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March 29, 2023

Inv. Nos. 731-TA-1064 and 1066-1068  
3<sup>rd</sup> Sunset Review (19 U.S.C. § 1675(c))  
Confidential Business Information Contained  
in Brackets Deleted at Pages: 12, 15, 18, 23-24, 49,  
54-55, 60, 64, 71, 78-80, and 84-85

Total Pages: 203

**PUBLIC VERSION**

**VIA ELECTRONIC FILING**

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

**Re: Five-Year Review of Antidumping Duty Order on Frozen Warmwater Shrimp from China, India, Thailand, and Vietnam: Prehearing Brief**

Dear Secretary Barton:

On behalf of the Ad Hoc Shrimp Trade Action Committee (“AHSTAC”) – Petitioner in the original antidumping duty investigations of certain frozen warmwater shrimp from the People’s Republic of China, India, Thailand, and the Socialist Republic of Vietnam<sup>1</sup> – and the

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<sup>1</sup> See Certain Frozen Warmwater Shrimp from the People’s Republic of China, 70 Fed. Reg. 5,149 (Dep’t Commerce Feb. 1, 2005) (notice of amended final determination of sales at less than fair value and antidumping duty order); Certain Frozen Warmwater Shrimp from India, 70 Fed. Reg. 5,147 (Dep’t Commerce Feb. 1, 2005) (notice of amended final determination of sales at less than fair value and antidumping duty order); Certain Frozen Warmwater Shrimp from Thailand, 70 Fed. Reg. 5,145 (Dep’t Commerce Feb. 1, 2005) (notice of amended final determination of sales at less than fair value and

Ad Hoc Shrimp Industry Committee (“AHSIC”) (collectively, “Domestic Producers”) and in accordance with 19 C.F.R. §§ 201.8 and 207.63 (2022), we hereby file Domestic Producers’ Prehearing Brief in the above-captioned proceeding. Consistent with the U.S. International Trade Commission’s (“ITC” or “Commission”) Federal Register Notice setting forth the schedule for this proceeding<sup>2</sup> and 19 C.F.R. § 207.65 (2022), this submission is timely filed.

Pursuant to 19 C.F.R. § 201.6, Domestic Producers request proprietary treatment for business confidential information deleted from the following pages: 12, 15, 18, 23-24, 49, 54-55, 60, 64, 71, 78-80, and 84-85. The business proprietary information deleted from these pages and exhibits includes information related to: domestic producers’ production and sales processes, business strategies, customer relationships, financial performance, and detailed sales and pricing data; detailed volume and pricing of imports of subject merchandise; and foreign producers’ business strategies, detailed sales and pricing data, production, and capacity utilization. Disclosure of this information, which is not otherwise publicly available, would cause substantial harm to the competitive position of the submitters and would impair the ability of the Commission to obtain information in the future necessary to fulfill its statutory functions. All of this information was provided to the undersigned counsel under administrative protective order. The terms of that order prohibit us from making such information public.

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antidumping duty order); and Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam, 70 Fed. Reg. 5,152 (Dep’t Commerce Feb. 1, 2005) (notice of amended final determination of sales at less than fair value and antidumping duty order).

<sup>2</sup> See Frozen Warmwater Shrimp from China, India, Thailand, and Vietnam: Scheduling of Full Five-Year Reviews, 87 Fed. Reg. 69,338, 69,339 (U.S. International Trade Commission Nov. 18, 2022).

The submission is being filed electronically in conformity with 19 C.F.R. § 201.8(d)(1) and the Commission's Handbook on Electronic Filing Procedures. Domestic Producers have appended the certifications required by 19 C.F.R. § 201.6(b)(3)(iii) and 19 C.F.R. § 207.3(a) to this submission. As confidential treatment of the submission has been requested, Domestic Producer will submit a nonbusiness proprietary version of this filing electronically in conformity with 19 C.F.R. § 201.8(f) and the Commission's Handbook on Electronic Filing Procedures within one business day, as permitted under 19 C.F.R. § 207.3(c). Further, in accordance with 19 C.F.R. §§ 201.16(c) and 207.3(b), this submission has been served on all other parties to the investigation as indicated on the attached certificate of service.

Please contact any of the undersigned should you require clarification of any aspect of this submission.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'NMR', is written over a horizontal line.

Nathaniel Maandig Rickard  
Colin Milner, Trade Analyst

**PICARD KENTZ & ROWE LLP**  
*Counsel to Domestic Producers*

Enclosure

**PUBLIC CERTIFICATE OF SERVICE**  
**FROZEN WARMWATER SHRIMP FROM CHINA, INDIA, THAILAND, AND**  
**VIETNAM**  
**731-TA-1064, 1066-1068 (REVIEW3)**

I, Nathaniel M. Rickard, hereby certify that a copy of the foregoing submission was served on this 29<sup>th</sup> day of March 2023, by electronic mail, on the following parties:

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## CERTIFICATION OF COUNSEL

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	)	ss
District of Columbia	)	

In accordance with section 201.6(b)(3)(iii) of the U.S. International Trade Commission's rules, I, Nathaniel Maandig Rickard, of Picard Kentz & Rowe LLP, counsel to the Ad Hoc Shrimp Trade Action Committee and the Ad Hoc Shrimp Industry Committee, certify that information substantially identical to the information for which we are requesting proprietary treatment in the attached submission is not available to the public.

In accordance with section 207.3(a) of the U.S. International Trade Commission's rules, I further certify that (1) I have read the attached submission, and (2) the information contained in this submission is accurate and complete to the best of my knowledge.

Dated: March 29, 2023

  
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Nathaniel Maandig Rickard

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**BEFORE THE UNITED STATES  
INTERNATIONAL TRADE COMMISSION**

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Inv. Nos. 731-TA-1064, 1066-1068 (Review3)

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

**PREHEARING BRIEF  
SUBMITTED ON BEHALF OF THE  
AD HOC SHRIMP TRADE ACTION COMMITTEE  
AND THE AD HOC SHRIMP INDUSTRY COMMITTEE**

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March 29, 2023

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## **I. INTRODUCTION**

The record before the U.S. International Trade Commission (“ITC” or “Commission”) in these reviews demonstrates that revocation of the antidumping duty orders on subject merchandise from China, India, Thailand, and Vietnam would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The record continues to demonstrate that subject imports from these countries should be cumulated for the purposes of the Commission’s analysis. Further, the record demonstrates that the domestic industry remains in a vulnerable condition with regard to the adverse impact of unfairly traded imports, that the likely subject import volumes will be significant upon revocation, that subject imports likely will have significant adverse price effects should the orders be revoked, and, in result, revocation would lead to subject imports likely having a material adverse impact on the domestic shrimp industry.

## **II. COMMERCE HAS FOUND THAT DUMPING IS LIKELY TO CONTINUE SHOULD THE ORDERS BE REVOKED**

In a five-year review conducted under 19 U.S.C. § 1675(c), the U.S. Department of Commerce (“Commerce”) will revoke an antidumping duty order unless: (1) the agency makes a determination that dumping is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>1</sup> Commerce has found that revocation of the antidumping duty orders on certain frozen warmwater shrimp from China, India, Thailand, and Vietnam would be likely to lead to continuation or recurrence

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<sup>1</sup> 19 U.S.C. §§ 1675(d)(2), 1675a(a) (2021).

of dumping.<sup>2</sup> Accordingly, the antidumping duty orders on these imports will continue if the Commission determines that revocation of the orders is likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

### III. THERE IS ONE DOMESTIC LIKE PRODUCT

In the original investigations, the Commission defined the domestic like product as consisting of “fresh warmwater shrimp and prawns and those frozen warmwater shrimp and prawn products defined in Commerce’s scope definition.”<sup>3</sup> In the changed circumstances reviews conducted shortly after the imposition of the antidumping duty orders, the Commission observed that “{t}he record in these reviews contains no information indicating that the characteristics of fresh or frozen shrimp have changed since the time of the original investigations.”<sup>4</sup> In that proceeding, the Commission again defined the domestic like product to be “fresh warmwater shrimp and prawns and those frozen warmwater shrimp and prawns described in Commerce’s scope definition.”<sup>5</sup>

In the first sunset review of these antidumping duty orders, the Commission observed that the “{t}he record in these reviews does not indicate that there have been any changes in the

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<sup>2</sup> See Certain Frozen Warmwater Shrimp From the People’s Republic of China, India, Thailand, and the Socialist Republic of Vietnam, 87 Fed. Reg. 54,453 (Dep’t Commerce Sept. 6, 2022) (Final Results of Expedited Third Sunset Review of Antidumping Duty Orders).

<sup>3</sup> Certain Frozen or Canned Warmwater Shrimp and Prawns From Brazil, China, Ecuador, India, Thailand, and Vietnam, Inv. Nos. 731-TA-1063-1068 (Final), USITC Pub. 3748 (Jan. 2005), at 11 (“Final Injury Determination”).

<sup>4</sup> Certain Frozen Warmwater Shrimp and Prawns from India and Thailand, Inv. Nos. 751-TA-28-29 (Review), USITC Pub. 3813 (Nov. 2005), at 7 (“Changed Circumstances Determination”).

<sup>5</sup> Id.

product characteristics of either fresh or frozen warmwater shrimp since the original investigations.”<sup>6</sup> As such, the Commission again defined “a single domestic like product encompassing fresh warmwater shrimp and the frozen warmwater shrimp described by the scope definition.”<sup>7</sup>

In the second sunset review, the Commission once again observed that “{t}he record in these reviews does not indicate that there have been any changes in the product characteristics of either fresh or frozen warmwater shrimp since the original investigations and first five-year reviews.”<sup>8</sup> Thus, the Commission once again defined “a single domestic like product encompassing fresh warmwater shrimp and the frozen warmwater shrimp described by the scope definition.”<sup>9</sup>

Consistent with the record of this proceeding and the agency’s findings in the original investigations, a changed circumstances review, and the two previously-conducted sunset reviews of these antidumping duty orders, the Commission should continue to define the domestic like product as consisting of “fresh warmwater shrimp and prawns and those frozen warmwater shrimp and prawn products defined in Commerce’s scope definition.”<sup>10</sup>

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<sup>6</sup> Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam, Inv. Nos. 731-TA-1063, 1064, 1066-1068 (Review), USITC Pub. 4221 (Mar. 2011), at 6 (footnote omitted) (“First Sunset Review Determination”).

<sup>7</sup> Id.

<sup>8</sup> Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam, Inv. Nos. 731-TA-1063-1064, 1066-1068 (Second Review), USITC Pub. 4688 (May 2017), at 9 (footnote omitted) (“Second Sunset Review Determination”).

<sup>9</sup> Id.

<sup>10</sup> Final Injury Determination at 11.

#### IV. THERE IS ONE DOMESTIC INDUSTRY

Section 771(4)(A) of the Tariff Act defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>11</sup> “In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.”<sup>12</sup>

The Commission in the original investigations found that the domestic industry producing the like product was a single domestic industry, comprised “of: (1) all entities that harvest freshwater shrimp (i.e., fishermen and shrimp farmers) and (2) all producers of frozen shrimp products within the scope definition except for” certain processors excluded pursuant to the statutory provision regarding related parties (19 U.S.C. § 1677(4)(B) (2021)) and/or for want of sufficient production related activities.<sup>13</sup> In the changed circumstances review, the Commission again defined the domestic industry as consisting of: “(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” certain processors excluded based on related party status or a lack of sufficient production related activities.<sup>14</sup> In the first sunset

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<sup>11</sup> 19 U.S.C. § 1677(4)(A) (2021).

<sup>12</sup> Drawn Stainless Steel Sinks from China, Inv. Nos. 701-TA-489 and 731-TA-1201 (Preliminary), USITC Pub. 4317 (Apr. 2012) at 13; and Ammonium Sulfate from China, Inv. Nos. 701-TA-562 and 731-TA-1329 (Review), USITC Pub. 5402 (Feb. 2023) at 7.

<sup>13</sup> Final Injury Determination at 18.

<sup>14</sup> Changed Circumstances Determination at 7 and 7 n.29 (As explained by the Commission, the definition of the domestic industry in the changed circumstances reviews differed “slightly” from that in the original investigations in that a processor previously excluded from the industry as a related party in the original investigations was included in the

reviews, the Commission defined “a single domestic industry encompassing all shrimp fishermen and processors of warmwater shrimp except” certain processors excluded from the industry that were either related to an exporter/importer or did not perform sufficient production-related activity to be considered domestic producers.<sup>15</sup> In the second sunset reviews, the Commission defined “a single domestic industry encompassing all fishermen and processors of warmwater shrimp.”<sup>16</sup>

The Commission has consistently found a single domestic like product comprised of fresh warmwater shrimp and frozen warmwater shrimp as defined in Commerce’s scope definition. For the reasons set forth above, the Commission should make the same finding in the instant proceeding. Further, consistent with a domestic like product definition encompassing both fresh and frozen warmwater shrimp, the Commission should again find a single domestic industry comprised of shrimp harvesters (*i.e.*, shrimp fishermen and farmers) and shrimp processors. Such a definition is fully consistent with the Commission’s findings in the previous proceedings conducted by the agency regarding these four antidumping duty orders.

**V. SUBJECT MERCHANDISE FROM CHINA, INDIA, THAILAND, AND VIETNAM SHOULD BE CUMULATED FOR THE PURPOSES OF THESE REVIEWS**

The statute provides that “the Commission may cumulatively assess the volume and effect of imports of the subject merchandise” in sunset reviews if the reviews “were initiated on

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reviews because the company “did not import subject merchandise from India or Thailand during the period examined . . .”).

<sup>15</sup> First Sunset Review Determination at 8-10.

<sup>16</sup> Second Sunset Review Determination at 11.

the same day” and “if such imports would be likely to compete with each other and with the domestic like products in the United States market.”<sup>17</sup>

The statutory threshold for cumulation is satisfied in this instance, as all of the reviews were initiated on the same day: May 2, 2022.<sup>18</sup>

In determining whether to exercise discretion to cumulate the subject imports, the Commission considers:

(1) whether imports from either of the subject countries are precluded from cumulation because they are likely to have no discernible adverse impact on the domestic industry; (2) whether there is a likelihood of a reasonable overlap of competition among subject imports and the domestic like product; and (3) whether subject imports are likely to compete in the U.S. market under different conditions of competition.<sup>19</sup>

In the original investigations, the Commission cumulated imports from all six subject countries (including Brazil and Ecuador) for the purposes of its analysis of material injury by reason of subject imports.<sup>20</sup> No party appearing before the Commission argued against the cumulation of all subject imports.<sup>21</sup> In the first sunset reviews, the Commission exercised its

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<sup>17</sup> 19 U.S.C. § 1675a(a)(7) (2021).

<sup>18</sup> See Frozen Warmwater Shrimp from China, India, Thailand, and Vietnam, 87 Fed. Reg. 25,665 (U.S. International Trade Commission May 2, 2022) (Institution of Five-Year Reviews).

<sup>19</sup> Stainless Steel Plate from Belgium, South Africa, and Taiwan, Inv. Nos. 701-TA-379 and 731-TA-788, 792 and 793 (Third Review), USITC Pub. 4658 (Dec. 2016), at 12. See also Circular Welded Carbon-Quality Steel Pipe from Oman, Pakistan, and the United Arab Emirates, Inv. Nos. 731-TA-1299, 1300, and 1302 (Review), USITC Pub. 5390 (Dec. 2022), at 13-34, and Steel Concrete Reinforcing Bar from Japan, Taiwan, and Turkey, Inv. Nos. 701-TA-564 and 731-TA-1338-1340 (Review), USITC Pub. 5400 (Jan. 2023), at 11-20.

<sup>20</sup> See Final Injury Determination at 21.

<sup>21</sup> See id. at 19.



discretion to cumulate imports from all of the subject countries in that proceeding (including Brazil).<sup>22</sup> Once again, during those proceedings, no party appearing before the Commission argued against the cumulation of subject imports.<sup>23</sup>

In the second sunset reviews, the Commission exercised its discretion to cumulate subject imports from the countries subject to these sunset reviews, electing to cumulate those imports originating from China, India, Thailand, and Vietnam, but to “consider them separately from subject imports from Brazil.”<sup>24</sup> The Commission chose to consider Brazilian subject imports separately after reviewing Brazilian Respondents’ arguments that their own domestic industry was “now markedly different” than it had been in prior reviews and there had been a “permanent shift ... away from export markets (including the United States) in favor of sales to the Brazilian home market.”<sup>25</sup> Respondents from China, India, Thailand, and Vietnam did not contest cumulation of their own subject imports.<sup>26</sup>

**A. The Commission Is Not Precluded by Statute from Cumulating Subject Imports from China, India, Thailand, and Vietnam**

In sunset reviews, “{t}he 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 impacts on the domestic industry.”<sup>27</sup> In assessing

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<sup>22</sup> See First Sunset Review Determination at 17.

<sup>23</sup> See *id.* at 12.

<sup>24</sup> Second Sunset Review Determination at 26-27.

<sup>25</sup> *Id.* at 13 (internal citation omitted), *citing* Brazilian Respondents Second Sunset Review Prehearing Brief at 6-11.

<sup>26</sup> Second Sunset Review Determination at 13.

<sup>27</sup> 19 U.S.C. § 1675a(a)(7) (2021).

whether imports are likely to have no discernible adverse impact, the Commission “generally considers the likely volume of subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.”<sup>28</sup> Among other things, the Commission’s analysis takes into account “the nature of the product and the behavior of subject imports in the original investigations.”<sup>29</sup>

### **1. Subject Imports from China Are Not Likely to Have No Discernable Adverse Impact on the Domestic Industry If the Order Is Revoked**

During the original investigations, China’s shrimp industry was export oriented and maintained a large available capacity.<sup>30</sup> In the first sunset reviews, the Commission observed that although imports from China had declined since the imposition of the order, China’s industry continued to have “a significant export orientation” and “significant unused capacity,” and that Chinese imports retained “an appreciable presence in the U.S. market.”<sup>31</sup> Consequently, the Commission “{did} not find that subject imports from China would likely have no discernable adverse impact on the domestic industry if the order {was} revoked.”<sup>32</sup>

In the second sunset reviews, “{n}o subject Chinese producer reported data to the Commission,” which led the Commission to determine that, based on what limited data was available to it “from the original investigations, the prior reviews, and other available industry

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<sup>28</sup> Iron Construction Castings from Brazil, Canada, and China, Inv. Nos. 701-TA-249 and 731-TA-262-263, and 265 (Fourth Review), USITC Pub. 4655 (Dec. 2016), at 15; and Finished Carbon Steel Flanges from India, Italy, and Spain, Inv. Nos. 701-TA-563 and 731-TA-1331-1333 (Review), USITC Pub. 5385 (Nov. 2022), at 11.

<sup>29</sup> Id.

<sup>30</sup> See Final Injury Determination at II-7.

<sup>31</sup> First Sunset Review Determination at 13.

<sup>32</sup> Id.

sources,” the Chinese shrimp industry continued to be export-oriented, had significant available capacity, and had increased exports to the United States even in a period of falling production.<sup>33</sup> Thus, the Commission observed that it did “not find that subject imports from China would likely have no discernible adverse impact on the domestic industry if the orders were revoked.”<sup>34</sup>

In the instant sunset reviews, once again no subject Chinese producers responded to the Commission’s questionnaire,<sup>35</sup> and there is no data which would indicate that the Commission should change its prior determinations. Rather, available data indicate that production and capacity remain substantial in the Chinese shrimp industry and that significant investment in capacity growth has continued.<sup>36</sup> For example, one source estimates that Chinese aquaculture production totaled 5.54 billion pounds in 2019, a more than ten percent increase from 2016, a nearly four-and-a-half-fold increase from the 1.25 billion pound production in 2010, and nearly a billion pounds more than the total farmed production of India, Thailand, and Vietnam in 2019 combined.<sup>37</sup>

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<sup>33</sup> Second Sunset Review Determination at 16.

<sup>34</sup> Id.

<sup>35</sup> See Prehearing Staff Report at IV-22 (PV) (“In these full third five-year reviews, the Commission issued foreign producers/exporters’ questionnaires to 42 firms believed to produce and/or export warmwater shrimp in China. The Commission did not receive and questionnaire responses from Chinese producers/exporters.”).

<sup>36</sup> See First Sunset Review Determination. See also Lily, “Short history of the Chinese Vannamei shrimp industry and trends,” Roda International (Oct. 13, 2020), attached as **Exhibit 1**; and John Evans, “China aquaculture feed giant Haid to invest \$1 billion into massive shrimp farm,” IntraFish (Feb. 13, 2023), attached as **Exhibit 2**.

<sup>37</sup> See First Sunset Review Determination at 13; and Prehearing Staff Report at IV-19, Table IV-8 (PV).

The Chinese industry also remains heavily involved in exporting. Although the Prehearing Staff Report notes a “major decline in exports” of shrimp products from China to world markets classified under the Harmonized Schedule subheading “0306.17” since 2016,<sup>38</sup> the total volume of these exports from China increased between 2019 and 2021 over thirteen percent from 118 million pounds to over 133 million pounds.<sup>39</sup> During the same period, exports to the United States increased significantly from 6.9 million pounds in 2019 to roughly 9.1 million pounds in 2021.<sup>40</sup>

The Prehearing Staff Report concluded that Chinese producers “have the ability to respond to changes in demand with relatively large changes in the quantity of shipments of warmwater shrimp to the U.S. market,” and that a contributing factor to that responsiveness is “the {steady} growth of shrimp aquaculture in China.”<sup>41</sup> During the current period of review, aquaculture production of warmwater shrimp in China is reported to have grown steadily from 7.7 billion pounds in 2016 to nearly 7.9 billion pounds in 2019.<sup>42</sup> This level of shrimp aquaculture production outstrips the combined production of India, Thailand, and Vietnam.<sup>43</sup>

The Commission’s data indicate that all Chinese exports to the United States have decreased dramatically following imposition of the order, but, given China’s current production and overall export levels, Chinese producers remain capable of rapidly and significantly ramping

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<sup>38</sup> Prehearing Staff Report at IV-22 through IV-24, Table IV-9 (PV).

<sup>39</sup> Id. at IV-23, Table IV-9 (PV).

<sup>40</sup> Id. (PV).

<sup>41</sup> Id. at II-8 (PV).

<sup>42</sup> See id. at IV-64, Table IV-40 (PV).

<sup>43</sup> See id. at IV-65, Tables IV-41, IV-42, and IV-43 (PV).

up exports to the United States should the order be revoked. Accordingly, the Commission should not find that subject imports from China would have no discernible adverse impact on the domestic industry if the order is revoked.

**2. Subject Imports from India Are Not Likely to Have No Discernable Adverse Impact on the Domestic Industry If the Order Is Revoked**

During the original investigations, India's shrimp industry was found to be highly export oriented, and had both large existing capacity and a low utilization rate.<sup>44</sup> Those conditions remained consistent during the first sunset reviews, when the Commission observed that the Indian industry "showed heavy export orientation," with exports representing at least 97.8 percent of Indian respondents' shipments.<sup>45</sup> Those conditions again continued during the period of review for the second sunset reviews, with both capacity and production increasing substantially to over 578.0 million pounds and 303.1 million pounds, respectively, as of 2015.<sup>46</sup> The record in the second sunset reviews additionally showed that the Indian shrimp industry continued to be export oriented with a particular focus on the United States as a target market, as exports to the United States increased every year from 2013 to 2015.<sup>47</sup> Consequently, the Commission once again observed that it "{did}" not find that subject imports from India would likely have no discernible adverse impact on the domestic industry if the orders were revoked."<sup>48</sup>

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<sup>44</sup> See Final Injury Determination at II-7.

<sup>45</sup> First Sunset Review Determination at 13.

<sup>46</sup> Second Sunset Review Determination at 17-18.

<sup>47</sup> Id. at 18.

<sup>48</sup> Id.

In these subject reviews, throughout the period of review subject imports from India held the [ ] share of warmwater shrimp imports into the United States amongst subject countries.<sup>49</sup> Subject Indian imports [ ] between 2019 and 2021, [ ] from [ ] pounds in 2019 to [ ] pounds in 2021.<sup>50</sup> At the same time, Indian production has experienced ongoing expansion, which continues to be almost exclusively export oriented.<sup>51</sup>

The Prehearing Staff Report observes that India’s respondent companies reported sixteen instances of plant openings or expansions and only one prolonged shutdown or curtailment in their questionnaire responses.<sup>52</sup> The Prehearing Staff Report also indicates that India’s exports are the functional equivalent of its production, noting “{e}xports accounted for nearly all shipments,”<sup>53</sup> and that between 2019 and 2021, by quantity, home market shipments [ ] of export shipments; in terms of value, the [ ] that of export shipments.<sup>54</sup> The United States has continued to be the most important export market for Indian exporters, with the Prehearing Staff Report indicating that between 2019 and 2021 it became increasingly important with exports to the U.S.

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<sup>49</sup> See Prehearing Staff Report at IV-4, Table IV-1 (APO).

<sup>50</sup> See id. at IV-3, Table IV-1 (APO).

<sup>51</sup> See id. at IV-31 (PV) (observing that “{c}apacity and production increased between 2019 and 2021, by 12.9 percent and 7.5 percent, respectively” and that “{e}xports accounted for nearly all shipments . . .”).

<sup>52</sup> Id. at IV-27-28, Table IV-11 (PV) (sum total of row entries in public version titled either “Plant openings” or “Expansions”).

<sup>53</sup> Id. at IV-31 (PV).

<sup>54</sup> See id. at IV-32, Table IV-13 (APO).

of shrimp classified under the Harmonized Schedule subheading “0306.17” growing from 556.4 million pounds in 2019 to roughly 657.5 million pounds in 2021.<sup>55</sup> In contrast, the volume of exports of this same type of Indian shrimp to the rest of the world declined over that period, from 833.8 million pounds in 2019 to 831.0 million pounds in 2021.<sup>56</sup> Accordingly, the United States absorbed slightly more than the entire increase in export quantity from India over this three-year period, with exports to the U.S. increasing by 101.1 million pounds from 2019 to 2021, and exports to all destinations markets, including the United States, increasing by 98.3 million pounds.<sup>57</sup>

Further, in the first sunset reviews, the Commission observed that “India is a significant producer of warmwater shrimp,” with estimated shrimp aquaculture production in India in 2010 at 130.6 million pounds.<sup>58</sup> During the current period of review, aquaculture production of warmwater shrimp in India is reported to have grown massively from 2.1 billion pounds in 2016 to roughly 2.7 billion pounds as of 2019.<sup>59</sup>

Unused capacity in India remains substantial, “{c}apacity utilization ranged between 47.6 percent and 56.2 percent between 2019 and 2021.”<sup>60</sup> The Prehearing Staff Report observes that Indian producers “have the ability to respond to changes in demand with large changes in the quantity of shipments of warmwater shrimp to the U.S. market,” with “low reported capacity

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<sup>55</sup> See id. at IV-36, Table IV-18 (PV).

<sup>56</sup> See id. (PV).

<sup>57</sup> See id. (PV).

<sup>58</sup> First Sunset Review Determination at 13.

<sup>59</sup> See Prehearing Staff Report at IV-65, Table IV-41 (PV).

<sup>60</sup> Id. at IV-31 (PV).



utilization, growing capacity, {and} some ability to shift shipments from alternate markets” being three of the main contributing factors suggesting an ability to increase shipments to the United States.<sup>61</sup>

In the absence of the order, Indian producers would be able to utilize unused capacity to increase their already significant volume of subject imports into the United States, resulting in an adverse impact to the domestic industry. Moreover, in light of the Indian industry’s increased exports to the United States market during the period of review, it is likely that Indian producers would redirect additional exports currently sold to other markets to the United States should the order be revoked. Accordingly, the Commission should not find that the subject imports from India would likely have no discernible adverse impact on the domestic industry if the order is revoked.

**3. Subject Imports from Thailand Are Not Likely to Have No Discernable Adverse Impact on the Domestic Industry If the Order Is Revoked**

During the original investigations, Thailand’s shrimp industry was export oriented and maintained high capacity and inventory levels.<sup>62</sup> In the first sunset reviews, the Commission observed that the Thai industry “displayed a heavy export orientation,” with the United States as the industry’s “largest export market.”<sup>63</sup> Because of this “significant presence in” and “particular focus on the U.S. market,” the Commission “{did} not find that subject imports from Thailand would likely have no discernable adverse impact on the domestic industry if the order

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<sup>61</sup> Id. at II-8 (PV).

<sup>62</sup> See Final Injury Determination at II-7.

<sup>63</sup> First Sunset Review Determination at 14.

{was} revoked.”<sup>64</sup> Those findings continued in the second sunset reviews, with the Commission finding that capacity utilization was around one third of total available capacity, and that despite falling overall production, the Thai industry continued to be export oriented, with “an increasing share of the Thai industry’s total shipments ... directed to the United States.”<sup>65</sup> Those findings resulted in the Commission determining once again that it “{did} not find that subject imports from Thailand would likely have no discernible adverse impact on the domestic industry if the orders were revoked.”<sup>66</sup>

Subject imports from Thailand continue to comprise a significant part of the market for frozen shrimp in the United States. Subject imports from Thailand [ ]<sup>67</sup> These imports represented between [ ] and [ ] percent of the volume of total U.S. imports between 2019 and 2021<sup>68</sup> and between [ ] and [ ] percent of U.S. apparent consumption over the same time period.<sup>69</sup> Also, the ratio of subject Thai imports to U.S. production of frozen warmwater shrimp ranged from [ ] percent and [ ] percent between 2019 and 2021.<sup>70</sup> Further, the United States remains a highly important export market for Thailand, representing the country’s largest export market for shrimp classified under the Harmonized Schedule

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<sup>64</sup> Id.

<sup>65</sup> Second Sunset Review Determination at 18-19.

<sup>66</sup> Id. at 19.

<sup>67</sup> See Prehearing Staff Report at IV-3, Table IV-1 (APO).

<sup>68</sup> See id. at IV-4, Table IV-1 (APO).

<sup>69</sup> See id. at I-43, Table I-13 (APO).

<sup>70</sup> See id. at IV-5, Table IV-1 (APO).

subheading “0306.17” in both 2020 and 2021.<sup>71</sup> From 2019 through 2021, the United States accounted for between 25.9 and 30.2 percent of Thailand’s total volume of these shrimp exports.<sup>72</sup> The responding Thai producers indicated that the United States accounted for between 37.1 percent and 40.6 percent of their total shipments between 2019 and 2021.<sup>73</sup>

The Prehearing Staff Report observes that Thai producers “have the ability to respond to changes in demand with large changes in the quantity of shipments of warmwater shrimp to the U.S. market.”<sup>74</sup> The Prehearing Staff Report explains that the main contributing factors to Thai producers’ ability to respond to changes in demand in the U.S. market are “the availability of unused capacity, the availability of some inventories, the ability to shift shipments from alternate markets, {and} some ability to shift production to or from alternate products.”<sup>75</sup> The Thai respondents reported having significant unutilized capacity, with respondent firms reporting that capacity utilization declined from 61.8 percent in 2019 to 54.2 percent in 2021.<sup>76</sup> This reduction in capacity utilization comes on the heels of significant increases in warmwater shrimp aquaculture production in Thailand, increasing from 848.8 million pounds in 2016 to 1.0 billion pounds in 2019 – reflecting 23.5 percent growth in volume over those four years.<sup>77</sup> Further, the record clearly supports the Prehearing Staff Report’s conclusion that Thai imports would indeed

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<sup>71</sup> See id. at IV-47 – IV-48, Table IV-27 (PV).

<sup>72</sup> See id. at IV-48, Table IV-27 (PV).

<sup>73</sup> See id. at IV-43, Table IV-23 (PV).

<sup>74</sup> Id. at II-9 (PV).

<sup>75</sup> Id. at II-9 (PV).

<sup>76</sup> See id. at IV-42, Table IV-22 (PV).

<sup>77</sup> See id. at IV-65, Table IV-42 (PV).

shift to the United States at the expense of U.S. producers in the absence of the order. Between 2019 and 2021, the United States, despite already being the Thai producers' primary export market, saw its share of the volume of responding exporters' shipments increase from 37.1 percent in 2019 to a 39.8 percent in 2021.<sup>78</sup>

These findings, when considered with clear indicators that the United States is Thailand's single most important market, demonstrate that Thai producers are able, and likely would, direct additional product to the United States were the order to be revoked. Thus, the Commission should not find that the subject imports from Thailand would likely have no discernible adverse impact on the domestic industry if the order is revoked.

**4. Subject Imports from Vietnam Are Not Likely to Have No Discernable Adverse Impact on the Domestic Industry If the Order Is Revoked**

During the original investigations, Vietnam's shrimp industry was export oriented and had a growing available capacity.<sup>79</sup> In the first sunset reviews, the Commission observed that the Vietnamese industry "displayed a heavy export orientation," with the United States as the industry's "largest export market."<sup>80</sup> Because of this "significant presence in" and "particular focus on the U.S. market," the Commission "{did} not find that subject imports from Vietnam would likely have no discernible adverse impact on the domestic industry if the order {was} revoked."<sup>81</sup> In the second sunset reviews, the Commission found that the same factors continued to characterize the Vietnamese shrimp industry, with increasing capacity during the period from

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<sup>78</sup> See id. at IV-43, Table IV-23 (PV).

<sup>79</sup> See Final Injury Determination at II-7 and II-7 n.27.

<sup>80</sup> First Sunset Review Determination at 14.

<sup>81</sup> Id. at 14-15.

2013 to 2016, increasing production from 2013 to 2015, and falling capacity utilization over the same period.<sup>82</sup> The Commission also found that the Vietnamese industry continued to be export oriented, and that “a substantial share of the Vietnamese industry’s total shipments were directed to the United States” during the review period.<sup>83</sup> These similar findings to those during the first sunset reviews resulted in an identical conclusion: that the Commission “{did} not find that subject imports from Vietnam would likely have no discernible adverse impact on the domestic industry if the orders were revoked.”<sup>84</sup>

Subject imports from Vietnam continue to comprise a significant part of the market for frozen shrimp in the United States. Vietnamese subject imports [ ]<sup>85</sup> These imports represented between [ ] and [ ] percent of total U.S. imports between 2019 and 2021<sup>86</sup> and between [ ] and [ ] percent of U.S. apparent consumption over the same time period.<sup>87</sup> Also, the ratio of subject Vietnamese imports to U.S. production of frozen warmwater shrimp ranged from [ ] percent and [ ] percent between 2019 and 2021.<sup>88</sup> Further, the United States remains a highly important export market for Vietnam, representing the country’s largest export market for shrimp

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<sup>82</sup> Second Sunset Review Determination at 20.

<sup>83</sup> Id.

<sup>84</sup> Id. at 21.

<sup>85</sup> See Prehearing Staff Report at IV-3, Table IV-1 (APO).

<sup>86</sup> See id. at IV-4, Table IV-1 (APO).

<sup>87</sup> See id. at I-43, Table I-13 (APO).

<sup>88</sup> See id. at IV-5, Table IV-1 (APO).

classified under the Harmonized Schedule subheading “0306.17” in 2021.<sup>89</sup> From 2019 through 2021, Vietnam increased its focus on the United States market, with the U.S. accounting for between 6.4 and 19.1 percent of the country’s total volume of these shrimp exports.<sup>90</sup> The responding Vietnamese producers indicated that the United States accounted for between 20.7 percent and 39.5 percent of their total shipments between 2019 and 2021.<sup>91</sup>

The Prehearing Staff Report observes that Vietnamese producers “have the ability to respond to changes in demand with large changes in the quantity of shipments of warmwater shrimp to the U.S. market.”<sup>92</sup> The Prehearing Staff Report explains that the main contributing factors to Vietnamese producers’ ability to respond to changes in demand in the U.S. market are “the availability of unused capacity and inventories, {and} ability to shift shipments from alternate markets.”<sup>93</sup> The Vietnamese respondents reported having significant unutilized capacity, with respondent firms reporting 70.5 percent capacity utilization in 2019 and 75.8 percent capacity utilization in 2021.<sup>94</sup> Vietnam also experienced significant increases in warmwater shrimp aquaculture production, increasing from 1.7 billion pounds in 2016 to 2.3 billion pounds in 2019 – reflecting 32.9 percent growth in volume over those four years.<sup>95</sup> Further, the record clearly supports the Prehearing Staff Report’s conclusion that Vietnamese

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<sup>89</sup> See id. at IV-57 – IV-58, Table IV-36 (PV).

<sup>90</sup> See id. at IV-58, Table IV-36 (PV).

<sup>91</sup> See id. at IV-54, Table IV-32 (PV).

<sup>92</sup> Id. at II-10 (PV).

<sup>93</sup> Id. (PV).

<sup>94</sup> See id. at IV-53, Table IV-31 (PV).

<sup>95</sup> See id. at IV-65, Table IV-43 (PV).

imports would indeed shift to the United States at the expense of U.S. producers in the absence of the order. During the period of review, as a share of their total exports to the world, the responding Vietnam exporters reported that their shipments to the United States nearly doubled in importance, from accounting for one out of every five pounds of warmwater shrimp exported in 2019 to accounting for two out of every five pounds in 2021.<sup>96</sup>

These findings, when considered with clear indicators that the United States is Vietnam's single most important market, demonstrate that Vietnamese producers are able, and likely would, direct additional product to the United States were the order to be revoked. Thus, the Commission should not find that the subject imports from Vietnam would likely have no discernible adverse impact on the domestic industry if the order is revoked.

**B. Subject Imports Are Likely to Compete With Each Other and the Domestic Like Product**

In order to exercise its discretion to cumulate, the Commission must find a “reasonable overlap” of competition between and amongst subject imports and the domestic like product. “The Commission generally has considered four factors intended to provide a framework for determining whether subject imports compete with each other and with the domestic like product.”<sup>97</sup> These four factors are:

(1) the degree of fungibility between subject imports from different countries and between subject 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 subject imports from different

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<sup>96</sup> See id. at IV-54, Table IV-32 (PV).

<sup>97</sup> Certain Magnesia Carbon Bricks from China and Mexico, Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Review), USITC Pub. 4589 (Jan. 2016), at 10; and Cold-Rolled Steel Flat Products from Brazil, China, India, Japan, South Korea, and the United Kingdom, Inv. Nos. 701-TA-540-543 and 731-TA-1283-1287 and 1290 (Review), USITC Pub. 5339 (Aug. 2022), at 36 (footnote omitted).



countries and the domestic like product; and (4) whether subject imports are simultaneously present in the market with one another and the domestic like product.<sup>98</sup>

In the original investigations, first sunset reviews, and second sunset reviews, the Commission found that each factor supported cumulation and, accordingly, chose to cumulate subject imports from China, India, Thailand, and Vietnam.<sup>99</sup> Because each factor continues to favor cumulation, the Commission should again exercise its discretion to cumulate subject imports from the four subject countries in these current sunset reviews.

### **1. Subject Imports Continue to Be Fungible With One Another and With the Domestic Like Product**

In the original investigations, the record indicated that domestically produced frozen shrimp imports from all subject countries were “sufficiently similar in characteristics to satisfy the fungibility criterion.”<sup>100</sup> The record in the original investigations established that:

(1) a majority of market participants found that domestically-produced shrimp were at least sometimes interchangeable with shrimp from each of the subject countries, except for one comparison ... ; (2) majorities of all market participants found imports from all subject import 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.<sup>101</sup>

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<sup>98</sup> Cut-to-Length Carbon Steel Plate from China, Russia, and Ukraine, Inv. Nos. 731-TA-753, 754, and 756 (Third Review), USITC Pub. 4581 (Dec. 2015), at 21 n.113; and Hot-Rolled Steel from Australia, Brazil, Japan, Netherlands, Russia, South Korea, Turkey, and the United Kingdom, Inv. Nos. 701-TA-545-546 and 731-TA-1291-1297 (Review) and 731-TA-808 (Fourth Review), USITC Pub. 5380 (Nov. 2022), at 50 n.319 (citing Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Tr. 1989)).

<sup>99</sup> See Final Injury Determination at 20-21, First Sunset Review Determination at 15-16, and Second Sunset Review Determination at 21-23.

<sup>100</sup> Final Injury Determination at 20-21.

<sup>101</sup> Changed Circumstances Determination at 8-9.

In the first sunset reviews, the record indicated that:

market participants perceive at least some interchangeability between the domestic like product and the subject imports and between imports from different subject sources. Large majorities of U.S. processors said products from different sources were always interchangeable. Pluralities of purchasers said that products from different sources were always interchangeable in all comparisons except three; in those three comparisons, equal numbers of purchases found the products always or frequently interchangeable. Majorities or pluralities of importers, by contrast, reported that products from different sources were sometimes interchangeable in all comparisons except one, in which equal numbers found the products frequently or sometimes interchangeable. The pricing data indicate that, notwithstanding the orders, the domestic like product and imports from multiple subject countries competed for sales of numerous forms of warmwater shrimp during the period of review.<sup>102</sup>

Similarly, in the second sunset reviews, the record established that:

there is at least a moderate degree of substitutability between U.S. produced warmwater shrimp and that imported from subject countries. Most responding domestic processors reported that subject imports from all subject countries are always used interchangeably with each other and with the domestic like product. Responses of importers were mixed; in all five United States-subject country comparisons, pluralities or majorities of importers reported that the subject imports were frequently or sometimes interchangeable with the domestic like product. Responses of purchasers were mixed and relatively polarized; in all five comparisons, a majority of those responding picked the two extreme responses (“always” or “never”) . . . Most purchasers also reported that U.S. product and imports from each subject country (other than Brazil) always or usually meet minimum quality specifications, and most purchasers reported that U.S. product and shrimp from subject sources (other than Brazil) were comparable on at least 12 of 18 factors.<sup>103</sup>

Thus, the record continued in each of the previous sunset reviews to indicate that “there is a general perception among market participants of at least some degree of interchangeability between the domestic like product and subject imports from each subject country.”<sup>104</sup>

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<sup>102</sup> First Sunset Review Determination at 15 (footnotes omitted).

<sup>103</sup> Second Sunset Review Determination at 22 (footnotes omitted).

<sup>104</sup> Id. at 23; First Sunset Review Determination at 16.

Here, again, the extensive data on interchangeability compiled in the Prehearing Staff Report establishes that the subject imports are fungible with the domestic like product and each other. “{M}ost processors and importers reported that warmwater shrimp from all sources were always interchangeable.”<sup>105</sup> Purchasers expressed mixed views with respect to interchangeability between the domestic like product and imports:

Two purchasers each reported U.S. and Chinese product were always, frequently and never interchangeable. When comparing U.S. with subject Indian, Thai, and Vietnamese product, purchaser responses were identical with three reported they were never interchangeable, and two each reported they were always, frequently, and sometimes interchangeable.<sup>106</sup>

This reporting is consistent with the Commission’s prior proceedings, as in the original investigations, the agency explained that “market participants do not have uniform views concerning the interchangeability of the domestic like product and subject imports.”<sup>107</sup> On this record, the Prehearing Staff Report indicates that “staff believes that there is a moderate degree of substitutability between domestically produced warmwater shrimp and warmwater shrimp imported from subject sources.”<sup>108</sup>

Additional information in the Prehearing Staff Report further supports a finding of fungibility between the domestic like product and imports. For example, “the vast majority (over [ ] percent) of U.S. importers’ U.S. shipments from any subject source were IQF,”<sup>109</sup> while

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<sup>105</sup> Prehearing Staff Report at II-31 (PV).

<sup>106</sup> Id. (PV).

<sup>107</sup> Final Injury Determination at 20.

<sup>108</sup> Prehearing Staff Report at II-14 (PV) (footnote omitted).

<sup>109</sup> Id. at IV-8 (APO).

44.4 percent of U.S. processors' U.S. shipments were also IQF.<sup>110</sup> While “the majority (55.6 percent) of U.S. processors' U.S. shipments were block frozen,”<sup>111</sup> and a minority of U.S. importers' U.S. shipments were block frozen, the total volume of U.S. importers' block frozen shipments in 2021 were roughly [ ] that of U.S. processors [ ].<sup>112</sup> Pricing data also indicate that, notwithstanding the orders, the domestic like product and imports from the subject countries competed for sales of various warmwater shrimp products during the period of review.<sup>113</sup>

Thus, the totality of the evidence found by the Commission demonstrates that the “fungibility” criterion once again favors cumulating imports from China, India, Thailand, and Vietnam in these sunset reviews.

## **2. Subject Imports and the Domestic Like Product Continue to Be Sold and Offered for Sale in the Same Geographic Markets**

In the original investigations, the Commission found that the “geographic overlap” criterion was “clearly satisfied.”<sup>114</sup> In responses to the agency, “{t}he overwhelming majority of both U.S. processors and importers of subject merchandise reported that they serve either a national market or multiple regions within the United States.”<sup>115</sup> Similarly, in the first sunset reviews, the Commission explained:

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<sup>110</sup> Id. at IV-8, Table IV-3 (PV).

<sup>111</sup> Id. at IV-8 (PV).

<sup>112</sup> Id. at IV-8, Table IV-3 (APO).

<sup>113</sup> See id. at V-5 through V-10 (PV).

<sup>114</sup> Final Injury Determination at 21.

<sup>115</sup> Id. at 20.

The record in these reviews indicates that 10 U.S. processors and 21 importers serve a nationwide market. The 21 importers that reported serving a nationwide market include entities that imported product from each of the five subject countries during at least a portion of the period of review. Moreover, multiple U.S. processors and importers that do not serve national markets serve each U.S. region.<sup>116</sup>

Accordingly, the Commission found that there were “clear overlaps” in “geographic presence between the domestic like product and imports from each subject country, and between imports from different subject sources.”<sup>117</sup> In the second sunset reviews, the Commission continued to find that U.S. merchandise competed with subject imports across all regions, explaining that:

In the current reviews, both U.S. producers and importers from each subject country reported selling warmwater shrimp to all regions in the contiguous United States. Thus, warmwater shrimp from all sources served a nationwide market during the period examined.<sup>118</sup>

The Prehearing Staff Report indicates that little has changed since the second sunset reviews. “U.S. processors and U.S. importers reported selling warmwater shrimp to all regions in the contiguous United States . . . .”<sup>119</sup> “Warmwater shrimp produced in the United States are shipped nationwide” and “U.S. imports of warmwater shrimp from China, India, Thailand, and Vietnam entered multiple ports of entry across the nation.”<sup>120</sup> Thus, the “geographic overlap” criterion continues to favor the cumulation of imports from China, India, Thailand, and Vietnam in these sunset reviews.

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<sup>116</sup> First Sunset Review Determination at 16 (footnotes omitted).

<sup>117</sup> Id.

<sup>118</sup> Second Sunset Review Determination at 22 (footnotes omitted).

<sup>119</sup> Prehearing Staff Report at II-4 (PV).

<sup>120</sup> Id. at IV-10 (PV).

### 3. Subject Imports and the Domestic Like Product Continue to Be Sold through Common Channels of Distribution

In its original investigations, the Commission determined that the “channels of distribution” criterion was “clearly satisfied.”<sup>121</sup> The Commission explained that:

Both the domestic like product and the subject imports are sold to distributors and to retail customers such as grocers and restaurants. The record indicates that numerous market participants such as distributors, grocers, and restaurateurs purchase both domestically produced shrimp and imports from several different countries.<sup>122</sup>

In the first sunset reviews, the record established that “{o}ver 90 percent of shipments of the domestic like product and a substantial portion of shipments of the imports from each subject source were to distributors.”<sup>123</sup> The record of those proceedings also demonstrated that “{m}ost remaining shipments of domestic like product were directed to retailers or institutional buyers, which were a substantial channel of distribution for imports from each of the subject countries.”<sup>124</sup> These findings led the Commission to determine that there were “clear overlaps in channels of distribution ... between the domestic like product and imports from each subject country, and between imports from different subject sources.”<sup>125</sup>

The Commission continued to find these trends to exist during the second sunset reviews, holding that “{t}he majority of domestically produced product and a plurality of imports from each subject country ... were sold to distributors.”<sup>126</sup> These findings resulted in the Commission

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<sup>121</sup> Final Injury Determination at 21.

<sup>122</sup> Id. at 20.

<sup>123</sup> First Sunset Review Determination at 16.

<sup>124</sup> Id.

<sup>125</sup> Id.

<sup>126</sup> Second Sunset Review Determination at 23.

determining that the record “indicat{ed} reasonable overlaps between the domestic like product and imports from each subject country, and between imports from each country, and between imports from different subject sources, in channels of distribution and geographic presence.”<sup>127</sup>

In these sunset reviews, the Prehearing Staff Report indicates that the channels of distribution for the domestic like product and imported shrimp continue to overlap. “U.S. processors and importers from China, India, and Thailand sold mainly to distributors with most of their remaining sales going to retailers . . . {i}mporters from Vietnam and nonsubject sources sold mainly to retailers with most of their remaining sales going to distributors.”<sup>128</sup> As such, there is no reason to depart from the Commission’s previous conclusions that subject imports and the domestic like product are sold through common channels of distribution. In sum, the “channels of distribution” criterion continues to favor cumulating imports from China, India, Thailand, and Vietnam in these sunset reviews.

#### **4. Subject Imports Continue to Be Simultaneously Present in the Market with Each Other and the Domestic Like Product**

In the original investigations, the Commission determined that the “simultaneous presence” criterion was “clearly satisfied.”<sup>129</sup> The Commission found that “{i}mports from each of the subject countries have been present in the U.S. market throughout the period examined.”<sup>130</sup>

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<sup>127</sup> Id.

<sup>128</sup> Prehearing Staff Report at II-3 (PV).

<sup>129</sup> Final Injury Determination at 21.

<sup>130</sup> Id. at 20.



The record in the first sunset reviews established that “the domestic like product and imports from each of the subject countries except Brazil were present throughout the period of review.”<sup>131</sup> The Commission concluded that:

Although subject imports from Brazil largely exited the U.S. market later in the period of review, the domestic like product and imports from all five subject countries were simultaneously present in the U.S. market during the first two years of the period.<sup>132</sup>

During the second sunset reviews, the Commission again found that subject imports “from all sources except Brazil were simultaneously present in the U.S. market.”<sup>133</sup> “Subject imports from India, Thailand and Vietnam entered the United States in every month of the period examined, and subject imports from China entered the United States in all but three months in 2014 and two months in 2015.”<sup>134</sup> Thus, “{t}he domestic like product and imports from {China, India, Thailand, and Vietnam} were simultaneously present in the U.S. market during the period of review.”<sup>135</sup>

On this administrative record, the Prehearing Staff Report observes:

Warmwater shrimp produced in the United States was present in the market throughout the period for which data were collected . . . Imports of warmwater shrimp from India, Thailand, and Vietnam were present in each month between January 2019 and November 2022, while imports from China were present in 36 of 47 months.<sup>136</sup>

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<sup>131</sup> First Sunset Review Determination at 16.

<sup>132</sup> Id.

<sup>133</sup> Second Sunset Review Determination at 23.

<sup>134</sup> Id. (footnotes omitted).

<sup>135</sup> Id.

<sup>136</sup> Prehearing Staff Report at IV-12 (PV). See also id. at IV-13 and IV-14, Table IV-5 (PV).

Thus, the “simultaneous presence” criterion remains satisfied with respect to India, Thailand, and Vietnam. Further, the absence of Chinese imports for eleven months does not support excluding China from cumulation. The Commission has previously determined that the “simultaneous presence” criterion is satisfied when subject imports are present in the U.S. market “during most of the period of investigation,” and even when subject imports from a country are not present in all years and are relatively low.<sup>137</sup> Here, eleven discrete monthly absences from the U.S. market over the course of the 47 month period are of limited consequence and the “simultaneous presence” criterion remains satisfied with respect to China. Accordingly, a review of the record in these sunset reviews establishes that there is no reason for the Commission to deviate from its previous determinations regarding the “simultaneous presence” criterion.

**C. No Other Considerations Support Cumulating Imports Differently than in the Initial Investigations, the First Sunset Reviews, and the Second Sunset Reviews**

As was the case in the first and second sunset reviews, the record before the Commission in these proceedings fails to demonstrate “any significant difference in likely conditions of competition among imports from any of the subject countries.”<sup>138</sup> The facts of the current sunset reviews reflect those of the previous proceedings, where the Commission found that the:

{E}xport orientation, substantial volumes of global exports, greater production capacity, and greater amount of excess capacity of the Chinese, Indian, Thai, and Vietnamese industries indicate that subject imports from China, India, Thailand,

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<sup>137</sup> See Stainless Steel Wire Rod from India, Inv. No. 731-TA-638 (Final), USITC Pub. 2704 (Nov. 1993) at I-14; and Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey, Inv. Nos. 701-TA-449 and 731-TA-1118-1121 (Review), USITC Pub. 4470 (June 2013) at 13.

<sup>138</sup> First Sunset Review Determination at 17.

and Vietnam are likely to compete under similar conditions of competition upon revocation.<sup>139</sup>

Accordingly, the Commission should once again not find any significant differences in likely conditions of competition among imports for any of the subject countries for which there is a likely overlap of competition.

## **VI. CONDITIONS OF COMPETITION**

Pursuant to 19 U.S.C. § 1675a(a)(4), the Commission evaluates the likely impact of revocation of an order “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.” Many of the conditions of competition that were present during the Commission’s original investigations and the first and second five-year reviews continue to be present in the current reviews.

For example, in the first sunset reviews, the Commission observed that “{t}he largest individual component of operating expenses for reporting fishermen consisted of fuel and oil costs.”<sup>140</sup> The Commission noted that fuel and oil costs “showed large annual fluctuations” and that “{n}either fishermen nor processors impose fuel surcharges on their customers, and high fuel costs can serve as a disincentive to fishermen to take their boats out to harvest shrimp.”<sup>141</sup> This condition held true during the second sunset reviews as well, with the Commission noting that domestic parties point to “the cost of fuel as the single largest component of operating

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<sup>139</sup> Second Sunset Review Determination at 26.

<sup>140</sup> First Sunset Review Determination at 25.

<sup>141</sup> Id. (footnotes omitted).

expenses.”<sup>142</sup> Similarly, on this record, the Prehearing Staff Report again recognizes that “{f}uel is the most important cost for shrimp fishermen.”<sup>143</sup> As described in the Prehearing Staff Report,

Diesel prices in the Gulf Coast region increased irregularly from January 2016 to September 2022 with a sharp increase from January 2021 to June 2022. Between January 2016 to September 2022, Gulf Coast diesel prices increased by 131 percent. Diesel prices peaked in June 2022 and have declined irregularly through February 2023.<sup>144</sup>

Other conditions of competition addressed by the Commission in prior proceedings related to these antidumping duty orders are addressed below.

**A. Supply and Demand Characteristics Have Remained Similar, While Apparent U.S. Consumption Has Increased Significantly**

The Commission explained in the original investigations that domestically produced shrimp is “overwhelmingly wild caught,” that harvesting was seasonal, and that “{p}rocessors freeze part of their in-season inventory for sales off-season.”<sup>145</sup> The Commission also found that, in contrast, the “vast majority” of subject imports are farmed and the supply of such imports is less seasonal.<sup>146</sup> In the first sunset reviews, the Commission noted that the “parties agreed that the quantity of warmwater shrimp available from U.S. fishermen was insufficient to meet national demand.”<sup>147</sup> During the period of investigation (January 2001 through June 2004), subject imports accounted for the majority of U.S. apparent consumption and the domestic industry accounted for a smaller share of apparent consumption than either subject or nonsubject

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<sup>142</sup> Second Sunset Review Determination at 39.

<sup>143</sup> Prehearing Staff Report at V-1 (PV) (footnote omitted).

<sup>144</sup> Id. (PV).

<sup>145</sup> Final Injury Determination at 23.

<sup>146</sup> Id.

<sup>147</sup> First Sunset Review Determination at 21 (footnote omitted).

imports.<sup>148</sup> During the second sunset reviews, the domestic industry continued to contribute “substantially less” than that “supplied by either subject or nonsubject imports” even as the domestic industry’s “wild catch landings increased from 2013 to 2015.”<sup>149</sup>

In the original investigations, the Commission found that U.S. apparent consumption increased during the period of investigation and that:

{p}rocessors generally cited lower prices as the reason for increased consumption, while importers were more likely to attribute increased consumption to an increase in demand brought about by factors such as increased health consciousness, wider availability, and increased marketing activities.<sup>150</sup>

The Commission observed that demand for frozen warmwater shrimp comes from “retail sellers of both prepared and unprepared products- which are typically grocers- and from restaurants.”<sup>151</sup>

The Commission also found that “shrimp is generally used in meal preparations and that restaurants accounted for about 80 percent of total U.S. consumption.”<sup>152</sup> During the second sunset reviews, the Commission again found that “{f}rozen shrimp continues to be used principally in meal preparations” and that demand continues to come “primarily from retail sellers ... such as grocers and restaurants.”<sup>153</sup>

As it had in both the investigations and the first sunset reviews, the Commission found in the second sunset reviews that “{d}omestically produced shrimp is overwhelmingly wild

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<sup>148</sup> Final Injury Determination at 24.

<sup>149</sup> Second Sunset Review Determination at 39.

<sup>150</sup> Final Injury Determination at 22.

<sup>151</sup> Id. at 22-23.

<sup>152</sup> Second Sunset Review Determination at 29 (footnote omitted). See also Final Injury Determination at 22-23.

<sup>153</sup> Second Sunset Review Determination at 37.

caught,” while subject imports are “primarily farm raised.”<sup>154</sup> In its determination in the second sunset reviews, the Commission again also recognized that U.S. producers can only supply “a portion of domestic consumption,” and that during the period of review, “the domestic industry supplied between 9.2 and 11.0 percent of apparent U.S. consumption” annually.<sup>155</sup> In addition, as there had been in the first sunset reviews’ five-year review period, there were multiple revocations of the order during the second sunset reviews’ review period window, with the order on subject imports from China being revoked “with respect to multiple producers,” and the order on subject imports from Vietnam being revoked “with respect to producer Minh Phu Group.”<sup>156</sup>

In the first sunset reviews, the Commission explained: “Apparent U.S. consumption of warmwater shrimp fluctuated within a relatively narrow range during the period of review,” ranging between 1.17 billion and 1.33 billion pounds.<sup>157</sup> This upward trend continued throughout the review period of the second sunset reviews as well, with apparent U.S. consumption of warmwater shrimp increasing over the period from “1.12 billion pounds in 2013, {to} 1.26 billion pounds in 2014, and {to} 1.29 billion pounds in 2015.”<sup>158</sup>

For these sunset reviews, the Prehearing Staff Report again confirms that “{d}emand for warmwater shrimp comes primarily from retail sellers of both prepared and unprepared

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<sup>154</sup> Id. at 38-39 (footnote omitted); First Sunset Review Determination at 22-23 (footnote omitted).

<sup>155</sup> Second Sunset Review Determination at 39 (footnotes omitted); First Sunset Review Determination at 22 (footnotes omitted).

<sup>156</sup> Second Sunset Review Determination at 40.

<sup>157</sup> First Sunset Review Determination at 32.

<sup>158</sup> Second Sunset Review Determination at 37.

warmwater shrimp (e.g., grocery stores) and restaurants.”<sup>159</sup> Apparent U.S. consumption continued to grow significantly since the conclusion of the second sunset reviews: “The quantity of apparent U.S. consumption increased by 25.1 percent during 2019-21, increasing from 1.5 billion pounds in 2019 to 1.6 billion pounds in 2020 then increasing to 1.9 billion pounds in 2021.”<sup>160</sup> Nevertheless, apparent U.S. consumption fell in the most recent interim period by 0.7 percent,<sup>161</sup> indicating that after multiple years of growth, the market may now be over-saturated. The share of the volume of apparent U.S. consumption for shrimp accounted for by U.S. processors fell from 8.9 percent in 2019 to 6.3 percent in 2021,<sup>162</sup> while the volume of U.S. shipments of warmwater shrimp fell from 137.7 million pounds in 2019 to 122.8 million pounds in 2021 before increasing by 9.7 percent (from 59.7 million pounds to 65.5 million pounds) during the interim period in 2022 compared to the same timeframe in 2021.<sup>163</sup>

After the antidumping duty order on certain frozen warmwater shrimp from Brazil was revoked following the Commission’s determination in the second sunset reviews,<sup>164</sup> there have been no further revocations of any companies covered by the remaining antidumping duty orders. Instead, as noted in the Prehearing Staff Report, in December 2020, Commerce found

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<sup>159</sup> Prehearing Staff Report at II-12 (PV).

<sup>160</sup> Id. at I-41 (PV).

<sup>161</sup> Id. (PV).

<sup>162</sup> Id. at I-43, Table I-13 (PV).

<sup>163</sup> Id. at I-42, Table I-13 (PV).

<sup>164</sup> See Certain Frozen Warmwater Shrimp From Brazil, India, the People’s Republic of China, Thailand, and the Socialist Republic of Vietnam, 82 Fed. Reg. 25,242 (Dep’t Commerce June 1, 2017) (Continuation of Antidumping Duty Orders (India, the People’s Republic of China, Thailand, and the Socialist Republic of Vietnam) and Revocation of Antidumping Duty Order (Brazil)).

that the company currently operating under the name Shantou Red Garden Food Processing Co., Ltd. was not the successor-in-interest of the entity that had been initially excluded from the antidumping duty order on frozen warmwater shrimp from China and, as such, “Shantou Red Garden Food Processing Co., Ltd. and Shantou Red Garden Foodstuff Co., Ltd. are no longer excluded from the antidumping duty order.”<sup>165</sup>

**B. There Is a Moderate Degree of Substitutability Between Domestic and Imported Shrimp**

In the original investigations, the Commission found that “the domestic like product and the subject imports were sold to similar types of customers for the same applications,” that “{m}arket participants had mixed perceptions about the interchangeability and substitutability of the subject imports and the domestic like product,” and that “the record did not support the finding respondents sought that the domestic like product and the subject imports were highly differentiated products.”<sup>166</sup> The record in the investigations established that “the same purchasers bought the domestic like product and the subject imports” and that “domestically processed product satisfied purchaser approval standards with at least some frequency.”<sup>167</sup> The Commission explained that “nothing in the purchasers’ comments and testimony indicated that there was any application for which the domestically processed product was used for which the subject imports could not be substituted,” that comments regarding the availability and product range of the domestically processed product “to some extent merely acknowledged quantitative and seasonal constraints in the supply of the domestically processed shrimp,” and that the record

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<sup>165</sup> Prehearing Staff Report at I-18 and I-19 (PV).

<sup>166</sup> First Sunset Review Determination at 21 (footnote omitted).

<sup>167</sup> Id.



as a whole demonstrated “that the domestic like product and the subject imports were ‘at least moderate substitutes.’”<sup>168</sup>

In the first sunset reviews, respondents asserted that “any competition between the domestic like product and the subject imports is highly attenuated.”<sup>169</sup> As with the original investigations, the Commission concluded that respondents’ assertions were not supported and found that the record was again mixed:

{D}ifferent types of market participants provided different general assessments of interchangeability, with U.S. processors overwhelmingly reporting that the domestic like product and imports from each subject country were always interchangeable, a majority of purchasers reporting that the domestic like product and the imports from each subject country were always or frequently interchangeable, and a majority of importers reporting that the domestic like product and imports from each subject country were frequently or sometimes interchangeable.<sup>170</sup>

The record in the first sunset reviews established that “the domestic like product and the subject imports are available in every region of the country,” that “each of the five leading purchasers” (collectively accounting for over 87 percent of reported purchases) “purchased both the domestic like product and at least some subject imports during the period of review,” that “the domestic industry supplies all major product forms,” that “the domestic industry also offers products in all possible size ranges,” and that “{a} majority of reporting purchasers reported that they purchase wild-caught and farm-raised shrimp for the same end uses, and three times as many purchasers indicated that the two types of shrimp were purchased for the same end uses as reported that they

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<sup>168</sup>

Id.

<sup>169</sup>

Id. at 23.

<sup>170</sup>

Id. (footnote omitted).

were not.”<sup>171</sup> The Commission concluded that “{t}he record does not indicate clear distinctions in the markets or customers served by the domestic like product and the subject imports.”<sup>172</sup> Moreover, although the Commission acknowledged that “differences in product mix and availability between the subject imports and the domestic like product limit to some extent the substitutability of warmwater shrimp from different sources,” there did not exist “significant differences in regional availability, product range, or quality between the domestically produced and subject products.”<sup>173</sup> Further, the record identified “no significant market segment in which the domestic like product participates and subject imports do not” participate and, as such, respondents’ claim “that subject imports and the domestic like product compete in separate markets” was unsupported.<sup>174</sup> Looking at the record as a whole, the Commission reaffirmed its prior findings: “As in the original investigations, the record in these reviews supports finding that the products are at least moderate substitutes.”<sup>175</sup>

The Commission’s determination in the second sunset reviews largely reflects those of the investigations and first sunset reviews, with the Commission finding that “{t}he record does not indicate clear distinctions in the markets or customers served by the domestic like product and the subject imports,” and that “{b}oth the domestic like product and the subject imports are available in every region of the country through the same channels of distribution.”<sup>176</sup> While the

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<sup>171</sup> Id. at 23-24 (footnotes omitted).

<sup>172</sup> Id. at 23.

<sup>173</sup> Id. at 24.

<sup>174</sup> Id. at 25.

<sup>175</sup> Id.

<sup>176</sup> Second Sunset Review Determination at 42 (footnote omitted).

Commission noted that a distinction exists between the domestic like product and subject imports in that “the domestic like product is overwhelmingly wild-caught, while the subject imports are predominantly farm-raised,” it found that “the record does not indicate that this distinction, taken alone, significantly limits substitutability.”<sup>177</sup> Underscoring this finding was the fact that “most purchasers (26 of 36 responding) purchased both wild-caught and farm-raised warmwater shrimp.”<sup>178</sup> Additionally, there were not product forms in which the domestic like product and subject imports did not compete, with the Commission finding that “{t}he record indicates that the domestic industry supplies all major product forms ... in all possible size ranges,” and with regard to subject imports “{s}imilarly, the record does not indicate any major product form that the subject imports do not supply.”<sup>179</sup> While the Commission determined that it found “differences in product mix and availability among the subject imports and the domestic like product {which} limit to some extent the substitutability,” it concluded that it did “not perceive significant differences in availability or product range.”<sup>180</sup> Thus, the Commission concluded once again that the record supported “finding that the products are at least moderate substitutes and that they compete for sales in the U.S. market.”<sup>181</sup>

The record is largely unchanged in these sunset reviews. As in the last two reviews, different types of market participants provided different general assessments of interchangeability, although both importers and U.S. processors shared similar views: “{M}ost

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<sup>177</sup> Id.

<sup>178</sup> Id.

<sup>179</sup> Id.

<sup>180</sup> Id.

<sup>181</sup> Id. (footnote omitted).

processors and importers reported that warmwater shrimp from all sources were always interchangeable.”<sup>182</sup> Purchasers expressed disparate views amongst themselves:

Two purchasers each reported U.S. and Chinese product were always, frequently and never interchangeable. When comparing U.S. with subject Indian, Thai, and Vietnamese product, purchaser responses were identical with three reported they were never interchangeable, and two each reported they were always, frequently, and sometimes interchangeable.<sup>183</sup>

The record indicates that domestically processed product is available in every region of the country in which subject imports are available<sup>184</sup> and that a significant portion of sales (25.4 percent) of U.S. product were shipped over 500 miles.<sup>185</sup> Further, “most responding purchasers reported that domestically produced and imported product always or usually met minimum quality specifications.”<sup>186</sup> Reviewing all of the available information, the Prehearing Staff Report states: “Based on available data, staff believes that there is a moderate degree of substitutability between domestically produced warmwater shrimp and warmwater shrimp imported from subject sources.”<sup>187</sup>

### **C. Spot Market Sales Remain Significant for Both the Domestic Like Product and Subject Imports**

In the first sunset reviews, the Commission found that “spot market sales are significant for both the domestic like product and the subject imports.”<sup>188</sup> This continued to hold true in the

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<sup>182</sup> Prehearing Staff Report at II-31 (PV).

<sup>183</sup> Id. (PV).

<sup>184</sup> Id. at II-4, Table II-3 (PV).

<sup>185</sup> Id. at II-5 (PV) (footnote omitted).

<sup>186</sup> Id. at II-19 (PV).

<sup>187</sup> Id. at II-14 (PV) (footnote omitted).

<sup>188</sup> First Sunset Review Determination at 25.

second sunset reviews, where the Commission reported that both “U.S. producers and foreign producers in India and Vietnam reported the majority of their sales... in the spot market;” the same was true of Thai producers with “{s}ales in the spot market {accounting} for the largest share of total sales by foreign producers in Thailand.”<sup>189</sup> Though short-term contracts were the majority purchasing tool for importers, and “{b}oth U.S. processors and importers entered into short-term contracts with both price and quantity fixed” spot sales remained significant as a method of sale for both U.S. and foreign producers.<sup>190</sup>

On the record of these reviews, the Prehearing Staff Report observes:

U.S. processors reported selling the vast majority warmwater shrimp in the spot market with most of the remaining sales under short term contracts . . . Importers reported selling most of their warmwater shrimp in the spot market with most of the remaining sales under short-term contracts. Foreign producers sold mainly using short term contracts and spot sales.<sup>191</sup>

Thus, the record establishes that spot market sales continue to be significant for both the domestic like product and subject imports.

**VII. REVOCATION OF THE ANTIDUMPING DUTY ORDERS IS LIKELY TO LEAD TO THE RECURRENCE OR CONTINUATION OF MATERIAL INJURY**

In the original injury investigations, the Commission concluded that “the domestic industry producing certain non-canned warmwater shrimp is materially injured by reason of cumulated subject imports . . . .”<sup>192</sup> In the first sunset reviews, the Commission “determine{d} that revocation of the antidumping duty orders on frozen warmwater shrimp from Brazil, China,

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<sup>189</sup> Second Sunset Review Determination at 43 (footnotes omitted).

<sup>190</sup> Id.

<sup>191</sup> Prehearing Staff Report at V-4 (PV).

<sup>192</sup> Final Injury Determination at 36.

India, Thailand, and Vietnam would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.”<sup>193</sup> And, again, in the second sunset reviews, the Commission “determine{d} that revocation of the antidumping duty orders on warmwater shrimp from China, India, Thailand, and Vietnam would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.”<sup>194</sup>

The Commission’s findings supporting all three conclusions reached in prior proceedings remain relevant to the instant reviews and continue to demonstrate that the revocation of the antidumping duty orders on certain frozen warmwater shrimp from China, India, Thailand, and Vietnam would be likely to lead to the recurrence or continuation of material injury to the domestic warmwater shrimp industry.

#### **A. Legal Standard**

In a five-year review conducted in accordance with 19 U.S.C. § 1675(c), Commerce will revoke an antidumping duty order unless (1) the agency makes a determination that dumping is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>195</sup> The Statement of Administrative Action (“SAA”) instructs that the likelihood standard is prospective in nature: “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or

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<sup>193</sup> First Sunset Review Determination at 36.

<sup>194</sup> Second Sunset Review Determination at 59.

<sup>195</sup> 19 U.S.C. § 1675a(a) (2021).

termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”<sup>196</sup> The SAA additionally explains that because the Commission’s inquiry is prospective in nature:

a separate determination regarding current material injury is not necessary. Nonetheless, the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued 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. In appropriate circumstances, the Commission may make an affirmative determination notwithstanding the lack of any likely further deterioration of the current condition of the domestic industry if revocation of the order . . . would be likely to lead to continuation or recurrence of material injury.<sup>197</sup>

The U.S. Court of International Trade has held that the statutory term “likely,” in this context, means “probable,”<sup>198</sup> and, in practice, the Commission applies this standard in five-year reviews.<sup>199</sup> Further, in conducting its prospective inquiry, the statute directs the Commission to “consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>200</sup>

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<sup>196</sup> Uruguay Round Agreements Act Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. I at 883-84 (1994) (“SAA”).

<sup>197</sup> Id. at 884.

<sup>198</sup> See Wieland-Werke AG v. United States, 31 C.I.T. 1884, 1889-1890, 525 F. Supp. 2d 1353, 1361-1362 (2007) aff’d, 290 Fed. Appx. 348 (Fed. Cir. 2008).

<sup>199</sup> See Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Third Review), USITC Pub. 4668 (Jan. 2017), at 15; and Cased Pencils from China, Inv. No. 731-TA-669 (Fifth Review), USITC Pub. 5411 (Mar. 2023), at 13 (citing NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Tr. 2003) aff’d mem., 140 Fed. Appx 268 (Fed. Cir. 2005); Nippon Steel Corp. v. United States, 26 CIT 1416, 1419 (2002); Usinor Industeel, S.A. v. United States, 26 CIT 1402, 1404 nn.3, 6 (2002); Indorama Chemicals (Thailand) Ltd. v. United States, 26 CIT 1059, 1070 (2002); Usinor v. United States, 26 CIT 767, 794 (2002)).

<sup>200</sup> 19 U.S.C. § 1675a(a)(5) (2001).

Pursuant to the statute, the Commission’s determination must 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; (B) whether any improvement in the state of the industry is related to the order; (C) whether the industry is vulnerable to material injury if the order is revoked; and (D) Commerce’s findings regarding duty absorption.<sup>201</sup> In addition to these factors, the Commission is instructed to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked . . . .”<sup>202</sup> The Commission should base its determination on a weighing of all factors that it takes into account, rather than solely on any one factor:

The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the Commission’s determination of whether material injury is likely to continue or recur within a reasonably foreseeable time if the order is revoked . . . .<sup>203</sup>

Each of the factors set out by the statute for the Commission’s consideration in these five-year reviews are addressed below.

### **B. The Commission’s Prior Determinations Establish that Subject Imports Are Injurious to the Domestic Industry**

The statute requires the Commission to consider “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 . . . .”<sup>204</sup> The SAA explains that:

{t}his consideration is important, because this period is the most recent time during which imports of subject merchandise competed in the U.S. market free of

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<sup>201</sup> See id. § 1675a(a)(1).

<sup>202</sup> Id.

<sup>203</sup> Id. § 1675a(a)(5).

<sup>204</sup> Id. § 1675a(a)(1)(A).



the discipline of an order or agreement. If the Commission finds that preorder ... conditions are likely to recur, it is reasonable to conclude that there is likelihood of continuation or recurrence of injury.<sup>205</sup>

In the original investigations, the Commission found that:

The large and increasing volume of subject imports that entered the United States during the period examined caused domestic prices to decline. These declines led to declines in operating revenues for both fishermen and processors, poor financial performance, and declining employment. We consequently conclude that the cumulated subject imports have a significant impact on the domestic industry.<sup>206</sup>

The Commission additionally observed that “{t}he increases in subject import market penetration came largely at the expense of domestic producers.”<sup>207</sup> The Commission concluded that the declines in volume of the domestic like product were the result of subject imports displacing the domestic like product notwithstanding increases in domestic consumption and noted that “the declines were due to reduced fishing effort attributable to the very low prices which precluded fishermen from operating profitably.”<sup>208</sup>

The Commission has also previously determined that the prices of subject imports affect the price of the domestic like product to a significant degree and that such imports had significant price-depressing effects. In the original investigations, the Commission recognized that price plays a significant role in a purchaser’s decision whether to purchase a domestically processed product or the subject imports.<sup>209</sup> Furthermore, the Commission noted that “there was

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<sup>205</sup> SAA, Vol. I at 884.

<sup>206</sup> Final Injury Determination at 35.

<sup>207</sup> Id. at 26.

<sup>208</sup> Id. at 27.

<sup>209</sup> See id. at 28.

predominant underselling for the entire spectrum of products on which the Commission collected pricing data,” and determined the incidence of underselling to be significant.<sup>210</sup>

In the first sunset reviews, the Commission concluded:

Should the orders under review be revoked, we have found that the volume of subject imports will likely increase significantly. We have further found that these additional volumes of subject imports will be priced in a manner that will likely undersell the domestic like product and have significant depressing or suppressing effects on prices for the domestic like product. Consequently, to compete with the likely additional volumes of subject imports, the domestic industry will need to cut prices or restrain price increases. The resulting loss of revenues will likely cause further deterioration in the already poor financial performance of the vulnerable domestic industry. Further deterioration in financial performance will result in likely losses of employment, and, ultimately, likely losses in output and market share.<sup>211</sup>

The Commission therefore found that “the cumulated subject imports are likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time should the antidumping duty orders be revoked.”<sup>212</sup>

In the second sunset reviews, the Commission wrote:

We find that the industry could not withstand significantly increased volumes of low-priced subject imports without likely sustaining significant adverse effects. We have concluded that cumulated subject import volumes will likely be at significant levels and will be priced in a manner that will likely undersell the domestic like product and have significant price-depressing or price-suppressing effects on the prices of the domestic like product in the reasonably foreseeable future if the orders under review were revoked. Because subject imports are interchangeable for the domestic like product and price is an important factor in purchasing decisions, the domestic industry will need to cut prices or restrain price increases to compete with the significant volumes of low-priced subject imports. In doing so, the low-priced subject imports would likely have the effect of exacerbating the already weak production, shipments, market share, and financial performance of the domestic industry. The domestic industry’s revenues will likely decline significantly in light of the anticipated volume of subject

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<sup>210</sup> Id. at 29.

<sup>211</sup> First Sunset Review Determination at 34-35.

<sup>212</sup> Id. at 36.

imports. This, in turn, will likely lead to declines in the industry's operating performance.<sup>213</sup>

Based on that administrative record, the Commission once again found that "the cumulated subject imports are likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time should the antidumping duty orders be revoked."<sup>214</sup>

The record in these reviews provides no basis to conclude that revocation of the orders would not result in the same adverse impact on the domestic industry by reason of subject imports found by the Commission in the original investigations and the first two sunset reviews. Rather, as described in more detail below, the record in these reviews demonstrates that the domestic industry is vulnerable to material injury and that revocation of the orders would likely lead to the continuation or recurrence of material injury in a reasonably foreseeable time.

### **C. Improvement in the State of the Industry Is Related to the Orders**

The statute instructs that in a five-year review, the Commission is to take into account "whether any improvement in the state of the industry is related to the order . . . ."<sup>215</sup> Evidence collected by the Commission during these sunset reviews demonstrates that the orders have led to improvements in the state of the domestic industry.

Warmwater shrimp prices in the U.S. market had been on a consistent downward trajectory prior to the implementation of the antidumping duty orders. A review of the average unit value ("AUV") data for shipments from U.S. processors shows a dramatic change in trends compared to circumstances prior to the imposition of the antidumping duty orders. From 2001

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<sup>213</sup> Second Sunset Review Determination at 53.

<sup>214</sup> Id. at 55.

<sup>215</sup> 19 U.S.C. § 1675a(a)(1)(B).

through 2004, U.S. processors' shipment AUVs plummeted, from \$4.08 per lb. in 2001 to \$3.73 in 2002 to \$3.27 in 2003 to \$3.04 in 1H2004.<sup>216</sup> In the period investigated during the first sunset reviews, trends were mixed with AUVs ultimately recovering at the tail end of the review period, from \$3.15 in 2005 to \$2.99 in 2006 to \$3.36 in 2007 to \$3.53 in 2008 to \$2.93 in 2009 and, finally, to \$3.67 in 3Q2010.<sup>217</sup> AUVs for U.S. shipments remained at elevated levels during the review period for the second sunset reviews, although they declined significantly at the end of the period, from \$4.67 in 2013 to \$5.51 in 2014 to \$4.02 in 2015 and to \$4.07 in 3Q2016.<sup>218</sup> For these reviews, AUVs for U.S. shipments from the U.S. processors increased steadily up until 2022, from \$3.96 in 2019 to \$4.27 in 2020 to \$4.44 in 2021 and then down to \$4.34 in 3Q2022.<sup>219</sup>

Increases seen in AUVs correlate to significant improvements in the operating performance of U.S. shrimp processors. Throughout the proceedings conducted by the Commission related to these antidumping duty orders – with the exception of two interim periods – processors reported thin operating income margins. In the original investigations, responding processors had operating income percentages of 0.9% in 2001, negative 0.0% in 2002, 0.3% in 2003, and 2.7% in 1H2004.<sup>220</sup> In the first sunset reviews, responding processors reported operating income margins of negative 0.1% in 2005, 0.6% in 2006, 0.2% in 2007, negative 1.3%

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<sup>216</sup> See Prehearing Staff Report at C-14 (unnumbered), Table C-3 (PV).

<sup>217</sup> See id. at C-12 (unnumbered), Table C-2 (PV).

<sup>218</sup> See id. at C-8 (unnumbered), Table C-1 (PV).

<sup>219</sup> See id. at C-4, Table C-1 (PV).

<sup>220</sup> See id. at C-14 (unnumbered), Table C-3 (PV).

in 2008, 0.9% in 2009, and 0.5% in 3Q2010.<sup>221</sup> In the second sunset reviews, responding U.S. processors reported operating income margins of 0.8% in 2013, 0.7% in both 2014 and 2015, and 2.2% in 3Q2016.<sup>222</sup> However, for this review period, responding U.S. processors have indicated that their operating income margins increased from 0.9% in 2019 to 2.9% in 2020 to 1.6% in 2021 and 3.0% through 3Q2022.<sup>223</sup>

U.S. shrimpers have been reporting significant improvements in their operating performance since the antidumping duty orders took effect. In the original investigations, the Commission reported that commercial shrimpers experienced net income, before salaries, of 1.4 percent of net sales in 2001, negative 9.8 percent in 2002, and negative 6.6 percent in 2003.<sup>224</sup> In the first sunset reviews, the questionnaire data submitted to the Commission showed that the operating income of shrimp harvesters, before owners' salaries, was 0.4 percent of net sales in 2005, 3.5 percent in 2006, 3.6 percent in 2007, 6.5 percent in 2008, and negative 0.9 percent in 2009.<sup>225</sup> In the second sunset reviews, the Commission staff explained that “{t}he operating profitability of the U.S. farmers/fishermen improved from 2013 to 2014, then declined from 2014 to 2015,”<sup>226</sup> with questionnaire data indicating that shrimp harvesters had operating incomes of 5.0 percent of net sales in 2013, 11.2 percent in 2014, and 5.1 percent in 2015.<sup>227</sup> For

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<sup>221</sup> See id. at C-12 (unnumbered), Table C-2 (PV).

<sup>222</sup> See id. at C-8 (unnumbered), Table C-1 (PV).

<sup>223</sup> See id. at C-5, Table C-1 (PV).

<sup>224</sup> See Final Injury Determination at F-8, Table F-4.

<sup>225</sup> See First Sunset Review Determination at E-15, Table E-5.

<sup>226</sup> Second Sunset Review Determination at E-11.

<sup>227</sup> See id. at E-13, Table E-5.

these reviews, the Prehearing Staff Report observes that “{t}he operating profitability of the U.S. farmers/fishermen as a whole improved from 2019 to 2021 as did the net income of the reporting firms,”<sup>228</sup> with questionnaire data indicating that shrimp harvesters had operating incomes of [ ] percent of net sales in 2019, [ ] percent in 2020, and [ ] percent in 2021.<sup>229</sup>

**D. The Domestic Frozen Warmwater Shrimp Industry is Vulnerable to Material Injury if the Antidumping Duty Orders Are Revoked**

In its determination regarding these instant reviews, the Commission must consider the vulnerability of the domestic industry if the orders are revoked. As the SAA instructs:

The term “vulnerable” relates to susceptibility to material injury by reason of dumped or subsidized imports . . . . In material injury determinations, 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 also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.

. . . .

If the Commission finds that an industry is vulnerable to injury from subject imports, it may determine that injury is likely to continue or recur, even if other causes, as well as future imports, are likely to contribute to future injury. If the Commission finds that the industry is in a weakened state, it should consider whether the industry will deteriorate further upon revocation of an order . . . .<sup>230</sup>

In the changed circumstances review, the Commission observed that “numerous factors indicate that the domestic industry is still in a weakened condition,” that “during interim 2005 fishermen experienced large per unit increases in the cost of fuel and oil, their single largest cost

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<sup>228</sup> Prehearing Staff Report at E-57 (PV).

<sup>229</sup> See id. at E-58, Table E-6 (APO).

<sup>230</sup> SAA, Vol. I at 885.

component,” and that “{d}amages the domestic industry experienced in 2005 due to Hurricanes Katrina and Rita have served to increase the vulnerability of the domestic industry.”<sup>231</sup>

In the first sunset reviews, the Commission found that the domestic industry was in a vulnerable condition based upon the facts of that administrative record:

In light of the poor financial performance of processors displayed throughout the period of review, the operating losses the reporting fishermen recorded in 2009 and interim 2010, and the declines in employment and output both fishermen and processors experienced in interim 2010 when the Gulf Oil Spill limited fishing, we conclude that the domestic industry is in a vulnerable condition.<sup>232</sup>

In the second sunset reviews, the Commission found that the domestic industry continued to be in vulnerable position based on the information on the record:

In light of the poor financial performance of the domestic industry... during the period of review, we conclude that it is in a vulnerable condition. We find that the industry could not withstand significantly increased volumes of low-priced subject imports without likely sustaining significant adverse effects.<sup>233</sup>

Although the shrimp harvesting segment of the industry saw improvements in operating profitability and net income over the review period<sup>234</sup> and the processing segment of the industry reported profits throughout the review period,<sup>235</sup> operating income has remained extremely limited. The narrow profitability shown by processors displayed through this period of review supports, once again, the conclusion that the domestic industry remains vulnerable to material injury if the antidumping duty orders are revoked. Moreover, the improvements in operating

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<sup>231</sup> Changed Circumstances Determination at 25.

<sup>232</sup> First Sunset Review Determination at 34 (footnote omitted).

<sup>233</sup> Second Sunset Review Determination at 53.

<sup>234</sup> See Prehearing Staff Report at E-57 (PV).

<sup>235</sup> See id. at C-5, Table C-1 (PV).

profitability by the harvesting segment of the industry have been substantially curtailed by the sharp increase in fuel costs absorbed by the industry in 2022. As the Prehearing Staff Report observes,

Diesel prices in the Gulf Coast region increased irregularly from January 2016 to September 2022 with a sharp increase from January 2021 to June 2022. Between January 2016 to September 2022, Gulf Coast diesel prices increased by 131 percent. Diesel prices peaked in June 2022 and have declined irregularly through February 2023.<sup>236</sup>

The Gulf Coast diesel prices catalogued in the Prehearing Staff Report increased from \$3.36 per gallon in December 2021 to \$5.39 per gallon in June 2022 and were reported to be \$4.72 per gallon at the end of the interim period in September 2022.<sup>237</sup> This sharp increase in the “most important cost for shrimp fishermen”<sup>238</sup> has wreaked havoc on the commercial shrimp fishing industry.<sup>239</sup> Further, in addition to the spike in fuel costs, a significant segment of the commercial shrimp fishing industry was devastated by Hurricane Ian last year.<sup>240</sup>

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<sup>236</sup> Id. at V-1 (PV).

<sup>237</sup> See id. at V-2, Table V-1 (PV).

<sup>238</sup> Id. at V-1 (PV).

<sup>239</sup> See Jennifer Hiller and Collin Eaton, “Six American Entrepreneurs on Managing This Summer’s Energy Prices,” Wall Street Journal (July 29, 2022), attached as **Exhibit 3**; Nick Sambides Jr., “Texas Shrimpers See ‘Bleak’ Prospects this Season,” Undercurrent News (July 29, 2022), attached as **Exhibit 4**; Steve Wilson, “Double Whammy: Louisiana Shrimpers Face High Diesel Prices, Cheap Imports,” The Center Square (June 14, 2022), attached as **Exhibit 5**; and Steve Bittenbender, “Southern Shrimp Alliance Director Sends SOS to President Biden,” National Fisherman (July 5, 2022), attached as **Exhibit 6**.

<sup>240</sup> See Tim Aten, “Hurricane Ian Remains Linger Threat to SWFL’s Commercial Fishing Industry,” Gulfshore Business (Jan. 1, 2023), attached as **Exhibit 7**; Jay Reeves, “Florida Shrimpers Race to Get Battered Fleet Back to Sea,” Associated Press (Oct. 11, 2022), attached as **Exhibit 8**; and Michael Smith, “Hurricane Ian Pummeled Shrimp Industry Already Hit by Cheap Imports,” Bloomberg (Oct. 6, 2022), attached as **Exhibit 9**.



### E. Commerce Has Made Affirmative Findings of Duty Absorption

Commerce conducted duty absorption inquiries with respect to some of the antidumping duty orders as part of the second and fourth administrative reviews of subject merchandise. The Prehearing Staff Report observes that “{t}here have been no affirmative duty absorption findings concerning warmwater shrimp from China, India, or Vietnam.”<sup>241</sup> There have, however, been multiple findings by Commerce of duty absorption with respect to imports of warmwater shrimp from Thailand. In the final results of the second administrative review of the antidumping duty order on certain frozen warmwater shrimp from Thailand, Commerce found that antidumping duties had been absorbed by the Rubicon Group, Thai I-Mei, and Thai Union on all U.S. sales made through their affiliated importers of record.<sup>242</sup> Further, in the preliminary results of the fourth administrative review of the same antidumping duty order, Commerce found that antidumping duties had been absorbed by the Rubicon Group.<sup>243</sup> This preliminary finding was unchanged in the Final Results.<sup>244</sup> Thus, although the Prehearing Staff Report states that “Commerce has issued one duty absorption finding with respect to warmwater shrimp from

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<sup>241</sup> Prehearing Staff Report at I-15 n.27 (PV).

<sup>242</sup> See Certain Frozen Warmwater Shrimp from Thailand, 73 Fed. Reg. 50,933, 50,937 (Dep’t Commerce Aug. 29, 2008) (final results and final partial rescission of antidumping duty administrative review).

<sup>243</sup> See Certain Frozen Warmwater Shrimp from Thailand, 75 Fed. Reg. 12,188, 12,190 (Dep’t Commerce Mar. 15, 2010) (preliminary results of antidumping duty administrative review and final results of partial rescission of antidumping duty administrative review) (“We preliminarily find that antidumping duties have been absorbed by the Rubicon Group on all U.S. sales made through its affiliated importer of record.”).

<sup>244</sup> See Certain Frozen Warmwater Shrimp from Thailand, 75 Fed. Reg. 54,847 (Dep’t Commerce Sept. 9, 2010) (final results and partial rescission of antidumping duty administrative review).

Thailand,”<sup>245</sup> this observation does not account for the agency’s affirmative duty absorption finding in the fourth administrative review with respect to the Rubicon Group.<sup>246</sup>

**F. The Volume of Subject Imports Would Likely Significantly Increase If the Orders Are Revoked**

**1. Findings in the Investigations, First Sunset Reviews, Second Sunset Reviews, and Current Conditions**

In the original investigations, 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.”<sup>247</sup> The Commission found that both the volume of subject imports and the market penetration of those imports increased throughout the period examined.<sup>248</sup> “The increases in subject import market penetration came largely at the expense of domestic producers.”<sup>249</sup> The Commission disagreed with arguments made by foreign exporters and U.S. importers that the significant increase in subject import volume and market penetration was the result of new markets created by subject imports and new channels of distribution: “This argument cannot be reconciled with our finding above that the large and increasing volume of subject imports has not merely satisfied increased demand, but in addition has displaced domestic production as well.”<sup>250</sup>

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<sup>245</sup> Prehearing Staff Report at I-15 n.27 (PV)

<sup>246</sup> Domestic Producers raised this same omission in the last sunset reviews. At a minimum, the Staff Report should reflect that Commerce made a preliminary affirmative finding of duty absorption that was unchanged in the final results of the fourth administrative review.

<sup>247</sup> Final Injury Determination at 28.

<sup>248</sup> See id. at 26.

<sup>249</sup> Id.

<sup>250</sup> Id. at 27.

In the first sunset reviews, the Commission observed that subject import quantity declined from 2006 to 2009 and that “{s}ubject import market penetration declined each year during the period of review” but explained that “the order revocations with respect to various Ecuadorean, Indian, and Thai producers played a substantial role in these declines.”<sup>251</sup> In the second sunset reviews, the Commission found that “{t}he volume of cumulated subject imports from China, India, Thailand, and Vietnam increased” from 2013 to 2015, and that the market share of subject imports “fluctuated slightly from year to year,” but that their market share increased in 2014, 2015, and in interim 2016.<sup>252</sup>

During the period of review of these proceedings, subject import volumes increased by [ ] percent between 2019 and 2021, from [ ] million pounds in 2019 to [ ] million pounds in 2021.<sup>253</sup> Although subject import volumes declined by [ ] percent between interim periods, these volumes [ ] in 2022 compared to the earlier portions of the review period.<sup>254</sup> The share of total U.S. consumption accounted for by subject imports, in terms of volume [ ]

[ ]. In the original investigations, subject import volumes came to account for [ ] of U.S. apparent consumption, [ ].<sup>255</sup> In the first sunset reviews, the share of U.S. apparent consumption volume held by subject imports [ ]

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<sup>251</sup> First Sunset Review Determination at 26.

<sup>252</sup> Second Sunset Review Determination at 43-44.

<sup>253</sup> See Prehearing Staff Report at C-3, Table C-1 (APO).

<sup>254</sup> See id. (APO).

<sup>255</sup> See id. at C-12 (unnumbered), Table C-1 (APO).

of the total, [

].<sup>256</sup> In the second sunset reviews, subject imports' share of U.S.

apparent consumption volume [

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level of U.S. apparent consumption quantity accounted for by subject imports has [

] of that total, at [

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In the first sunset reviews, the Commission observed that “{t}he reported capacity of the industry in each of the subject countries increased from 2005 to 2009,” that, “{o}n a cumulated basis, production reported by producers in the subject countries increased from 2005 to 2009,” and that “{p}ublic data indicate that shrimp aquaculture production in the subject countries also increased from 2005 to 2009, on a cumulated basis . . . .”<sup>259</sup> The Commission additionally noted that there was “no information” on the record “suggesting that the increases in production reported during the period of review in the questionnaire responses are not likely to continue in the reasonably foreseeable future.”<sup>260</sup> Instead, “public data project that shrimp aquaculture production in each of the subject countries will increase” and that “the questionnaire data

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<sup>256</sup> See id. at C-9 (unnumbered), Table C-1 (APO).

<sup>257</sup> See id. at C-7 (unnumbered), Table C-1 (APO).

<sup>258</sup> See id. at C-3, Table C-1 (APO).

<sup>259</sup> First Sunset Review Determination at 26 (footnotes omitted).

<sup>260</sup> Id.

indicate that the industries in the subject countries have had a history of increasing processing capacity to accommodate increases in the supply of raw shrimp.”<sup>261</sup>

In the first sunset reviews, the Commission also found that, should the antidumping duty orders be revoked, “the subject producers are likely to direct a significant volume of the increased production to the U.S. market.”<sup>262</sup> The Commission provided three reasons for this finding: (1) “the subject industries are heavily export-oriented”; (2) “notwithstanding the orders, the United States remains an important market to the subject producers in the aggregate”; and (3) “the United States is an attractive market to exporters.”<sup>263</sup> The Commission acknowledged the foreign exporters’ argument asserting that exports to other markets would not be diverted to the United States because “the subject producers have established relationships in other export markets ....”<sup>264</sup> However, the Commission observed that “{t}his argument fails to recognize that the subject producers do not need to divert exports from other markets to the United States given their likely significant increases in warmwater shrimp production.”<sup>265</sup>

These findings were largely echoed by the Commission’s determination in the second sunset reviews, in which the agency found that “{t}he record contains no information suggesting that the large volume of production seen during the period of review is not likely to continue in the reasonably foreseeable future,” and that “{n}ot only do {China, India, Thailand, and Vietnam} have substantial cumulated production and excess capacity even based on conservative

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<sup>261</sup> Id. (footnotes omitted).

<sup>262</sup> Id. at 27.

<sup>263</sup> Id. at 27-28 (footnotes omitted).

<sup>264</sup> Id. at 28.

<sup>265</sup> Id. at 28-29 (footnote omitted).

estimates, but they also export substantial volumes of warmwater shrimp, including to the United States.”<sup>266</sup> The Commission also found that “should the orders be revoked, the subject producers are likely to continue to direct a significant volume of their substantial production to the U.S. market, and will have an incentive to increase that volume without the discipline of the orders.”<sup>267</sup> The Commission’s conclusions were again based on three findings: (1) “the subject industries in India, Thailand, and Vietnam are heavily export-oriented and the industry in China exports substantial volumes” of subject merchandise; (2) “the United States remains an important market to the subject producers” representing the largest, second largest, or an important market for all four countries; and (3) “the attractiveness of the ... U.S. market and its competitive prices provide further incentives for subject producers to increase production to ship to the United States and to divert some exports currently shipped to other markets to the U.S. market if the orders are revoked.”<sup>268</sup>

In these review proceedings, as discussed in more detail below, the record continues to support the conclusions that the subject industries are heavily export-oriented, that the United States remains an important market to subject producers, and that the United States is an attractive market to exporters.

## **2. Capacity, Production, Exports, and Capacity Utilization**

During the period of review of these proceedings, the data submitted to the Commission by producers in India, Thailand, and Vietnam in response to questionnaires show that capacity increased in all three countries, with cumulative production capacity in these three countries

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<sup>266</sup> Second Sunset Review Determination at 45 (footnote omitted).

<sup>267</sup> Id.

<sup>268</sup> Id. at 45-46.

growing by 9.4% between 2019 and 2021.<sup>269</sup> Practical warmwater shrimp capacity reported by the responding producers in India, Thailand, and Vietnam are summarized below in the following table:

<b>Subject Producers' Reported Practical Warmwater Shrimp Capacity (1,000 lbs.)<sup>270</sup></b>					
	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>3Q2021</b>	<b>3Q2022</b>
<b>India</b>	915,310	960,939	1,033,603	772,327	777,117
<b>Thailand</b>	264,640	262,990	264,723	198,141	195,524
<b>Vietnam</b>	266,480	269,693	306,602	230,643	232,893
<b>Total</b>	<b>1,446,430</b>	<b>1,493,622</b>	<b>1,604,928</b>	<b>1,201,111</b>	<b>1,205,534</b>

Although production of warmwater shrimp was reported to have declined in Thailand between 2019 and 2021, the cumulative production reported by the producers in all three countries increased over the period of review, as summarized in the table below:

<b>Subject Producers' Reported Warmwater Shrimp Production (1,000 lbs.)<sup>271</sup></b>					
	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>3Q2021</b>	<b>3Q2022</b>
<b>India</b>	514,812	456,941	553,210	415,800	443,592
<b>Thailand</b>	163,463	154,181	143,439	103,555	105,834
<b>Vietnam</b>	187,740	216,612	232,328	177,048	185,866
<b>Total</b>	<b>866,015</b>	<b>827,734</b>	<b>928,977</b>	<b>696,403</b>	<b>735,292</b>

Cumulative production from the three countries, as reported by responding producers, increased by 7.3% from 2019 to 2021, leading to the production of an additional 63.0 million pounds of

<sup>269</sup> See Prehearing Staff Report at IV-35, Table IV-17; IV-46, Table IV-26; and IV-56, Table IV-35 (PV). As the Commission did not receive data from any producers in China, the discussion and cumulative totals presented here include only the information reported by producers of subject merchandise in India, Thailand, and Vietnam. The Prehearing Staff Report notes that Chinese shrimp aquaculture production increased from 7.7 billion pounds in 2016 to 7.9 billion pounds in 2019. See id. at IV-64 (PV).

<sup>270</sup> See id. at IV-35, Table IV-17; IV-46, Table IV-26; and IV-56, Table IV-35 (PV).

<sup>271</sup> See id. at IV-32, Table IV-13; IV-42, Table IV-22; and IV-56, Table IV-35 (PV).

warmwater shrimp.<sup>272</sup> And overall production from these companies increased another 5.6% between interim periods, resulting in the production of another 38.9 million pounds of shrimp over the first nine months of 2022 compared to the same time period in 2021.<sup>273</sup>

Moreover, the Prehearing Staff Report shows that for all four subject countries, aquacultured shrimp production increased between 2016 and 2019.<sup>274</sup> In total, China, India, Thailand, and Vietnam collectively produced 1.5 billion more pounds of farmed shrimp in 2019 compared to 2016,<sup>275</sup> as summarized in the table below:

<b>Aquaculture Warmwater Shrimp Production (1,000 lbs.)<sup>276</sup></b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
<b>China</b>	7,673,343	7,753,272	7,808,236	7,853,211
<b>India</b>	2,099,502	2,469,992	2,508,992	2,658,700
<b>Thailand</b>	848,846	913,229	1,003,279	1,048,411
<b>Vietnam</b>	1,744,303	1,957,899	2,059,274	2,317,397
<b>Total</b>	<b>12,365,994</b>	<b>13,094,392</b>	<b>13,379,781</b>	<b>13,877,719</b>

This represented an increase of 12.2% in farmed shrimp production from these countries over that four-year period.

The Prehearing Staff Report establishes that producers in India, Thailand, and Vietnam maintained substantial excess capacity that would permit increases in processing to take advantage of increases in farmed and wild-caught shrimp production. The capacity utilization rates reported by the responding producers are summarized in the following table:

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<sup>272</sup> See id. (PV).

<sup>273</sup> See id. (PV).

<sup>274</sup> See id. at IV-64 and IV-65, Tables IV-40 through IV-43 (PV).

<sup>275</sup> See id. (PV).

<sup>276</sup> See id. (PV).



<b>Subject Producers' Reported Warmwater Shrimp Capacity Utilization Ratio<sup>277</sup></b>					
	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>3Q2021</b>	<b>3Q2022</b>
<b>India</b>	56.2%	47.6%	53.5%	53.8%	57.1%
<b>Thailand</b>	61.8%	58.6%	54.2%	52.3%	54.1%
<b>Vietnam</b>	70.5%	80.3%	75.8%	76.8%	79.8%
<b>Total</b>	<b>59.1%</b>	<b>55.4%</b>	<b>57.9%</b>	<b>58.0%</b>	<b>61.0%</b>

Collectively, as reported by the responding producers, the capacity utilization rate for the responding producers in India, Thailand, and Vietnam ranged from 55.4% in 2020 to 61.0% in interim 2022. The cumulative unused capacity of these three countries in 2021, totaling 676.0 million pounds, constitutes nearly [ ] of the total volume of subject imports during the same year.<sup>278</sup> Accordingly, in the event that the existing orders are revoked, there is substantial unused capacity available to accommodate increased shrimp aquaculture production in the subject countries that would, in turn, facilitate increased shipment volumes of subject merchandise to the United States.

Separate and apart from the information collected by the Commission, public reporting confirms that cumulative capacity and production of warmwater shrimp in India, Thailand, and Vietnam will significantly increase. For example, significant investments in Vietnam from both the government and private shrimp processors since 2016 has seen billions of dollars invested in shrimp production, processing, and transport systems in the country.<sup>279</sup> The government of Vietnam is investing significant resources in developing the country's shrimp industry and is

<sup>277</sup> See id. at IV-35, Table IV-17; IV-46, Table IV-26; and IV-56, Table IV-35 (PV).

<sup>278</sup> Compare id. at IV-35, Table IV-17; IV-46, Table IV-26; and IV-56, Table IV-35 (PV) with id. at C-3, Table C-1 (APO).

<sup>279</sup> See Toan Dao, "Inspired by rising demand for exports, Vietnam expands its shrimp processing capacity," SeafoodSource (Mar. 24, 2021), attached as **Exhibit 10**.

seeking to boost not only the hectares dedicated to shrimp production in coming years, but to significantly increase the intensity of land already used for shrimp production.<sup>280</sup> These projects are part of a wider Vietnamese government initiative to significantly invest in the country's aquaculture industry more generally, with a goal of producing 7 million metric tons ("MT") of farmed seafood products by 2030.<sup>281</sup>

With respect to India, shrimp remains the largest single seafood export product by both volume and value, with exports of Vannamei shrimp totaling over 500,000 MT during fiscal year 2021-22.<sup>282</sup> Of these, the United States was the single largest export market, receiving over 59 percent of all Indian shrimp exports.<sup>283</sup> This represented growth of over 27 percent in volume terms from the previous year.<sup>284</sup> The Indian government has also announced significant investments in aquaculture across the country, with initiatives meant to support growth in the sector worth over \$3.5 billion announced between 2018 and 2021.<sup>285</sup>

Thailand's industry continues to project significant increases in production of warmwater shrimp. At the end of 2021, the Thai Shrimp Association reported an expected "increase by 10%

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<sup>280</sup> See Thanh Son and Trang Trun, "Vietnam's shrimp production can reach 1 million tons this year," Vietnam Agriculture (Sep. 22, 2022), attached as **Exhibit 11**.

<sup>281</sup> Toan Dao, "Vietnam approves plan to increase aquaculture output to 7 million MT by 2030," SeafoodSource (undated), attached as **Exhibit 12**.

<sup>282</sup> Press Information Bureau, Government of India, "India's marine product exports record an all-time high in FY 2021-22, Grow by over 30% to Rs 57,546.49 crore (USD 7.76 billion)," Ministry of Commerce & Industry (Jun. 29, 2022), attached as **Exhibit 13**.

<sup>283</sup> Id. The next largest export market for Indian shrimp was China, representing less than 15 percent of shrimp exports. Id.

<sup>284</sup> Id.

<sup>285</sup> "Marine Products: Exports of marine products stood at US\$7.77 billion in FY22," India Brand Equity Foundation (Nov. 2022), attached as **Exhibit 14**.

in volume in 2022 from 160,000 tonnes forecast for this year, in turn up by 7% from a year earlier.”<sup>286</sup> “Meanwhile, shrimp production is expected to grow 4% next year to 300,000 tonnes from an estimated 280,000 tonnes this year and 270,000 tonnes recorded in 2020.”<sup>287</sup> At the end of 2022, the Thai Shrimp Association reported that it had fallen short of these expansionist expectations during the year and had, instead, remained at the same levels, but nevertheless anticipated to increase cumulative production of white and black tiger shrimp from 280,000 tonnes in 2021 and 2022 (up from 270,000 tonnes in 2020) to 300,000 tonnes in 2023.<sup>288</sup>

### 3. The Subject Industries Are Export-Oriented

In the original investigations, the record established that China, India, Thailand, and Vietnam all had limited home markets.<sup>289</sup> In the first sunset reviews, respondents asserted that any production increases by shrimp producers in the subject countries would “serve home market demand . . . .”<sup>290</sup> The Commission rejected this argument, observing that it “lack{ed} record support.”<sup>291</sup> As the Commission explained, for India, “internal shipments and home market consumption were minimal throughout the period of review.”<sup>292</sup> For Thailand and Vietnam, “internal consumption and home market shipments combined never exceeded 20 percent of total

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<sup>286</sup> “Brighter Prospects for Shrimp Industry,” Bangkok Post (Dec. 14, 2021), attached as **Exhibit 15**.

<sup>287</sup> Id. See also, “Thai Shrimp Exporters Eye Double-Digit Volume Growth in 2022,” Undercurrent News (Dec. 14, 2021), attached as **Exhibit 16**.

<sup>288</sup> See “Shrimp Industry Continues to Tread Water,” Bangkok Post (Dec. 15, 2022), attached as **Exhibit 17**.

<sup>289</sup> See Final Injury Determination at VII-1.

<sup>290</sup> First Sunset Review Determination at 27.

<sup>291</sup> Id.

<sup>292</sup> Id. (footnote omitted).

shipments during any portion of the period of review” and such shipments “rose only modestly during the period of review.”<sup>293</sup> The Commission explained that “total exports from China to all markets were higher in 2009 than 2005.”<sup>294</sup> Accordingly, the Commission determined that “the subject industries are heavily export-oriented.”<sup>295</sup>

In the second sunset reviews, the Commission noted that warmwater shrimp exports from China to the world had significantly declined between 2013 and 2015.<sup>296</sup> However, China’s exports of warmwater shrimp remained substantial and the Commission ultimately found that “the record in the current reviews demonstrates that the industries in India, Thailand, and Vietnam still are heavily export oriented and that the industry in China exports large volumes of warmwater shrimp.”<sup>297</sup>

The record in these reviews demonstrates that each of the subject countries remains export-oriented. The Prehearing Staff Report observes that “{c}ontinuing a trend highlighted in the second reviews, shrimp consumption in China increased steadily during the period of review” and that “China reportedly became the world’s largest importer of shrimp . . .”<sup>298</sup> However, at the same time, the Prehearing Staff Report also indicates that China’s exports of warmwater shrimp to the world increased between 2019 and 2021, growing by 13.4% during those three

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<sup>293</sup> Id.

<sup>294</sup> Id. at 27 n.178.

<sup>295</sup> Id. at 27.

<sup>296</sup> See Second Sunset Review Determination at 17.

<sup>297</sup> Id. at 24.

<sup>298</sup> Prehearing Staff Report at IV-64 (PV).

years and representing an additional 15.7 million pounds of warmwater shrimp exports.<sup>299</sup> Of the other three countries, only Thailand did not also increase its exports of warmwater shrimp over the same time period, with total export volumes declining by 11.1% between 2019 and 2021.<sup>300</sup> India's export volume increased by 7.1% over that period<sup>301</sup> and Vietnam's export volume increased by 4.2%.<sup>302</sup> Moreover, responding producers reported that home market sales, by volume, never exceeded 22.7% of the Vietnamese exporters' total shipments,<sup>303</sup> 24.6% of the Thai exporters' total shipments,<sup>304</sup> and [ ] of the Indian exporters' total shipments.<sup>305</sup>

Accordingly, the record of these proceedings continues to demonstrate that the subject industries in each of the four countries remain export-oriented.

#### **4. The United States Remains an Attractive Market for Warmwater Shrimp**

In the second sunset reviews, the Commission provided an extensive explanation as to why the United States remained both an important and attractive market to the producers in the subject countries:

{N}otwithstanding the orders, the United States remains an important market to the subject producers in the aggregate. Indeed, during the period of review, the United States was generally the largest single export market for the subject Indian and Thai producers, the second largest market for the subject Vietnamese producers, and it remained an important market for the subject Chinese producers. Based on GTA data, the U.S. market accounted for 8.7 percent of China's exports

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<sup>299</sup> See id. at IV-23, Table IV-9 (PV).

<sup>300</sup> See id. at IV-47, Table IV-27 (PV).

<sup>301</sup> See id. at IV-36, Table IV-18 (PV).

<sup>302</sup> See id. at IV-57, Table IV-36 (PV).

<sup>303</sup> See id. at IV-53, Table IV-31 (PV).

<sup>304</sup> See id. at IV-42, Table IV-22 (PV).

<sup>305</sup> See id. at IV-32, Table IV-13 (APO).

in 2015, 33.5 percent of India’s exports, 42 percent of Thailand’s exports, and 17.4 percent of Vietnam’s exports.

. . . {T}he attractiveness of the relatively open U.S. market and its competitive prices provide further incentives for subject producers to increase production to ship to the United States and to divert some exports currently shipped to other markets to the U.S. market if the orders are revoked. The United States is one of a handful of very large world export markets for shrimp served by the subject countries, the others being Japan, the European Union, and more recently China. Although most market participants perceive that worldwide demand for shrimp is likely to increase or remain stable, there are widespread perceptions among U.S. market participants that U.S. demand will also likely increase or remain unchanged at high levels. Additionally, available data in the record indicate that the U.S. market offers exporters prices that are at least competitive with, if not higher than, those available in other export markets.<sup>306</sup>

During the current period of review, the United States remained a substantial consumer of shrimp. In 2020, the most recent year for which data is published, the per-capita consumption of fish and shellfish was 19.0 pounds.<sup>307</sup> While this represented a drop in overall fish and shellfish consumption from 19.3 pounds in 2019, consumption of shrimp actually increased year-on-year.<sup>308</sup> During the period of review, the United States was the destination market for between 64.3% and 77.9% of the reporting Indian producers’ export shipments<sup>309</sup> and was far and away the largest single export market for Indian shrimp, accounting for 42.0% of the volume of the country’s total exports between 2019 and 2021.<sup>310</sup> The United States was the destination market

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<sup>306</sup> Second Sunset Review Determination at 46 (footnotes omitted).

<sup>307</sup> See National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, “2020 Fisheries of the United States” (May 2022) at 24, attached as **Exhibit 18**.

<sup>308</sup> Id. (attached as **Exhibit 18**).

<sup>309</sup> See Prehearing Staff Report at IV-33, Table IV-14 (PV).

<sup>310</sup> See id. at IV-36, Table IV-18 (PV).

for between 35.8% and 40.6% of the reporting Thai producers' export shipments,<sup>311</sup> accounted for 27.5% of the volume of the country's total exports between 2019 and 2021, and was the largest single export market for Thailand in 2020 and 2021.<sup>312</sup> The United States was the destination market for between 20.7% and 42.2% of the reporting Vietnamese producers' export shipments,<sup>313</sup> accounted for 12.4% of the volume of the country's total exports between 2019 and 2021, and became the largest single export market for Vietnam in 2021.<sup>314</sup>

### **G. Revocation of the Orders Is Likely to Lead to Adverse Price Effects**

The statute requires the Commission to evaluate the likely price effects of subject merchandise if the order is revoked.<sup>315</sup> In evaluating the likely price effects of subject imports if the antidumping duty orders are revoked, the Commission is to consider whether: (1) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products; and (2) imports of 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.

As discussed in detail below, the record of these proceedings establishes that subject imports are likely to have significant adverse price effects if the orders are revoked. If the orders are revoked, prices of imports from these countries are likely to decline further, leading to further underselling and price suppression and renewed depression of domestic prices.

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<sup>311</sup> See id. at IV-43, Table IV-23 (PV).

<sup>312</sup> See id. at IV-47, Table IV-27 (PV).

<sup>313</sup> See id. at IV-54, Table IV-32 (PV).

<sup>314</sup> See id. at IV-57, Table IV-36 (PV).

<sup>315</sup> See 19 U.S.C. § 1675a(a)(3).

## 1. Price Is Very Important in Purchasing Decisions

In the original investigations, the Commission determined that given the importance of price in purchasing decisions and the moderate substitutability of the domestic like product and subject imports, “price will play a significant – if admittedly not the only role – in a purchaser’s decision whether to purchase domestically processed product or the subject imports.”<sup>316</sup> In the first sunset reviews, the Commission observed that “{p}urchasers indicate that price plays a major role in purchasing decisions” and found, “as we did in the original investigations, that price is at least a moderately important factor in purchasing decisions.”<sup>317</sup> In the second sunset reviews, the Commission found that “price is an important factor in purchasing decisions,”<sup>318</sup> and that “price is at least a moderately important factor in purchasing decisions.”<sup>319</sup>

Data collected in the Prehearing Staff Report demonstrates that price continues to be a very important factor in purchasing decisions. The Prehearing Staff Report observes that “{b}ased on available data, staff believes that there is a moderate degree of substitutability between domestically produced warmwater shrimp and warmwater shrimp imported from subject sources.”<sup>320</sup> Thirteen of the fifteen responding purchasers identified “price” as one of the three most import purchasing factors.<sup>321</sup> “The majority of purchasers (8 of 14) reported that they sometimes purchase the lowest-priced product,” and five of the purchasers reported that they

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<sup>316</sup> Final Injury Determination at 28.

<sup>317</sup> First Sunset Review Determination at 30.

<sup>318</sup> Second Sunset Review Determination at 53.

<sup>319</sup> Id. at 47.

<sup>320</sup> Prehearing Staff Report at II-14 (PV).

<sup>321</sup> See id. at II-16 (PV).



“usually purchase the lowest-priced product . . . .”<sup>322</sup> Accordingly, because record evidence continues to demonstrate that these pre-order conditions continue, the Commission should find that price remains an important consideration in purchasing decisions for warmwater shrimp.

## **2. Subject Imports Are Likely to Undersell the Domestic Like Product**

To evaluate the price effect on the industry should revocation occur, the statute requires the Commission to consider its prior injury determinations.<sup>323</sup> The SAA instructs that “{i}f the Commission finds that pre-order or pre-agreement conditions are likely to recur, it is reasonable to conclude that there is likelihood of continuation or recurrence of injury.”<sup>324</sup>

With respect to the antidumping duty orders on certain frozen warmwater shrimp, the Commission has previously collected substantial information documenting the relationship between subject imports prices and prices for the domestic like product. In the original investigations, the Commission collected pricing data on ten different products from 27 U.S. processors and 33 importers, accounting, in volume terms, for roughly 16.4 percent of U.S. processors’ reported shipments, 12.8 percent of imports from Brazil, 9.5 percent of imports from Vietnam, 9.1 percent of imports from Ecuador, 6.8 percent of imports from China, 5.6 percent of imports from Thailand, and 5.2 percent of imports from India in 2003.<sup>325</sup> For the nine frozen warmwater shrimp products for which information was collected, the Commission found that “subject imports undersold the domestically processed product in 318 of 543 quarterly

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<sup>322</sup> See id. at II-17 (PV).

<sup>323</sup> See 19 U.S.C. § 1675a(a)(1)(A).

<sup>324</sup> SAA, Vol. I at 884.

<sup>325</sup> See Final Injury Determination at V-7.

comparisons, or 58.6 percent of all such comparisons.”<sup>326</sup> Looking at the pricing data as a whole, the Commission noted:

Consequently, there was predominant underselling for the entire spectrum of products on which the Commission collected pricing data. That there was also pervasive underselling in individual pricing products where there were appreciable volumes of both the domestically processed product and the subject imports rebuts respondents’ contention that the underselling data are skewed by the inclusion of products where the domestically processed product does not have a substantial presence.<sup>327</sup>

The Commission therefore found “the incidence of underselling to be significant.”<sup>328</sup>

In the first sunset reviews, the Commission collected pricing data on eight different products from 25 U.S. processors and 37 importers, accounting, in volume terms, for roughly 23.1 percent of U.S. processors’ reported shipments, 14.2 percent of imports from India, 9.9 percent of imports from Vietnam, 5.2 percent of imports from Thailand, 2.2 percent of imports from China, and 1.6 percent of imports from Brazil between January 2005 and September 2010.<sup>329</sup> Based on these data, the Commission found that “subject imports undersold the domestic like product in 317 instances, or 56.7 percent of total comparisons, and oversold the domestic like product in 242 instances.”<sup>330</sup> Commenting on movements in the data collected on price, the Commission noted:

Although the pricing data collected during the period of review admittedly do not show that prices for the domestic like product and the subject imports always moved in concert, we find that prices for the subject imports would likely significantly affect prices for the domestic like product following revocation.

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<sup>326</sup> Final Injury Determination at 29 (footnotes omitted).

<sup>327</sup> Id. at 29 (footnotes omitted).

<sup>328</sup> Id.

<sup>329</sup> See First Sunset Review Determination at V-6.

<sup>330</sup> Id. at 30.

This follows from our prior finding that the products are moderate substitutes, inasmuch as they are sold in the same forms for the same uses to common purchasers, who perceive that both the domestic like product and the subject imports satisfy their quality standards.<sup>331</sup>

Based on the all of the information on the record of those reviews, the Commission concluded:

{A}bsent the discipline of the orders, the subject producers will likely cut prices in the same manner that they did during the original investigations. This will likely continue or accelerate the patterns of predominant underselling observed both in the original investigations and these reviews.<sup>332</sup>

In the second sunset reviews, the Commission collected pricing data on six different products from 21 U.S. processors and 17 importers, accounting, in volume terms, for roughly 14.3 percent of U.S. processors' reported shipments in 2015.<sup>333</sup> Based on these data, the Commission found that "subject imports undersold the domestic like product in 64 of 166, or 38.6 percent, of quarterly comparisons."<sup>334</sup> "Thus, even with the orders in place, the record shows a pattern of mixed underselling and overselling between the subject imports and the domestic like product."<sup>335</sup> The Commission further determined that underselling was likely to recur should the orders be revoked due to the importance of price and substitutability of subject imports and domestic like product and incentive for exporters to undersell domestic producers in order to gain market share.<sup>336</sup>

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<sup>331</sup> Id. at 31.

<sup>332</sup> Id.

<sup>333</sup> See Second Sunset Review Determination at V-5. No pricing data was obtained from the seventeen importers on warmwater shrimp imports from Brazil or China. See id. at V-5 n.14.

<sup>334</sup> Id. at 48.

<sup>335</sup> Id.

<sup>336</sup> Id. at 50.

In these reviews, the Commission collected pricing data on four different products from ten U.S. processors and twenty U.S. importers, accounting, in volume terms, for approximately 5.4 percent of U.S. processors' reported shipments of warmwater shrimp, [ ] percent of U.S. shipments of subject imports from Thailand, [ ] percent of U.S. shipments of subject imports from Vietnam, and [ ] percent of U.S. shipments of subject imports from India.<sup>337</sup> The Prehearing Staff Report explains that:

{P}rices for warmwater shrimp imported from subject countries were below those for U.S.-produced product in 87 of 111 instances . . . ; margins of underselling ranged from 0.5 to 43.3 percent. In the remaining 24 instances . . . , prices for product from subject countries for warmwater shrimp were between 0.7 to 61.3 percent above prices for domestic product.<sup>338</sup>

In terms of volume, the [

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Accordingly, the Prehearing Staff Report shows that the pricing data collected for these reviews demonstrate persistent and significant underselling of the domestic like product by subject imports under the discipline of the antidumping duty orders.

### **3. Subject Imports Are Likely to Suppress and Depress Domestic Shrimp Prices**

Given the importance of price on purchasing decisions and the substitutability of the products, price changes for the subject imports will affect prices for the domestic like product.<sup>340</sup> As the Commission has previously observed, “{d}uring the original period of investigation, the

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<sup>337</sup> See Prehearing Staff Report at V-6 (APO). “No price data was reported for subject product from China.” Id.

<sup>338</sup> Id. at V-16 (PV).

<sup>339</sup> Id. (APO).

<sup>340</sup> First Sunset Review Determination at 31.

subject producers cut prices to increase their presence in the U.S. market.”<sup>341</sup> If the antidumping duty orders are revoked, increased volumes of subject imports are likely to be offered at reduced prices.<sup>342</sup> The lowering of prices of subject imports is likely to continue or accelerate the patterns of underselling observed by the Commission in the original investigations, the first sunset reviews, and the second sunset reviews. Should this change in the market occur, “domestic producers will need to cut prices to match subject import price competition and make sales.”<sup>343</sup> In the second sunset reviews, the Commission concluded that the record in that proceeding supported the same conclusions made in its prior proceedings:

Because price is important to purchasing decisions, the presence of significant quantities of subject imports that are likely to enter the United States after revocation of the orders under review and that are likely to undersell the domestically produced product will force domestic warmwater shrimp producers to either cut prices or risk losing sales to subject import competition. In light of these considerations and the price-sensitive nature of the market for warmwater shrimp, we conclude that the subject imports will also likely have significant price-depressing or price-suppressing effects.<sup>344</sup>

The Prehearing Staff Report makes clear that these conditions continue to be present in the U.S. market for warmwater shrimp and that, should the antidumping duty orders be revoked, subject imports would likely have significant price-depressing or price-suppressing effects.

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<sup>341</sup> Id.

<sup>342</sup> See id.

<sup>343</sup> Id.

<sup>344</sup> Second Sunset Review Determination at 50.

## H. Impact of the Subject Imports

### 1. The Commission's Determinations in the Original Investigations, the Changed Circumstances Reviews, the First Sunset Reviews, and the Second Sunset Reviews

In the original investigations, the Commission “conclude{d} that the cumulated subject imports have a significant impact on the domestic industry.”<sup>345</sup> Specifically, the Commission found that:

The large and increasing volume of subject imports that entered the United States during the period examined caused domestic prices to decline. Those declines led to declines in operating revenues, for both fishermen and processors, poor financial performance, and declining employment.<sup>346</sup>

In finding a significant adverse impact of subject imports on the domestic industry, the Commission examined both segments of the U.S. industry – fishermen and processors.<sup>347</sup>

With respect to fishermen, the Commission observed that this segment of the industry “experienced declines in employment-related indicators and extreme deterioration in operating performance.”<sup>348</sup> The Commission noted that declines in fishermen’s operating expenses were not “attributable to greater ‘efficiency,’” as the largest absolute per-unit cost decline in operating expenses occurred with respect to labor costs and “{t}he record indicates that numerous fishermen are cutting or deferring such expenses because they lack sufficient funds to pay

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<sup>345</sup> Final Injury Determination at 35.

<sup>346</sup> Id.

<sup>347</sup> See id. at 31.

<sup>348</sup> Id.

them.”<sup>349</sup> Further, the Commission indicated that the decline in average unit values of the shrimp harvested by fishermen “was much steeper than the decline in operating expenses.”<sup>350</sup>

With regard to processors, the Commission found that this segment of the industry experienced “increases in inventories, declines in employment, and generally poor financial performance.”<sup>351</sup> The processors’ production and U.S. shipments peaked at the beginning of the investigation period and failed to return to these levels by the end of that period.<sup>352</sup> At the same time, inventories held by these processors increased and, because shipments did not grow and inventories increased, “the ratio of inventories to shipments increased throughout the period examined.”<sup>353</sup> Employment in the processing sector also deteriorated during the period of investigation and the average unit values for those processors’ sales also declined, “reflecting declining shrimp prices.”<sup>354</sup>

In its Changed Circumstances Review, the Commission reaffirmed its findings that subject imports had a significant adverse impact on the domestic shrimp industry:

{i}n 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

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<sup>349</sup> Id. at 31-32.

<sup>350</sup> Id. at 32.

<sup>351</sup> Id.

<sup>352</sup> See id.

<sup>353</sup> Id.

<sup>354</sup> Id. at 33.

consequently find that revoking the antidumping duty orders under review will result in a significant adverse effect on the domestic industry.<sup>355</sup>

In the first sunset reviews, the Commission examined data pertinent to industry performance separately for the two segments of the domestic industry - fishermen and processors – “as the Commission did in the original investigations.”<sup>356</sup> The Commission noted that the operations of both segments fluctuated during that period of review and that processors exhibited poor financial performance throughout the period while fishermen showed operating losses in the final year of the review period as well as the most recent interim period.<sup>357</sup> Because of its findings that the volume of subject imports would likely increase significantly, that these imports would be “priced in a manner that will likely undersell the domestic like product and have significant depressing or suppressing effects on prices for the domestic like product,” and that the domestic industry would “need to cut prices or restrain price increases” in the face of these imports, the Commission concluded that “{t}he resulting loss of revenues will likely cause further deterioration in the already poor financial performance of the vulnerable domestic industry.”<sup>358</sup> Additionally, “{f}urther deterioration in financial performance will result in likely losses of employment, and, ultimately, likely losses in output and market share.”<sup>359</sup>

In the second sunset reviews, the Commission once again confirmed that the domestic industry had “two primary segments – fishermen and processors” and “examine{d} the data

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<sup>355</sup> Changed Circumstances Determination at 26.

<sup>356</sup> First Sunset Review Determination at 33.

<sup>357</sup> See id. at 33-34.

<sup>358</sup> Id. at 34-35.

<sup>359</sup> Id. at 35.



pertaining to industry performance separately for each segment, as the Commission has done in the past.”<sup>360</sup> Based on that administrative record, the Commission observed that “fishermen reported net income that was notably higher than their operating income . . . for every year in the period of review,” and that the “{t}he financial results of responding fishermen fluctuated annually, but were positive throughout the period of review.”<sup>361</sup> For processors, these companies’ “total net sales values fluctuated between years but declined overall from 2013 to 2015 . . .” and their “operating income margin decreased from 0.8 percent in 2013 to 0.7 percent in 2014 and 2015; it was negative 0.4 percent in interim 2015 and 2.2 percent in interim 2016.”<sup>362</sup> Analyzing these data, the Commission accounted for the “poor financial performance” of the domestic industry in assessing the likely impact of dumped subject imports.<sup>363</sup> In light of its finding that import volumes from China, India, Thailand, and Vietnam would be likely to increase should the orders be revoked, the Commission anticipated that “low-priced subject imports would likely have the effect of exacerbating the already weak production, shipments, market share, and financial performance of the domestic industry,” and that “revenues {would} likely decline significantly in light of the anticipated volume of subject imports,” which would “likely lead to declines in the {domestic} industry’s operating performance.”<sup>364</sup>

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<sup>360</sup> Second Sunset Review Determination at 50-51 (footnotes omitted).

<sup>361</sup> Id. at 51-52 (footnote omitted).

<sup>362</sup> Id. at 53 (footnote omitted).

<sup>363</sup> Id.

<sup>364</sup> Id.

## 2. The Current Reviews

The record in these five-year reviews supports the Commission once again “finding that the cumulated subject imports are likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time should the antidumping duty orders be revoked.”<sup>365</sup> Pursuant to 19 U.S.C. § 1675a(a)(4), in assessing the likely impact of import of subject merchandise on the domestic industry if the orders are revoked, the Commission shall consider, among other relevant factors: (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. An analysis of these factors, in the context of the industry’s vulnerability to injury from subject imports, other relevant economic factors, and conditions of competition, demonstrates that imports of subject merchandise are likely to have a material adverse impact on the domestic industry.

For the shrimp fishing and farming (harvester) segment of the industry, the Commission received usable U.S. fishermen questionnaire responses from 130 firms in the original investigations that reported landings of 17.6 million pounds in 2003, believed to have accounted for roughly 6.5 percent of U.S. wild-caught landings of shrimp that year.<sup>366</sup> These fishermen reported net sales of 16.3 million pounds in 2003.<sup>367</sup> During the first sunset reviews, the

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<sup>365</sup> First Sunset Review Determination at 36. See also Second Sunset Review Determination at 55.

<sup>366</sup> Final Injury Determination at III-1 and F-7, Table F-2. See also Prehearing Staff Report at I-29 (PV).

<sup>367</sup> Final Injury Determination at F-8, Table F-4.

Commission received usable U.S. fishermen questionnaire responses from 156 firms that reported landing 11.3 million pounds of shrimp in 2009, believed to have accounted for 4.3 percent of U.S. wild-caught shrimp landings that year.<sup>368</sup> These fishermen reported net sales of 9.4 million pounds in 2009.<sup>369</sup> During the second sunset reviews, the Commission received usable U.S. farmer/fishermen questionnaire responses from 182 firms that reported landings believed to have accounted for 11.9 percent of U.S. wild-caught shrimp landings and U.S. farmed shrimp production in 2015.<sup>370</sup> These fishermen and farmers reported net sales of 26.9 million pounds in 2015.<sup>371</sup>

In these reviews, the Commission has “received usable questionnaire responses from 307 U.S. farmers/fishermen, believed to have accounted for approximately 20.4 percent of U.S. wild-caught and farmed warmwater shrimp during 2021.”<sup>372</sup> These fishermen and farmers reported net sales of [ ] million pounds in 2021.<sup>373</sup> The data submitted by these harvesters show that their sales [

].<sup>374</sup> [ ] warmwater shrimp

landings for the U.S. commercial fishing fleet as a whole fell from 229.9 million pounds in 2019

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<sup>368</sup> See First Sunset Review Determination at III-1 and E-11, Table E-2. See also Prehearing Staff Report at I-29 (PV).

<sup>369</sup> See First Sunset Review Determination at E-14, Table E-5.

<sup>370</sup> See Second Sunset Review Determination at III-1. See also Prehearing Staff Report at I-29 (PV).

<sup>371</sup> See Second Sunset Review Determination at E-12, Table E-5.

<sup>372</sup> Prehearing Staff Report at III-1 (PV) (footnote omitted).

<sup>373</sup> Id. at E-58, Table E-6 (APO).

<sup>374</sup> Id. (APO).

to 218.6 million pounds in 2020 before partially recovering to 225.9 million pounds in 2021.<sup>375</sup>

The Prehearing Staff Report observes that “{t}he operating profitability of the U.S.

farmers/fishermen as a whole improved from 2019 to 2021 as did the net income of the reporting

firms.”<sup>376</sup> [ ], the Prehearing Staff Report shows that a [ ] portion of

responding firms reported [

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Public record indicators continue to show that the number of firms participating in the harvesting segment of the industry is in decline. **Exhibit 19** (“Number of Resident Commercial Shrimp License Holders in the Gulf of Mexico (2000-2021)”) is an updated compilation of data regarding state commercial shrimp licenses issued in the Gulf of Mexico (Mississippi, Alabama, Louisiana, Texas, and Florida). This compilation updates Exhibit 3 of Domestic Producers’ substantive response to the notice of initiation in this proceeding<sup>378</sup> to now include 2021. The table at **Exhibit 19** shows that the number of shrimp licenses issued by the various states declined sharply between 2001 (16,275) and 2008 (7,663). However, between 2008 and 2015 (7,664), the number of licenses issued by these states stabilized. Since 2015, these numbers have gradually eroded, falling for six straight years and establishing a new historic low of 5,817 in 2021. Moreover, as Domestic Producers set forth at Exhibit 4 of the substantive response to the

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<sup>375</sup> Prehearing Staff Report at E-4, Table E-1 (PV).

<sup>376</sup> Id. at E-57 (PV).

<sup>377</sup> See id. at E-59, Table E-6 (APO).

<sup>378</sup> See Letter from Picard Kentz & Rowe LLP to the U.S. International Trade Commission, Inv. Nos. 731-TA-1064 and 1066-1068 (3<sup>rd</sup> Sunset Review) (June 1, 2022) at Exhibit 3 (PV).

notice of initiation in this proceeding,<sup>379</sup> the number of federal limited access commercial permits (SPGM) maintained by NOAA Fisheries for the commercial shrimp fishery in the Gulf of Mexico has continued to decline and the agency listed 1,225 SPGM permit holders then compared to 1,374 valid permit holders on March 23, 2016.<sup>380</sup> Thus, while the overall financial experience of responding firms showed improvement between 2019 and 2021, there appears to have been a significant number of firms involved in the harvesting of warmwater shrimp that exited the industry during that same timeframe.

For the shrimp processing segment of the domestic industry, the Prehearing Staff Report explains that, in the final phase of the original investigations, the Commission received usable questionnaire responses from 37 U.S. processors, accounting for roughly [ ] percent of U.S. warmwater shrimp production based on live-weight and [ ] percent of U.S. production based on headless, shell-on equivalent weight in 2003.<sup>381</sup> In the first sunset reviews, the Commission received usable questionnaire responses from 31 U.S. processors, accounting for roughly [ ] percent of U.S. warmwater shrimp production based on live-weight and [ ] percent of U.S. production based on headless, shell-on equivalent weight in 2009.<sup>382</sup> And in the second sunset reviews, the Commission received usable questionnaire responses from 28 U.S. processors, accounting for roughly 64.3 percent of U.S. warmwater shrimp production based on live-weight and “virtually all” U.S. production based on headless, shell-on equivalent weight in 2015.<sup>383</sup>

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<sup>379</sup> See id. at Exhibit 4 (PV).

<sup>380</sup> See id. at 17 (PV).

<sup>381</sup> Prehearing Staff Report at I-29 (APO).

<sup>382</sup> Id. (APO).

<sup>383</sup> Id. at I-29 (PV).

In these reviews, the Commission has received usable questionnaire responses from 19 U.S. processors accounting for 55.0 percent of U.S. warmwater shrimp production based on live-weight and 87.5 percent of U.S. production based on headless, shell-on equivalent weight in 2021.<sup>384</sup> The information submitted to the Commission by these processors showed that production capacity (220.0 million pounds) remained the same from 2019 to 2021 and increased slightly in interim 2022 compared to interim 2021.<sup>385</sup> The responding processors increased production over the period of review, with 107.6 million pounds in 2019, 111.3 million pounds in 2020, and 127.1 million pounds in 2021.<sup>386</sup> However, production in interim 2022 (80.9 million pounds) was 3.4 percent below interim 2021 (83.8 million pounds).<sup>387</sup> Consistent with these numbers, the responding processors' capacity utilization increased over the period of review from 48.9 percent in 2019 to a high of 57.8 percent in 2021 before reaching a period low of 46.6 percent in interim 2022.<sup>388</sup> Throughout the period, even with the Commission's change in methodology for reporting production capacity, the responding U.S. processors maintained substantial excess capacity to produce larger quantities of the domestic like product.

The responding U.S. processors' shipments increased by 13.0 percent from 2019 to 2021, from 109.2 million pounds in 2019 to 112.9 million pounds in 2020 to 123.4 million pounds in 2021.<sup>389</sup> However, these shipments declined by 11.3 percent in interim 2022 (77.7 million

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<sup>384</sup> Id. (PV).

<sup>385</sup> See id. at III-5, Table III-5 (PV).

<sup>386</sup> See id. (PV).

<sup>387</sup> See id. (PV).

<sup>388</sup> See id. (PV).

<sup>389</sup> See id. at III-14, Table III-9 (PV).

pounds) compared to the same time period in 2021 (87.6 million pounds).<sup>390</sup> The U.S. processors' end-of-period inventories increased throughout the period of review, growing from 16.1 million pounds in 2019 to 18.5 million pounds in 2021 before reaching a period high of 23.9 million pounds in interim 2022.<sup>391</sup> By the end of the period of review, end-of-period inventories were at a 21.1 percent ratio to the U.S. processors' total production and a 23.1 percent ratio to their total shipments.<sup>392</sup>

As noted in the Prehearing Staff Report, U.S. processors' production and related workers (PRWs) declined by 24.4 percent between 2019 and 2021 before employment increased in interim 2022 compared to interim 2021.<sup>393</sup> The total hours worked by PRWs declined by 12.9 percent between 2019 and 2021 and fell again by 9.9 percent in interim 2022 compared to interim 2021,<sup>394</sup> while the wages paid to PRWs fell from \$30.4 million in 2019 to \$27.9 million in 2021, before the amount of wages paid in interim 2022 (\$22.8 million) increased compared to interim 2021 (\$19.9 million).<sup>395</sup>

The responding U.S. processors were marginally profitable throughout the period of review. Operating income ratios were 0.9 percent in 2019, 2.9 percent in 2020, and 1.6 percent in 2021, with this ratio at 3.0 percent in interim 2022, up from 2.9 percent in interim 2021.<sup>396</sup>

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<sup>390</sup> See id. (PV).

<sup>391</sup> See id. at III-15, Table III-10 (PV).

<sup>392</sup> See id. (PV).

<sup>393</sup> See id. at III-16 (PV).

<sup>394</sup> See id. (PV).

<sup>395</sup> See id. at III-16, Table III-11 (PV).

<sup>396</sup> See id. at III-19, Table III-12 (PV).

Net income ratios followed a similar trend, at 1.3 percent in 2019, 4.2 percent in 2020, and 3.7 percent in 2021, with this ratio at 3.3 percent in interim 2022, up from 3.2 percent in interim 2021.<sup>397</sup> Nevertheless, throughout the period of review, a sizeable number of U.S. processors reported operating and net losses. In 2021, eight of the nineteen (42.1%) reporting U.S. processors indicated that they experienced operating losses, while six of the nineteen (31.6%) reported experiencing net losses.<sup>398</sup> In interim 2022, eight of the nineteen (42.1%) reporting U.S. processors indicated that they experienced both operating and net losses.<sup>399</sup>

The cost of raw materials, historically comprised principally of shrimp,<sup>400</sup> increased by 14.7 percent between 2019 and 2021, going from a per pound unit value of \$2.96 in 2019 to \$3.11 in 2020 to \$3.47 in 2021.<sup>401</sup> Raw material costs declined by 7.5 percent in interim 2022 (\$3.20) compared to interim 2021 (\$3.46).<sup>402</sup> The unit value of the processors' net sales did not increase commensurate to the increase in raw material costs, growing by just 11.2 percent between 2019 (\$3.89) and 2021 (\$4.38).<sup>403</sup> Throughout the period of review, the gross profit reported by the processors on sales of the domestic like product remained relatively stable, ranging from a low of \$0.36 per pound in 2019 to a high of \$0.49 per pound in interim 2022.<sup>404</sup>

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<sup>397</sup> See id. (PV).

<sup>398</sup> See id. at III-20, Table III-12 (PV).

<sup>399</sup> See id. (PV).

<sup>400</sup> See Final Injury Determination at 12 n.57, First Sunset Review Determination at III-5, and Prehearing Staff Report at III-30 (PV).

<sup>401</sup> See Prehearing Staff Report at III-20, Table III-12 (PV).

<sup>402</sup> See id. (PV).

<sup>403</sup> See id. (PV).

<sup>404</sup> See id. (PV).



Capital expenditures for the processing segment of the U.S. industry increased over the period of review from \$4.1 million in 2019 to \$9.1 million in 2021, with an additional \$5.0 million in interim 2022.<sup>405</sup> Similarly, U.S. processors' net assets increased from \$192.7 million in 2019 to \$235.6 million in 2021, with their return on assets fluctuating from 2.0 percent in 2019 to 7.1 percent in 2020 to 3.7 percent in 2021.<sup>406</sup>

In sum, the record of these proceedings again indicates that the period of review was characterized by relative stability for the domestic industry under the presence of the antidumping duty orders, although the industry's vulnerability appears to have increased towards the end of the period of review with dramatically increased fuel costs for the harvesting segment of the U.S. industry and substantially increased end-of-period inventories for the processing segment of the U.S. industry.

In the second sunset reviews, the harvesting sector reported operating income throughout the review period and high levels of net income,<sup>407</sup> while in these reviews, the harvesting sector has reported [ ] of operating and net income,<sup>408</sup> with operating profitability and net income as a whole improved between 2019 and 2021.<sup>409</sup> [ ], a [ ] portion of responding firms reported [ ]

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<sup>405</sup> See id. at III-34, Table III-18 (PV).

<sup>406</sup> See id. at III-35, Tables III-21 and III-22 (PV).

<sup>407</sup> See Second Sunset Review Determination at E-13, Table E-5.

<sup>408</sup> See Prehearing Staff Report at E-58, Table E-6 (APO).

<sup>409</sup> See id. at E-57 (PV).

] <sup>410</sup> and public record data reflects a continuing decline in the number of commercial permits issued by federal and state government authorities to shrimp.

The processing segment of the industry reported consistent marginal profitability throughout the review period, [ ], a significant number of the individual processors reported experiencing both operating and net losses in 2021 and interim 2022.<sup>411</sup> Should the antidumping duty orders be revoked, the volume of subject imports is likely to increase significantly by pricing in a manner that will likely undersell the domestic like product. To compete with the additional likely volume of imports, the domestic industry will need to reduce prices. Towards the end of the review period, the build-up in end-of-period inventories held by U.S. processors indicates that the domestic like product is facing challenges in the U.S. market. In these circumstances, the inability to sell domestic warmwater shrimp will likely cause further deterioration in the already weak financial performance of the processing segment of the industry. This deterioration, in turn, will result in likely losses of employment, output, and market share and, ultimately, widespread exits from the industry from within the harvesting sector. Accordingly, the Commission should once again find that the cumulated subject imports are likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time should the antidumping duty orders be revoked.

## VIII. CONCLUSION

As demonstrated above, the revocation of the antidumping duty orders on certain frozen warmwater shrimp from China, India, Thailand, and Vietnam would be likely to lead to the continuation or recurrence of material injury to the domestic industry within a reasonably

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<sup>410</sup> See id. at E-59, Table E-6 (APO).

<sup>411</sup> See id. at III-19 and III-20, Table III-12 (PV).

foreseeable time. Accordingly, the Department should find that the antidumping duty orders should be continued.

Respectfully submitted,



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Attachments

## EXHIBIT LIST

Exhibit Number	Exhibit Name
1	<p>Lily, “Short history of the Chinese Vannamei shrimp industry and trends,” Roda International (Oct. 13, 2020)</p> <p><a href="https://rodaint.com/china-tips-news/short-history-of-the-chinese-vannamei-shrimp-industry-and-trends/">https://rodaint.com/china-tips-news/short-history-of-the-chinese-vannamei-shrimp-industry-and-trends/</a></p>
2	<p>John Evans, “China aquaculture feed giant Haid to invest \$1 billion into massive shrimp farm,” IntraFish (Feb. 13, 2023)</p> <p><a href="https://www.intrafish.com/shrimp/china-aquaculture-feed-giant-haid-to-invest-1-billion-into-massive-shrimp-farm/2-1-1402675">https://www.intrafish.com/shrimp/china-aquaculture-feed-giant-haid-to-invest-1-billion-into-massive-shrimp-farm/2-1-1402675</a></p>
3	<p>Jennifer Hiller and Collin Eaton, “Six American Entrepreneurs on Managing This Summer’s Energy Prices,” Wall Street Journal (July 29, 2022)</p> <p><a href="https://www.wsj.com/articles/oil-gas-summer-energy-prices-spike-11659050607?page=1">https://www.wsj.com/articles/oil-gas-summer-energy-prices-spike-11659050607?page=1</a></p>
4	<p>Nick Sambides Jr., “Texas Shrimpers See ‘Bleak’ Prospects this Season,” Undercurrent News (July 29, 2022)</p> <p><a href="https://www.undercurrentnews.com/2022/07/29/texas-shrimpers-see-bleak-prospects-this-season/">https://www.undercurrentnews.com/2022/07/29/texas-shrimpers-see-bleak-prospects-this-season/</a></p>
5	<p>Steve Wilson, “Double Whammy: Louisiana Shrimpers Face High Diesel Prices, Cheap Imports,” The Center Square (June 14, 2022)</p> <p><a href="https://www.kpcnews.com/news/national/article/2cef5381-8717-5872-a62b-95e587bd0c3e.html">https://www.kpcnews.com/news/national/article/2cef5381-8717-5872-a62b-95e587bd0c3e.html</a></p>

<b>6</b>	<p>Steve Bittenbender, “Southern Shrimp Alliance Director Sends SOS to President Biden,” National Fisherman (July 5, 2022)</p> <p><a href="https://www.nationalfisherman.com/southern-shrimp-alliance-director-sends-sos-topresident-biden">https://www.nationalfisherman.com/southern-shrimp-alliance-director-sends-sos-topresident-biden</a></p>
<b>7</b>	<p>Tim Aten, “Hurricane Ian Remains Lingering Threat to SWFL’s Commercial Fishing Industry,” Gulfshore Business (Jan. 1, 2023)</p> <p><a href="https://www.gulfshorebusiness.com/hurricane-ian-remains-lingering-threat-to-swfls-commercialfishing-industry/">https://www.gulfshorebusiness.com/hurricane-ian-remains-lingering-threat-to-swfls-commercialfishing-industry/</a></p>
<b>8</b>	<p>Jay Reeves, “Florida Shrimpers Race to Get Battered Fleet Back to Sea,” Associated Press (Oct. 11, 2022)</p> <p><a href="https://toronto.citynews.ca/2022/10/11/florida-shrimpers-race-to-get-battered-fleet-back-to-sea/">https://toronto.citynews.ca/2022/10/11/florida-shrimpers-race-to-get-battered-fleet-back-to-sea/</a></p>
<b>9</b>	<p>Michael Smith, “Hurricane Ian Pummeled Shrimp Industry Already Hit by Cheap Imports,” Bloomberg (Oct. 6, 2022)</p> <p><a href="https://www.bloomberg.com/news/articles/2022-10-06/ian-pummeled-shrimp-industry-alreadyhit-by-cheap-imports-costs">https://www.bloomberg.com/news/articles/2022-10-06/ian-pummeled-shrimp-industry-alreadyhit-by-cheap-imports-costs</a></p>
<b>10</b>	<p>Toan Dao, “Inspired by rising demand for exports, Vietnam expands its shrimp processing capacity,” SeafoodSource (Mar. 24, 2021)</p> <p><a href="https://www.seafoodsource.com/news/supply-trade/inspired-by-rising-demand-for-exports-vietnam-expands-its-shrimp-processing-capacity">https://www.seafoodsource.com/news/supply-trade/inspired-by-rising-demand-for-exports-vietnam-expands-its-shrimp-processing-capacity</a></p>
<b>11</b>	<p>Thanh Son and Trang Trun, “Vietnam’s shrimp production can reach 1 million tons this year,” Vietnam Agriculture (Sep. 22, 2022)</p> <p><a href="https://vietnamagriculture.nongnghiep.vn/vietnams-shrimp-production-can-reach-1-million-tons-this-year-d332904.html">https://vietnamagriculture.nongnghiep.vn/vietnams-shrimp-production-can-reach-1-million-tons-this-year-d332904.html</a></p>

<b>12</b>	<p>Toan Dao, “Vietnam approves plan to increase aquaculture output to 7 million MT by 2030,” SeafoodSource (undated)</p> <p><a href="https://www.seafoodsource.com/news/aquaculture/vietnam-approves-plan-to-increase-aquaculture-output-to-7-million-mt-2030">https://www.seafoodsource.com/news/aquaculture/vietnam-approves-plan-to-increase-aquaculture-output-to-7-million-mt-2030</a></p>
<b>13</b>	<p>Press Information Bureau, Government of India, “India’s marine product exports record an all-time high in FY 2021-22, Grow by over 30% to Rs 57,546.49 crore (USD 7.76 billion),” Ministry of Commerce &amp; Industry (Jun. 29, 2022)</p> <p><a href="https://pib.gov.in/PressReleasePage.aspx?PRID=1837884">https://pib.gov.in/PressReleasePage.aspx?PRID=1837884</a></p>
<b>14</b>	<p>“Marine Products: Exports of marine products stood at US\$7.77 billion in FY22,” India Brand Equity Foundation (Nov. 2022)</p> <p><a href="https://www.ibef.org/exports/marine-products-industry-india">https://www.ibef.org/exports/marine-products-industry-india</a></p>
<b>15</b>	<p>“Brighter Prospects for Shrimp Industry,” Bangkok Post (Dec. 14, 2021)</p> <p><a href="https://www.bangkokpost.com/business/2231367/brighter-prospects-for-shrimp-industry">https://www.bangkokpost.com/business/2231367/brighter-prospects-for-shrimp-industry</a></p>
<b>16</b>	<p>“Thai Shrimp Exporters Eye Double-Digit Volume Growth in 2022,” Undercurrent News (Dec. 14, 2021)</p> <p><a href="https://www.undercurrentnews.com/2021/12/14/thai-shrimp-exporters-eye-double-digit-volume-growth-in-2022/">https://www.undercurrentnews.com/2021/12/14/thai-shrimp-exporters-eye-double-digit-volume-growth-in-2022/</a></p>
<b>17</b>	<p>“Shrimp Industry Continues to Tread Water,” Bangkok Post (Dec. 15, 2022)</p> <p><a href="https://www.bangkokpost.com/business/2460805/shrimp-industry-continues-to-tread-water">https://www.bangkokpost.com/business/2460805/shrimp-industry-continues-to-tread-water</a></p>

<p><b>18</b></p>	<p>National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, “2020 Fisheries of the United States” (May 2022)</p> <p><a href="https://media.fisheries.noaa.gov/2022-05/Fisheries-of-the-United-States-2020-Report-FINAL.pdf">https://media.fisheries.noaa.gov/2022-05/Fisheries-of-the-United-States-2020-Report-FINAL.pdf</a></p>
<p><b>19</b></p>	<p>“Number of Resident Commercial Shrimp License Holders in the Gulf of Mexico (2000-2021)”</p>