Certain Frozen Warmwater Shrimp and Prawns From India and Thailand

Investigation Nos. 751-TA-28-29

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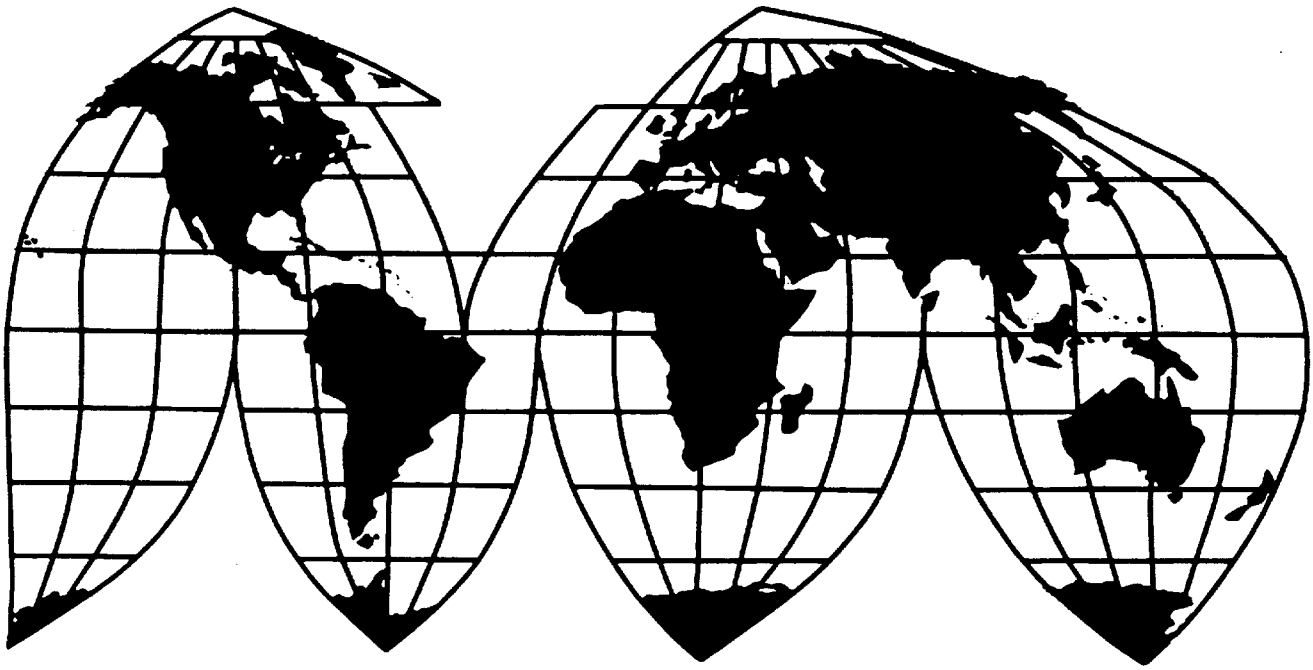
U.S. International Trade Commission



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U.S. International Trade Commission

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Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 751-TA-28-29

CERTAIN FROZEN WARMWATER SHRIMP AND PRAWNS FROM INDIA AND THAILAND

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. § 1675d(b)) (the Act), that revocation of the antidumping duty orders covering certain frozen warmwater shrimp and prawns from India and Thailand would be likely to lead to continuation or recurrence of material injury to an industry in the United States. Certain frozen warmwater shrimp and prawns from India and Thailand are provided for in subheadings 0306.13.00 and 1605.20.10 of the Harmonized Tariff Schedule of the United States.

BACKGROUND

On December 17, 2004, the Department of Commerce determined that imports of certain frozen and canned warmwater shrimp and prawns from India and Thailand are being sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act (19 U.S.C. § 1673) (69 FR 76916, 76918, December 23, 2004); and on January 6, 2005 the Commission determined, pursuant to section 735(b)(1) of the Act (19 U.S.C. § 1673d(b)(1)), that an industry in the United States was materially injured by reason of imports of such LTFV merchandise. Accordingly, Commerce ordered that antidumping duties be imposed on such imports (70 FR 5143, February 1, 2005).

On January 6, 2005, when the Commission conducted its vote in the original investigations, it stated that it was concerned about the possible impact of the December 26, 2004, tsunami on the shrimp industries of India and Thailand. The tsunami occurred prior to the closing of the record in the original investigations on December 27, 2004. At the time the record closed, however, factual information as to any impact of the tsunami on the ability of producers in India or Thailand to produce and export shrimp was not available. On February 8, 2005, the Commission published a *Federal Register* notice (70 FR 6728) inviting comments from the public on whether changed circumstances exist sufficient to warrant the institution of changed circumstances reviews of the Commission's affirmative determinations concerning certain frozen warmwater shrimp and prawns from India and Thailand.

The Commission instituted the subject investigations (investigation Nos. 751-TA-28-29), effective May 5, 2005, after having reviewed the comments it received in response to that request, and having determined that it had received information which showed changed circumstances sufficient to warrant instituting review investigations and that there was good cause for instituting such review investigations within two years after publication of the orders. Notice of the scheduling of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of May 5, 2005 (70 FR 23884). The hearing was held in Washington, DC, on September 14, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF THE COMMISSION

Based on the record of these investigations, we determine, under section 751(b) of the Tariff Act of 1930, as amended ("the Act"), that revocation of the antidumping duty orders on certain frozen warmwater shrimp and prawns from India and Thailand is likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

In January 2005, the Commission determined that the domestic industry producing certain non-canned warmwater shrimp and prawns was materially injured by reason of dumped imports from Brazil, China, Ecuador, India, Thailand, and Vietnam. The Commission's opinion contained the following passage:

> When the Commission conducted its vote in these investigations, it stated that it was concerned about the possible impact of the December 26, 2004, tsunami on the shrimping industries of India and Thailand. The tsunami occurred prior to the closing of the record in these investigations on December 27, 2004. At the time the record closed, however, factual information as to any impact of the tsunami on the ability of producers in India or Thailand to produce and export shrimp was not available. We intend to collect information as to whether the tsunami's impact on the affected countries' industries warrants the Commission self-initiating a changed circumstances review under 19 U.S.C. § 1675(b). This provision allows the Commission to address situations in which changed circumstances warrant review of a final affirmative determination that has resulted in the issuance of an antidumping order.[1]

The Department of Commerce (Commerce) issued antidumping duty orders on certain frozen warmwater shrimp from India and Thailand on February 1, 2005.[2] On February 8, 2005, the Commission published a Federal Register notice inviting comments from the public on whether changed circumstances exist sufficient to warrant the institution of changed circumstances reviews of the Commission's affirmative determinations concerning certain frozen warmwater shrimp and prawns from India and Thailand.[3]

The Commission received 23 submissions in response to its Federal Register notice soliciting comments. Five commenters supported institution of a changed circumstances review, 17 commenters opposed institution of a changed circumstances review, and one commenter submitted a factual report.[4] On April 25, 2005, the Commission determined to institute these reviews.[5] The notice of institution stated that the Commission determined that "it had received information which showed changed

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[1] 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 at 3 (Jan. 2005) ("Original Determination").

[2] 70 Fed. Reg. 5147 (Feb. 1, 2005) (India), 70 Fed. Reg. 5145 (Feb. 1, 2005) (Thailand). Commerce also issued antidumping duty orders concerning the four other subject countries for which the Commission made affirmative injury determinations.

[3] 70 Fed. Reg. 6728 (Feb. 8, 2005).

[4] See 70 Fed. Reg. 23884 (May 5, 2005).

[5] Chairman Koplan dissented from this determination.

circumstances sufficient to warrant instituting review investigations and that there was good cause for instituting such review investigations within two years after publications of the orders."[6]

II. SUMMARY[7]

The tsunami of December 26, 2004 that struck India and Thailand caused substantial loss of life and inflicted substantial damage and destruction in those countries, including damaging and destroying production and fishing facilities and infrastructure used to harvest and process shrimp. However, these reviews are limited to a determination of whether the impact of the tsunami has significantly impaired the ability of producers in those countries to produce and export shrimp to the United States such that revocation of the antidumping duty orders would not be likely to lead to the continuation or recurrence of material injury to the U.S. shrimp industry. Our determination is based on a comprehensive investigation and thorough analysis of the current and likely future state of the shrimp producing industries in India, Thailand, and the United States. As a result of this investigation and analysis we determine that revocation of the antidumping duty orders on certain frozen warmwater shrimp and prawns from India and Thailand is likely to lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

We find that the tsunami has not significantly restricted the ability of producers in India and Thailand to produce and export shrimp.[8] We note that, notwithstanding the intervening issuance of antidumping duty orders, imports from India and Thailand have not declined since the tsunami. For the January-August 2005 period, imports totaled 243.7 million pounds. This is greater than either the 217.1 million pounds of imports from India and Thailand during January-August 2004 or the 209.5 million pounds during January-August 2003.[9] During the January-June 2005 period, imports from India and Thailand accounted for 33.9 percent of U.S. apparent consumption. This is higher than India and Thailand's market share in the January-June 2004 period and higher than their market share in calendar years 2002 through 2004.[10]

The tsunami is not likely to result in a significant impairment of the ability of producers in India and Thailand to produce and export frozen shrimp in the reasonably foreseeable future. The processors' questionnaire responses project very minor changes in production levels. Processors in India and Thailand project that their 2005 production will be only 3.5 percent below their 2004 production and they project that their production in 2006 will be 1.7 percent above their 2004 production.[11] While the hatchery and fishery segments of the shrimp producing industries in each country suffered greater damage than the processing or farm segments, the impact of this damage does not demonstrate that production and exports will be significantly reduced. Indian hatcheries that produce the postlarval form of black tiger shrimp project their 2006 production will be 36.4 percent below their 2004 production.[12] This estimate is not corroborated by the much lower projected 12.5 percent decline in wild-caught

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[6] 70 Fed. Reg. at 23885.

[7] Commissioner Pearson does not join this section of the opinion.

[8] We have exercised our discretion to cumulate subject imports from India and Thailand.

[9] Confidential Report (CR)/Public Report (PR), Table C-2.

[10] CR/PR, Table IV-5.

[11] CR/PR, Tables IV-9, IV-12.

[12] CR/PR, App. H, All India Shrimp Hatcheries Ass'n Questionnaire (Black Tiger). Hatcheries of giant river prawns forecast much more modest declines. CR/PR, App. H, All India Shrimp Hatcheries Ass'n Questionnaire (Giant River Prawn).

broodstock catch, which is the input used to produce postlarval black tiger shrimp.[13] It is also contradicted by the 6.7 percent decline projected in production of the next most processed form of the product, farmed fresh black tiger shrimp.[14] Similarly, while hatcheries in Thailand project a 10.7 percent decline in production of postlarval shrimp from 2004 to 2006,[15] Thai farmers project only a 5.6 percent decline in production during that period,[16] and Thai processors project a production increase of 3.3 percent.[17]

The data, taken as a whole, indicate that, notwithstanding the tsunami, the shrimp industries in India and Thailand are viable and will remain so in the reasonably foreseeable future. Any declines in production in India or Thailand will likely be modest.[18] Given the large volumes of shrimp exported to the United States from India and Thailand prior to the tsunami, these modest declines would still leave these countries with a significant volume of exports and a significant share of the U.S. market. Finally, it is not clear what share of any projected decline in production could be attributed to the tsunami, and what share could be attributable to the current antidumping duties and bonding requirements.

The record in these reviews does not indicate that, if the orders are revoked, pricing of imports from India and Thailand will likely differ from that prevailing before the orders were in place. Therefore, we find that absent the discipline of the antidumping duty orders, there will likely be a recurrence of the significant underselling and falling prices which characterized imports from India and Thailand in the original investigations.[19]

Within the limited time frame since the imposition of the antidumping duty orders in February 2005, the domestic industry has derived some benefits from the imposition of antidumping duties. Notwithstanding these benefits we find that the U.S. shrimp industry is still in a vulnerable condition. In addition, hurricanes struck the U.S. Gulf Coast causing widespread damage and destruction. This included damage to shrimp fishing boats and processing plants. However, the industries in India, Thailand, and the United States continue to catch, produce, and process shrimp in the wake of their respective natural disasters. In light of our findings concerning likely volume and price effects, we conclude that upon revocation, the domestic industry's current condition would likely deteriorate due to imports from India and Thailand. For these reasons we determine that revocation of the antidumping duty orders on frozen warmwater shrimp and prawns from India and Thailand would be likely to lead to continuation or recurrence of material injury to an industry in the United States in a reasonably foreseeable time.

III. WHETHER CHANGED CIRCUMSTANCES EXIST

The parties opposing revocation of the orders ("Domestic Producers") maintain that the Commission should revisit the issue of changed circumstances, find no changed circumstances, and

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[13] CR/PR, App. H, MPEDA/SEAI Fishery Ass'n Questionnaire.

[14] CR/PR, App. H, MPEDA/SEAI Shrimp Farm Questionnaire.

[15] CR/PR, App. H, Thai Shrimp Ass'n Hatchery Ass'n Questionnaire.

[16] CR/PR, App. H, Thai Shrimp Ass'n Shrimp Farm Ass'n Questionnaire.

[17] CR/PR, Table IV-12.

[18] Even before the tsunami or issuance of the antidumping duty orders, annual production fluctuations in excess of 8 percent in the subject countries were not uncommon. See CR/PR, Tables IV-9, IV-12.

[19] Indeed, the record indicates that the increase in inventory levels in India has put pressure on prices in that country. CR/PR, App. I at India-33. This would create an incentive to sell product from inventory at lower prices upon revocation of the order.

terminate the proceeding without reaching the issue of whether revocation of the antidumping duty orders on certain frozen warmwater shrimp and prawns from India and Thailand is likely to lead to continuation or recurrence of material injury to a domestic industry in the United States. The parties supporting revocation ("Subject Exporters") argue that the Commission lacks the authority to revisit the issue of changed circumstances once it has instituted a review proceeding.

We find that the record compiled in these reviews supports a finding of changed circumstances. The December 26, 2004 tsunami destroyed and damaged facilities and impacted fisheries and infrastructure in India and Thailand used to harvest and/or produce the subject merchandise. Indian fishermen have reported loss of equipment and reductions in per boat yields.[20] Indian hatcheries reported a reduction in the number of operating hatcheries, structural damages, and loss of broodstock.[21] In Thailand, the tsunami damaged hatcheries representing 35 percent of overall hatchery production. Hatchery structures were damaged or destroyed, electrical connections were damaged, and broodstock were destroyed.[22] We consequently proceed to consider these reviews on the merits.[23] [24]

IV. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

The Commission's affirmative determinations in the original investigations concerned a single domestic like product, which it defined as fresh warmwater shrimp and prawns and those frozen warmwater shrimp and prawns described in Commerce's scope definition.[25] The parties have stated that

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[20] CR/PR, App. H, MPEDA/SEAI Fishery Ass'n Questionnaire.

[21] CR/PR, App. H, All India Shrimp Hatcheries Questionnaire. Commission staff witnessed hatchery damage during its field trip to India. CR/PR, App. I at India-11.

[22] CR/PR, App. H, Thai Shrimp Ass'n Hatchery Ass'n Questionnaire. Commission staff witnessed hatchery damage during its field trip to Thailand. CR/PR, App. I at Thailand-19-24.

[23] The Commission has the authority to revisit the issue of changed circumstances after a proceeding has been instituted. Citizen Watch Co. v. United States, 733 F. Supp. 383, 387 (Ct. Int'l Trade 1990).

[24] Chairman Koplan and Commissioner Lane note that in order to institute a changed circumstances review, the statute specifies that the Commission must possess information "sufficient to warrant a review of such determination or agreement." 19 U.S.C. § 1675(b)(1). By contrast, the statute states that once a review has been initiated the party seeking revocation has "the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant such termination." 19 U.S.C. § 1675(b)(3)(A). On April 25, 2005, after reviewing the comments received in response to its request for information, the Commission determined that it had received information sufficient to warrant institution of these review investigations. While Chairman Koplan and Commissioner Lane agree that the Commission has the authority to revisit its prior determination that there have been changed circumstances sufficient to warrant these reviews, at this stage of these proceedings they see no need to do so.

[25] Commerce has defined the imported product subject to the antidumping duty orders under review as:

> certain warmwater shrimp and prawns, whether frozen, 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.

Commerce's scope determinations contain additional clarifications and exclusions. See 70 Fed. Reg. 5145, 5146-47 (Feb. 1, 2005) (Thailand); 70 Fed. Reg. 5147, 5148-49 (Feb. 1, 2005) (India).

they do not desire to revisit the issue of domestic like product in these reviews.[26] The record in these reviews contains no information indicating that the characteristics of fresh or frozen warmwater shrimp have changed since the time of the original investigations.[27] Accordingly, we again define the domestic like product to be fresh warmwater shrimp and prawns and those frozen warmwater shrimp and prawns described in Commerce's scope definition.

B. Domestic Industry

In the original investigations, the Commission defined the pertinent domestic industry to encompass all entities that harvest fresh warmwater shrimp and all processors of frozen shrimp products within the scope definition except for ***.[28] Both Domestic Producers and Subject Exporters have stated that they do not desire in these reviews to revisit or challenge the manner in which the Commission defined the domestic industry in the original investigations.

We define the domestic industry in these reviews to include: (1) all entities that harvest fresh warmwater shrimp (i.e., fishermen and shrimp farmers); and (2) all processors of frozen shrimp products within the scope definition except for ***. Our definition differs slightly from that used in the original investigations, inasmuch as it results in ***, which was excluded from the domestic industry in the original investigations, being included in the industry in these reviews.[29]

V. CUMULATION

A. Framework

Section 752(a) of the Act provides that:

> the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.[30]

Thus, the same cumulation standards are applicable to changed circumstances and five-year reviews; in both types of proceedings, cumulation is discretionary. However, the Commission may exercise its discretion to cumulate only if the reviews are initiated on the same day and the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market. Also, the statute precludes cumulation if the Commission finds that subject imports from a

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[26] Domestic Producers Prehearing Brief at 71; Subject Exporters Prehearing Brief at 19 n.52.

[27] See CR at I-9-14, PR at I-8-12.

[28] Original Determination, USITC Pub. 3748 at 18; Confidential Original Determination at 30.

[29] *** did not import subject merchandise from India or Thailand during the period examined, and is therefore not subject to exclusion as a related party in these reviews.

[30] 19 U.S.C. § 1675a(a)(7).

country are likely to have no discernible adverse impact on the domestic industry.[31] We note that neither the statute nor the Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA") provides specific guidance on what factors the Commission is to consider in determining that imports "are likely to have no discernible adverse impact" on the domestic industry.[32] With respect to this provision, the Commission generally considers the likely volume of the subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.[33]

The Commission generally has considered four factors intended to provide a framework for determining whether the imports compete with each other and with the domestic like product.[34] Only a "reasonable overlap" of competition is required.[35] In changed circumstances reviews, the relevant inquiry is whether there likely would be competition even if none currently exists. Because of the prospective nature of reviews, the Commission, in addition to its traditional competition factors, has considered factors that are examined in other contexts where cumulation is discretionary.[36]

In the original investigations, which involved six subject countries, the Commission cumulated subject imports from all sources. It found that the domestic like product and imports from all subject sources were sufficiently similar in characteristics to satisfy the fungibility criterion because: (1) a majority of market participants found that domestically-produced shrimp were at least sometimes

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[31] 19 U.S.C. § 1675a(a)(7).

[32] SAA, H.R. Rep. No. 103-316, vol. I (1994).

[33] For a discussion of the analytical framework of Chairman Koplan and Commissioner Hillman regarding the application of the "no discernible adverse impact" provision, see Malleable Cast Iron Pipe Fittings from Brazil, Japan, Korea, Taiwan, and Thailand, Inv. Nos. 731-TA-278-280 (Review) and 731-TA-347-348 (Review) USITC Pub. 3274 (Feb. 2000). For a further discussion of Chairman Koplan's analytical framework, see Iron Metal Construction Castings from India; Heavy Iron Construction Castings from Brazil; and Iron Construction Castings from Brazil, Canada, and China, Inv. Nos. 303-TA-13 (Review); 701-TA-249 (Review); and 731-TA-262, 263, and 265 (Review) USITC Pub. 3247 (Oct. 1999) (Views of Commissioner Stephen Koplan Regarding Cumulation).

[34] The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are: (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and (4) whether the imports are simultaneously present in the market. See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (CIT 1989).

[35] See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (CIT 1996); Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required."); United States Steel Group v. United States, 873 F. Supp. 673, 685 (CIT 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, e.g., Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), aff'd sub nom, Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353 (CIT 1999); Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

[36] See, e.g., Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission's determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (CIT 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (CIT 1988).

interchangeable with shrimp from each of the subject countries, except for one comparison by importers (U.S.-Vietnam), where a substantial minority still found at least some interchangeability; (2) majorities of all market participants found imports from all subject sources at least somewhat interchangeable; and (3) there was an overlap of purchasers and product types between the domestic like product and frozen shrimp imports from each subject country and among imports from each of the subject countries. The Commission also found that the criteria concerning channels of distribution, geographic overlap, and simultaneous presence in the market were all clearly satisfied.[37]

Domestic Producers argue that the Commission should cumulate subject imports from India and Thailand. Subject Exporters have asserted no arguments concerning likely discernible adverse impact or likely reasonable overlap of competition, but contend that the Commission should exercise its discretion not to cumulate subject imports from India and Thailand due to likely differences in conditions of competition.

The threshold criterion for cumulation is satisfied here, as the Commission instituted the changed circumstances reviews on subject imports from India and Thailand on the same day.

B. Likelihood of No Discernible Adverse Impact

We find that revocation of either the individual antidumping duty order on India or the individual antidumping duty order on Thailand would not likely have no discernible adverse impact on the domestic industry.

India and Thailand both supplied subject merchandise to the U.S. market throughout the January 2001 to June 2005 period of review. U.S. imports from both countries continued throughout 2004 during the pendency of the original investigations. India and Thailand each continued to supply the U.S. market in 2005, notwithstanding the December 26, 2004 tsunami and the antidumping duty orders issued in February 2005. The quantity of subject imports from India was 89.4 million pounds in 2004 and 29.0 million pounds in interim 2005.[38] Market penetration of subject imports from India was 7.4 percent in 2004 and 6.6 percent in interim 2005.[39] The quantity of subject imports from Thailand was 278.3 million pounds in 2004 and 120.7 million pounds in interim 2005.[40] Market penetration of subject imports from Thailand was 22.9 percent in 2004 and 27.3 percent in interim 2005.[41] Thailand was the largest exporter of frozen shrimp to the United States in 2004 and interim 2005; India ranked fourth among exporters in 2004 and fifth in interim 2005.[42] Processors from each subject country export the overwhelming proportion of the subject merchandise they produce.[43]

Subject imports from India and subject imports from Thailand were present in the U.S. market at substantial levels during the period of review, and the industries in both countries are export-oriented. Based on these considerations, and the lack of any contrary argument, we conclude that subject imports

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[37] Original Determination, USITC Pub. 3748 at 19-21.

[38] CR/PR, Table IV-2. Interim 2005 subject import quantities from India were below those of interim 2004. Id. We find this decline was attributable at least in part to issuance of the antidumping duty order. See CR/PR, Table IV-11 (several Indian producers indicate that the antidumping duty order is responsible for declines in their exports to the United States).

[39] CR/PR, Table IV-5.

[40] CR/PR, Table IV-2.

[41] CR/PR, Table IV-5.

[42] CR/PR at IV-1.

[43] CR/PR, Tables IV-9, IV-12.

from India and subject imports from Thailand likely would both have a discernible adverse impact absent the orders.

C. Likelihood of a Reasonable Overlap of Competition

We have considered whether subject imports are likely to compete with each other and with the domestic like product with reference to four factors: (1) fungibility; (2) sales or offers in the same geographic markets; (3) common or similar channels of distribution; and (4) simultaneous presence.[44] We find a likely reasonable overlap of competition among subject imports from India and Thailand and between these imports and the domestic like product if the orders were to be revoked.

The period examined in these reviews includes the period examined in the original investigations, and also contains additional data for the period from July 1, 2004 (the date after the end of the period examined in the original investigations) through June 30, 2005. Consequently, data collected in the original investigations are part of the record here.

Fungibility. In the original investigations, the products from India and the United States were deemed at least somewhat interchangeable by 57 percent of importers, 67 percent of purchasers and 96 percent of U.S. processors. The products from Thailand and the United States were deemed at least somewhat interchangeable by 60 percent of importers, 67 percent of purchasers, and 96 percent of U.S. processors. The products from India and Thailand were deemed at least somewhat interchangeable by 90 percent of importers and 100 percent of purchasers and U.S. processors.[45] In these reviews, market participants were asked whether there had been any change in the interchangeability of U.S. warmwater shrimp with warmwater shrimp from India or Thailand since the end of the period examined in the original investigations. At least 88 percent of each category of market participants responded in the negative.[46]

Geographic Overlap. As in the original investigations, both processors and importers serve national markets in the United States.[47] Throughout the period examined, appreciable quantities of subject imports from both India and Thailand entered the United States in the East, Gulf, Great Lakes, and West regions.[48]

Channels of Distribution. Purchasers' questionnaires indicate that numerous grocers, distributors, and restaurant chains purchase frozen warmwater shrimp from the United States and one or both of the subject countries.[49]

Simultaneous Presence. As in the original investigations, imports from India and Thailand have been present in the U.S. market throughout the period examined.[50]

Conclusion. The record in these reviews indicate no changes since the original investigations in any of the factors that the Commission examines in determining a likely reasonable overlap of

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[44] See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988); Mukand Ltd. v. United States, Slip Op. 96-120 at 10-11 (Ct. Int'l Trade Aug. 2, 1996).

[45] Original Determination, USITC Pub. 3748, Tables II-1-3.

[46] CR/PR, Table II-11.

[47] CR/PR at II-1.

[48] CR/PR, Table IV-7; Domestic Producers Prehearing Brief, Chart 8.

[49] CR/PR, Tables II-4, II-7.

[50] CR/PR, Tables IV-7, IV-8.

competition. We consequently conclude that the subject imports from India and Thailand will likely compete with each other and with the domestic like product if the orders were revoked.

D. Other Considerations[51]

In determining whether to exercise our discretion to cumulate the subject imports from India and Thailand, we assess whether the subject imports from each country are likely to compete under similar or different conditions in the U.S. market.

Subject Exporters point to several considerations that they believe support a finding that the subject imports from India will likely compete under different conditions of competition than subject imports from Thailand. Among factors they cite or imply in their argument are: (1) Thailand's industry is much larger and better established in the U.S. market; (2) because of India's greater emphasis on wild-caught shrimp and wild-caught broodstock, damage in India was more dispersed than in Thailand and also encompassed environmental damage to the ocean; and (3) Thailand's damage was more heavily concentrated in aquaculture infrastructure.[52]

We do not believe that the factors that the Subject Exporters cite warrant a conclusion that the subject imports will likely compete under different conditions of competition. In any investigation involving multiple subject countries, there are generally some disparities in productive capacity and import volumes among different subject countries.[53] It is true that Thailand's industry is larger than India's and that its exports to the United States have been greater in quantity. Nevertheless, we believe it is more pertinent that, notwithstanding fluctuations in volume, both countries were among the five largest exporters to the United States during interim 2005, both have exported substantial quantities of subject merchandise to the United States throughout the period of review, and the United States is a substantial export market for both countries.[54]

We have also examined the nature of the damage caused by the tsunami in India and Thailand. For each subject country, the principal effect of the tsunami has been to damage or destroy facilities used in the production process of the subject merchandise. In India, this has principally encompassed: (1) damage to the fishing fleet used to catch broodstock;[55] (2) environmental damage to the fisheries which

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[51] Commissioner Pearson does not join this section of the opinion. See Separate Views of Commissioner Daniel R. Pearson.

[52] Subject Exporters also mention in passing differences between the two countries' means of production, species produced, and size of product. Subject Exporters Posthearing Brief at 5. Means of production is not a grounds of distinction, because subject imports from India and Thailand are both predominantly farmed. See CR at IV-19, IV-32, PR at IV-13, IV-20-21. The record in the original determinations indicated that different species may be substituted in certain circumstances and that changes in price in one species will at least sometimes affect prices of other species. Original Determination, USITC Pub. 3748 at II-24. We consequently do not find that the different species composition of subject imports from India and Thailand justifies finding a difference in likely conditions of competition. Subject Exporters did not document the size composition of the subject imports from India and Thailand. The record indicates that shrimp of the same size range from both India and Thailand are sold in the U.S. market. CR/PR, Table V-5.

[53] Cf. Neenah Foundry Co. v. United States, 155 F. Supp.2d 766, 772-73 (Ct. Int'l Trade 2001) (warning that declining to cumulate solely on differing import volume levels could lead to impermissible "circular" analysis).

[54] CR/PR at IV-1, Tables IV-2, IV-9, IV-12.

[55] Tr. at 194 (Tharakan); see also CR/PR, App. H (MPEDA/SEAI Fishery Ass'n Questionnaire).

has affected the availability and quality of broodstock;[56] and (3) damage to hatcheries, encompassing damage to physical structures, loss of broodstock, and water contamination and siltation.[57] In Thailand, this principally encompasses damages to hatcheries.[58] Consequently, in both countries the bulk of damage has been to facilities used to produce upstream forms of the product. Subject Exporters concede that the tsunami did not substantially damage shrimp farming operations in either country.[59] There is no contention that the tsunami damaged shrimp processors in either country; indeed, the questionnaire data indicate no projected reductions in processing capacity in either India or Thailand.[60] We accordingly conclude that the nature of damage to production facilities caused by the tsunami will not result in significant likely differences in conditions under which subject imports from India and Thailand will compete in the U.S. market. Accordingly, we exercise our discretion to cumulate subject imports from India and Thailand.

VI. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDERS ARE REVOKED

A. Legal Standard in Changed Circumstances Reviews

Section 751(b) of the Act requires the Commission to conduct a review of an affirmative antidumping or countervailing duty determination whenever it receives information or a request that "shows changed circumstances sufficient to warrant a review."[61] The legislative history of the URAA, which is the source of the current statutory language, indicates that its provisions are consistent with prior Commission practice regarding changed circumstances reviews.[62] Under pre-URAA law, it was well established that a changed circumstances review investigation does not begin on a clean slate as though it were an original investigation.[63] Moreover, under the URAA, the requesting party continues to bear the burden of persuasion as to whether changed circumstances exist sufficient to warrant revocation of an order.[64]

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[56] Tr. at 15 (Sampath).

[57] Tr. at 199 (Swamy); see generally, CR/PR, App. H (All India Shrimp Hatcheries Ass'n Questionnaire).

[58] See generally CR/PR, App. H (Thai Shrimp Ass'n Questionnaire).

[59] Tr. at 201 (Ramachandran) (India); Subject Exporters Posthearing Brief, App. D at 5 (farms in India "did not suffer significant direct damage from the tsunami"); CR/PR, App. H, Thai Shrimp Ass'n Questionnaire, Response to Question H-14 ("the number of damaged farms is small").

[60] CR/PR, Tables IV-9, IV-12.

[61] 19 U.S.C. § 1675(b)(1).

[62] SAA at 878.

[63] Matsushita Elec. Indus. Co. v. United States, 750 F.2d 927, 932 (Fed. Cir. 1984); see also H.R. Conf. Rep. No. 98-1156 at 182 (1984) ("a section 751 review does not begin from an entirely neutral starting point"). Congress intended that the Commission's original determination be afforded deference so that such determinations would not be in a constant state of flux. Avesta AB v. United States, 689 F. Supp. 1173, 1180 (Ct. Int'l Trade 1988) (the "underlying finding of injury . . . is entitled to deference and should not be disturbed lightly").

[64] 19 U.S.C. § 1675(b)(3)(A). See Titanium Sponge from Japan, Kazakhstan, Russia, and Ukraine, Inv. Nos. 751-TA-17-20, USITC Pub. 3119 at 11 (Aug. 1998). The parties have asserted several arguments concerning the meaning of the statutory "burden of persuasion" language. The Court of International Trade addressed this language in an opinion affirming the Commission's determination in Titanium Sponge. The court concluded that the (continued...)

Section 752(a) of the Act provides that in conducting a changed circumstances review, "the Commission shall determine whether revocation of an order . . . would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[65] The SAA states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[66] Thus, the likelihood standard is prospective in nature.[67] The U.S. Court of International Trade has found that "likely," as used in section 751 of the Act, means "probable," and the Commission applies that standard in reviews under section 751.[68] [69] [70] [71] [72]

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[64](...continued)
statutory "burden of persuasion" was not the equivalent of a burden of proof. Instead, the court reasoned, "the 'burden of persuasion' language was enacted into law to ensure that the domestic industry was not put in the position of having to justify why an existing order was still necessary in a changed circumstances investigation conducted by the Commission. . . . The importers' burden of persuasion in this case was to persuade the Commission that revocation of the order would not likely lead to material injury." The Commission's function, the court continued, was to weigh the evidence and make a determination. Titanium Metals Corp. v. United States, 155 F. Supp. 750, 759 (Ct. Int'l Trade 2001), quoting H.R. Conf. Rep. No. 98-1156 at 182-83 (1984).

[65] 19 U.S.C. § 1675(b)(2)(A).

[66] SAA at 883. The SAA states that "[t]he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." Id.

[67] While the SAA states that "a separate determination regarding current material injury is not necessary," it indicates that "the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked." SAA at 884.

[68] See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003) ("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"), aff'd without opinion, Ct. No. 05-1019 (Fed. Cir. August 3, 2005); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int'l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int'l Trade Dec. 20, 2002) ("more likely than not" standard is "consistent with the court's opinion"; "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int'l Trade Sept. 4, 2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int'l Trade July 19, 2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

[69] Vice Chairman Okun notes that consistent with her dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004) at 15-17, she does not concur with the U.S. Court of International Trade's interpretation of "likely" to mean "probable" See Usinor Industeel, S.A. et al v. United States, No. 01-00006, Slip. Op. 02-39 at 13 (Ct. Int'l Trade April 29, 2002). However, she will apply the Court's standard in these reviews and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses the issue. See Additional Views of Vice Chairman Deanna Tanner Okun Concerning the "Likely" Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 731-TA-707-709 (Review)(Remand), USITC Pub. 3754 (Feb. 2005).

[70] Commissioner Hillman interprets the statute as setting out a standard of whether it is "more likely than not" that material injury would continue or recur upon revocation. She assumes that this is the type of meaning of "probable" that the Court intended when the Court concluded that "likely" means "probable". See Separate Views of
(continued...)

The statute states that "the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time."[73] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' timeframe applicable in a threat of injury analysis in original investigations."[74] [75]

Although the standard in a changed circumstances review is not the same as the standard applied in an original antidumping duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated."[76] It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, and whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated.[77]

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[70](...continued)
Vice Chairman Jennifer A. Hillman Regarding the Interpretation of the Term "Likely," in Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom (Views on Remand), Invs. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review) (Remand), USITC Pub. 3526 (July 2002) at 30-31.

[71] Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004) at 15-17, she does not concur with the U.S. Court of International Trade's interpretation of "likely" but she will apply the Court's standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses the issue.

[72] While, for purposes of these reviews, Commissioner Pearson does not take a position on the correct interpretation of "likely," he notes that he would have made the same determination under any interpretation of "likely" other than equating "likely" with merely "possible." See Commissioner Pearson's dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 at 15-17 (June 2004).

[73] 19 U.S.C. § 1675a(a)(5).

[74] SAA at 887. Among the factors that the Commission should consider in this regard are "the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities." Id.

[75] In analyzing what constitutes a reasonably foreseeable time, Chairman Koplan examines all the current and likely conditions of competition in the relevant industry. He defines "reasonably foreseeable time" as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define "reasonably foreseeable time" by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

[76] 19 U.S.C. § 1675a(a)(1).

[77] 19 U.S.C. § 1675a(a)(1). There have been no duty absorption findings by Commerce with respect to the orders under review. The statute further provides that the presence or absence of any factor that the Commission is (continued...)

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[78] The following conditions of competition are relevant to our determination.

Demand. Apparent U.S. consumption of frozen warmwater shrimp and prawns rose each year from 2001 to 2004. During this period, apparent U.S. consumption increased from 1.0 billion pounds in 2001 to 1.2 billion pounds in 2004. Apparent U.S. consumption was lower during interim (January-June) 2005, at 442 million pounds, than it was during interim 2004, when it was 518 million pounds.[79] We observe that a majority of U.S. processors and importers indicated in their questionnaire responses that demand for frozen warmwater shrimp had not changed since July 1, 2004, and more processors and importers reported increased demand than decreased demand.[80] Witnesses from both sides testified at the hearing that they did not discern that U.S. demand for frozen warmwater shrimp had declined during 2005.[81]

As the Commission found in the original determinations, warmwater shrimp is typically used in meal preparations. Restaurants constitute about 80 percent of total U.S. consumption, and an appreciable quantity of shrimp is also sold through grocers.[82]

Supply. The characterizations the Commission made in the original determinations about the nature of the supply furnished by the domestic industry remain valid. The overwhelming percentage of domestically-produced shrimp is wild caught. Such shrimp are harvested from the Gulf of Mexico, and to a lesser extent the Atlantic coast between the Carolinas and Florida. Most harvesting occurs between May and December.[83] Since June 2005, several hurricanes have struck the areas in which wild-caught shrimp are harvested and processed.[84]

In these reviews, 30 processors submitted usable questionnaire data to the Commission.[85] For the reasons discussed above, we have not included five of these firms that submitted usable questionnaire data (as well as one that submitted a questionnaire that did not contain usable data) in the domestic

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[77](...continued)
required to consider shall not necessarily give decisive guidance with respect to the Commission's determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[78] 19 U.S.C. § 1675a(a)(4).

[79] CR/PR, Table IV-5. The parties disagree about the reason for the decline in apparent consumption during interim 2005. Domestic Producers call the decline a statistical aberration, claiming that the Commission's apparent consumption data do not account for purchasers' inventories that may have been drawn down during 2005. Subject Exporters claim that the declines in apparent consumption reflect declining demand.

[80] CR at II-16-17, PR at II-11.

[81] See Tr. at 93 (Appelbaum), 322 (Beagle), 323 (Bloom).

[82] Original Determination, USITC Pub. 3748 at 22-23.

[83] Original Determination, USITC Pub. 3748 at 23. See also CR at I-9-10, PR at I-8-9. At the hearing, witnesses from U.S. processors stated that the peak domestic shrimping season in 2005 began approximately one and one-half months later than usual. Tr. at 96-97 (Gollott, Authement).

[84] See CR at III-2, III-11, PR at III-1, III-6.

[85] CR/PR at III-1.

industry. The Commission also received in these reviews usable financial data from 130 shrimp fishermen.[86]

The majority of subject imports from India are farmed product. Farmed product accounted for 71.5 percent of total reported Indian shipments in 2004 and 68.8 percent of total reported Indian shipments during interim 2005.[87] Farmed shrimp in India are principally of the black tiger variety.[88] Black tiger broodstock must be wild-caught.[89]

Virtually all subject imports from Thailand have been from farmed inputs.[90] About 95 percent of shrimp harvested in Thailand are vannamei (white); the remainder are black tiger. Vannamei shrimp are derived from cultured broodstock, which are predominantly imported.[91]

In the original investigations, the parties had agreed that the quantity of warmwater shrimp available from U.S. fisheries was insufficient to meet U.S. demand for the product. The domestic industry supplied a smaller share of the market than either the cumulated imports from the six subject countries or nonsubject imports.[92] As previously discussed, the data examined in the original investigations encompassed the period through June 2004. During 2004 and interim 2005, Thailand was the largest individual source of supply of frozen warmwater shrimp to the United States, and India remained a leading source of supply. The four countries now subject to antidumping duty orders which are not under examination in these reviews – Brazil, China, Ecuador, and Vietnam – continued to export subject merchandise after issuance of the orders. There were also increased imports during 2004 and interim 2005 from numerous countries not subject to antidumping duty orders.[93]

Interchangeability. In the original determinations, the Commission found that the domestic like product and imports of frozen warmwater shrimp from the six subject countries were at least moderate substitutes. It acknowledged that the questionnaire responses and hearing testimony indicated that purchasers had mixed perceptions about the interchangeability of the domestic like product and the subject imports. It emphasized, however, that the majority of purchasers found the domestic like product and subject imports at least somewhat interchangeable, that many purchasers purchased both the domestic like product and the subject imports, and that purchasers acquired U.S.-processed product for the same uses that they acquired the subject imports.[94] In these reviews, the parties have not submitted any new evidence or asserted new arguments concerning the interchangeability of the domestic like product and the subject imports. As discussed above, the overwhelming majority of market participants reported that there has not been any change in the interchangeability of U.S. warmwater shrimp with warmwater shrimp from India or Thailand since the end of the period examined in the original investigations.[95] [96]

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[86] CR/PR at D-1.

[87] CR at IV-19, PR at IV-13.

[88] Subject Exporters Prehearing Brief at 44; CR/PR, App. I at India-3.

[89] Tr. at 304-05 (Swamy).

[90] CR at IV-32, PR at IV-20.

[91] Tr. at 214 (Sujint).

[92] Original Determination, USITC Pub. 3748 at 24.

[93] CR/PR, Table IV-5; CR at IV-1-6, PR at IV-1.

[94] Original Determination, USITC Pub. 3748 at 24-25.

[95] CR/PR, Table II-11.

[96] Commissioner Pearson does not join the remainder of this opinion. See Separate Views of

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C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping duty orders are revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.[97] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[98]

In the original investigations, the Commission found that the quantity and market penetration of cumulated subject imports from Brazil, China, Ecuador, India, Thailand, and Vietnam increased throughout the period examined. It further found that the increase in subject import market penetration came largely at the expense of the domestic industry. The Commission rejected arguments by the respondents that the increase in subject import market penetration was a function of U.S. processors being unable to provide any more product than U.S. fisheries would yield or was a result of subject imports creating new markets or supplying new channels of distribution. The Commission found the volume of subject imports and the increase in that volume, both in absolute terms and relative to consumption in the United States, to be significant.[99]

Because the Commission conducted its analysis on a cumulated basis, it made no findings specific to subject imports from India or Thailand. The record the Commission compiled indicated that subject import quantities from India increased from 71.8 million pounds in 2001 to 96.7 million pounds in 2002 and then to 99.2 million pounds in 2003; there were fewer subject imports in interim 2004 than in interim 2003.[100] The market penetration of subject imports from India increased from 7.1 percent in 2001 to 9.2 percent in 2002, then declined to 8.2 percent in 2003, and was lower in interim 2004 than interim 2003.[101] The quantity of subject imports from Thailand decreased from 296.4 million pounds in 2001 to 247.7 million pounds in 2002, increased to 281.0 million pounds in 2003, and was higher in interim 2004 than in interim 2003.[102] The market penetration of subject imports from Thailand declined from 29.4 percent in 2001 to 23.7 percent in 2002 and then to 23.2 percent in 2003, but was higher in interim 2004 than in interim 2003.[103]

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[96](...continued)
Commissioner Daniel R. Pearson.

[97] 19 U.S.C. § 1675a(a)(2).

[98] 19 U.S.C. § 1675a(a)(2)(A-D). Product shifting is not at issue in this case.

[99] Original Determination, USITC Pub. 3748 at 26-28.

[100] Original Determination, USITC Pub. 3748, Table IV-2.

[101] Original Determination, USITC Pub. 3748, Table IV-5.

[102] Original Determination, USITC Pub. 3748, Table IV-2.

[103] Original Determination, USITC Pub. 3748, Table IV-5.

We initially observe that, notwithstanding the intervening issuance of antidumping duty orders,[104] cumulated subject imports from India and Thailand have not declined since the tsunami. From January to August 2005, there were 243.7 million pounds of cumulated subject imports. This is greater than both the 217.1 million pounds of cumulated subject imports during the comparable period in 2004, or the 209.5 million pounds of cumulated subject imports during the comparable period of 2003.[105] The most recent apparent consumption data available are from interim 2005. During this period, cumulated subject imports from India and Thailand accounted for 33.9 percent of U.S. apparent consumption. This share is greater than that held by cumulated subject imports from India and Thailand for interim 2004 or the three most recent calendar years.[106]

Subject Exporters contend that current import levels do not reflect the effects of the tsunami. They maintain that, because of the nature of the shrimp farming process, and because the tsunami caused limited or no damage to downstream facilities, such as farms and processing plants, the damage the tsunami caused to fisheries and upstream production facilities such as hatcheries would not manifest itself in production declines for as long as nine months.[107] Consequently, they maintain that current import data are much less probative of likely declines in the production of subject merchandise than are projections of future production.

To evaluate Subject Exporters' claims, we have carefully examined whether the undisputed damage to fisheries, production facilities, and infrastructure caused by the tsunami will likely cause production of subject merchandise to decline significantly, and whether any actual or likely declines in production will result in likely significant declines in exports to the United States for reasons independent of issuance of the antidumping duty orders. We circulated questionnaires not only to processors – the entities in India and Thailand that produce subject merchandise for export – but also to associations of fishermen, hatcheries, and farms. Additionally, Commission staff traveled to India and Thailand to examine damaged facilities and interview individuals in those countries familiar with the shrimp production process.

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[104] Since July 2004, U.S. Customs and Border Protection has required importers of agricultural or aquacultural products to post a continuous bond for merchandise subject to antidumping duties equal in value to the current antidumping margin multiplied by the amount of product imported by the importer within the last year. CR at II-11, PR at II-7-8. Producers of subject merchandise from India and Thailand referenced the continuous bond as a factor affecting their firms' ability to export warmwater shrimp to the United States. CR/PR, Tables IV-11, IV-14.

[105] CR/PR, Table C-2. Although generally in these reviews we have collected data through June 2005, we were able to obtain official import statistics for July and August 2005. In our original determinations, we observed that the filing of the petition affected subject import volumes during 2004. Original Determination, USITC Pub. 3748 at 26. We consequently have compared the available 2005 data with comparable data for both 2004 and 2003.

[106] CR/PR, Table IV-5.

[107] In the comments they filed in June on the draft questionnaires, Subject Exporters asserted that while "import levels in February and March would not reflect the upstream impact of the tsunami. . . . [t]his, however, would not be the case with respect to second quarter 2005." Subject Exporters Questionnaire Comments at 5 (June 3, 2005). In addition, the Thai Shrimp Association's response to the Hatchery Association questionnaire states that "it normally takes 3-4 months for the post larval to grow to marketable sizes." CR/PR, App. H, Thai Shrimp Ass'n Hatchery Ass'n Questionnaire at 6. Because the Thai parties have also reported that shrimp spend a month in the hatchery, Thai Respondents Hearing Presentation, slide 1, shrimp seeded in January and February would be processed in April though June. By contrast, in their posthearing submissions, Subject Exporters stated that the effects of the tsunami would not be fully apparent in import data before the conclusion of the third quarter of 2005. See Subject Exporters Posthearing Brief, App. D at 4 (asserting reduced broodstock catch in India would not affect export levels before September 2005), App. E at 23 (asserting that any decline in Thai exports due to the tsunami would not occur before September 2005).

The processors' questionnaire responses project very minor changes in production. On a cumulated basis, processors in India and Thailand project that their 2005 production of subject merchandise will be 6.3 percent below their 2003 production and 3.5 percent below their 2004 production. Projected 2006 production will be 1.3 percent below 2003 production and 1.7 percent above 2004 production. Capacity is projected to increase slightly in both 2005 and 2006. Total exports are projected to decline only 4.2 percent in 2005, and then to return to only 0.2 percent below the 2004 level in 2006.[108]

It is true, as Subject Exporters emphasize, that entities that produce upstream forms of the product project greater, and sometimes much greater, declines. For example, Indian hatcheries that produce the postlarval form of black tiger shrimp project their 2006 production to be 36.4 percent below their 2004 production.[109] This is not merely at great variance with the Indian processors' projections,[110] but is a substantially greater decline than that projected for wild-caught broodstock, which is the input used to produce postlarval black tiger shrimp.[111] It is also far greater than the projected decline in production of the next most processed form of the product, farmed fresh black tiger shrimp.[112] Similarly, while hatcheries in Thailand project a 10.7 percent decline in production of postlarval shrimp from 2004

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[108] CR/PR, Tables IV-9, IV-12. Subject Exporters assert that the projections in the processors' questionnaire are unreliable because the processors did not possess a comprehensive understanding of industry conditions. See Subject Exporters Prehearing Brief at 108-09; Tr. at 309 (Nicely). We accord these contentions no credence. Subject Exporters have not indicated, nor can we discern, why processors, which are the entities most directly involved in exportation, would be motivated to provide unduly optimistic confidential questionnaire responses that would be contrary to their own commercial interests in this proceeding.

[109] CR/PR, App. H, All India Shrimp Hatcheries Ass'n Questionnaire (Black Tiger). Hatcheries of giant river prawns forecast much more modest declines. CR/PR, App. H, All India Shrimp Hatcheries Ass'n Questionnaire (Giant River Prawn).

A principal reason for the hatcheries' projected decline in projection is their purported inability to obtain sufficient broodstock. See CR/PR, App. H, All India Shrimp Hatcheries Ass'n Questionnaire (Black Tiger) at 6. However, Indian hatchery operators and government officials provided conflicting estimates and reports concerning the availability of broodstock. CR/PR, App. I at India-11, India-16, India-20.

[110] See CR/PR, Table IV-9.

[111] The quantity of wild-caught broodstock is projected to decline by 12.5 percent between 2004 and 2006. CR/PR, App. H, MPEDA/SEAI Fishery Ass'n Questionnaire. We observe that the scientific report cited by Subject Exporters states that the availability of shrimp broodstock will be "seriously impacted" by ecological damage to the fisheries in which the broodstock are caught, but does not attempt to quantify this impact. Subject Exporters Prehearing Brief, Ex. 28 at 27. Nor does the report attempt to separate the impact of ecological damage on wild-caught shrimp from the impact on broodstock. At the hearing, a Commissioner requested Subject Exporters to provide such separated data. Tr. at 301-02 (Comm. Aranoff). Subject Exporters did not do so.

While the report does provide a projection of the maximum amount by which total exports from India during an unspecified period would decline, Subject Exporters Prehearing Brief, Ex. 28 at 33, it does not provide any independent basis for this projection. Instead, the projection is derived from a United National Food and Agriculture Organization (FAO) report prepared in March 2005. See Seafood Exporters Ass'n of India Comments on Institution, Ex. 5 (March 25, 2005). The FAO projection is far less contemporaneous than the information furnished in the questionnaires for these reviews.

[112] This is projected to decline by only 6.7 percent between 2004 and 2006. CR/PR, App. H MPEDA/SEAI Shrimp Farm Questionnaire.

Subject Exporters' contention that feed sales data to farmers have declined substantially is based on examination of sales data for very limited periods. Actual feed sales for 2005 were above comparable levels for 2004 in Thailand. See Subject Exporters Posthearing Brief, Ex. 34. While 2005 feed sales for India were below 2004 levels, they were above those for the comparable period of 2003. Id., App. D at 35.

to 2006,[113] Thai farmers project only a 5.6 percent decline in production during that period,[114] and Thai processors project a production increase.[115]

The questionnaire data, taken as a whole, indicates that, notwithstanding the tsunami, the industries in India and Thailand producing subject merchandise are viable and will remain so in the reasonably foreseeable future. Any declines in production of subject merchandise in India or Thailand will likely be modest and consistent with historical fluctuations.[116]

Consequently, likely production trends in the subject countries do not suggest that, should the orders be revoked, exports to the United States will decline appreciably either from current levels or from those that existed prior to issuance of the antidumping duty orders. Given the large volumes of shrimp exported from the United States to India and Thailand prior to the tsunami, any modest declines would still leave these countries with a significant volume of exports and a significant share of the U.S. market. Other information in the record indicates that revocation of the orders would provide additional incentives for producers of subject merchandise to maintain or increase the proportion of their production that they export to the United States. As previously discussed, the industries in both countries are heavily export-oriented, with less than 10 percent of shipments in each country being directed to the home market. Notwithstanding the antidumping duty orders, the United States remains an attractive export market for each subject country. During the second quarter of 2005, a period after issuance of the antidumping duty orders, 64.7 percent of total Thai shipments and 39.7 of total Indian shipments were exported to the United States.[117] Revocation of the orders would likely serve to make the United States an even more attractive export market than it is currently, because imports from India and Thailand would not then be subject to antidumping duties, but imports from the major suppliers of Brazil, China, Ecuador, and Vietnam would.[118] We also observe that inventories in the subject countries are at

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[113] CR/PR, App. H, Thai Shrimp Ass'n Hatchery Ass'n Questionnaire.

[114] CR/PR, App. H, Thai Shrimp Ass'n Shrimp Farm Ass'n Questionnaire.

[115] CR/PR, Table IV-12.

[116] Even before the tsunami or issuance of the antidumping duty orders, annual production fluctuations in excess of 8 percent in the subject countries were not uncommon. See CR/PR, Tables IV-9, IV-12.

[117] CR/PR, Tables IV-9, IV-12. We do observe, however, that the proportion of Indian shipments directed to the United States in either the first or second quarter of 2005 was below that of the three previous calendar years. CR/PR, Table IV-9. These data, together with other information in the record, indicate that the order has caused Indian producers to reduce the proportion of their shipments that they direct to the United States. See CR/PR, Table IV-11 (reports by numerous producers of subject merchandise in India that imposition of duties and/or bonding requirements associated with the duty order have reduced their ability to export to the United States). Should the order be revoked, Indian producers will be likely to increase the percentage of their shipments that they export to the United States to pre-order levels.

[118] Thus, in the United States, imports from India and Thailand would be in an advantageous position over imports from several other major sources. This contrasts with the situation in the European Union (EU), once the EU decided to restore benefits under the General System of Preferences (GSP) to imports from Thailand effective August 1, 2005. CR at IV-29, PR at IV-18. Because the EU's action merely had the effect of putting Thailand on the same footing as its major competitors in that market, we disagree with Subject Exporters' contention that the EU's restoration of GSP benefits would make the EU a relatively more attractive market than the United States to Thai exports if the U.S. antidumping duty order was revoked.

Subject Exporters have also argued that a free trade agreement under negotiation between Thailand and Japan will serve to stimulate Thai exports of shrimp to Japan. Subject Exporters acknowledge that the Japan-Thailand FTA will not be signed until April 2006 and its provisions are not scheduled to be effective before September 2006. Subject Exporters Prehearing Brief at 121. In light of this, we find that any impact that the Japan-

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relatively high levels compared to both total shipments and U.S. exports and increased from the first quarter of 2005 to the second quarter of 2005.[119] The existence of substantial and increasing inventories in the subject countries provides further support to our conclusion that, notwithstanding the tsunami, upon revocation the subject producers would have both the incentive and the ability to maintain exports to the United States at levels either comparable to or only incrementally less than those prevailing prior to issuance of the antidumping duty orders.[120]

For the foregoing reasons we conclude that, should the antidumping duty orders be revoked, subject imports from India and Thailand will be significant in absolute terms and relative to consumption in the United States.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty orders are revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.[121]

In the original investigations, the Commission found that price was at least a moderately important factor in purchasing decisions. It further found that changes in the price of the subject merchandise would affect the price of the domestic like product to a significant degree.[122] No party in these reviews has contested these findings or submitted new evidence concerning them. We consequently reaffirm these findings here.

In the original investigations, cumulated imports from the six subject countries undersold the domestic like product in 318 of 543 quarterly comparisons. The Commission found that, although the incidence of underselling varied for the particular pricing products on which data were collected, there was predominant underselling for the entire spectrum of products. In light of the relative importance of price in purchasing decisions and the gains in market penetration the subject imports made at the expense of the domestic industry, the Commission concluded that the incidence of underselling was significant.[123] Because the Commission conducted its analysis on a cumulated basis, it did not make specific findings

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[118](...continued)
Thailand FTA will have in the reasonably foreseeable future is limited and speculative.

The parties have asserted contrary arguments on relative price levels in the United States, on the one hand, and Japan and the EU, on the other. The evidence on this issue is conflicting and we do not rely on the factor of relative price levels in our analysis.

[119] CR/PR, Tables IV-9, IV-12. The record indicates that the buildup of inventories in India is due at least in part to the antidumping duty order. CR/PR, App. I at India-33. Inventories of subject merchandise held in the United States in June 2005 were roughly comparable to the levels of June 2004. CR/PR, Table IV-15.

[120] This is true notwithstanding Subject Exporters' contention that approximately 25 percent of the merchandise maintained in inventories in India is packaged in a manner that would preclude it from being exported to the United States. Subject Exporters Prehearing Brief at 37.

[121] 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

[122] Original Determination, USITC Pub. 3748 at 28.

[123] Original Determination, USITC Pub. 3748 at 28-29.

pertaining to subject imports from India or Thailand. The record indicated that, for the nine frozen warmwater shrimp pricing products, subject imports from India undersold the domestic like product in 55 of 90 quarterly pricing comparisons, and subject imports from Thailand undersold the domestic like product in 69 of 104 quarterly pricing comparisons.[124]

The Commission observed that the record showed large declines over the period examined in the prices of both the domestically-produced product and the subject imports. It found that respondents had not documented their contention that the price declines reflected recent efficiencies in aquaculture. It rejected as both factually unsupported and legally irrelevant the contention that price declines resulted from competition from farmed shrimp generally, rather than the subject imports. It concluded that, because there was a nexus between the large quantities of subject imports entering the U.S. market at declining prices and price declines for domestically-processed shrimp, the subject imports had significant price-depressing effects. Moreover, the record indicated that the subject imports from India and Thailand were among those entering the U.S. market at declining prices.[125]

For these reviews, the Commission collected pricing data published by the National Marine Fisheries Service (NMFS). These data indicate that, even with the discipline of the antidumping duty orders, there has still been predominantly underselling of the domestic like product by cumulated subject imports from India and Thailand during 2005.[126] Since issuance of the antidumping duty orders in February 2005, prices for three of the five U.S.-processed products for which we obtained NMFS data have risen, one has declined, and one remained unchanged. By contrast, prices for seven of the 11 products imported from the subject countries declined.[127]

The record in these reviews does not indicate that, should the orders be revoked, pricing of subject imports from India and Thailand will likely differ from that prevailing before the orders were in place. Indeed, Subject Exporters never argued that the changed circumstances have modified or would likely modify the pricing behavior of the producers, exporters, or importers of the subject merchandise. Instead, their arguments focused on two propositions. One was that the changed circumstances would likely cause a decline in subject import volumes to levels that would not be significant, and thus could not have significant price effects, even if the orders were revoked. We rejected this argument above. The second argument was that subject imports from India and Thailand would not likely cause significant price effects in the reasonably foreseeable future, because they never caused significant price effects in the past. This proposition essentially calls for the Commission to again justify its original injury determination, which is directly contrary to the purpose of a changed circumstances review.[128]

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[124] Original Determination, USITC Pub. 3748, Table V-2.

[125] Original Determination, USITC Pub. 3748 at 29-30. The Commission found that prices declined for 38 of the 39 imported products for which comparisons could be made over the entire period examined. (The one exception was a Vietnamese product.) Id. at 30, Table V-1. The Commission observed that in 31 instances prices declined by more than 20 percent; this included three of six Indian products and seven of nine Thai products. Id. The Commission observed that in 17 instances prices declined by more than 30 percent; this included one Indian and three Thai products. Id.

[126] CR/PR, Table V-5.

[127] CR/PR, Table V-5.

[128] A changed circumstances review proceeds from the premise that the original determination is valid. See Avesta AB v. United States, 689 F. Supp. 1173, 1180 (Ct. Int'l Trade 1988). The statute therefore does not require a showing that retention of the existing order is necessary. Titanium Metals Corp. v. United States, 155 F. Supp.2d 750, 759 (Ct. Int'l Trade 2001). The underlying thesis of Subject Exporters' argument is that the Commission must justify in these reviews that it would have made the same conclusions in the original determination if it had not

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In any event, we emphasize that our finding on likely price effects in these reviews is based on consideration of the effects of subject imports from India and Thailand alone. We have previously found that if the orders are revoked, the subject imports from these countries will likely enter the United States at significant levels, comparable to those existing prior to the orders. In such circumstances, and given that there is no basis on the current record to conclude that the changed circumstances will likely affect pricing behavior upon revocation, we find that there will likely be a recurrence of the significant underselling and falling prices which characterized the subject imports from India and Thailand in the original investigations absent discipline of the antidumping duty orders.[129] Accordingly, we conclude that if the orders are revoked, there will likely be significant underselling of the domestic like product by the subject imports and that the subject imports will likely have significant price-depressing effects.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping duty orders are revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[130] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.[131] As instructed by the statute, we

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[128](...continued)
cumulated subject imports from India and Thailand with those of the other four subject countries. However, we believe that it follows from the proposition that the Commission need not show that the existing order is necessary that the Commission also need not show it would have made the same original determination if it had cumulated the subject countries in some other manner than it did. In other words, the changed circumstances determination is not a reconsideration proceeding in which the Commission is to ascertain whether its original determination was proper. Compare Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela, Inv. Nos. 303-TA-23, 731-TA-566-570, 641 (Reconsideration), USITC Pub. 3218 (Aug. 1999) (matter instituted as changed circumstances review ultimately changed to reconsideration proceeding).

[129] Indeed, the record indicates that the increase in inventory levels in India has put pressure on prices in that country. CR/PR, App. I at India-33. This would create an incentive to sell product from inventory at low prices upon revocation of the order.

[130] 19 U.S.C. § 1675a(a)(4).

[131] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy" in making its determination in a changed circumstances review. 19 U.S.C. § 1675a(a)(6). In a changed circumstances review, the applicable dumping margins are the most recent dumping margins that Commerce has determined in a five-year or administrative review proceeding, if one has been conducted, or otherwise in its original final determination. 19 U.S.C. § 1677(35)(C)(iii). The most recent dumping margins for the subject countries are those Commerce published in conjunction with its antidumping duty orders. For India, dumping margins for three named exporters ranged from 4.94 percent to 15.36 percent, and the all others rate was 10.17 percent. 70 Fed. Reg. at 5148. For Thailand, dumping margins for 11 named exporters ranged from 5.29 percent to 6.82 percent and the all others rate was 5.95 percent. 70 Fed. Reg. at 5146.

have considered the extent to which any improvement in the state of the domestic industry is related to the orders at issue and whether the industry is vulnerable to material injury if the orders are revoked.[132]

In the original determinations, the Commission found that fishermen experienced declines in employment-related indicators and extreme deterioration in operating performance during the period examined.[133] Processors showed increases in inventories, declines in employment, and generally poor operating performance.[134] The Commission rejected respondents' arguments that the deterioration in the industry's condition could not be linked to the large and increasing volumes of subject imports that caused domestic prices to decline and operating performance to deteriorate. Specifically, it rejected arguments that: (1) the industry's problems were structural in nature because there were too many fishermen to operate profitably; (2) the industry's problems were self-inflicted because it had devoted insufficient resources to marketing its product as a high-quality niche product; and (3) low dumping margins for some of the subject countries indicate that the domestic industry could not compete successfully with a fairly traded product.[135]

Because the orders under review have been in place only since February 2005, the domestic industry has had only limited experience operating while the U.S. market is under the discipline of the orders. The record indicates that there have been improvements in some key industry indicators.[136] Inventories of those processors we have included in the domestic industry, which increased steadily from 2001 to 2004, had by June 2005 declined appreciably below both June 2004 and December 2004 levels.[137] Sales quantities and revenues of processors during interim 2005 were above interim 2004 levels.[138] There have been modest improvements in prices for some U.S.-produced products.[139] Revenues fishermen received from processors were higher on both an aggregate and per unit basis in interim 2005 than in interim 2004.[140]

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[132] The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

[133] Original Determination, USITC Pub. 3748 at 31-32.

[134] Original Determination, USITC Pub. 3748 at 32-33.

[135] Original Determination, USITC Pub. 3748 at 33-35.

[136] Consequently, we cannot agree with Subject Exporters that the orders have had no benefit to the domestic industry. We observe, however, that the statute directs the Commission to consider whether "there are changed circumstances sufficient to warrant such revocation." 19 U.S.C. § 1675(b)(3)(A). The legislative history indicates that under this provision, "the ITC must determine that, in light of the 'changed circumstances,' the revocation of the order will not result in material injury or threat of material injury to the U.S. industry." H. Conf. Rep. 98-1156 at 183 (1984). Consequently, under the statute the Commission must find some nexus between the changed circumstances and conditions warranting revocation. The purported lack of efficacy of the orders were not the "changed circumstances" warranting review and thus cannot, by themselves, serve as grounds for revocation.

[137] CR/PR, Table III-9.

[138] CR/PR, Table III-11.

[139] CR/PR, Table V-5 (26/30, 41/50, and 51/60 headless, shell-on white products).

[140] CR/PR, Tables III-11, D-1.

Nevertheless, numerous factors indicate that the domestic industry is still in a weakened condition. The market share of U.S. producers during interim 2005 was unchanged from interim 2004.[141] Processors' capacity utilization during interim 2005 was lower than that of any calendar year or interim period during the period of review.[142] Employment and productivity for processors were lower during interim 2005 than during interim 2004.[143] Processors' operating margin was lower in interim 2005 than in interim 2004.[144] While the operating margins of fishermen improved in interim 2005 as compared to interim 2004, fishermen have not returned to the profitable operations they experienced at the beginning of the period of review.[145] Moreover, during interim 2005 fishermen experienced large per unit increases in the cost of fuel and oil, their single largest cost component.[146]

We accordingly find that the domestic industry is vulnerable to material injury if the orders under review are revoked. Damages the domestic industry experienced in 2005 due to Hurricanes Katrina and Rita have served to increase the vulnerability of the domestic industry.[147]

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[141] CR/PR, Table IV-5.

[142] CR/PR, Table III-6.

[143] CR/PR, Table III-10.

[144] CR/PR, Table III-11. This may to some extent be a function of processors paying increased prices to fishermen for the shrimp they use in processing.

[145] CR/PR, Table D-1.

[146] CR/PR, Table D-1.

[147] Processors representing 93.7 percent of 2004 domestic production of those processors we have included in the domestic industry reported being affected by at least one of the hurricanes. Nevertheless, the vast majority of the affected processors reported that they have been able to resume operations in full or in part. CR/PR, Table III-4. Additionally, there was testimony by multiple witnesses at the Commission hearing that even in areas damaged by Hurricane Katrina, fishing operations had resumed; moreover, fishing operations based at locales unaffected by the hurricane were never disrupted. Tr. at 54 (Rodriguez), 60-61 (Williams), 67-68 (Gollott).

Subject Exporters criticize the information and testimony concerning ongoing fishing and processing operations offered by parties opposing revocation as "Pollyana scenarios." Subject Exporters Final Comments at 4. They assert that "the continued existence of the industry, as it was previously known, is in serious question due to the hurricanes." Subject Exporters Posthearing Brief, App. B at 12-14. A principal source the Subject Exporters cite for this proposition is a study by the Congressional Research Service (CRS). However, the CRS study emphasizes that the magnitude of damage caused by the hurricanes to shrimp processors and fishermen "is still being determined" and that complete information is not available on the subject. Subject Exporters Posthearing Brief, Ex. 9 at 1-2. Subject Exporters also cite a wide variety of press reports, mainly from daily newspapers, that they have inserted into the record. Many of the press reports focus on damage to a single community, rather than damage to the entire U.S. shrimping industry. E.g., Subject Exporters Posthearing Brief, Ex. 7, items 9, 12, 14, 29. Others contain assessments not based on personal or empirical observations, which we find less probative than information compiled by Commission staff or testimony offered at the hearing. See Subject Exporters Posthearing Brief, Ex. 7, item 27. Several reports indicate that damage to shrimp fishermen was limited to certain geographic regions, Subject Exporters Posthearing Brief, Ex. 7, item 6; or that equipment of many shrimpers in a particular community was not affected by the hurricanes. Subject Exporters Posthearing Brief, Ex. 7, item 8. Moreover, the information in the press reports is less contemporaneous than the information provided in Table III-4 of the Commission Report. Having reviewed the record as a whole, we find that although Hurricanes Katrina and Rita damaged production facilities and infrastructure, the storms have not threatened the industry's viability.

Subject Exporters further contend that the hurricanes have diminished the vulnerability of the domestic industry by placing the survivors in a stronger position to compete with subject imports in the event of revocation. Cf. Subject Exporters Posthearing Brief, ex. 46. This assertion overlooks that even surviving processors and

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In light of our prior findings concerning likely volume and likely price effects, we conclude that upon revocation, the domestic industry's current vulnerable condition will likely deteriorate. The industry will likely encounter a continuation of the declines in operating revenue, poor financial performance, and declining employment it experienced prior to imposition of the orders under review. We consequently find that revoking the antidumping duty orders under review will result in a significant adverse effect on the domestic industry.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty orders on frozen warmwater shrimp and prawns from India and Thailand would be likely to lead to continuation or recurrence of material injury to an industry in the United States in a reasonably foreseeable time.

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[147](...continued)
fishermen face increasing costs due to infrastructural damage and higher fuel prices. Moreover, as we observed in the original determinations, historical experience "does not support the notion that attrition of the fishing fleet improved the operating performance of the surviving fishermen." Original Determination, USITC Pub. 3748 at 33.

SEPARATE VIEWS OF COMMISSIONER DANIEL R. PEARSON

Based on the record of these investigations, I determine, under section 751(b) of the Tariff Act of 1930, as amended ("the Act"), that revocation of the antidumping duty order on certain frozen warmwater shrimp and prawns from India is likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. I determine that revocation of the antidumping duty order on certain frozen warmwater shrimp and prawns from Thailand is likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

At the time of our original determinations, I noted that the record indicated that imposition of antidumping duty orders on Brazil, China, Ecuador, India, Thailand, and Vietnam was not likely either to result in significantly increased production by the domestic industry or to improve the financial condition of the industry. The record gathered in those investigations indicated no relationship between the volume of domestic production and the volume of imports, as well as significant differences in the elasticity of supply for the domestic like product and imported, farmed shrimp. The record also indicated that the sheer volume of farmed, imported shrimp in the U.S. market ensured that the volume would have a significant influence on price, as growing global supply led to lower prices. Given the apparent economic efficiencies of shrimp aquaculture, I found it unlikely that the orders would produce much in the way of benefits, or that the domestic industry would gain much in the way of whatever benefits were produced by the orders.[1]

The record in these reviews covers only a few months of the post-order period. Nonetheless, the record suggests that the market has behaved with notable efficiency. Nonsubject imports have replaced most of the imported shrimp displaced by the institution of the original investigations, the subsequent orders, and the continuous bond requirements. Domestic shipments have changed little, and the domestic industry's market share also appears unchanged. The record does not indicate any meaningful price increases. The record indicates that, regardless of the presence of antidumping duties or continuous bond requirements, prices and supply in the U.S. market will continue to reflect technology-driven increases in supply and consequent decline in prices.

Despite these observations, I find that the tsunami has significantly altered the ability of the industries in India and Thailand to produce the subject merchandise, but the volumes of imports likely upon revocation, and the resulting price effects and adverse impact on the domestic industry, would likely lead to continuation or recurrence of material injury.[2] I join the views of my fellow Commissioners regarding domestic like product, domestic industry, related parties, and conditions of competition, as well as their views regarding the likelihood of no discernible adverse impact upon revocation and the likelihood of a reasonable overlap of competition. I therefore join sections I, III-IV, V.A-C., and VI.A.-B. of the views of the majority. However, I find that subject imports from India and Thailand are likely to compete under differing conditions of competition in the U.S. market. I therefore exercise my discretion and do not cumulate subject imports from India and Thailand.

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[1] Original Determination at 53-55 (Additional Views of Commissioner Daniel R. Pearson).

[2] In making my determinations in these reviews, I have taken into consideration my findings from the original investigation. However, I made my decision in the original determination by evaluating the effects of the cumulated subject imports from six countries. While the conditions of competition remain similar, I have made my findings on cumulation, volume, price, and impact primarily on the basis of the record compiled in the course of these reviews.

I. Cumulation

As noted above, I join with my fellow Commissioners in finding it likely that subject imports from India and subject imports from Thailand would each have a discernible adverse impact absent the orders. I also join with them in finding that a reasonable overlap of competition would exist between subject imports and between subject imports and the domestic like product. However, I find that subject imports from India and those from Thailand would likely compete under different conditions of competition if the orders were revoked.

Import trends. As a starting point, I note that subject imports from India and those from Thailand responded differently to the imposition of the orders. Subject imports from India in interim 2005 were down 28.3 percent from the level reached in interim 2004, and subject imports from India accounted for 6.6 percent of apparent U.S. consumption in interim 2005, down from 7.8 percent in interim 2004. The volume of subject imports from Thailand also declined, but the decline, at 6.4 percent, was modest compared to the decline in subject imports from India; it was also modest compared to the decline in the volume of imports from the other four countries against which orders were imposed in 2005. Subject imports from Thailand actually gained market share: in interim 2005, subject imports from Thailand accounted for 27.3 percent, compared to 24.9 percent in interim 2004.[3]

The disparity in trends is even more notable if imports for the first eight months of the year are compared. The volume of subject imports from India for January-August of 2005 was down 19.6 percent from imports for the same eight-month period of 2004. In contrast, the volume of subject imports from Thailand for that same eight-month period in 2005 was 24.2 percent higher than in the same eight-month period of 2004.[4]

The record suggests that the imposition of the continuous bond requirement by Customs initially posed difficulties for exporters and made buyers and importers reluctant to rely on subject imports.[5] However, the record indicates that neither the orders themselves nor the continuous bond requirement significantly slowed the entry of subject imports from Thailand into the U.S. market. Rather, the record suggests that the government of Thailand provided assistance to exporters to overcome the difficulties posed by the continuous bond.[6] The record also indicates that the imposition of the continuous bond requirement merely strengthened the position of the few large, vertically-integrated producers in Thailand, such as CP and Thai Union.[7]

The industry in India. The shrimp-producing industry in India differs from that in Thailand in some significant ways. The majority of processed shrimp produced in India is farm-grown rather than wild-caught. However, in 2004, nearly 30 percent of total reported shipments by Indian producers were of wild-caught shrimp.[8] Furthermore, a significant portion of India's farm-grown shrimp is black tiger

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[3] CR/PR at Table C-1.

[4] CR/PR at Table C-2.

[5] CR at II-11, II-24-II-26, and Tables IV-11 and IV-14, PR at II-7-II-8, II-16-II-17, and Tables IV-11 and IV-14.

[6] CR/PR at Thailand-14.

[7] Tr. at 224 (Mr. Jamnarnwej), 310 (Dr. Panisuan), 313-314 (Mr. Sujint).

[8] CR at IV-19, PR at IV-13.

shrimp. The farm production of black tiger shrimp relies on wild-caught broodstock.[9] Thus the industry in India is far more dependent on its fishing fleet than is the industry in Thailand.

India's fishing fleet suffered significant damage. While the pre-tsunami fishing fleet was large, the record suggests that most of the harvesting, both of shrimp for production and shrimp broodstock, was done by a few larger, mechanized boats. The record suggests that these larger, mechanized boats have not received the same priority for replacement or repair as have smaller, more traditional craft.

The tsunami destroyed or damaged a significant portion of hatchery production in the affected provinces of India. In the first quarter of 2005, 130 of 150 responding hatcheries had been affected by water contamination or other tsunami-related damage.[10] Increased salinity levels were reported at 53 percent of hatcheries, and bacterial infestation increased at 46 percent.[11] Hatchery production in the first half of 2005 was down significantly, and hatcheries reported losses of broodstock valued at $4.6 million.[12]

Thus the tsunami's effects on the industry in India are multiple. The record does not suggest any significant impairment to the portion of the industry dedicated to processing shrimp; projected capacity in 2005 is actually somewhat higher than in 2004. The industry also apparently suffered no significant loss of inventory.[13] However, damage to the fishing fleet will impair the industry's ability to gain fresh broodstock as well as its ability to augment its farm production with wild-caught shrimp.[14] Damage to hatchery facilities will also limit production.

The industry in Thailand. The industry in Thailand is almost exclusively focused on farm-raised vannemei shrimp; in 2004, fully 97.5 percent of Thai shipments were of farmed product.[15] Furthermore, the industry has relied on broodstock imported from a handful of licensed dealers.[16] Thus the loss of fishing vessels is not likely to impair production of shrimp significantly, as the industry does not rely on the fishing fleet either to provide significant amounts of broodstock or shrimp suitable for processing.

The industry in Thailand did report damage to some hatcheries; some hatcheries were reported as completely destroyed. However, the tsunami apparently left a significant portion of the hatchery capacity in Thailand relatively undisturbed.[17] Other portions of the industry, such as grow-out farms and

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[9] Subject Exporters' prehearing brief at 58. Black tiger broodstock is available elsewhere, but an outbreak of ease in the 1990s led to a prohibition on importation. CR/PR at India-1. Even the shipment of broodstock within India is limited. Subject Exporters' posthearing brief at App. D, pp. 19-20.

[10] CR/PR at All India Shrimp Hatcheries Association Questionnaire at H-14.

[11] CR/PR at All India Shrimp Hatcheries Association Questionnaire at H-7 and H-8.

[12] CR/PR at All India Shrimp Hatcheries Association Questionnaire at H-1 and H-6.

[13] CR/PR at Table IV-9.

[14] Parties in favor of revocation have also supplied information which suggests that the tsunami may have wreaked long-lasting changes to the ocean floor, thus perhaps curtailing the availability of all shrimp, including broodstock, in the near future, as well as increased salinity in estuaries and other potential long-term ecological changes. However, the record does not provide sufficient information to determine the extent of any such long-lasting changes. Post-tsunami data indicate a reduction in both broodstock harvesting and in total catches, but nonetheless suggest that the fishing fleet have found significant volumes of both broodstock and shrimp in the months after the tsunami. CR/PR at All India Shrimp Hatcheries Association Questionnaire at H-2; SEAI questionnaire at F-5.

[15] CR at IV-32, PR at.IV-20-IV-21.

[16] Tr. at 25 (Mr. Nutawan).

[17] CR at IV-38, PR at IV-21.

processors, appear to have escaped from the tsunami with little or no damage, as few have reported claims for damages.[18]

The record suggests that the industry in Thailand has been affected by the tsunami through the loss of some hatchery capacity and some broodstock. However, the record does not suggest that the availability of imported broodstock is in anyway limited. Nor is the record clear that the hatchery portion of the industry in Thailand was operating at a high level of capacity utilization prior to the tsunami. The record also suggests that most of the other segments of the industry suffered little damage or disruption from the tsunami.

The industry in Thailand differs from that in India in another crucial way. The industry in Thailand includes a few large, integrated producers such as CP and Thai Union.[19] The record suggests that these producers have adjusted quickly to the imposition both of duties and of the continuous bond requirement. The record also suggests that these firms are in the best position to recover quickly from any damage caused by the tsunami, even in the absence of significant assistance from the Thai government or NGOs.

Conclusion. The industries in India and Thailand share certain similarities and appear to have damage to a similar portion of the production chain–namely the ability to hatch new shrimp. But closer consideration reveals significant differences in the structure of these industries and the likely effects of tsunami damage on future production. Given these differences, and the significant differences in import volume and trends since the orders were imposed, I have considered the likely effects of revocation of the orders on subject imports from India and Thailand separately.

II. Likelihood of continuation or recurrence of material injury if the antidumping duty order on imports from India is revoked

A. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping duty orders are revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.[20] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[21]

The record suggests that the industry in India has suffered a significant reduction in its ability to catch black tiger broodstock and other shrimp. According to the All India Shrimp Hatcheries Association, black tiger shrimp hatchery production in the first half of 2005 was down nearly 25 percent from the first

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[18] CR at IV-38-IV-39, PR at IV-21-IV-22.

[19] Tr. at 224 (Dr. Panisuan), 310, 313-314 (Mr. Sujint).

[20] 19 U.S.C. § 1675a(a)(2).

[21] 19 U.S.C. § 1675a(a)(2)(A-D). Product shifting is not at issue in this case.

half of 2004; broodstock capture was reportedly down 16 percent.[22] Most of the remaining hatcheries reported some form of tsunami-related damage, and black tiger hatcheries reported the loss of broodstock and nauplii valued at over $7 million.[23] The hatcheries reported that production in the first half of 2005 was down 24.9 percent from 2004 and projected significant declines in production in 2005 and 2006. Hatcheries for giant river prawn reported more modest declines in production in the first half of the year over the same period in 2004, 17.2 percent, as well as more modest declines in broodstock (down 12.6 percent), production in the first half of 2005 (down 27.0 percent) and declines for 2005 and 2006 over 2004 (22.2 percent and 5.6 percent respectively).[24] Feed sales were reportedly down and projections were that total feed sales would decline by *** for 2005 as a whole.[25]

However, the record also suggests that, despite the damage and dislocations caused by the tsunami, the industry continued to produce and export significant volumes of shrimp in the months after the tsunami. The number of hectares under production for growing out black tiger shrimp was down only 10.6 percent in the second quarter of 2005, compared to the same time period in 2004, and by 2006 the number of acres under production is projected to be only 6.2 percent below 2004 levels. Actual production of black tiger shrimp by the farms in the first half of 2005 was down only 5.0 percent from the first half of 2004; the farms expect total 2005 production to be only off 9.4 percent from 2004 and project that 2006 production will be off only 6.7 percent.[26] The farms project the number of hectares under production to increase in both 2005 and 2006 and project that 2006 production will be only 2.0 percent below 2004 production levels.[27]

Processors are also optimistic. Production in the first quarter of 2005 was 80.6 percent of the production in the same quarter of 2004; second-quarter production in 2005 was equivalent to 87.7 percent of production in the second quarter of 2004. For 2005 as a whole, processors expected production to be off 2004 levels by only 1 percent, and they projected that 2006 production would actually exceed 2004 levels.[28]

While exports to the U.S. market slowed in 2005, exports by processors in India to other markets remained at relatively high levels. Exports to non-U.S. markets in the first quarter of 2005 were actually higher than in the first quarter of 2004; for the first half of the year, total exports to non-U.S. markets were equivalent to 95.4 percent of exports in the same half of 2004. In 2006, processors estimate that non-U.S. exports will exceed 2004 levels.[29]

The industry in India also has significant inventory on hand. Inventories were higher in the first quarter of 2005 than in the same quarter of 2004, and inventories in the second quarter of 2005 were also higher than those on hand at the end of the second quarter in of 2004. Indeed, the inventory level at the end of the second quarter of 2005 was a record for the period of review, stretching all the way back to

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[22] CR/PR at All India Shrimp Hatcheries Association questionnaire (black tiger) at H-1 and H-2.

[23] CR/PR at All India Shrimp Hatcheries Association questionnaire (black tiger) at H-14 and H-6.

[24] CR/PR at All India Shrimp Hatcheries Association questionnaire (giant river prawn) at H-1, H-2, and H-14.

[25] Subject Exporters' posthearing brief at App. D, pp. 34-35.

[26] CR/PR at MPEDA/SEAI Farm questionnaire (black tiger) at S-10.

[27] CR/PR at MPEDA/SEAI Farm questionnaire (giant river pawn) at S-10.

[28] The record does not indicate that processors in India suffered any significant damage as a result of the tsunami; capacity in interim 2005 was reported to be slightly higher than in 2004. In any case, processors operated at significantly low rates of capacity utilization throughout the period of review, suggesting that, even if some damage had occurred, production might be continued at similarly high levels. CR/PR at Table IV-9.

[29] CR/PR at Table IV-9.

2001. Inventories on hand at the end of the second quarter of 2005, at 26.6 million pounds, were nearly equivalent to all export shipments for that quarter.[30]

The record suggests that the industry has suffered some significant impairment in its ability to produce shrimp, stemming from the loss of fishing vessels, broodstock, and hatchery capacity. Nonetheless, despite these losses, the industry maintained significant levels of production and export shipments, as well as very significant inventory levels. The industry itself remains optimistic about its ability to continue to produce, process, and export shrimp. Given production, shipments, and inventory since the tsunami, this optimism does not appear misplaced.[31]

The industry in India has been highly export-oriented throughout the period of review. The U.S. has remained an important market to the industry throughout the period of review, typically accounting for approximately one half of its export shipments through 2004. Shipments to the U.S. were down in 2005 but were still quite significant as a share of total shipments, despite the imposition of the antidumping duty order and the continuous bond requirement.[32]

The record suggests that the industry in India will likely produce at somewhat lower levels in the foreseeable future, due to limitations on the industry's ability to catch broodstock and hatch or catch new shrimp. However, the record also indicates that production has been maintained at fairly high levels despite the tsunami's effects, that producers remain optimistic about the near future, that they have maintained similar patterns and levels of exports after the tsunami, and that processors have significant levels of inventory on hand. Importers and purchasers both indicated that the antidumping duty orders and the continuous bond requirements negatively affected import levels from India.[33] Revocation of the antidumping duty order and the continuous bond requirement would likely result in the U.S. market again accounting for an even larger share of shipments of the subject merchandise from producers in India. All of this evidence suggests that, upon revocation, subject imports from India would continue at levels equal to, or perhaps even higher than, those seen in the period since the tsunami.

Subject import volume in interim 2005 was down 28.3 percent from interim 2004, and in interim 2005, subject imports from India accounted for a lower share of apparent U.S. consumption–6.6 percent–than for any other time period during the period of review. Nonetheless, subject imports from India were only modestly smaller than domestic shipments; in interim 2005, domestic shipments accounted for 8.7 percent of apparent U.S. consumption. Even after declining by nearly 30 percent, therefore, subject imports were significant absolutely and especially relative to domestic production and shipments.[34] I therefore find that, upon revocation, subject import volume would likely be significant, both absolutely and relatively.[35]

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[30] CR/PR at Table IV-9.

[31] Counsel for Indian respondents has urged the Commission to discount heavily the projections made by questionnaire respondents. But the questionnaire responses were given nearly nine months after the tsunami and after the effects predicted by respondents were supposed to have been felt. (MPEDA/SEAI's forecast was updated as late as September 20, 2005.) These projections actually accord well with available production and export data.

[32] CR/PR at Table IV-9. The record does not indicate any barriers to importation of subject merchandise from India in other markets.

[33] CR at II-22, II-24-II-26, and Tables II-8, II-9, and II-10, PR at II-14, II-16, II-16-II-17, and Tables II-8, II-9, and II-10.

[34] CR/PR at Table C-1.

[35] Parties disagreed as to whether India's new coastal regulations are likely to expand or contract aquaculture in the areas most affected by the tsunami. The record does not clearly indicate what effects the new regulations will have in the foreseeable future. My finding presumes, however, that some significant contraction has

(continued...)

B. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty orders are revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.[36]

As noted in the conditions of competition, subject imports from India and the domestic like product are at least moderately interchangeable. Processors, importers, and purchasers rarely reported any change in interchangeability as a result of the tsunami or the antidumping duty orders.[37] As I noted in my additional views in the original determination, interchangeability might be somewhat limited, but the volume of imports ensured that those imports would have a significant impact on price.[38] This influence would likely be exerted upon revocation.

The record indicates that the U.S. market is an important one to producers in India, and upon revocation, the volume of subject imports from India is likely to be significant, both absolutely and relatively. Given the degree of interchangeability, any additional volume is likely to have negative effects on price, much as occurred during the period before the orders were imposed; this downward pressure is likely to be enhanced if demand is actually declining.[39] Additionally, subject imports from India undersold the domestic like product both before the imposition of the orders and after, as well as before the tsunami and after.[40] Monthly pricing data also suggest that underselling continued into 2005, despite the presence of the antidumping order and the continuous bond requirement.[41] Prices for the subject imports also trended downward for most of the products tracked, even after the order was

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[35](...continued)
occurred in the industry in India and that contraction is likely to constrict to some extent the volume of subject merchandise available for export to the U.S. market for the foreseeable future.

[36] 19 U.S.C. § 1675a(a)(3). The SAA states that "[consistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

[37] CR/PR at Table II-11.

[38] Original Determination at 54.

[39] As noted in the conditions section of the views of the Commission (VI.B), the data collected in these reviews suggest that apparent U.S. consumption was significantly lower in interim 2005 than in interim 2004. Parties favoring continuation of the order have argued that the data do not reflect purchasers' inventories that may have been drawn down during interim 2005. Furthermore, neither producers nor purchasers reported significant recent declines in the market. Parties favoring revocation have argued that the apparent U.S. consumption figures accurately reflect declining demand, as purchasers tend not to maintain significant inventories. Some tightening of supply, and a consequent decline in apparent U.S. consumption, might have been expected in the wake of the market disruptions caused by the orders and the continuous bond requirement. But the modest price movements seen in interim 2005 do not suggest serious disruptions, and increases in the volume of nonsubject imports suggest that the market reacted very quickly and efficiently to respond to any shortfall in supply in the U.S. market. However, the increase in the global shrimp supply has in recent years exerted downward pressure on U.S. prices despite regular demand growth. The downward price pressure from the additional import volume likely upon revocation would likely occur even without any reductions in demand.

[40] CR/PR at Tables V-4 and V-5.

[41] CR/PR at Table V-5

imposed.[42] Competition for the market share recently taken by nonsubject imports would likely intensify the price pressures inherent in adding supply to the U.S. market.

Given the likelihood of increased subject import volume, the moderate degree of interchangeability, and a fairly consistent pattern of underselling, I find it likely that subject imports from India would likely have price depressing or suppressing effects.[43]

C. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping duty orders are revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[44] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.[45] As instructed by the statute, I have considered the extent to which any improvement in the state of the domestic industry is related to the orders at issue and whether the industry is vulnerable to material injury if the orders are revoked.[46]

I joined my colleagues in finding that the domestic industry suffered material injury during our original investigation of this industry. The imposition of the orders on imports from six countries appears to have had little effect on the domestic industry. Processors' inventories, which had risen for

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[42] CR/PR at Tables V-4 and V-5. I note that the average unit value (AUV) of subject imports from India was higher in interim 2005, by 9.0 percent, than in interim 2004. Furthermore, the AUVs for subject imports from India in interim 2005 was higher than the AUV for either shipments or net sales of the domestic like product. CR/PR at Table C-1. However, the AUVs may mask significant differences in product mix.

[43] Subject Exporters have argued that subject imports from India would likely have no price effects, as they had no price effects during the original investigations. I agree with my fellow Commissioners that this argument essentially calls for a rejustification of the original injury determination, which the changed circumstances review specifically does not require. In any case, while I find the underselling data useful and supportive, my findings regarding likely price effects are based primarily on the effects of the likely volume.

[44] 19 U.S.C. § 1675a(a)(4).

[45] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy" in making its determination in a changed circumstances review. 19 U.S.C. § 1675a(a)(6). In a changed circumstances review, the applicable dumping margins are the most recent dumping margins that Commerce has determined in a five-year or administrative review proceeding, if one has been conducted, or otherwise in its original final determination. 19 U.S.C. § 1677(35)(C)(iii). The most recent dumping margins for the subject countries are those Commerce published in conjunction with its antidumping orders. For India, dumping margins for three named exporters ranged from 4.94 percent to 15.36 percent, and the all others rate was 10.17 percent. 70 Fed. Reg. at 5148.

[46] The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

most of the period of review, were significantly lower in interim 2005 than in interim 2004.[47] Net sales in interim 2005 were over six percent higher than in interim 2004, but the value of those sales increased by less than four percent. The total cost of goods sold was equivalent to 88.2 percent of sales in interim 2005, up from 86.4 percent in interim 2004. Operating income as a percentage of sales in interim 2005 was 1.2 percent, compared to 2.5 percent in interim 2004.[48] There were fewer production and related workers in interim 2005 than in interim 2004, fewer hours were worked, and both total wages paid and hourly wages were lower in interim 2005 than in interim 2004. Productivity was also lower in interim 2005 than in interim 2004.[49]

The record indicates that the losses experienced by the fishermen responding to the questionnaires narrowed somewhat in the post-order period, but the condition of those fishermen remained poor. Eighty-four of 110 firms supplying data suffered net losses before salaries were paid. Net losses before salaries were equivalent to 20.5 percent of sales in interim 2005, compared to 29.4 percent in interim 2004.[50] Both the value of fishermen's assets and capital expenditures were lower in interim 2005 than in interim 2004.[51]

Thus, the domestic industry looks much as it did when the Commission found it to be materially injured by reason of subject imports. Since the closing of the interim period, the industry has been struck by two significant hurricanes. The record indicates that a significant portion of both segments of the industry–processors and fishermen–were affected by one or both of these hurricanes. These dislocations may be brief, as fuel costs are likely to return to pre-hurricane levels in the near future. The industry has suffered from extremely low rates of capacity utilization throughout the period of review. If the hurricanes result in some capacity being permanently shuttered, the result may be an industry with improved capacity utilization and consequently greater competitiveness.

However, the record indicates that the industry, at this time, is vulnerable to the continuation or recurrence of material injury. I have already found that subject import volume is likely to be significant upon revocation, as are price effects. The domestic industry is likely to experience further loss of market share, further price declines, or both upon revocation, and its poor returns are likely to continue in the wake of such losses. I therefore find that revocation of the antidumping duty order on India is likely to result in a significant adverse effect on the domestic industry.

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[47] CR/PR at Table III-9.

[48] CR/PR at Table III-11.

[49] CR/PR at Table III-10.

[50] CR/PR at Table D-1.

[51] CR/PR at Table D-2.

II. Likelihood of continuation or recurrence of material injury if the antidumping duty order on imports from Thailand is revoked

A. Likely Volume of Subject Imports

Throughout the period of review, Thailand was the leading source for certain frozen warmwater shrimp in the U.S. market. This did not change after the tsunami or the imposition of the antidumping duty order and its continuous bond requirement. The volume of subject imports from Thailand in interim 2005 was down somewhat from the same period in 2004, but the decline in volume was significantly more modest than the decline registered by other imports also subject to orders. The market share accounted for by subject imports from Thailand was actually higher in interim 2005 than in interim 2004.[52]

The record suggests that the industry in Thailand has suffered a significant reduction in its ability to produce shrimp for the near future. The six provinces most directly affected by the tsunami account for a significant proportion of Thailand's hatchery capacity, though most of the industry's grow-out farms are located in provinces not affected by the tsunami. Production at hatcheries in the six provinces was down 60 percent in interim 2005 compared to interim 2004; production at hatcheries in the entire country was down 40 percent in that same time period.[53] Production at shrimp farms in the six provinces was down by nearly 26 percent, while production in the country as a whole was down nearly 27 percent.[54]

These reductions, however, have had little impact on the industry's ability to produce and export the subject merchandise. Exports to the U.S. market by responding Thai producers were nearly 5 percent higher for the first six months of 2005 than for the first six months of 2004; exports to non-U.S. markets were nearly 21 percent higher for the same time period. Total production for the first six months of 2005 was more than 50 percent higher than in the same time period in 2004.[55]

As noted, however, the industry in Thailand does not rely solely on wild-caught broodstock; losses to the fishing fleet, or disturbances in traditional shrimping grounds will have little effect on the industry's ability to produce. Rather, the industry has depended on imported broodstock. While the record indicates that the industry suffered a significant loss of broodstock as a result of the tsunami, Thai hatcheries plan to increase broodstock purchases significantly in 2005 and 2006.[56] Producers expect production for 2005 to be 22 percent lower than 2004 levels, but forecast that 2006 production will be only 5.6 percent below 2004 levels.[57]

The record does not clearly indicate just how much hatchery capacity existed in the industry in Thailand prior to the tsunami. There are indications that the industry contained many small hatcheries, drawn into the industry recently by the rapid increase in subject merchandise exports. These small hatcheries may not return to production in the reasonably foreseeable future.[58] However, the industry in Thailand includes at least two large, vertically integrated producers. These producers seem well-

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[52] CR/PR at Table C-1.

[53] CR/PR at Thai Shrimp Association Hatchery Association questionnaire at H-1.

[54] CR/PR at Thai Shrimp Association Shrimp Farm Association questionnaire at S-1.

[55] CR/PR at Table IV-12.

[56] CR/PR at Thai Shrimp Association Hatchery Association questionnaire at H-3. Some of these broodstock producers are located in the United States. *** CR at IV-32 n.37, PR at IV-21 n.37.

[57] CR/PR at Thai Shrimp Association Shrimp Farm Association questionnaire at S-10.

[58] CR/PR at Thailand-9.

positioned to rebound from any short-term losses to hatchery capacity; reported plans for broodstock purchases suggest significant increases by 2006. As noted above, the remaining segments of the industry in Thailand–namely, the grow-out farms and the processors–seem to have suffered little or no direct effects from the tsunami. Farmers reported the same number of hectares under production in 2005 as in 2004.[59] Production of the subject merchandise actually increased significantly in 2005, and processors apparently suffered no significant losses of inventory.[60]

Parties favoring revocation have argued that, upon revocation, import volumes from Thailand would not be significant, as producers in Thailand will benefit from improved access to other markets. The EU has recently returned Thailand to GSP status for shrimp, and reduced tariffs on various agricultural products, including shrimp, are likely concessions from Japan as part of a tsunami-relief package. However, revocation of the orders would not merely place Thailand on a level playing field with other shrimp imports in the U.S. market, as return of GSP status would do in the EU market. Rather, revocation would give subject imports from Thailand a significant advantage in the U.S. market over other sources still under orders. The record suggests that the U.S. market remains an extremely important one to the export-oriented industry in Thailand; the industry's rapid adjustment to the order and to the continuous bond requirement, along with the continued significant shipments to the U.S. market, all indicate that the U.S. market remains a vital one for the industry in Thailand.[61]

I find that the industry in Thailand is likely to suffer some contraction in production of the subject merchandise in the foreseeable future. However, the record indicates that much of the industry remains intact, that producers have continued to produce and export at significant levels, that inventories are significant, and the industry forecasts increases in both production and exports in the near future. The industry's near-term prospects are enhanced by the presence of at least two large, vertically-integrated firms that have proved capable of adapting rapidly to changing circumstances. Subject imports from Thailand have continued to dominate the U.S. market, even after the tsunami, the antidumping order, and the continuous bond requirement. I therefore find that the volume of subject imports, upon revocation, is likely to be significant, both absolutely and relative to domestic shipments and production.

B. Likely Price Effects of Subject Imports

As noted in the conditions of competition, subject imports from Thailand and the domestic like product are at least moderately interchangeable. Processors, importers, and purchasers rarely reported any change in interchangeability as a result of the tsunami or the antidumping duty orders.[62]

The record indicates that the U.S. market is an important one to producers in Thailand, and upon revocation, the volume of subject imports from Thailand is likely to be significant, both absolutely and relatively; even with the order and the continuous bond requirement, imports from Thailand dominated

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[59] CR/PR at Thai Shrimp Association Shrimp Farm Association questionnaire at S-10.

[60] CR/PR at Table IV-12.

[61] The industry's interest in the U.S. market may be seen in another fashion. In the second quarter of 2004, imports of breaded shrimp from Thailand were 1.75 million pounds. In interim 2005, breaded shrimp imports from Thailand were 3.6 million pounds. CR/PR at Table II-3. While the increase in breaded, nonsubject imports from Thailand was not as dramatic in the increase in breaded shrimp from other countries under antidumping duty orders, the volume of those nonsubject imports from Thailand increased steadily and significantly from the time the original investigation was instigated. This suggests that processors in Thailand remained sufficiently interested in the U.S. to shift to downstream products in order to maintain U.S. sales.

[62] CR/PR at Table II-11.

the U.S. market. Given the degree of interchangeability, any additional volume is likely to have negative effects on price, much as occurred during the period before the orders were imposed; this downward pressure is likely to be enhanced if demand is actually declining.[63] Additionally, subject imports from Thailand undersold the domestic like product both before the imposition of the orders and after, as well as before the tsunami and after.[64] Monthly pricing data also suggest that underselling continued into 2005, despite the presence of the antidumping order and the continuous bond requirement.[65] The presence in the U.S. market of newly increased volumes of nonsubject imports would likely intensify the price pressures inherent in adding supply to the U.S. market.

The record suggests that revocation would likely lead to a significant volume of subject imports. The record suggests at least a moderate degree of interchangeability between subject imports and the domestic like product and that price is an important factor in making sales. Subject imports from Thailand have shown a tendency to undersell throughout the period of review. While subject imports from Thailand and the domestic like product may not be perfect substitutes for one another, the record suggests that declining subject import prices have correlated with declining prices for the domestic like product.

Given the likelihood of a significant volume of subject imports, the moderate degree of interchangeability, and a fairly consistent pattern of underselling, I find it likely that subject imports from Thailand would likely have price depressing or suppressing effects.[66]

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[63] As noted in the conditions section of the views of the Commission (VI.B), the data collected in these reviews suggest that apparent U.S. consumption was significantly lower in interim 2005 than in interim 2004. Parties favoring continuation of the order have argued that the data do not reflect purchasers' inventories that may have been drawn down during interim 2005. Furthermore, neither producers nor purchasers reported significant recent declines in the market. Parties favoring revocation have argued that the apparent U.S. consumption figures accurately reflect declining demand, as purchasers tend not to maintain significant inventories. Some tightening of supply, and a consequent decline in apparent U.S. consumption, might have been expected in the wake of the market disruptions caused by the orders and the continuous bond requirement. But the modest price movements seen in interim 2005 do not suggest serious disruptions, and increases in the volume of nonsubject imports suggest that the market reacted very quickly and efficiently to respond to any shortfall in supply in the U.S. market. However, the increase in the global shrimp supply has in recent years exerted downward pressure on U.S. prices despite regular demand growth. The downward price pressure from the additional import volume likely upon revocation would likely occur even without any reductions in demand.

[64] CR/PR at Tables V-4 and V-5.

[65] CR/PR at Table V-5

[66] Subject Exporters have argued that subject imports from Thailand would likely have no price effects, as they had no price effects during the original investigations. I agree with my fellow Commissioners that this argument essentially calls for a rejustification of the original injury determination, which the changed circumstances review specifically does not require. In any case, while I find the underselling data useful and supportive, my findings regarding likely price effects are based primarily on the effects of the likely volume.

C. Likely Impact of Subject Imports[67]

I joined my colleagues in finding that the domestic industry suffered material injury during our original investigation of this industry. The imposition of the orders on imports from six countries appears to have had little effect on the domestic industry. Processors' inventories, which had risen for most of the period of review, were significantly lower in interim 2005 than in interim 2004.[68] Net sales in interim 2005 were over six percent higher than in interim 2004, but the value of those sales increased by less than four percent. The total cost of goods sold was equivalent to 88.2 percent of sales in interim 2005, up from 86.4 percent in interim 2004. Operating income as a percentage of sales in interim 2005 was 1.2 percent, compared to 2.5 percent in interim 2004.[69] There were fewer production and related workers in interim 2005 than in interim 2004, fewer hours were worked, and both total wages paid and hourly wages were lower in interim 2005 than in interim 2004. Productivity was also lower in interim 2005 than in interim 2004.[70]

The record indicates that the losses experienced by the fishermen responding to the questionnaires narrowed somewhat in the post-order period, but the condition of those fishermen remained poor. Eighty-four of 110 firms supplying data suffered net losses before salaries were paid. Net losses before salaries were equivalent to 20.5 percent of sales in interim 2005, compared to 29.4 percent in interim 2004.[71] Both the value of fishermen's assets and capital expenditures were lower in interim 2005 than in interim 2004.[72]

Thus, the domestic industry looks much as it did when the Commission found it to be materially injured by reason of subject imports. Since the closing of the interim period, the industry has been struck by two significant hurricanes. The record indicates that a significant portion of both segments of the industry–processors and fishermen–were affected by one or both of these hurricanes. These dislocations may be brief, as fuel costs are likely to return to pre-hurricane levels in the near future. The industry has suffered from extremely low rates of capacity utilization throughout the period of review. If the hurricanes result in some capacity being permanently shuttered, the result may be an industry with improved capacity utilization and consequently greater competitiveness.

However, the record indicates that the industry, at this time, is vulnerable to the continuation or recurrence of material injury. I have already found that subject import volume is likely to be significant upon revocation, as are price effects. The domestic industry is likely to experience further loss of market share, further price declines, or both upon revocation, and its poor returns are likely to continue in the wake of such losses. I therefore find that revocation of the antidumping duty order on Thailand is likely to result in a significant adverse effect on the domestic industry.

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[67] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy" in making its determination in a changed circumstances review. 19 U.S.C. § 1675a(a)(6). In a changed circumstances review, the applicable dumping margins are the most recent dumping margins that Commerce has determined in a five-year or administrative review proceeding, if one has been conducted, or otherwise in its original final determination. 19 U.S.C. § 1677(35)(C)(iii). The most recent dumping margins for the subject countries are those Commerce published in conjunction with its antidumping orders. For Thailand, dumping margins for 11 named exporters ranged from 5.29 percent to 6.82 percent and the all others rate was 5.95 percent. 70 Fed. Reg. at 5146.

[68] CR/PR at Table III-9.

[69] CR/PR at Table III-11.

[70] CR/PR at Table III-10.

[71] CR/PR at Table D-1.

[72] CR/PR at Table D-2.

CONCLUSION

For the foregoing reasons, I determine that revocation of the antidumping duty order on certain frozen warmwater shrimp and prawns from India is likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. I determine that revocation of the antidumping duty order on certain frozen warmwater shrimp and prawns from Thailand is likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

PART I: INTRODUCTION

BACKGROUND

On January 6, 2005 the Commission determined that an industry in the United States was materially injured by reason of imports of certain frozen warmwater shrimp and prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam[1] [2] that the Department of Commerce (Commerce) had determined were being sold in the United States at less than fair value (LTFV).[3] Accordingly, Commerce ordered that antidumping duties be imposed on such imports.[4]

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[1] Investigation Nos. 731-TA-1063-1068 (Final), Certain Frozen or Canned Warmwater Shrimp and Prawns From Brazil, China, Ecuador, India, Thailand, and Vietnam. 70 FR 3943, January 27, 2005. Investigation Nos. 731-TA-1063-1068 resulted from petitions filed by the Ad Hoc Shrimp Trade Action Committee, Washington, DC, on December 31, 2003, alleging that an industry in the United States was materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of certain frozen or canned warmwater shrimp and prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam.

[2] In making its determinations, the Commission defined two domestic like products. The first like product consisted of fresh warmwater shrimp and prawns and those frozen warmwater shrimp and prawn products defined in Commerce's scope definition. The second like product consisted of canned warmwater shrimp and prawns. With regard to canned warmwater shrimp and prawns, the Commission determined that the domestic industry producing same was not injured by reason of subject imports from China, Thailand, and Vietnam. The Commission also determined that subject canned warmwater shrimp imports from Brazil, Ecuador, and India were negligible. See, *Certain Frozen or Canned Warmwater Shrimp and Prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam (Final Shrimp Report)*, USITC Pub. No. 3748, pp. 11, 45. In these investigations, both petitioners and respondents have stated that the like product should be as it was defined in the final phase of the original investigations. See, petitioners' review prehearing brief, pp. 70-71 and respondents' review prehearing brief, p. 19, n.52.

[3] 69 FR 71000 (China) and 69 FR 71008 (Vietnam) December 8, 2004. 69 FR 76911 (Brazil), 69 FR 76915 (Ecuador), 69 FR 76917 (India), and 69 FR 76919 (Thailand).

[4] The imported product subject to the antidumping order under review, as defined by Commerce, is:

> *". . .certain warmwater shrimp and prawns, whether frozen, 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.*
>
> *The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.*
>
> *The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (Penaeus vannemei), banana prawn (Penaeus merguiensis), fleshy prawn (Penaeus chinensis), giant river prawn (Macrobrachium rosenbergii), giant tiger prawn (Penaeus monodon), redspotted shrimp (Penaeus brasiliensis), southern brown shrimp (Penaeus subtilis), southern pink shrimp (Penaeus notialis), southern rough shrimp (Trachypenaeus curvirostris), southern white shrimp (Penaeus schmitti), blue shrimp (Penaeus stylirostris), western white shrimp (Penaeus occidentalis), and Indian white prawn (Penaeus indicus).*
>
> *Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations, which are not ``prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.*
>
> *Excluded from the scope are: (1) breaded shrimp and prawns (HTS subheading 1605.20.10.20);*

(continued...)

At the time the Commission made its determinations in the aforementioned investigations, it stated that it was concerned about the possible impact of the December 26, 2004, tsunami (tsunami) on the shrimp industries of India and Thailand. The tsunami occurred prior to the closing of the record in the investigations on December 27, 2004. At the time the record closed, however, factual information as to any impact of the tsunami on the ability of producers in India or Thailand to produce and export shrimp was not available.[5] On February 8, 2005, the Commission published a *Federal Register* notice inviting comments from the public on whether changed circumstances exist sufficient to warrant the institution of changed circumstances reviews of the Commission's affirmative determinations concerning certain frozen warmwater shrimp and prawns from India and Thailand.[6] On April 25, 2005, after reviewing the comments it received in response to that request, the Commission determined that it had received information which showed changed circumstances sufficient to warrant instituting review investigations and that there was good cause for instituting such review investigations within two years after publication of the orders.

On May 5, 2005, the Commission gave notice, pursuant to section 751(b) of the Tariff Act of 1930 (the Act), that it had instituted review investigation Nos. 751-TA-28-29 to determine whether revocation of the antidumping duty orders on certain frozen warmwater shrimp and prawns (warmwater shrimp)[7] from India and Thailand would likely lead to the continuation or recurrence of material injury to

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[4] (...continued)

(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 (HTS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTS subheading 1605.20.05.10); (5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTS subheading1605.20.10.40); (7) certain dusted shrimp; and (8) certain battered shrimp. Dusted 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. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this order are currently classifiable under the following HTS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive." 70 FR 5147 (India) and 70 FR 5145 (Thailand), February 1, 2005.

[5] On August 29, 2005, and September 24, 2005, Hurricanes Katrina and Rita, respectively, struck the Gulf coast of the United States causing extensive property damage. Discussion of the damage caused to the warmwater shrimp industry in the Gulf area is presented in Part III, *Condition of the U.S. Industry*, of this report.

[6] 70 FR 6728.

[7] For the balance of this report, certain frozen warmwater shrimp and prawns will be referred to as "warmwater shrimp." Fresh shrimp (i.e., never frozen) which were excluded from the scope of the investigations will be referred to as "fresh shrimp." Further, there is no generally accepted agreement regarding the exact meanings of and the difference between the terms, "shrimp and prawns." Petitioners in the original investigations acknowledged that the terms are used interchangeably to describe the same species. Therefore, for the purposes of this description of subject product, the term, "shrimp," refers to both shrimp and prawns. "Shrimp or prawn, that is the question," found at _ http://www.simplyseafood.com/fishtips/fishtips.html and retrieved on January 22, 2004, and Petitioner

(continued...)

a domestic industry. On September 23, 2005, the Commission issued a revised schedule for the completion of these investigations. Information relating to the background and schedule of the review investigations is provided in the following tabulation.[8]

Effective date	Action
February 1, 2005	Commerce's antidumping duty orders (70 FR 5147 (India) and 70 FR 5145 (Thailand))
February 8, 2005	Commission's request for comments concerning the institution of section 751(b) review investigations (70 FR 6728)
May 5, 2005	Commission's institution and scheduling of review investigations (70 FR 23884)
September 14, 2005	Commission's hearing[1]
September 23, 2005	Commission's revised schedule issued (70 FR 55918)
November 2, 2005	Commission's vote
November 21, 2005	Completion of review investigations
[1] App. B presents the list of witnesses who appeared at the hearing.	

SUMMARY DATA

A summary of data collected in the investigations is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of 30 processors that accounted for 93.9 percent of U.S. production of warmwater shrimp during 2004.[9] U.S. imports are based on Commerce statistics.[10]

STATUTORY CRITERIA

Section 751(b)(2)(A) of the Act states that when the Commission conducts a changed circumstances review pertaining to an antidumping and countervailing duty order or finding, it shall "determine whether revocation of the order or finding is likely to lead to continuation or recurrence of material injury."

Section 752(a) of the Act sets forth standards concerning the Commission's determination of likelihood of continuation or recurrence of material injury in changed circumstances reviews. These are the same standards applicable to five-year reviews. Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury--

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[7] (...continued)
response to supplemental questions from Commerce, January 12, 2004, p. 14.

[8] *Federal Register* notices cited in the tabulation are presented in app. A.

[9] In the final phase of the original investigations (final investigations) U.S. industry data were based on questionnaire responses of 39 processors that accounted for 91.9 percent of U.S. production of warmwater shrimp during 2003.

[10] To the extent official statistics contain any imports of "dusted" or "battered" shrimp (which Commerce excluded from the scope of investigations in its final determinations and subsequent antidumping orders), imports may be slightly overstated.

(1) IN GENERAL.-- . . . the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--

(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,

(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,

(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and (D) in an antidumping proceeding . . ., (Commerce's findings) regarding duty absorption . . ..

(2) VOLUME.--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--

(A) any likely increase in production capacity or existing unused production capacity in the exporting country,

(B) existing inventories of the subject merchandise, or likely increases in inventories,

(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and

(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.

(3) PRICE.--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--

(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and

(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.

(4) IMPACT ON THE INDUSTRY.--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--

(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.

The Commission shall evaluate all such relevant economic factors . . . within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

Section 752(a)(6) of the Act states further that in making its determination, "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement."

ANTIDUMPING DUTIES APPLICABLE TO IMPORTS OF WARMWATER SHRIMP FROM INDIA AND THAILAND

The antidumping duties applicable to imports of warmwater shrimp from India and Thailand are presented in table I-1.

Table I-1
Warmwater shrimp: Antidumping duties applicable to imports from India and Thailand

Country and firm	Antidumping duty (*percent*)	*Federal Register* cite
India:		
Devi Sea Foods, Ltd.	4.94	70 FR 5147 (Feb. 1, 2005)
Hindustan Lever, Ltd. (HLL)	15.36	
Nekkanti Seafoods, Ltd.	9.71	
All others	10.17	
Thailand:		
Andaman Seafood Co., Ltd.	5.91	70 FR 5145 (Feb. 1, 2005)
Chanthaburi Seafoods Co., Ltd.	5.91	
Chanthaburi Frozen Food Co., Ltd	5.91	
Phattana Seafood Co., Ltd.	5.91	
S.C.C. Frozen Seafood Co., Ltd.	5.91	
Thai I-Mei Frozen Foods Co., Ltd.	5.29	
Thailand Fishery Cold Storage Public Co., Ltd.	5.91	
Thai International Seafood Co., Ltd.	5.91	
The Union Frozen Products Co., Ltd.	6.82	
Wales & Company Universe, Ltd.	5.91	
Y2K Frozen Food Co., Ltd.	5.91	
All others	5.95	

THE SUBJECT PRODUCT

The imported warmwater shrimp products covered by the scope of the antidumping orders under review are described in detail in the "Background" section earlier in Part I.

Physical Characteristics and Uses

The imported product subject to these investigations is warmwater shrimp. The subject product can be any species of warmwater shrimp and can be harvested from the ocean (i.e., wild-caught) or produced by aquaculture (i.e., farm-raised). The shrimp can be in any of a wide variety of processed forms including head-on or head-off,[11] tail-on or tail-off, shell-on or peeled, and deveined or not

[11] Shrimp sizes are generally referred to in terms of the number of shrimp, either head-on (whole) or head-off, contained in a pound. Sizes range from as low as 5 to over 200 shrimp per pound.

deveined.[12] They may be raw or further processed by cooking, skewering, or adding marinade, spices, or sauces. Food preparations containing more than 20 percent by weight of shrimp are included in the subject product.[13]

Shrimp are crustaceans that usually inhabit salt waters in coastal regions in the tropics and subtropics. However, there are also coldwater and freshwater species of shrimp. The warmwater shrimp subject to these investigations are either wild-caught or farmed in tropical or subtropical regions,[14] are generally classified in the *Penaeidae* family, and comprise shrimp of several genera and species.[15] In the United States, the catch of warmwater shrimp is composed principally of brown shrimp (*Penaeus aztecus*), white shrimp (*Penaeus setiferus*), and pink shrimp (*Penaeus duorarum*), which are listed in order of commercial importance. Shrimp vary greatly in size depending on age and species. They typically grow to a harvestable size within one year; their size depends largely on the time of the year they are harvested.[16]

Fresh shrimp (i.e., never frozen) in any form are excluded from the products subject to these investigations. Likewise, coldwater shrimp[17] in any form, shrimp in prepared meals, breaded shrimp, dried shrimp, canned shrimp, certain dusted shrimp and certain battered shrimp are also excluded from the subject product.[18] [19]

In 2004, estimated U.S. commercial landings of warmwater shrimp totaled 252.0 million pounds.[20] In 2004, U.S. production of farm-raised shrimp was estimated to be 12.4 million pounds.[21]

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[12] 70 FR 5147 (India) and 70 FR 5145 (Thailand), February 1, 2005. The scope of the orders is the same for all subject countries.

[13] The threshold of 20 percent for food preparations as outlined in the scope of these orders is consistent with the threshold for classification in chapter 16 of the HTS as outlined in note 2 to that chapter.

[14] 70 FR 5147 (India) and 70 FR 5145 (Thailand), February 1, 2005. The scope of the orders is the same for all subject countries.

[15] Subject imports include, but are not limited to, shrimp from the following species: whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*). Scope of the orders, 70 FR 5147 (India) and 70 FR 5145 (Thailand), February 1, 2005.

[16] U.S. shrimp fisheries in both the South Atlantic and the Gulf are seasonal, and seasonal peaks vary by species.

[17] Species of coldwater shrimp, which are generally classified in the *Pandalidae* family, have different physical characteristics than warmwater species. In particular, they are usually much smaller in size than warmwater species. Coldwater shrimp are harvested and processed in cold water regions (e.g., the U.S. Pacific Northwest, New England, Canada, Greenland, Iceland, and Norway). See, *Final Shrimp Report*, p. I-6, n. 12.

[18] 70 FR 5148 (India) and 70 FR 5146 (Thailand), February 1, 2005. The scope of the orders is the same for all subject countries.

[19] In its final LTFV determinations on all subject countries, Commerce also excluded certain dusted shrimp and certain battered shrimp from the scope of the investigations. 69 FR 71000 (China) and 69 FR 71008 (Vietnam) December 8, 2004. 69 FR 76911 (Brazil), 69 FR 76915 (Ecuador), 69 FR 76917 (India), and 69 FR 76919 (Thailand).

[20] Estimated by Commission staff, multiplying 2003 U.S. shrimp landings by the percentage change in Gulf landings from 2003 to 2004. Only Gulf landings for 2004 are currently available. Data source: Official statistics of the National Marine Fisheries Service of the U.S. Department of Commerce.

[21] Anthony Ostrowski, U.S. Marine Shrimp Farming Program, staff interview, Aug. 20, 2005.

Frozen warmwater shrimp are used principally for human consumption[22] and are sold primarily on the basis of size.[23] Because the tail section is the edible portion and spoilage is more rapid with heads on, most shrimp are marketed raw and frozen with heads off. The market tendency is for large shrimp (less than 36 per pound, heads-off, shell-on basis) to be sold raw and frozen to restaurants, hotels, and other food institutions; for small to medium shrimp (36 to 60 per pound) to be breaded, canned, or sold at retail; and for extra small (61 to 70 per pound) and tiny shrimp (more than 70 per pound) to be used by canners, driers, and producers of specialties.

Over the past decade U.S. consumption of shrimp increased steadily at an average compound annual growth rate of 4.0 percent, and in 2003, U.S. annual per capita consumption of shrimp (all preparations) reached a record of 4.0 pounds.[24] It is estimated that 80 percent of shrimp in the U.S. market are bought by restaurants.[25]

Production Process[26]

Harvesting

The U.S. Gulf and South Atlantic warmwater shrimp fleet is composed of thousands of vessels and is spread across about two dozen port communities on the Gulf and South Atlantic coasts. The vessels fall within one of three broad categories: recreational shrimpers, commercial bait shrimpers, and commercial shrimpers. The catch of recreational shrimpers and commercial bait shrimpers is very small in proportion to the catch of commercial shrimpers, who account for the great bulk of all U.S. Gulf and South Atlantic warmwater shrimp landings.

There are two categories of commercial shrimpers. Inshore shrimpers operate small boats typically manned by one person on day-long trips in bays, estuaries, and shallow near-shore waters. Off-shore shrimpers operate larger vessels typically manned by a crew of three in deeper waters out to and beyond the 200-mile U.S. territorial limit. Some offshore vessels can freeze their catch and thus make trips lasting several weeks. Most vessels are individually owned, often by the skipper. While horizontal and vertical integration is limited, some shrimpers also process shrimp and/or own multiple vessels.

Offshore shrimpers use vessels that are typically 56 to 85 feet in length, constructed of steel, and diesel-powered. Such vessels are often equipped with sophisticated electronic gear for navigation, communication, and finding shrimp. Major costs of operating a vessel include crew share (wages) and fuel as well as depreciation, mortgage payments, insurance, and maintenance on the vessel. Vessels catch warmwater shrimp by towing one or more large, funnel-shaped nets. The U.S. fleet, especially that portion in the Gulf, is relatively mobile and migrates with the seasonal warmwater shrimp populations or away from areas of poor fishing. Therefore, vessels may land shrimp at different ports in different states. Some shrimp vessels are equipped to perform simple processing steps (e.g., deheading, washing, grading, icing, or freezing) while at sea.[27] Shrimp may be placed in mesh bags before freezing.[28] Thus, warmwater shrimp can be landed either whole or headed (heads-off) and either fresh or frozen, and

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[22] A relatively small amount of shrimp is used for bait.

[23] Petition, Vol. II, p. 21. See also, *Final Shrimp Report*, p. I-6, n. 18.

[24] *Fisheries of the United States, 2003*, National Marine Fisheries Service, Oct. 2004, p. 86.

[25] See, testimony of Jonathan D. Appelbaum, President, Penguin Frozen Fish, hearing transcript from the final phase of the original investigations (final hearing transcript), p. 93. See also, *Final Shrimp Report*, p. I-6, n. 20.

[26] Except as otherwise noted, information in this section is sourced from the *332 Shrimp Report*.

[27] See, testimony of Sal Versaggi, Versaggi Shrimp, conference transcript from the preliminary phase of the original investigations (preliminary conference transcript), pp. 21-22. See also, *Final Shrimp Report*, p. I-7, n. 22.

[28] Id.

shrimp in different forms may be landed from the same trip.[29] Upon unloading, shrimp are generally sold at dockside to dealers or processors. As payment, the vessel's crew typically receive a percentage of the revenue generated by the catch.[30]

Because of the differing feeding habits, migration patterns, and habitats of the different species, usually U.S. Gulf and South Atlantic shrimp vessels land one species at a time. Likewise, harvesting activities and hence, landings in the U.S. Gulf and South Atlantic exhibit seasonal patterns that are influenced by the natural patterns of development of the different species of warmwater shrimp.

Processing

While some processors own their own boats, most have buying arrangements with several shrimp vessels.[31] After unloading, landings are transferred to processing facilities, which are often located dockside, and undergo initial processing such as separating the shrimp from the ice,[32] weighing, washing, sizing, and grading.[33] At this stage, shrimp may either be frozen in whole form (head-on, shell-on) or may undergo a number of further steps such as deheading, peeling, deveining, and cooking.[34] Resulting from these steps are shrimp in a variety of forms (e.g., head-on, shell-on; headless, shell-on; raw, peeled; and cooked, peeled). Regardless of their specific processed form, shrimp then are typically frozen with the exception that cooked, peeled shrimp may be canned rather than frozen.[35] If canned, the shrimp may be graded for size after cooking.[36] Canners are required to have thermal processing equipment to sterilize the cans to insure that the final product is shelf-stable.[37] Many processing steps (e.g., washing, grading,

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[29] Id.

[30] See, testimony of Scott St. Pierre, Commercial Shrimp Fisherman, and Craig Wallis, Commercial Shrimp Trawler Owner and Operator, preliminary conference transcript, pp. 27 and 32, respectively. Mr. St. Pierre stated, "As a boat owner and captain, I keep 60 percent of what the dock gives me to pay for fuel, maintenance, gear, and repairs. The crew gets 40 percent, and then share what's left after paying for ice and groceries," preliminary conference transcript, pp. 27-28. Mr. Wallis in explaining the crew share stated, "Unlike most lines of work, the crew wages depend on the price of shrimp. It works like this. When the trawler returns from sea, the shrimp are weighed and sorted by size, and the price is determined for the catch. They only get 65 percent of the share to pay all expenses on the boat, and the crews gets 35 percent. The captain only gets 55 percent of that, and he shares the other percentage with his other two crew members," preliminary conference transcript, p. 32. See also, *Final Shrimp Report*, p. I-7, n. 25.

[31] See, testimony of Richard Gollot, Golden Gulf Coast Packing, preliminary conference transcript, p. 39, and *332 Shrimp Report*, p. 17. See also, *Final Shrimp Report*, p. I-7, n. 26.

[32] See, testimony of Scott St. Pierre, Commercial Shrimp Fisherman, preliminary conference transcript, p. 29. See also, *Final Shrimp Report*, p. I-7, n. 27.

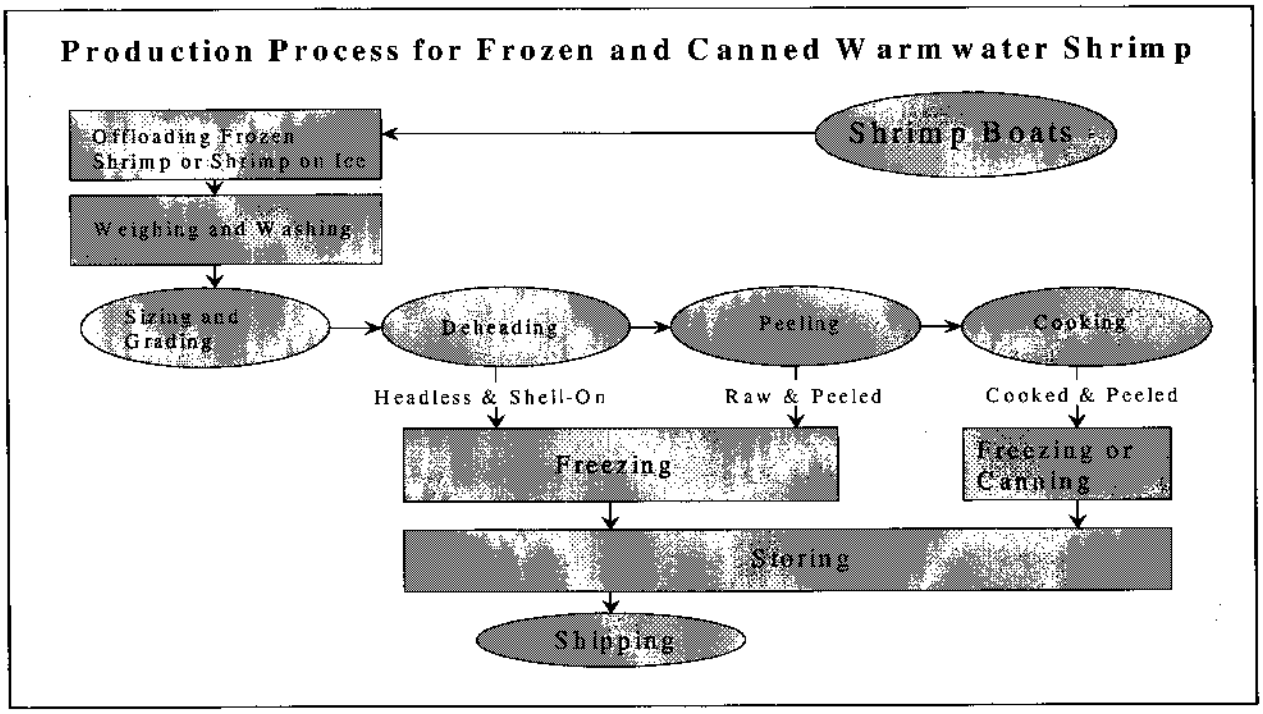
[33] See Petitioners' Preliminary Conference Exhibits, p. 16, which is reproduced on the following page. See also, *Final Shrimp Report*, p. I-7, n. 28.

[34] See, testimony of Richard Gollot, Golden Gulf Coast Packing, preliminary conference transcript, p. 39 and *332 Shrimp Report*, p. 17. See also, *Final Shrimp Report*, p. I-8, n. 29.

[35] See, Petitioners' Preliminary Conference Exhibits, p. 16. See also, *Final Shrimp Report*, p. I-8, n. 30.

[36] See, testimony of David Cook, VP, Specialty Seafood Trade, Bumble Bee, preliminary conference transcript, p. 49. See also, *Final Shrimp Report*, p. I-8, n. 31.

[37] See, testimony of Kevin McClain, Chicken of the Sea, preliminary conference transcript, p. 189 and testimony of John Wendt, Seatech, final hearing transcript, p. 256. See also, *Final Shrimp Report*, p. I-8, n. 32.



peeling, deveining, and cooking) may be performed manually or mechanically using purpose-built machinery.[38]

Peeling can be done by one of two types of machines–the Laitram machine that operates by pushing the shrimp tail out of its shell, or the Jonsson machine that needs to be fed manually but peels the shrimp with cutting equipment. *** stated that it prefers the *** because the ***. It added that Laitram machines are generally used in the United States on smaller warmwater shrimp.[39]

The processing of warmwater shrimp is conducted by a variety of operations. Dealers (a.k.a. shrimp houses or fish houses) and packinghouses perform minimal processing steps (e.g., weighing, washing, sorting, and packing) for other processors or distributors. Other processors, variously known as freezers, peelers, breaders, and canners, produce the variety of processed forms of shrimp noted previously and perform additional steps as such as breading, cutting (for sushi),[40] and preparing specialty items (e.g., dried shrimp, cocktails, cakes and patties, stuffed shrimp, creole, and gumbo).[41]

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[38] See, testimony of Richard Gollot, Golden Gulf Coast Packing, preliminary conference transcript, p. 37, and petitioners' preliminary postconference brief, Exhibit 36. See also, *Final Shrimp Report*, p. I-8, n. 33.

[39] Laitram machines are discussed in more detail in Petitioner's postconference brief, Exhibit II-36. Jonsson machines are discussed in more detail petitioners' final posthearing brief, Exhibit 42. See also, *Final Shrimp Report*, p. I-8, n. 34.

[40] See Petition Vol. II, Exhibit II-1. See also, *Final Shrimp Report*, p. I-9, n. 35.

[41] See, testimony of Richard Gollot, Golden Gulf Coast Packing, preliminary conference transcript, p. 39 and *332 Shrimp Report*, p. 17. See also, *Final Shrimp Report*, p. I-9, n. 36.

Aquaculture

A small but growing percentage of U.S. domestic production of warmwater shrimp is produced by aquaculture (i.e., farm-raised).[42] In 2004, an estimated 4.2 percent of U.S. production of warmwater shrimp were farm-raised.[43]

Farm-raised shrimp are produced in a controlled environment, which involves several stages: hatching eggs; growing shrimp through various larval stages; and growing post-larval shrimp to a mature, marketable size. Most U.S. shrimp farming operations produce saltwater species of warmwater shrimp. Shrimp may be raised using one of three basic regimens: extensive, semi-intensive, and intensive. Extensive farming utilizes large ponds (approximately 150 acres) and very limited control of stocking, feeding, water circulation, and predator control; semi-intensive farming involves smaller ponds and somewhat more control of conditions and inputs; and intensive farming utilizes very small ponds (approximately one-half acre) or covered raceways and very strict control of conditions and inputs.

In addition to ponds, shrimp farms may include hatcheries, labs, quarantine facilities, nursery raceways, and on-site processing plants.[44] Shrimp aquaculture operations produce whole shrimp which are sometimes further processed on-site or sold to off-site processors. On-site processing facilities may be owned and operated by contractors.

According to the U.S. Marine Shrimp Farming Program, opportunities to expand shrimp farming in the United States are limited by three factors: environmental concerns regarding effluent water discharges, high land costs in coastal regions, and a limited growing season.[45] Growing conditions in the United States are generally not as favorable as in other parts of the world; climate limits U.S. shrimp farming operations to one or two crops annually.

Interchangeability and Customer and Producer Perceptions

Processors responding to questionnaires, in general, viewed wild-caught and farmed warmwater shrimp as being the same, whereas importers were more likely to see differences in the two categories. The processors who did note differences between wild-caught and farmed warmwater shrimp often stated that consumers were not willing to pay more for such differences, or were unable to discern such differences except in particular regions of the country. Importers, on the other hand, noted differences in quality (i.e., taste, texture, etc.), seasonal availability (i.e., year-round availability in consistent quantities and sizes), and price (i.e., farmed warmwater shrimp having a lower, more stable price). More detailed information on interchangeability and customer and producer perceptions can be found in Part II of this report, *Conditions of Competition in the U.S. Market.*

Channels of Distribution

Both U.S. processor and importer questionnaire respondents reported selling warmwater shrimp directly to distributors or retail customers as well as selling some of their product through brokers. Additionally, some of the importers reported further processing their imported product into another form of subject warmwater shrimp (e.g., marinated or sauced) or into a nonsubject product (e.g., breaded

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[42] See, Petition Vol. II, Exhibit II-16. See also, *Final Shrimp Report*, p. I-9, n. 37.

[43] Id.

[44] See, testimony of George Chamberlin, Global Aquaculture Alliance (GAA) , preliminary conference transcript, p. 148. See also, *Final Shrimp Report*, p. I-9, n. 39.

[45] McAbee, Brad, Craig Browdy, Raymond Rhoades, and Alvin Stokes, "Super-Intensive Success," *Industry Briefs*, U.S. Marine Shrimp Farming Program, Vol. 9, No. 3 (Oct. 2003), p. 1.

shrimp). More detailed information on channels of distribution can be found in Part II of this report, *Conditions of Competition in the U.S. Market*.

Price

Information with regard to prices of warmwater shrimp is presented in Part V, *Pricing and Related Information*.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET SEGMENTS

Warmwater shrimp are almost always intended for human consumption, but may be farm-raised or wild-caught, and in either case processed to varying levels (e.g., peeled, deveined, shell-off, tail-off, marinated, skewered, or sauced). There are also multiple species of shrimp, both farmed and wild-caught, as well as a range of sizes. Further discussion of these differences is contained in the *Final Shrimp Report*, Part II.

CHANNELS OF DISTRIBUTION

For U.S.-processed warmwater shrimp, fresh shrimp are harvested (generally wild) and brought to dock by fishermen. Some deheading, sorting, and freezing may take place on the fishing boats. Processors buy the fresh shrimp at the dock, and then may inspect, weigh, count, devein, peel, and cook it before freezing it. Some of the production will be put into inventory for later sale. Processors may sell the warmwater shrimp to distributors or to retail customers directly, or have their sales handled by brokers. The market is similar for importers of warmwater shrimp; however, importers may sometimes import the warmwater shrimp and then process it themselves, either into another form of warmwater shrimp (e.g., marinated or sauced) or into a nonsubject product (e.g., breaded shrimp).

During the original investigations, *** said that there has been consolidation in the seafood distribution business, and that now large distributors have more market power over processors. Another processor, ***, described some fishermen trying to sell more of their product as fresh shrimp direct to consumers at the dock as an alternative to the low prices processors must offer.[1]

Based on responses to questionnaires in the final phase of the investigations, both processors and importers serve a large national market. A number of processors, including ***, also handle imported warmwater shrimp.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, U.S. warmwater shrimp processors are likely to respond to changes in demand with moderate changes in the quantity of shipments of U.S.-produced warmwater shrimp to the U.S. market. The main contributing factor to the moderate degree of responsiveness of supply is the availability of significant unused capacity, although there is ultimately a biological limit to how much fresh shrimp can be fished from U.S. waters.[2] However, at the current time, domestic wild catch landings are probably not at their biological limit; domestic wild catch landings of fresh shrimp have fallen since 2003 (see table IV-4). Furthermore, the damage from recent hurricanes Katrina and Rita may have changed this potential response; further information on the hurricanes' effects can be found in part III.

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[1] Commission trip to ***, Aug. 3, 2005.

[2] Respondents allege that U.S. fishermen have fished U.S. waters to near capacity in the past. See, preliminary postconference brief of Akin Gump (counsel for ASDA), pp. 16-17. See also, *Final Shrimp Report*, p. II-2, n. 3.

U.S. supply of fresh shrimp

U.S. fishermen generally harvest white, pink, and brown shrimp from the Gulf of Mexico, with white and pink shrimp from the Carolina and Florida coasts, respectively.[3] U.S. shrimp fishermen primarily work with shrimp as opposed to harvesting or processing other animals. For fishermen, the Gulf is a year-round fishery and changes to other harvests would be expensive. Likewise, their equipment (trawlers, nets, etc.) are appropriate for catching shrimp but not other forms of fish or seafood.[4]

The U.S. supply of wild-caught fresh shrimp varies by season.[5] The main fishing season is May to December, but different parts of the year are better for particular species and sizes.[6] In addition to shrimp being less available for biological reasons in certain parts of the year, several states in the Gulf have regulated seasons. In the offseason (roughly January through April), some fishermen take time for maintenance and upgrades while others continue fishing. Processors are able to maintain some supply of warmwater shrimp during the offseason by freezing part of their in-season inventory for later sale.[7] However, as supply of both fresh shrimp and warmwater shrimp is lower in the offseason, prices have been historically higher in the offseason. Processors and fishermen describe this seasonal supply characteristic of the U.S. warmwater shrimp market as a necessary cycle for fishermen and processors to make money (through higher offseason prices) and gain time for needed repairs and upgrades. They describe the imports that are now subject to antidumping duties as reducing the value of their off-season inventories, forcing some fishermen and processors into production slowdowns, postponement of needed maintenance, reduced insurance and creditworthiness, and layoffs.[8]

U.S. wild-caught shrimp fishing and warmwater shrimp production are covered by multiple U.S. government regulations, including the HACCP (Hazardous Analysis Critical Control Points), state boards

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[3] See, testimony of Sal Versaggi, Owner, Versaggi Shrimp Company, conference transcript, p. 90 and Craig Wallis, Commercial Shrimp Trawler Owner and Operator, preliminary conference transcript, pp. 96-97, and Commission visit to ***. See also, *Final Shrimp Report*, p. II-2, n. 4.

[4] In 2004, the National Marine Fisheries Service (NMFS) released a report characterizing the U.S. shrimp fishery as suffering from overcapacity and too many fishermen. See, final prehearing brief of ASDA, pp. 48-50. However, petitioners, some of whom worked with the NMFS during the drafting of the report, said that the NMFS had no clear estimate of how many shrimp boats actually were fishing even though the NMFS recommended reducing the number of boats. Furthermore, petitioners said that the NMFS did not take into account reductions in the shrimp fishing fleet that had already taken place, nor tried to estimate what effect a reduction in imports would have on the U.S. shrimp fishery. See, testimony of Kevin Dempsey, Dewey Ballantine, counsel for petitioners, Kimberley Chauvin, owner of Mariah Jade Shrimp Company, Sal Versaggi, owner of Versaggi Shrimp Company, and Jonathan D. Applebaum, President, Penguin Frozen Foods, final hearing transcript pp. 154-159. See also, *Final Shrimp Report*, p. II-2, n. 5.

[5] See, testimony of Scott St. Pierre, Commercial Shrimp Trawler Owner and Operator, preliminary conference transcript, pp. 26-27. See also, *Final Shrimp Report*, p. II-2, n. 6.

[6] See, testimony of Russ Mentzer, King & Prince, preliminary conference transcript, pp. 227-228. Larger shrimp in particular may be in shorter supply at some times of the year. See also, *Final Shrimp Report*, p. II-2, n. 7.

[7] Penguin Frozen Foods stated that as a result of processors like itself holding inventory, domestic shrimp is available year round. See, testimony of Jonathan D. Applebaum, President, Penguin Frozen Foods, preliminary conference transcript, p. 89. See also, *Final Shrimp Report*, p. II-2, n. 8.

[8] See, testimony of Craig Wallis, Commercial Shrimp Trawler Owner and Operator, and Richard Gollott, Golden Gulf Coast Packing, preliminary conference transcript, pp. 34 and 39, respectively. See also, *Final Shrimp Report*, p. II-3, n. 9.

of health, and the mandatory use of TEDS (turtle excluder devices).[9] In the final phase of the investigations, processors generally described U.S. regulations as imposing manageable costs (or even having beneficial effects), and added that pressure from low-priced imports was a greater problem.

In addition, U.S. processors stated that imports of warmwater shrimp are inspected so rarely (allegedly less than 2 percent of imports) that the standard is effectively different for U.S. and imported warmwater shrimp.[10] In addition, *** alleged that imported shrimp that fail chemical tests are often returned to the importer, who then can "port-shop" and return to another U.S. port (where it may not be inspected).[11] In their posthearing brief in the original investigations, petitioners submitted (1) a GAO analysis of FDA inspections of seafood that confirmed some of these allegations about low levels of testing and (2) the relevant laws that allow the potential for re-importation of rejected merchandise.[12]

In the questionnaires submitted during the final phase investigations, few processors indicated that they processed other products on their shrimp processing equipment, although breaders were more likely to process other seafood products as well. In these investigations, a majority of responding processors stated that there had been changes in their plants, generally production reductions due to pressure from low-priced imports.

Changes since the final phase of the investigations

Processors were asked if there had been any changes in the product range or marketing of certain frozen warmwater shrimp and prawns since July 1, 2004.[13] Their answers are summarized in table II-1.

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[9] In 1998, the WTO ruled against a U.S. law requiring imports to be harvested using TEDS, stating that the law was applied differently to Asian suppliers than to Latin American ones. In 2001, the WTO Appellate Body ruled that the United States was now in compliance with WTO rules, as it was supplying financial assistance to Asian shrimp supplying nations and permitting other forms of conservation efforts. See, "U.S. Wins WTO Case on Sea Turtle Conservation," Office of the United States Trade Representative, June 15, 2001, "The World Trade Organization and Sea Turtles," National Wildlife Foundation website (*www.nwf.org/trade/turtleswto.html*) and "India etc. vs. US, 'Shrimp Turtle,'" World Trade Organization website (www.wto.org/english/tratop_e/envir_e/edis08_e.htm). See also, *Final Shrimp Report*, p. II-3, n. 10.

[10] For example, see testimony of Sal Versaggi, Owner, Versaggi Shrimp Company, preliminary conference transcript, p. 86. See also, *Final Shrimp Report*, p. II-3, n. 11.

[11] Commission visit to ***. See also, *Final Shrimp Report*, p. II-3, n. 12.

[12] See, petitioners' final posthearing brief, pp. D-34-D-45 and exhibit 52.

[13] Some firms submitted more than one questionnaire in these investigations. *** submitted both processors' and importers' questionnaires. *** have been counted only as importers and *** only as processors for the purposes of this chapter. *** submitted both importers' and purchasers' questionnaires; their responses to both importers' and purchasers' questionnaires have been counted. Similarly, *** has been counted as a purchaser and a processor. Purchasers *** submitted separate purchasers' questionnaires but are related companies; producers *** submitted separate processors' questionnaires but are related companies. For purposes of this chapter, all these questionnaires are treated as individual firms.

In their review posthearing brief, respondents took issue with the staff tabulations of tables in part II and part V. Staff has examined the respondents' compilations, and found that the few differences between the staff's compilations and the respondents' compilations are due to four primary reasons: one, the respondents' use of *** as importers, whereas staff has counted these firms only as processors; two, staff and respondents using slightly different data sets (e.g., respondents used ***, whose questionnaire was not available when staff wrote the prehearing report, and respondents did not include importer *** or purchaser *** for reasons unknown to staff; three, respondent errors in compilation; and four, staff errors in compilation. Staff has recompiled the data and has also added additional questionnaires from purchasers *** and importer ***. Staff would also call attention to changes in the this footnote's classification of *** since the prehearing report.

Table II-1
Warmwater shrimp: Processors' responses to whether there had been any changes in the product range or marketing of warmwater shrimp

Type	No	Yes- as a result of the tsunami	Yes- as a result of AD duties	Yes- as a result of another reason
	Number of firms (number indicating reason as only reason)[1]			
Processors	22	1 (0)	1 (0)	2 (2)

[1] Firms could indicate more than one reason (e.g., antidumping duties and tsunami) in response to this question. The number in parentheses indicates firms that indicated that there was only the specified reason for changes and no other.

Source: Compiled from data submitted in response to Commission questionnaires.

Most processors did not see any changes in the product range or marketing of warmwater shrimp.[14] However, *** reported that more low-priced, "value-added" (e.g., peeled and deveined tail-on or tail off) warmwater shrimp was available now than before. *** indicated that prices on larger sizes of headless shrimp had fallen because imported black tiger shrimp are still available in the U.S. market. *** did not know whether these black tiger shrimp were already in the U.S. market in inventory before the imposition of duties or were avoiding the tariff. As a result, though, *** had shifted its sales to peeled product. *** explained that shrimp boats are reluctant to work when prices are low, and that as a consequence, it needed to offer above market price for raw shrimp and risk selling warmwater shrimp below cost.

Subject Imports

Commercial shipments of Indian and Thai imports together constituted 30.3 percent of U.S. warmwater shrimp consumption in 2004, with Thai imports just over three times as much as Indian imports in that year. In comparison, shipments of U.S. warmwater shrimp were 11.7 percent of 2004 U.S. consumption.[15] Imports from India and Thailand include mostly farmed, although India has larger wild-caught warmwater shrimp production than Thailand or the other AD countries.[16] Shrimp of different species (primarily black tiger and white) can be farmed, and shrimp farms are usually designed principally for export. Importer responses to Commission questionnaires in the final phase of the investigations often stressed the alleged differences between imported farm-raised warmwater shrimp and domestic wild-caught warmwater shrimp. These alleged differences included larger volume production, lower prices, higher quality, and consistency of supply.

In addition to the advantages stressed by importers and foreign producers, farmed production of warmwater shrimp in those countries now subject to antidumping orders often has additional advantages of less strict rules regarding effluent release,[17] less expensive labor, and substantial governmental

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[14] Among these processors, *** noted that it had been incurring significant capital costs to switch some of its production to other seafood products, but described such changes as due to the continued presence of low-priced imported warmwater shrimp in the U.S. market.

[15] See, table IV-5.

[16] See, Part IV, *U.S. Imports and the Foreign Industry*.

[17] See, for example, "Shrimp Success Hurts Asian Environment, Group Says" by James Owen for National Geographic News, at *news.nationalgeographic.com/news/2004/06/0621_040621_shrimpfarm.html* (downloaded

(continued...)

assistance. Petitioners submitted newspaper and magazine articles documenting that governments in countries now subject to antidumping orders have been active in assisting the growth of their warmwater shrimp industries, using subsidies, loans, prohibitively high tariffs on imports of warmwater shrimp from other countries, government efforts in research and development and in developing a seed stock of warmwater shrimp for farms, government aid in response to epidemics that reduced warmwater shrimp populations, and training.[18]

Shrimp production in India and Thailand, as well as in other countries where warmwater shrimp is farmed, is seasonal. However, with large inventories, multiple sources, and high volumes, availability of Indian and Thai warmwater shrimp can be maintained year round. Weather and farming-related diseases can affect availability.

In the final phase of the investigations, imports from the subject countries included black tiger and white shrimp, with most importers importing from more than one country, including both countries now subject to antidumping duties and nonsubject countries. Some importers described foreign producers as switching farm-based production from black tiger to white shrimp. In the final phase of the investigations, slightly over half of responding importers reported recent changes in production range and/or marketing, noting an increased variety of products using warmwater shrimp.

Also in the final phase of the investigations, petitioners described some imports now subject to antidumping orders, including those from India and Thailand, as having sometimes tested for levels of antibiotics (specifically chloramphenicol[19]) that were unacceptable to the EU and Japan, leading to more testing of some products (specifically Thai warmwater shrimp exported to the EU). Petitioners allege that, as a result of increased EU testing, and additionally as a result of Thailand losing its GSP status with the EU, subject imports were diverted into the United States.[20] Respondents collectively denied these

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[17] (...continued)
November 4, 2004). Whether or not shrimp farming is an environmentally sustainable activity has been debated by several environmental groups (saying it may not be) and the Global Aquacultural Alliance (saying that it is). See, "Farming shrimp, harvesting hunger" by Susan Stonich and Isabel De La Torre at *www.foodfirst.org/pubs/backgrdrs/2002/w02v8n1.html*. The GAA has worked to make shrimp farming in Thailand and other countries more environmentally friendly and long-term sustainable. See, *www.gaalliance.org/ceissu5.html* (downloaded on November 5, 2004). See also, *Final Shrimp Report*, p. II-4, n. 17.

[18] Different subject country governments used different methods. See petition, volume II, pp. 43-44, 46, 48, 49, 51, and 53-54, and exhibits II-35, 36, 37, 38, 45, 46, 47, 50, and 51 as well as the website of the Indian government's Marine Products Exports Development Authority (MPEDA), which outlines the subsidies and other assistance available for Indian warmwater shrimp farmers at *www.mpeda.com//aquaculture/Subsidyscheme.htm* (downloaded Aug. 26, 2004). In addition, international lenders (such as the World Bank, Asian Development Bank, and Inter-American Development Bank) have historically assisted shrimp aquaculture development in at least India among subject countries. See, "Choosing the Road to Sustainability" at *www.earthisland.org/map/rdstb.htm* (downloaded July 19, 2004). See also, *Final Shrimp Report*, p. II-4, n. 18.

[19] Chloramphenicol may help or be perceived as helping against diseases to which high density farmed shrimp are vulnerable. The president of the All India Shrimp and Hatcheries Association described antibiotics as "essential" for disease control in high density farming, and added that recent Indian government decisions to restrict antibiotic use in aquaculture (because of sustainability concerns) had reduced Indian capacity. See, testimony of Mangalagiri Sudarsan Swamy, President, All India Shrimp and Hatcheries Association, review hearing transcript, p. 201.

[20] See, testimony of Kevin Dempsey, Dewey Ballantine, Sal Versaggi, Owner, Versaggi Shrimp Company, and Richard Gollott, Golden Gulf Coast Packing, preliminary conference transcript, pp. 89-98. Thailand's loss of GSP status was unconnected to food safety issues. See staff interview with Kenneth Pierce, Wilkie Farr, February 4, 2004. See also, *Final Shrimp Report*, p. II-6, n. 23. The Commission did not purport to resolve this dispute in its opinion.

allegations.[21] They described the increased chloramphenicol incident as a mistaken and no longer used response to white spot disease (a viral disease), and stated that EU and Japanese testing and tariffs have not affected all subject countries, nor prevented subject countries from increasing their exports of warmwater shrimp to the EU and Japan.[22]

Respondents also said in the final phase of the investigations that switching the entire production process for warmwater shrimp (i.e., breeding, ponds, and processing) to farming another animal would be difficult and expensive. However, the ponds themselves can be used for or switched to other fish production, including tilapia, catfish, and milkfish, depending on the salinity of the pond. Countries such as Ecuador and Vietnam have seen some such switching to tilapia and catfish.[23]

India

According to the Seafood Exporters' Association of India (SEAI), 65 percent of India's exports of warmwater shrimp to the United States is farmed shrimp (generally in larger sizes) and 35 percent is wild caught (generally in smaller "salad" shrimp sizes of 150 per pound and above). Moreover, 80 percent of Indian farmed shrimp is black tiger, while the rest are large freshwater shrimp.[24]

The *Final Shrimp Report* reported that Indian processors are likely to respond to changes in demand with large changes in the quantity of shipments of warmwater shrimp to the U.S. market. The main contributing factors to the high degree of responsiveness of supply are the large existing capacity of the Indian warmwater shrimp industry over 2001 through 2004, the low level of capacity utilization in the current industry, and large alternative export markets. While the small home market would constrain the supply responsiveness, it is not likely to outweigh the effects of the growing available capacity and alternative markets. The effects of the tsunami may have changed this potential Indian response; the tsunami's effect on the Indian warmwater shrimp industry is discussed in more detail in part IV.[25] The United Nations Food and Agriculture Organization (FAO) estimated the tsunami could cause as much as a 30 percent reduction in Indian warmwater shrimp exports.[26] However, eight months after the tsunami, U.S. imports of Indian warmwater shrimp were higher in August 2005 than in August 2004, indicating that the tsunami has not yet slowed warmwater shrimp shipments.

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[21] See, testimony of George Chamberlain, Global Aquaculture Alliance, Warren Connelly, Akin Gump, K. Jose Cyriac, MPEDA, Matthew Nicely, Wilkie Farr, Kenneth Pierce, Wilkie Farr, preliminary conference transcript, pp. 220-224. See also, *Final Shrimp Report*, p. II-6, n. 24. The Commission did not purport to resolve this dispute in its opinion.

[22] See, testimony of George Chamberlain, Global Aquaculture Alliance, Warren Connelly, Akin Gump, Jose Cyriac, Marine Products Export Development, Matthew Nicely, Wilkie Farr, Kenneth Pierce, Wilkie Farr, preliminary conference transcript, pp. 220-224. In addition, Thai processors noted that the EU has removed Thailand from its mandatory testing list. See, preliminary postconference brief of Thai respondents, pp. 6-7. See also, *Final Shrimp Report*, p. II-6, n. 25.

[23] See, testimony of George Chamberlain, Global Aquaculture Alliance, and Matthew Nicely, Wilkie Farr, preliminary conference transcript, pp. 224-225, and exhibit 4, preliminary postconference brief of Vietnamese exporters. See also, *Final Shrimp Report*, p. II-6, n. 26.

[24] See, testimony of A.J. Tharakan, President, SEAI, review hearing transcript, p. 193.

[25] Additionally, information on the current state of Indian hatcheries can be found in the trip notes for the August 14-27 staff visit to India and Thailand.

[26] See, testimony of V. Sampath, Director, Department of Ocean Development, Government of India, review hearing transcript, p. 15.

Thailand

According to the Thai Shrimp Association, Thailand has mostly completed a transition from black tiger shrimp production (now five percent of Thai production) to white shrimp (now 95 percent of Thai production) production. The Association described white shrimp as more disease resistant and thus more suitable for intensive farming without antibiotics. It added that white shrimp production could not be replaced easily with black tiger production simply by re-seeding pounds with black tiger broodstock.[27]

The *Final Shrimp Report* reported that Thai processors are likely to respond to changes in demand with large changes in the quantity of shipments of warmwater shrimp to the U.S. market. The main contributing factors to the high degree of responsiveness of supply are the large existing capacity of the Thai warmwater shrimp industry over 2001 through 2004, high levels of inventories, and large alternative export markets. While a small home market would constrain the supply responsiveness, it is not likely to outweigh the effects of the available capacity and alternative markets. The effects of the tsunami may have changed this potential Thai response; the tsunami's effect on the Thai warmwater shrimp industry is discussed in more detail in part IV.[28] The Network of Aquaculture Centres in Asia-Pacific (NACA) estimated that Thailand suffered a loss of 30 percent of its broodstock, a loss that would result in 25 percent lower Thai production of warmwater shrimp in 2005.[29] However, eight months after the tsunami, U.S. imports of Thai warmwater shrimp were higher in August 2005 than in August 2004, indicating that the tsunami has not yet slowed warmwater shrimp shipments.

In addition, since August 1, 2005, the EU has lowered the tariff on Thai warmwater shrimp from 12 percent to 4.2 percent.[30]

Changes since the final phase of the investigations

Since the final phase of the investigations, potential changes in Indian and Thai shipments of warmwater shrimp to the United States include lower shipments due to the tsunami, lower shipments due to a new Customs regulation, and increased shipments due to inventory reduction. Petitioners allege that fresh shrimp prices in India and Thailand have fallen since the tsunami, implying that hatchery damage must therefore not be extensive,[31] while subject country exporters allege that hatchery damage will make itself evident in reduced Indian and Thai shipments later in 2005. In addition, several processors, importers, and purchasers described suppliers as reducing inventory of Indian and Thai warmwater shrimp in the United States in 2005 after having built inventory in late 2004 due to fears of high antidumping duties.[32] Finally, importers particularly discussed recent changes in Customs regulations.

In a number of recent antidumping cases involving aquaculture and agriculture products, Customs-mandated deposit rates have undergone considerable increases between the time of importation (before initiation of an antidumping investigation) and the time of liquidation. In some cases (e.g., garlic

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[27] See, testimony of Sujint Thammasart, Consultant, Thai Shrimp Association, review hearing transcript, p. 215.

[28] Additionally, information on the current state of Thai hatcheries can be found in the trip notes for the August 14-27, 2005 staff visit to India and Thailand.

[29] See, respondents' review prehearing brief, pp. 91-93.

[30] See, respondents' review prehearing brief, p. 119.

[31] See, testimony of Kevin Dempsey, Dewey Ballantine, review hearing transcript p. 41.

[32] More information about these allegations are in part V. Table C-1 does show that end of period inventories fell for India and Thailand between December 2004 and June 2005. (It should be noted that table C-1 inventories come from importer questionnaires, and thus the real inventory reduction could be larger if the same trends are present in the data for importers who did not respond to Commission questionnaires.) In addition, importers' inventories of Brazilian, Chinese, Ecuadorean, and Vietnamese warmwater shrimp also fell during the same period.

and crawfish), importers have been unable to meet their financial obligations for antidumping duties. As a result, in July 2004, Customs increased the amount of continuous bond that importers need to present. Under the new regulations, importers must supply a continuous bond equal in value to the current antidumping rate times the amount of product imported by that importer within the last year.[33] (For this bond requirement, Customs gives an estimated 12-month volume to new importers of warmwater shrimp.) Customs monitors imports of warmwater shrimp "rigorously" to make sure that importers have sufficient bond to cover potential changes in antidumping duties.[34]

In these investigations, importers and some purchasers frequently cited this higher continuous bond requirement as a reason why it had become more difficult to import subject warmwater shrimp into the United States. However, there is some indication that Indian and Thai exporters have adjusted to the changes by finding other importers willing to work with them, by becoming nonresident importers, and/or by receiving loan guarantees from the Thai Ex-Im Bank.[35]

Also in these investigations, importers were asked if there had been any changes in the product range or marketing of certain frozen warmwater shrimp and prawns. Their answers are summarized in table II-2.

Table II-2
Warmwater shrimp: Importers' responses to whether there had been any changes in the product range or marketing of warmwater shrimp

Type	No	Yes- as a result of the tsunami	Yes- as a result of AD duties	Yes- as a result of another reason
	Number of firms (number indicating reason as only reason)[1]			
Importers	22	4 (2)	7 (5)	0

[1] Firms could indicate more than one reason (e.g., antidumping duties and tsunami) in response to this question. The number in parentheses indicates firms that indicated that there was only the specified reason for changes and no other.

Source: Compiled from data submitted in response to Commission questionnaires.

Most importers saw no changes in product range or marketing. Among those who did, *** described reduced hatchery capacity in Thailand as lowering the availability of some sizes. It expected the lowered availability to continue as Thai farmers anticipate continued difficulty in securing adequate supplies of larvae. *** also noted that fewer small salad shrimp are available from Thailand, but added that the continuous bond requirements were dissuading some importers from importing, as the bonds allegedly put onerous capital burdens on importers and create risks from the possibility of unknown

[33] Bonds are usually guaranteed by surety companies, which have been increasing the amount of collateral required on the new continuous bonds because the bonds are much larger than previously. Potentially, it could be as many as seven years until bonds are liquidated, with the guarantor liable for any changes in duty until then. See, staff interview with Bruce Engels of U.S. Customs, September 12, 2005.

[34] See, staff interviews with Bruce Engels and Kathy Ferguson of U.S. Customs, August 17 and September 12, 2005, and Kenneth Pierce for respondents, August 8, 2005, as well as posted Customs rules at http://www.cbp.gov/linkhandler/cgov/import/add_cvd/bonds/bond_clarification.ctt/bond_clarificaiton.doc (sic) and http://www.cbp.gov/xp/cgov/import/add_cvd/bonds/07082004.xml.

[35] See, testimony of A.J. Tharakan, President, SEAI, Bruce Beagle, Vice President, Amende and Schultz, and Parisuan Jamnarnwej, Managing Director, Pakfood Public Company, review hearing transcript, pp. 194, 208, and 222, and also staff visit to Thailand, August 14-27, pp. Thailand-11, Thailand-14, and Thailand-17.

retroactive liabilities.[36] *** reported that more foreign producers are exporting breaded shrimp to avoid the duties on warmwater shrimp. *** also reported an increased quantity of breaded shrimp, in its case, from China. *** have increased their procurement of white shrimp from nonsubject countries such as Honduras, Indonesia, and Venezuela.[37]

Countries Other Than India or Thailand

Imports from countries not subject to antidumping duty orders were 154 million pounds in the first half of 2005, up from 143 million pounds in the first half of 2004, but down from 260 million pounds in the second half of 2004. Imports from Brazil, China, Ecuador, and Vietnam ("other AD countries") were 99 million pounds in the first half of 2005, down from 160 million pounds in the first half of 2004 and 143 million pounds in the second half of 2004. In these investigations, there was some concern in both processor questionnaire responses and among Thai exporters that there has been some evasion of the duties, especially by Chinese exporters, from transshipment through other countries.[38]

Other AD country imports are discussed in detail in the *Final Shrimp Report*. Most other AD country imports are farmed, and there is some seasonality in supply, although with sufficient volume, that seasonality can be masked by large inventories.

Imports of warmwater shrimp from countries not subject to antidumping orders are available both as farmed and wild-caught. Mexico provides wild-caught warmwater shrimp with the same seasonal supply surge as U.S. production.[39] Other major sources that are not subject to antidumping orders, generally for farmed shrimp, include Indonesia, Malaysia, Bangladesh, and Venezuela.[40]

There is some evidence that China, Ecuador, Thailand, and Vietnam have reacted to the imposition of antidumping duties by increasing shipments of breaded shrimp, a nonsubject product. Table II-3 summarizes Customs data for breaded shrimp imports to the United States.

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[36] That is, after an importer has paid for a continuous bond, antidumping duties could be assessed at higher levels than expected and more of the bond taken by U.S. Customs than the importing firm expected.

[37] In addition to importer commentary, processor ***, which also distributes some imported warmwater shrimp, alleged that Thai warmwater shrimp is still (even after the imposition of antidumping duties) the largest portion of the U.S. warmwater shrimp market. It continued that a sales representative for Thai warmwater shrimp had told it that more Thai product would be available later in the year. Commission visit to ***, Aug. 3, 2005.

[38] See, for example, trip notes for staff visit to India and Thailand, August 14-27, 2005, p. Thailand-7. While imports from countries not currently subject to antidumping orders rose over 2004, including from Indonesia, petitioners submitted newspaper articles in the final phase of the investigations quoting Indonesian officials as concerned that Indonesia (possibly through licensed Indonesian exporters in Singapore) was being used as a transshipment zone for shrimp from subject countries. Concerned about transshipment, Indonesia imposed a three-month ban on shrimp imports from China, India, Thailand, and Vietnam after shrimp exports from Indonesia surged in the first eight months of 2004. See, petitioners' final posthearing brief, exhibit 22. See also, *Final Shrimp Report*, p. II-8, n. 29.

[39] *** cited Mexican warmwater shrimp as a long-term supply source for the U.S. market, with much of the product coming through importer Ocean Garden. *** described this Mexican warmwater shrimp as a high quality product that generally sells at a higher price than U.S. shrimp. Commission trip to ***. See also, *Final Shrimp Report*, p. II-8, n. 28.

[40] Golden Gulf Coast described Venezuelan product as having increased prices in 2005. See, testimony of Richard Gollott, Secretary, Golden Gulf Coast, review hearing transcript, p. 133.

Table II-3
Warmwater shrimp: Imports of breaded shrimp by country and quarter, January 2004-June 2005

Country	2004 Jan-Mar	2004 Apr-Jun	2004 Jul-Sep	2004 Oct-Dec	2005 Jan-Mar	2005 Apr-Jun
	Thousands of pounds					
India	0	0	0	0	64	39
Thailand	1,565	1,746	2,576	2,563	3,250	3,595
China	3,626	3,054	4,028	8,986	15,852	13,435
Ecuador	785	872	905	920	1,285	1,142
Vietnam	101	18	166	263	407	311

Note.–These data were converted from kilograms to pounds. They are not comparable to the quantity data for warmwater shrimp provided elsewhere in the report.

Source: Compiled from Commerce statistics (HTS 1605.20.1020).

U.S. Demand

Demand Characteristics

Demand for shrimp comes from retail sellers of both prepared and unprepared warmwater shrimp (grocery stores) and restaurants, with restaurants making up an estimated 80 percent of total consumption.[41] Demand for warmwater shrimp is also derived from demand for downstream products into which it is processed. In recent years, larger restaurant chains and seafood processors (i.e., breaders, skewers, and marinaters) have demanded warmwater shrimp in larger quantities, with year-round availability, standardized sizes, and lower prices. These new market segments have generally been met with imports, particularly farm-raised subject imports.[42]

*** said that U.S. warmwater shrimp demand generally increases from October through Christmas due to more frequent holidays and parties. It said that January is a slow period with a spike for the Super Bowl, followed by another lull and then an increase in demand during Lent. Late spring and early summer is another lull with spurts of activity for holidays such as the Fourth of July and Memorial Day, and then September is probably the worst month for demand. Severe weather, such as hurricanes, in the Gulf can also slow demand.[43]

In the final phase of the investigations, purchasers were asked to describe changes in prices and demand for the products that they made using warmwater shrimp. Overall, purchasers were more likely to report increased demand for their products made from warmwater shrimp, but few purchasers reported price increases for these products or for the warmwater shrimp that they sold to consumers.

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[41] See, testimony of Jonathan D. Applebaum, President, Penguin Frozen Foods, preliminary conference transcript, pp. 50 and 121. See also, *Final Shrimp Report*, p. II-8, n. 30.

[42] In addition to importer questionnaires in the final phase of the investigations, see also, testimony of Bill Herzig, Darden Restaurants, preliminary conference transcript, pp. 157-159. Prepared warmwater shrimp has maintained its price levels at the consumer level even as warmwater shrimp prices have fallen, perhaps suggesting that demand has been growing at close to the same rate as total supply. See also, *Final Shrimp Report*, p. II-8, n. 31.

[43] Commission visit to ***. See also, *Final Shrimp Report*, p. II-8, n. 32.

Demand Trends

Overall U.S. consumption of warmwater shrimp rose over 2001 to 2003, and most purchasers in the final phase of the investigations reported increasing their purchases. In the final phase of the investigations, importers attributed this rise in consumption to a rise in demand due to consumer health consciousness and preference for seafood, as well as the availability of a standardized, low-priced, imported product. Processors explained the rise in consumption as due to the growing presence of lower priced imports. However, U.S. consumption stabilized in 2004 and may be lower in the first six months of 2005 compared to the first six months of 2005.[44]

Changes since the final phase of the investigations

Processors and importers were asked if there had been any changes in demand for certain frozen warmwater shrimp and prawns since July 1, 2004. Seventeen processors and 22 importers stated that there had not been. Processor *** stated that there is still an abundance of low-priced imported shrimp in the U.S. market, and that while it used to do *** of business a year, it now does only ***. *** agreed, noting that overall increased U.S. consumption has been driven by high-volume, low-priced imported warmwater shrimp, and that retailers have stopped providing consumers with the option of buying higher-priced domestic warmwater shrimp.

However, six processors and five importers reported that there had been increased demand. Processors who saw increased demand generally meant that their firms were receiving more offers due to increased prices for warmwater shrimp in the United States. However, one such processor, ***, described such price increases as "small" and leveling off recently. *** estimated that U.S. consumption is growing at seven percent annually. Importers who saw demand increasing also cited continued growth in U.S. warmwater shrimp consumption, low prices for warmwater shrimp, perceived health benefits of eating shrimp, and a larger population of Asians and Hispanics in the United States.

On the other hand, two processors and four importers also answered that there had been decreases in demand. ***, the two processors who cited lower demand, described decreased demand for U.S. warmwater shrimp due to the high volumes of imported warmwater shrimp available in inventory. Importer *** reported that many large end users had decreased their promotions involving shrimp due to uncertain supply. *** also stated that higher prices were pulling down U.S. demand. *** alleged that many customers no longer purchase Indian and Thai warmwater shrimp due to hygiene and water quality concerns in the wake of the tsunami.

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[44] However, with increased imports of breaded shrimp and the possible larger inventory reductions discussed in footnote 32 of part II, the decline in consumption (based on U.S. catch and imports) may not be as large as it initially appears. U.S. processors at the review hearing generally stated that they had not observed any reduction in demand or consumption in the United States. They said that any apparent decline in Commission consumption data might be attributable to drawing down inventory from 2004; purchasers holding larger inventories not accounted for in Commission data; and/or the late start of the shrimp season in 2005. In addition, petitioners pointed out that restaurants are not seeing reduced traffic, so therefore it is not likely that shrimp demand has fallen. See, testimony of Jonathan Applebaum, President, Penguin Frozen Foods, Richard Gollott, Secretary, Golden Gulf Coast, Lane Authement, Manager, Hi Seas of Dulac, and William Noellert, Dewey Ballantine, review hearing transcript, pp. 92-98 and 157. At the same hearing, importer Eastern Fish agreed that it had not seen a reduction in demand, but added that most of its purchasers want just-in-time inventory, and thus would not hold large inventories. See. testimony of Eric Bloom, President, Eastern Fish Company, review hearing transcript, pp. 244-245.

Substitute Products

In general, there are few, if any, close substitutes for warmwater shrimp. While other proteins may be consumed, they offer different tastes, textures, and presentations.

Cost Share

Warmwater shrimp is usually a high part of the cost of the final product, as it is usually the main feature of a restaurant plate or prepared meal.

SUBSTITUTABILITY ISSUES

Factors Affecting Purchasing Decisions

In the final phase of the investigations, most questionnaire respondents reported that sales of warmwater shrimp are made out of inventory with short lead times of 10 days or less.

U.S. Purchasers

The Commission mailed questionnaires to the 98 purchasers who received questionnaires in the final phase of the investigations. Thirty-six purchasers (including 25 purchasers that provided information in the final phase of the investigations) responded that they did purchase warmwater shrimp. Table II-4 summarizes the responding purchasers by type.

Table II-4
Warmwater shrimp: Purchasers that responded to Commission questionnaires

Type	Number	Names
Breader, marinater, and/or skewerer	4	***
Restaurant or restaurant chain	3	***
Grocery or grocery chain	9	***
Distributor	13	***
Grocery and distributor	4	***
Other[1]	3	***

[1] Includes importers, restaurant/groceries, and brokers.

Source: Compiled from data submitted in response to Commission questionnaires.

In these investigations, purchasers were asked to indicate the value of their purchases of warmwater shrimp for 2004 and for the first six months of 2005. Table II-5 summarizes this information.

Table II-5
Warmwater shrimp: Purchasers' purchases, 2004, January-March 2004-05, and April-June 2004-05

Type	2004	Jan.-Mar.		Apr.-June	
		2004	2005	2004	2005
	Thousands of dollars				
Product produced in the United States	193,702	41,343	63,164	55,978	64,079
Product produced in India	38,140	25,816	28,081	15,680	26,314
Product produced in Thailand	346,400	96,060	102,892	95,522	100,159
Product produced in other AD countries	190,492	79,680	68,178	56,419	47,789
Product produced in all other countries	187,362	49,866	70,470	67,919	72,216

Note.– A number of firms did not provide data for 2004 full year (while providing data for the other columns). Thus, data for full year 2004 may not be comparable to data in the other columns.

Source: Compiled from data submitted in response to Commission questionnaires.

In addition, purchasers' purchases in April-June 2004 can be compared to their purchases in April-June 2005. Results are summarized in table II-6.

Table II-6
Warmwater shrimp: Purchasers' increases or decreases in the volume of purchases of warmwater shrimp, April-June 2005 compared to April-June 2004

Type	Apr-Jun 2005 compared to Apr-Jun 2004	
	Increased purchases	Decreased purchases
	Number of purchasers	
Product produced in the United States	14	14
Product produced in India	13	8
Product produced in Thailand	11	16
Product produced in other AD countries	15	11
Product produced in all other countries	14	13

Source: Compiled from data submitted in response to Commission questionnaires.

Finally, purchasers' purchase data can be examined in terms of whether they purchased from particular sources during January 2004 through June 2005. Table II-7 presents a list of all purchasers and an indication of which country sources they purchased from.

Table II-7
Warmwater shrimp: Purchasers' purchases from particular country sources, January 2004-June 2005

* * * * * * *

In addition to their actual purchase data, purchasers were asked if they had made significant increases or decreases in the frequency or volume of their purchases of warmwater shrimp, and if so, why. Their answers are summarized in table II-8.

Table II-8
Warmwater shrimp: Purchasers' responses when asked if they had changed the frequency or volume of purchases of warmwater shrimp

Type	No	Yes- as a result of the tsunami	Yes- as a result of AD duties	Yes- as a result of another reason
	Number of firms (number indicating reason as only reason)[1]			
Purchasers	20	3 (1)	6 (4)	8 (8)

[1] Firms could indicate more than one reason (e.g., antidumping duties and tsunami) in response to this question. The number in parentheses indicates firms that indicated that there was only the specified reason for changes and no other.

Source: Compiled from data submitted in response to Commission questionnaires.

Among those purchasers that did report such changes as a result of the tsunami, *** said they had seen reduced availability of subject warmwater shrimp. Among those purchasers that indicated that significant increases/decreases stemmed from the imposition of the antidumping duties, *** expressed concern about the continuous bond requirement, and said that it had affected their 2004 purchases. *** reported that it had been offered more product from nonsubject countries not subject to duties, such as Bangladesh, Indonesia, and Malaysia. Finally, the purchasers that stated that significant increases/decreases were due to other reasons, such as ***, reported that their own growth necessitated more purchases. On the other hand, *** stated that it had decreased its purchases of U.S. warmwater shrimp because fewer boats are fishing in the Gulf of Mexico, reducing U.S. supply. *** noted that its management had banned the sale of block frozen shrimp in its restaurants and switched to a nonsubject "dusted" (i.e., breaded) product. *** indicated that seasonal demand factors were the reason its warmwater shrimp purchases had varied. ***, which said that it had not changed its purchasing pattern, described its usage needs as relatively consistent.

Changes in Availability and Sourcing Patterns Since the Final Phase of the Investigations

Importers and purchasers were asked if they had changed suppliers since July 1, 2004, and if so, why. Their answers are summarized in table II-9.

Table II-9
Warmwater shrimp: Importers' and purchasers' responses when asked if they had changed suppliers since July 1, 2004

Type	No	Yes- as a result of the tsunami	Yes- as a result of AD duties	Yes- as a result of another reason
	Number of firms (number indicating reason as only reason)[1]			
Importers	14	5 (2)	11 (8)	3 (1)
Purchasers	30	2 (1)	4 (3)	1 (1)

[1] Firms could indicate more than one reason (e.g., antidumping duties and tsunami) in response to this question. The number in parentheses indicates firms that indicated that there was only the specified reason for changes and no other.

Source: Compiled from data submitted in response to Commission questionnaires.

Importers who reported changing suppliers because of the tsunami cited fewer available suppliers and hygiene/quality concerns. *** indicated dropping many small factories because of concerns about water quality and factory conditions. *** stated that it shifted its purchases from India (where it said that there was inadequate supply) to other countries, and that it has not been able to procure all the sizes it wanted to from Thailand. *** noted that it has shifted purchases among different Thai suppliers as suppliers in southern Thailand were hit hardest by the tsunami.

Importers who reported changing suppliers because of the antidumping duties again cited the continuous bond requirement as well as the ability to shift to nonsubject countries not subject to AD duties. *** said that they were no longer the importers of record for warmwater shrimp from subject and other AD countries. *** were among the importers who reported not purchasing from certain Indian and/or Thai suppliers because of antidumping duty/continuous bond concerns and issues. *** described shifting its supply base from subject and other AD countries to nonsubject countries such as Bangladesh and Indonesia.

Among purchasers, ***, which did not report any change in suppliers, indicated that, as before the duties were imposed, it calls 10-15 companies to see which firm has available inventory. *** noted that they had shifted their purchases away from product subject to AD duties toward product shipped from other countries.[45] *** stated that many importers had gone out of business due to the new expense of posting the continuous bond and being responsible for potential retroactive duty increases. *** indicated that it changed its purchases for less than six percent of its volume since July 1, 2004 due to exploring new vendors.

Sixteen purchasers said that their firms had not received offers to purchase warmwater shrimp from India and/or Thailand for delivery after June 30, 2005. However, 20 purchasers answered that their firms had received such offers, with five of those specifying that these offers had come from Thailand. *** attached several e-mails from a supplier of Indian warmwater shrimp, offering thousands of cases of Indian warmwater shrimp in sizes ranging from 13 to 50 count. Other purchasers remarked that it was routine to receive offers from subject suppliers in the normal course of business, and some supplied specific amounts, generally in the thousands of pounds and thousands of dollars. One purchaser, ***, said that it no longer ordered warmwater shrimp but had instead switched to ordering dusted IQF shrimp, a product not subject to duties, for its ***. *** reported that it has received "many offers from many suppliers in Thailand and India."

[45] *** said it "shifted away from product subject to duty" while *** said that "products were shipped to different countries avoiding antidumping duties."

Processors, importers, and purchasers were asked if their firms had experienced or observed[46] any significant changes in their ability to purchase or import warmwater shrimp from India and/or Thailand, and if so, why. Their answers are summarized in table II-10.

Table II-10
Warmwater shrimp: Changes in the availability or presence of Indian and Thai warmwater shrimp

Type	No	Yes- as a result of the tsunami	Yes- as a result of AD duties	Yes- as a result of another reason
	Number of firms (number indicating reason as only reason)[1]			
Processors	19	0	2 (2)	5 (5)
Importers	11	13 (4)	14 (5)	1 (1)
Purchasers	25	4 (1)	6 (2)	5 (3)

[1] Firms could indicate more than one reason (e.g., antidumping duties and tsunami) in response to this question. The number in parentheses indicates firms that indicated that there was only the specified reason for changes and no other.

Source: Compiled from data submitted in response to Commission questionnaires.

The purchasers that attributed changes in their ability to purchase warmwater shrimp from India and/or Thailand to the tsunami usually mentioned the antidumping duties as another factor. *** specified that it had become more difficult to secure small peeled and peeled tail-on shrimp. The purchasers that indicated that the imposition of antidumping duties had changed their ability to purchase warmwater shrimp from Indian and/or Thailand usually mentioned the continuous bond requirement as affecting their ability to secure Indian and Thai warmwater shrimp. *** stated that it had some hesitation in importing from subject countries due to the possible reassessment of duty amounts. *** reported that some foreign producers were unable to obtain continuous bonds. *** said that it had stopped importing Thai warmwater shrimp and now only purchased delivered, duty-paid to avoid dealing with continuous bond issues. *** expressed similar concerns. *** said that it had noted a slowdown in shipments and has had to look to nonsubject countries in South America for certain sizes.

Other purchasers reported that changes in their ability to purchase warmwater shrimp from India and/or Thailand were due to other reasons. *** explained that there had been increased Food and Drug Administration (FDA) detentions for Thai warmwater shrimp. Similarly, *** reported increased sampling of product before clearing Customs as forcing the firm to maintain larger inventories. *** said that it is currently being offered Thai warmwater shrimp on a weekly basis and at falling prices. It stated that apparent record harvests were leading to more warmwater shrimp than it had ever been offered from Thailand, and that it could see no effect from the tsunami.

Among importers, those that did report changes in their ability to import warmwater shrimp from India and/or Thailand, and attributed those changes to the tsunami, said that shipments were down due to the destruction of larvae and hatcheries. The alleged effects of this destruction included delayed shipments and importers looking for other sources in countries not subject to AD duties. *** specified that the tsunami's effect had been greater on wild-caught than on farmed warmwater shrimp. *** said that farmers in subject countries were harvesting less frequently in order to guarantee an adequate supply. *** expected significantly less supply from subject countries in the second half of 2005 due to the

[46] Purchasers and importers were asked if their firms had *experienced* any significant changes in the *availability* of Indian and Thai warmwater shrimp, while processors were asked if they had *observed* any significant changes in the *presence* of Indian and Thai warmwater shrimp.

tsunami's damage to shrimp hatcheries. *** added that the availability of smaller sized product from the west coast of India has fallen. Although *** answered that it had not experienced any changes in its ability to import subject warmwater shrimp, it also noted that it no longer does so.

The importers that indicated that they had experienced changes in their ability to import warmwater shrimp from India and/or Thailand, and attributed those changes to the imposition of antidumping duties, described the continuous bond requirement as forcing some importers out of the U.S. market and restricting the activity of others. *** reported looking for warmwater shrimp from countries not subject to AD duties in order to avoid the capital requirements of the continuous bond. *** said that the number of offers it receives has fallen as its primary packer no longer wishes to be the importer of record (due to the bond requirement). *** decided not to import warmwater shrimp directly from India. *** described the bond requirement as restricting its cash flow. *** reduced its imports 30 percent in the first half of 2005 (compared to the first half of 2004). *** indicated that "many" companies in India and Thailand had been unable to obtain the bonds required to qualify as "foreign importers" in the U.S. market.

Most processors did not see a difference in the presence of Indian and Thai warmwater shrimp in the U.S. market since July 1, 2004. *** described Thai shrimp as abundantly available, and added that one of its potential customers, ***, buys high volumes of Thai warmwater shrimp. *** alleged that there are still large inventories of Indian and Thai warmwater shrimp available in the United States, and that the tsunami did not appear to have any effect on shipments from the subject countries.

Among other processor comments, *** expressed optimism about the effects of the antidumping duties on its firm, expecting continued improved demand for its domestic shrimp. *** reported that prices had risen due to the antidumping duties, but that Thai warmwater shrimp remained available at prices that domestic warmwater shrimp could not compete at, resulting in an inability of domestic processors to sell to certain purchasers, such as ***). *** described a greater presence of low-priced peeled and deveined, tail-on warmwater shrimp than before. However, *** said that offerings of peeled, tail-on warmwater shrimp from subject countries had declined. *** stated that when the antidumping duties reduced Chinese shipments, Thai warmwater shrimp moved in with an "aggressive marketing plan," and that both Indian and Thai warmwater shrimp are offered in the market with no supply limit. *** noted that its brokers continue to find that they must lower selling prices to compete with Thai and other imported warmwater shrimp. *** reported that black tiger shrimp from India are dropping in price, that both Indian and Thai production is moving toward white shrimp, and that "plenty" of Indian and Thai warmwater shrimp are available in the United States. *** indicated that it has heard reports of record harvests in Thailand.

Comparisons of Domestic Products and Subject Imports

In the final phase of the investigations, processors, importers and purchasers reported their assessments of how interchangeable warmwater shrimp from the United States, each country now subject to an antidumping order, and other countries were. Processors were most likely to describe warmwater shrimp from different national sources as always interchangeable, while importers were more likely to describe different countries' warmwater shrimp as frequently or sometimes interchangeable. While processors often said that "a shrimp is a shrimp," importers and some purchasers cited imports' alleged superior quality and greater availability.[47]

[47] On the other hand, processor *** differentiated Ecuadorean, Thai, and Indian warmwater shrimp, preferring Ecuadorean product to Thai, and describing Indian product as "pure junk." Commission trip to ***, Aug. 3, 2005.

In these investigations, processors, importers, and purchasers were asked if there had been any change in the interchangeability of U.S. warmwater shrimp with warmwater shrimp from India and/or Thailand, and if so, why. Their answers are summarized in table II-11.

Table II-11
Warmwater shrimp: Changes in the interchangeability of U.S. warmwater shrimp with Indian and Thai warmwater shrimp

Type	No	Yes- as a result of the tsunami	Yes- as a result of AD duties	Yes- as a result of another reason
	Number of firms (number indicating reason as only reason)[1]			
Processors	23	0	2 (2)	1 (1)
Importers	29	1 (1)	0	0
Purchasers	31	0	1 (1)	1 (1)

[1] Firms could indicate more than one reason (e.g., antidumping duties and tsunami) in response to this question. The number in parentheses indicates firms that indicated that there was only the specified reason for changes and no other.

Source: Compiled from data submitted in response to Commission questionnaires.

Processors who offered any commentary on interchangeability usually described U.S. and subject warmwater shrimp as interchangeable but for price, and that as the price differential lessened, interest in U.S. warmwater shrimp increased. *** said that it now pays prices to fishermen "far" below what it paid 5-10 years ago, even though fuel prices for shrimp boats have only increased. ***, while stating that importers continue to ship warmwater shrimp, added that if the duties are removed, "the domestic business is over." Most importers also offered little commentary. *** noted that Chinese warmwater shrimp, which it said were no longer a large presence in the U.S. market due to the antidumping duties, also produced white shrimp that were interchangeable with Thai white shrimp. *** said that U.S. and subject warmwater shrimp were not interchangeable because of issues of availability and quality. *** described itself as unable to find another source for small peeled and deveined shrimp from India after the tsunami.

***, the only purchaser that saw any change in interchangeability, stated that imported warmwater shrimp is less expensive and more plentiful than U.S. warmwater shrimp. *** agreed that U.S. warmwater shrimp is not competitive in terms of cost or production with subject warmwater shrimp. On the other hand, *** stated that U.S. and subject warmwater shrimp are still interchangeable.

PART III: CONDITION OF THE U.S. INDUSTRY

U.S. PRODUCTION AND PRODUCERS

Warmwater shrimp is wild-caught in the United States in the Gulf of Mexico and the Southeastern Atlantic. Farm production is also largely concentrated in the same states. Table III-1 presents warmwater shrimp landings and farm production, by state, in 2004.

The Commission sent fishermen questionnaires to 190 firms identified in the petition as domestic shrimp fishermen. One hundred thirty firms provided useable responses to the Commission's fishermen questionnaire.[1] These firms are believed to have accounted for approximately 6.5 percent of U.S. wild-caught landings of shrimp during 2004. Data for the U.S. fishermen that responded to the Commission's fishermen questionnaire are presented in appendix D.

The Commission sent processor questionnaires to 125 firms identified in the petition as domestic processors of shrimp. Thirty-one firms responded to the Commission's processor questionnaire, of which 30 provided usable data.[2] In 2004, these firms accounted for approximately 59.0 percent of U.S. production of shrimp based on live (head-on shell-on) weight, or 93.9 percent of U.S. production of shrimp based on headless shell-on weight. Presented in table III-2 is a list of the U.S. shrimp processors that responded to the Commission's processor questionnaire. Also presented is information concerning each company's position on the original investigations, production locations, annual average number of days the firm operated, toll agreements since January 1, 2001, share of commercial shipments of domestically harvested shrimp that were wild-caught and farm-produced, and their share of reported 2004 domestic production of shrimp.

Presented in table III-3 are reported changes in processors' operations since July 1, 2004 as reported in the questionnaires for these investigations. Table III-4 presents comments by the 22 processors located in Alabama, Louisiana, Mississippi, and Texas on the effects of Hurricanes Katrina and/or Rita on their operations. Eighteen processors, accounting for 57.8 percent of reported production in 2004 (see, table III-2), reported being affected by Hurricane Katrina, while 14, accounting for 46.7 percent of reported 2004 production, reported being affected by Hurricane Rita. The 10 firms affected by

[1] Of the firms providing responses, 22 had provided information in the preliminary phase of the investigations, but not in the final phase, while 16 had not provided information in either phase. One hundred forty-one firms provided responses in the final phase of the investigations.

[2] ***.

Table III-1
Warmwater shrimp: Wild-catch landings and farm production, by state, 2004[1]

State	Wild-catch landings *(Thousands of pounds live weight)*	Farm production *(Thousands of pounds live weight)*
Louisiana	131,883	--
Texas	58,811	[3]
Florida	15,747	[3]
Mississippi	17,218	--
Alabama	12,604	[3]
North Carolina	5,575[2]	--
South Carolina	5,922[2]	[3]
Georgia	4,967[2]	--
Hawaii	--	[3]
Arizona	--	[3]
Arkansas	--	[3]

[1] See also, Table III-1, *Final Shrimp Report*.
[2] Estimated by Commission staff, multiplying 2003 U.S. shrimp landings by the percentage change in Gulf landings from 2003 to 2004. Only Gulf landings for 2004 are currently available. Gulf State landings for January-June 2005 were 56.7 million pounds compared with 65.8 million pounds for January-July 2004. NMFS advises that monthly data gathering in the Gulf States will be suspended for the next few months due to the dislocations of its staff in that area due to Hurricanes Katrina and Rita.
[3] State-by-state figures are not yet available; however, total farmed production for 2004 is estimated at 12,350,000 pounds. Anthony Ostrowski, U.S. Marine Shrimp Farming Program, staff communication, Aug. 20, 2005. These states produced farmed product in 2003.

Source: Official statistics of the National Marine Fisheries Service and estimates of the U.S. Marine Shrimp Farming Program.

Table III-2
Warmwater shrimp: U.S. processors, their positions on the original investigations, U.S. production locations, annual average number of days the firms operated, toll agreements, shares of commercial shipments of domestically harvested warmwater shrimp, and shares of reported 2004 production[1]

Firm	Position in original investi-gations	Production location (s)	Annual average number of days firm operated	Toll agreements since January 1, 2001	Share of 2004 commercial shipments of domestically harvested of warmwater shrimp *(percent)*		Share of 2004 reported production *(percent)*
					Farmed	Wild caught	
Bama Sea Products	Support	Florida	***	***	***	***	***
Bon Secour	Support	Alabama	***	***	***	***	***
Carson	Support	Alabama	***	***	***	***	***
C.F. Gollot & Son Seafood	Support	Mississippi	***	***	***	***	***
Fisherman's Reef Shrimp	Support	Texas	***	***	***	***	***
***	***	***	***	***	***	***	***
***	***	***	***	***	***	***	***
Golden Gulf Coast	Support	Mississippi	***	***	***	***	***
Gulf Crown Seafood	Support	Louisiana	***	***	***	***	***
Gulf Fish	Support	Louisiana	***	***	***	***	***
Gulf Island Shrimp	Support	Louisiana	***	***	***	***	***
Gulf Shrimp	Support	Florida	***	***	***	***	***
Hi-Seas of Dulac	Support	Louisiana	***	***	***	***	***
JBS Packing	Support	Texas	***	***	***	***	***
***	***	***	***	***	***	***	***
***	***	***	***	***	***	***	***
Louisiana Shrimp & Packing	Support	Louisiana	***	***	***	***	***
Ocean Select Seafood	Support	Louisiana	***	***	***	***	***
Ocean Springs Seafood	Support	Mississippi	***	***	***	***	***

Table continued on following page.

Table III-2--*Continued*
Warmwater shrimp: U.S. processors, their positions on the original investigations, U.S. production locations, annual average number of days the firms operated, toll agreements, shares of commercial shipments of domestically harvested warmwater shrimp, and shares of reported 2004 production[1]

Firm	Position in original investi-gations	Production location(s)	Annual average number of days firm operated	Toll production since January 1, 2001	Share of 2004 commercial shipments of domestically harvested of warmwater shrimp *(percent)*		Share of 2004 reported production *(percent)*
					Farmed	Wild caught	
***	***	***	***	***	***	***	***
Paul Piazza	Support	Louisiana	***	***	***	***	***
Pearl/Indian Ridge Shrimp	Support	Louisiana	***	***	***	***	***
Port Royal Seafood	Support	South Carolina	***	***	***	***	***
***	***	***	***	***	***	***	***
Sea Pearl Seafood	Support	Alabama	***	***	***	***	***
Seabrook Seafood	Support	Texas	***	***	***	***	***
***	***	***	***	***	***	***	***
***	***	***	***	***	***	***	***
Tidelands Seafood	Support	Louisiana	***	***	***	***	***
Triple T Enterprises[17]	Support	Louisiana	***	***	***	***	***
True World Foods[19]	Support	Alabama	***	***	***	***	***
Vincent Piazza	Support	Louisiana	***	***	***	***	***
Total							100.0

Table continued on following page

Table III-2--*Continued*
Warmwater shrimp: U.S. processors, their positions on the original investigations, U.S. production locations, annual average number of days the firms operated, toll agreements, shares of commercial shipments of domestically harvested warmwater shrimp, and shares of reported 2004 production[1]

[1] See also, Table III-2, *Final Shrimp Report.*
2 ***
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Source: Compiled from data submitted in response to Commission questionnaires.

Table III-3
Warmwater shrimp: U.S. processors and changes in operations since July 1, 2004

* * * * * * *

Table III-4
Warmwater shrimp: U.S. processor comments concerning effects of Hurricanes Katrina and Rita on their operations

* * * * * * *

both storms accounted for 31.3 percent of reported 2004 production.[3] Table III-5 presents information from seven U.S. processors that reported production of other products on equipment and machinery used in the production of warmwater shrimp, shares of warmwater shrimp production on the same equipment, production of other products using the same production and related workers employed to produce warmwater shrimp, and shares of warmwater shrimp production using the same workers. These firms accounted for only 14.9 percent of production in 2004. The vast majority of domestic production is accounted for by companies that produce warmwater shrimp with dedicated equipment and workers.

Table III-5
Warmwater shrimp: U.S. producers, production of other products on equipment and machinery used in the production of warmwater shrimp, shares of warmwater shrimp production on the same equipment, production of other products using the same production and related workers employed to produce warmwater shrimp, and shares of warmwater shrimp production using the same workers, 2004

* * * * * * *

In its determinations in the final investigations, the Commission found that two firms, ***, did not engage in sufficient production-related activities to be considered domestic producers.[4] Additionally, the Commission found that five other firms, ***, should be excluded from the domestic industry as related parties.[5] In these investigations, petitioners argue that the Commission should define the domestic industry in the same manner–with the same exclusions–as it did in the original

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[3] With respect to the impact of the hurricanes and their impact on these investigations, petitioners, in response to a question from Chairman Koplan, stated (in part):

> ". . . Thus the essence of the Chairman's question is whether the effects of Hurricanes Katrina and Rita on the Gulf shrimp industry now require that there be more imports from India and Thailand than there were going to be before the hurricanes. The answer is no.
>
> In terms of supply to meet domestic processors' needs, there is no indication that the recent hurricanes have significantly affected the availability of fresh shrimp for domestic processing. First of all, there remain lots of boats and processing facilities operating in the Gulf and more are returning each week. Second, the shrimp are still there in the Gulf to be caught. There is no evidence that the hurricanes reduced the volume of shrimp for fishermen to catch. In addition, imports remain available from other world suppliers that are fairly traded and have not been disruptive in the U.S. market. Under no circumstances does the domestic industry need renewed dumped imports from India and Thailand to satisfy domestic demand."

See, petitioners' review posthearing brief, app. A, pp. A-1-A-2.

> In regard to the hurricanes' impact, respondents commented that:
>
> "Although the hurricanes may invite more imports in order to meet domestic demand, the industry will be in a strong position to compete. Moreover, given that Thai and Indian imports are likely to decline due to the tsunami, U.S. demand following the hurricanes will be met by non-subject imports, further reinforcing the conclusion that revocation would not be likely to lead to material injury to the domestic industry."

See, respondents' review posthearing brief, app. B, p. B-18.

[4] *See* "Views of the Commission," *Final Shrimp Report*, pp. 12-14.

[5] Id., pp. 15-18.

investigations.[6] Respondents state, for purposes of these investigations, they do not contest the Commission's decision in the final investigations to exclude certain processors from the domestic industry.[7] In these investigations, the activities of the "excluded" processors responding to Commission questionnaires have not changed with respect to production-related activities. With respect to firms that were excluded as related parties, the status of *** of the five processors is the same as in the final investigations. ***[8] ***. Inasmuch as ***.

U.S. PROCESSORS' CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on U.S. processors' capacity, production, and capacity utilization are presented in table III-6. Total U.S. capacity increased 4.0 percent from 2001 to 2004, and in January-June 2005 was 0.7 percent above January-June 2004.[9] Total U.S. production of warmwater shrimp increased by 8.1 percent from 2001 to 2004, and dropped by 7.7 percent in January-June 2005 compared with January-June 2004. Capacity utilization increased by 1.9 percentage points from 2001 to 2004 and declined by 3.3 percentage points in January-June 2005 compared with January-June 2004. U.S. producers reported the following constraints on their production: lack of sales, low production of domestic wild caught shrimp,[10] fewer boats working, unable to obtain raw material, sales and available markets, credit lines from banks for inventory, labor shortage in 2004 drop in dock side price, customer demand for quality and cost effective shrimp, regulated seasons, no turnover of inventory, falling prices throughout whole season, packaging equipment capabilities, freezing capacity, record high fuel prices, and available hours in the day.

U.S. PROCESSORS' U.S. SHIPMENTS AND EXPORT SHIPMENTS

Data on domestic producers' shipments of warmwater shrimp are presented in table III-7. U.S. shipments increased by 17.0 percent from 2001 to 2004, and increased by 2.5 percent in January-June 2005 compared with January-June 2004. The value of U.S. shipments decreased by 12.0 percent from 2001 to 2004, and increased by 8.4 percent in January-June 2005 compared with January-June 2004. The unit value of U.S. shipments decreased by 24.8 percent from 2001 to 2004, and increased by 5.8 percent in January-June 2005 compared with January-June 2004. Two U.S. processors reported internal

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[6] See, petitioners' review prehearing brief, p.71.

[7] See, respondents' review prehearing brief, p. 19, n. 52.

[8] ***.

[9] "Total" data discussed in Part III cover all processors, including excluded firms.

[10] In testimony at the Commission hearing in these investigations, Richard Gollott, Golden Gulf Coast Packing, stated:

> "We had a late start in our season and that is determined by salinity and weather and the conditions of the weather. Our season was running about a month-and-a-half late. Usually, June is our big month. But it was August this year that we had all of our production and that is just a natural occurrence."

See, review hearing transcript, p. 69.

Table III-6
Warmwater shrimp: Reported U.S. production capacity, production, and capacity utilization, 2001-04, January-June 2004, and January-June 2005[1]

Item	Calendar year				January-June	
	2001	2002	2003	2004	2004	2005
Processors (except excluded firms):						
Capacity (*1,000 pounds*)	244,080	244,905	247,780	252,290	126,036	126,686
Production (*1,000 pounds*)	107,943	105,778	115,734	121,366	44,024	41,319
Capacity utilization (*percent*)	44.2	43.2	46.7	48.1	34.9	32.6
Processors (excluded firms):						
Capacity (*1,000 pounds*)	54,365	53,445	54,837	58,000	29,048	29,500
Production (*1,000 pounds*)	35,727	36,980	27,173	33,875	16,436	14,512
Capacity utilization (*percent*)	65.7	69.2	49.6	58.4	56.6	49.2
Total processors:						
Capacity (*1,000 pounds*)	298,445	298,350	302,617	310,290	155,084	156,186
Production (*1,000 pounds*)	143,670	142,758	142,907	155,241	60,460	55,831
Capacity utilization (*percent*)	48.1	47.8	47.2	50.0	39.0	35.7

[1] See also, Table III-5, *Final Shrimp Report*.

Note.–Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-7
Warmwater shrimp: U.S. processors' shipments, by type, 2001-04, January-June 2004, and January-June 2005[1]

Item	Calendar year				January-June	
	2001	2002	2003	2004	2004	2005
	Quantity (*1,000 pounds*)					
Processors (except excluded firms):						
Commercial shipments	104,850	100,852	108,457	119,462	48,146	51,478
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	104,850	100,852	108,457	119,462	48,146	51,478
Export shipments	2,772	2,547	3,266	3,016	1,268	955
Total	107,622	103,399	111,723	122,479	49,414	52,433
Processors (excluded firms):						
Commercial shipments	31,177	34,040	29,991	38,226	18,735	17,560
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	31,177	34,041	29,991	38,226	18,735	17,560
Export shipments	0	0	0	0	0	0
Total	31,177	34,041	29,991	38,226	18,735	17,560
Total processors:						
Commercial shipments	136,027	134,892	138,448	157,688	66,881	69,038
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	136,027	134,893	138,448	157,688	66,881	69,038
Export shipments	2,772	2,547	3,266	3,016	1,268	955
Total	138,799	137,440	141,713	160,705	68,149	69,993

Table continued on following page.

Table III-7--*Continued*
Warmwater shrimp: U.S. processors' shipments, by type, 2001-04, January-June 2004, and January-June 2005[1]

Item	Calendar year				January-June	
	2001	2002	2003	2004	2004	2005
	Value (*1,000 dollars*)					
Processors (except excluded firms):						
Commercial shipments	440,260	386,435	361,701	387,820	157,453	171,550
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	440,260	386,435	361,701	387,820	157,453	171,550
Export shipments	9,141	7,763	8,499	8,004	3,308	2,751
Total	449,401	394,198	370,200	395,824	160,761	174,301
Processors (excluded firms):						
Commercial shipments	169,587	158,763	167,182	145,005	73,144	80,719
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	169,587	158,763	167,182	145,005	73,144	80,719
Export shipments	0	0	0	0	0	0
Total	169,587	158,763	167,182	145,005	73,144	80,719
Total processors:						
Commercial shipments	609,847	545,198	528,883	532,825	230,597	252,269
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	609,847	545,198	528,883	532,825	230,597	252,269
Export shipments	9,141	7,763	8,499	8,004	3,308	2,751
Total	618,988	552,961	537,382	540,829	233,905	255,020

Table continued on following page.

Table III-7--*Continued*
Warmwater shrimp: U.S. processors' shipments by type, 2001-04, January-June 2004, and January-June 2005[1]

Item	Calendar year				January-June	
	2001	2002	2003	2004	2004	2005
	Unit value (*per pound*)					
Processors (except excluded firms):						
Commercial shipments	$4.20	$3.83	$3.34	$3.25	$3.27	$3.33
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	4.19	3.82	3.33	3.25	3.27	3.33
Export shipments	3.30	3.05	2.60	2.65	2.61	2.88
Average	4.17	3.80	3.31	3.23	3.25	3.32
Processors (excluded firms):						
Commercial shipments	5.44	4.66	5.57	3.79	3.90	4.60
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	5.43	4.67	5.57	3.73	3.82	4.47
Export shipments	(2)	(2)	(2)	(2)	(2)	(2)
Average	5.43	4.67	5.57	3.73	3.82	4.47
Total processors:						
Commercial shipments	4.48	4.04	3.82	3.38	3.45	3.65
Internal consumption	2.53	1.88	1.75	2.91	3.43	3.27
Transfers to related firms	3.76	3.83	4.69	2.67	2.71	1.81
U.S. shipments	4.48	4.04	3.82	3.37	3.43	3.63
Export shipments	3.30	3.05	2.60	2.65	2.61	2.88
Average	4.45	4.02	3.79	3.35	3.42	3.62

[1] See also, Table III-6, *Final Shrimp Report.*
[2] Not applicable.

Note.–Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires.

consumption.[11] Four U.S. processors reported transfers to related firms.[12] Six U.S. processors reported export shipments, ***.[13]

U.S. PROCESSORS' IMPORTS AND PURCHASES OF IMPORTS

Seven U.S. processors, ***, reported that they imported subject (India and/or Thailand) shrimp.[14] [15] Table III-8 presents those U.S. processors' direct imports and purchases of warmwater shrimp from subject sources.

Table III-8
Warmwater shrimp: U.S. processors' imports and purchases from subject countries, 2001-04, January-June 2004, and January-June 2005

* * * * * * *

U.S. PROCESSORS' INVENTORIES

Data on U.S. processors' end-of-period inventories of warmwater shrimp for the period examined are presented in table III-9. U.S. processors' inventories increased 25.2 percent from 2001 to 2004, and decreased 17.3 percent in January-June 2005 compared with January-June 2004.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by U.S. processors on the number of production and related workers ("PRWs") engaged in the production of warmwater shrimp, the total hours worked by such workers, and wages paid to such PRWs during the period for which data were collected in these investigations are presented in table III-10.

[11] ***.
[12] ***.
[13] ***.
[14] ***.
[15] ***.

Table III-9
Warmwater shrimp: U.S. processors' end-of-period inventories, 2001-04, January-June 2004, and January-June 2005[1]

Item	Calendar year				January-June	
	2001	2002	2003	2004	2004	2005
Processors (except excluded firms):						
Inventories (*1,000 pounds*)	19,750	20,402	25,414	25,548	22,178	15,523
Ratio to production (*percent*)	18.3	19.3	22.0	21.1	25.2	18.8
Ratio to U.S. shipments (*percent*)	18.7	20.1	23.4	21.3	23.0	15.0
Ratio to total shipments (*percent*)	18.2	19.6	22.7	20.8	22.4	14.8
Processors (excluded firms):						
Inventories (*1,000 pounds*)	6,373	7,142	7,310	7,161	8,836	10,139
Ratio to production (*percent*)	17.8	19.3	26.9	21.1	26.9	34.9
Ratio to U.S. shipments (*percent*)	20.4	20.8	24.2	17.7	22.0	27.5
Ratio to total shipments (*percent*)	20.4	20.8	24.2	17.7	22.0	27.5
Total processors:						
Inventories (*1,000 pounds*)	26,123	27,544	32,724	32,709	31,014	25,662
Ratio to production (*percent*)	18.2	19.3	22.9	21.1	25.6	23.0
Ratio to U.S. shipments (*percent*)	19.1	20.2	23.5	20.4	22.7	18.3
Ratio to total shipments (*percent*)	18.7	19.9	23.0	20.0	22.3	18.1

[1] See also, Table III-8, *Final Shrimp Report.*

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-10
Warmwater shrimp: Average number of production and related workers producing warmwater shrimp, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2001-04, January-June 2004, and January-June 2005[1]

Item	Calendar year				January-June	
	2001	2002	2003	2004	2003	2004
Processors (except excluded firms):						
PRWs (*number*)	1,591	1,446	1,349	1,451	1,319	1,257
Hours worked (*1,000*)	2,759	2,714	2,646	2,669	1,066	1,028
Wages paid (*$1,000*)	25,246	24,765	25,579	24,927	10,446	9,960
Hourly wages	$9.10	$9.07	$9.63	$9.30	$9.76	$9.64
Productivity (*pounds per hours*)	38.2	38.1	43.2	44.9	40.9	39.7
Unit labor costs (*per unit*)	$0.24	$0.24	$0.22	$0.21	$0.24	$0.24
Processors (excluded firms):						
PRWs (*number*)	260	246	207	210	212	195
Hours worked (*1,000*)	521	506	446	473	338	331
Wages paid (*$1,000*)	5,474	5,581	5,063	5,580	2,898	2,813
Hourly wages	$10.51	$11.03	$11.35	$11.81	$8.57	$8.50
Productivity (*pounds per hours*)	68.6	73.1	60.9	71.7	48.6	43.8
Unit labor costs (*per unit*)	$0.15	$0.15	$0.19	$0.16	$0.18	$0.19
Total processors:						
PRWs (*number*)	1,851	1,692	1,556	1,661	1,531	1,452
Hours worked (*1,000*)	3,280	3,220	3,092	3,142	1,405	1,359
Wages paid (*$1,000*)	30,721	30,346	30,642	30,507	13,344	12,773
Hourly wages	$9.33	$9.38	$9.87	$9.68	$9.47	$9.36
Productivity (*pounds per hours*)	43.0	43.6	45.8	48.9	42.7	40.7
Unit labor costs (*per unit*)	$0.22	$0.22	$0.22	$0.20	$0.22	$0.23

[1] See also, Table III-9, *Final Shrimp Report.*

Source: Compiled from data submitted in response to Commission questionnaires.

FINANCIAL EXPERIENCE OF U.S. PROCESSORS

Background

Twenty-nine domestic firms[16] provided useable financial results of their operations processing frozen warmwater shrimp. These firms are believed to account for the vast majority of the domestic industry's processing volume during 2004. While four firms reported either transfers or internal consumption of processed shrimp, the quantity and value of these affiliated party transactions were small, accounting for less than *** percent of total sales (quantity and value) from 2001 through June 2005. Accordingly, the data are not being presented separately. Two producers – *** – exited the shrimp processing industry during the period examined. ***.

There are minimal differences between the data in this report and the data in the *Final Shrimp Report*. Even though 29 processors provided useable financial for this report (as opposed to 36 in the *Final Shrimp Report*), the companies that did not report data for this report were generally small. As a result, net sales values in this report account for 87.9 percent values in the *Final Shrimp Report* for fiscal year 2003. Moreover, the operating income margins (operating income as a percentage of net sales values) in this report were quite consistent with those in the *Final Shrimp Report*, both on an absolute and trend basis.

Operations of U.S. Warmwater Shrimp Processors

As noted in an earlier section of this report, processors perform a variety of tasks - weighing, washing, sizing, grading, deheading, peeling, deveining, packaging, and freezing – as they convert raw shrimp into processed shrimp. Some processors may perform more processes than others, and some processors are more efficient than others, but all processors essentially perform the same tasks. As with many other agricultural products, processors are the link in the supply chain between the growers and the purchasers. As such, they are able to participate in increased profits if sales (and therefore the quantity processed) increases. On the other hand, given their relatively low fixed costs, they are generally insulated from large losses because if sales decrease they will, at some point, simply stop processing shrimp. Unless a processor is able to differentiate its product or services from other processors, it can only expect market returns.

Aggregate income-and-loss data for processors (except the excluded firms) on their operations processing shrimp are presented in table III-11. Perhaps what is most striking is the relatively constant spread between the average unit sales price of processed shrimp and the average unit cost of the raw shrimp input. Specifically, from 2001 to 2004, as the average unit price and the average unit cost of the raw shrimp both steadily decreased by about $1 per pound, the spread between the two values was $0.83, $0.80, $0.84, and $0.85 per pound, respectively. This spread is the amount the processors have to pay their conversion costs (direct labor and other factory costs (overhead)), their selling, general, and administrative (SG&A) expenses, and provide for an operating profit. It is not surprising, then, that the unit conversion costs and SG&A expense combined were $0.80, $0.81, $0.83, and $0.81 for 2001 to 2004, respectively. When the processors were able to keep these costs below the sales/raw shrimp spread (2001, 2003, and 2004), they were profitable (although only marginally so), and when they were not able to (2002) they lost money (although, again, only a marginal amount).

When comparing the January-June 2005 data to the January-June 2004 data, it can be seen that the processors ability to widen the sales/raw shrimp spread to $0.93 per pound during January-June 2004

[16] The processors and their fiscal year ends are as follows: March 31– ***.

Table III-11
Warmwater shrimp: Results of processors (except excluded firms) on their processing operations,[1] fiscal years 2001-04, January-June 2004, and January-June 2005

Item	Fiscal year				January – June	
	2001	2002	2003	2004	2004	2005
	Quantity (*1,000 pounds*)					
Net sales quantities	108,363	106,177	113,978	122,788	45,213	48,036
	Value (*1,000 dollars*)					
Net sales values	465,311	411,057	398,440	407,051	157,859	163,670
Cost of goods sold:						
Raw materials:						
Shrimp – domestic	345,012	291,185	268,062	273,737	96,773	110,803
Shrimp – imported	29,290	31,949	33,468	28,562	18,262	12,280
Other	762	3,144	1,402	946	651	713
Total raw materials	375,064	326,278	302,932	303,245	115,686	123,796
Direct labor	22,340	21,449	23,678	21,848	7,919	7,114
Other factory costs	27,086	27,190	31,937	37,225	12,789	13,378
Total cost of goods sold	424,490	374,917	358,547	362,318	136,394	144,288
Gross profit	40,821	36,140	39,893	44,733	21,465	19,382
SG&A expenses	36,925	37,175	39,455	40,772	17,460	17,469
Operating income/(loss)	3,896	(1,035)	438	3,961	4,005	1,913
Other expense/(income), net	5,367	5,483	1,478	3,714	2,572	137
Net income/(loss) before taxes	(1,471)	(6,518)	(1,040)	247	1,433	1,776
Depreciation/amortization	4,850	4,916	4,786	4,705	2,060	2,090
Cash flow	3,379	(1,602)	3,746	4,952	3,493	3,866
	Number of firms reporting					
Operating losses	***	***	***	***	***	***
Data	***	***	***	***	***	***

Table continued on next page

Table III-11--*Continued*
Warmwater shrimp: Results of processors (except excluded firms) on their processing operations,[1] fiscal years 2001-04, January-June 2004, and January-June 2005

Item	Fiscal year				January – June	
	2001	2002	2003	2004	2004	2005
	Ratio to net sales (*percent*)					
Cost of goods sold:						
Raw materials:						
Shrimp – domestic	74.1	70.8	67.3	67.2	61.3	67.7
Shrimp – imported	6.3	7.8	8.4	7.0	11.6	7.5
Other	0.2	0.8	0.4	0.2	0.4	0.4
Total raw materials	80.6	79.4	76.0	74.5	73.3	75.6
Direct labor	4.8	5.2	5.9	5.4	5.0	4.3
Other factory costs	5.8	6.6	8.0	9.1	8.1	8.2
Total cost of goods sold	91.2	91.2	90.0	89.0	86.4	88.2
Gross profit	8.8	8.8	10.0	11.0	13.6	11.8
SG&A expenses	7.9	9.0	9.9	10.0	11.1	10.7
Operating income/(loss)	0.8	(0.3)	0.1	1.0	2.5	1.2
	Unit value (*dollars per pound*)					
Net sales values	4.29	3.87	3.50	3.32	3.49	3.41
Cost of goods sold:						
Raw materials:						
Shrimp – domestic[2]	3.18	2.74	2.35	2.23	2.14	2.31
Shrimp – imported[2]	0.27	0.30	0.29	0.23	0.40	0.26
Other	0.01	0.03	0.01	0.01	0.01	0.01
Total raw materials	3.46	3.07	2.66	2.47	2.56	2.58
Direct labor	0.21	0.20	0.21	0.18	0.18	0.15
Other factory costs	0.25	0.26	0.28	0.30	0.28	0.28
Total cost of goods sold	3.92	3.53	3.15	2.95	3.02	3.00
Gross profit	0.38	0.34	0.35	0.36	0.47	0.40
SG&A expenses	0.34	0.35	0.35	0.33	0.39	0.36
Operating income/(loss)[3]	0.04	(0.01)	0.00	0.03	0.09	0.04

Table continued on next page

Table III-11--*Continued*
Warmwater shrimp: Results of processors (except excluded firms) on their processing operations,[1] fiscal years 2001-04, January-June 2004, and January-June 2005

[1] The processors are ***. There are fewer producers reporting data during the January to June time periods because *** were unable to provide January to June 2004 and 2005 data. See also table VI-1 in the *Final Shrimp Report.*
[2] These unit costs are so dissimilar because they are determined by dividing the respective expenses (either domestic or imported shrimp) by the total sales quantities. The Commission did not collect specific unit cost data on either domestic or imported shrimp; however, based upon the questionnaire data, the estimated cost (per pound) of the imported shrimp decreased irregularly from *** in the first half of 2005, while the cost of the domestic shrimp steadily decreased from *** per pound.
[3] Zeroes in this row indicate positive values which are less than $0.005 per pound.

Source: Compiled from data submitted in response to Commission questionnaires.

diminished in 2005, and, as a result, the spread in the January-June 2005 data was again $0.83 per pound. Thus, the January-June 2004 operating profit margin of 2.8 percent decreased to 1.2 percent during January-June 2005.

Aggregate income-and-loss data for the excluded processors on their operations processing shrimp are presented in table III-12. These excluded processors fared better than the non-excluded processors, particularly during 2004 and January-June 2005. As with the non-excluded processors, the profitability of these excluded processors is a function of the spread between the sales price and the raw shrimp costs and their ability to control their direct labor costs, their other factory costs, and their SG&A expenses. The sales/raw shrimp spread decreased fairly steadily from $1.27 per pound in 2001 to $0.95 in 2004 and then increased to $1.13 during January-June 2005. During the same time, the excluded processors lowered their direct labor/other factory costs/SG&A expenses from $1.08 to $0.84. As a result, their operating profits increased, both on an absolute basis and as a percentage of net sales basis.

Aggregate income-and-loss data for all domestic processors on their operations processing shrimp are presented in table III-13. This table is a combination of the data in tables III-11 and III-12. Also, selected financial data on a company-by-company basis are presented in appendix E.

The variance analysis showing the effects of prices and volume on the non-excluded processors' processing operations, and of costs and volume on their total cost, is shown in table III-14. The analysis illustrates that from 2001 to 2004 and from January to June 2004 to January to June 2005, profitability decreased as the per-unit revenues (price variance) declined faster than the per-unit operating costs (net cost/expense variance).

Capital Expenditures and Research and Development Expenses

Domestic shrimp processors' capital expenditures and research and development (R&D) expenses are presented in table III-15. While many processors reported expenditures of $200,000 or more during the full-year periods, ***.

Aggregate R&D expenses were almost exclusively attributable to ***.

Table III-12
Warmwater shrimp: Results of processors (excluded firms) on their processing operations,[1] fiscal years 2001-04, January-June 2004, and January-June 2005

	Fiscal year				January – June	
Item	2001	2002	2003	2004	2004	2005
	Quantity (*1,000 pounds*)					
Net sales quantities	30,474	33,891	30,368	37,637	20,117	17,360
	Value (*1,000 dollars*)					
Net sales values	166,661	159,358	171,660	146,162	79,821	83,911
Cost of goods sold:						
Raw materials:						
Shrimp – domestic	***	***	***	***	***	***
Shrimp – imported	***	***	***	***	***	***
Other	***	***	***	***	***	***
Total raw materials	129,447	121,963	138,241	113,874	62,277	65,592
Direct labor	4,394	4,476	3,730	3,179	1,866	1,926
Other factory costs	10,623	12,280	9,388	8,816	4,794	4,922
Total cost of goods sold	144,464	138,719	151,359	125,869	68,937	72,440
Gross profit	22,197	20,639	20,301	20,293	10,884	11,471
SG&A expenses	16,271	15,382	14,843	11,176	6,502	6,328
Operating income	5,926	5,257	5,458	9,117	4,382	5,143
Other expense/(income), net	798	391	550	522	252	796
Net income before taxes	5,128	4,866	4,908	8,595	4,130	4,347
Depreciation/amortization	870	587	548	476	246	242
Cash flow	5,998	5,453	5,456	9,071	4,376	4,589
	Number of firms reporting					
Operating losses	***	***	***	***	***	***
Data	***	***	***	***	***	***

Table continued on next page

Table III-12--*Continued*
Warmwater shrimp: Results of processors (excluded firms) on their processing operations,[1] fiscal years 2001-04, January-June 2004, and January-June 2005

Item	Fiscal year				January – June	
	2001	2002	2003	2004	2004	2005
	Ratio to net sales (*percent*)					
Cost of goods sold:						
Raw materials:						
Shrimp – domestic	***	***	***	***	***	***
Shrimp – imported	***	***	***	***	***	***
Other	***	***	***	***	***	***
Total raw materials	77.7	76.5	80.5	77.9	78.0	78.2
Direct labor	2.6	2.8	2.2	2.2	2.3	2.3
Other factory costs	6.4	7.7	5.5	6.0	6.0	5.9
Total cost of goods sold	86.7	87.0	88.2	86.1	86.4	86.3
Gross profit	13.3	13.0	11.8	13.9	13.6	13.7
SG&A expenses	9.8	9.7	8.6	7.6	8.1	7.5
Operating income	3.6	3.3	3.2	6.2	5.5	6.1
	Unit value (*dollars per pound*)					
Net sales values	5.47	4.70	5.65	3.88	3.97	4.83
Cost of goods sold:						
Raw materials:						
Shrimp – domestic[2]	***	***	***	***	***	***
Shrimp – imported[2]	***	***	***	***	***	***
Other	***	***	***	***	***	***
Total raw materials	4.25	3.60	4.55	3.03	3.10	3.78
Direct labor	0.14	0.13	0.12	0.08	0.09	0.11
Other factory costs	0.35	0.36	0.31	0.23	0.24	0.28
Total cost of goods sold	4.74	4.09	4.98	3.34	3.43	4.17
Gross profit	0.73	0.61	0.67	0.54	0.54	0.66
SG&A expenses	0.53	0.45	0.49	0.30	0.32	0.36
Operating income	0.19	0.16	0.18	0.24	0.22	0.30

Table continued on next page

Table III-12--*Continued*
Warmwater shrimp: Results of processors (excluded firms) on their processing operations,[1] fiscal years 2001-04, January-June 2004, and January-June 2005

[1] The processors are *** stopped production in 2002. See also tables VI-2 and VI-3 in the *Final Shrimp Report.*
[2] These unit costs are so dissimilar because they are determined by dividing the respective expenses (either domestic or imported shrimp) by the total sales quantities. The Commission did not collect specific unit cost data on either domestic or imported shrimp; however, based upon the questionnaire data, estimated cost (per pound) of the imported shrimp decreased irregularly from *** in the first half of 2005, while the cost of the domestic shrimp steadily decreased from *** per pound.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-13
Warmwater shrimp: Results of all domestic processors on their processing operations,[1] fiscal years 2001-04, January-June 2004, and January-June 2005

Item	Fiscal year				January – June	
	2001	2002	2003	2004	2004	2005
	Quantity (*1,000 pounds*)					
Net sales quantities	138,837	140,068	144,346	160,425	65,330	65,396
	Value (*1,000 dollars*)					
Net sales values	631,972	570,415	570,100	553,213	237,680	247,581
Cost of goods sold:						
Raw materials:						
Shrimp – domestic	350,949	295,700	280,454	291,765	107,910	111,105
Shrimp – imported	151,173	148,136	157,317	120,968	67,134	76,220
Other	2,389	4,405	3,402	4,386	2,919	2,063
Total raw materials	504,511	448,241	441,173	417,119	177,963	189,388
Direct labor	26,734	25,925	27,408	25,027	9,785	9,040
Other factory costs	37,709	39,470	41,325	46,041	17,583	18,300
Total cost of goods sold	568,954	513,636	509,906	488,187	205,331	216,728
Gross profit	63,018	56,779	60,194	65,026	32,349	30,853
SG&A expenses	53,196	52,557	54,298	51,948	23,962	23,797
Operating income	9,822	4,222	5,896	13,078	8,387	7,056
Other expense/(income), net	6,165	5,874	2,028	4,236	2,824	933
Net income/(loss) before taxes	3,657	(1,652)	3,868	8,842	5,563	6,123
Depreciation/amortization	5,720	5,503	5,334	5,181	2,306	2,332
Cash flow	9,377	3,851	9,202	14,023	7,869	8,455
	Number of firms reporting					
Operating losses	8	12	13	9	7	9
Data	29	29	29	27	25	25

Table continued on next page

Table III-13--*Continued*
Warmwater shrimp: Results of all domestic processors on their processing operations,[1] fiscal years 2001-04, January-June 2004, and January-June 2005

Item	Fiscal year				January – June	
	2001	2002	2003	2004	2004	2005
	Ratio to net sales (*percent*)					
Cost of goods sold:						
Raw materials:						
Shrimp – domestic	55.5	51.8	49.2	52.7	45.4	44.9
Shrimp – imported	23.9	26.0	27.6	21.9	28.2	30.8
Other	0.4	0.8	0.6	0.8	1.2	0.8
Total raw materials	79.8	78.6	77.4	75.4	74.9	76.5
Direct labor	4.2	4.5	4.8	4.5	4.1	3.7
Other factory costs	6.0	6.9	7.2	8.3	7.4	7.4
Total cost of goods sold	90.0	90.0	89.4	88.2	86.4	87.5
Gross profit	10.0	10.0	10.6	11.8	13.6	12.5
SG&A expenses	8.4	9.2	9.5	9.4	10.1	9.6
Operating income	1.6	0.7	1.0	2.4	3.5	2.9
	Unit value (*dollars per pound*)					
Net sales values	4.55	4.07	3.95	3.45	3.64	3.79
Cost of goods sold:						
Raw materials:						
Shrimp – domestic[2]	2.53	2.11	1.94	1.82	1.65	1.70
Shrimp – imported[2]	1.09	1.06	1.09	0.75	1.03	1.17
Other	0.02	0.03	0.02	0.03	0.04	0.03
Total raw materials	3.63	3.20	3.06	2.60	2.72	2.90
Direct labor	0.19	0.19	0.19	0.16	0.15	0.14
Other factory costs	0.27	0.28	0.29	0.29	0.27	0.28
Total cost of goods sold	4.10	3.67	3.53	3.04	3.14	3.31
Gross profit	0.45	0.41	0.42	0.41	0.50	0.47
SG&A expenses	0.38	0.38	0.38	0.32	0.37	0.36
Operating income	0.07	0.03	0.04	0.08	0.13	0.11

Table continued on next page

Table III-13--*Continued*
Warmwater shrimp: Results of all domestic processors on their processing operations,[1] fiscal years 2001-04, January-June 2004, and January-June 2005

[1] The processors are ***. There are fewer producers reporting data during the January to June time periods because *** stopped production in 2002, *** exited the industry in 2003, and *** were unable to provide January to June 2004 and 2005 data. See also table VI-4 in the *Final Shrimp Report*.

[2] These unit costs are so dissimilar because they are determined by dividing the respective expenses (either domestic or imported shrimp) by the total sales quantities. The Commission did not collect specific unit cost data on either domestic or imported shrimp; however, based upon the questionnaire data, the estimated cost (per pound) of the imported shrimp decreased irregularly from *** in the first half of 2005, while the cost of the domestic shrimp steadily decreased from *** per pound.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-14
Warmwater shrimp: Variance analysis of processors (except excluded firms) on their processing operations[1] between fiscal years 2001-04 and January-June 2004-05

Item	Between fiscal years				January - June
	2001-04	2001-02	2002-03	2003-04	2004-05
	Value *($1,000)*				
Net sales:					
Price variance	(120,201)	(44,867)	(42,818)	(22,187)	(4,045)
Volume variance	61,941	(9,387)	30,201	30,798	9,856
Total net sales variance	(58,260)	(54,254)	(12,617)	8,611	5,811
Cost of sales:					
Cost variance	118,679	41,010	43,916	23,943	622
Volume variance	(56,507)	8,563	(27,546)	(27,714)	(8,516)
Total cost variance	62,172	49,573	16,370	(3,771)	(7,894)
Gross profit variance	3,912	(4,681)	3,753	4,840	(2,083)
SG&A expenses:					
Expense variance	1,068	(995)	451	1,733	1,081
Volume variance	(4,915)	745	(2,731)	(3,050)	(1,090)
Total SG&A variance	(3,847)	(250)	(2,280)	(1,317)	(9)
Operating income variance	65	(4,931)	1,473	3,523	(2,092)
Summarized as:					
Price variance	(120,201)	(44,867)	(42,818)	(22,187)	(4,045)
Net cost/expense variance	119,747	40,015	44,367	25,676	1,703
Net volume variance	519	(79)	(76)	34	250

Note.--Unfavorable variances are shown in parentheses; all others are favorable.

[1] The data in this table are derived from the data of companies in table III-11.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-15
Warmwater shrimp: U.S. processors' capital expenditures and research and development expenses, fiscal years 2001-04, January-June 2004, and January-June 2005

Item	Fiscal year				January – June	
	2001	2002	2003	2004	2004	2005
	Value (*1,000 dollars*)					
Capital expenditures:						
Processors (except excluded firms)	3,456	4,642	2,469	2,664	1,051	1,687
Excluded processors	2,364	2,659	5,957	2,802	2,138	1,202
All domestic processors	5,820	7,301	8,426	5,466	3,189	2,889
Research and development expenses:						
Processors (except excluded firms)	***	***	***	***	***	***
Excluded processors	***	***	***	***	***	***
All domestic processors	600	600	512	1,043	779	455

Source: Compiled from data submitted in response to Commission questionnaires.

Assets and Return on Investment

Data on domestic shrimp processors' assets and their return on investment (defined as operating income divided by total assets) are presented in table III-16. Asset values for non-excluded processors steadily increased from period to period, while asset values for excluded processors as well as all processors increased irregularly from 2001 through 2004. The returns on investment mirrored the operating income margins for the different groups of processor.

Capital and Investment

The Commission requested U.S. processors to describe any actual negative effects on their return on investment, or their growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of certain frozen or canned warmwater shrimp and prawns from India and Thailand. Their comments are presented in appendix F.

Table III-16
Warmwater shrimp: U.S. processors' value of assets and return on investment, fiscal years 2001-04

Item	Fiscal year			
	2001	2002	2003	2004
	Value (*$1,000*)			
Processors (except excluded firms):				
Operating income	3,896	(1,035)	438	3,961
Total assets	150,609	151,583	152,351	163,998
Return on investment	2.6	(0.7)	0.3	2.4
Excluded processors:				
Operating income	4,740	3,623	3,831	4,692
Total assets	***	***	***	***
Return on investment	***	***	***	***
All domestic processors:				
Operating income	8,636	2,588	4,269	8,653
Total assets	***	***	***	***
Return on investment	***	***	***	***

Note: Based upon the data of those companies that supplied both profit-and-loss and asset data.

Source: Compiled from data submitted in response to Commission questionnaires.

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND THE FOREIGN INDUSTRY

U.S. IMPORTERS

The Commission sent importer questionnaires to 75 firms believed to be importers of warmwater shrimp, as well as to all U.S. producers.[1] Questionnaire responses were received from 34 companies that in 2004 are believed to account for 44.7 percent of imports (official statistics) from India and 60.0 percent from Thailand. The largest responding importers of warmwater shrimp are ***. A list of U.S. importers of warmwater shrimp, the countries they import from, and their shares of reported 2004 imports are presented in table IV-1.

U.S. IMPORTS

U.S. imports of warmwater shrimp are presented in table IV-2.[2] In 2004, Thailand was the largest exporter of subject warmwater shrimp to the United States, accounting for 25.9 percent of total imports, while India, the fourth largest exporter, accounted for 8.3 percent of imports.[3] The other antidumping investigation sources (other AD sources), collectively, accounted for 28.3 percent.[4] During January-June 2005, Thailand remained as the largest exporter of subject warmwater shrimp at 29.9 percent of total imports, while India, the fifth largest exporter, accounted 7.2 percent of imports.[5] Other AD sources accounted for 24.6 percent of total imports for January-June 2005. Changes in importers' operations since July 1, 2004 are presented in table IV-3. In addition to the seven importers reporting changes, 27 firms reported no changes.

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[1] The Commission sent questionnaires to those firms identified in the petition, firms identified by the U.S. Customs and Border Protection ("Customs") as possible importers, and firms identified in the foreign producer questionnaires.

[2] Imports of warmwater shrimp are from official statistics under HTS statistical reporting numbers 0306.13.0003, 0306.13.0006, 0306.13.0009, 0306.13.0012, 0306.13.0015, 0306.13.0018, 0306.13.0021, 0306.13.0024, 0306.13.0027, 0306.13.0040, 1605.20.1010, and 1605.20.1030. Imports from Canada, Chile, Denmark, Greenland, and Iceland are considered to be coldwater shrimp and therefore are not included.

[3] China and Indonesia were the second and third largest exporters, respectively.

[4] During 2003, these numbers were: Thailand (26.4 percent), India (9.3 percent), and other AD sources (39.0 percent).

[5] For January-August 2005, Thailand accounted for 32.8 percent of total imports, while India accounted for 8.0 percent of total imports. Imports, by month, January 2001-August 2005 are presented in table C-2.

Table IV-1
Warmwater shrimp: U.S. importers, countries they import from, and shares of 2004 imports

* * * * * * *

Table IV-2
Warmwater shrimp: U.S. imports, by sources, 2001-04, January-June 2004, and January-June 2005[1]

Source	Calendar year				January-June	
	2001	2002	2003	2004	2004	2005
				Quantity (*1,000 pounds*)		
India	71,794	96,654	99,140	89,364	40,486	29,015
Thailand	294,275	245,485	278,632	278,279	128,996	120,680
Subtotal	366,070	342,139	377,772	367,643	169,483	149,695
Other AD sources	209,763	304,285	414,347	303,423	160,462	99,438
Other sources	272,609	258,030	270,163	402,315	142,797	154,275
Total	848,442	904,454	1,062,282	1,073,381	472,742	403,408
				Value (*1,000 dollars*)[2]		
India	266,916	367,436	412,027	364,678	155,433	121,442
Thailand	1,283,687	983,831	991,425	872,611	374,542	355,958
Subtotal	1,550,603	1,351,267	1,403,452	1,237,288	529,975	477,400
Other AD sources	864,636	1,074,951	1,357,487	954,685	506,541	331,606
Other sources	1,198,624	973,512	976,375	1,436,261	453,533	507,128
Total	3,613,863	3,399,731	3,737,315	3,628,235	1,490,049	1,316,134
				Unit value (*per pound*)[2]		
India	$3.72	$3.80	$4.16	$4.08	$3.84	$4.19
Thailand	4.36	4.01	3.56	3.14	2.90	2.95
Subtotal	4.24	3.95	3.72	3.37	3.13	3.19
Other AD sources	4.12	3.53	3.28	3.15	3.16	3.33
Other sources	4.40	3.77	3.61	3.57	3.18	3.29
Total	4.26	3.76	3.52	3.38	3.15	3.26

Table continued on next page.

Table IV-2--*Continued*
Warmwater shrimp: U.S. imports, by sources, 2001-03, January-June 2004, and January-June 2005[1]

Source	Calendar year				January-June	
	2001	2002	2003	2004	2004	2005
				Share of quantity (*percent*)		
India	8.5	10.7	9.3	8.3	8.6	7.2
Thailand	34.7	27.1	26.2	25.9	27.3	29.9
Subtotal	43.1	37.8	35.6	34.3	35.9	37.1
Other AD sources	24.7	33.6	39.0	28.3	33.9	24.6
Other sources	32.1	28.5	25.4	37.5	30.2	38.2
Total	100.0	100.0	100.0	100.0	100.0	100.0
				Share of value (*percent*)		
India	7.4	10.8	11.0	10.1	10.4	9.2
Thailand	35.5	28.9	26.5	24.1	25.1	27.0
Subtotal	42.9	39.7	37.6	34.1	35.6	36.3
Other AD sources	23.9	31.6	36.3	26.3	34.0	25.2
Other sources	33.2	28.6	26.1	39.6	30.4	38.5
Total	100.0	100.0	100.0	100.0	100.0	100.0

[1] See also, Table IV-2, *Final Shrimp Report.*
[2] Landed, duty-paid.

Note.–Because of rounding, figures may not add to the totals shown.

Source: Compiled from official Commerce statistics.

Table IV-3
Warmwater shrimp: U.S. importers and changes in operations since July 1, 2004

* * * * * * *

APPARENT U.S. CONSUMPTION

Data on U.S. consumption of warmwater shrimp are presented in table IV-4.[6] The quantity of U.S. consumption increased by 20.8 percent from 2001 to 2004 and decreased by 14.7 percent in January-June 2005 compared with January-June 2004. The value of U.S. consumption decreased irregularly by 7.5 percent from 2001 to 2004 and decreased by 13.1 percent in January-June 2005 compared with January-June 2004.

At the hearing in these investigations, U.S. processors, for the most part, indicated that they had not seen a reduction in demand or consumption in the United States. Insofar as the decline in apparent consumption shown in the Commission's data, they suggested it might be attributed to a number of possibilities including inventories being drawn down from 2004, purchasers holding larger inventories that would not necessarily show up in Commission data, and/or the late start of the shrimp season in 2005. Additionally, petitioners stated that restaurants are not seeing reduced traffic; hence, it would seem unlikely that shrimp demand/consumption has dropped.[7] [8] Eastern Fish, an importer of subject product, testified that it had not observed a reduction in demand, but added that most of its purchasers

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[6] U.S. production is based on wild catch landings and farmed production. Wild catch landings are based on official statistics of the National Marine Fisheries Service for 2001-03. 2004 production is estimated by Commission staff, multiplying 2003 U.S. shrimp landings by the percentage change in Gulf landings from 2003 to 2004. Only Gulf landings for 2004 are currently available. Farmed production is based on estimates by the U.S. Marine Shrimp Farming Program.

[7] See, testimony of Jonathan Applebaum, President, Penguin Frozen Foods, Richard Gollott, Secretary, Golden Gulf Coast, Lane Authement, Manager, Hi Seas of Dulac, and William Noellert, Dewey Ballantine, review hearing transcript, pp. 92-98 and 157.

[8] In their posthearing brief, petitioners noted that "efforts to locate any specific quantification of frozen shrimp inventories held by purchasers have proven unsuccessful. Such data do not appear to be publicly available." Petitioners go on to note that "industry publications, however, provide anecdotal support that cold storage inventories were at unusually high levels at the beginning of this year," citing (among others) *Quick Frozen Foods International,* an industry publication, which stated that "cold storage warehouses in the U.S. are filled with much more shrimp than normal as production seasons in Thailand, Vietnam, India, and other major aquaculture countries are gearing up." In concluding, petitioners state that, "A reasonable conclusion to be drawn from this evidence (hearing testimony and publicly available information) is that the decline in apparent domestic consumption is due to the large amount of inventory stocks that existed at the beginning of 2005 and have been worked down during the first half of this year. Actual consumption appears not to have changed significantly."

See, petitioners' posthearing brief, app. C, pp. C-1-C-4.

Respondents, in their posthearing brief, state that the "evidence on record is that domestic consumption has fallen precipitously since the antidumping order were imposed" and go on to argue that the apparent decline in U.S. consumption "cannot be explained away by petitioners' claim that there has been an enormous, yet invisible, draw-down of purchaser inventories in interim 2005." Among the reasons cited by respondents for the apparent decline in consumption are: imposition of the antidumping orders; the decline in the popularity of the Atkins diet; and, high fuel prices, which may discourage consumers from eating out.

See, respondents' posthearing brief, app. C, pp. 32-34.

Table IV-4
Warmwater shrimp: U.S. producers' U.S. shipments, U.S. imports, by sources, and U.S. consumption, 2001-04, January-June 2004, and January-June 2005[1]

Item	Calendar year				January-June	
	2001	2002	2003	2004	2004	2005
	Quantity (*1,000 pounds*)					
Wild catch landings	279,225	255,894	276,926	252,727	85,796	75,435
Farmed production	10,000	12,300	13,200	12,350	5,500	4,000
Domestic production	289,225	268,194	290,126	265,077	91,296	79,435
Converted domestic production	181,923	168,694	182,489	166,733	57,425	49,965
Exports[3]	24,893	27,305	32,449	25,107	12,166	11,338
U.S. shipments	157,030	141,389	150,040	141,627	45,259	38,627
U.S. imports from--						
India	71,794	96,654	99,140	89,364	40,486	29,015
Thailand	294,275	245,485	278,632	278,279	128,996	120,680
Subtotal (subject)	366,070	342,139	377,772	367,643	169,483	149,695
Other AD sources	209,763	304,285	414,347	303,423	160,462	99,438
Other sources	272,609	258,030	270,163	402,315	142,797	154,275
All countries	848,442	904,454	1,062,282	1,073,381	472,742	403,408
Total U.S. consumption	1,005,472	1,045,843	1,212,322	1,215,008	518,001	442,035
	Value (*1,000 dollars*)					
U.S. shipments[3]	924,907	678,667	700,687	569,340	206,835	158,756
U.S. imports[4] from--						
India	266,916	367,436	412,027	364,678	155,433	121,442
Thailand	1,283,687	983,831	991,425	872,611	374,542	355,958
Subtotal (subject)	1,550,603	1,351,267	1,403,452	1,237,288	529,975	477,400
Other AD sources	864,636	1,074,951	1,357,487	954,685	506,541	331,606
Other sources	1,198,624	973,512	976,375	1,436,261	453,533	507,128
All countries	3,613,863	3,399,731	3,737,315	3,628,235	1,490,049	1,316,134
Total U.S. consumption	4,538,770	4,078,398	4,438,001	4,197,574	1,696,885	1,474,890

Table continued on next page.

Table IV-4--*Continued*
Warmwater shrimp: U.S. producers' U.S. shipments, U.S. imports, by sources, and U.S. consumption, 2001-04, January-June 2004, and January-June 2005[1]

Item	Calendar year				January-June	
	2001	2002	2003	2004	2004	2005

[1] See also, Table IV-4, *Shrimp Final Report*.
[2] Exports include the following HTS numbers: 0306.13.0003, 0306.13.0006, 0306.13.0009, 0306.13.0012, 0306.13.0015, 0306.13.0018, 0306.13.0021, 0306.13.0024, 0306.13.0027, 0306.13.0040, 1605.20.1010, AND 1605.20.1025.
[3] The value of U.S. shipments has been estimated by using an average wholesale price for headless shell-on shrimp.
[4] Landed, duty-paid.

Note.–Because of rounding, figures may not add to the totals shown. Wild catch landings and farmed production are presented in pounds of live (head-on shell-on) weight. With respect to interim wild catch data, National Marine Fisheries Service makes revisions each month in order to publish the best available data. Such revisions usually result in an upward adjustment to the amount of the catch; hence, the January-June 2005 data, in the end, may be understated. U.S. production has been converted to pounds of headless shell-on weight. Import and export quantities are in actual reported official statistics and have not been converted to headless shell-on equivalent weight, therefore imports may be slightly overstated relative to U.S. shipments. Additionally, to the extent official statistics contain any imports of "dusted" or "battered" shrimp (which are excluded from the antidumping orders), imports may be slightly overstated. Imports from Canada, Chile, Denmark, Greenland, and Iceland are considered to be of coldwater shrimp and therefore are excluded from the import data.

Source: Compiled from official Commerce statistics; Wild catch landings – 2001 - 2003: National Marine Fisheries Service "Fisheries of the United States" (annual yearbook, various issues) statistics; 2004 production and January-June 2004 production: estimated by Commission staff, multiplying 2003 U.S. shrimp landings by the percentage change in Gulf landings from 2003 to 2004 (only Gulf landings for 2004 are currently available); January-June 2005 production is estimated by multiplying January-June 2004 U.S. shrimp landings by the percent change in Gulf landings from January-June 2004 to January-June 2005 (only Gulf landings for 2005 are currently available); and U.S. Marine Shrimp Farming Program statistics (staff communication from Tony Ostrowski, Director, U.S. Marine Shrimp Farming Program, August 20, 2005.

want just-in-time inventory, and thus would not hold large inventories.[9] Further, with regard to consumption, it should be noted that imports of breaded shrimp, a nonsubject product , from subject countries showed a relatively large increase of 103.2 percent (4.1 million pounds) during January-June 2005 compared with January-June 2004, which may partially explain the decline in consumption of subject product. Imports of breaded product from the other four AD countries increased by 286.0 percent (28.5 million pounds) in January-June 2005 compared with January-June 2004.[10]

U.S. MARKET SHARES

Market shares for warmwater shrimp are presented in table IV-5. The quantity of the U.S. producers' market share decreased steadily from 2001 through 2004 and showed no movement in January-June 2005 compared with January-June 2004. The value of the U.S. producers' market share decreased steadily during the period examined.

[9] See, testimony of Eric Bloom, President, Eastern Fish Company, review hearing transcript, pp. 244-245.

[10] China had the single largest increase in breaded imports during January-June 2005, running 342.3 percent ahead of imports for January-June 2004.

Table IV-5
Warmwater shrimp: Apparent U.S. consumption and market shares, 2001-04, January-June 2004, and January-June 2005[1]

Item	Calendar year				January-June	
	2001	2002	2003	2004	2004	2005
				Quantity (*1,000 pounds*)		
U.S. consumption	1,005,472	1,045,843	1,212,322	1,215,008	518,001	442,035
				Value (*1,000 dollars*)		
U.S. consumption	4,538,770	4,078,398	4,438,001	4,197,574	1,696,885	1,474,890
				Share of quantity (*percent*)		
U.S. shipments	15.6	13.5	12.4	11.7	8.7	8.7
U.S. imports from--						
India	7.1	9.2	8.2	7.4	7.8	6.6
Thailand	29.3	23.5	23.0	22.9	24.9	27.3
Subtotal (subject)	36.4	32.7	31.2	30.3	32.7	33.9
Other AD sources	20.9	29.1	34.2	25.0	31.0	22.5
Other sources	27.1	24.7	22.3	33.1	27.6	34.9
All countries	84.4	86.5	87.6	88.3	91.3	91.3
				Share of value (*percent*)		
U.S. shipments	20.4	16.6	15.8	13.6	12.2	10.8
U.S. imports from--						
India	5.9	9.0	9.3	8.7	9.2	8.2
Thailand	28.3	24.1	22.3	20.8	22.1	24.1
Subtotal (subject)	34.2	33.1	31.6	29.5	31.2	32.4
Other AD sources	19.0	26.4	30.6	22.7	29.9	22.5
Other sources	26.4	23.9	22.0	34.2	26.7	34.4
All countries	79.6	83.4	84.2	86.4	87.8	89.2

[1] See also, Table IV-5, *Final Shrimp Report.*
[2] Less than 0.05 percent.

Note.–Because of rounding, figures may not add to the totals shown. Import quantities are in actual reported official statistics and have not been converted to headless shell-on equivalent weights, therefore import penetration may be slightly overstated. Additionally, to the extent official statistics contain any imports of "dusted" or "battered" shrimp (which are excluded from the antidumping orders), import penetration may be slightly overstated. Imports from Canada, Chile, Denmark, Greenland, and Iceland are considered to be of coldwater shrimp and therefore are excluded from the import data.

Source: Compiled from official Commerce statistics; Wild catch landings – 2001 - 2003: National Marine Fisheries Service "Fisheries of the United States" (annual yearbook, various issues) statistics; 2004 production and January-June 2004 production: estimated by Commission staff, multiplying 2003 U.S. shrimp landings by the percentage change in Gulf landings from 2003 to 2004 (only Gulf landings for 2004 are currently available); January-June 2005 production is estimated by multiplying January-June 2004 U.S. shrimp landings by the percent change in Gulf landings from January-June 2004 to January-June 2005 (only Gulf landings for 2005 are currently available); and U.S. Marine Shrimp Farming Program statistics (staff communication from Tony Ostrowski, Director, U.S. Marine Shrimp Farming Program, August 20, 2005.

RATIO OF SUBJECT IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of subject imports to U.S. production of warmwater shrimp is presented in table IV-6. Imports from subject countries were equivalent to 201.2 percent of U.S. production during 2001. This level increased to 220.5 percent during 2004 and to 299.6 percent during January-June 2005.

Table IV-6
Warmwater shrimp: Ratio of U.S. imports to U.S. production, by sources, 2001-04, January-June 2004, and January-June 2005[1]

Item	Calendar year				January-June	
	2001	2002	2003	2004	2004	2005
	Ratio of U.S. imports to converted domestic production (*percent*)					
India	39.5	57.3	54.3	53.6	70.5	58.1
Thailand	161.8	145.5	152.7	166.9	224.6	241.5
Subtotal (subject)	201.2	202.8	207.0	220.5	295.1	299.6
Other AD sources	115.3	180	227.1	182.0	279.4	199.0
Other sources	149.8	153.0	148.0	241.3	248.7	308.8
All countries	466.4	536.2	582.1	643.8	823.2	807.4

[1] See also, Table IV-6, *Final Shrimp Report.*

Source: Compiled from official Commerce statistics, National Marine Fisheries statistics, and U.S. Marine Shrimp Farm Program statistics.

CUMULATION CONSIDERATIONS

In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) the degree of fungibility, including specific customer requirements and other quality related questions; (2) presence of sales or offers to sell in the same geographical markets; (3) common channels of distribution; and (4) simultaneous presence in the market. Degree of fungibility and channels of distribution are discussed in Parts I and II of this report; geographical markets and presence in the market are discussed below.

In the original investigations, the Commission found that domestically produced warmwater shrimp and imports of same from the six subject countries were similar enough in characteristics to satisfy the fungibility criterion and found, as well, that the criteria concerning geographical overlap, common channels of distribution, and simultaneous presence were sufficiently satisfied to allow for the cumulation of imports from all six subject countries for the purpose of its injury analysis.[11] In these investigations, petitioners argue that imports from India and Thailand should be cumulated in that they are fungible with the domestic product and each other, are being sold and offered in the same geographical markets through common channels of distribution, and are simultaneously present in the market.[12]

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[11] See, *Final Shrimp Report,* pp. 20-21.

[12] See, petitioners' prehearing brief, pp. 71-79. Additionally, petitioners offer the following with respect to cumulation analysis in review investigations:

"In five-year reviews, the Commission examines the current and likely differences in the

(continued...)

Respondents argue that, unlike the original investigations, cumulation in these changed circumstances reviews is "completely discretionary," and state that the cumulation provision is identical critical circumstances reviews and sunset reviews.[13] Additionally, respondents argue that cumulation should not be adopted for these reviews "regardless of any reasonable overlap in competition that may be found between Thailand and India and the domestic producers"[14] in light of likely differences in conditions of competition between subject imports from India and Thailand and go on to state that separate determinations are "especially warranted" in these reviews. [15]

Geographical Markets

Warmwater shrimp products produced in the United States are shipped nationwide. While imports of warmwater shrimp from the subject countries may enter specific Customs districts, the product is then generally sold nationwide. Table IV-7, based on Commerce statistics for the period 2001-04 and January-August 2005, presents U.S. import quantities of warmwater shrimp, by the subject countries, according to the Customs districts through which they entered.

Simultaneous Presence in the Market

Warmwater shrimp produced in the United States were present in the market throughout the period for which data were collected. Table IV-8 presents monthly U.S. imports of warmwater shrimp during calendar year 2004 and January-August 2005. Based on official U.S. import statistics, there were U.S. imports of warmwater shrimp from each of the subject countries in each month during January 2004-August 2005.

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[12] (...continued)
conditions of competition since the order has been imposed as part of its cumulation analysis. The Commission has not explicitly extended this additional consideration to its cumulation analysis in changed circumstances reviews. Nevertheless, even if the Commission were to make such a consideration in these reviews, there is no reason to believe that there is any difference in likely conditions of competition among subject imports from India and Thailand and between such imports and the domestic like product. Indian and Thai producers have projected that their capacity, production, and exports will remain roughly the same or slightly increase in 2005 and 2006. Further, the record provides no indication that there has been any significant change in the conditions of competition since the orders have been imposed."

Id., pp. 78-79.

[13] See, respondents' prehearing brief, pp. 25-26.

[14] Id.

[15] In the this regard, they state:
"Separate determinations are especially warranted in these reviews due to the unique nature of the central change in circumstances on which these CCRs' outcomes largely hinge, the extent of the tsunami's damages to the shrimp industries in India and Thailand. While there was one tsunami, its impact was devastatingly unique in each country. As detailed in the country-specific sections of this brief, the industries in both countries are markedly different in terms of means of production (wild caught and cultured in India versus cultured in Thailand, and hence different levels of reliance on broodstock, boats, hatcheries, and farms); reliance on imported versus domestic broodstock; nature, extent and consequence of environmental damages; levels and types of recovery assistance; product mix and, consequently, prices; and trends and projections in production capacity, production inventories and imports. All of these factors have been affected significantly but differently by the tsunami in each of the two countries."

Id., pp. 26-27

Table IV-7
Warmwater shrimp: U.S. imports, by subject countries and by customs districts, 2001-04 and January-August 2005[1]

Customs district	India					Thailand				
	2001	2002	2003	2004	Jan.-August 2005	2001	2002	2003	2004	Jan.-August 2005
	Quantity (*1,000 pounds*)									
Baltimore, MD	13	80	55	0	0	212	264	92	361	1,038
Boston, MA	144	71	523	1,016	1,052	8,426	5,117	7,355	4,858	3,634
Buffalo, NY	46	44	23	20	10	219	145	202	210	386
Charleston, SC	36	70	60	396	36	0	450	0	31	1,220
Charlotte, NC	0	0	0	0	0	0	0	0	30	0
Chicago, IL	0	0	36	0	172	1,146	1,284	2,484	1,470	4,782
Cleveland, OH	883	1,105	1,515	0	0	8,912	5,375	1,509	0	47
Columbia-Snake, OR	0	0	0	0	0	68	0	0	0	154
Dallas-Fort Worth, TX	0	0	0	77	0	0	0	893	3,372	1,674
Detroit, MI	40	50	8	1	1	595	530	40	166	8
Great Falls, MT	0	0	0	0	0	68	0	0	0	0
Honolulu, HI	247	503	538	219	33	164	119	181	20	2
Houston-Galveston, TX	0	0	256	60	177	1,213	796	1,730	962	607
Laredo, TX	5	0	36	0	0	1	0	0	0	2
Los Angeles, CA	51,559	62,266	50,563	49,520	21,361	199,914	171,739	191,160	212,319	134,492
Miami, FL	1,290	1,943	1,634	2,046	674	10,447	8,772	16,259	11,744	7,918
Mobile, AL	0	0	0	75	0	0	97	0	0	0
New Orleans, LA	35	33	71	0	0	131	0	0	29	34
New York, NY	14,910	25,701	36,046	32,625	21,802	40,814	38,324	39,254	39,242	31,898
Norfolk, VA	126	846	2,959	2,766	1,306	2,102	1,278	5,240	1,599	3,844
Ogdensburg, NY	25	24	0	0	9	960	304	40	29	0
Pembina, ND	0	0	0	0	0	9	0	0	0	0
Philadelphia, PA	0	0	36	0	0	151	1,460	172	32	96
Portland, ME	0	0	0	0	0	28	0	0	0	0
San Francisco, CA	0	0	36	38	0	215	32	171	386	934
San Juan, PR	72	71	281	41	0	85	142	134	95	0
Savannah, GA	12	302	37	0	61	0	235	0	397	2,401
Seattle, WA	0	46	213	285	71	230	208	418	244	226
St. Albans, VT	0	0	0	0	0	24	4	5	1	0
Tampa, FL	2,352	3,496	4,214	180	908	18,141	8,808	11,294	684	1,629
Virgin Islands of the U.S.	0	0	0	0	0	1	0	0	0	0
Total	71,794	96,654	99,140	89,364	47,673	294,275	245,485	278,632	278,279	196,024

[1] See also, Table IV-8, *Shrimp Final Report.*

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table IV-8
Warmwater shrimp: U.S. Imports, by source and month, January 2004-August 2005[1]

Month	India	Thailand	Other AD sources[2]	All other sources	Total
			Quantity (*1,000 pounds*)		
January 2004	10,000	23,678	36,604	21,480	91,762
February 2004	14,734	48,701	44,940	21,222	129,597
March 2004	8,653	32,065	31,582	21,323	93,622
April 2004	1,964	9,498	18,816	25,782	56,060
May 2004	2,099	6,629	12,901	25,171	46,800
June 2004	3,036	8,426	15,619	27,819	54,900
July 2004	8,754	17,813	17,077	36,512	80,157
August 2004	10,020	11,005	15,425	37,634	74,083
September 2004	6,357	16,773	22,818	43,454	89,402
October 2004	6,926	26,403	28,449	49,083	110,861
November 2004	8,049	39,377	35,951	52,173	135,550
December 2004	8,772	37,911	23,242	40,662	110,587
January 2005	6,030	27,632	21,568	29,393	84,623
February 2005	4,533	20,354	18,360	24,348	67,595
March 2005	6,899	18,045	16,534	28,021	69,499
April 2005	5,153	15,761	13,284	24,054	58,251
May 2005	2,629	15,635	13,743	21,832	53,839
June 2005	3,772	23,254	15,948	26,627	69,601
July 2005	6,047	31,309	18,801	28,171	84,328
August 2005	12,611	44,036	20,581	33,435	110,663

[1] See also, Table IV-9, *Final Shrimp Report.*
[2] Brazil, China, Ecuador and Vietnam.

Source: Compiled from official statistics of the Department of Commerce.

THE INDUSTRY IN INDIA

Table IV-9 presents data provided by Indian producers/exporters through their counsel or directly with respect to their warmwater shrimp operations in India. Thirty-seven firms[16] which exported to the United States provided useable data for these investigations. The shipments of these firms to the United States were equivalent to 74.7 percent of subject U.S. imports from India in 2004 and 73.5 percent of such imports in January-June 2005.[17] With respect to the foreign producer questionnaires, counsel for respondents expressed reservations concerning the projections of the questionnaire respondents (particularly, regarding capacity). In this regard, counsel stated:

> "The interrelatedness of the tsunami's impact on the fishermen, hatcheries, farms, and processors demonstrates the irrelevance of the processors' capacity utilization levels. If there is no fresh shrimp from the upstream supply chain, there can be no production of subject merchandise, regardless of a processor's theoretical production capacity that assumes unlimited fresh shrimp supply. While ever-hopeful of recovery, the foreign producers' projections reflect the tsunami's limitations on upstream supply."[18] [19]

While the vast majority of the imported frozen warmwater shrimp from both subject countries came from farmed, rather than wild-caught, inputs, India had a higher share of the latter than Thailand. In the final phase of the investigations, Indian producers/exporters reported using wild-caught inputs more than producers/exporters from any of the other subject countries; nevertheless, the majority of Indian exports came from the farmed product (particularly for those companies shipping to the United States).[20] For 2004, 26 of the responding firms reported 100 percent shipments of farmed product and three reported shipments of 85-99 percent farmed product. The eight other firms reported the majority of their shipments were wild-caught (two firms between 51 and 65 percent wild-caught; three firms between 66 and 80 percent; and, three firms more than 80 percent). In 2004, 71.5 percent of total reported Indian shipments were farmed product. For January-June 2005, 26 of the responding firms reported 100 percent shipments of farmed product and three reported shipments of 85-99 percent farmed product. The eight other firms reported the majority of their shipments were wild-caught (one firm between 51 and 65 percent wild-caught; two firms between 66 and 80 percent; and, five firms more than 80 percent). For January-June 2005, 68.8 percent of total reported Indian shipments were farmed product.

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[16] One firm, *** submitted separate data as a producer and as a merchant exporter.

[17] During the period examined in these investigations, more than 90 percent of India's shipments were exported. Less that one percent of shipments went to the home market.

[18] See, respondents' review prehearing brief, p. 34. Additionally, respondents state, "The reality is that the processors do not know the full extent of the tsunami's damages and most speculate as to 2006 production levels, some wishfully." Id., p. 34, n. 107.

[19] With regard to the India's early assessments of the overall tsunami impact, respondents commented:

> "In evaluating the initial optimistic assessments of the tsunami's impact by the Indian authorities in the period immediately after the tsunami it is important to keep in mind the geopolitical position of India as a country eager to raise its image and status on the world stge. So great was India's desire to be perceived as having graduated from aid recipient to donor that India initially refused outside aid in the three weeks immediately following the tsunami. Thus, at least until mid-January there was no incentive whatsoever for Indian government officials to make the post-tsunami situation seem as bad or worse than it was."

See, respondents' review, posthearing brief, app. D, p. 41.

[20] See, *Final Shrimp Report*, p. VII-1, n. 1.

Table IV-9
Warmwater shrimp: Indian production capacity, production, shipments, and inventories, 2001-04, January-March 2004 and 2005, April-June 2004 and 2005, and projected 2005-06

(*Quantity* in 1,000 pounds)

Item	Actual experience								Projections	
	2001	2002	2003	2004	Jan.-Mar.		Apr.-June		2005	2006
					2004	2005	2004	2005		
Capacity	269,875	282,778	286,877	315,512	86,785	89,030	85,345	88,650	322,243	323,234
Production	128,895	152,166	154,855	163,333	34,312	27,663	42,040	36,854	148,053	159,956
End-of-period inventories	15,648	17,357	20,688	25,325	17,335	21,013	23,054	26,617	24,265	25,865
Shipments:										
Internal consumption/transfers	10,365	8,950	11,342	6,164	1,749	1,502	1,779	1,544	5,002	4,502
Home market sales	136	154	313	298	73	119	103	113	236	112
Exports to--										
United States	48,635	75,020	71,632	70,325	18,714	12,782	14,410	11,882	59,106	63,850
All other export markets	67,368	66,290	67,381	81,909	17,249	17,844	20,026	17,714	80,265	85,902
Total exports	116,003	141,310	139,013	152,234	35,963	30,626	34,436	29,596	139,371	149,752
Total shipments	126,504	150,414	150,668	158,696	37,785	32,247	36,318	31,253	144,609	154,366
					Ratios and shares (percent)					
Capacity utilization	44.9	51.1	51.9	50.6	39.2	30.7	47.9	40.8	44.8	48.3
Inventories/production	12.1	11.4	13.4	15.5	12.6	19.0	13.7	18.1	16.4	16.2
Inventories/shipments	12.4	11.5	13.7	16.0	11.5	16.3	15.9	21.3	16.8	16.8
Share of total shipments:										
Internal consumption/transfers	8.2	6.0	7.5	3.9	4.6	4.7	4.9	4.9	3.5	2.9
Home market sales	0.1	0.1	0.2	0.2	0.2	0.4	0.3	0.4	0.2	0.1
Exports to--										
United States	38.4	49.9	47.5	44.3	49.5	39.6	39.7	38.0	40.9	41.4
All other markets	53.3	44.1	44.7	51.6	45.7	55.3	55.1	56.7	55.5	55.6
Total exports	91.7	93.9	92.3	95.9	95.2	95.0	94.8	94.7	96.4	97.0

Source: Compiled from data submitted in response to Commission questionnaires.

Table IV-10 provides comments from Indian producer/exporters with regard to the impact of the tsunami on their ability to produce/export warmwater shrimp. Thirty-one of the 37 responding firms provided comments with regard to the tsunami impact. Table IV-11 provides comments from Indian producer/exporters with regard to the impact of the antidumping orders on their ability to produce/export warmwater shrimp. Thirty-five of the responding firms made comment on the impact of the antidumping duties.

Table IV-10
Warmwater shrimp: Indian producer/exporter comments concerning the impact of the tsunami on their firm's ability to produce and/or export warmwater shrimp

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Table IV-11
Warmwater shrimp: Indian producer/exporter comments concerning the impact of the antidumping orders on their firm's ability to produce and/or export warmwater shrimp

* * * * * * *

The most commonly reported impact of the tsunami mentioned by Indian producers as well as in testimony by Indian respondents at the hearing in these investigations had to do with shortages in their raw material supply caused by damage to fisheries, shrimp farms, and hatcheries. In an effort to ascertain the nature and extent of that damage in India, the Commission sent questionnaires through the Seafood Exporters Association of India (SEAI) and the Marine Products Export Development Authority (MPEDA) requesting such information from fishery, shrimp farm, and hatchery associations. In response, MPEDA provided a consolidated shrimp farm associations' questionnaire and a consolidated fishery associations' questionnaire[21] and the All India Shrimp Hatcheries Association provided a consolidated hatcheries associations' questionnaire. Those responses, in their entirety, are presented in appendix H. Additionally, trip notes from the Commission's staff's field trip to India are presented in appendix I.

Further, with regard to the tsunami, the Food and Agriculture Organization of the United Nations (FAO) in the weeks and months immediately following the tsunami prepared a number of reports assessing its impact. A summary of the FAO's published findings with respect to India follows.

Damage to the Indian shrimp industry came in two ways: damage to or destruction of fishing boats, and damage to inland shrimp ponds. Most of the boats are small, often unmotorized craft, operating close to shore; some are larger, motorized vessels. The hatcheries and ponds are mostly located slightly inland (within 1-2 km from shore) or along rivers.

Initial reports,[22] later reinforced by updates,[23] indicated that the areas of greatest destruction were Tamil Nadu and the Andaman and Nicobar Islands. Pondicherry, Andhra Pradesh, and Kerala were reportedly less affected.

Tamil Nadu has hundreds of fishing ports and landing centers, most of which suffered damage to harbors and other infrastructure. These ports serve thousands of small fishing craft – 57,000 of which

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[21] In addition, SEAI provided certain projections and estimated data to supplement the MPEDA fisheries submission.

[22] See, e.g., "Tsunami impact on fisheries & aquaculture in India," FAO, CONSRN Situation Report, Jan. 14, 2005; available at ftp://ftp.fao.org/FI/DOCUMENT/tsunamis_05/india/impact/05-02-14-1755-India.pdf.

[23] See, e.g., "Impacts of the Tsunami on Fisheries, Aquaculture and Coastal Livelihoods in India," FAO, CONSRN Situation Report, Mar. 16, 2005; available at ftp://ftp.fao.org/FI/DOCUMENT/tsunamis_05/india/impact/05-03-16-India.pdf.

were reported damaged or lost.[24] In addition, over 150,000 nets (on vessels or hand-tended) were lost or destroyed. About 700,000 people in Tamil Nadu rely on the fisheries sector for direct/indirect employment (the share accounted for by shrimp is unknown). Most of the labor force had not returned to work as of March 2005.[25]

In Andhra Pradesh, about 1,362 boats and 40,000 nets were lost and more than 11,000 boats were damaged. About 300,000 fishermen reportedly were rendered jobless; as of March 2005, all the relief camps had been closed and fishermen were returning to homes and work.[26]

Kerala also suffered substantial fishery sector damage, with about 5,000 vessels lost and 6,000 damaged.[27] In addition, 349 nets were lost or destroyed. Substantial infrastructure damage occurred to harbors and ports. By March, some fishermen had resumed their trade. All of these damaged or destroyed boats will take several months to repair/replace -- even the small wooden ones, because of the shortage of properly cured (dried-out) lumber to rebuild them.

These initial and updated reports suggested that the damage to aquaculture facilities was proportionately smaller than to boats/ports, probably due in part to the diminished impact of the tsunami once it hit the shoreline. About 5,753 fish (mostly shrimp) farms were damaged. The 2004 second harvest had been completed, minimizing the immediate effects on output, but future production was threatened by seawater innundation of farms and damage to pumphouses and other infrastructure. Broodstock supplies were reduced by the above-noted damage to fishing vessels and nets.[28] Almost 5,000 hectares of shrimp farms were affected, mostly in Kerala, with smaller areas affected in Tamil Nadu and Andhra Pradesh.

Recovery has been aided by Indian Government assistance. In addition to general relief aid to the affected populations, the Indian Government announced specific relief to the fishery sector, including:[29]

- 100% assistance for replacement or repair of "traditional" (small-scale) vessels and gear;
- Partial subsidies and loans for replacement or repair of larger (mechanized) vessels and gear.

Recovery efforts in India have not been free of controversy.[30] Initial offers of surplus mechanized fishing vessels from the EU were spurned because of concerns about displacement of the traditional fishery by "modern" capital-intensive technology. (One large vessel, employing 10 crew, could catch the same amount as 10 small ones employing 30 crew, with a consequent two-thirds drop in employment.) In addition, there is awareness by the FAO and others that the fisheries of India have been heavily exploited in recent years, leading to decreased harvests, and the tsunami's impact actually has presented an opportunity to "rationalize" (reduce capacity in) overfished fisheries.

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[24] "Impacts of the Tsunami on Fisheries, Aquaculture and Coastal Livelihoods in India," p. 2.

[25] Id., p. 3.

[26] Id., p. 4.

[27] Id., p. 4.

[28] Id., p. 5.

[29] "Subsidies for tsunami victims in Tamil Nadu, Andhra Pradesh, Kerala, and Pondicherry," FAO Fisheries Department Tsunami Disaster Relief Network, press release, Jan. 19, 2005. Also, "Impacts of the Tsunami on Fisheries, Aquaculture and Coastal Livelihoods in India," p. 8.

[30] "Impacts of the Tsunami on Fisheries, Aquaculture and Coastal Livelihoods in India," pp. 8-9; also, "Tsunami and fisheries: Q&A with Lahsen Ababouch (of FAO Fisheries Dept.)," FAO News Room, available at http://www.fao.org/newsroom/en/focus/2005/103129/article_103183en.html; also, "India – Post Tsunami Recovery Program – Preliminary Damage and Needs Assessment," Asian Development Bank, FAO, and World Bank, March 8, 2005, p. 71; available at http://siteresources.worldbank.org/INDIAEXTN/Resources/295583-1110791780048/India-tsunami-na-mar14-2005-all.pdf..

A number of factors have been identified as hindering accurate assessment by the FAO and others of the damage caused by the tsunami to the fishery sector:[31]

- only limited data are available on the number and condition of boats before the tsunami;

- the reduction in catch by affected fishermen has been partially offset by increased catches by fishermen moving to affected areas from less- or unaffected neighboring areas;

- how quickly vessels can be repaired or replaced depends partly on the capacity of the region's boatyards and their willingness to hire/expand employment for what is only a short-run surge in orders; and

- the aquaculture sector outlook depends heavily on the recovery of the fishery (broodstock) sector and/or on the availability of disease-free broodstock from nonlocal sources.

During its trip to India in conjunction with these investigations, Commission staff met with FAO officials. A summary of that meeting is found in appendix I at pages India-25 through India-27.

[31] "India – Post Tsunami Recovery Program – Preliminary Damage and Needs Assessment," pp. 69-70. Although this report examined the Indian industry, similar caution may apply to the uncertain pre-tsunami state of Thailand's farming sector and the willingness/ability of the local construction industry to rebuild lost/damaged farms and hatcheries.

THE INDUSTRY IN THAILAND

Table IV-12 presents data provided by Thai producer/exporters through their counsel or directly with respect to their warmwater shrimp operations in Thailand. Twenty-nine firms, all of which exported to the United States, provided useable data. The shipments of these firms to the United States were equivalent to 88.2 percent of subject U.S. imports from Thailand in 2004 and 89.0 percent of such imports in January-June 2005.[32]

In these investigations, Thai respondents have argued that revocation of the antidumping duties will not harm the U.S. industry inasmuch that recent developments concerning the EU and Japan will likely lead to increased shipments to those markets. With respect to the EU, GSP benefits were restored to Thailand effective August 1, 2005, reducing duties on imports of shrimp from 12.0 percent to 4.2 percent.[33] Insofar as Japan is concerned, respondents note that, in August 2005, Japan and Thailand concluded a free trade agreement that will reduce import tariffs to zero (from a range of 5 to 20 percent)

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[32] For nearly all of the reporting periods examined in these investigations, more than 95 percent of Thai product went to export markets with the United States receiving the majority of those shipments. With the exception of January-March 2005, home market shipments generally accounted for three percent or less of total shipments.

[33] Concerning this EU action, counsel for Thai respondents stated:

> "With the addition of the former eastern block countries the European shrimp market has expanded considerably and rivals the U.S. market. Consumption in the European market is expected to reach 700,000 metric tons (i.e., 1.54 billion pounds). This would make the European 27 percent larger than the market in the United States. Even if Thailand obtained only a 10 percent market share in Europe, this is 70,000 tons, or 154 million pounds, that would go to Europe instead of the United States. This is more than half of Thailand's projected shipments to the United States in 2005 and 2006. Furthermore, Thai producers can obtain higher prices and thereby enjoy larger profits in Europe as compared to the United States."

See, respondents' review prehearing brief, p. 120.

Petitioners offered the following with regard to the impact of the EU action:

> "Although Indian and Thai parties have attempted to characterize the EU's grant of GSP status to Thai shrimp as evidence that renewed dumping of shrimp from Thailand upon revocation will not do harm to the U.S. domestic industry, the Thai shrimp industry's reaction to the EU's announcement is further evidence that no change in circumstances has taken place in Thailand sufficient to warrant revocation. Despite claims by counsel for Indian and Thai parties that the impact of the tsunami is constraining Thai processors' production, Thailand's shrimp industry has reacted to reduced EU tariffs by substantially increasing exports to the EU. This reaction of the Thai shrimp industry to the EU's lowering of tariffs on Thai shrimp is indicative of the predictable effect that revocation of the orders on Thai shrimp would have on shipments to the U.S. market: with the removal of antidumping duties, exports of Thai shrimp to the United States would significantly increase and prices paid back to shrimp farms would increase to encourage further farmed shrimp production. In fact, because after revocation Thai shrimp would face no duties in the U.S. market, while it would still face tariffs in the EU, it is reasonable to project that at least some portion of the increased Thai shipments to the EU would be redirected to the U.S. market upon revocation."

See, petitioners' review posthearing brief, app. A, p. 28

Table IV-12
Warmwater shrimp: Thai production capacity, production, shipments, and inventories, 2001-04, January-March 2004 and 2005, April-June 2004 and 2005, and projected 2005-06

(*Quantity* in 1,000 pounds)

Item	Actual experience								Projections	
	2001	2002	2003	2004	Jan.-Mar.		Apr.-June		2005	2006
					2004	2005	2004	2005		
Capacity	465,549	451,604	465,788	465,924	131,570	132,963	128,789	149,332	462,076	461,025
Production	402,162	335,404	406,814	381,925	69,463	82,749	57,380	109,278	378,201	394,424
End-of-period inventories	62,700	73,921	97,175	89,792	68,384	93,009	69,913	108,326	89,825	98,264
Shipments:										
Internal consumption/transfers	4,490	3,558	3,971	8,702	1,741	2,454	1,560	1,158	5,021	2,874
Home market sales	5,622	4,639	5,210	8,833	1,681	6,228	1,678	2,416	11,838	7,969
Exports to--										
United States	247,877	214,261	266,442	245,520	73,809	46,430	28,478	60,986	235,535	237,826
All other export markets	130,615	107,565	110,748	127,129	21,631	25,809	24,414	29,736	127,721	136,056
Total exports	378,492	321,826	377,190	372,649	95,440	72,239	52,892	90,722	363,256	373,882
Total shipments	388,604	330,023	386,371	390,184	98,862	80,921	56,130	94,296	380,115	384,725
	Ratios and shares (percent)									
Capacity utilization	86.4	74.3	87.3	82.0	52.8	62.2	44.6	73.2	81.8	85.6
Inventories/production	15.6	22.0	23.9	23.5	24.6	28.1	30.5	24.8	23.8	24.9
Inventories/shipments	16.1	22.4	25.2	23.0	17.3	28.7	31.1	28.7	23.6	25.5
Share of total shipments:										
Internal consumption/transfers	1.2	1.1	1.0	2.2	1.8	3.0	2.8	1.2	1.3	0.7
Home market sales	1.4	1.4	1.3	2.3	1.7	7.7	3.0	2.6	3.1	2.1
Exports to--										
United States	63.8	64.9	69.0	62.9	74.7	57.4	50.7	64.7	62.0	61.8
All other markets	33.6	32.6	28.7	32.6	21.9	31.9	43.5	31.5	33.6	35.4
Total exports	97.4	97.5	97.6	95.5	96.5	89.3	94.2	96.2	95.6	97.2

Source: Compiled from data submitted in response to Commission questionnaires.

for more than twenty Thai agricultural products (including shrimp) in order to help those affected by the tsunami.[34]

As was the case with India, counsel expressed reservations with respect to the foreign producer questionnaires and offered the following comment concerning production projections for 2005 and 2006.

> "While these projections of total production for 2005 and 2006 reflect the difficulty in obtaining supply, they do not reflect the true severity of the looming supply constriction. As discussed previously, many of the smaller foreign producers believe they will have the ability to obtain fresh shrimp supply in the future; however, only the best positioned and more integrated shrimp process are assured of sufficient supplies of fresh shrimp. Therefore, the actual production experience during 2005 and 2006 will likely be much worse than projected in the foreign producer questionnaires."[35] [36]

Virtually all of the warmwater shrimp from Thailand was from farmed, rather than wild-caught, inputs. For 2004, 25 of the responding firms reported 100 percent shipments of farmed product and two

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[34] See, respondents' review prehearing brief, pp. 120-121. Additionally, respondents note:

> "Currently, Thailand exports about 7 billion baht of prepared shrimp to Japan per year. With market access increased under the new Thai-Japan FTA, the import volume of Thai prepared shrimp is bound to increase significantly. The terms of the Agreement are scheduled to take effect in September 2006 after the formal signing of the agreement in April 2006."

Id., p. 121.

With regard to the impact of the FTA, petitioners commented:

> "As far as the Japan-Thailand Free Trade Agreement, it is unlikely that such an agreement will take effect before mid-2006, and given the decreasing size and declining prices, the Japanese market is relatively unattractive compared to the U.S. market. Imports into Japan have declined since 2002 from 580 million pounds to 571 million pounds in 2004. Furthermore, give that the current tariff rate for raw shrimp into Japan is a mere 1.0 percent, one cannot expect any substantial increases of Thai exports into that market in the immediate future."

See, petitioners' review posthearing brief, app. B, pp. 18-19.

[35] See, respondents' review prehearing brief, pp. 108-109. See also, testimony of Panisuan Jamnarnwej, Immediate Past President, Thai Frozen Foods Association, review hearing transcript, p. 312.

[36] With regard to the Government of Thailand's assessments of the overall tsunami impact, Panisuan Jamnarnwej, Immediate Past President, Thai Frozen Foods Association, testified:

> "Finally, I would like to address the overly optimistic projections by some Thai government agencies. Given Thailand's growing trade deficit, politically, the government must appear to be taking steps to reduce the deficit through export policy as well as calming investor fears, but this political rhetoric is often out of touch with realities. A couple of months after the tsunami, we were implored by the Ministry of Agriculture and Cooperatives to support the claim that shrimp exports would increase nearly 20 percent in 2005. We informed the ministry that this projection was unrealistic. Given the disaster at the time, we believed that 2005 production would decline by at least 15 percent. As we learned the true extent of the damage, it became clear that even 15 percent was a conservative estimate, yet the ministry persisted in its 20-percent rhetoric. The data gathered in this investigation, however, demonstrate the unrealistic nature of the ministry's projections. Our industry cannot produce at the levels it had purchase previously. We will not, therefore, have a negative impact on the U.S. industry in the foreseeable future. Without the fresh shrimp, our capacity is useless."

Testimony of Panisuan Jamnarnwej, Immediate Past President, Thai Frozen Foods Association, review hearing transcript, pp. 225-226.

reported shipments of 85-99 percent farmed product. One firm reported shipments of 70-84 percent farmed product, while the remaining firm's shipments were 51-69 percent farmed product. In 2004, 97.5 percent of total reported Thai shipments were farmed product. For January -June 2005, 26 of the responding firms reported 100 percent shipments of farmed product, while one each reported shipments of 85-99 percent, 70-84 percent, and 51-69 percent farmed product. For January-June 2005, 98.1 percent of total reported Thai shipments were farmed product.

Table IV-13 provides comments from Thai producer/exporters with regard to the impact of the tsunami on their ability to produce/export warmwater shrimp. Twenty-four responding firms provided comments with regard to the tsunami impact. Table IV-14 provides comments from Thai producer/exporters with regard to the impact of the antidumping orders on their ability to produce/export warmwater shrimp. Twenty-five of the responding firms made comment on the impact of the antidumping duties.

Table IV-13
Warmwater shrimp: Thai producer/exporter comments concerning the impact of the tsunami on their firm's ability to produce and/or export warmwater shrimp

* * * * * * *

Table IV-14
Warmwater shrimp: Thai producer/exporter comments concerning the impact of the antidumping orders on their firm's ability to produce and/or export warmwater shrimp

* * * * * * *

Like India, the most commonly reported impact of the tsunami mentioned by Thai producers had to do with shortages in their raw material supply caused by damage to fisheries, shrimp farms, and hatcheries.[37] To ascertain the nature and extent of that damage in Thailand, the Commission sent questionnaires through the Thai Frozen Foods Association (TFFA) and the Government of Thailand's Department of Foreign Trade, Ministry of Commerce requesting such information from fishery, shrimp farm, and hatchery associations. In response, the National Fisheries Association of Thailand provided a consolidated fishery associations' questionnaire and the Thai Shrimp Association provided a consolidated shrimp farm associations' questionnaire and a consolidated hatcheries associations' questionnaire. Those responses, in their entirety, are presented in appendix H. Additionally, trip notes from the Commission's staff's field trip to Thailand are presented in appendix I. A summary of the FAO's published findings with respect to Thailand follows.

Nearly 500 fishing villages on the Andaman coast of Thailand were damaged or completely destroyed by the tsunami.[38] One village, Ban Nam Kem in Phangna province, lost 50 percent of its population and 80 percent of its fishing infrastructure. Nationwide, the tsunami damaged or destroyed 5,397 fishing boats (about 75 percent of which were small traditional craft), and 30 hectares of shrimp farms.[39] FAO reported that the damage is expected to drive down Thailand's shrimp exports by 75,000-80,000 metric tons in 2005.[40] Eight harbors were severely damaged, and several square miles of mangroves (important for wild broodstock supplies) were damaged.

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[37] ***.

[38] "Tsunami impact on fisheries & aquaculture in Thailand," FAO (and other agencies), Jan. 14, 2005, p. 1; available at ftp://ftp.fao.org/FI/DOCUMENT/tsunamis_05/thailand/impact/05-01-13_14.00Thailand.pdf.

[39] "FAO Situation Report – Tsunami – Thailand," Apr. 25, 2005; available at ftp://ftp.fao.org/FI/DOCUMENT/tsunamis_05/thailand/FAOAgencyReport-Thailand_17-05-05.pdf.

[40] Id.

The damage to shrimp hatcheries was mainly limited to damage to water intakes (blocked by sediment, etc.) and other infrastructure. There were, however, some hatcheries in Phangna province that were completely destroyed. This could cause some problems for broodstock supplies for farms, but the destroyed hatcheries reportedly represent "a limited percentage" of Thailand's total number of hatcheries. [41]

Most of Thailand's shrimp farms are on the Gulf coast and were spared the effects of the tsunami. Few farms have reported losses or damages for compensation, although this may be because of the low levels of compensation offered by the Government.[42] FAO states that "(i)t is worth verifying that shrimp farms were not significantly affected."[43] However, despite apparently limited physical damage to farms, their productive capability will continue to be limited as long as broodstock supplies are restricted from the fishery and hatchery sectors.

During its trip to Thailand in conjunction with these investigations, Commission staff met with FAO officials. A summary of that meeting is found in appendix I at pages Thailand-28 through Thailand-29.

U.S. INVENTORIES OF PRODUCT FROM THE SUBJECT COUNTRIES

Inventories of product reported by U.S. importers are presented in table IV-15.

[41] "Tsunami impact on fisheries & aquaculture in Thailand," Jan. 14, 2005, p. 11.

[42] Id.

[43] Id.

Table IV-15
Warmwater shrimp: U.S. importers' end-of-period inventories of imports, 2001-04, January-June 2004, and January-June 2005

Item	Calendar year				January-June	
	2001	2002	2003	2004	2004	2005
Imports from India:						
Inventories (*1,000 pounds*)	7,312	6,399	12,471	8,069	5,634	5,782
Ratio to imports (*percent*)	27.1	14.5	26.8	20.2	14.0	23.1
Ratio to U.S. shipments of imports (*percent*)	31.4	14.0	30.6	18.9	11.5	20.0
Imports from Thailand:						
Inventories (*1,000 pounds*)	39,664	46,179	55,338	50,497	43,291	42,046
Ratio to imports (*percent*)	19.7	24.1	28.3	29.6	28.5	27.3
Ratio to U.S. shipments of imports (*percent*)	20.8	24.7	30.2	29.7	25.1	26.4
Imports from subject countries (total):						
Inventories (*1,000 pounds*)	46,976	52,578	67,809	58,566	48,925	47,828
Ratio to imports (*percent*)	20.6	22.3	28.0	27.8	25.5	26.7
Ratio to U.S. shipments of imports (*percent*)	22.0	22.6	30.2	27.5	22.1	25.4
Imports from other AD countries (total):						
Inventories (*1,000 pounds*)	16,505	27,503	43,443	28,214	36,698	17,032
Ratio to imports (*percent*)	17.1	17.0	20.0	21.5	22.7	18.7
Ratio to U.S. shipments of imports (*percent*)	18.9	18.4	21.8	19.4	20.7	15.2
Imports from all other sources:						
Inventories (*1,000 pounds*)	17,140	19,212	20,550	30,507	16,436	29,290
Ratio to imports (*percent*)	22.7	23.8	27.8	20.5	13.9	20.4
Ratio to U.S. shipments of imports (*percent*)	24.1	24.6	29.9	22.8	13.3	21.1
Imports from all sources:						
Inventories (*1,000 pounds*)	80,621	99,293	131,802	117,287	102,058	94,150
Ratio to imports (*percent*)	20.1	20.8	24.7	23.9	21.6	22.7
Ratio to U.S. shipments of imports (*percent*)	21.7	21.6	26.8	23.8	19.5	21.4

Note.--Ratios are based on firms that provided both inventory data and import and/or shipment data. January-June ratios are based on annualized shipment data.

Source: Compiled from data submitted in response to Commission questionnaires.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs and Transportation Costs

Transportation costs for warmwater shrimp from subject countries to the United States (excluding U.S. inland costs) are estimated to be approximately 4.2 percent of the total cost for warmwater shrimp from India and 5.1 percent of the total cost for warmwater shrimp from Thailand.[1] These estimates are similar to the estimates in the final phase of the investigations. For U.S. inland transportation costs, sellers generally arrange transportation, which costs between 2 and 8 percent of the total delivered cost.[2]

In these investigations, many processors[3] noted that rising energy costs are affecting fishermen's ability to continue trawling for warmwater shrimp. According to the Energy Information Administration, the WTI Spot price for a barrel of crude oil rose from $38.56 on July 1, 2004 to $42.16 on January 3, 2005 and to $59.11 on July 1, 2005, a rise of more than 53 percent from July 1, 2004 to July 1, 2005.[4]

Exchange Rates

As stated in the report in the original investigations, the Indian rupee and Thai baht appreciated moderately in both real and nominal terms against the U.S. dollar over January 2001-June 2004. This moderate appreciation for both currencies continued, with some fluctuations, over July 2004-June 2005, as shown in figure V-1.

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[1] These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value for July 2004 through June 2005.

[2] See, *Final Shrimp Report*, Part V.

[3] Some firms submitted more than one questionnaire in these investigations. *** submitted both processors' and importers' questionnaires. *** have been counted only as importers and *** only as processors for the purposes of this chapter. *** submitted both importers' and purchasers' questionnaires; their responses to both importers' and purchasers' questionnaires have been counted. Similarly, *** has been counted as a purchaser and a processor. Purchasers *** submitted separate purchasers' questionnaires but are related companies; producers *** submitted separate processors' questionnaires but are related companies. For purposes of this chapter, all these questionnaires are treated as individual firms.

In their review posthearing brief, respondents took issue with the staff tabulations of tables in part II and part V. Staff has examined the respondents' compilations, and found that the few differences between the staff's compilations and the respondents' compilations are due to four primary reasons: one, the respondents' use of *** as importers, whereas staff has counted these firms only as processors; two, staff and respondents using slightly different data sets (e.g., respondents used ***, whose questionnaire was not available when staff wrote the prehearing report, and respondents did not include importer *** or purchaser *** for reasons unknown to staff; three, respondent errors in compilation; and four, staff errors in compilation. Staff has recompiled the data and has also added additional questionnaires from purchasers *** and importer ***. Staff would also call attention to changes in the this footnote's classification of *** since the prehearing report.

[4] See, http://www.eia.doe.gov/oil_gas/petroleum/info_glance/prices.html .

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates between Indian and Thai currencies and the U.S. dollar, by quarters, January 2001-June 2005

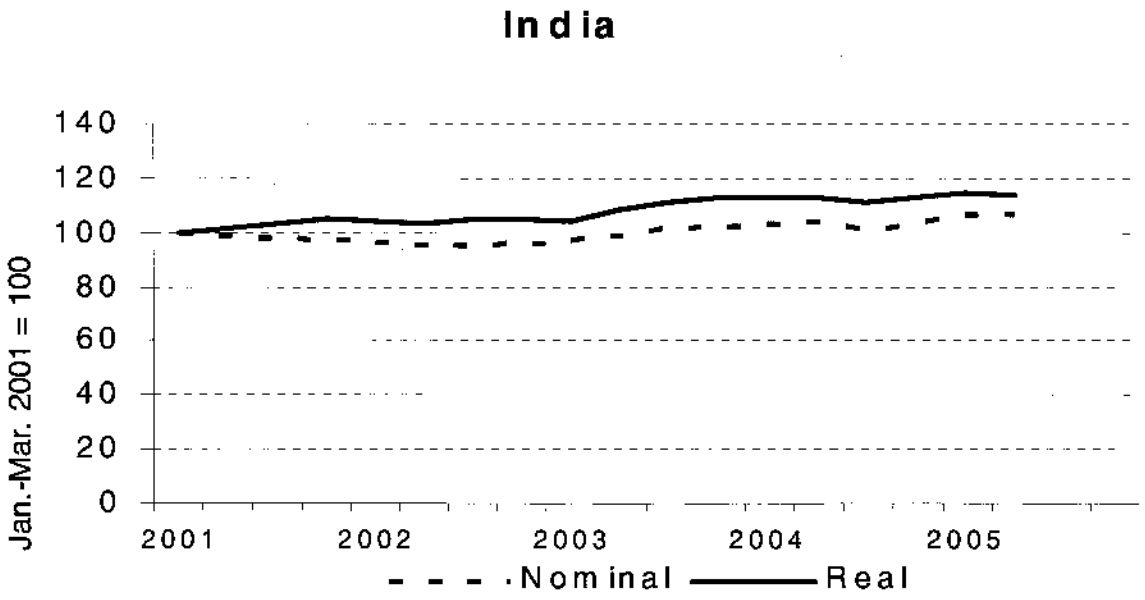
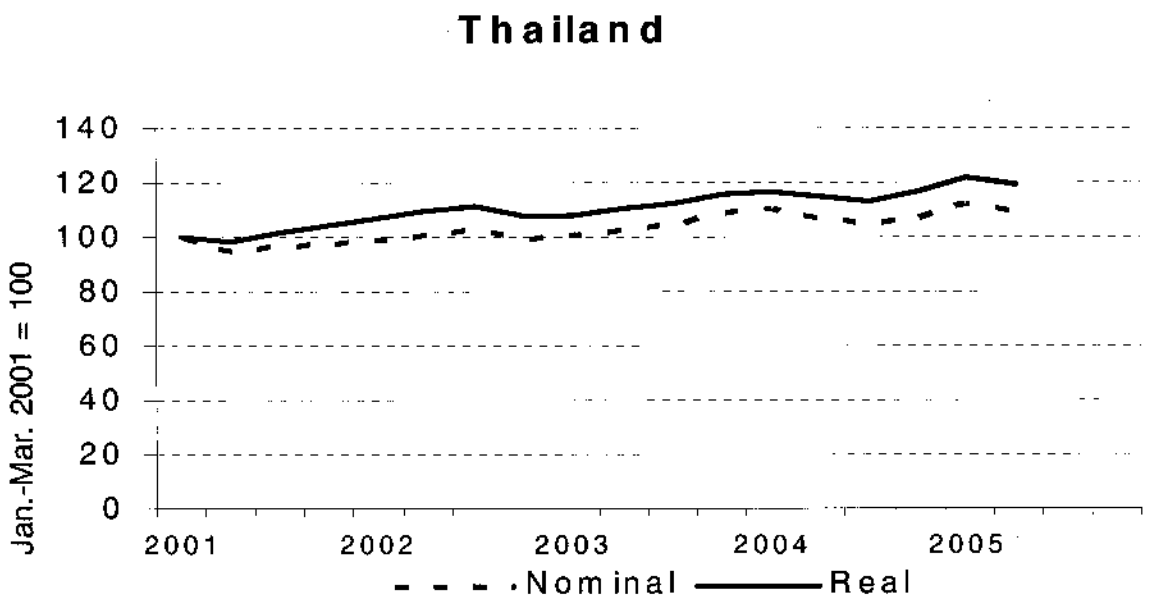


Figure continued on next page.

Figure V-1--*Continued*
Exchange rates: Indices of the nominal and real exchange rates between Indian and Thai currencies and the U.S. dollar, by quarters, January 2001-June 2005



Source: International Monetary Fund, *International Financial Statistics*, July 2005, August 2004, and June 2003.

PRICING PRACTICES

Pricing Methods

Warmwater shrimp are usually sold in the spot market (though a significant short-term contract market exists) with prices subject to frequent (usually weekly) changes according to market conditions (which are often generally known among market participants). In the final phase of the investigations, processors and importers reported a variety of pricing methods, including price lists, standard mark-ups over cost, and transaction-by-transaction negotiation. However, many processors and importers who reported using price lists often reported that any price list was a basis for negotiation rather than a fixed list. Price lists may be issued as frequently as once per week, and may contain different prices for different sizes of shrimp, as well as information about species, freezing method (block or IQF), availability, and extent of peeling. While a majority of responding processors and importers reported that their sales were on a spot basis, importers were more likely than processors to report more extensive use of short-term contracts.

Changes Since the Final Phase of the Investigations

In these investigations, processors and importers were asked if there had been any change in their pricing methods or discounts within the United States for warmwater shrimp since July 1, 2004, and if so, why. Their answers are summarized in table V-1.

Table V-1
Warmwater shrimp: Responses to whether there had been any changes in pricing methods and discounts for warmwater shrimp in the United States

Type	No	Yes- as a result of the tsunami	Yes- as a result of AD duties	Yes- as a result of another reason
	Number of firms (number indicating reason as only reason)[1]			
Processors	17	0	5 (4)	5 (4)
Importers	19	9 (1)	9 (2)	2 (0)

[1] Firms could indicate more than one reason (e.g., antidumping duties and tsunami) in response to this question. The number in parentheses indicates firms that indicated that there was only the specified reason for changes and no other.

Source: Compiled from data submitted in response to Commission questionnaires.

Among processors who did not report any changes in pricing methods, *** said that its prices were still being affected by import prices, even to the point where it had to sell warmwater shrimp below cost in order to move inventory. *** concurred, specifying that it had to discount headless warmwater shrimp below cost, and that prices for headless warmwater shrimp were lower now than last season. Among processors who did report changes in pricing methods, *** saw more low pricing based on continued competition from imports.

However, other processors who reported changes in pricing methods indicated that their prices had risen somewhat. *** reported that prices in summer 2005 were about 50 to 70 cents per pound higher than in July 2004. *** also saw a rise in price, an increase that it attributed to the antidumping duties. *** stated that it had raised its prices for domestic product due to fewer active fishermen and higher fuel costs, and that the tsunami had no effect on offerings from India and Thailand.

Importers who saw a change in pricing methods often identified more than one reason for such a change. *** reported that it incorporated the antidumping duty into its price. It said that after initial price increases, the market has adjusted and prices have moderated. It added that warmwater shrimp from countries not subject to antidumping orders has attempted to capture its market share. It stated that the tsunami caused increased pricing to its customers for small-sized wild-caught shrimp from India due to the loss of fishing vessels there. *** said that its profitability dropped because its customers could not absorb the price increases due to the antidumping duties and the tsunami.

Importer *** stated that India has seen an increase of more than 100 percent in the quantity of parent broodstock that is supplied to hatcheries and farmers. It continued that because of a flat exporting market since the first quarter of 2005, Indian farmers have sufficient supply of broodstock to put into farms for future production. However, *** reported either higher prices or unavailable supplies from India and/or Thailand. *** elaborated that the supply of warmwater shrimp from both subject countries is down significantly, and that the effects of the tsunami outweigh the effects of the antidumping duty.

Several importers, including ***, noted that the new continuous bond requirement by Customs had forced changes in the way they price warmwater shrimp, or even changed whether they import warmwater shrimp directly or purchase duty-paid from another importer. Other alleged price effects of the continuous bond include adding a risk premium to contracts in case an importer's liability for antidumping duties changes before the bond is repaid.

Price Trends

The Global Aquaculture Alliance (GAA) described U.S. warmwater shrimp prices as having fallen in the 1980s as global supplies of farmed shrimp rose, then stabilizing or rising when farmed shrimp ran into difficulty with disease, and then perhaps falling again as the international farmed shrimp industry recovered and reduced its costs.[5]

In the final phase of the investigations, price data for ten pricing products were requested. These pricing products showed substantial price declines for most products from most countries. The data also showed that subject and other AD country warmwater shrimp undersold U.S. warmwater shrimp more often than U.S. warmwater shrimp undersold these imported warmwater shrimp.[6]

In these investigations, processors, importers, and purchasers were asked whether and why overall prices within the United States for warmwater shrimp had changed since July 1, 2004. A number of processors, importers, and purchasers described prices falling after July 2004 because importers had built large inventories in anticipation of the antidumping duties. However, these same firms often described prices as firming in recent months, although explanations (e.g., the tsunami, antidumping duties, or both) varied.

More specifically, two processors, seven importers, and four purchasers reported a decrease in prices. Eighteen processors, ten importers, and 11 purchasers reported an increase in price. (One processor, four importers, and two purchasers said that prices had both increased and decreased). Finally, five processors, 10 importers, and 17 purchasers said that prices were unchanged. Their explanations for any reported changes are summarized in table V-2.

Table V-2
Warmwater shrimp: Responses to why there had been any changes in the price of warmwater shrimp in the United States

Type	As a result of the tsunami	As a result of AD duties	As a result of another reason
	Number of firms (number indicating reason as only reason)[1]		
Processors	1 (0)	14 (12)	7 (6)
Importers	10 (2)	13 (4)	10 (4)
Purchasers	7 (0)	12 (3)	7 (4)

[1] Firms could indicate more than one reason (e.g., antidumping duties and tsunami) in response to this question. The number in parentheses indicates firms that indicated that there was only the specified reason for changes and no other.

Source: Compiled from data submitted in response to Commission questionnaires.

[5] See, testimony of George Chamberlain, Global Aquaculture Alliance, final hearing transcript, pp. 285-292. See also, *Final Shrimp Report*, p. V-6, n. 4.

[6] See generally, *Final Shrimp Report*, pp. 29-30.

At the review hearing, processors and fishermen described U.S. prices as stabilizing in 2005, albeit at low levels, and with continued import price pressure. They also described prices paid to fishermen as rising.[7] Processor responses to questionnaires generally agreed with that assessment. *** explained that it was not until approximately April 2005 that importers had depleted their supply of warmwater shrimp already in the United States. At that time, as importers needed to ship product in under tariffs, the price of shrimp rose and stabilized. *** can now pay fishermen 45 percent more than last year for some sizes, such as 41/50 head-on.[8] *** also indicated that the duties were beginning to raise the prices of imported shrimp. However, *** reported higher fuel prices as a driving force behind higher shrimp prices. Not all processors saw shrimp prices as rising across all products. *** alleged that the six countries found to be dumping were circumventing the tariffs by transhipping through other countries, resulting in continued price pressure on U.S. shrimp prices. *** stated that prices for peeled product were up, but headless shrimp prices were lower than last year due to continued imports, including from India and Thailand. *** agreed that peeled shrimp prices and the prices of small and medium shell-on shrimp were up due to lower shipments of imported shrimp.

Processor *** detailed that it still receives offers to buy Thai warmwater shrimp at prices $0.20 to $0.30 per pound lower than the prices for Ecuadorean warmwater shrimp. It added that a two pound 61-70 peeled and deveined warmwater shrimp from Thailand costs $2.15 per pound while a similar U.S. product would cost $3.70 per pound. It further described prices for Thai 26-30 headless block frozen warmwater shrimp in July 2005 as $3.45 per pound compared to a U.S. price of $4.25 per pound.[9]

Among importers, *** described price changes as routine seasonal fluctuations. However, importers who saw a price decrease cited the large build-up in importer inventories before the imposition of duties, increased shipments from countries not subject to AD duties, and weak U.S. demand as reasons for decreased prices. Importers who described prices as both increasing and decreasing usually pointed to the antidumping duties and tsunami as increasing prices while importer inventories, weaker demand, and market volatility decreased prices. *** said that the tsunami had "effectively wiped out entire sections of the integrated aquaculture business in Thailand" including hatcheries and grow-out ponds. *** were among the importers citing tsunami damage to shrimp production in India and Thailand. Other importers, such as *** cited inventory reductions as starting to increase prices recently. *** described current U.S. warmwater shrimp prices as "much higher" than in the previous year.

Among purchasers, those who reported a decrease in prices generally attributed those decreases to inventory build-up before imposition of duties and the presence of warmwater shrimp from countries not subject to antidumping duties.[10] Those purchasers who saw a price increase cited damage to Indian and Thai hatcheries, the antidumping duties, and normal market movement. *** saw both antidumping duties and decreased subject production due to the tsunami increasing the prices of warmwater shrimp in the United States. *** said that importers had passed antidumping duty costs along to purchasers. ***, which reported both increases and decreases in price, indicated that prices had increased for peeled shrimp (due to U.S. production declines due to replacement from less expensive Thai warmwater shrimp)

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[7] See, testimony of Jonathan Applebaum, President, Penguin Frozen Foods, Richard Gollot, Secretary, Golden Gulf Coast, John Williams, fisherman, and Joey Rodriguez, President, Southern Shrimp Alliance, review hearing transcript, pp. 99-107.

[8] *** specified that warmwater shrimp prices are up approximately $1.00 per pound in the last year. Commission visit to ***, Aug. 4, 2005. In its questionnaire, it also submitted *** showing that Indian and Thai warmwater shrimp were still being offered in the United States in 2005, as well as a newspaper article showing that shrimp prices in Malaysia were falling due to a "glut" of Thai warmwater shrimp.

[9] Commission trip to ***, Aug. 3, 2005.

[10] *** also cited the Thai shift from black tiger to white shrimp production as keeping the prices of white shrimp low.

and decreased for headless shrimp (due to inventory build-up and now increased offerings of Indian black tiger shrimp).

Processors, importers, and purchasers were also asked if they had observed any significant change in the price of warmwater shrimp from India and/or Thailand since July 1, 2004, and if so, why. Five processors, five importers, and two purchaser reported a decrease in prices. Eight processors, 14 importers, and 13 purchasers reported an increase in price. (Two importers and one purchaser said that prices had increased and decreased). Finally, 11 processors, nine importers, and 15 purchasers indicated that prices were unchanged. Their explanations for any reported changes are summarized in table V-3.

Table V-3
Warmwater shrimp: Responses to why there had been any changes in the price of Indian and Thai warmwater shrimp

Type	As a result of the tsunami	As a result of AD duties	As a result of another reason
	Number of firms (number indicating reason as only reason)[1]		
Processors	1 (0)	9 (8)	4 (4)
Importers	10 (3)	13 (5)	6 (3)
Purchasers	7 (2)	13 (7)	4 (2)

[1] Firms could indicate more than one reason (e.g., antidumping duties and tsunami) in response to this question. The number in parentheses indicates firms that indicated that there was only the specified reason for changes and no other.

Source: Compiled from data submitted in response to Commission questionnaires.

Among processors who saw a decrease in Indian and Thai prices, continued presence of warmwater shrimp from India and Thailand was cited as an explanation. *** indicated that imported "value-added" shrimp (meaning peeled and deveined with tail-on) were still present in the U.S. market at low prices. *** alleged that Thai warmwater shrimp is being offered to its customers in larger volumes than ever before. *** identified Thai shrimp as being particularly low-priced, while *** explained that inventories of Indian and Thai shrimp had kept prices low.

Other processors saw an increase in the prices of Indian and Thai warmwater shrimp, and were unanimous in attributing the increase to the antidumping duties. *** received word from its brokers that its warmwater shrimp was more price competitive after the duties were imposed. *** said that warmwater shrimp prices began to increase in the first quarter of 2005 as imports were interrupted by the imposition of duties. Both *** described recent increases in the price of Thai warmwater shrimp as small, with *** adding that brokers continue to offer it low-priced Indian and Thai warmwater shrimp. ***, which saw Indian and Thai prices as unchanged, said that tariff-affected nations sent product early to avoid tariffs, to the point where freezers were turning down shipments from domestic producers due to lack of available freezer space. It continued that prices were so low that many pond growers did not reseed, but short-term shortages were overcome by heavy inventories still in the United States.

Among importers who saw increased prices of Indian and Thai warmwater shrimp, the tsunami, the antidumping duties, and the continuous bond requirement were cited as reasons for increased prices. *** said that the tsunami's effect on hatcheries was just showing itself in July 2005. *** noted that current prices are lower than in July 2004, but "marginally" higher since the tsunami. *** elaborated that smaller sized warmwater shrimp were less available and more expensive due to the disruption of broodstocks and wild resources. *** stated that farmers in Thailand have altered the sizes of warmwater shrimp that they harvest because the tsunami has reduced projected production. It added that antidumping

duties had made Indian warmwater shrimp too expensive to import at all. *** again mentioned the rise in prices for small sized west coast Indian shrimp. The effects of the continuous bond ranged from increasing prices to discouraging some importers from importing completely. Importers who saw decreased prices for warmwater shrimp from India and Thailand generally cited the build-up in inventories before imposition of the antidumping duties and competition from countries not subject to antidumping duties.

Among purchasers, *** described speculation in the shrimp market in spring 2004 adding to the costs of buying warmwater shrimp. It indicated that when the tariffs were not as high as anticipated, it had ended up owning product at higher than market cost. *** said that there has been a more noticeable increase in Thai prices than in Indian prices. *** reported that smaller sizes were in short supply due to the tsunami's destruction of broodstock and wild resources, and that prices had risen 20 cents per pound. *** said that Indian prices had risen. *** reported that Indian prices were "much higher" and Thai prices were higher to a lesser degree. *** stated that there were no Thai black tigers on the market. *** described normal market movement, but that Indian and Thai prices had risen due to the antidumping duties. *** said that its usage of product from Thailand and other AD countries had dropped to zero.

At the hearing, Eastern Fish described prices of warmwater shrimp from Thailand as rising in late summer 2005, especially for smaller sized shrimp. It said that Thai growers may have been growing larger shrimp to compensate for the alleged lack of replacement broodstock due to the tsunami.[11]

PRICE DATA

For these investigations, New York frozen seafood prices from the NOAA Fisheries "Fishery Market News" were used. These data are a weekly data set published by the NMFS on their website.[12] Past data were supplied to staff by NOAA.

Staff has converted the weekly or biweekly data to quarterly by the following method. Prices from the first available report of each month were selected and used as that month's price.[13] Then, those monthly prices were averaged to generate a quarterly price. Several data series were selected on the basis of trying to find generally comparable sizes and species.[14] Volume data are not available from the NMFS, and staff did not select data series based on any knowledge about relative volumes. Data (for other sizes and species) are available from the NMFS.

Quarterly data for January 2002-August 2005 are presented in table V-4 and figures V-2, V-4, and V-6. Monthly data for the same products over January 2004-August 2005 are presented in table V-5 and figures V-3, V-5, and V-7. In general, these data show a decline in price since the imposition of duties in July 2004; however, some products do show firmer or even slightly higher prices by mid 2005.

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[11] See, testimony of Eric Bloom, President, Eastern Fish Company, review hearing transcript, p. 231.

[12] http://www.st.nmfs.gov/st1/market_news/index.html

[13] Not every product had a price in every month or every quarter. No reports were available for November 2002 nor December 2003. The last month for which data were available was August 2005.

[14] Several series in the 41/50 and 51/60 count range were added to this final version of the report.

Table V-4
Warmwater shrimp: Weighted average selling prices based on NMFS data, by quarters, January 2002-August 2005

Period	Headless, shell-on white shrimp, 16/20, from the Gulf of Mexico	Headless, shell-on black tiger shrimp, 16/20, from India	Headless, shell-on black tiger shrimp, 16/20, from Thailand
	Per pound		
2002:			
Jan.-Mar.	$7.23	$5.77	$6.08
Apr.-June	7.27	5.57	5.85
July-Sept.	6.55	5.82	6.20
Oct.-Dec.	6.38	6.15	6.25
2003:			
Jan.-Mar.	6.55	6.43	6.57
Apr.-June	6.65	6.25	6.65
July-Sept.	6.22	5.88	6.20
Oct.-Dec.	5.82	5.22	5.78
2004:			
Jan.-Mar.	6.60	5.52	5.73
Apr.-June	7.15	5.65	5.90
July-Sept.	6.55	5.72	6.18
Oct.-Dec.	6.35	5.30	6.02
2005:			
Jan.-Mar.	6.30	5.47	5.65
Apr.-June	6.15	5.42	5.62
July-Aug.	5.78	5.93	5.65
Percent change, Apr-June 2002 to Apr-June 2005	(15.4)	(2.7)	(4.0)

Table continued on next page.

Table V-4--*Continued*
Warmwater shrimp: Weighted average selling prices based on NMFS data, by quarters, January 2002-August 2005

Period	Headless, shell-on white shrimp, 26/30, from the Gulf of Mexico	Headless, shell-on black tiger shrimp, 26/30, from India	Headless, shell-on black tiger shrimp, 26/30, from Thailand	Headless, shell-on white shrimp, 26/30, from Thailand
	Per pound			
2002:				
Jan.-Mar.	$5.32	$4.63	$4.88	$5.05
Apr.-June	4.87	4.55	4.75	4.77
July-Sept.	4.50	4.32	4.88	4.60
Oct.-Dec.	4.30	4.47	4.78	4.50
2003:				
Jan.-Mar.	4.65	4.43	4.72	5.13
Apr.-June	5.37	4.53	4.78	4.60
July-Sept.	4.95	4.68	4.22	4.50
Oct.-Dec.	4.53	4.08	4.47	4.55
2004:				
Jan.-Mar.	4.65	4.28	4.58	4.30
Apr.-June	4.70	4.43	4.58	4.32
July-Sept.	4.17	4.42	4.80	3.90
Oct.-Dec.	4.15	4.05	4.58	--
2005:				
Jan.-Mar.	4.15	4.08	--	--
Apr.-June	4.15	4.00	--	3.73
July-Aug.	4.28	3.80	--	3.95
Percent change, Apr-June 2002 to Apr-June 2005	(14.7)	(12.1)	--	(21.7)

Note.– A double dash ('–') indicates that no price (or percent) was available for that period.

Table continued on next page.

Table V-4--*Continued*
Warmwater shrimp: Weighted average selling prices based on NMFS data, by quarters, January 2002-August 2005

Period	Headless, shell-on white shrimp, 41/50, from the Gulf of Mexico	Headless, shell-on black tiger shrimp, 41/50, from India	Headless, shell-on white shrimp, 41/50, from Thailand	Headless, shell-on white shrimp, 51/60, from the Gulf of Mexico	Headless, shell-on white shrimp, 51/60, from Thailand
	Per pound				
2002:					
Jan.-Mar.	$3.85	$3.60	$3.67	$3.57	$3.40
Apr.-June	3.93	3.70	3.50	3.65	3.25
July-Sept.	3.93	3.20	3.40	3.40	2.98
Oct.-Dec.	3.72	3.75	3.28	3.35	2.75
2003:					
Jan.-Mar.	3.77	3.63	3.20	3.43	3.45
Apr.-June	3.95	3.45	3.20	3.52	2.62
July-Sept.	3.77	--	2.87	3.37	2.40
Oct.-Dec.	3.42	--	2.90	3.18	2.40
2004:					
Jan.-Mar.	3.48	2.92	3.00	3.22	2.85
Apr.-June	3.70	3.53	3.50	3.47	3.25
July-Sept.	3.13	3.20	2.60	3.02	2.62
Oct.-Dec.	3.15	3.40	2.58	2.95	2.50
2005:					
Jan.-Mar.	3.22	3.37	2.72	2.98	2.53
Apr.-June	3.33	3.33	2.80	3.00	2.50
July-Aug.	3.52	3.32	2.85	3.32	2.65
Percent change, Apr-June 2002 to Apr-June 2005	(15.3)	(9.9)	(20.0)	(17.8)	(23.1)

Note.– A double dash ('–') indicates that no price (or percent) was available for that period.

Table continued on next page.

Table V-4--*Continued*
Warmwater shrimp: Weighted average selling prices based on NMFS data, by quarters, January 2002-August 2005

Period	IQF pink shrimp, 26/30, from the Gulf of Mexico	Tail-on shrimp, cooked and peeled, 16/20, from Thailand	Tail-on shrimp, cooked and peeled, 26/30, from Thailand	Tail-on shrimp, peeled and deveined, in blocks, 26/30, from India	Tail-off shrimp, peeled and deveined, in blocks, 26/30, from India
	Per pound				
2002:					
Jan.-Mar.	$8.45	$9.20	$6.40	--	--
Apr.-June	8.45	8.93	6.70	--	--
July-Sept.	8.45	8.47	6.73	--	--
Oct.-Dec.	8.45	8.65	6.85	--	$5.55
2003:					
Jan.-Mar.	8.45	8.32	6.72	--	--
Apr.-June	8.45	7.97	6.55	--	--
July-Sept.	8.45	7.88	6.30	--	--
Oct.-Dec.	8.45	7.82	5.90	--	--
2004:					
Jan.-Mar.	8.45	8.60	5.88	--	--
Apr.-June	8.45	8.73	6.45	$5.40	5.40
July-Sept.	8.45	8.85	6.47	5.47	5.53
Oct.-Dec.	8.50	8.97	6.22	5.42	5.65
2005:					
Jan.-Mar.	--	8.57	6.00	5.10	5.65
Apr.-June	5.75	7.98	5.65	5.00	5.00
July-Aug.	5.75	7.85	5.55	4.93	5.05
Percent change, Apr-June 2002 to Apr-June 2005	(32.0)	(10.6)	(15.7)	--	--

Note.– A double dash ('--') indicates that no price (or percent) was available for that period.

Source: NMFS and staff calculations.

Table V-5
Warmwater shrimp: Weighted average selling prices based on NMFS data, by months, January 2004-August 2005

Period	Headless, shell-on white shrimp, 16/20, from the Gulf of Mexico	Headless, shell-on black tiger shrimp, 16/20, from India	Headless, shell-on black tiger shrimp, 16/20, from Thailand
	Per pound		
2004:			
Jan.	$6.00	$5.30	$5.40
Feb.	6.40	5.55	5.70
Mar.	7.40	5.70	6.10
Apr.	7.25	5.40	5.75
May	6.90	5.65	6.00
June	7.30	5.90	5.95
July	6.70	5.65	6.00
Aug.	6.55	5.85	6.25
Sept.	6.40	5.65	6.30
Oct.	6.35	5.40	6.25
Nov.	6.40	5.40	--
Dec.	6.30	5.10	5.80
2005:			
Jan.	6.30	5.30	5.45
Feb.	6.30	5.60	5.75
Mar.	6.30	5.50	5.75
Apr.	6.25	5.40	5.65
May	6.20	5.35	5.55
June	6.00	5.50	5.65
July	5.80	5.95	5.65
Aug.	5.75	5.90	5.65
Percent change, July 2004 to July 2005	(13.4)	5.3	(5.8)

Note.-- A double dash ('--') indicates that no price (or percent) was available for that period.

Table continued on next page.

Table V-5--*Continued*
Warmwater shrimp: Weighted average selling prices based on NMFS data, by months, January 2004-August 2005

Period	Headless, shell-on white shrimp, 26/30, from the Gulf of Mexico	Headless, shell-on black tiger shrimp, 26/30, from India	Headless, shell-on black tiger shrimp, 26/30, from Thailand	Headless, shell-on white shrimp, 26/30, from Thailand
	Per pound			
2004:				
Jan.	$4.30	$4.05	$4.30	--
Feb.	4.30	4.30	4.60	$3.60
Mar.	5.35	4.50	4.85	5.00
Apr.	5.10	4.40	4.70	4.85
May	4.40	4.20	4.20	3.50
June	4.60	4.70	4.85	4.60
July	4.20	4.30	--	3.85
Aug.	4.20	4.55	4.80	3.95
Sept.	4.10	4.40	4.80	--
Oct.	4.15	4.20	4.75	--
Nov.	4.15	4.10	--	--
Dec.	4.15	3.85	4.40	--
2005:				
Jan.	4.10	4.05	--	--
Feb.	4.15	4.10	--	--
Mar.	4.20	4.10	--	--
Apr.	4.20	4.00	--	3.75
May	4.15	4.00	--	3.75
June	4.10	4.00	--	3.70
July	4.20	3.90	--	--
Aug.	4.35	3.70	--	3.95
Percent change, July 2004 to July 2005	0.0	(9.3)	--	--

Note.– A double dash ('–') indicates that no price (or percent) was available for that period.

Table continued on next page.

Table V-5--*Continued*
Warmwater shrimp: Weighted average selling prices based on NMFS data, by months, January 2004-August 2005

Period	Headless, shell-on white shrimp, 41/50, from the Gulf of Mexico	Headless, shell-on black tiger shrimp, 41/50, from India	Headless, shell-on white shrimp, 41/50, from Thailand	Headless, shell-on white shrimp, 51/60, from the Gulf of Mexico	Headless, shell-on white shrimp, 51/60, from Thailand
	Per pound				
2004:					
Jan.	$3.35	$2.90	--	$3.05	--
Feb.	3.25	2.95	$2.40	3.00	$2.30
Mar.	3.85	--	3.60	3.60	3.40
Apr.	3.85	--	3.50	3.65	3.25
May	3.20	3.35	--	3.05	--
June	4.05	3.70	3.50	3.70	3.25
July	3.15	3.15	--	3.05	2.65
Aug.	3.10	3.25	--	2.95	2.70
Sept.	3.15	--	2.60	3.05	2.50
Oct.	3.15	3.40	2.45	2.95	2.40
Nov.	3.15	--	2.70	2.95	2.60
Dec.	3.15	--	2.60	2.95	2.50
2005:					
Jan.	3.15	3.30	2.65	2.95	2.45
Feb.	3.25	3.40	2.75	3.00	2.55
Mar.	3.25	3.40	2.75	3.00	2.60
Apr.	3.30	3.40	2.80	3.00	--
May	3.30	3.30	--	3.00	2.50
June	3.40	3.30	--	3.00	--
July	3.50	3.30	--	3.25	--
Aug.	3.55	3.35	2.85	3.40	2.65
Percent change, July 2004 to July 2005	11.1	4.8	--	6.6	--

Note.– A double dash ('–') indicates that no price (or percent) was available for that period.

Table continued on next page.

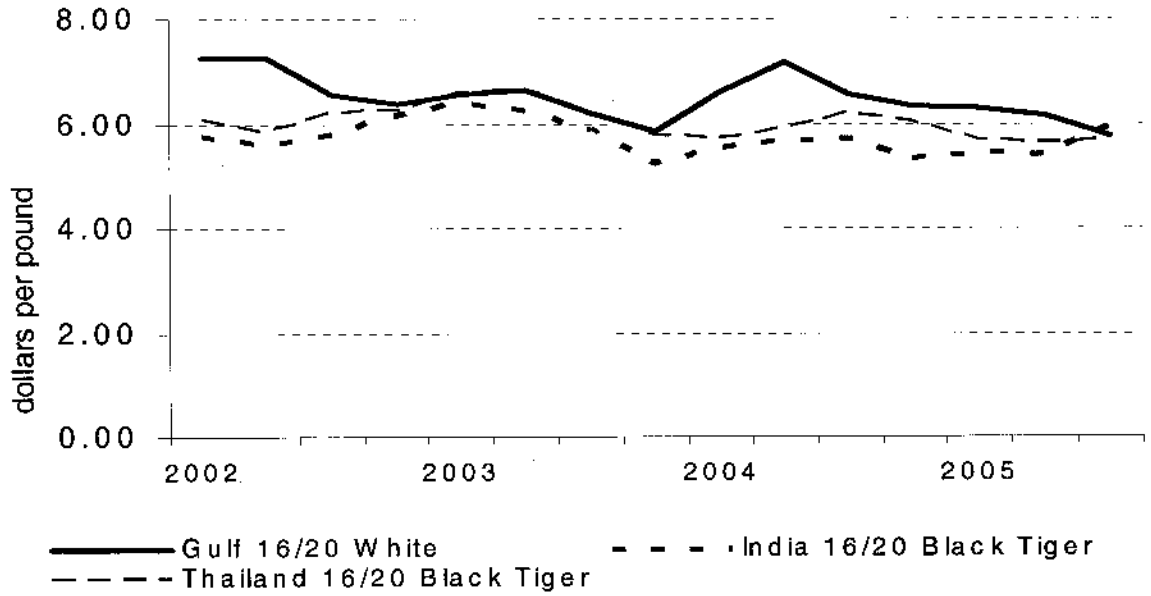
Table V-5--*Continued*
Warmwater shrimp: Weighted average selling prices based on NMFS data, by months, January 2004-August 2005

Period	IQF pink shrimp, 26/30, from the Gulf of Mexico	Tail-on shrimp, cooked and peeled, 16/20, from Thailand	Tail-on shrimp, cooked and peeled, 26/30, from Thailand	Tail-on shrimp, peeled and deveined, in blocks, 26/30, from India	Tail-off shrimp, peeled and deveined, in blocks, 26/30, from India
	Per pound				
2004:					
Jan.	$8.45	--	$5.85	--	--
Feb.	8.45	$8.00	5.90	--	--
Mar.	8.45	9.20	--	--	--
Apr.	8.45	8.95	6.75	--	--
May	8.45	8.40	5.95	$5.40	$5.40
June	8.45	8.85	6.65	--	--
July	8.45	8.75	6.35	5.40	5.40
Aug.	8.45	8.95	6.55	5.50	5.60
Sept.	8.45	--	6.50	5.50	5.60
Oct.	8.50	9.30	6.45	5.55	5.65
Nov.	--	8.75	6.15	5.35	5.65
Dec.	--	8.85	6.05	5.35	5.65
2005:					
Jan.	--	8.60	6.00	5.10	5.65
Feb.	--	8.60	6.00	5.10	5.65
Mar.	--	8.50	6.00	5.10	5.65
Apr.	--	8.05	5.80	5.00	5.00
May	5.75	8.00	5.55	5.00	5.00
June	5.75	7.90	5.60	5.00	5.00
July	5.75	7.85	5.55	4.95	5.00
Aug.	5.75	7.85	5.55	4.90	5.10
Percent change, July 2004 to July 2005	(32.0)	(10.3)	(12.6)	(8.3)	(7.4)

Note.– A double dash ('–') indicates that no price (or percent) was available for that period.

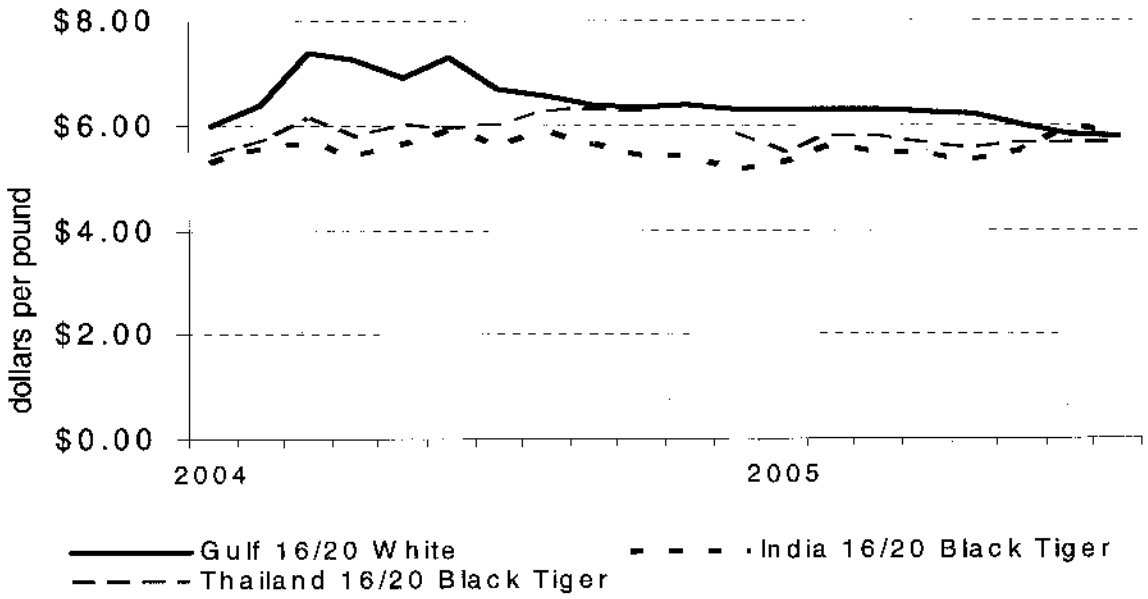
Source: NMFS and staff calculations.

Figure V-2
Warmwater shrimp: Weighted average selling prices of selected 16/20 count warmwater shrimp, based on NMFS data, by quarters, January 2002-August 2005



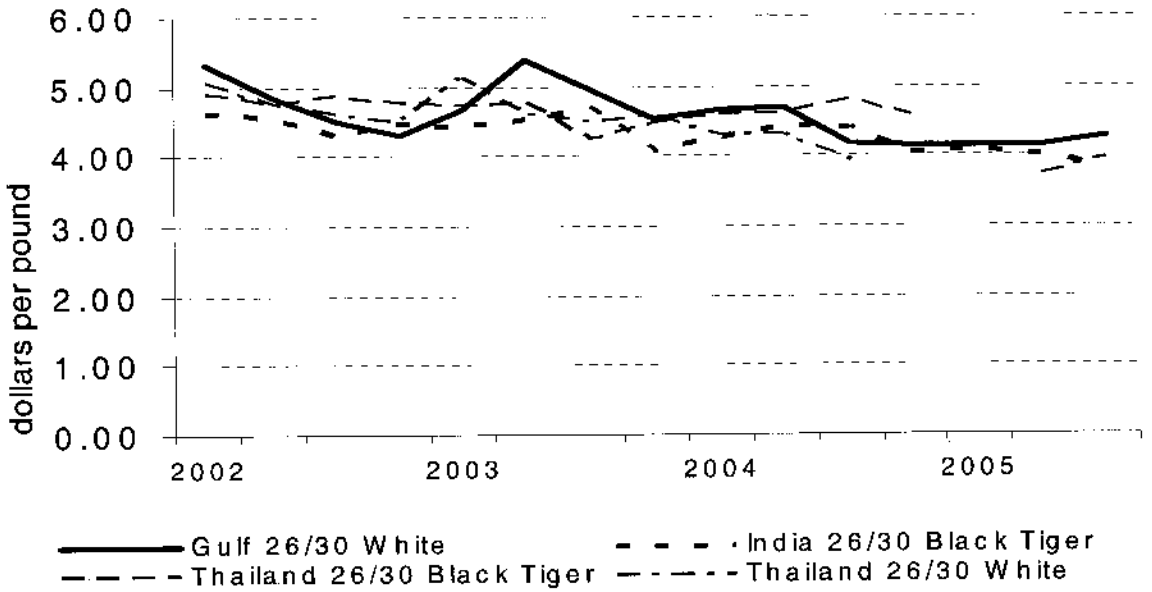
Source: Table V-4.

Figure V-3
Warmwater shrimp: Weighted average selling prices of selected 16/20 count warmwater shrimp, based on NMFS data, by months, January 2004-August 2005



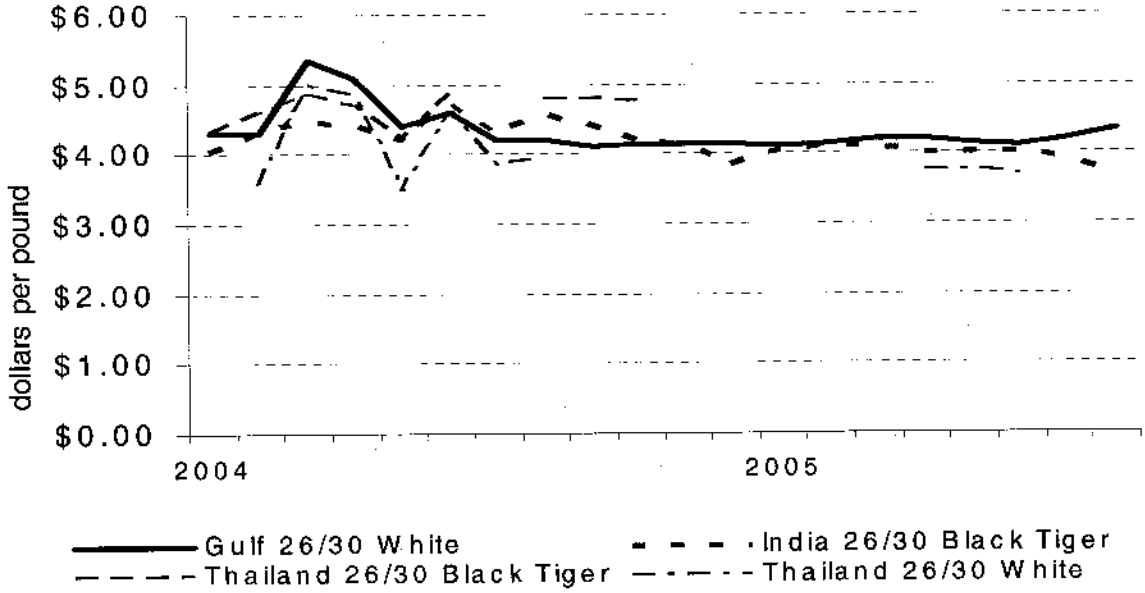
Source: Table V-5.

Figure V-4
Warmwater shrimp: Weighted average selling prices of selected 26/30 count warmwater shrimp, based on NMFS data, by quarters, January 2002-August 2005



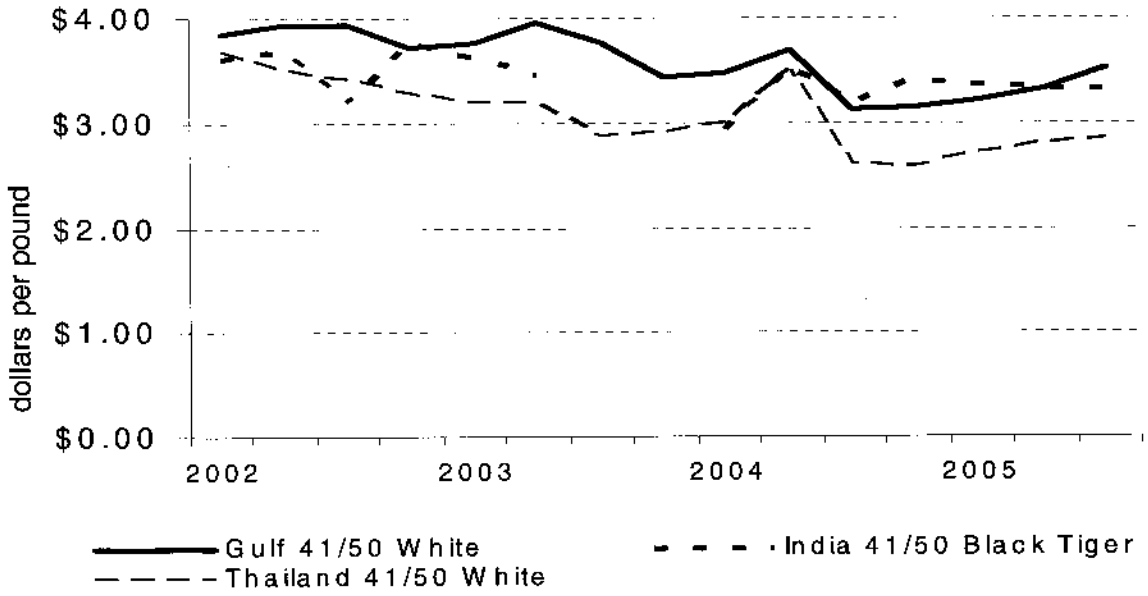
Source: Table V-4.

Figure V-5
Warmwater shrimp: Weighted average selling prices of selected 26/30 count warmwater shrimp, based on NMFS data, by months, January 2004-August 2005



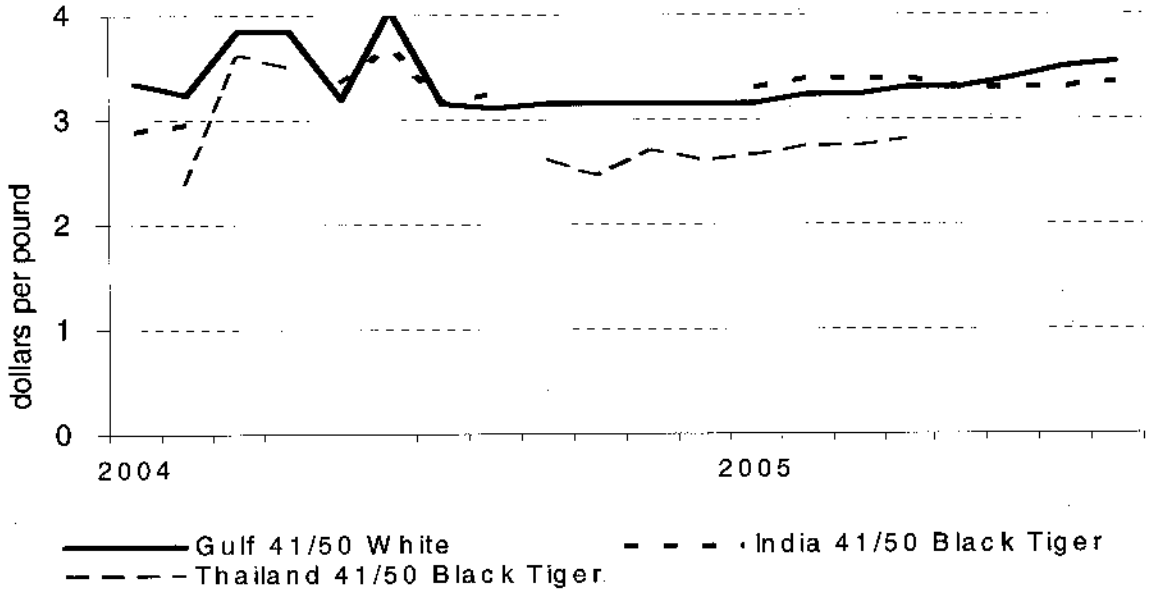
Source: Table V-5.

Figure V-6
Warmwater shrimp: Weighted average selling prices of selected 41/50 count warmwater shrimp, based on NMFS data, by quarters, January 2002-August 2005



Source: Table V-4.

Figure V-7
Warmwater shrimp: Weighted average selling prices of selected 41/50 count warmwater shrimp, based on NMFS data, by months, January 2004-August 2005



Source: Table V-5.