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Inv. Nos. 731-TA-1064 and 1066-1068
3rd Sunset Review (19 U.S.C. § 1675(c))
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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: Final Comments

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 Vietnam¹ – and the Ad Hoc Shrimp Industry Committee (“AHSIC”) (collectively, “Domestic Producers”) and in

¹ 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 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).

accordance with 19 C.F.R. §§ 201.8 and 207.68 (2022), we hereby file Domestic Producers' Final Comments 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 proceeding² and 19 C.F.R. § 207.68, this submission is timely filed.

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 certification required by 19 C.F.R. § 207.3(a) to this submission. 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 proceeding as indicated on the attached certificate of service.

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

Respectfully submitted,



Nathaniel Maandig Rickard
PICARD KENTZ & ROWE LLP
Counsel to Domestic Producers

² 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).

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 22nd day of May 2023, by electronic mail, on the following parties:

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May Ao Foods Co., Ltd.; Okeanos Food Co., Ltd.; Sea-Tech Intertrade Co., Ltd.; Seafresh Industry Public Co., Ltd.; Tey Seng Cold Storage Co., Ltd.; Thai Royal Frozen Food Co., Ltd.; Thai Union Group Public Co., Ltd.; Thai Union Seafoods Co., Ltd.; Top Product Food Co., Ltd; Xianning Seafood Co., Ltd.;

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In accordance with section 207.3(a) 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 (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: May 22, 2023



Nathaniel Maandig Rickard

**BEFORE THE UNITED STATES
INTERNATIONAL TRADE COMMISSION**

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

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

**FINAL COMMENTS
SUBMITTED ON BEHALF OF THE
AD HOC SHRIMP TRADE ACTION COMMITTEE
AND THE AD HOC SHRIMP INDUSTRY COMMITTEE**

Nathaniel Maandig Rickard

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May 22, 2023

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I. INTRODUCTION

No purchaser contacts were provided by the respondent interested parties in spite of substantial imports from some of these sources.¹

The Final Staff Report prepared for the U.S. International Trade Commission (“ITC” or “Commission”) in these sunset reviews is exhaustive, meticulously researched, and cogently describes subject imports, the foreign industries producing subject imports, the domestic industry, and the global market for frozen warmwater shrimp. At three hundred and twenty-six pages, the Final Staff Report is a fitting testament to the time, attention, and effort devoted to understanding the impact of the trade relief in furtherance of the agency’s statutory responsibilities. Few stones were left unturned in its production. And, yet, what the Final Staff Report does not contain is any support for the contention that anything germane has changed to any significant extent such that unfairly-traded subject imports would not have an adverse impact on the domestic industry in the event of the revocation of the antidumping duty orders on certain frozen warmwater shrimp from China, India, Thailand, and Vietnam.

Despite claims that, this time, the administrative record will support a conclusion that competition between subject imports and the domestic like product is attenuated such that the presence of foreign shrimp in the U.S. market has no relevance to the operations of the domestic shrimp industry, the final record compiled in these reviews continues to reinforce the Commission’s repeated findings that the domestic like product and subject imports compete for sales in the U.S. market. Thus, once again, the administrative record of these sunset reviews establishes that the revocation of the antidumping duty orders will likely lead to the continuation or recurrence of material injury to the domestic industry by reason of subject imports.

¹ U.S. International Trade Commission, Inv. Nos. 731-TA-1064 and 1066-1068 (Third Review), Final Staff Report at I-40 n.90 (PV) (May 8, 2023) (“Final Staff Report”).

II. ALL SUBJECT IMPORTS SHOULD BE CUMULATED

The record of these sunset reviews establishes that the Commission should exercise its discretion to cumulate subject imports from China, India, Thailand, and Vietnam. Consistent with the records developed in the original investigations and in the first and second sunset reviews,² the final record in these reviews demonstrates that there is a reasonable overlap of competition between and amongst subject imports and the domestic like product. As noted in the Final Staff Report, “most processors and importers reported that warmwater shrimp from China and India were always interchangeable with product from the United States, most importers reported product from Thailand and the United States were either always or frequently interchangeable, and most importers reported product from the United States and Vietnam were never or sometimes interchangeable” and a majority of purchasers reported that domestically-produced shrimp was at least sometimes interchangeable with shrimp from each of the subject countries.³ Thus, the record continues to show 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.”⁴

² See 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 20-21 (“Final Injury Determination”); 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 15-17 (“First Sunset Review Determination”); and 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 21-23 and 26-27 (“Second Sunset Review Determination”).

³ Final Staff Report at II-32 – II-33 (citation omitted) (PV).

⁴ Second Sunset Review Determination at 23; First Sunset Review Determination at 16.

The Final Staff Report also confirms that subject imports and the domestic like product were sold in the same geographic markets and channels of distribution.⁵ Subject imports and the domestic like product were also simultaneously present in the market during the review period.⁶ As was the case in the first and second sunset reviews, the administrative record compiled here fails to evince “any significant difference in likely conditions of competition among imports from any of the subject countries.”⁷ The final record in these reviews are in accord with 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, and Vietnam are likely to compete under similar conditions of competition upon revocation.⁸

In these reviews, the domestic like product and subject imports continue to compete for sales on the basis of price. “The majority of purchasers (8 of 14) reported that they sometimes purchase the lowest-priced product. Five usually purchased the lowest-priced product” while only one purchaser reported “never” purchasing the lowest-priced product.⁹ “The most often cited top three factors that firms consider in their purchasing decisions for warmwater shrimp were price (13 firms), quality (12 firms), and availability (6 firms)”¹⁰ Twelve of the fourteen reporting purchasers informed the Commission that price was a “very important” factor in their purchasing decisions, with the remaining two reporting that it was “somewhat

⁵ See Final Staff Report at II-3 – II-4 and IV-10 through IV-12 (PV).

⁶ See id. at IV-12 through IV-16 (PV).

⁷ First Sunset Review Determination at 17.

⁸ Second Sunset Review Determination at 26.

⁹ Final Staff Report at II-17 (PV).

¹⁰ Id. at II-16 (PV).

important.”¹¹ Further, 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 frozen warmwater shrimp during the review period.¹²

The final record in these reviews indicates that the domestic industry has increased its capabilities in the production of individually quick frozen (“IQF”) shrimp. In the first sunset reviews, “U.S. processors’ 2009 block freezing capacity was 279 million pounds compared to 152 million pounds of IQF capacity”¹³ Thus, in 2009, 64.7 percent of U.S. processors’ total freezing capacity was dedicated to block freezing, while 35.3 percent was dedicated to IQF. In the second sunset reviews, the Commission found that, in 2015, 63.7 percent of U.S. processors’ total freezing capacity was dedicated to block freezing, while 36.3 percent was dedicated to IQF.¹⁴ In these reviews, the record compiled supports the U.S. industry’s contention “that a growing share of their production is IQF.”¹⁵ While block frozen shrimp continued to represent a majority of the U.S. processors’ shipments, the gap between block frozen and IQF production narrowed significantly, with “the majority (55.6 percent) of U.S. processors’ U.S. shipments” being block frozen in 2021.¹⁶ Thus, while two out of every three pounds of the domestic industry’s freezing capacity had been dedicated to block freezing in the first and second sunset

¹¹ Id. at II-18, Table II-9 (PV).

¹² See id. at V-5 through V-17 (PV). In the first sunset reviews, the Commission supported a finding of a likelihood of a reasonable overlap of competition, in part, by observing that “{t}he 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.” First Sunset Review Determination at 15 (footnote omitted).

¹³ First Sunset Review Determination at II-32.

¹⁴ See Second Sunset Review Determination at III-4, Table III-6.

¹⁵ Final Staff Report at II-3 (footnote omitted) (PV).

¹⁶ Id. at IV-8 (PV).

reviews, in these sunset reviews, the domestic industry's frozen shrimp production moved significantly towards an even split of shipments of block frozen and IQF shrimp.

As noted above, the final record in these sunset reviews also confirms that the domestic like product and subject imports were sold in the same channels of distribution, with "U.S. processors and imports from China, India, Thailand, and Vietnam {selling} mainly to distributors with most of their remaining sales going to retailers" ¹⁷ These sales were made into a market where demand has continued to grow. Just as in the investigations and in the second sunset reviews, ¹⁸ apparent U.S. consumption increased during the review period. ¹⁹ Both the domestic industry and producers in the subject countries continue to have the ability to respond to changes in demand with changes in the quantity of their shipments into the U.S. market. ²⁰

Accordingly, the final record supports the conclusion that there are no significant differences in likely conditions of competition among imports for any of the subject countries for which there is a likely overlap of competition. As such, the Commission should exercise discretion to cumulate subject imports from all four countries.

III. THE VOLUME OF SUBJECT IMPORTS IS LIKELY TO BE SIGNIFICANT

In the second sunset reviews, the Commission observed that the "four subject countries have substantial cumulated production and excess capacity even based on conservative estimates, {} they also export substantial volumes of warmwater shrimp, including to the United States," and that the export-orientation of these industries coupled with the openness and attractiveness of

¹⁷ Id. at II-3 (PV).

¹⁸ Second Sunset Review Determination at 29 and 37.

¹⁹ See Final Staff Report at II-1 (PV).

²⁰ See id. at II-7 through II-10 (PV).

the U.S. market created incentives for increased export volumes should the orders be revoked.²¹ The final record shows that during the review period, producers in India, Thailand, and Vietnam increased capacity, with cumulative practical warmwater shrimp production capacity in these three countries growing by 158.5 million pounds between 2019 and 2021, representing a 11.0 percent increase over the three-year period.²² Similarly, production of frozen warmwater shrimp from these three countries increased by 63.0 million pounds between 2019 and 2021, representing a 7.3 percent increase over that period.²³

Collectively, the capacity utilization ratio for producers in the three countries fell from 59.1 percent in 2019 to 57.9 percent in 2021.²⁴ The decline in capacity utilization took place on the heels of significant increases in farmed shrimp production in the subject countries. Specifically, the Final Staff Report indicates that aquacultured shrimp production in all four countries increased between 2016 and 2019 by 1.5 billion pounds, representing a 12.2 percent increase in farmed shrimp production over this four-year period.²⁵

The final record of these reviews also demonstrates that each of the subject countries remains export-oriented. The Final Staff Report observes that China's exports of warmwater shrimp to the world increased between 2019 and 2021, growing by 13.4 percent during those

²¹ Second Sunset Review Determination at 45-46.

²² See Final 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 Final 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, Table IV-40 (PV).

²³ See *id.* at IV-35, Table IV-17; IV-46, Table IV-26; and IV-56, Table IV-35 (PV).

²⁴ See *id.* (PV).

²⁵ See *id.* at IV-64 and IV-65, Tables IV-40 through IV-43 (PV).

three years and representing an additional 15.7 million pounds of warmwater shrimp exports.²⁶ Of the other three countries, only Thailand did not also increase its exports of warmwater shrimp over the same time period, as India’s export volume increased by 7.1 percent and Vietnam’s export volume increased by 4.2 percent.²⁷ Moreover, home market sales, by volume, peaked at 22.7 percent of the Vietnamese responding producers’ total shipments and 24.6 percent of the Thai responding producers’ total shipments during the review period,²⁸ while “{e}xports accounted for nearly all shipments” of the responding Indian producers.²⁹

The final record of these reviews also establishes that the United States remains an important and attractive market for subject imports. During the review period, the United States was the destination market for between 64.3 percent and 77.9 percent of the reporting Indian producers’ export shipments³⁰ and was far and away the largest single export market for Indian shrimp, with shipments to this market increasing from 40.0 percent of the volume of the country’s total exports in 2019 to 44.2 percent in 2021.³¹ The United States was the destination market for between 35.8 percent and 40.6 percent of the reporting Thai producers’ export shipments,³² with shipments to this market increasing from 25.9 percent of the volume of Thailand’s total exports in 2019 to 26.9 percent in 2021, and the U.S. comprising the largest single export market for Thailand in 2020 and 2021.³³ The United States was the destination

²⁶ See id. at IV-23, Table IV-9 (PV).

²⁷ See id. at IV-36, Table IV-18; IV-47, Table IV-27; and IV-57, Table IV-36 (PV).

²⁸ See id. at IV-42, Table IV-22 and IV-53, Table IV-31 (PV).

²⁹ Id. at IV-31 (PV).

³⁰ See id. at IV-33, Table IV-14 (PV).

³¹ See id. at IV-37, Table IV-18 (PV).

³² See id. at IV-43, Table IV-23 (PV).

³³ See id. at IV-48, Table IV-27 (PV).

market for between 20.7 percent and 42.2 percent of the reporting Vietnamese producers' export shipments,³⁴ with shipments to this market increasing from 6.4 percent of the volume of Vietnam's total exports in 2019 to 19.1 percent in 2021, becoming Vietnam's largest single export market in 2021.³⁵

In sum, the final record establishes that in the event of the revocation of the orders, subject producers have the capability to significantly increase production and, further, would be substantially incentivized to increase their shipments to the United States market.

IV. SUBJECT IMPORTS WILL LIKELY HAVE SIGNIFICANT ADVERSE PRICE EFFECTS

In the second sunset reviews, the Commission found that “subject imports and domestically produced frozen shrimp are at least moderately substitutable and that price is at least a moderately important factor in purchasing decisions.”³⁶ As noted above, the final record for these reviews supports the same findings here.³⁷

The final record compiled for these reviews demonstrates that “prices for warmwater shrimp imported from subject countries were below those for U.S.-produced product in 90 of 112 instances (86.5 million pounds); margins of underselling ranged from 0.3 to 43.3 percent.”³⁸ By way of comparison, in the original investigations, the Commission found that “subject imports undersold the domestically processed product in 318 of 543 quarterly comparisons, or 58.6

³⁴ See id. at IV-54, Table IV-32 (PV).

³⁵ See id. at IV-58, Table IV-36 (PV).

³⁶ Second Sunset Review Determination at 47 (footnote omitted).

³⁷ See Final Staff Report at II-14, II-16, and II-17 (PV).

³⁸ Id. at V-16 (“In the remaining 22 instances (5.0 million pounds), prices for product from subject countries for warmwater shrimp were between 0.1 to 61.3 percent above prices for domestic product.”) (PV).

percent of all such comparisons.”³⁹ Reviewing this information, the Commission found “the incidence of underselling to be significant.”⁴⁰ In the first sunset reviews, 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.”⁴¹ And in the second sunset reviews, the Commission found that “subject imports undersold the domestic like product in 64 of 166, or 38.6 percent, of quarterly comparisons.”⁴² Accordingly, the underselling of subject imports was even more pronounced in these reviews than in any prior proceeding, with the Final Staff Report documenting persistent and significant underselling of the domestic like product by subject imports under the discipline of the antidumping duty orders.

In the second sunset reviews, the Commission noted:

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.⁴³

As explained above, the same evidentiary factors supporting this finding in the last reviews continue to exist on the final record of these reviews. Price remains important in purchasing decisions. Significant quantities of subject imports remain present in the U.S. market and even more significant quantities of subject imports are likely to enter the United States in the event of

³⁹ Final Injury Determination at 29 (footnotes omitted).

⁴⁰ Id.

⁴¹ First Sunset Review Determination at 30.

⁴² Second Sunset Review Determination at 48.

⁴³ Id. at 50.

the revocation of the orders. These increasing subject import volumes are likely to undersell the domestic like product, due to subject imports winning sales through aggressive pricing, presenting the same circumstances that led the Commission to “find that a casual nexus exists between the large quantities of subject imports entering the U.S. market at declining prices and the corresponding price declines for U.S.-processed certain non-canned warmwater shrimp” and conclude that subject imports had significant price-depressing effects.⁴⁴ In sum, the final record in these reviews overwhelmingly supports a finding of likely significant adverse price effects in the event of the revocation of the antidumping duty orders.

V. REVOCATION IS LIKELY TO LEAD TO THE RECURRENCE OR CONTINUATION OF MATERIAL INJURY

In the original investigations, the Commission “conclude{d} that the cumulated subject imports have a significant impact on the domestic industry,” finding 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.⁴⁵

The Commission observed that fishermen “experienced declines in employment-related indicators and extreme deterioration in operating performance,” while domestic processors experienced “increases in inventories, declines in employment, and generally poor financial performance.”⁴⁶ 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.⁴⁷ At the same time, inventories held by these processors increased and, because shipments did not grow and

⁴⁴ Final Injury Determination at 31.

⁴⁵ Id. at 35.

⁴⁶ Id.

⁴⁷ See id.

inventories increased, “the ratio of inventories to shipments increased throughout the period examined.”⁴⁸ Employment in the processing sector also deteriorated and the average unit values for those processors’ sales also declined, “reflecting declining shrimp prices.”⁴⁹

Based on the record compiled in the first sunset reviews, the Commission observed that processors exhibited poor financial performance throughout the review period while fishermen showed operating losses in the final year of the period as well as the most recent interim period.⁵⁰ Finding that (1) the volume of subject imports would likely increase significantly; (2) 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 (3) 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.”⁵¹ Additionally, “{f}urther deterioration in financial performance will result in likely losses of employment, and, ultimately, likely losses in output and market share.”⁵²

Based on the record compiled in the second sunset reviews, the Commission observed that the “{t}he financial results of responding fishermen fluctuated annually, but were positive throughout the period of review.”⁵³ For processors, the Commission found that these companies’ “total net sales values fluctuated between years but declined overall from 2013 to 2015 . . .” and

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Id.

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Id. at 33.

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See First Sunset Review Determination at 33-34.

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Id. at 34-35.

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Id. at 35.

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Second Sunset Review Determination at 51-52 (footnote omitted).

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.”⁵⁴ Finding that import volumes from China, India, Thailand, and Vietnam would be likely to increase should the orders be revoked, the Commission concluded 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.”⁵⁵

As explained above, the final record compiled in these reviews establishes that in the event of the revocation of the orders, the volume and price effects of subject imports are likely to be significant. As subject import volumes increase while their prices fall, the domestic industry must either drop prices or lose sales. As such, given the current vulnerable state of both harvesters and processors, the revocation of the orders would likely lead to the continuation or recurrence of material injury.

For the shrimp fishing and farming (harvester) segment of the industry, the Commission received usable questionnaire responses from 329 firms reporting net sales of 49.3 million pounds of shrimp in 2021, believed to have accounted for approximately 21.3 percent of U.S. wild-caught and farmed shrimp production that year.⁵⁶ Although these harvesters reported increasing sales over the review period, warmwater shrimp landings for the U.S. commercial fishing fleet as a whole fell between 2019 to 2021.⁵⁷ The Final Staff Report observes that “{t}he

⁵⁴ Id. at 53 (footnote omitted).

⁵⁵ Id.

⁵⁶ See Final Staff Report at E-6 and E-65, Table E-6 (PV).

⁵⁷ See id. at E-4, Table E-1 and E-65, Table E-6 (PV).

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.”⁵⁸ Nevertheless, the record also shows that a significant portion of responding firms reported losses throughout the review period, with 25.2 percent of respondents reporting operating losses and 27.8 percent reporting net losses in 2021.⁵⁹

For the processing segment, the Commission received usable responses from 19 U.S. processors showing that production capacity (220.0 million pounds) remained the same from 2019 to 2021, with increased production over the review period from 107.6 million pounds in 2019 to 127.1 million pounds in 2021.⁶⁰ However, production in interim 2022 (80.9 million pounds) was 3.4 percent below interim 2021 (83.8 million pounds).⁶¹ The processors’ capacity utilization increased over the review period 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 2022.⁶² The processors’ shipments increased by 13.0 percent from 2019 to 2021, but declined by 11.3 percent in interim 2022 compared to the same time period in 2021.⁶³ The U.S. processors’ end-of-period inventories grew 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 2022.⁶⁴

The processors were marginally profitable throughout the review period, with operating income ratios of 0.9 percent in 2019, 2.9 percent in 2020, 1.6 percent in 2021, and 3.0 percent in

⁵⁸ Id. at E-64 (PV).

⁵⁹ See id. at E-66, Table E-6 (PV).

⁶⁰ See id. at III-5, Table III-5 (PV).

⁶¹ See id. (PV).

⁶² See id. (PV).

⁶³ See id. at III-14, Table III-9 (PV).

⁶⁴ See id. at III-15, Table III-10 (PV).

interim 2022 and net income ratios following a similar trend.⁶⁵ Nevertheless, throughout the review period, a sizeable number of U.S. processors reported operating and net losses. In 2021, eight of the nineteen (42.1 percent) reporting U.S. processors experienced operating losses, while six of the nineteen (31.6 percent) reported net losses.⁶⁶ In interim 2022, eight of the nineteen (42.1 reported) processors experienced both operating and net losses.⁶⁷

The cost of raw materials, historically comprised principally of shrimp,⁶⁸ 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 2021.⁶⁹ 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).⁷⁰ Thus, during the review period, increased costs for processors were not fully offset by an increase in prices for the domestic like product. The inability to recover additional costs through higher prices limits what may be paid to the harvesting sector, further aggravating the vulnerability of the domestic industry to material injury by subject imports.

In sum, the final record shows that the review period was characterized by relative stability for the domestic industry, although the industry's vulnerability appears to have increased towards the end of the review period 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. Should the orders be revoked, to compete with the

⁶⁵ See id. at III-19, Table III-12 (PV).

⁶⁶ See id. at III-20, Table III-12 (PV).

⁶⁷ See id. (PV).

⁶⁸ See Final Injury Determination at 12 n.57, First Sunset Review Determination at III-5, and Prehearing Staff Report at III-30 (PV).

⁶⁹ See Prehearing Staff Report at III-20, Table III-12 (PV).

⁷⁰ See id. (PV).

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. As such, the record of these reviews once again indicates that the domestic “industry could not withstand significantly increased volumes of low-priced subject imports without likely sustaining significant adverse effects” and the Commission should again find that “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.”⁷¹

VI. CONCLUSION

The final record of these reviews establishes 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 continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Accordingly, the Commission should find that the antidumping duty orders should be continued.

Respectfully submitted,



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⁷¹ Second Sunset Review Determination at 53, 55.