rent reductions and exemptions for encouraged industries Import duty exemptions for imported raw materials for exported goods

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In short, in the unlikely event the Commission were not to find present material injury by reason of subject imports, the information reasonably available to the petitioner demonstrates that there is a threat of imminent material injury by reason of subject imports. The volume of subject imports is significant, and the lower volume in 2012 appears caused primarily by temporary situations in a number of countries, coupled with an apparent inventory overhang in the U.S. Governments and producers in subject countries are investing in significant capacity expansions, and much of that growth will be targeted to the highly attractive U.S. market by highly export-oriented producers facing low demand and emerging barriers in Japan and Europe. Imports are entering the U.S. at prices that persistently undercut domestic producers, and that undercutting has become particularly severe in the most recent period, leading to an absolute decline in prices. Finally, the governments in the subject countries have targeted expansion of their shrimp industries, focused in particular on world export markets, as a key component of their economic development strategies, and they are committing billions of dollars of government support to those industries, including through the provision of export subsidies in each country.

V. CONCLUSION

Based on the information reasonably available to the petitioner and presented in these petitions, subject frozen shrimp imports from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam benefit from countervailable subsidies and the domestic frozen shrimp industry is experiencing material injury by reason of such subsidized imports. Accordingly, the petitioner respectfully requests that the U.S. Department of Commerce initiate countervailing duty investigations on imports of certain frozen

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warmwater shrimp from each of the seven countries and issue affirmative determinations in each investigation. The petitioner further requests that the U.S. International Trade Commission initiate investigations into material injury, including threat of material injury, to the domestic industry by reason of subject imports and issue affirmative determinations of injury in all seven investigations.

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I-2	Names and contact information for other known persons in the domestic frozen shrimp industry	Public
I-3	Names and contact information for known persons in the domestic fresh shrimp industry	Public
I-4	Import Administration, <i>AD Investigation Initiation Checklist: Certain Frozen and Canned Warmwater Shrimp from Thailand</i> (PUBLIC VERSION) (Jan. 20, 2004) at Attachment I (excerpt)	Public
I-4A	Factual information regarding the domestic like product	Public
I-4B	Factual information regarding the domestic like product	Public
I-5	Message from NOAA-NMFS Office of Science and Technology	Public
I-6	Industry Support Calculations	Public
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I-17	Jeanine Stewart, "Mazzetta: Indian shrimp glut 'has affected everything'," <i>IntraFish</i> (Aug. 2, 2012) Paul Brown, Jr., "Shrimp Imports From Major Producers Up 15% YTD; Larger, Smaller Shrimp See Market Strength," <i>Global Aquaculture Advocate</i> (May/June 2012)	Public
I-18	<i>The Sysco Seafood Product Catalogue</i> (excerpt)	Public
I-19	F. Kuchler, et al., <i>Do Consumers Respond to Country-of-Origin Labeling?</i> J. CONSUM. POL'Y (2010) 33:323-337	Public
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I-23	U.S. Energy Information Administration, <i>Short-Term Energy Outlook</i>	Public
I-24	Rhonda Miller, “Some Mississippi Shrimpers Parking Boats Due to High Cost of Fuel, Low Price of Shrimp,” Mississippi Public Broadcasting (June 2011)	Public
I-25	Confidential Exhibit	BPI
I-26	Certified Statements	BPI
I-27	Dr. Matthew Briggs, “EMS (Early Mortality Syndrome) and AHPNS (Acute HepatoPancreatic Necrosis Syndrome): History, Causes and Possible Control”	Public
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