

CHINESE SEAFOOD: SAFETY AND TRADE ISSUES

THURSDAY, APRIL 24, 2008

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION
Washington, D.C.

The Commission met in the Orleans Room, Pan American Conference and Media Center, New Orleans, Louisiana at 9:00 a.m., Vice Chairman Carolyn Bartholomew (Hearing Cochair), and Commissioner Daniel M. Slane (Hearing Cochair), presiding.

OPENING STATEMENT OF CAROLYN BARTHOLOMEW VICE CHAIRMAN AND HEARING COCHAIR

VICE CHAIRMAN BARTHOLOMEW: Thank you. Good morning, everybody. I'm Carolyn Bartholomew, the Vice Chairman of the U.S.-China Economic and Security Review Commission. I'm also one of the cochairs of this particular hearing, along with Commissioner Dan Slane, who you will hear from in a minute.

I'd like to thank you all for coming. I'd like to thank and acknowledge the office of Senator Landrieu, who was very important in helping us get this room and helping us get this event organized today. So our appreciation goes out to them.

Each year, our Commission holds eight hearings to gather information for our annual report to Congress and at least one of those hearings is held outside the confines of Washington, D.C. We do this in order to hear firsthand the impact that Washington's policies regarding China are having on the American economy and national security.

Last year we held a hearing in North Carolina on the effect that imports of Chinese furniture and clothing were having on that state's economy. The year before, we held a hearing in Michigan to gauge the effects of imports of Chinese car and truck parts -- many of them counterfeits -- were having on the parts industry in the Midwest. Today we are here to hear about the effects that Chinese exports of seafood are having on the fishing and aquaculture industry of the Gulf Coast and on the health of American consumers.

Our Commission was created by Congress in 2000 to monitor, among other things, China's compliance with its international trade agreements. We report our findings to Congress, along with our recommendations for legislative and funding changes.

As many in this room might know, imports now account for a considerable majority -- over 80 percent -- of the seafood consumed by Americans. In 2007, \$2 billion of that was from China, up from only \$600 million in the year 2000.

As many Americans have discovered to their dismay, Chinese producers have been having problems with their quality controls. The list of consumer products that have been tainted with dangerous chemicals or substandard ingredients, such as toys, medicines, pet food, and toothpaste, is already too long. You can add to that lengthening list imports of fish from China.

Adulterated fish and China's reluctance to admit to problems about its quality controls on its fish farms have led to the Federal Food and Drug Administration to impose an "Import Alert" on six categories of farm-raised seafood from China. We will hear from the FDA how well this program is working.

The practice of dumping product on the U.S. market -- essentially, selling it below the cost of production or below the cost in China -- is also a matter of concern to the Commission. The U.S. Department of Commerce and the U.S. International Trade Commission, an independent agency, have both approved penalty tariffs on crawfish and on shrimp in response to dumping.

The Commission also intends to consider evidence during this hearing that the Chinese seafood industry, particularly its fish farms, receive large subsidies from the central and local governments in China.

Finally, I'd just like to note that our next hearing, in Washington on May 20th, will be on China's weapons proliferation practices and the development of its cyber and space warfare capabilities. On June 18th and 19th in Washington, we will be examining China's media control and access to information in China, as well as forced prison labor in China. So you can see the breadth of the issues that the Commission deals with.

But today we are, as I said, focusing on the all-important issue of consumer safety and the impact of China's seafood dumping in the U.S.

Now I'd like to introduce Commissioner Dan Slane, my colleague and cochair.

**OPENING STATEMENT OF COMMISSIONER DANIEL M. SLANE
HEARING COCHAIR**

COCHAIR SLANE: Thanks, Carolyn. Good morning, and welcome to our hearing. I'm very pleased to be back in New Orleans, gratified to see the determination of its citizens. It is reflected in the progress that has been made in restoring the Crescent City to its place among the world's great and distinctive cities.

I also want to thank the offices of the United States Senator Mary Landrieu for the advice and logistical support provided our Commission. We are here in the Pan Am Building through the aid and wise counsel of the senate staff. And we appreciate that very much.

Before I introduce the first panel, I would like to note how seriously we take the matter of compliance with health and safety regulations of the various federal agencies in charge of enforcement, testing, certification, and inspection of our imported food. We want to make sure that America's health and safety laws and regulations are respected and that our regulatory agencies are supplied with sufficient authority and resources to protect the consumers. Even now, Congress is debating how to meet the challenge of bringing our food safety system up to meet the challenge of globalization.

The Commission intends to participate in that debate and to bring back to Washington the lessons we have learned here. Certainly, we will benefit from seven panels of very knowledgeable witnesses, many of them quite expert in their fields. We will also welcome the comments of the public during our open mic session beginning at 3:15 p.m. Those wishing to speak are asked to register with the staff.

Finally, we welcome our witnesses and ask that each one speak not more than seven minutes to summarize the opening statements that many have already supplied. That will leave plenty of time for questions from the Commissioners to the witnesses. Their written statements will be part of the Commission records and will be published on the Commission's website, along with the transcript of this hearing and the eventual annual report, which will be delivered to Congress in November.

Our first panelist is Donald W. Kraemer. He is the Deputy Director of the Office of Food Safety with the FDA. Mr. Kraemer has over 30 years of experience working in the Food and Drug Administration. Currently, he is the Deputy Director of the Office of Food Safety, located in College Park, Maryland. In this position, he has general

responsibility for administration of FDA food safety efforts, including regulatory policy, budget, facilities, and personal issues in support of the Office Director. He also has specific responsibility for administration of seafood policy and research divisions.

Our other speaker is E. Spencer Garrett, who is the Director of NOAA, the National Seafood Inspection Laboratory. Mr. Garrett is the director of the National Seafood Inspection Laboratory located in Pascagoula, Mississippi. That facility was one of the largest seafood testing laboratories in the U.S. before it was destroyed by Hurricane Katrina.

He received his undergraduate and graduate degrees from the University of Southern Mississippi. He has served on the seafood safety and public health consultant to both FAO and WHO, and to his credit has over 200 presentations, feasibility studies, and/or publications dealing with increasing consumer protection in the consumption of fishery products.

At the request of Congress, in cooperation with other state and federal agencies, he has led the design of the new mandatory Seafood Inspection Program based upon the HACCP system concept. He is among the most contemporary published authors of the HACCP concept.

He has received numerous outstanding and superlative performance awards during his career, including the NOAA Gold Medal, Bronze Medal, and Lifetime Career Achievement Awards.

Welcome, gentlemen. And thank you for coming.

We'll start with Mr. Kraemer.

**PANEL I: GOVERNMENT PERSPECTIVES ON HEALTH/SAFETY OF
SEAFOOD IMPORTED FROM CHINA**

**STATEMENT OF DONALD W. KRAEMER
DEPUTY DIRECTOR, OFFICE OF FOOD SAFETY, CENTER FOR FOOD
SAFETY AND APPLIED NUTRITION, U.S. FOOD AND DRUG
ADMINISTRATION, WASHINGTON, D.C.**

MR. KRAEMER: Thank you. And thanks for the opportunity to provide testimony for the U.S. Food and Drug Administration on Chinese Seafood Imports. As you mentioned, I'm Donald Kraemer, Deputy Director of the Office of Food Safety at FDA's Center for Food Safety and Applied Nutrition, or CFSAN.

First, let me briefly describe FDA's Seafood Safety Program. FDA operates a mandatory seafood program for all

seafood products under the provisions of the Federal Food, Drug and Cosmetic Act, the FD&C Act, and the Public Health Service Act. FDA's program includes research, compliance, enforcement, outreach, and development of regulations and guidance.

Seafood products pose unique food safety challenges which are quite different from those posed by land animals. FDA has developed extensive expertise in these areas over decades of regulating this commodity. CFSAN operates the Gulf Coast Seafood Laboratory in Alabama, which specializes in seafood microbiological, chemical, and toxins research. Additionally, seafood research is conducted at our laboratories in College Park, Maryland.

FDA's field staff is responsible for ensuring regulatory compliance for seafood products produced in the United States and for those products imported from abroad. The field staff conducts inspections of seafood processing plants, conducts samples -- collects samples of seafood products, and conducts investigations to track food-borne illness.

In FY 2007, the FDA conducted approximately 3,600 inspections of foreign and domestic seafood processors and importers.

Processors of fish and fishery products are subject to the Hazard Analysis Critical Control Point regulation, or HACCP, as you mentioned. This regulation requires both domestic and foreign seafood processors to understand the food safety hazards associated with that product and, through a system of preventive controls, to keep those hazards from occurring. In this model, it is the seafood industry's responsibility to develop and implement HACCP controls, and FDA's responsibility to ensure that the industry complies.

The regulatory sanctions that FDA has available to apply to noncompliant domestic seafood processors are warning letters, seizures of products, injunction, prosecution of an individual and establishment.

The FDA has a long history of collaboration with NOAA, the National Marine Fisheries Service, on seafood research, law enforcement, standards development, inspection, and certification. We are in the process of renegotiating our 30 year-old Memorandum of Understanding on seafood inspection with a goal of improving the efficiency and effectiveness of both agencies' operations through enhanced collaboration.

When an FDA-regulated product is offered for import into the U.S., FDA may release the product, detain it for

examination or sampling, or detain it because the product appears to be adulterated or misbranded. The owner or consignee of the goods may provide evidence, such as third-party laboratory analysis, to rebut the appearance of a violation or may request permission to recondition the product to bring it into compliance. If the product is ultimately refused admission by FDA, it must be destroyed or re-exported.

While FDA is not able to physically examine or sample a large percentage of import entries, all entries are electronically screened for a variety of risk factors.

An important component of this electronic screening is a system of Import Alerts. Import Alerts provide guidance to FDA field personnel that FDA has sufficient evidence about a particular product to believe that the product may not meet U.S. requirements. On that basis, field personnel may detain the product without physically examining it. When an Import Alert is issued and FDA detains a shipment, the owner or consignee may provide evidence that the product is not violative.

FDA also conducts some inspections of food manufacturers overseas and works with foreign governments and industry to build their regulatory and scientific capacity. Importers have the responsibility to offer for import only products that comply with applicable U.S. laws. And as I previously mentioned, HACCP controls are required for both domestic and foreign seafood processors. Additionally, the regulation requires that U.S. importers take certain steps to verify that their foreign suppliers meet the requirements of the regulation.

In fiscal year 2007, FDA processed approximately 868,000 entries of imported seafood. Our field staff performed more than 14,000 physical examinations of seafood products and collected over 6,000 samples of domestic and imported seafood for analysis at FDA field laboratories.

Aquaculture accounts for approximately half of all seafood production worldwide, and more than 40 percent of U.S. seafood imports. By volume, China is the largest exporter of seafood to the U.S.

FDA is concerned about the use of unapproved drugs in aquaculture operations. The use of unapproved drugs, such as malachite green, nitrofurans, fluoroquinolones, and gentian violet can result in the presence of residues in the edible portions of fish. Fluoroquinolones are not approved for use in food fish in the U.S. because of the concern about increased microbial resistance in human pathogens. Additionally, prolonged exposure to nitrofurans, malachite

green, and gentian violet has been shown to induce cancer.

Since November 2001, FDA has tested shipments of aquacultured seafood from China and other countries. And when residues of unapproved drugs are found, individual firms have been placed on Import Alert.

During an increased sampling program in 2006 and 2007, FDA continued to find these residues of unapproved drugs in Chinese seafood. Because the problems were seen in product from many different companies and throughout China, FDA imposed a countrywide import alert on all farm-raised catfish, basa, shrimp, dace and eel from China in June of 2007.

A producer may be removed from that Import Alert if it provides evidence that it has the appropriate controls in place to ensure the safety of its product.

Zhanjiang Guolian Aquatic Products Corporation was the first Chinese company to request removal from the Import Alert. The Chinese regulator of food exports, AQSIQ, certified Guolian's compliance with FDA's Seafood HACCP Regulation. AQSIQ was interested in using Guolian as a model to show other aquaculture companies how to implement preventive controls for aquaculture drugs, facilitating their removal from Import Alert.

In September of 2007, FDA removed Guolian from the Import Alert. This decision was based on FDA review of documentation of the firm's HACCP controls and performance of an on-site audit of the firm's processing plant in China. It was also based on third-party laboratory analysis of five consecutive shrimp samples from the firm in which no drug residues were found and certification from the Chinese government that the firm is in compliance with Chinese requirements for exporting seafood.

Approximately 25 additional Chinese firms have applied for an exemption from the Import Alert. AQSIQ has certified 13 of these firms, and the National Marine Fisheries Service has certified five more of these firms. FDA is planning on-site audits in July.

At the same time that we were working with AQSIQ on issues relating to the Import Alert, FDA and others within HHS were negotiating an agreement with the Chinese government to help ensure the safety of food exported from China to the U.S.

In December of 2007, Secretary Leavitt and his Chinese counterpart signed this agreement. The agreement requires specific actions to be carried out by clear deadlines. Chinese manufacturers of agreed-upon products are to register with AQSIQ. AQSIQ will inspect them to U.S.

standards and share the registration data with FDA. AQSIQ will also certify that individual shipments of food meet FDA standards. And FDA will audit the Chinese registration and certification system to ensure conformance with the agreement.

In closing, let me emphasize that ensuring the safety of the food supply continues to be a top priority for FDA. Despite the challenges which face us, the American food supply continues to be among the safest in the world.

Thank you for the opportunity to testify today. And I would be happy to answer your questions.

[The statement follows:]

**Prepared Statement of Donald W. Kraemer
Deputy Director, Office of Food Safety, Center for Food
Safety and Applied Nutrition, U.S. Food and Drug
Administration, Washington, D.C.**

Members of the Commission, thank you for the opportunity to participate in today's hearing entitled *Chinese Seafood Imports: Safety and Trade Issues*. I am pleased to provide testimony for the U.S. Food and Drug Administration (FDA or the Agency) addressing one of your key issues for this hearing, which is to assess the health impact of imported Chinese seafood.

FDA's SEAFOOD SAFETY PROGRAM

FDA has statutory authority and responsibility for the safety of all food, except for most meats, poultry and processed egg products, which are regulated by the U.S. Department of Agriculture.

With respect to seafood, FDA operates a mandatory safety program for all fish and fishery products under the provisions of the Federal Food, Drug and Cosmetic (FD&C) Act, the Public Health Service Act, and related regulations. The FDA program includes research, inspection, compliance, enforcement, outreach, and the development of regulations and guidance. As a cornerstone of that program, FDA publishes the *Fish and Fisheries Products Hazards and Controls Guidance*, an extensive compilation of the most up-to-date science and policy on the hazards that affect fish and fishery products and effective controls to prevent their occurrence. FDA is finalizing the fourth edition of this guidance document, which has become the foundation of fish and fishery product regulatory programs around the world.

FDA's program for fish and fishery products is comprehensive in its nature and is fully integrated into the food safety structures of FDA's Center for Food Safety and Applied Nutrition (CFSAN) and FDA's field organization, the Office of Regulatory Affairs (ORA). Because of the cold-blooded nature of fish and the nature of the aquatic environment in which they live, fish and fishery products pose unique food safety challenges which are quite different than those posed by land animals. FDA has developed extensive expertise in these areas over decades of regulating this commodity.

CFSAN experts are responsible for evaluating the hazard to public health presented by chemical and microbiological contaminants in fish and fishery products. FDA operates the Gulf Coast Seafood Laboratory in Alabama, which specializes in seafood microbiological, chemical and toxins research. In addition, seafood research is conducted at CFSAN's research laboratory in College Park, Maryland. FDA, in collaboration with the National Oceanic and Atmospheric Administration (NOAA) at the Department of Commerce, also represents the United States at the Codex Alimentarius Commission's Committee on Fish and Fishery Products, the international food safety standard setting body for this commodity.

Inspections

FDA's field staff is responsible for ensuring regulatory compliance for fish and fishery products produced in the United States and for those products imported from abroad. The field staff conducts inspections of fish and fishery product processing establishments, conducts follow-up investigations to track food-borne illnesses, and performs other activities designed to ensure the safety of these products. In FY 2007, FDA staff and state contractors conducted approximately 3,600 inspections of foreign and domestic seafood manufacturers, processors, importers, and storage facilities.

Processors of fish and fishery products are subject to FDA's Procedures for the Safe and Sanitary Processing and Importing of Fish and Fishery Products, commonly known as the Seafood Hazard Analysis Critical Control Point (HACCP) Regulation, in 21 C.F.R. Part 123. In short, this regulation requires both domestic and foreign processors of fish and fishery products to understand the food safety hazards associated with their process and product and, through a system of preventive controls, to keep those hazards from occurring.

The HACCP inspection approach is used by FDA during domestic and foreign inspections of seafood processors to focus its attention on the parts of seafood production and processing that are most likely to affect the safety of the product. In contrast to historical methods of evaluating processing practices on the day of the inspection, the HACCP approach allows FDA to evaluate processors' overall implementation of their HACCP systems over a period of time by having access to the firms' HACCP Plans, including monitoring, corrective action, and verification records. In this model, it is the seafood industry's responsibility to develop and implement HACCP controls and the regulatory agency's to ensure that the industry complies.

Every three years, FDA issues compliance programs that outline the Agency's field staff's inspection responsibilities. The Domestic Fish and Fisheries Products Compliance Program (CP 7303.842) and the Import Seafood Compliance Program (CP 7303.844) provide a priority list for inspection coverage based mostly on risk. Examples of high priority products include ready-to-eat products, such as hot or cold smoked fish, scombrototoxin-forming fish, such as tuna or mahi-mahi, aquacultured seafood products, and fish packed in reduced oxygen packages.

Annually, FDA determines a "work plan" for each FDA district office that outlines the Agency's field staff's domestic inspection

responsibilities. This work plan focuses on areas that are a priority for the Agency, and allocates available resources.

Even though inspectional coverage is based primarily on product risk, FDA district offices may adjust that coverage to a particular establishment, such as one that may have been associated with a consumer complaint or illness or one with a poor compliance history. For example, the work plan may dictate that a processor be inspected annually, but if during an inspection the processor is found out of compliance re-inspection will occur more rapidly.

The regulatory sanctions that FDA has available to apply to domestic processors of fish and fishery products that are non-compliant are warning letters, seizure of products, injunction against further noncompliant practices, or prosecution of an individual or establishment.

REGULATION OF FOOD IMPORTS

FDA's primary authority over imported food and other products under our jurisdiction derives from section 801 of the FD&C Act, which provides a broad statutory framework to ensure that the products are safe, wholesome, and accurately labeled.

When an FDA-regulated product is offered for import into U.S. commerce, Customs and Border Protection (CBP) procedures ensure that FDA is notified. If the product appears to be adulterated or misbranded, based on examination or other information such as prior history of the product, manufacturer or country, FDA will give notice advising the owner or consignee of the appearance of a violation and the right to provide evidence (such as a laboratory analysis by an independent laboratory) to rebut the appearance of the violation. In some circumstances, importers may request permission to recondition the product to bring it into compliance with applicable requirements and regulations. If the product is ultimately refused admission, it must be destroyed within 90 days unless re-exported by the owner or consignee.

To better manage the increasing volume of imported products that we regulate, FDA currently screens electronically-submitted information on all incoming shipments, and then uses a risk-based approach to target our inspectional resources at products having the greatest potential for causing harm to public health. It is important to note that while FDA is not able to physically inspect a large percentage of import entries, all import entries are electronically screened for a variety of risk factors, using the Operational and Administrative System for Import Support (OASIS). OASIS is an automated system for processing and helping FDA make admissibility determinations for regulated products offered for import.

In 2002, Congress gave FDA significant new authorities to enhance protection of the food supply in the Public Health Security and Bioterrorism Preparedness and Response Act (the Bioterrorism Act). One of the most important provisions is the requirement that FDA be provided prior notice of food (including animal feed) that is imported or offered for import into the U.S. This advance information enables FDA, working closely with CBP, to more effectively target food that may

be intentionally contaminated with a biological or chemical agent or which may pose a significant health risk to the American public. Suspect shipments then can be intercepted before they arrive in the U.S. and held for further examination. Prior notice can be submitted either through CBP's Automated Broker Interface/Automated Commercial System (ABI/ACS) or FDA's Prior Notice System Interface (PNSI). Currently, FDA receives approximately 33,400 prior notice submissions per business day.

FDA has numerous other tools and authorities that enable the Agency to take appropriate action regarding imported products. The Agency conducts some inspections of food manufacturers overseas. FDA also performs routine surveillance examinations of imported goods to check for compliance with U.S. requirements. Because of the large volume of FDA-regulated foods being exported from a large number of countries, it is not feasible to routinely inspect every shipment of foreign-produced foods at the point of import. We do, however, work with foreign governments and food producers to help ensure that imported food is produced, processed, and packed in accordance with U.S. requirements.

Another key tool for screening imported goods is the Import Alert. Import Alerts inform FDA field personnel that the Agency has sufficient evidence or other information about a particular product, producer, shipper or importer to believe the product does not meet U.S. requirements or is otherwise unsafe. On the basis of that evidence, FDA field personnel may detain the article that is being offered for entry into the U.S. without physically examining the product. When an Import Alert is issued and FDA detains a shipment, the owner or consignee has an opportunity to introduce evidence to demonstrate that the product is not violative.

FDA also performs laboratory analysis on a sampling of products offered for import into the U.S. and performs periodic filer evaluations to ensure that import data being provided to FDA is accurate. Certain violations relating to imported food may lead to civil or criminal charges.

Seafood Imports

More than 80 percent of all seafood consumed by Americans is imported. FDA regulates imported seafood products, including those from aquaculture, by conducting foreign manufacturer inspections, inspecting importers, and performing examinations and collecting surveillance samples of imported goods at the time of entry. FDA prioritizes these import-related activities based on the products' risk. High priority products, and foreign processors or importers of high priority products, are assigned higher priority for surveillance activities. Lower priority products, processors, and importers are sampled or inspected less frequently with remaining resources. Examples of high priority imported products are the same as those produced domestically and include ready-to-eat products such as hot or cold smoked fish, scombrototoxin-forming fish such as tuna or mahi-mahi, aquacultured seafood products, and fish packed in reduced oxygen packages.

It is the importer's responsibility to offer for entry into the United States product that is fully compliant with all applicable U.S. laws. As previously stated, under the Seafood HACCP Regulation, HACCP

controls are required for both domestic and foreign processors of fish and fishery products. Additionally, the regulation requires that U.S. importers take certain steps to verify that their foreign suppliers meet the requirements of the regulation.

In fiscal year (FY) 2007, FDA processed approximately 868,000 entries of imported seafood, while our field staff performed more than 14,000 physical examinations of seafood imports and collected over 6,000 samples of domestic and imported seafood for analysis at FDA field laboratories.

CHINESE IMPORTS

China is a major producer, exporter, and importer of FDA-regulated products and it presents a diverse range of issues for the Agency. China is presently one of the world's largest producers and consumers of agricultural products, and a major supplier to the U.S. of seafood, canned vegetables, fruit juices, honey, and other processed foods. In the past, FDA has encountered compliance problems with several Chinese food exports, including lead and cadmium in ceramicware used to store and ship food, and staphylococcal contamination of canned mushrooms. While improvements have been made in these products, the safety of food and other products from China remains a concern for FDA, Congress, and American consumers. While these concerns are not unique to China, recent incidents have focused greater attention Chinese products.

Aquacultured Seafood

Aquacultured seafood is a fast-growing sector of the world food economy, accounting for approximately half of all seafood production worldwide. More than 80 percent of the seafood consumed in the U.S. is imported from approximately 130 countries, and over 40 percent of that seafood comes from aquaculture operations. By volume, China is the largest exporter of seafood to the U.S., and the second largest in terms of monetary value. In particular, China exports significant amounts of shrimp and catfish products, which represent two of the ten most consumed seafood products in the U.S.

As the aquaculture industry continues to grow, concern about the use of unapproved drugs and unsafe chemicals in aquaculture operations has increased significantly. There is clear scientific evidence that the use of unapproved antibiotics and other drugs and chemicals, such as malachite green, nitrofurans, fluoroquinolones, and gentian violet, can result in the presence of residues in the edible portions of aquacultured seafood. Fluoroquinolones are not approved for use in food fish and have been prohibited from extra-label use in the U.S. and many other parts of the world because of public health concern about the development of antimicrobial resistance. Moreover, prolonged exposure to nitrofurans, malachite green, and gentian violet, or their metabolites, has been shown to induce cancer in humans or animals. From a regulatory perspective, FDA has not approved any of these substances for use as drugs in aquacultured fish, nor are they generally recognized as safe or approved as food additives under the FD&C Act.

Since November 2001, FDA has tested shipments of aquacultured seafood

products from China and other countries, and when residues of unapproved drugs have been found, has placed individual firms on Import Alert. In 2006, we significantly broadened these restrictions by issuing an Import Alert providing for the detention without physical examination of eel from anywhere in China due to findings of malachite green. In the course of an increased sampling program of imported Chinese aquacultured seafood which ran from October 1, 2006, through May 31, 2007, FDA continued to find residue of unapproved drugs in fish species including catfish, basa, shrimp, dace and eel.

Because the problems were seen in product from many different companies located in various parts of China, FDA imposed a countrywide Import Alert (IA #16-131) on all farm-raised catfish, basa, shrimp, dace and eel from China.

Shipments of products covered by Import Alert 16-131, which went into effect on June 28, 2007, are subject to detention without examination at the time they are offered for import into U.S. commerce. The shipments can be released by FDA after evidence is provided to overcome the appearance that the products are violative. Such evidence could include appropriate samples of the product properly analyzed for the aquaculture drugs of concern by a third party laboratory and found to be free of drug residues.

A producer that provides evidence that it has the appropriate controls and processes in place to ensure the safety of its product will be considered for removal from detention without physical examination (DWPE). The import alert recommends that the producer provide information in three areas, as follows:

1. Documentation showing that a minimum of five consecutive entries have been released by FDA based on third-party laboratory analysis verifying that the products do not contain the specified substances;
2. Documentation from an appropriate third party demonstrating that an inspection of the processor was conducted and that the seafood was processed in accordance with FDA's Seafood HACCP regulations, including controls for aquaculture drugs; and
3. Documentation that the processor is in compliance with all Chinese government requirements for exporting aquacultured seafood to the United States.

Since imposition of the countrywide Import Alert, FDA has detained 2,964 shipments of aquacultured seafood from China, and through laboratory testing, 1,387 of those shipments have been released into U.S. commerce.

Zhanjiang Guolian Aquatic Products Corporation, Zhanjiang, China (Guolian), one of the largest aquaculture shrimp exporting firms in that country, was the first Chinese company to request removal from DWPE under the Import Alert. The Chinese government's regulatory agency responsible for the export of food, the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) certified Guolian's compliance with FDA's Seafood HACCP Regulation with respect to the control of unapproved aquaculture drugs. AQSIQ has expressed its intention to FDA to use Guolian as a model to show other

aquaculture companies how to implement preventive controls for aquaculture drugs that will minimize the risk of unapproved drug residues in the product, facilitating their removal from the Import Alert.

FDA's consideration of Guolian's request for removal from DWPE consisted of the following actions.

1. FDA personnel reviewed documentation of the firm's HACCP controls for unapproved aquaculture drugs and performed an on-site audit of AQSIQ's physical inspection of the firm's processing plant in China, which included a review of the documentation for aquaculture drug process controls. This audit, conducted in August 2007, indicated that AQSIQ's certification that the firm meets the requirements of FDA's Seafood HACCP Regulation with respect to the control of aquaculture drugs was well founded.
2. FDA reviewed reports of third party laboratory analysis of five consecutive shrimp shipments from the firm in which no drug residues were found.
3. FDA reviewed a certification from the Chinese government that the firm is in compliance with Chinese requirements for exporting seafood to the United States.

Based upon our review, we determined that the firm had demonstrated an ability to consistently produce a non-violative product. Therefore, on September 18, 2007, FDA removed Guolian from detention without examination under Import Alert 16-131. The Agency has reviewed reports of third party laboratory analysis from 27 shrimp shipments produced by the firm from the June 28, 2007 effective date of the Import Alert to the present. No unapproved drug residue was found in any of these samples.

Approximately 26 Chinese firms have requested their removal from Import Alert 16-131. To date, none have fully met FDA's expectations for removal from the Import Alert and Guolian remains the only firm exempted. However, AQSIQ has certified compliance for an additional thirteen Chinese firms and FDA has completed its paper review of the materials related to these firms. An on-site audit of AQSIQ's certification inspections of these firms is planned for July 2008. Successful completion of the audit will result in removal of these thirteen firms from the Import Alert and acceptance of future AQSIQ certification for other firms as meeting the second element (listed above) of removal from the Import Alert.

The National Marine Fisheries Service has also submitted a list of firms that they have certified to be in compliance with the Seafood HACCP Regulation with respect to the control of aquaculture drugs. FDA is awaiting materials from these firms to complete a paper review and, ultimately, an on-site audit.

MEMORANDA OF AGREEMENT

In September 2006, President Bush and Chinese President Hu Jintao agreed to create a Strategic Economic Dialogue between the United States and China. Reflecting the growing relationship between the U.S. and Chinese economies, the Strategic Economic Dialogue is designed to be a forum for discussing ways the United States and China can work

together to address economic challenges and opportunities as responsible stakeholders in the international economic system. Last May, in conjunction with the 2nd Strategic Economic Dialogue, FDA and others within the Department of Health and Human Services (HHS) initiated discussions regarding the need for stronger agreements with relevant regulatory agencies in China. The agreements are intended to help assure the safety, quality and effectiveness of FDA-regulated products exported from China to the U.S.

In early December 2007, HHS Secretary Leavitt and Chinese officials signed agreements that represent an unprecedented advance in FDA's efforts to ensure the safety and quality of food, feed and medical products imported from China. The documents, which were countersigned by the Minister of the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) and the Commissioner of the Chinese State Food and Drug Administration (SFDA), create an incremental, confidence-building system for enforcing compliance with U.S. standards in regulated products before they leave China.

The AQSIQ agreement requires specific actions to be carried out by clear deadlines, and is based on a three-pronged strategy of registration, certification and verification. First, the Chinese manufacturers of the agreed-upon items have to register with AQSIQ. AQSIQ will share the registration data with FDA, and the food producers must agree to regular inspections to ensure their exports meet the U.S. standards. Second, the agreement specifies that AQSIQ will certify food and feed covered by the agreement that meets FDA's standards. Third, to verify compliance, the Chinese are adopting quality-assurance methods to be applied at each step of the production process. For example, Chinese authorities will develop a comprehensive electronic tracking system to follow products from production to exportation. This will help ensure that growers and manufacturers are building quality into their processes and that FDA can take action if they do not.

Another critical aspect of these agreements is information sharing. Chinese authorities have pledged to provide timely notification to U.S. regulators under a wide range of circumstances, including the failure of a facility to meet inspection requirements and the suspension or revocation of a manufacturer's certification status. FDA inspectors will also gain broader access to Chinese production facilities and on an expedited basis.

FOOD PROTECTION PLAN

Going forward, all of FDA's seafood safety efforts will be informed by the Food Protection Plan announced in November 2007. The Food Protection Plan defines a science and a risk-based approach to better ensure the safety of domestic and imported foods eaten by American consumers.

The Plan, which focuses on both domestic and imported food, complements the Import Safety Action Plan that describes how the U.S. can improve the safety of all imported products. The Import Safety Action Plan lays out a road map with short- and long-term recommendations to enhance product safety at every step of the import life cycle. Taken together, the two plans will improve efforts by the public and private

sector to enhance the safety of a wide array of products used by American consumers.

The Food Protection Plan is premised on preventing harm before it can occur, intervening at key points in the food production system, and responding immediately when problems are identified. Within these three overarching areas of protection, the plan contains a number of action steps as well as a set of legislative proposals. Taken together, these efforts will provide a food protection framework that ensures that the U.S. food supply remains safe.

To strengthen its efforts to prevent contamination, FDA plans to strengthen support of food industry efforts to build safety into products manufactured either domestically or imported. The Agency will work with industry, state, local, and foreign governments to identify vulnerabilities and will look to industry to mitigate those vulnerabilities, using effective methods such as preventive controls.

The plan's intervention element emphasizes focusing inspections and sampling based on risk at the manufacturer and processor level, for both domestic and imported products, that will help verify the preventive controls. This approach is complemented by targeted, risk-based inspections at the points where foreign food products enter the United States.

The plan calls for enhancing FDA's information systems related to both domestic and imported foods to better respond to food safety threats and communicate during an emergency.

The Food Protection Plan's three core elements--prevention, intervention, and response--incorporate four cross-cutting principles for comprehensive food protection along the entire production chain by:

- Focusing on risks over a product's life cycle from production to consumption;
- Targeting resources to achieve greatest risk reduction;
- Using interventions that address both food safety (unintentional contamination) and food defense (deliberate contamination); and
- Using science and employing modern technology, including enhanced information technology systems.

CONCLUSION

Ensuring the safety of the food supply continues to be a top priority for FDA and we are working hard to ensure the safety of all human food and animal feed, in collaboration with our Federal, state, local, and international food safety partners. FDA is working diligently to efficiently and effectively use the resources and authorities provided by Congress to protect the public health of the U.S. and to help ensure that imported products are safe for American consumers. Despite the challenges which face us, the American food supply continues to be among the safest in the world. Thank you for the opportunity to provide testimony to the Commission.

COCHAIR SLANE: Mr. Garrett?

**STATEMENT OF MR. E. SPENCER GARRETT, NATIONAL OCEANIC
AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE,
PASCAGOULA, MISSISSIPPI**

MR. GARRETT: Thank you, Madam Chairman, Mr. Co-Chairman, and Commissioners. Good morning. It's a pleasure to be here in New Orleans, my favorite city in the world. And I've traveled all over the world. My grandmother used to live here. I thank you for your kind remarks on Katrina. I had 6 feet of water in my house in Pascagoula, Mississippi.

I'm Spencer Garrett, Director of the National Seafood Inspection Laboratory and the National Marine Fisheries Service under the Department of Commerce.

Our agency is responsible for the stewardship of the nation's living marine resources within the world's largest exclusive economic zone, or EEZ. Our agency protects and conserves these resources and their habitats through scientific research, fishery management, efforts to protect marine mammals and endangered species, law enforcement, habitat conservation, and we operate a voluntary seafood safety and quality monitoring and inspection program. Goodness, I used to be a bosun mate in the Coast Guard, and now I'm losing my voice.

VICE CHAIRMAN BARTHOLOMEW: I thought it was the gentle Southern --

MR. GARRETT: Trust me. I would like to begin my testimony with what we call the U.S. Seafood Industry. Our current per capita consumption of seafood hovers around 16 1/2 pounds annually. It's estimated that our per capita consumption of recreationally harvested seafood is about 3 to 4 pounds per person.

Our country, as well as highly other industrialized nations, have to rely not only on domestically-produced product, but also needs to import a large portion of seafood products for consumption.

Currently, we import about 83 percent of our total consumption of seafoods. The United States is the world's second largest importer of seafoods. Oftentimes when dealing with imports, it's difficult to determine from just where the seafood was harvested because the origin of the imported seafood may have been masked.

Our U.S. participation in the international trading of seafoods is incredibly complex, since not only are we the world's second largest importer of seafoods, we are also the

world's largest -- the world's fourth largest exporter of seafood commodities. This dichotomy of circumstances requires that our U.S. participation in the international trading of seafoods be extremely complicated when developing, marketing, and developing import and export food control inspection strategies.

As the amount of seafood imported to our country has grown, the safety of these products has become of critical concern. As you indicated, we import an annual -- we have -- the United States has a \$9.1 billion trade deficit with respect to seafood.

In 2006, we imported 102 billion pounds of seafood from China valued at what you mentioned, \$1.9 billion, nearly 2 billion. And in contrast, we exported 500 billion pounds of seafood to China valued at approximately \$450 million.

Traditionally, the human seafood product safety risks have been categorized, or subcategorized rather, into four very distinct categories of risk, those being environmental, process, distribution, and even consumer risk.

Now, the question is often asked: How safe are seafoods? The consumer hazards from these four risk categories and the consumption of all foods, all foods including seafoods, can be categorized into three very basic groups: Those involving food safety or product safety, whatever that may be; food hygiene, being clean plants, dirty plants, wholesome products versus unwholesome products, et cetera; and then mislabeling or economic fraud, which can also be a food safety concern if it relates to an allergenic consideration.

As with all foods, there are some risks. But in the case of seafood, the food safety issues are highly focused, well defined, and concentrated in a very few species.

It has been determined, for example, that for seafood-borne illnesses that were reported to our Centers for Disease Control where the cause was actually known, 72 percent of the outbreaks and 38 percent of the cases related to either ciguatoxin; scombrototoxin, which is really histamine toxicity; or the consumption of molluscan shellfish, usually in the raw state.

Economic fraud is sometimes referred to as a "shrouded consumer hazard," as there are few databases specifically designed to collect such economic fraud data. Economic fraud tests, when they are performed, are usually secondary to an investigative study for something else.

Now, it should be understood that not all occurrences of economic fraud are intentional, but can be caused by a lack of knowledge on the multiplicity of species in the

U.S., roughly 500. Economic, fraudulent, or deceptive practices within seafood include mislabeling or substitution of lower value species for those of higher value, low weights or undercounting, over treating or added water weight, altered color, and transshipment of product to avoid import or customs duties to mask the identity of either the country of origin itself or perhaps specific plants within a given country.

The Congressional Research Service has recently issued an excellent report on the economic fraud issue. And I believe that's in your briefing book, if I'm not mistaken. Our agency, through the Lacey Act and the Agricultural Marketing Act, can take direct action against mislabeled products, and our Office of Law Enforcement has taken such action, sometimes in conjunction with the Food and Drug Administration.

Our seafood inspection and certification provides inspection services for the domestic and international seafood industries that directly affect American consumers. The Seafood Inspection Program is a voluntary "fee-for-service" program that derives its legislative authority from both the Agricultural Marketing Act of 1946 and the Fish and Wildlife Act of 1956.

Its primary mission is to assist the seafood industry in producing high quality and safe products for the benefit of American consumers. To meet our inspection and certification responsibilities, the program conducts in-plant process and sanitation evaluations, product grading evaluations, and associated certification services. We consult and implement systems designed to prevent food safety and quality problems from occurring.

The program assists with developing standards and specifications that are consistent with applicable federal laws and regulations, including those of the Food and Drug Administration. All of these services are designed to help seafood processing firms produce high quality safe products that comply with all applicable recommendations.

The primary clients of our Seafood Inspection Program are seafood processing firms, importers, and exporters. In turn, their customers are large seafood buyers such as supermarket chains, the U.S. military, and so forth.

In 2006, we inspected approximately 1.9 billion pounds of seafood or approximately 30 percent of the seafood in the United States. Approximately 35 foreign participants, including 23 from China, also participate in our inspection and certification program.

As I noted earlier, the voluntary reimbursable program

derives all of its operating revenues from program participants. It does not use taxpayer money. The estimated program budget for 2008 is \$20 million. We estimate that the average cost for added quality and safety assurances provided by our inspection program is about a penny a pound.

Broad scientific support for the Seafood Inspection Program is provided primarily by the National Seafood Inspection Laboratory and the Northwest Fishery Science Center in Seattle, Washington. These programs allow NMFS to proactively and rapidly respond to seafood safety and aquatic animal health issues.

We also address episodic events on multiple levels from specific fish or shellfish and human health concerns within the broader marine environment. Our inspection laboratory performs thousands of analyses of NOAA-inspected product to determine compliance requirements with scombrototoxin, sodium bisulfite, antibiotic residues, selected microbial pathogens, and indicator organisms.

While our inspection program is funded through user fees, our aforementioned science, research, and monitoring activities are funded through appropriated funds. These research and monitoring programs provide, in large part, the necessary capability to respond quickly to environmental disasters in response to human health threats.

The value of this capability was evident during NOAA's rapid response to possible human health threats in the aftermath of Hurricane Katrina. Within weeks of the storm, the program, through our Northwest Fisheries Science Center, provided precise technical information on the safety of seafood from the northern Gulf of Mexico.

These research and efforts and the program monitoring efforts following Hurricane Katrina helped FDA to ensure public confidence in the safety of the \$7 billion Gulf of Mexico seafood industry and the fact that Lake Pontchartrain was not a toxic soup, as was being reported in the media.

As has been indicated by my colleague from the Food and Drug Administration, we have a long history of working cooperatively with the Food and Drug Administration regarding seafood safety risk assessment, management, and communication issues.

With regard to Chinese seafood imports, an important part of FDA's mission is the safety of food, rather, for American consumers. That agency faces huge challenges in regulating seafoods since we import such a large part of our consumption in this country.

China, Canada, Thailand, and Chile are the biggest

countries of origin for imports, with China shipping about 1.2 billion pounds to the United States per year. This volume demonstrates the challenges of effectively regulating and evaluating seafood flowing into the United States.

In conclusion, the international trading of seafood is massive and incredibly complex. OMB and the relevant federal food safety agencies are collaborating on ways to most effectively address the issue, raising GAO's designation of federal oversight of food safety as a high risk item in February 2007.

Madam Chairman and Commissioners, our agency looks forward to working with you, the public, the seafood industry, and FDA to ensure the safety of seafood we consume. I will be happy to answer any questions you may have.

[The statement follows:]

**Prepared Statement of Mr. E. Spencer Garrett, National
Oceanic and Atmospheric Administration, U.S. Department of
Commerce, Pascagoula, Mississippi**

Good morning, I am E. Spencer Garrett, Director of the National Seafood Inspection Laboratory located in Pascagoula, Mississippi. Our Laboratory is part of the National Oceanic and Administration (NOAA) National Marine Fisheries Service (NMFS), which is under the U.S. Department of Commerce (DOC).

NOAA's National Marine Fisheries Service is responsible for the stewardship of the nation's living marine resources within the world's largest exclusive economic zone (EEZ). NOAA/NMFS protects and conserves these resources and their habitats through scientific research, fisheries management, efforts to protect marine mammals and endangered species, law enforcement, habitat conservation, and voluntary seafood quality and safety monitoring and inspection. NMFS has both domestic and international responsibilities, and seeks to maximize economic benefits from the sustainable use and conservation of living marine resources.

The principal points I will be discussing this morning relate to the complexities of the U.S. fishery system. I will also provide a summary of how the NMFS National Seafood Inspection Program (NSIP) assists and complements the activities of the U.S. Food and Drug Administration (FDA) in addressing consumer hazards in the consumption of seafood products, including those from China.

U.S. Fishery System

First, I would like to describe the U.S. fishery system from a domestic viewpoint. I'll begin with our environmental fishery habitats, which must be protected so the United States will have a recurring, sustainable fishery resource. Our coastal estuaries serve as a

breeding ground providing habitat for more than 75 percent of commercial landings and 80 to 90 percent of recreational catch of fish and shellfish. From these habitats, hundreds of species of seafood are produced. In addition to wild species, aquacultured species (including imports) now contribute up to 45 percent of the U.S. seafood supply. Our wild species are harvested by 12 million recreational anglers and nearly 300,000 commercial harvesters. To give you an idea of the magnitude of marine recreational fishing in the United States, in 2006 recreational fishermen made approximately 89 million recreational fishing trips catching 476 million fish, of which more than half were released. In 2000, fishermen spent \$13.6 billion, which translates into more than \$31 billion in sales for the U.S. economy. The commercial harvesters deploy 90,000 vessels, while recreational fishermen operate hundreds of thousands of recreational fishing boats. There are nearly 5,000 domestic plants and wholesalers located in every state, not just among our coastal areas as commonly perceived. Our per capita consumption of commercially harvested species averaged 16.5 pounds in 2006. It is estimated that our per capita consumption of recreationally harvested seafood approaches an additional 3 to 4 pounds. Our country, as well as other highly industrialized nations, does not solely rely on domestically produced products, but rather must import a large portion of seafood products for consumption. For a number of years, over half of our seafood consumption has relied on foreign produced products. Currently, we import over 80 percent of our total consumption of seafood products. This trend for economic reliance on seafood imports has been steadily increasing over the past 10 years to the extent that the United States is now the world's second largest importer of seafood. When dealing with imports, it is often difficult to determine exactly where the seafood was harvested; the origins of imported seafood may have been masked.

U.S. participation in the international trading of seafood is complex; not only are we the world's second largest importer of seafood, but we are also the world's fourth largest exporter of such commodities. This dichotomy of circumstances complicates our participation in international trading of seafood when developing marketing and import/export food control inspection strategies.

As the amount of seafood imported into our country has grown, the safety of these products has become a critical concern. The United States has an annual \$9.1 billion trade deficit with respect to seafood. In 2006, we imported 1.2 billion pounds of seafood from China valued at approximately \$1.9 billion. In contrast, we exported 500 million pounds of seafood to China valued at approximately \$450 million.

Seafood Public Health Risk Profile

Traditionally, seafood product safety risks have been subcategorized into four categories: environmental, process, distribution, and consumer induced. The environmental group is further divided into natural hazards (i.e., biotoxins and marine pathogenic bacteria), or anthropogenic contaminants (i.e., PCBs, pathogens, antibiotics, residues, etc.).

How Safe Is Seafood?

Consumer hazards in the consumption of all food, including seafood, can be grouped into three areas: product safety, food hygiene (i.e., clean vs. dirty processing plants, wholesome vs. unwholesome products, etc.), and mislabeling or economic fraud (which can include allergenic considerations).

Let's focus for a moment on the often asked question, "How safe is seafood?" The question has been answered many times by the National Academy of Sciences (NAS), the Centers for Disease Control and Prevention (CDC), and others. The answer is simply that the vast majority of seafood is safe. However, as with all foods, there are some risks, and in the case of seafood the food safety issues are highly focused, well defined, and concentrated in a very few species. It has been determined, for example, that for seafood-borne illnesses reported to the CDC where the cause was actually known, more than 72 percent of the outbreaks and 38 percent of the individual cases relate to ciguatoxin (from a few reef fish species), scombrototoxin (from tunas, mackerels, bluefish, and a few other species), or the consumption of molluscan shellfish (mostly in the raw state).

How Prevalent Is Economic Fraud?

Economic fraud issues have been significant for a number of years throughout the domestic and imported seafood industry. Fraud is sometimes referred to as a "shrouded consumer hazard," as few databases are specifically designed to collect economic fraud data. When economic fraud data are reported, they are usually incidental discoveries. Economic fraud tests, when performed, are usually secondary to the investigative study. Not all occurrences of economic fraud are intentional; they can be caused by a lack of knowledge of the multiplicity of species in the U.S. market, or a lack of communication on the part of the processors, packers, or buyers. Economically fraudulent or deceptive practices within the seafood industry include: mislabeling or substitution of lower value species for higher value species, low weights or undercounting, over treating or added water weight, altered color, and transshipment of products to avoid import or customs duties or to mask the identity of either the country of origin or specific plants within a given country.

An excellent description of these fraudulent issues and federal and industry steps to curtail such activities can be found in the 2007 Congressional Research Service report, *Seafood Marketing: Combating Fraud and Deception* by Eugene Buck. One point of applicable law omitted in that report is that NMFS, through the Lacey Act and the Agricultural Marketing Act of 1946, can take direct action against mislabeled products and that our Office for Law Enforcement has taken such action. Our Seafood Inspection Program notifies the FDA when such issues are encountered or works directly with the NMFS Office for Law Enforcement.

NOAA's Seafood Inspection Program

NOAA's Seafood Inspection Program provides inspection services for the domestic and international seafood industries that directly affect American consumers. The Seafood Inspection Program is a voluntary, "fee-for-service" program that derives its legislative authority from the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627). The

Program has been in existence for over 50 years, first within the Department of the Interior and later in NOAA. Its primary mission is to assist the seafood industry in producing high-quality and safe products for the benefit of the American consumer.

To meet this mission, the Program conducts in-plant process and sanitation evaluations, product grading and evaluations, and certification services. We consult on and implement systems designed to prevent food safety and quality problems from occurring. The Program assists with developing product standards and specifications that are consistent with applicable federal laws and regulations. All of these services are designed to help seafood processing firms produce higher-quality, safe products that comply with all applicable regulatory requirements, including FDA laws and regulations.

The primary clients of NOAA's Seafood Inspection Program are seafood processing firms, importers, and exporters. In turn, their customers are large seafood buyers such as supermarket chains and the U.S. military. In 2006, the Program inspected approximately 1.9 billion pounds of seafood, or approximately 30 percent of the seafood in the United States. These domestic inspection services were accomplished through contracts with approximately 300 participants, and many more U.S. clients use the service on an on-demand basis. Approximately 35 foreign participants, including 23 from China, also participate in the NOAA Seafood Inspection Program.

The voluntary fee-for-service Program derives all of its operating revenues from program participants. It does not use taxpayer money. The FY 2008 estimated budget for the Program is \$20 million. NOAA estimates that the average cost for added quality and safety assurance provided by the Program is about \$0.01 per pound.

The Program employs about 165 people, sited across the United States. It receives support from a small staff of scientific and technical experts who provide training and analytical services, develop product standards and specifications consistent with applicable federal laws and regulations, and ensure that consumer labels meet all regulatory standards.

Scientific Support for NOAA's Seafood Inspection Program

Broad scientific support for the Seafood Inspection Program is provided primarily by the National Seafood Inspection Laboratory in Pascagoula, Mississippi, and NMFS' Seafood Product Quality and Safety Research and Monitoring Program at the NMFS Northwest Fisheries Science Center in Seattle, Washington. These two distinct programs allow NMFS to proactively and rapidly respond to seafood safety and aquatic animal health issues. We also address episodic events on multiple levels from specific fish or shellfish and human health concerns within the broader marine environment. The National Seafood Inspection Laboratory provides thousands of analyses of NOAA-inspected products to determine compliance requirements with scombrototoxin, sodium bisulfite, antibiotic residues, selected microbial pathogens, and indicator organisms.

While the Seafood Inspection Program is funded through user fees, the science and research activities at the National Seafood Inspection Laboratory and Northwest Fisheries Science Center are funded through

appropriated funds.

These research and monitoring programs provide, in large part, the necessary capability for NOAA to respond quickly to environmental disasters that can affect seafood safety and quality. The value of this capability was evident in NOAA's rapid response to possible human health threats in the aftermath of Hurricane Katrina. Without this support, NOAA's rapid response to Hurricane Katrina would not have been possible. The availability of trained and experienced staff and laboratory analytical capability is a critical prerequisite for a rapid, timely, and effective response to all seafood safety issues. These research and monitoring program activities, following Hurricane Katrina, helped FDA to ensure public confidence in the safety of the \$7 billion Gulf of Mexico seafood industry.

The NMFS Northwest Fisheries Science Center uses state-of-the-art research facilities to assess a wide range of chemical contaminants, pathogens, and marine toxins in seafood samples. The Center also has biological knowledge and experience with emergency field response, having responded to seafood safety issues after the Exxon Valdez oil spill in 1989. Most recently, the Center responded to the public's concern over seafood safety following Hurricane Katrina, when many laboratories in the storm-affected area were damaged and/or inoperable. The Center worked collaboratively with FDA and other agencies. NOAA sent a team to the affected area within days of the storm, and within weeks it provided precise technical information which helped to verify the safety of seafood from the northern Gulf of Mexico.

Relationship Between the Seafood Inspection Program and the Food and Drug Administration

NMFS has a long history of working cooperatively with the FDA regarding seafood quality and safety risk assessment, management, and communication issues. We cooperate from both an inspection and certification perspective, as well as from a fishery science, seafood safety research, and monitoring viewpoint.

With regard to Chinese seafood imports, an important part of the mission of the FDA is to protect the safety of food for the American consumer. The NOAA Seafood Inspection Program uses FDA criteria to evaluate products and processes.

About 83 percent of all seafood consumed in the United States comes from imports, a volume of approximately 4.1 billion pounds annually in 2006. China, Canada, Thailand, and Chile are the principal countries of origin for imports, with China shipping about 1.2 billion pounds to the United States per year. This volume demonstrates the challenges of effectively regulating and evaluating the seafood flowing into the United States.

The Seafood Inspection Program has been meeting with FDA to update the current Memorandum of Understanding between the agencies on seafood inspection matters in order to better serve the American consumer.

Conclusion

Mr. Chairman, Commissioners, and staff, NOAA and NMFS look forward to working with you, the public, the seafood industry, and the FDA to ensure the safety of the seafood we consume. I will be happy to answer any of your questions.

COCHAIR SLANE: Thank you.

Panel I: Discussion, Questions and Answers

VICE CHAIRMAN BARTHOLOMEW: Yes. Thank you, gentlemen, both for your appearance today and also for your service to the people of this country. I think that you have made great contributions along the way.

I have three different sets of questions. We might not be able to get to all of them in this round, and see if some of my colleagues will raise them. But let me put them out there.

First, I'm a little confused about the jurisdiction issues that go on.

Mr. Garrett, you're running a program that is voluntary. So does that mean that people, companies, or importers could voluntarily choose to go through your program, which would solve some of the problems about the FDA being unable to inspect everything that needs to be inspected?

MR. GARRETT: Perhaps not everything that needs to be inspected. But from our perspective, yes, it could assist. Importers do use our program to ensure that the product that they're buying is what they think they're buying; and secondly, that it meets the applicable laws and regulations of not only the Food and Drug Administration, but of ours, which actually does quality grading as well.

VICE CHAIRMAN BARTHOLOMEW: So --

MR. GARRETT: Oftentimes, on importations of food, there's something known as the Food, Drug, and Law Guarantee. Generally all imported trade is financed by letters of credit. In the letter of credit, should the importer put that it must pass federal inspection, meaning either FDA's or ourselves, and we inspect and pass the shipment, then the letter of credit can be closed.

VICE CHAIRMAN BARTHOLOMEW: So if an importer decides not to -- or either doesn't know about the program or decides not to, then the jurisdiction under which it falls is it's taking its chances with inspection or getting things in without inspection?

MR. GARRETT: No, no. Let me be perfectly clear. The Food and Drug Administration has the primary responsibility for the safety of foods, at least seafoods, in this

particular country. We view ourselves as an adjunct to that responsibility and work as close as we can with the Food and Drug Administration. It's really not a split jurisdictional thing at all. Okay?

But we have legislative authorities, including the Lacey Act, which the sanctions are severe, much more severe than those found under the Food and Drug Cosmetic Act, particularly economically.

For instance, we had one lobster case where it was mislabeled. It was South African Rock Lobster. And we got a \$7 million fine and people went to jail for five years. Oftentimes, game laws sanctions are much more severe than other civil laws.

VICE CHAIRMAN BARTHOLOMEW: Are there benefits for companies to participate in your voluntary program? Does it help facilitate the movement of their goods into the country?

MR. GARRETT: Yes, ma'am. Well, I think they would be the best witness for that. But like I said, they're going to pay \$20 million this year. So I think that speaks for itself.

VICE CHAIRMAN BARTHOLOMEW: Right.

MR. GARRETT: But yes, in fact, there are numerous benefits to participating in our program.

VICE CHAIRMAN BARTHOLOMEW: Mr. Kraemer, any comments?

MR. KRAEMER: Yes. Just a few. And I agree with everything that Mr. Garrett just said.

Of course, the NOAA program is market driven. So generally, customers are demanding the certification, if you will, of NOAA for their products. And that's how that program works. FDA's program is a legislated mandatory program. So that's the distinction.

You're probably all familiar with FDA's Food Protection Plan and the U.S. government's Import Safety Action Plan. Both of those plans put a lot of emphasis on the use of third-party organizations to provide assurances to FDA about the safety of products. As you know, and from my testimony, the volume of products is tremendous. And FDA can only look at a relatively small percentage of those products at time of entry. So we're looking to get more information to help us make decisions at time of entry.

And there are a number of third parties out there. And the National Marine Fishery Service is a prime example of one that we very much would like to take better advantage of their services, that if we had arrangements to get information from these third parties -- and also other third parties.

I'm talking about private entities as well, consultants, as well as foreign governments. All three of those are sources. NOAA, private, and foreign government are sources that we could get information from if we had assurance of the quality of that information.

So a big part of our efforts under the Food Protection Plan are to develop these programs. We'll talk, I'm sure, more about the China MOA. Again, that's a way of getting more information to us to help us make better entry decisions. In that way, we don't have to rely simply on sampling analysis at time of entry.

VICE CHAIRMAN BARTHOLOMEW: I think my time is up. So hopefully, my colleagues will ask my other questions. Otherwise, I'll have a second round.

COCHAIR SLANE: Commissioner Wessel?

COMMISSIONER WESSEL: Thank you, gentlemen, for being here.

If I could ask one specific question and then a broader question to understand the infrastructure of laws.

Mr. Kraemer, you talked about, I believe, the incident with the Chinese manufacturer -- the Import Alert exemption was offered. As I understand it, a month after that occurred, Canada put an import prohibition on that same company for imports that were not up to grade. There were problems.

MR. KRAEMER: Right.

COMMISSIONER WESSEL: What effect did that have on our government's activities? Did you go back in and take them off the exempt list? Did you begin sampling their food? What happened?

MR. KRAEMER: First, we were very concerned. And we collaborate constantly with Canada, so we had that information quite quickly. And we were concerned what happened. We had inspected the firm. By that time, we had more than a couple dozen shipments that had all been tested, and nothing had been found in it. So we did not --

COMMISSIONER WESSEL: This was not question of a different standard that Canada had with --

MR. KRAEMER: No. It's the same standard.

COMMISSIONER WESSEL: The same standard?

MR. KRAEMER: Yes. And so our field force did an investigation to figure out what had happened. And as it turned out, the product that had been shipped was shipped many months before the Import Alert went into effect. And Guolian had changed their practices as a result of the Import Alert to not have further problems.

It had sat in a frozen storage warehouse for that

period of time and eventually had got shipped to Florida and then to Canada. So it was an example of this very complex trading of seafood. It had come through the U.S. and then eventually ended up in Canada, had not been tested at entry at the time it came into the U.S.

We were also concerned about whether this product, in fact, had been falsely certified. This is another issue. There are a number of problems with the Chinese certificate system. There were some falsification problems. And there was concern that it might have been falsely certified and perhaps not even come from Guolian. That angle we investigated and were never able to fully conclude one way or the other whether it was properly certified or not. But in any case, it exceeded by a number of months the Import Alert. So we were relieved and took no further action.

COMMISSIONER WESSEL: But that would appear to raise two questions -- or more than two questions: One, should we have fear about other legacy imports, meaning that if they have all these products in a warehouse that are frozen, that after we give them some blanket exemption, which would have a lower standard of review, I guess, just meaning wave a lot of these through;

And two, what kind of confidence should we have in the system if, as you just described, they could be falsifying documents? Is the exemption approach, in fact, a viable approach?

MR. KRAEMER: As far as what product may be sitting in warehouses, of course, as time moves along, that becomes less and less of an issue. When we issued the Import Alert, there was a lot of, as you can imagine, press interest in, well, what about the product that's in my freezer. Can I use it?

The drugs that are of concern here are not going to result in an acute, immediate illness. This is a long-term exposure concern. And so we didn't advise consumers to throw away product they already had. We said our attempt here was to cut down long-term exposure to this product -- that's where the risk is, is from long-term exposure.

So the fact that there may be some shipments in some warehouses and somebody may end up eating an extra meal of that over their lifetime is not going to appreciably affect their risk. What we want to do is cut down the risk over their lifetime exposure.

As far as the certificate issue goes, I think that's a very, very legitimate issue. There is a significant problem with product leaving China that does not go through the official channels. In fact, the Chinese government has said

to us many times: Can you please stop products? Can FDA prevent products that are coming in without our certification from entering the U.S.?

The answer is we have no authority to do that. We are seeking authority from Congress in the Food Protection Plan. But presently, we don't have that authority. So they have asked us to stop that product because their export borders are so porous.

The other problem they have is the falsification of certificates, and that's because they're using paper certificates. We have told them that we will not accept a system, in our MOA with China that uses paper certificates because they're too easily falsified.

So we're working with our IT people and their IT people, which you can imagine has its complications, to try to get a system where we can electronically transfer certification so that our import inspector would get directly from China, from the government agency, the certification for that entry, which would be a much tighter arrangement than what China has presently.

I'm not sure if I answered all your questions, but...

COMMISSIONER WESSEL: My time is expired, so if there's another round, hopefully we can pursue that.

COCHAIR SLANE: Commissioner Fiedler?

COMMISSIONER FIEDLER: We have lots of time for multiple rounds, I hope.

Can I ask a couple of factual questions? Are there consignees? Are there importers in the United States that have significant share of market; in other words, are there some really large players here?

MR. KRAEMER: Oh, yes, certainly.

MR. GARRETT: Yes.

COMMISSIONER FIEDLER: Any idea on the breakdown? Is there somebody that imports 5, 10 percent of the seafood from China into the United States?

MR. GARRETT: We could probably make that information available, and we will note that. I don't know that information. I do know that there are large players, but I don't know what the allocation of the resources of imports are.

MR. KRAEMER: If that is something you need to know, we can certainly provide that to you. We can provide a breakdown of the number, the firms, and the percentages of them, I think --

COMMISSIONER FIEDLER: On both sides of the ocean, if you have that information available. In other words, I know that there are multiple players in both countries and that

the Chinese have a lot of aquaculture players. But are there significant players on both sides so that --

MR. KRAEMER: So you're looking for large exporters as well as large importers?

COMMISSIONER FIEDLER: Yes.

MR. GARRETT: Yes. Okay.

MR. KRAEMER: We can certainly provide that.

COMMISSIONER FIEDLER: And, I mean, I'm presuming at the moment that you guys target those folks or at least FDA does.

MR. KRAEMER: That is one of the considerations. Another consideration is their compliance history, the nature of the product they're exporting as far as its risk and a variety of the other factors. Yes, that's one.

COMMISSIONER FIEDLER: And, Mr. Garrett --

MR. GARRETT: Yes.

COMMISSIONER FIEDLER: -- on your side, it's voluntary. So the question is: Are those large players in the United States, these importers, the participants in your program?

MR. GARRETT: Many -- yes. Many do. As a matter of fact, the major participants in our particular program are the large players.

COMMISSIONER FIEDLER: And --

MR. GARRETT: Because it costs. But let me say something about this voluntary nature, if I may. Our program is voluntary, only when a person or corporation chooses to participate. Once they do, they have to sign a contract with us that they'll obey all federal laws.

COMMISSIONER FIEDLER: And you're in control of it then?

MR. GARRETT: We are in control of that. But not only that, if we want to prosecute, we only have to prove a contract law violation, as opposed to a food law, that is much simpler to do.

COMMISSIONER FIEDLER: Are the people who participate in your program a confidential sort of basis?

MR. GARRETT: Yes.

COMMISSIONER FIEDLER: So --

MR. GARRETT: Well, no. Certainly not as to their names. We have an approved list of all of the people that participated in our program domestically.

COMMISSIONER FIEDLER: If you could provide us that, please.

MR. GARRETT: All the products we inspect and so forth, and we'll provide it.

COMMISSIONER FIEDLER: If you could provide us that list, too, it would be good.

MR. GARRETT: Sure. No problem.

COMMISSIONER FIEDLER: The testing labs, U.S. companies, large retailers, some of them have contracts with independent testing labs.

MR. GARRETT: Uh-huh.

COMMISSIONER FIEDLER: Do we, as a government, have regulatory standards for those testing labs?

MR. KRAEMER: I'll answer your question two ways. One is that FDA does not have the authority to accredit testing laboratories. In fact, we've asked for that authority under the Food Protection Plan. We do inspect laboratories periodically that are providing analyses to FDA for purposes of getting product into the country. And we do review their laboratory reports of analysis when they provide them to us.

I'm sorry. It seems like there was another part of your question. Excuse me.

COMMISSIONER FIEDLER:

No. Yes. The first answer to my question -- that we don't have regulatory authority over those independent testing labs that you've sought. Is it in proposed legislation right now?

MR. KRAEMER: No. There is not legislation on the Hill at this point.

COMMISSIONER FIEDLER: Okay. So, --

MR. KRAEMER: Actually, I'm sorry. I believe there's a bill right now that's being discussed today.

COMMISSIONER FIEDLER: I think there's some contesting about that. So, quite clearly, the capacity of the FDA to inspect, whether it be in the United States or, frankly, in China with eight people that are proposed, plus local staff, given the number of things, is limited. Right?

In the meat-packing industry, for instance, let's take the Japanese. My experience with them over years was that they would come to the United States and inspect plants -- companies -- before they decided whether they were going to accept meat. For instance, years ago, they said, "We don't want to accept meat from any plant in the United States that uses wood handles on knives because they retain bacteria." And they said, "If you have plastic handles, we'll take your meat."

What is your knowledge about U.S. companies actually going to China and inspecting product before they buy it?

MR. KRAEMER: I think there are two issues here. I think there is no doubt that many U.S. buyers demand third-party certification. Some of them inspect themselves, by themselves. But many require third-party certification of their suppliers. In fact, that is a big part of the role

of the National Marine Fisheries Service that third-party certification.

MR. GARRETT: Yes. There are two concepts. One is known as "Just in Time Program Purchasing," where we don't want to inventory a lot of things in this country due to the energy cost and so forth.

And then secondly is something called SSP, Select Supplier Purchasing. And both of these conceptions are used by large institutional purchasers and also large institutional retail establishments, such as Kroger's, for example. We inspect products for Kroger in China.

COMMISSIONER FIEDLER: In China?

MR. GARRETT: Yes. In China, yes. Right.

COMMISSIONER FIEDLER: Your staff goes to China and --

MR. GARRETT: We have some staff in China right now.

COMMISSIONER FIEDLER: How many?

MR. GARRETT: Seven.

COMMISSIONER FIEDLER: Because you're going to have almost as many people as the FDA is.

MR. KRAEMER: I don't think we're suggesting they're permanently there.

MR. GARRETT: No, no, no.

COMMISSIONER FIEDLER: Oh, they --

MR. GARRETT: They're coming back soon. Yes, they're coming back soon.

COMMISSIONER FIEDLER: Oh, okay.

MR. GARRETT: Okay. When importers contract for Select Supplier Purchasing inspections or audits, one does more than just look at the hygiene, the food safety, and economic fraud concerns. One looks at the volume of production, the capacity to meet the purchasing specifications, the continued consistency of quality, etc. So it's a much broader inspection or audit than just food safety issues.

Being a lab director, I want to talk a little bit about the lab requirements. FDA does have some very stringent requirements for non-FDA laboratories to be able to test imported products that FDA has stopped at the border because they are suspect for one reason or another. Those stringent laboratory testing requirements are contained in Section 7 of the ORA laboratory manual entitled "Private Laboratory Guidance," which is issued by the Division of Field Science in the FDA Office of Regulatory Affairs. Those requirements relate to either a paper or on-site review of the staff competence of the testing laboratory, the QA systems of the laboratory, the test methods that are employed, and the instrumentation used at the laboratory, etc. They also review test results and perform on-site audits of third

party laboratories from time to time.

Our laboratory happens to be one of those permitted or sanctioned by the FDA, if you would, to test products that are being detained at port of entry.

COMMISSIONER FIEDLER: Thank you.

MR. GARRETT: That is why importers utilize third party laboratories to facilitate importation of products.

COMMISSIONER FIEDLER: My time is up, and I would like another round.

COCHAIR SLANE: Yes. Go ahead.

COMMISSIONER VIDENIEKS: Just a question for both of you. I've got a couple of questions. NOAA has been in existence for what, 30 years or so?

MR. GARRETT: Yes, sir.

COMMISSIONER VIDENIEKS: At which point, calendar-wise, when did NOAA actually get involved in an inspection --

MR. GARRETT: Yes, sir.

COMMISSIONER VIDENIEKS: -- running its labs? And that's question one. And a related question is because originally, I think it was a space-oriented type of mission that NOAA had, satellites and so forth. Also, does NOAA make a profit?

MR. GARRETT: Say it again?

COMMISSIONER VIDENIEKS: Do the labs make a profit rendering the services?

MR. GARRETT: Okay. Well, let me answer those. And then pick on him for a while.

Our inspection program has been in existence for over 50 years. It started in the Department of Agriculture. It was transferred to the Department of the Interior, where I joined it, in 1956, although I joined in 1965. Then it was transferred to NOAA in 1970 with the Reorganization Plan No. 4.

NOAA is a very diverse organization. Some of NOAA, in fact, did have satellites and was part of NASA, and our weather people still cooperate with NASA. But we have the National Weather Service, the National Marine Fisheries Service, and the National Oceanic Service. As an agency, we employ approximately 20,000 people NOAA-wide. And we are the single largest organization within the U.S. Department of Commerce.

In terms of the inspection program, we collect fees nearly equal to the program costs. That's the legislative requirement. We don't make a profit on our activities.

COMMISSIONER VIDENIEKS: So you cover your expenses?

MR. GARRETT: Yes, sir.

COMMISSIONER VIDENIEKS: The other question, kind of a

deeper question is: Is there a potential conflict of interest in the Department of Commerce in that you are both enforcers and facilitators?

MR. GARRETT: No, sir. I don't take umbrage at that, but --

COMMISSIONER VIDENIEKS: No. I'm saying you are different bureaus. Your bureau is one thing. The other bureau is something else.

MR. GARRETT: No, no. I understand. All of our inspectors are in the same civil service classification as the FDA inspectors, as Consumer Safety Officers. But just because we charge for our services doesn't mean that -- that we are on the take, so to speak. Or it gives the appearance even of a conflict of interest. Let me put it that way.

COMMISSIONER VIDENIEKS: That was not the intent of my question. My question was could it be perceived that it has a conflict of interest, like FAA has, for example --

MR. GARRETT: Sure. Sure.

COMMISSIONER VIDENIEKS: -- being both facilitators and enforcers?

MR. GARRETT: Oh, it could always be perceived and misperceived, sir.

COMMISSIONER VIDENIEKS: Another question was: What is FDA's responsibility at the border compared to what used to be Customs and now is part of ICE?

MR. GARRETT: Okay.

COMMISSIONER VIDENIEKS: Now, what does -- at which point and how does -- and we do inspect the process or actual goods. And is there a sampling procedure? And what kind of sampling?

MR. KRAEMER: Okay. The U.S. Customs has the authority to detain entries when they are offered for entry into the United States. When those entries are made, FDA and U.S. Customs have an arrangement where Customs will inform us if this is a product that's regulated by FDA, for example, seafood. And we then run through our processes of deciding whether this is a shipment that we are going to examine or collect a sample. If we do, we run the process that I mentioned in my testimony.

At the end of our process, we essentially turn the control back to Customs. And they will execute whatever our decision is; that is, whether we decide to detain, to reject the product, or require it to be re-exported or so forth.

COMMISSIONER VIDENIEKS: I heard one of you gentlemen mention the warehousing of seafood. Who bears the cost of refrigeration?

MR. KRAEMER: The importer does.

COMMISSIONER VIDENIEKS: The importer does. Okay. Fine. I live in a rural county in Virginia. And there, every animal that is slaughtered gets individually inspected. The Agriculture Department is called in, and they inspect that carcass --

MR. KRAEMER: That's correct.

COMMISSIONER VIDENIEKS: -- before it gets chopped up and -- I'll repeat the question again. Do we inspect the process, approve a process overseas; or do we actually inspect goods as they come into the border or across the border?

MR. KRAEMER: A little bit of both, but mostly goods. We do a very limited number of foreign inspections. FDA's authority is very different than USDA's authority, as you probably know. And we do not have the authority to require that a system; that is, the Chinese system, for example, be certified before products from that country can come into the U.S., which is the case with USDA with meat and poultry. It is not the case with FDA-regulated products.

So this agreement that we voluntarily reached with China is new in that sense, in that China has voluntarily agreed to provide us that certification, although there are no requirements under U.S. law that they perform that way.

So we are looking primarily at goods as they reach the border. Our desire is to change that process. And some of the elements of the Food Protection Plan are designed to get us there, to where we have the authority to demand certification before product can enter the country. But at present we don't have that authority.

MR. GARRETT: In our program, just as Don is indicating, in China, in the plants, we are looking at the process and the product three-fold -- three-fold for the plant, and things of that nature.

About the only carcass by carcass examination you will find in anybody's seafood inspection program, or even a plant's quality control program and quality assurance program, is tuna. Each carcass of tuna is looked at by a human three times: before it's gutted, when it's gutted, and then after it's baked they have to scrape the skin off, so somebody is looking at the carcass then. And then it's canned. So at the tuna is looked at three different times: before baking, after baking, and just before going into the can. So gutting, baking, and just before going into the can.

COMMISSIONER VIDENIEKS: Thank you.

COCHAIR SLANE: Commissioner Mulloy?

COMMISSIONER MULLOY: I want to join with the others who

thanked you both for your service to the public in your careers.

MR. GARRETT: Thank you.

COMMISSIONER MULLOY: My first question is just to get some facts. This agreement that was reached between HHS and the Chinese -- and the Chinese ministry, is this a legally-binding executive agreement, and has that been sent to the Congress under the provisions of the Case Act? And if you don't know that immediately, if you would provide that for the record, that would be helpful.

MR. KRAEMER: It is a binding agreement. I don't know enough about the process to know that -- I don't believe it has gone to Congress, but I certainly will confirm that.

COMMISSIONER MULLOY: I think if you do an executive agreement, it has to be sent to the Congress so that they know that we have this international agreement. I think that was done.

MR. KRAEMER: I'll have to confirm that for you.

COMMISSIONER MULLOY:

But if you would confirm that, that would be helpful.

Now, then I wanted to ask Mr. Garrett. This program that -- the "fee for service" inspections, this was a law that was passed quite a number of years ago?

MR. GARRETT: Yes, sir.

COMMISSIONER MULLOY: What year was it originally?

MR. GARRETT: 1946.

COMMISSIONER MULLOY: 1946. I presume that was mainly oriented -- the domestic-oriented fish industry?

MR. GARRETT: Yes, it was. It was primarily looking at developing grade standards and increased product standards and things of that nature. The nature and tenor of the program changed in 1956 when the Fish and Wildlife Act was passed, indicating that we should also develop better health standards for -- for fishery products.

COMMISSIONER MULLOY: It was still mainly focused on the domestic fisheries --

MR. GARRETT: Well, yes. But remember, we're importing 83 percent of what we consume.

COMMISSIONER MULLOY: I'm talking about the time the laws were passed.

MR. GARRETT: No, no. But remember, we're importing 83 percent of what we're consuming in this country. Much of that is going through domestic plants for value-added processing. So we are inspecting at two places. We are in about --

COMMISSIONER MULLOY: No. Stop. I'm trying to understand the intention of these programs. When they were

put in place, no, we weren't importing 80 percent or 85 percent.

MR. GARRETT: That's correct.

COMMISSIONER MULLOY: Okay. It was mainly to help the domestic industry and to help the health and welfare of the American people --

MR. GARRETT: Without question.

COMMISSIONER MULLOY: -- in using products from a domestic-oriented industry?

MR. GARRETT: That's correct.

COMMISSIONER MULLOY: Okay. So we are providing a service from the taxpayer to the industry, in a way. I mean, the government is in the business, through taxpayer money, of hiring people, who then get hired by the industry to help make sure that what they're doing is safe?

MR. GARRETT: Yes, sir. But in our program, it's user fee. It's not taxpayer based.

COMMISSIONER MULLOY: Do you think the fee for service incorporates the full cost, including pensions and everything else of the people who are working for that program?

MR. GARRETT: It approximates it. It approximates it.

COMMISSIONER MULLOY: I'll just give you the framework I'm looking at all of this.

When China joined the WTO seven years ago, no one imagined that they were going to have this share of our seafood market. And no one understood the problems that we might encounter. So now we have all this seafood coming in from China -- and we're going to get later witness that are going to say these are subsidized industries -- five-year plans, earned export earnings, et cetera. My concern is -- and they're wiping out a lot of domestic jobs. My concern is that the United States government now is on a process of using taxpayer money to put our people in China to help them export more to the United States and ensure that it's safe, rather than putting the responsibility on whoever is importing that stuff from China to take on both the economic cost and the legal burden of ensuring that that stuff is safe.

Because I think there's a subsidy going on here that our people are subsidizing these imports, inadvertently maybe, from China, wiping out our own people. And it just doesn't make sense to me, as I think about it.

MR. KRAEMER: Would you mind if I react just very quickly just on a couple of factual points?

I certainly appreciate your sentiments. The couple of points I'd like to make is that the agreement with China is

designed to require China to take steps that are equivalent to what the U.S. FDA does to assure the safety of its products. We have recognized that our present system of looking at entries at the time that they're offered for entry into the United States is in essence, it's the little Dutch boy with his finger in the dike. We can't do enough at that point. So our effort and the people that we would put in China would be to audit their system as a much more efficient way of having control over the entries, rather than entirely relying on entry.

So I don't think it's entirely an accurate statement to say that we're there -- we couldn't possibly inspect all of the food producers. China has something on the order of half a million food producers. Even if we put seven people in China, we couldn't get to them for hundreds of years. So we have to rely on the Chinese system. But we have to verify the adequacy of their system by auditing it, which is what our purposes would be. So I understand your point, but I did want to clarify a couple of issues. Thank you.

MR. GARRETT: Could I clear up one factual point there, or actually two? One, our seven people also are in an audit mode. We take product samples and ship them to an ISO 170205 certified laboratory in Hong Kong. But again, all of this is done on a user fee basis. We don't use tax dollars.

Now, we do have appropriated funds that oversees the efficacy, and the integrity, and the competency of our inspection program. My laboratory audits the inspection program, and we're paid from appropriated funds for those activities.

COMMISSIONER MULLOY: My time is up. But I hope we'll have another round.

MR. GARRETT: But I personally appreciate your subsidy comments, and I intend to look into the subsidy issue, personally, myself.

COMMISSIONER MULLOY: Yes. Thank you.

COCHAIR SLANE: Gentlemen, here's what I'm struggling with. There are 4 1/2 million fish farmers in China. And the Chinese have degraded their environment to such an extent that there is enormous water pollution. And it seems to me to be getting worse. The issue is: How does Congress protect the American consumer?

This is very complicated. The last thing we want to do is to create a lot of problems with unintended consequences. But what would you recommend that we recommend to Congress to try to protect the American consumer here?

MR. GARRETT: Could I go first?

COCHAIR SLANE: Sure. Go ahead.

MR. GARRETT: Don, you're going to love what I'm about to say. We've been friends --

COMMISSIONER FIEDLER: Give the FDA more money, huh?

MR. GARRETT: That's exactly what I'm going to say. That's exactly what I'm going to say.

COMMISSIONER WESSEL: His 10-point plan.

MR. GARRETT: Yes. I'm just -- no.

COMMISSIONER WESSEL: Get your wallet out.

MR. GARRETT: Yes. No. I'm going to have to get my wallet out.

But no, I do think that Congress should look very closely at what FDA is proposing and give it serious consideration. It is an agency that needs augmentation, both in authorities and fundings. Not to say we don't, but I would certainly go for FDA first. I really would.

MR. KRAEMER: Thank you, Spencer. It's going to sound somewhat self-serving, of course. But I do think we put an awful lot of effort into the Food Protection Plan, and I think the U.S. government put a lot of effort into the Import Safety Action Plan.

I think, in particular, speaking to the Food Protection Plan, there are some very valuable components of that, many of which are now reflected in the Dingle Bill that's being discussed back in Washington today, as a matter of fact. So I think these are the kinds of provisions that would significantly change the way FDA is able to regulate imports.

We've looked at where the weaknesses in our system are. Again, when FDA was put in place, much like with NOAA, food in the United States was produced in the United States. It was the exception, rather than the rule, that the food was imported. And so the controls that were in place at that time were probably perfectly adequate.

I think it's now 10 million entries a year of FDA-regulated products -- we need additional tools to be able to effectively deal with those. I think some of those are the kinds of things we've talked about, such requirements as providing the agency the authority to say this product cannot come in until it's been certified by someone who we have confidence in. That's an important authority for us.

MR. GARRETT: Could I extend my remarks then?

COCHAIR SLANE: Sure.

MR. GARRETT: In addition to that, I think the Senate or the Congress, rather, should take a look at Bill 2688, which gives NOAA certain authorities, but also requires a closer collaboration with the Food and Drug Administration.

And possibly, I would like to see a -- an arrangement made where either agency could exchange funds and personnel.

During the harmful algal bloom that appeared in New England about 2 1/2 years ago, Red Tide caught us all by surprise. Our agency has programs in predicting harmful algal blooms. And it was very, very good, because we could track the bloom and predict where it was going.

Further, we had money for testing from FDA, but we had no vehicle to transfer the money to the Food and Drug Administration so they could get the stuff tested. I think that there needs to be a mechanism where either agency can exchange personnel, can exchange funds during these episodic seafood events.

COCHAIR SLANE: Go through --

VICE CHAIRMAN BARTHOLOMEW: First, I have a factual question I want to clear up, and that's the status of the staffing. You said you have seven people. Are they on the ground in China, or do they go in and out?

MR. GARRETT: In China, they go in and out. Our inspection program itself has about 175 people total in our seafood -- and our consumer safety officers, they number somewhere about 140, 150, somewhere in there.

VICE CHAIRMAN BARTHOLOMEW: And will this MOA put any restrictions or have any impact on the ability of the people that you have going in and out to do what it is they are doing?

MR. GARRETT: Not to my knowledge. Don might know that.

MR. KRAEMER: No.

MR. GARRETT: Because I certainly don't think so.

VICE CHAIRMAN BARTHOLOMEW: One of my questions about the MOA which hasn't even been implemented yet is -- or is in the process of being implemented, is that Chinese government officials will essentially be controlling the process. They will be controlling the access to the plants which the FDA might want to go into, the certifications which we've already said.

The Chinese government is a government that is notoriously corrupt. What confidence can we have that they will be allowing access when it seems, with a lot of these issues, their first response is to say, "It's not us."

Heparin is a perfect example. They're saying, "Not us, not our problem, not a problem caused by us." How do we know that they are going to be working cooperatively? And what kind of confidence can we have in this -- in this process as you guys go through it?

MR. KRAEMER: I think those are perfectly reasonable

questions and they're certainly things that are not in the back of our minds when we're negotiating with the Chinese. I have a couple of ways to respond.

The first is the Chinese economy has suffered substantially from the food issues, notwithstanding the toys and other issues that we've had with Chinese goods. And in our negotiations, we believe they are truly motivated to try and work with the system where, if they certify a product to us, we will not find problems with that product.

They understand that they're not going to get multiple bites out of the apple on that, that if they ship products and then certify them to us and we find problems with them, or God forbid, they cause illness, their efforts to change consumer perceptions of the Chinese brand, as they call it, will be very much undermined. So that's one point. I think there's a significant motivation that they understand this is their chance to succeed.

Another, of course, we will not give up our verification steps. The first will be that before we accept the first certification and use it in any concrete way to help us make decisions, we will audit their program. And we will periodically audit their program over time, which is built into the MOA.

In fact, if the program is not performing against the performance matrix that are built into the MOA, there is provision in the MOA for us to remove ourselves from the MOA. So we're not committed to it if it's not delivering appropriate assurance to us.

And then the third -- it's still part of the verification -- is that we will continue to test their product over time, as we have in the past, certainly at a low rate, as we do now. But if the system is significantly malfunctioning, we will detect it in our sampling at the border.

VICE CHAIRMAN BARTHOLOMEW: My final question is: What is a consumer supposed to do? Obviously there's Congress going through what Congress goes through, which might or might not result in some of the changes that have been requested. But, Americans have been told to eat more fish because it's healthy. I've started, myself, in restaurants asking the wait staff if they can tell me where the fish that is on the menu is from. They dutifully trot back to the kitchen and then come back out and sort of are vague. "Well, it's farm-raised." Or they don't really have the answers.

Given the concerns about re-exportation, that if you turn stuff away -- there seems to be some factual basis that

people are just trying to bring in their shipments through other ports.

Do you guys order fish when you go out to eat? And what is a consumer to do?

MR. KRAEMER: I ate it last night.

MR. GARRETT: I ate it last night as well.

VICE CHAIRMAN BARTHOLOMEW: Did you ask where it was from, or did you catch it yourselves?

MR. KRAEMER: No. I think those are good questions. Not to minimize at all the problems we have had with the Chinese consumer goods, and certainly including seafood, because they have been significant. But the vast majority of goods coming from China are safe--vast majority. Of course, you don't hear about those in the press because they don't make good press. But there really is no reason for consumers to be concerned, to be worried, that the food they are going to get tonight, the seafood they are going to get tonight is unsafe.

I would say, in particular, the advantage we have right now with Chinese imported seafood is that every shipment of aquacultured fish from China is being tested. That's not the case with shipments of product from other countries.

So right now, if the answer was Chinese aquacultured fish, you can be assured that that lot was tested and FDA reviewed the results of that analysis.

So I have great confidence in the safety of the product. We will, from time to time, have problems. And I think the efforts we have, including the MOA with China, are going to dramatically reduce the incidence of those problems. We certainly have had our share of problems. There is no question about that. But I think we are on top of it and I think consumers can eat with confidence.

VICE CHAIRMAN BARTHOLOMEW: Mr. Garrett?

MR. GARRETT: Yes. I agree with what Don is saying. I think a distinction that I need to make with a difference, not from his testimony, but it's what he said earlier. We have to understand that some of these banned chemicals and so forth, from a risk assessment purpose, is for lifetime exposure, not for a particular food - a food consumption event exposure rate.

I think that gives me great comfort. Now, whether it does the consumer or not, I thought that might be a consumer banging on the wall disagreeing with Don. But you can tell we know one another. But no. I certainly agree with what Don is saying. And I'll just let it go at that. But I eat seafood four times a week, ma'am.

VICE CHAIRMAN BARTHOLOMEW: But do you live in a state

that bans seafood from other places? You live in Mississippi?

MR. GARRETT: Yes, ma'am.

VICE CHAIRMAN BARTHOLOMEW: Is the bulk of the seafood that you would be ordering, seafood that is raised and/or caught in --

MR. GARRETT: Ma'am, I don't have a clue where the seafood is coming from. The only time I ask if it's farm-raised or wild is if I'm going to eat salmon rare. And then I want farm salmon, not wild salmon.

VICE CHAIRMAN BARTHOLOMEW: Oh.

COMMISSIONER MULLOY: Why?

MR. GARRETT: Because wild salmon has pathogenic worms in it. So you cook it. I don't eat raw salmon.

Now, if you're going to a sushi restaurant, let me very hastily say that wild salmon has been frozen. You can freeze salmon or any other fish for 48 hours. And then it renders those -- those entities, if you don't like worms, those entities noninvasive.

COCHAIR SLANE: Commissioner Wessel?

COMMISSIONER WESSEL: Thank you, gentlemen.

To follow up on some issues -- and I was a fish cutter at one point in my life, so this is an area of great interest. I would like to follow up in part on Commissioner Bartholomew's line of questions because we have country of origin labeling. And that, I believe, has certain limits to it.

If I remember correctly, if you freeze the shrimp and then retail it -- cook the shrimp -- I'm sorry -- and then sell it, you don't have to have a designation of where the shrimp was caught, farmed, et cetera.

You have talked about NOAA's program for certification. How is that information used? What limits are there in the current system so that a consumer who wants to know what they are putting on their family's table at night or eating in a restaurant, that they are going to have the confidence that they can make the right choices for their families?

When we looked at toxicity of various carcinogens or microbial products, et cetera, we've seen standards change over time. So lifetime ingestion, you know, certainly has -- is something to be factored in. But some people want to make sure they are getting the best they possibly can and not just relying on current standard. So if you could, talk about the infrastructure of laws. Commissioner Bartholomew talked about the Mississippi -- and I remember it's Alabama --

MR. GARRETT: Alabama.

COMMISSIONER WESSEL: -- that has the restriction.

How does that work? Can states have a different standard? Can they preclude imports into their states -- for their consumers? If you could talk about the whole network of consumer --

MR. GARRETT: Sure.

COMMISSIONER WESSEL: -- right to know --

MR. GARRETT: I'm going to let Don answer most of that. But before he does, relative to the country of origin labeling -- and Don can certainly address that -- I want to point out that there's somewhat of a difference when you talk about cooking the shrimp and freezing it and so forth. That's really a Custom's requirement called "Transformation of Product."

And I always thought, being a country boy and used to be a shrimp boat captain, as a matter of fact, you know the processes are you catch the shrimp, you head the shrimp, you peel the shrimp, you devein the shrimp, you cook the shrimp, or if you don't cook it, you may bread it. And I always thought that it had been transformed. But, you know, I'm not sure Customs agrees with that, so --

COMMISSIONER WESSEL: Well, there is the question of dusted shrimp and all the rest.

MR. GARRETT: Yes, they're dusting it again. To me, that can be an economic fraud issue again.

COMMISSIONER WESSEL: Right.

COMMISSIONER MULLOY: Economic fraud? Yes.

MR. GARRETT: Yes, but Don can lead you through the cool labeling and things of that nature because that is in their jurisdiction.

COMMISSIONER WESSEL: But can they -- and just for example, Red Lobster, which I assume -- I believe is one of the participants in your program.

MR. GARRETT: That's correct, sir. Yes.

COMMISSIONER WESSEL: Can Red Lobster use the designation in their menus, the information to their --

MR. GARRETT: If they wanted to, sure.

COMMISSIONER WESSEL: They can? So it can be a marketing tool just as --

MR. GARRETT: Sure. Oh, yes.

COMMISSIONER WESSEL: Okay.

MR. GARRETT: Sure.

COMMISSIONER WESSEL: Please, sir.

MR. KRAEMER: I don't always live up to Spencer's expectations, and this will be another example. But the country of origin labeling is actually administered by the Department of Agriculture.

COMMISSIONER WESSEL: For seafood as well?

MR. KRAEMER: Yes. I'm not an expert on that. There are transformation issues there, at what point it could be labeled a product of the U.S. and at what point it can't. But I would be happy to get you additional information.

Actually, it sounds like you have a fair amount already, based on what you've been talking about. But if you would like some information on country of origin, I'd be happy to --

COMMISSIONER WESSEL: It would be helpful to know the -- how COOL works in terms of seafood and where -- for example, if you were to bring filets in, tilapia filets from China in, if it were to be breaded, what is it a product of? Is it a product of China or is it a product of the U.S.? How does the consumer have the information they need? What do industries do to enhance the marketing opportunities of U.S. companies? But also, the issue of Alabama, how does that fit into the FDA's --

MR. KRAEMER: Okay. Because I can address that.

COMMISSIONER WESSEL: Please.

MR. KRAEMER: Yes. And just to account for my ignorance there, the distinction between country of origin labeling transformation and Customs -- they are different. That's part of my reasoning, is that I can't keep them apart and need an expert on it.

But states, of course, have jurisdiction over product within their state. States do not, under the Constitution, have the authority to regulate imports. FDA does. And so states do not intervene in the importation of products, even if it's coming into their state.

But what they can do is, once it's been admitted into commerce in their state by FDA, they then can seize the product, for example, as violating their own statutes. FDA's regulatory requirements are the minimum that can exist anywhere in the country, of course, because they apply to all food in interstate commerce in the U.S. But a state can set tighter standards if they choose to, and many do.

And, as is the case with Alabama, they've made their own determination that all aquacultured products from China are "adulterated," I assume is the term they've used, or "misbranded," and therefore, are not allowed in commerce.

COMMISSIONER WESSEL: But is there information sharing between FDA and the State of Alabama --

MR. KRAEMER: Yes. We are aware of the information they used. We did not find it sufficient to take the action that they took. And we eventually were able to take the Import Alert action against the categories of products that

are in the Import Alert. We didn't have enough information on other categories of aquacultured fish to take the same kind of action.

For example, our action does not cover tilapia because the violation rate was not very high with tilapia. The State of Alabama's action, as I understand it, applies to tilapia as well.

COMMISSIONER WESSEL: Thank you.

COCHAIR SLANE: Jeff?

COMMISSIONER FIEDLER: I may be missing something here, and math was never really a good subject of mine.

Mr. Garrett, in your testimony, you say that the program inspected approximately 1.9 billion pounds of seafood or 30 percent of the seafood in the United States. That is domestic and foreign?

MR. GARRETT: Yes, sir. Well, I'm assuming since we import 83 percent.

COMMISSIONER FIEDLER: Okay. And you did it with 165 people, say?

MR. GARRETT: Uh-huh.

COMMISSIONER FIEDLER: And it cost a penny a pound. That adds up to \$20 million. So let's call it a third. So for \$60 million and 400 people, we could inspect virtually all of the seafood in the United States?

MR. GARRETT: Well, no. I'm not certain that -- I mean, one can make that assumption. But I'm not certain that would necessarily be the case. Because when you really scale up --

COMMISSIONER FIEDLER: The small guys throw off the economics of it.

MR. GARRETT: But another side of that coin, sir, is when you really scale it up. Then you're going to have increased laboratory analysis and expenditure of laboratory resources.

COMMISSIONER FIEDLER: Yes. Where I was going with my earlier request for information is to try to get a little more at your bottom of size of importers.

And, look, we only have a finite number of ports. This stuff has to come through, you know, a very finite number of places. The importation of seafood in the United States went up dramatically and much faster than the infrastructure of our regulatory system could deal with. And then we have a crisis. And now we're responding to that crisis.

I'm trying to get an idea and a handle on the cost of this. If it's only a penny a pound -- and let's call this really an inefficient inspection system, voluntary -- and it's three cents a pound suddenly one day, is that a

burdensome number to protect the American people?

Because I don't know what the profit per pound is, okay, and what's going -- there's an elasticity in demand here. But I suspect it's not 3 cents.

I'm trying to get my head around the question of whether or not it is, in fact, possible to, if not inspect a hundred percent, to inspect something closer to 80, and give the American consumer a much higher degree of confidence in the seafood it eats.

Have you guys looked into the problem of where there's a diminishing return beyond the notion of this spot testing of 1 percent or whatever?

And by the way, we've got a lot of jurisdictional stuff here. From what you just said, you both have legal responsibilities. Customs has some definitional responsibilities and control of port issues. I suspect that we're going to sort out some of the jurisdictional problems in legislation over the next year or two. But it doesn't strike me as unreasonable that we have a more vigorous inspection program in that it's actually possible without being overly large or burdensome. Am I missing something?

MR. KRAEMER: No. I don't think you're missing something. I would be very careful with the math. Yes. I'm not trying to shoot holes at it because I think that's an intriguing way to look at it.

One very important distinction that may not be immediately obvious is that -- and I want to do a little bit of compare and contrast to what the National Marine Fishery Service or any third-party voluntary program and a mandatory program -- they're needs to be some compare and contrast, I think.

First of all, many of the -- probably most -- and Spencer can correct me if I'm wrong -- of the players who would volunteer are going to be your industry leaders. These are the people who are doing the best job. And they are trying to curry the favor of their best customers who are demanding the best suppliers.

So you're not mostly dealing with recalcitrant folks who don't want to comply or people who don't have the scientific wherewithal to comply. So you're sort of dealing with the cream of the crop. As was mentioned before, you're dealing with many of the largest players, so your multiplier is very high.

On the regulatory side, you have to deal with everybody. And the seafood industry in the U.S. -- and it's also true overseas -- is made up predominantly, I think I would say at least 80 percent of the industry -- of very

small mom and pop operations.

COMMISSIONER FIEDLER: Yes. I know it.

MR. KRAEMER: And the remaining 20 percent may produce 50 percent of the product. So FDA spends a great deal of time educating and moving noncompliant small players into compliance.

COMMISSIONER FIEDLER: I agree, and I understand that your responsibility is total and his responsibility is less. But what I'm trying to figure out is a combination of the two, which is clearly what's going on right now.

Let me just background one thing. So I personally like the notion of NOAA, professionals, government employees, voluntary, as opposed to, quote/unquote, independent labs. Because, for instance, just take the lead in toys. Mattel is a reputable company. Wal-Mart is reputable company on some level. These others are. And they all had alleged independent testing labs, none of which apparently caught the lead.

So I have a low degree of confidence in sort of captive inspection operations in a much higher degree. And they're funding you. So I'm not so worried, as Mr. Mulloy is, about the government tax burden.

I'm trying to find a combination that gets a higher percentage of seafood inspected reputably, okay, and I know we're always going to have a problem with mom and pop. But I think we can eliminate the problem of mom and pop in China, which is we just don't do business with them.

MR. KRAEMER: Can I respond to that --

COMMISSIONER FIEDLER: Yes, please.

MR. KRAEMER: I think that the two plans that the government has put forward are very consistent with where it sounds like you are trying to go. And that is -that if you can create incentives for the private sector to go to third-party consultants and perhaps to go to the National Marine Fishery Service, as a prime example of a third party that it's easy for us to trust because it's another government agency, then you create the opportunity for information that FDA can use at entry.

The incentive that we envision is to take that information into account when we make our decisions. Right now we know very little about the 868,000 entries of seafood that are coming into the United States, virtually nothing about them. We may know that it came from a company that we once had trouble with. That's the kind of information we know now.

But we don't know what conditions it was produced under. We don't know anything about any testing that may

have already been done by the government, by a third-party organization or anybody else.

If we create certification systems that allow us to get that information, all of a sudden, we might be able to shift the world, to where we know something about 80 percent of the product coming in, and there's 20 percent we know that have not gotten through any certification process that we have validated.- We can then shift our relatively small resources to that 20 percent and leave only a small amount for verification work on the remaining.

That, I think, in a nutshell, is the scheme behind the Import Safety Action Plan and the Food Protection Plan. And it's using private sector incentives to move folks into programs like the National Marine Fisheries program.

MR. GARRETT: I agree with Don. I might point out -- and I certainly agree that you have to understand due to the nature of our charges, what, even though it seems infinitesimal, a penny a pound, again, it only truly attracts the very large players, the institutional large purchasers and so forth. That is not to say -- we do have some small players in our program. And they do use it as a marketing tool.

We estimated some years ago, about 1990, that you could probably have a mandatory seafood inspection program over a five-year implementation period up around \$90 million that would have about 11 regional laboratories doing a whole lot of analysis of imported products, something --

COMMISSIONER FIEDLER: A very small amount of money.

VICE CHAIRMAN BARTHOLOMEW: Twenty years ago.

MR. GARRETT: Well, but that was 20 years ago.

VICE CHAIRMAN BARTHOLOMEW: And not the kind of fish consumption.

COCHAIR SLANE: Yes. Thanks. Commissioner Mulloy?

COMMISSIONER MULLOY: Thank you. Mr. Patrick Woodall, who is going to testify in a later panel talks about what's going on is Chinese -- China's seafood exports, since 2000, have tripled to the United States.

Mr. Kraemer, you tell us on page 4 of your testimony that it is the importer's responsibility to offer for entry into the United States a product that is fully compliant with all applicable U.S. laws. So that's the responsibility of the people that are going to bring this imported Chinese food into the country.

MR. KRAEMER: That is correct.

COMMISSIONER MULLOY: Which we'll have later testimony is taking jobs away from Americans because they can't compete with this stuff that's coming in because it's a

lowered price; right?

MR. KRAEMER: I understand, yes.

COMMISSIONER MULLOY: Okay. So what I want to make sure is if we come up with recommendations, we're not going to have our taxpayers pay to help put our people out of work by making it easier for this stuff to come into the country. I want that put on the back of the people who have a legal responsibility to ensure what they're bringing into the country is safe.

Now, Mr. Garrett, you tell us NOAA has a program that does this fee for service. But also, in your testimony, you tell us that that user fee program does not incorporate the laboratory and the whole infrastructure that NOAA uses to ensure what it's doing is scientifically based. Even that program, there's a subsidy going on in my view.

MR. GARRETT: Uh-huh.

COMMISSIONER MULLOY: What I'm looking for is something that we put the burden on the importer, maybe give it to a group like you that they have to certify with you what they're bringing in. And then they pay you the full cost of the program, rather than having our people in China. That's enormously expensive for the American taxpayer to put a person in China per year.

MR. KRAEMER: It is.

COMMISSIONER MULLOY: And we're going to put a lot of people in China. That's a subsidy in my view. So I'm trying to think how do we do this in a way -- everybody wants market-based solutions. So let's make this market-based.

That's what I'm thinking, that that would be the better way, have you guys charge a real fee, and that they have to get a certification from you before they can bring the food in. And then if a couple of these -- you put the legal burden on the guys that are bringing it in. If they bring in unsafe food, they get sued and they have an insurance bond posted, that they have to pay it.

MR. GARRETT: Yes. I think it's a great idea. But we would still want to be overseen by the U.S. Food and Drug Administration. Canada has a similar type program to that. But the point is: We do not want to see the U.S. Food and Drug Administration lose it's jurisdiction over seafood inspection, I can assure you.

But we wouldn't mind taking a larger share of the role, if it could be feasibly done and confidently done. And we feel it can be. But we would still want to have the oversight of your sister agency, the U.S. Food and Drug Administration.

COMMISSIONER MULLOY: Okay.

MR. KRAEMER: If I can just add one additional point. Another element that you will see -- and I think it's just in the Food Protection Plan. No, I believe it's in the Import Safety Action Plan as well -- you will see some discussion about good importer practices. And I think that goes to part of what you're suggesting as well.

We recognize that the importers, while it is their responsibility to only enter products that meet U.S. requirements, there are no -- other than some requirements under the seafood HACCP regulation -- there are no steps that they must take other than avoiding entering product that is noncompliant. So there's no proactive steps that they are obliged to take.

What good importer practices envisions are steps that they would be obliged to take, such as visiting the supplier, collecting samples to verify compliance, and these kinds of things.

So that is another avenue that would again shift the burden more to the people who presently are making the profit for importing.

COMMISSIONER MULLOY: Right. Okay.

MR. GARRETT: Let me make a point just very briefly. Regardless of the fate of inspection or what have you, our agency will always have a role in seafood safety because as the National Academy of Sciences pointed out in their seafood safety text some years ago, most of the concerns relative to seafood safety actually relate to the environment itself.

We're concerned not only about seafood safety concerns, but we're also concerned about seafood aquatic animal health concerns. We're concerned about endocrine disrupters, which nobody has brought up today yet. So we have -- we have to kind of go from the health of the animal to the health of the people that eats the animal.

COCHAIR SLANE: Yes.

MR. KRAEMER: And if I can, one additional point. The only thing I would caution is that recognize that many of the largest U.S. seafood importers are, in fact, U.S. manufacturers of seafood. So these are U.S. entities. This is not like shifting the burden to China. This is shifting to U.S. entities that are otherwise profiting from the import.

COMMISSIONER MULLOY: Yes. Thank you. That's very helpful.

COCHAIR SLANE: Peter?

COMMISSIONER VIDENIEKS: I'm still a little bit

confused about the numbers. I understand that the labs inspect some 19 percent of the seafood coming in at this point.

MR. KRAEMER: FDA laboratories or --

COMMISSIONER VIDENIEKS: Aquatic, in terms of aquatic. Then also the random sampling process covers maybe less than one percent --

MR. KRAEMER: That's correct.

COMMISSIONER VIDENIEKS: -- of stuff crossing the border.

MR. KRAEMER: That's correct.

COMMISSIONER VIDENIEKS: How do these two numbers get together?

MR. GARRETT: Well, sir, for our part, we're not analyzing 19 percent of the -- through a laboratory analysis. What we're doing is we're reporting thousands of analyses. But, remember, like for histamine, you perform five analyses for every sample, sample unit. So there's a --

COMMISSIONER VIDENIEKS: But my understanding is that we -- with respect to importing chairs or any other kind of products, we random sample and inspect 2 to 5 percent of actual quantity of goods coming across the borders; whereas with seafood, maybe it's a different -- difficult, more difficult thing to do, but the percentage being inspected is much smaller.

MR. KRAEMER: I can give you some statistics, if that's what --

COMMISSIONER VIDENIEKS: You can just send it in, if you wish either in person or in writing.

MR. KRAEMER: Would you prefer I do it in writing to save some time?

COCHAIR SLANE: Yes, sir.

COMMISSIONER VIDENIEKS: And the other thing: I basically agree with several other commissioners there, that maybe shifting the burden, not just a market burden or economic burden on the importers, but maybe a statutory legislative quality of meeting U.S. standards. And specify what those standards are. Shifting the burden of assurance to the importer would be something to consider that we may choose or not choose to recommend.

COCHAIR SLANE: Thank you, gentlemen. Thank you, Peter.

COMMISSIONER WESSEL: Let me ask a very quick question.

COCHAIR SLANE: Sure.

COMMISSIONER WESSEL: I want to just make a comment on the shifting of the burden. We have seen in a number of areas shifting the burden of, for example, of privatization

of IRS collections, et cetera. I'm all for shifting the burden to make sure that the importers bear more of the economic costs, but I don't want to in any way change the burden of or the security of the system and the confidence that we have.

So I think we need to be careful as we look at this that we not eliminate or change the government's role in this, because the public has confidence in the direction you are taking these programs, I think.

MR. GARRETT: Well, I would certainly agree with that position. I think what we need to do, quite frankly, is just merely try to leverage our different resources together in a more organized, perhaps, or efficient manner. That's all.

COCHAIR SLANE: Gentlemen, thank you very much. It was very, very helpful. We appreciate your time. And we're going to be in recess for about 15 minutes.

VICE CHAIRMAN BARTHOLOMEW: Yes. I'd say 10:45.

COCHAIR SLANE: At 10:45 we'll re-engage.

(WHEREUPON, A SHORT RECESS WAS TAKEN)

**PANEL II: EXPERTS' PERSPECTIVES ON HEALTH/SAFETY OF
SEAFOOD IMPORTED FROM CHINA**

COCHAIR SLANE: Our next panel is on the perspectives on health/safety in seafood imported from China. And our first witness is Jean Halloran, who is the Director of Food Policy Initiatives at Consumer Union, publisher of Consumer Reports.

There 25 years at Consumer Union, she has led many projects on food safety, sustainable consumption, and trade issues. She is currently responsible for developing policy and staff initiatives on biotechnology, Mad Cow disease prevention, mercury in fish, bacteria in meat, poultry and produce, and waste recycling.

As Director of Consumer Union Policy Institute from 1981 until 2005, she developed and supervised conferences, reports, and input to government agencies on pesticides, sustainable agriculture, organic labeling, toxic chemicals, as well as intellectual property issues and health care, funded by the National Science Foundation, government agencies, and numerous private foundations.

Our other panelist is Patrick Woodall, who is a senior policy analyst covering globalization of food and agriculture, international trade and agricultural policy for Food & Water Watch. Food & Water Watch is a nonprofit consumer organization that works on food policy and water

infrastructure issues.

Mr. Woodall covers the farm policy and trade legislation on Capitol Hill and provides in-depth analysis and research reports on international trade, food and agricultural imports, prices, and agricultural markets.

Woodall has been a public policy analyst, researcher, and advocate on economic justice issues in Washington since 1991. He is the co-author of "Whose Trade Organization? A Field Guide to the World Trade Organization" and has written dozens of reports and articles on public policy, including analysis of how international trade impacts farmers and agriculture, consumer safety oversight, the environment, and workers, including "When Bad Things Happen to Good Laws."

Thank you both for appearing. And we will start with Mrs. Halloran.

MS. HALLORAN: We were thinking that it might be more useful if we started with Mr. Woodall.

COCHAIR SLANE: Okay. That's fine.

MS. HALLORAN: I think that it will be easier to have a flow here with information.

COCHAIR SLANE: Great. Thank you. Mr. Woodall?

**STATEMENT OF MR. PATRICK WOODALL, SENIOR POLICY
ANALYST, FOOD & WATER WATCH, WASHINGTON, D.C.**

MR. WOODALL: Good morning. Thank you to the Commission for hosting this important hearing and giving us the opportunity to testify.

I think for consumers, this has been a very problematic time at the grocery store with food scares from peanut butter, to beef, to spinach, and most recently, I think, the Chinese fish scare.

The China fish issue is vitally important because China is basically a global fishery superpower. They lead the world in total catch, in fleet size, in aquaculture production, and in global exports. And the scale of China's fishery industry has significant impact on the safety of food at the grocery store and at restaurants. It has an impact on the environment. And it has a giant impact on the health of ocean fisheries in general.

China's exports have been increasing dramatically, and these exports have largely overwhelmed our ability to monitor the safety of the food that comes in over our borders. Fewer than 2 percent of our fish have been inspected over the past several years.

More recently, in 2006, the most recent data available, it was less than 1 percent of our fish were looked at. This

is a giant issue at the kitchen table for consumers because most of the fish we eat is imported, as we discussed earlier.

China has a catch of over a hundred billion pounds of seafood a year. Most of that is aquaculture. About three-fifths of it is aquaculture. But the capture industry is also considerably large. It's about 38 billion pounds a year.

China is the largest open ocean capture fishery, with a half million fishing boat fleet. And it is three times as big as the U.S. catch. So -- and the U.S. ranks third in the world of open ocean catch.

This obviously is a concern because it has significant impact on the global fisheries populations. The U.N. estimates that about three-quarters of the most common food fish are already in serious overexploitation or are overfished, basically.

The aquaculture issue is also a giant issue. Most of China's fish is aquaculture. It's the largest aquacultural producer in the world. And their aquaculture production grew about 12 percent a year between 1950 and 2004, up to about 68 billion pounds of aquaculture-raised fish. That's 70 percent of global aquaculture production.

So for world aquaculture, China is it. They're a model for the world. The way their -- the scale of their market and production and export is looked upon by others as a way to develop their own industries.

As we've heard, there are more than 4 1/2 million people working in Chinese aquaculture as employees. Mostly, these are smaller operations. But they use industrial techniques with high-density fish. And thousands and thousands of processors who buy their products.

It's a fragmented industry that's difficult for Chinese regulators to oversee, and -- essentially, the kind of "Wild West" capitalism that exists in China with new companies springing up and disappearing. When the regulators went to look for the tainted pet food, the companies were gone. The same thing is happening now with the heparin scandal. Many of the producers that people are worried about are gone.

So it's difficult for us to have any confidence in the regulatory structure in China because of just the kind of chaotic nature of the processors there.

Aquaculture is unique in fishery production and it has unique food safety implications. It requires clean water. It requires incredibly clean water. And as producers increase the amount of fish that are in the water and the density of fish in each pond, this increases the likelihood

of disease.

When that is combined with dirty water conditions, which are extremely prevalent in China, many of these aquaculture production facilities are -- have water that has -- is contaminated with industrial waste, with raw sewage, with agricultural runoff. And these create kind of a perfect Petri dish for disease.

And the response that many Chinese producers have used is to apply antibiotics and veterinary medicines that are banned in the U.S. And that's what the most recent five fish Import Alert ban was all about, was to eliminate these antibiotics, which are linked to antibiotic-resistant strains of bacteria, as well as with human cancers.

The aquaculture itself has its own environmental implications. It has runoff and pollution. And fish feed used for aquaculture is really just harvested from the ocean and depletes ocean fisheries more.

Let me just talk about some of the inspection. We've talked about the volume of imports is really crazy high. It has tripled in the last seven years. The imports from China have increased five times the rate of all other world importers to the U.S., and it's a significant share of the imports that we get into America. It's now about a quarter. And ten years ago, it was less than five percent. So it's a giant amount of the imports that we bring in.

Now, only 1 percent right now of our imports are physically inspected. And fewer than one in a hundred actually go into laboratories to be tested, and about one in 475 shipments get turned away at the border.

China's import refusals have been going up. Between 2002 and 2006, there were an average of 75 a year about that were rejected from China. And that more than doubled to about 196 in the most recent period, in 2002 to 2006, compared to '97 to 2001.

And in 2006, there were 309 refusals. So the number of refusals has been going up. The majority of these refusals are for very serious food safety issues. About a sixth were for food-borne illnesses. About a fifth were illegal antibiotics. And many of these veterinary drugs are a very large share of the refusals from China.

The 88 percent of the eel that was refused from China was because of veterinary drugs. Sixty-four percent of the catfish refused were from veterinary drugs. More than half of the crab that was refused were for veterinary drugs or antibiotics, and more than 40 percent of shrimp and tilapia.

So we have critical inspector shortages at the border. And as our imports rise, when your imports triple and the

number of inspectors stay the same or go down, that is a giant colossal problem. The volume and the scale of the Chinese fisheries industry, especially aquaculture and the conditions under which it's being produced, pose a significant threat to American consumers and to Chinese consumers, for that matter.

And we do not currently devote sufficient resources to solve this problem. Third-party inspectors, third-party labs are not going to be a solution to this problem because right now we have no way to oversee these labs. There are unverified certification of products that go onto our shelves.

And many of these labs have a financial incentive to approve more imports. So they have a disincentive to say that the food is dangerous that they inspect. So we have a growing concern about this. I think that the data is very instructive and suggests that we need much more oversight. And to date, we haven't seen it from the federal regulators.

Thank you for the opportunity to be here today. And I'd be happy to answer any questions.

[The statement follows:]¹

COCHAIR SLANE: Ms. Halloran?

**STATEMENT OF MS. JEAN M. HALLORAN
DIRECTOR, FOOD POLICY INITIATIVES, CONSUMER UNION
YONKERS, NEW YORK**

MS. HALLORAN: Thank you. I'm Director of Food Policy Initiatives at Consumers Union, which most of you know is the publisher of Consumer Reports. We are independent and nonprofit and have 4 million subscribers to our magazine, and another 3 million paid subscribers to our website.

I won't repeat the litany of problems and the importance of the problem. I just certainly agree with everything that Patrick has said about the nature of the industry there; and the growing nature of the problem due to increased fish consumption here; and the growing share that imported fish has, and Chinese fish in particular, has of imports.

We must address these issues. They are absolutely critical. I would like to point out that our government does not protect the public from unsafe fish imports as well as governments of other developed countries do.

While the FDA inspects under 1 percent of imports, the

¹ [Click here for the prepared statement of Mr. Patrick Woodall](#)

European Union physically inspects 20 percent of the fish that is coming into the country, and 50 percent of clams and other shellfish that pose bacterial hazards.

Japan physically inspects 12 percent of the fish coming in, and 21 percent of processed seafood. So the U.S. effort is obviously well below those numbers.

Country of origin labeling, which is something that could help consumers, was mandated in the 2002 Farm Bill and was allowed to go into effect for fish in 2004. However, there are several loopholes in this.

One is that because of the way the bill was drafted along with country of origin for other categories, it actually only applies to fish sold in supermarkets and other stores that do a large volume of business in vegetables. This was, I think, at the time, a drafting error. But it's now one that -- that is a permanent ensuring loophole in the bill.

So whereas fish markets are responsible for about 10 percent of where the nation's fish is sold, if fish markets are exempt from COOL, if you go into one, you will not see your country of origin labels, whereas you will see it at the big supermarkets. This needs to be fixed.

In addition, fish that are processed, including, for example, by addition of smoke flavor to the fish, magically become not imported. They get put in a package. And the country of origin is the U.S., because they were packaged here. This, we think, is not a really effective country of origin labeling which could really help consumers.

I would like to focus on what we think needs to be done. We need a multi-layered approach, given the size of the problem. The Bush Administration's report said on this that we can't inspect our way out of the problem, and they are correct. The effort has to start with what goes on in China and in other major exporters of fish.

We think that for seafood, which poses special hazards, that there should be a system similar to what we have for USDA and beef. Under USDA rules, before a country can export beef or poultry to the U.S., the USDA must determine that it has an equivalent regulatory system. And this is not what FDA has done so far with China and fish.

The MOU does not apply to all fish. They have tried to get China to have an equivalent system for one species and certain facilities. But it is not an across the board system like USDA has for beef.

In addition, FDA or a competent national authority designated by FDA should preinspect any facility exporting seafood to the U.S. and revisit it annually to check up on

it. Refusal to allow inspection should mean the facility cannot export. And failure to meet our criteria and have an equivalent safety system should result in failure for permission to export, as it does with beef.

Fish is not any less hazardous than beef. It has the same problems of potential for residues, of decaying due to lack of refrigeration, of carrying bacteria that can make people sick, in fact, probably even more hazards, potential hazards.

Okay. Switching jurisdiction for catfish has actually been proposed in the Farm Bill that's before the Senate. The point is not who has the jurisdiction, but that the system be in place.

In addition, FDA needs a major increase in its inspection capacity as has been discussed by others.

Third, FDA or another federal agency with appropriate expertise, such as NOAA, should establish a federally-supervised system of independent third-party certification, similar to the Underwriters Laboratory certification which is supervised by OSHA or the USDA Organic Program.

We will soon have such a system for toys if the toy safety legislation which has passed both houses manages to be reconciled and signed by the President, which we are hoping happens very soon. That requires a third-party certification overseen by CPSC. And surely, fish is as serious a concern as toys are.

FDA should have exclusive authority to recall contaminated food. The exemptions should be eliminated for country of origin labeling. And FDA should be able to condemn and destroy food that poses a serious safety hazard at the border, not just send it back for reconditioning and possibly coming through a border where there -- they might miss the shipment or have less vigilant oversight.

I also believe that there are some trade issues that must be addressed in our trade agreements. Congress has started looking at labor standards and environment as conditions for trade agreements.

Food safety, product safety also has to be addressed in trade agreements. We cannot grant blanket access to our markets for products that we know are produced in completely unregulated economies where they don't have mechanisms for requiring or enforcing U.S. standards.

Not only will these imports pose a threat to consumers, but domestic producers will be driven to lower their standards or will be driven out of business by this competition that doesn't have the same costs associated with

it as our domestic producers do.

So I want to thank you for allowing me to address this. And I would be happy to answer questions.

[The statement follows:]²

Panel II: Discussion, Questions and Answers

VICE CHAIRMAN BARTHOLOMEW: Thanks very much. Thank you to both of you for serving the American people in a nongovernment capacity. We appreciate the work that you do.

One question I have for both of you. This particularly came up because of Mr. Woodall's elucidation of the statistic that 70 percent of global aquaculture production is being done in China.

Are we seeing a race to the bottom in this, as we have done in others, that other countries might be lowering their own standards or lowering their own practices in order to be able to compete?

MR. WOODALL: I think in the developing world, the real question is whether this model is being exported as a possible way to fight poverty. And as China has a very significant aquaculture industry that is generating a lot of revenue, other countries are contemplating adopting very similar techniques.

The problem is that absent clean water, it is a kind of very dangerous technique. And many of the countries that are looking to China as an engine to emulate for their own economic growth could adopt very similar industrial fish farming techniques without any of the regulatory structure that would be needed to have clean enough water to not require a lot of pharmaceuticals, essentially.

VICE CHAIRMAN BARTHOLOMEW: And do you have any sense of Chinese aquaculture production, how much of it is being consumed in China and how much is being done for export?

MR. WOODALL: A giant amount of it is consumed at home. But much of it is being grown for the export market, particularly on the high value products like shrimp. So where you can ship small things that cost a lot of money very, very easily, obviously much of this is export dominated. And it was developed to generate revenues for hard currency for the economy. But China consumes a giant amount of fish itself, and much of China's aquaculture is eaten domestically.

VICE CHAIRMAN BARTHOLOMEW: Could I ask you both to elaborate more on issues relating to third-party labs or

² [Click here for the prepared statement of Ms. Jean Halloran](#)

third-parties' participation in this? One of the things that I walked away with still confused from the first panel is, to me, NOAA is not the same as a third party in terms of a private third party that might be involved. I see NOAA functioning in different ways. It's a government agency, and it has different kinds of responsibilities.

Mr. Woodall, you raised some concern about third-party labs. How does that fit in with what we heard about what seems to be a successful model from NOAA?

And, Miss Halloran, you sounded more positive on having third-party certifiers.

MR. WOODALL: I think that food and food safety inspection is definitely a role that should be part of the government, and that ensuring the consumers have adequate safe food is something that requires -- that's a government role.

I think that the role of third-party labs, which is used right now primarily to kind of ensure retailers can look at their food stream -- and that's what NOAA does. It tests for supermarkets and restaurant chains.

I think the problem with third-party labs and third-party certification just in general is that the incentive is not aligned with the consumer. It's aligned with the retailer. And so they have an incentive to say yes to things to get them onto the marketplace so that they keep getting business.

There is wide variation amongst quality between labs. FDA insiders reported to the House Energy and Commerce Committee that some of the work was, quote, shoddy and, quote, scary being done at some of these labs. And as the FDA testified today, there is no standards that are imposed by anyone on these labs. And as a consequence, we don't know.

So third-party verification is perhaps -- it sounds very good. But it's not the same as having the FDA look at the fish, which is what we would want.

VICE CHAIRMAN BARTHOLOMEW: But you draw a distinction between NOAA's program and other third-party labs?

MR. WOODALL: I would draw a distinction, but I don't know that I would draw a giant, hard and fast distinction between the two.

What NOAA is doing is serving our commercial purpose for retailers. It is, I think, highly superior to other labs on the market in that we have a sense that they are following strict standards, that NOAA has much more professional and a duty to the American public and American consumers, much more so than other labs in the marketplace.

But they are performing a third-party commercial certification. It is not part of a regulatory oversight. It is a service they are providing to retailers and restaurant chains.

VICE CHAIRMAN BARTHOLOMEW: I think that's one of the issues that Commissioner Videnieks was trying to get to, which is NOAA is within the Department of Commerce, which is about promoting commerce and what -- is there a conflict there?

Miss Halloran, do you agree; or are you at a different place on this?

MS. HALLORAN: We'd look maybe a little bit differently, although I wouldn't disagree with any of the issues that he raised.

Absolutely, the third party cannot be the company itself. And that has been proposed in some cases. For example, on the toy laws, there will be a provision that a company lab can be certified as the thing which certifies that you're meeting U.S. standards. And we think that that will not succeed. That should absolutely be ruled out.

Another thing that doesn't work is where there's a fee for service user fee. That does sound like what exists at NOAA. In discussions of FDA reform, it's been talking more -- less like the user fee we have with the drugs, which we think has created an unhealthy relationship between the pharmaceutical companies and FDA, and just a user fee where the money goes into a general pot to increase the FDA food budget, which we do favor.

On the other hand, we do think that there has been some success with like Underwriters Laboratory, where it is overseen by the Occupational Safety and Health Administration, where they're -- where they're checking up on them and establishing criteria.

And, of course, that could be well done or poorly done, conscientiously done or not. But we've had some success there and also some success with the USDA accrediting other governments, state governments, and private third parties to be organic certifiers.

We've seen some successful models with independent, completely independent third-party certifiers. So that leads us not to rule that out totally as an option.

NOAA is also a very good option and probably preferable to some nonprofit doing it, although we are in favor of nonprofits, although we would not go into that business, I may say. But that -- you know, especially if FDA established the criteria and was responsible for, in some way, checking up on and verifying what NOAA is doing in

terms of this function and if it covered a hundred percent of the industry, not a portion of the industry.

COCHAIR SLANE: Commissioner Fiedler?

COMMISSIONER FIEDLER: Since you raised the issue of NOAA -- and it's a little ambiguous here -- I want to be very clear. Is there any evidence in NOAA's 40-something year history of any untoward behavior of NOAA, vis-à-vis supermarkets?

MR. WOODALL: No, not at all. I was referring to other commercial third-party labs that the FDA has looked at, not NOAA.

COMMISSIONER FIEDLER: Okay. We've been through that in the previous testimony, that NOAA is a viable option and perhaps should be expanded in a voluntary way or, frankly, in a regulatory way. In other words, force importers to use NOAA. That's fine with me.

In the testing process, Commissioner Slane raised environmental issues earlier in the previous testimony. Is there a problem that we're not testing for certain environmental pollutants in the food? So is a lot of sulfuric acid coming down in China? What impact does that have?

MR. WOODALL: There definitely are things that are on our radar but we test for very infrequently. For example, China has very high levels of mercury in the water. That water, because of the colossal volume of coal-fired power plants, that water is where the fish are raised.

We test almost not at all in the laboratory setting for mercury. And as a consequence -- and certainly not in particular from China. So I would say one of the things we could be looking for more frequently would be doing more lab testing on elemental metal contaminants in fish, which we don't do very much. It's a tiny, tiny percentage of the lab tests we do.

COMMISSIONER FIEDLER: So the science is not catching up necessarily with the reality of the environmental pollution in any country, whether it's China or some others. So in other words, there's unique problems in China versus Canada; right?

MS. HALLORAN: Yes. If I could comment. To some extent in a country like Canada or the U.S., we can count on, in fact, environmental regulations preventing stuff from getting in the environment that will then pollute --

COMMISSIONER FIEDLER: Right.

MS. HALLORAN: -- preclude the food production system.

Something I learned recently is that, for example, textiles produced in the United States are not treated with

formaldehyde because you can't meet the OSHA regulations for it. But this is not true in China. So if China is widely using in industry -- if formaldehyde is widely used there, could it end up in fish or food products?

Any number of organic chemicals are of concern, and it would be very hard to monitor for all of those. They could easily slip by. You know, heavy metals, you could conceivably do and should do.

COMMISSIONER FIEDLER: Let me also sort of clear up a factual thing. The 1 percent number that we always use is an FDA number; right?

MR. WOODALL: Yes.

COMMISSIONER FIEDLER: It doesn't factor in NOAA's percentages?

MR. WOODALL: Right. But NOAA is not inspecting fish. They are certifying fish for retailers and restaurants. They are not inspecting fish at the border. It's a different --

COMMISSIONER FIEDLER: It's outside the border?

MR. WOODALL: It's outside -- it's an entirely different regime. The FDA inspects 1 percent of fish shipments that come in the border. And that could be a can of anchovies and it could be a shipping container full of eels, and each would count as one shipment.

But NOAA certifies fish for retailers, and it's a different process and not the same as the inspection. It's not an additive. It's not like FDA does one and then NOAA does this additional portion.

And NOAA may be -- I'm not certain I fully understand the 30 percent figure that was presented today. But I suspect that that is a certification of a pool of fish, not that each of those fish are individually examined or tested at a lab, but that NOAA is certifying 30 percent of the fish on retail shelves.

COMMISSIONER FIEDLER: I'm sure Mr. Garrett will clear that up later on. And we'll ask him to.

Miss Halloran, you raised a comparison between meat and fish. And so I can only conclude that there's different politics over time on why fish is treated different from meat.

MS. HALLORAN: I think it's a historical accident. We ended up -- Upton Sinclair's book, "The Jungle" --

COMMISSIONER FIEDLER: Right.

MS. HALLORAN: -- raised public consciousness a century ago about meat packing and the horrors of what can go wrong there. And we've got an extremely strict meat-packing law, which we still have -- has only gotten stricter -- that requires there to be an inspector in every plant every day,

every -- for every -- when it's full-time operating.

COMMISSIONER FIEDLER: Yes.

MS. HALLORAN: We just never went -- our history on fish, we haven't had a "Jungle" for fish.

COMMISSIONER FIEDLER: Yes.

MS. HALLORAN: Although some of the Times articles about production in China seem to evoke a lot of it.

COMMISSIONER FIEDLER: Or Thailand.

MS. HALLORAN: And part of that is because, historically, fish was something you went out in a boat and caught. And so you didn't have the kind of factory operation that could be abused. This is a new problem, really. Aquaculture is a new industry and it's a new problem that we don't have legislation to address.

COMMISSIONER FIEDLER: On a trade basis, meat has always sort of play -- inspection of meat, claims about quality of meat have always been used, the U.S. meat-packing industry would argue, just to protect the industries in the other countries. But, in fact, there is much more rigorous meat inspection going on.

For instance, the Japanese, as I mentioned earlier, are very strict. It's not simply a trade issue. The Koreans, you know, there may be more of a trade fight. The Chinese, in fact, do not allow the importation of lots of beef from the United States. Is that not correct?

MR. WOODALL: That's totally accurate. Although it appears now that they're trying to trade importing beef for exporting Chinese chicken to America in part of a deal.

COMMISSIONER FIEDLER: So it's unusual for a country to say, "We will not take your product if it doesn't meet our quality standards"? But --

MR. WOODALL: No. That's accurate. We only accept imported meat from 38 countries. There are 150 members of the WTO. We accept meat and pork from -- and poultry from a tiny, tiny portion of them because we haven't declared their systems equivalent sufficient for us to accept imports.

COMMISSIONER FIEDLER: But we accept seafood from a larger number?

MR. WOODALL: Yes. We accept seafood from everywhere in colossal volumes.

COMMISSIONER FIEDLER: Thank you for allowing me to finish my line of questioning.

COCHAIR SLANE: Commissioner Wessel?

COMMISSIONER WESSEL: Thank you both for being here. Patrick, I'm a reader of your books. And maybe you can be the author of the update to "The Jungle." Maybe it's "The River" or "The Swamps". That would be worth seeing.

A couple of points and a couple of questions, if I could.

Number 1, the Solidarity Center, which is funded by AID in response to the -- Carolyn's comment about race to the bottom -- issued a report, if I remember, on shrimp yesterday, on Thai and Vietnamese shrimp, and what's happening in terms of labor rights in the treatment of the workers, meaning that we're seeing, I think, in many of these aquaculture industries now, not only the environmental issues, but tremendous pressure on wages and other issues that's going to cause a problem.

They didn't do it on China. Certainly we're going to see what other data can be there. But that's something that we need to look at as it relates to the race to the bottom.

I'd like to ask a question, and I may be totally off base here. But as I look at the products that are treated under the bulk of the imports and seafood, I'm wondering whether there's some type of discriminatory impact, if you will. You go into a rich and expensive restaurant, you're going to find swordfish, and bronzini, and all these other fishes.

COCHAIR SLANE: Grouper.

COMMISSIONER WESSEL: Grouper.

VICE CHAIRMAN BARTHOLOMEW: Which might or might not be what it says it is.

COMMISSIONER WESSEL: It may or may not be what it says it is. But you are not seeing the tilapia. You are not seeing some of these fish. Is there a discriminatory economic issue here from a public policy setting that we need to worry about as Americans are being urged to eat more and more seafood? Are these who are at the lower end of the economic spectrum potentially more at risk?

MS. HALLORAN: If I could comment on that. I think we do have a risk of developing a two-tier safety system. And I think we are deeply concerned about that. That is absolutely unacceptable.

If you go to this voluntary certification system, then you will have some product which is certified as safe, and then some other product, possibly cheaper, which is not certified as safe and has not gone through a certification system.

I think it's just not acceptable to have educated, affluent consumers who know what the labels mean and can afford to shop for them, getting safer food, or safe food, and everybody else getting something else which may or may not be safe.

COMMISSIONER WESSEL: So those least able to afford it

might be most at risk here?

MS. HALLORAN: Right.

VICE CHAIRMAN BARTHOLOMEW: But wait. I've got to interject one thing, which is one of the examples that Mr. Garrett mentioned of a program or a company that goes through is Red Lobster, which is not --

COMMISSIONER WESSEL: At the restaurant level --

VICE CHAIRMAN BARTHOLOMEW: -- not a high end.

COMMISSIONER WESSEL: But if you go into fish sticks and you go into the basic processed foods that many people are using, again, as I predicated my comments with, I think it's something we need to look at as a public policy. I'm not sure it's right.

MS. HALLORAN: Right.

COMMISSIONER WESSEL: But I fear that there may be this two-tiered system you are talking about.

MS. HALLORAN: Right. But on the other hand, it's interesting that you mention swordfish as something that's in a high-end restaurant. It is, and it's very expensive. It's probably one of the most hazardous seafoods on the market because of its mercury content. It averages higher than the FDA action level. Half of it should simply not be sold if FDA enforced its action levels, which it ought to do.

COMMISSIONER WESSEL: Also, you mentioned COOL loopholes. If you could provide for the record an examination -- I don't know if either of you have done that or both --

MS. HALLORAN: I'd be happy to.

COMMISSIONER WESSEL: -- a question of what are the COOL loopholes that should be addressed.

You mention that the Farm Bill is moving. It's moving slowly. I think last night they just did another short-term extension. I'm not sure that we're not going to have more bites at this apple. And that can be helpful to look at.

MS. HALLORAN: Right.

COMMISSIONER WESSEL: Also, I'm wondering if you could identify the role for the Center for Veterinary Medicine -- if I remember, that's the entity that regulates the products that are used in fish farming, et cetera -- what's the interrelationship of that entity to FDA, to NOAA, and to our overall regulatory scheme. Is it the Center for Veterinary Medicine that regulates those products?

MR. WOODALL: I think that's accurate, but I will have to check and get back to you.

MS. HALLORAN: Yes. They regulate feed for beef and chicken. I'm not certain that they regulate --

COMMISSIONER WESSEL: I believe they also regulate the products that can be used in aquaculture. Again, I may be wrong.

COMMISSIONER FIEDLER: In the United States.

COMMISSIONER WESSEL: In the United States.

MS. HALLORAN: In the United States.

COMMISSIONER WESSEL: But we want to -- your issue about equivalency.

MS. HALLORAN: Yes. That's a good question.

COMMISSIONER WESSEL: If we are regulating those entities, those products here, what are we doing in terms of equivalency standards and how are those standards integrated into our overall inspection system. If you could provide any information on that, that would be helpful.

MR. WOODALL: I think that's right. I think generally, for the antibiotics and veterinary medicines that we are taking about, they're mostly banned in -- in Europe and in Japan. China has banned many of them but continues to use fluoroquinolones, which are one of the antibiotics that can contribute to resistant treatment. So --

MS. HALLORAN:

Yeah. Certainly, FDA does regulate the residues -- the use of drugs and pesticides in aquaculture. And I would have to check on the feed.

COMMISSIONER WESSEL: Okay. Thank you.

COCHAIR SLANE: Here is my problem. How do you have an aquaculture industry in a country that has so degraded their environment? There is no clean water. You have 2,000 coal-burning power plants, that most of them have no pollution control on it. The few that do, they don't even turn it on.

When you start with that premise, how can you even begin to consider this fish safe for American consumers? I mean, am I overreacting here?

MR. WOODALL: I don't think you are overreacting. I think that China -- experts inside the China fisheries departments believe that water pollution is the biggest threat to their industry, to the aquaculture industry, and that it could ultimately be the downfall to its ability to trade these goods overseas and would be a giant detriment to China's fishery industry.

I think that having a product that is densely packed in polluted water contaminated with all sorts of effluents is a recipe for disaster that we are eating.

MS. HALLORAN: In fact, in China, the coast of China and elsewhere, a lot of the shrimp farming is not sustainable. They have had a situation, sort of a slash and

burn technology, where they go in, mow down the mangrove swamp, create the fish farm, treat them with a lot of antibiotics, and have to add more and more over the years as the environment becomes more polluted for the fish.

And then finally, after 15 or 20 years, they can't operate anymore, even using all the chemicals. And they just abandon it and move on to another site.

So it's, in many ways, possibly a kind of short-term unsustainable type of operation that they have going on there.

COCHAIR SLANE: On top of that, you have 4 1/2 million fish farmers in China, mostly mom and pops. How can you begin to organize and inspect and create standards and expect them to be enforced?

MS. HALLORAN: Very good question.

COCHAIR SLANE: Commissioner Mulloy?

COMMISSIONER MULLOY: Thank you, Mr. Chairman. And thank both of you witnesses for being here and sharing your expertise.

Ms. Halloran, you make a very important point in your testimony. I'm not really a consumer. But when I was younger and I remember I was going to buy a new car, I would go and read Consumers Report because I thought it gave an honest opinion. You weren't funded by business, and you tried to tell it like it is.

When I was reading your testimony in preparation for the hearing -- and you say you've got to look at this whole problem in a larger context, which I think is correct. And you're telling us on page 5 of your testimony that the problem is that our whole trade policy has blinders on it, that we're all focusing on -- and you say "assuring U.S. companies have access to other companies' markets for their goods."

I think it's more complicated. I think they want not only access to their goods, they want to be investing there and then ship back here.

MS. HALLORAN: Yes.

COMMISSIONER MULLOY: Exactly. So in that context, this type of issue is just treated as something we've got to deal with this and get it behind us because we want to -- we don't want to do anything that's going to alienate them.

MS. HALLORAN: Right.

COMMISSIONER MULLOY: And now this whole issue was raised, as we were told earlier, in the strategic economic dialogue with China, which is the Paulson, the Treasury, the top people. And the Chinese initially dismissed any of these concerns as introducing disharmonious notes in the

relationship, and they said that this was exaggerated.

And in other words, they don't take this that seriously. But they'll deal with it if they think they've got to get by us in some way or another.

Meanwhile, you tell us that USTR, who is our chief trade negotiator in handling all these issues, is advised solely by business representatives, that we don't have labor, environmental, or consumer representatives on their advisory committee. Is that correct?

MS. HALLORAN: That is correct. And that's a very structural serious problem that Congress actually just set them up to -- to enhance U.S. exports, to enhance the trade of U.S. business. That's their mandate. And they're not -- they don't have a mandate from Congress to have a trade policy that benefits the country as a whole.

COMMISSIONER MULLOY: Yes. So what I see is you're framing this as a larger problem.

MS. HALLORAN: Yes.

COMMISSIONER MULLOY: And that we might want to overlook some of the serious concern because it interferes with the larger effort of having a more integrated global economy, regardless of whether standards for safety and health are going down in instituting this type of global integrated economy.

MS. HALLORAN: Yes. We do think we need a holistic view of our trade policy that looks not just on one side of enhancing exports and investment, but the whole thing, impact on labor, environment and consumer standards, you know, of an effectively functioning global economy.

COMMISSIONER MULLOY: Is that your impression, Mr. Woodall, as well?

MR. WOODALL: I think one of the interesting things to think about is right now in Geneva, fish are considered in the NAMA talks, which is the Nonagricultural Market Access talks. They are not considered food at the WTO. They're considered a product. So as a consequence, that just changes the way people think about this. As a consequence, the safety of the fish is not near as important as the volume of it that crosses borders. And we've seen the global export of fish go up.

So we share the concerns about the quality of the safety being put subordinate to all other commercial interests. I think that's been our trade policy for the last more than decade.

I, for one, before PNTR passed, said we should be concerned. There is going to be a giant volume of cheap, potentially dangerous products coming from China. It'll

have a huge impact on consumers, particularly lower income consumers that are buying cheaper goods that do not meet the rigorous standards that we have here. And we passed it anyway.

As a consequence, many of these safety concerns are a direct result of that. We opened up our borders. We don't have very many inspections. The volume of imports have come up that have all benefited commercial interests that pushed the deal. And consumers pay the price.

COMMISSIONER MULLOY: And this is not totally unrelated to an issue that this Commission has been after, China's underpriced currency, which Fed. Chairman Bernanke, in a speech in China, said is an export subsidy. So in other words, these fish-produced products in China are getting an export subsidy to come into our market from this underpriced currency, which then drives some of the American competitors out of business.

Do you see that?

MR. WOODALL: Well, they get an indirect subsidy on the currency issue. And they get a direct subsidy from city, provincial, and federal governments to produce aquacultured fish. They get giant cash infusions for that as well.

COMMISSIONER MULLOY: Thank you.

VICE CHAIRMAN BARTHOLOMEW: A lot for us to be thinking about here.

Miss Halloran, I took note of you were talking about needing something for fish, like a USDA equivalent regulatory system. I'll go back to a question that I asked of Mr. Kraemer this morning, which is we have to start somewhere.

For better or for worse, the American people are eating more seafood. We believed, of course, that it was for better. And for better or for worse, they've become accustomed to buying cheap seafood in places like Wal-Mart and Costco. I think that's all helped to drive some of this aquaculture production.

But one of my concerns always is that there is nothing stopping the Chinese government from creating an equivalent regulatory system. But this, like so many other laws in China, would have to do with enforcement. And so there are, for example, pollution laws on the books in China, but enforcement is nonexistent or seriously lacking.

There are intellectual property rights protections in China, but enforcement is not happening in a lot of places, in a lot of sectors. And a lot of times we find that there are government people, anywhere from the local level all the way up to the federal level there, who are invested in some

of these companies or in some of these sectors, and therefore, they have a disincentive to do -- to encourage.

How do we, knowing that that is a problem, move forward on something like this MOA? And how do we make sure that the Chinese are keeping their end of the commitments that they have made already?

MS. HALLORAN: You point to a very important problem and one that absolutely has to be addressed. China has had a lead standard for lead in paint that was stricter, is still at this point stricter than ours. And it simply was not enforced.

I've asked this question to people who know a lot more about China than I do. And they just say the level of control, you know, the people in Beijing have good intentions and more than good intentions. Many of them are devoted to trying to, if nothing else, protect the China brand. But the degree to which Beijing controls what goes on in this vast country is limited, especially on all these details.

I think we have to take that reality into account. And that's why I think we can't just blanket open the door. And, as Patrick said, we only allow beef in from 30 some-odd countries, yet we just allow fish from everywhere. That doesn't make sense.

If Beijing can only oversee 20 processing facilities, if they can only guarantee that the output of 20 -- 20 aquaculture farms meets our standards, then those, I think, should be the only ones who are allowed to export to the U.S. We shouldn't just say because they can't assure the safety, "Oh, well. Too bad. We want cheap fish."

VICE CHAIRMAN BARTHOLOMEW: Mr. Woodall?

MR. WOODALL: The concern about China's oversight is absolutely spot on. I think it's complicated with food safety because the standard varies from province to province. So it's not just that the Beijing authorities have to enforce a single standard, but all of the regional standards are slightly different and are enforced in a slightly different way.

And so this complicates. This is not just solely a matter of deciding which chemicals to use or how much salmonella could be found on fish. That varies from town to town and province to province.

It's complicated on the aquaculture front because many of the regulators are also part of a government that needs to drive industry and production. And these exports are critical, all exports, but particularly in many places the aquaculture exports are critical to propping up their local

economies. So they have a disincentive to find their -- the quality of their fish lacking if they need to export it to keep up their export targets. So I think that's very complicated.

It's just fundamentally we need to actually have inspectors go into the facilities and look at them. And we need to certify that the facilities that are exporting to America are safe. We do this with meat packing, and we should do it with fish processing.

COCHAIR SLANE: Peter?

COMMISSIONER VIDENIEKS: Just a related question to your comments just now. Is the failure of the central government's, the PRC central government's ability to control or influence some of the actions at the state and local levels?

When we sign these MOAs and MOUs that maybe should be actual treaties, with the central government, what is the likelihood -- do you have a feel -- is there any likelihood or any comfort factor that the local officials -- Commission Bartholomew's question -- have actually any -- what -- how is this centrally-executed MOU between agencies, how does it filter down? And is there any effect at all? Or maybe I'm answering my own question, you know.

MS. HALLORAN: I think the MOU was very limited, actually, in scope. So it probably can be executed. But we shouldn't think that it applies to all fish from China. It was described as just a beginning and applies to certain fish species.

MR. WOODALL: It's just aquaculture at first.

MS. HALLORAN: But it's not even all fish produced in aquaculture. It's a very limited subsection of that.

COMMISSIONER VIDENIEKS: Do you have a feel as to what percent of aquaculture facilities in PRC are foreign invested and/or state owned?

MR. WOODALL: I don't. I looked. And it's not that easy to figure out. I suspect there definitely are foreign investors. The way that I know is that some big investment companies in Scandinavia where there are big fishing industries have portfolios where they describe what kind of things you can buy in China.

I know that there are investors from places that are familiar with fish production from Scandinavia and other places that are encouraging investors to invest in aquaculture facilities in China. I don't -- I haven't see any state enterprise evidence, but it would be difficult to be sure all the way down to the local level. So it's -- it's trickier.

COMMISSIONER VIDENIEKS: All right. Thank you.

COCHAIR SLANE: Jeff?

COMMISSIONER FIEDLER: It occurred to me as you were talking -- when we're talking about inspections, then we're talking about meat. And, of course, a carcass of beef is larger, so it's easier to inspect than a shrimp. Okay. But taking that aside, we have -- we also have another problem perhaps. And you tell me if I'm correct.

Of the many exporters from China, some of them are small. And they don't have the capacity to, themselves, to export, so they go to a trading company. And so it's potentially true -- tell me if I'm right or wrong -- that a trading company is getting shrimp from a hundred different sources and putting them in a shipment and sending them to the United States.

Now, you test that shipment. All you are testing, potentially, is a couple of shrimp from one or two of the hundred sources. And the others, we have no way -- I mean, there is no way possible to test a mixed shipment of seafood from different sources, tracking it back. Isn't that -- do we have this phenomenon happening?

MR. WOODALL: Yes. This is definitely happening. The aquaculture producers are selling to thousands of processors, and many of the people that they're -- the processors are buying from are tiny, tiny operations. Some are larger. But many are very, very small.

I think the current heparin scandal is very indicative of this, where the ingredients were purchased literally out of people's garages, where they were collecting pig intestines to produce the heparin ingredient.

The same thing is going on in aquaculture in China. Some of these are ponds in people's backyards. Some of them are very large, industrial-scale places. And when you ship a cargo container full of fish filets, there is no way to know exactly where it came from.

I would also note that transshipment is a pretty serious concern as well. There is indication that some shrimp are being transshipped through Indonesia and other places to evade the antidumping order. A similar operation could occur conceivably to get around FDA's Import Alert. FDA categorizes Hong Kong and Macau as separate places from China on their categorization of countries, although they are both part of Mainland China now.

And also tons and tons and tons of cargo goes through Taiwan and goes through Singapore and other places where if it went through there and got relabeled, we wouldn't touch on our Import Alert. So Chinese shrimp that left from China

could be relabeled in Hong Kong or relabeled in Taiwan, and they would not be caught at the border at all.

COMMISSIONER FIEDLER: Thank you.

COCHAIR SLANE: Michael?

COMMISSIONER WESSEL: Let me pursue, if I can, the trade issues here as they relate to import safety. The question was raised earlier about not blaming the Chinese federal government for the problems of lack of enforcement at lower levels. It's not their fault.

I would only note that there has yet to be one reported incident of piracy of the Olympic mascot in China because the government has made sure that that's something that won't be allowed. They have 30,000 plus internet cops who are out there making sure every day that freedom, democracy, Tiananmen, and other terms are not used on the internet. I don't have the same faith or belief that the Chinese government as a whole should not be responsible for what's going on there.

Last year, I believe, there was a case brought by private industry, as well as the Sierra Club, on illegal lobbying, where they treated the failure to abide by enforcement standards in China -- in Indonesia as a subsidy.

Should we be looking at the failure to implement proper protocols as they relate to safety as a subsidy value, which would mean that the domestic industry here, not just the government, the competitors here, catfish, shrimp, tilapia, might have a private right of action?

MS. HALLORAN: That's an extremely interesting question. And that was a very creative and interesting legal strategy on the part of the Sierra Club. And I actually haven't followed to see how well they are doing with that. But --

COMMISSIONER WESSEL: Not as well as they would have liked.

MS. HALLORAN: But regardless of the sort of legality of it, it's true. When there's nonenforcement of standards, it's just as good as a subsidy. It allows cheaper production.

COMMISSIONER WESSEL: The Lacey Act, if I remember, only allows for governmental action, you don't have a private right of action under the Lacey Act, if I remember correctly. That's for the government to make that claim that a product is in violation. Is that right?

MR. WOODALL: I think that's right.

COMMISSIONER WESSEL: Okay. So one thing we may want to look at is whether there are alternative approaches that would give our domestic competitors, rather than just using

the antidumping laws, as some industries have done, to be able to use -- to have a broader network of private interests that can affect this, not just the companies that have been talked about, you know, the Red Lobsters and others, but those who were losing their jobs here in the U.S., that there may be additional tools we could look at. If you have any follow-up information on that, that would be welcomed.

MR. WOODALL: I would recommend that you ask the producer groups this. They certainly have to face domestic regulations.

COMMISSIONER WESSEL: We certainly will. They'll be here, I believe, tomorrow.

MR. WOODALL: So they can tell you, kind of the shape of the subsidy of nonenforcement.

COMMISSIONER WESSEL: One of the big problems there, as you know, is these cases cost hundreds of thousands, if not millions of dollars.

MS. HALLORAN: Right.

COMMISSIONER WESSEL: Many of our producers are small, and they have power when they band together. But this is, No. 1, the government's job. But in the absence of an effective regime, we may have to provide some private sector tools as well.

COCHAIR SLANE: Carolyn?

VICE CHAIRMAN BARTHOLOMEW: Thank you. Two questions. One is relating to fish that is rejected, some of which we hear is potentially reimported. But I was sitting here thinking of yet another concern about what might be in those fish. Certainly, we learned through the Mad Cow problem that herbivores were being fed things that they shouldn't have been fed in the first place.

Do we have any idea what happens to fish that's rejected that is not being reimported? Is it being chopped up and used in fertilizers? Is it being used in fish feed? Are the contaminants that are in that fish making their way into the food chain in other ways even though we think that the product itself might not be coming in?

MS. HALLORAN: That's certainly a reasonable concern, and I don't have information on it. Do you have anything, Patrick?

MR. WOODALL: I don't. I would suspect that it wouldn't make a giant amount of sense to bring product all the way back to China from Torrance, California, to be ground up into feed. But I don't know that to be the case.

MS. HALLORAN: Or whether it could be ground up into feed for use in the U.S. and the fact that it had been

rejected could get lost in the paperwork.

VICE CHAIRMAN BARTHOLOMEW: Okay.

MS. HALLORAN: One other question about that also is since the U.S. -- since the European Union and Japan do so much more rigorous border controls, many people have said what happens to stuff that they reject, and does that come to the United States then? I think we don't know anything about that. But it's certainly a question that comes to mind.

VICE CHAIRMAN BARTHOLOMEW: Interesting questions. And then my other question has to do with the Import Alert on the five categories of Chinese fish. Have you guys found that that's been effective? Is that an effective strategy, the presumption that is: Is it stopped at the border unless it's proven to be safe? Is it working?

MR. WOODALL: Certainly better than not having a countrywide alert. I think it's been way overdue for FDA to have a countrywide alert on products that they've been testing positive years, and not just a specific company alert which they have had off and on for several years.

But it's time to really put some serious scrutiny on this. I think the countrywide alert has helped a great deal. I think that the new certification is highly superior to just open season on American consumers, which is what we saw before on illegal antibiotics and fish from China. And I think it's much, much better.

But what would really be good would be to have sufficient inspections for us to know how safe the fish is. When we look at one in 100 fish, we take one in 200 to the lab. That's not enough.

MS. HALLORAN: We actually have been considering at Consumer Reports doing a market basket testing project to see if it's working. I think there was some testing by the AP that found the stuff, the problems in market -- stuff in the marketplace in some very limited, you know, unscientific sample. But it's expensive. So, you know, it competes with other projects to get on our testing list. And surely, one would think the government could do that.

VICE CHAIRMAN BARTHOLOMEW: I'm thinking about the role of the consumer in all of this. I could ask you both the question I asked of our previous witnesses, which is: In your own consumption patterns, do you eat fish? Do you think about this? I asked you both that question, you can answer it publicly if you want.

But attention got focused on lead in toys and attention has gotten focused on some other things. I noticed in the Washington Post there's a display on the business page of

what has been recalled. And they didn't used to do that before.

Does the consumer know enough about what the risks are? And, is it that we need some more consumers to stand up and say, "We're just not going to buy this stuff if it's not safe"?

COCHAIR SLANE: We would like to hear your answer. Are you eating fish?

MR. WOODALL: I eat some fish, but there is some fish I won't eat at all. So I don't eat shrimp anymore because I don't know where they come from. I know that many of them are produced in a way that I would not want to participate in eating. So there is some fish that I don't eat. There's some fish I will eat. But I would prefer to know where it's from.

So my preference is to get locally-caught fish. And, in the Chesapeake Bay area, that's not an impossibility. But it's still hard.

MS. HALLORAN: I eat a lot of fish. I like it a lot. I have Norwegian ancestors on one side. And for the summer months, I buy entirely from a local fisherman who sells at a local farmer's market, which makes me very happy. And then for the winter, it's a lot tougher.

VICE CHAIRMAN BARTHOLOMEW: By then they've killed everything that there is.

MS. HALLORAN: Right.

MR. WOODALL: I think the consumer question is very important. But I think for food safety in general, this has not been a great couple of years to give consumers confidence in the oversight or the -- or the quality of our food. I think the fish question exemplifies one of the really tricky parts for consumers. We're encouraged to eat more of it. The FDA tells us to eat more tuna fish because it's good for us. But the FDA also tells us that tuna fish may have high levels of mercury that could be very bad for you. So this is a complicated question for consumers.

There is country of origin labeling, but it only covers a tiny portion of the volume of fish that are out there. We would like it to cover more. We think country of origin labeling across the food spectrum is very useful. But it's difficult for consumers.

I think that one way that this could be improved would be to have sufficient oversight inspections and testing so that American consumers could regain some confidence in the quality of our food supply that could be provided through the FDA and the USDA.

COMMISSIONER MULLOY: I don't know whether you know that

our hearings are put up on the web, and people actually follow and read these. Sometimes we hear from people that they get educated. So one of the points I think that's enormously important that you two -- and Miss Halloran, particularly your organization because it's such a well-known group -- is really caring about consumers.

When we were just in China a couple of weeks ago, we talked about the \$260 billion trade deficit and growing. The government officials and even our own Chamber of Commerce people would say, "Yes. But look at the benefits all of our consumers are getting from these cheap products coming into our country."

So it's enormously important when you come in and say the focus of our trade policy is wrong in that it's so focused on just accessing the other guy's market and putting investment there, and not enough on what is the impact of this on the safety standards that we spent a lot of time putting in place in our own country.

You point out not only is it the fact that we're bringing in unsafe food or goods from abroad, but then we have pressure to ease the standards on our own producers so that they're not driven out of business by this other stuff coming in from abroad.

I think it's important then the groups that really represent the consumers don't agree with the overall thrust of our trade policy. And those people who say they are looking out for consumer interests may actually be looking out for their own commercial interests and put that in the guise of being concerned about consumers.

MS. HALLORAN: Yes. The U.S. Chamber of Commerce doesn't represent consumer views very often in my experience. Consumers comparison shop. Consumers will go to the cheapest product. But consumers, if you do any polling at all, they think that if stuff is on the shelves in America, that somebody has assured that it's safe. They believe this. And they should be correct in that.

So when they make a choice between one toy and another and one is cheaper and prettier, they'll choose the cheaper and prettier without any thought that one of them would be unsafe.

And it's, I think, come as something of a shock to everybody, even those of us who are active in this work, the extent to which the products are coming in from China, in particular, because it's industrialized so fast. But also, other developing countries really do not have -- do not meet the safety standards that we have in place here. And we haven't had a way to police it. And we really have

to figure out these systems.

COCHAIR SLANE: Jeff?

COMMISSIONER FIEDLER: Let me ask a technical trade question to you, Patrick. If our government decided that in the main, Chinese fish products were unsafe and unmanageable to inspect and therefore to determine currently, could we, under the WTO, stop importing them without it being a WTO violation?

MR. WOODALL: Could we ban imports of Chinese --

COMMISSIONER FIEDLER: Ban imports of Chinese fish until they got their act together?

MR. WOODALL: I think it would be a problem -- we couldn't obviously stop them from making a challenge to anything that we did. People challenge laws at the WTO dispute system all the time. I suspect that there would be a serious national treatment problem because the way that we look at our food here is from the very beginning all the way through the food chain to the consumer table.

If we were to put a ban at the border that would conceivably mean that we were treating Chinese fish differently than we treated domestically-produced fish. And that conceivably could be viewed as a --

COMMISSIONER FIEDLER: Yes. But we don't import domestically-produced fish. They don't cross a border.

MS. HALLORAN: Yes. The difficulty would be they would look at are we imposing the same standards. And China would say, "Oh, yes. Look, we have all the same standards in place." And we would have to make the case that they don't enforce the standards. And that, I think, would be a big argument that -- that could go either way.

And for us to say we have so many problems that we can't even deal with this, I mean, I think that's also -- it's truthful, but it's very difficult under the current trade system to make that kind of -- that kind of judgment.

And there's, you know, provisions in the trade laws that if you establish a new standard, that companies can seek compensation if they've lost a market. For example, when we closed the border to Canadian cows because they had more cases of Mad Cow disease than we did, there -- the Canadian cattle producers brought a challenge saying that this was discriminatory and not fair and they were entitled to compensation.

Now, I believe that was thrown out or a lot of people expect it to be thrown out. But it's an example of the kinds of cases that can be made and that you have to deal with and that cost us money to fight. And that really should be addressed earlier in our trade agreements to

establish the right to have those kinds of things.

COMMISSIONER FIEDLER: I understand that they should be addressed. We're dealing, though, with the PNTR, WTR rights with China that exist and can't be renegotiated exactly.

We have national security provisions in there that allow us to do things. We have forced labor, products we can ban outright. It seems to me that if we are unable to protect our people from products that we should be able -- I don't know what the technical --

VICE CHAIRMAN BARTHOLOMEW: Aren't there FIDO sanitary standards and health and safety standards?

COMMISSIONER WESSEL: There are. There's also under Article 20, the health and safety environmental provisions, I believe, that Japan and Korea have used to reduce -- to prohibit Mad Cow until we can certify that we have met certain standards and then have negotiated, for example, under, I believe it was, 30 months.

MS. HALLORAN: Yes. Right. Right.

COMMISSIONER WESSEL: So we do have the right to do this. It's just our government has chosen not to use that right.

COMMISSIONER FIEDLER: Because it strikes me that an MOU, an MOA, and eight FDA inspectors is not -- does not create the threat, if you will, of sanctions to China sufficient to incentivize them to clean up their own act, that denial of market is the -- I mean, you can call it a nuclear bomb, but it is an incentivizer.

MR. WOODALL: Certainly the Import Alert did that to a greater or lesser extent.

COMMISSIONER FIEDLER: Yes.

MR. WOODALL: It showed the very serious nature of our concerns. I don't mean to suggest that we could not or should not impose a ban on Chinese fish that we found to be dangerous. The standard under the SPS agreement is very difficult to meet sometimes, and many of the challenges against SPS rules are litigated for a long time.

The scientific scrutiny that is required to uphold the standard -- Europe has a ban on certain hormones for beef. The U.S. doesn't agree with this ban. We're fighting over the quality of the science. Very similar things could happen in terms of fish.

COMMISSIONER FIEDLER: But our beef is --

MR. WOODALL: I'm not suggesting that we should not do it or that we could not do it. I'm just saying that over the long term, we may not prevail if the -- if China brings a challenge to any law that we did that protected our consumers.

Many of these consumer safety and environmental standards have not been upheld at the WTO dispute system. That doesn't mean we shouldn't do it. I just -- I am not a hundred percent confident that WTO would say, "Well, if you're protecting consumers, that's good enough for me," because they haven't done that yet.

COMMISSIONER FIEDLER: But in the case of Europe and hormones, we're still not exporting beef there.

MR. WOODALL: That's accurate.

COMMISSIONER FIEDLER: So the delay is to the European's advantage and not to the U.S. producers.

COMMISSIONER MULLOY: We actually won the case.

COMMISSIONER FIEDLER: But we're still not selling it.

COMMISSIONER MULLOY: We put trade sanctions on them as we're permitted to do, and they are willing to eat those sanctions in order to protect their consumers --

COMMISSIONER FIEDLER: There you go.

COMMISSIONER MULLOY: -- from what they consider an unsafe product.

MR. WOODALL: And the recent ruling is so confusing that both the EU and the U.S. have claimed victory in the same ruling. So, I mean, this is the -- this is exactly the kind of complicated jurisprudence that occurs in Geneva that makes something as simple as banning poisoned fish very complicated.

COCHAIR SLANE: Thank you very much. It was very, very helpful. We really appreciate your time, and we're grateful that you came to talk to us.

MS. HALLORAN: Thank you.

MR. WOODALL: Thank you.

COCHAIR SLANE: I'd like to recess until 1:15 for lunch.

(WHEREUPON, A LUNCH RECESS WAS TAKEN)

A F T E R N O O N S E S S I O N

PANEL III: SEAFOOD INDUSTRY'S PERSPECTIVES ON HEALTH/SAFETY OF SEAFOOD IMPORTED FROM CHINA

COCHAIR SLANE: We're back in session for the afternoon hearing. And this afternoon, we have Miss Kim Chauvin who has spent 22 years as a fisher, five years as a wholesale retail business owner, and three years as a dock owner. She is the fourth generation of fishers in the shrimp trawling business. As part of her work as owner of the Mariah Jade Shrimp Company, she owns three boats: The 73-foot steel hull MARIAH JADE, the 65-foot steel hull CAPTAIN DAVID, and

the 60-foot steel hull DUSTY JAMES.

She is also involved in other shrimp organizations, serving as a board member of Wild American Shrimp, Inc., the Southern Shrimp Alliance, and the Louisiana Shrimp Task Force. She has actively participated in the domestic shrimp industry for the last 16 years in some form or fashion.

We also have with us Matthew Fass. He is the president of Maritime Products International, a family-owned and operated company with a legacy of over 100 years in the seafood industry. The focus of MPI is direct import and distribution of globally-produced frozen seafood to food service retail and processor accounts across the United States.

MPI handles a variety of species of both fish and shellfish, wild-caught and aquaculture, and with experience in virtually every major seafood-producing area of the world. Particular areas of geographic focus include China, Vietnam, South America and South Africa.

MPI also has a long history of work with U.S. fisheries and remains involved with distribution and export utilization and domestic production. Mr. Fass is involved with numerous industry associations.

Welcome, both of you. And Miss Chauvin, do you want to start first?

**STATEMENT OF MS. KIM CHAUVIN
OWNER, MARIAH JADE SHRIMP COMPANY
CHAUVIN, LOUISIANA**

MS. CHAUVIN: Yes. That's fine. What we're looking at here is some of the changes that we want made with FDA. And we're finding out that the GAO takes an average of 348 days for the FDA to notify port of entry officials of a rejected import shipment. While USDA clearly marks the rejected shipments, FDA does not. We would like to see something along this part.

Although Congress, in 2002, the Bioterrorism Act gave them explicit authority to require marking, that they could require marking, they have not done that. We are looking for more things from the FDA to be able to test the product that is coming from this country, as they do in the EU, although, I think it goes toward -- that country pays for this sort of testing mandate that they have there.

Obviously, when you look at what's happening with FDA, we are sadly lacking due to only 1 percent of the food being tested. That says a lot for what's coming into this country.

Also, you have port shopping that is being done. If it's rejected at one port in the United States, it can easily go into another port. This tells you 348 days you are looking at almost a year before anybody knows anything.

With that, in 2006, Customs intercepted 45 containers with chicken, chicken parts, pork, and meat products. And it was smuggled in as seafood. They're looking for ways to get their product in. We are looking for ways for them to adhere to the laws.

We're not against imports coming into this country. We're looking for what we have to pay in workers, what we have in EPA laws. We need the same things done in these other countries. It is not fair for our U.S. fishermen to have to adhere to so many and explicit laws and for this stuff to be coming into this country when it's being subsidized. It's not happening on the U.S. fishermen parts.

One of the questions that was asked of us was the effect of imports of Chinese seafood on our industry. When we're looking at this, in 2000, the year 2000, we had 38 million pounds being brought into this country. By 2003, there was 169 million pounds brought in. When we brought in the trade relief, our domestic industry brought in trade relief -- in 2004, we were at 124 million pounds being brought in, to 2007, with 45 million pounds brought in.

In our commercial shrimping industry, the license that we have, we've seen a major decrease from 23,911 in 2002 to 16,450 in 2005. We're still waiting on the 2006 figures. But of those amount of licenses, trip tickets that were filled out were only 3,854.

A trip ticket is something where my boat goes to the dock. It has to say exactly what it's bringing in. It has a form where you put where you trawled, where you fished at, the date you were out, how many hours you were out, this amount of information.

We're looking at 16,450 licenses, but we're only looking at 3,854 trip tickets. You know, that's a major decrease. And a lot of this has to do with the flood of the imports that were brought into this country. People could not make that adjustment that we have made in this port.

I know people say, well, you can change the way you do business. And I totally understand that. We have changed the way we do business in our -- we used to be only a boat owner, where we would go get our -- my husband would go out as a captain. He would bring in his shrimp. And he would sell it to a processor.

We have changed to the degree of about 180 of what we do now. We retail our own shrimp. We send it out across

the United States through Fed Ex and stuff of this nature, with a web page. But we still come up against the cheap Chinese imports, especially on the East Coast, as well on the West Coast too.

But on the East Coast, we have lost more business there just due to cheap imports. We cannot, cannot match those prices. There is no way for us to match prices when people are not being paid the equivalent of what we pay our people here.

Some of the stuff that we do is we had put a freezer aboard our boat and brought in to where we can retail on a higher level, have higher quality shrimp. We do work with Wild American Shrimp, which has brought in a lot of media attention and brought the domestic industry into the forefront of people's minds.

And as you all know when you watch TV, when you see domestic product on it -- and I know at least I do -- any other product, I'll make sure that that's what I'm going to do. I'm going to go and purchase this type of product because it's going to help my fellow American.

Those are some things that we have done to change the way we do business. We now do own three boats. One of them is tied up to the fact that the fuel is extremely expensive. And the other fact, the major one, is that we cannot find captains aboard for our industry any longer due to the price that you have to pay them due to all of the things that fall into this.

And the oil industry, of course, in Louisiana, as you know, it is huge. They are getting paid a lot more than we can do on some of our boats.

What we're looking at, we have asked -- as the response to the state and federal government, we find the FDA grossly inadequate in what they do and how they test. And we have gone each year -- I am a member of Southern Shrimp Alliance. We have gone each year requesting money for FDA to where they can do the job that needs to be done. Of course, they need certain agendas to put up to do what needs to be done as far as testing. But we have on each year that we have been in -- I think since 2000 -- that SSA has been together.

We do have in Louisiana where our -- Department of Ag had done some testing insofar as -- you know, people would call it protectionism. But in our language, we would say protecting our consumers, protecting our people, protecting our own people that live here.

Personally, I don't want to eat something -- I don't care what it is -- that comes from another country that may have antibiotics or chemicals on it.

We are really just upset that nothing is being taken care of as it should be with the laws on the books. It is a sad fact to say that only 1 percent is being tested, when EU, you're looking at least 20 percent. Japan is 25 percent. And it goes up from there. And we have Canada doing it too.

Why are we the last ones to do anything? We don't have to reinvent the wheel. It's there. The testing mechanisms are there. The way they do it, it's there. There is no reason to reinvent a wheel when you have the spokes already in place. All you have to do is change a few things to get it done.

We do know that the restaurants and the retailers are not so much as promoting our shrimp, but putting things as they should be. We go into stores on a regular basis to go and check out the country of origin labeling. I have gone into several Wal-Marts across Louisiana, and across the United States too, in which nothing is labeled on the seafood. To our knowledge, it's supposed to be labeled. That is a federal mandate. We are constantly calling down on those parts.

In Louisiana, of course, our restaurants just kind of defeated one of the bills that we wanted to put in to where they would have to label where their seafood is coming from. Because in our eyes, if you're happy with what you have, what you're selling, if you are so proud of what you're selling, then list it as it is. Don't go ahead and sell it as it comes from something off of one of our boats. You know, don't make your money off the backs of the American fishermen. Go put your pond-raised shrimp and put a big, old nice picture of it, instead of our boats.

Because I have caught Wal-Mart several times doing this, and had -- it made a national news thing at that port. It's a whole bunch of commercial fleet. In the case, when you look in it, it has "Farm-raised Product of Ecuador." I know where to look for it. It's in the tiniest print you could possibly see. It may have processed in the U.S. That's huge. But when you look at where it comes from, it's going to be extremely little. Most people are not aware of where to look for this.

So those are some of the things that we're just looking at.

[The statement follows:]³

COCHAIR SLANE: Thank you. Mr. Fass?

³ [Click here to read the prepared statement of Ms. Kim Chauvin](#)

**STATEMENT OF MR. MATTHEW FASS
PRESIDENT, MARITIME PRODUCTS INTERNATIONAL
NEWPORT NEWS, VIRGINIA**

MR. FASS: Thank you. Good afternoon. My name is Matthew Fass. I'm president of Maritime Products International. My great-grandfather began the industry as a local oysterman. As the industry has changed, so too has our business. The focus of MPI today is on importing frozen seafood from all over the world for U.S. distribution.

Regarding food safety, I believe that the seafood from China is as safe as domestic seafood is for U.S. consumers. As for the economy, imported seafood has a positive effect on the U.S. job market and the growth of the U.S. economy overall.

While the imported seafood industry provides a safe product, most people in this country are of a different opinion, based on misleading media reports, statements and policies of certain government officials. Such misinformation and misrepresentation of the imported products hurts U.S. jobs, as well as U.S. security relationships.

Imports from China specifically have played an essential role in helping American consumers at all income levels enjoy the health benefits of a variety of seafood. In addition to the consumer interests, approximately 1,000 U.S. firms directly import and distribute fish and shellfish. And many thousands more U.S. citizens directly benefit from this work, including those involved with shipping; port employees, such as longshoremen; the trucking and rail industry; warehouses; packaging processors; regulatory authorities, private laboratories; and supermarket and restaurant employees. Imports often complement rather than substitute domestic seafood. These benefits to the economy must be based on a product that is safe for consumption.

Specifically regarding imported seafood from China, I have extensive firsthand experience on the ground in China. And I can attest firsthand to the myriad of proactive and transparent quality control measures based on a formal HACCP system in place throughout the chain of production.

I know of no illness reported or threats to human safety as a result of imported seafood that has been properly handled, stored, and prepared in this country.

It is worth noting that during the past several

months, the U.S. consumer has faced some serious food safety issues, such as serious toxins in the form of E. Coli, salmonella with lettuce, spinach, beef, poultry, even breakfast cereal. Tragically, vibrio vulnificus toxin, mostly from raw domestic oysters, has actually caused deaths. We have seen botulism recall with canned sauces. Recent reports link ciguatera poisoning from fish caught in the Gulf to almost 30 incidents of serious illness.

Not a single one of these issues I just mentioned were related to China, and many were produced in the United States. Thus, painting a broad brush about unsafe seafood from China is inappropriate and I believe is motivated not by health issues, but by regional protectionism.

As for current complaints about Chinese seafood, which today are focusing on antibiotics, I believe these are not based in any credible scientific or medical basis as representing acute health stress, such as the pathogens I described earlier. Nor should these complaints result in emergency, regulatory action or complete system overhauls applied to the entire seafood industry.

In addition to consistent farm-raised sea -- in addition to consistent farm-raised seafood that complements U.S. offering, one key part of China's rise in seafood exports to the U.S. has been their development as a secondary processor of species caught all around the world. Species such as pollock, flounder, perch and salmon are often harvested in other parts of the world and then brought to China for further processing into filets or other forms, and then sent to the U.S. and other places for consumption.

China has therefore become a major buyer of U.S.-produced seafood and is adding value in ways that we cannot here in the U.S., as we have not the overall processing capacity nor labor to perform. Yet all of this product, including what is originally caught in the United States, is technically a product of China and being labeled appropriately as such, and, therefore, being painted with this very broad anti-China brush.

I spent some time in my written testimony providing more detail of what I believe to be very relevant background of analogous anti-import and misleading food safety attacks fueled by protectionism, using Vietnam in their development of the Pangasius fish for world markets as a specific example.

I don't have time go into more detail with the oral testimony, but I would suggest that this example is important not only in showing the consistent blueprint used to attack imports, but also showing how the FDA was

effectively able to address what issues did exist in a serious and constructive manner.

Much of the recent focus today on seafood safety has been on the detection of trace amounts of certain antibiotic residues. Our industry, our entire industry, stands in absolute agreement that the use of unapproved additives or antibiotics of any kind in the production of seafood is wrong and must be addressed.

When unapproved additives are found, we absolutely must determine the source, the health implications, and meaningful and constructive solutions must be found. However, so too must we understand the -- dig underneath the surface a little bit to understand the scientific health effects of antibiotics, and put things in full context before we enact new emergency decrees or sweeping legislation.

Let me provide briefly a little context, again, more of which I go to in my written testimony.

First, the use of antibiotics in general is a part of food production all over the world, including the United States, including the United States seafood industries, such as with domestic catfish production. Such use on its own is not an indication inherently of unsafe product or unsafe farming conditions. And no government official, or policy, or even reasonable advocacy should promulgate this idea.

Second, state testing methodology and special certification requirements that have developed in certain regional areas have been discriminatory, inconsistent with federal oversight and testing methodologies, and even at times very nontransparent in their application.

Third, policymakers must take the time to delve below the surface and understand the science, technology, and research related to the antibiotic claims being made in many instances. I go into more detail again in my written testimony, using fluoroquinolones as one example.

In the end, I know of no scientific evidence or even credible-based theory suggesting that a frozen food represents an acute threat to health or safety based on the types of antibiotic trace detections that have been discussed. Again, this is not meant to suggest that we should not be absolutely diligent in our work enforcing the regulations governing food production. Even with isolated incidents that may not be representative of an entire industry, we still should take actions. The key is the type of action to take.

The FDA has been an effective agency with regards to health and safety oversight of seafood. However, there are

suggestions that I've made, again in more detail in the written testimony, for possible improvement, including the establishment of an industry advisory committee, additional resources for things such as overseas inspections, development of the common global standards, uniformity and better transparency of overseas exporter certification, and further investment in scientific research for dissemination of things such as rapid test kits.

There have been some negative regulatory and legislative actions as well. There are three main government actions that I have outlined in my written testimony and I will mention here that do nothing to advance the health and safety of our imported seafood or economic plight of U.S. fishermen, and yet claim to do so.

First, the questionable benefits of the country of origin labeling do not justify its cost, in my opinion. It does not provide more helpful information about food safety to a consumer. And it fosters more uninformed decisions, rather than informed purchasing decisions by the consumer.

Second, the antidumping cases have yielded no noticeable benefit to either the domestic industry or global product development. Some adverse results of AD cases include the formation of cartels, an increase in market volatility, decrease in new product development, a lack of domestic reinvestment, and incentives for poor quality.

Third, a quick application of an emergency health decree, as we have seen on behalf of certain states, is often not well-founded in any science and does not address the serious health risk caused by -- and yet causes a great deal of market volatility without an immediate health benefit. It often bypasses current rule of law procedures, not to mention international law agreements. It can impede legitimate trade, affect other industries through retaliatory actions, and paint the U.S. as a hypocrite that does not abide by the rule of law.

In conclusion, Chinese seafood supply has been a positive for the U.S. economy and for the health of U.S. consumers. What does need to be addressed is the fear-mongering and almost xenophobic nature of the recent discussion focused on imported seafood in general and Chinese production in particular. We should keep the debate focused on real health risks and take the time to understand what is legitimate food safety and not confuse other issues with this topic.

Thank you.

[The statement follows:]

**Prepared Statement of Mr. Matthew Fass, President
Maritime Products International, Newport News, Virginia**

Maritime Products International (MPI) is a family owned and operated company based in Virginia and with its roots in the seafood industry for four generations - over 100 years. My great-grandfather began in the industry as an oysterman in Portsmouth, Virginia and this developed over the years into one the largest fresh fish operations along the Eastern Seaboard along with a locally owned fleet of fishing boats and even a chain of seafood restaurants. The industry has changed over the years and the focus of MPI today is on importing frozen seafood from all over the world for U.S. distribution. We are a very hands-on company working directly with production facilities on the ground all over the world, including China. We work to distribute product across the spectrum of U.S. customers including retailers, restaurants and value-added processors. While not a majority of our sales, we also have several U.S. export sales each year. I appreciate the opportunity to submit this testimony.

I understand the topic of today to be related to the food safety of Chinese seafood imports and their impact on the U.S. Gulf Coast seafood Industry. I believe that, overall, the seafood from China is as safe for U.S. consumers as domestic seafood. Below, I explain in detail the benefits of seafood to a healthy diet and to the U.S. job market, and how the seafood industry provides safe products, but, that the focus of the media and some government officials, at least at times, seems to be not on real health effects, but, rather on blocking fair competition. I also cover the issue of why Chinese imports of seafood have increased and then I provide examples of positive and negative regulatory actions and ways to make such actions more helpful with a view toward the health of the consumer and the economic benefit of overall industry.

Seafood is Beneficial to Diet and Job Market

It is imperative to understand the importance of seafood to a healthy diet. As more Americans die from heart and related diseases, the consistent message from public health officials is that we should eat more seafood. Fish and shellfish are, without question, key protein choices that are naturally low in saturated fat and provide a host of nutrients as well as the essential omega-3's that doctors and dieticians recommend for a healthy diet. Americans have heard this health message and seafood consumption is at record levels today.

Domestic fisheries provide a range of excellent products and play a significant role in meeting this growing demand, but they cannot provide for all of the demand. My personal familiarity with these fisheries runs deep and our family history is tied closely with domestic fisheries. Although I noted in my introduction that the focus of our company today is on imported seafood as this makes up the majority of our distribution, I continue to commit our company and my personal time to work with our domestic fisheries in a variety of ways. It is with this experience that I would emphatically say that while most of our domestic fisheries are terrific and will always remain a key source of supply, we simply cannot produce nearly enough seafood for the demand created for such a healthy product - a product that is safe, healthy and available to consumers at all income levels.

Imports - and imports from China specifically - have played an essential role helping American consumers at all income levels enjoy the benefits of a variety of seafood. In addition to the consumer interests, approximately 1,000 U.S. firms are in the business of directly importing and distributing fish and shellfish and many thousands more U.S. citizens directly benefit from this work. Beyond just the U.S. jobs in companies who directly import, distribute and sell imported seafood - some of the related industries that benefit directly include shipping, port employees including longshoreman, truckers, warehouses, packaging, processors, and regulatory authorities. The overall benefit to our economy as well as consumers is significant and should not be understated. In addition, our growing consumer demand for global seafood has helped fuel real economic growth in some of the most impoverished areas in the world - from Vietnam to Ecuador; from Peru to Africa; from China to Costa Rica. It is common for global processing facilities to employ mostly women and it can be labor intensive work, thus the global seafood industry has provided effective support for both women's employment and the fight against global poverty.

Seafood is Safe for the Consuming Public

It is without question that these benefits to the economy must be based on a product that is safe for consumption. It is my simple but strong statement that I believe seafood - especially frozen seafood, whether imported or domestic - has been and continues to be one the safest food items produced for human consumption. Specifically regarding imported seafood from China, I and many others like me can speak based on firsthand experience that we have on the ground in China about the myriad of proactive quality control measures in place throughout the chain of production. I know of no illnesses reported or threats to human safety as a result of imported seafood that has been properly handled, stored and prepared. Let me be clear about what this means - "safety" regarding seafood has always been defined as general food safety issues that cause illness and threaten human life such as e.coli, botulism, salmonella, staph, and listeria as well as some issues unique to seafood such histamine, vibrio and ciguatera poison. Regarding the above-mentioned food safety issues, frozen seafood from all around the world has one of the most exemplary track records in the history of the food industry and the quality-foundation in place to remain one of the safest and healthiest food choices a consumer can possibly make.

It is worth noting that during the past several months, the U.S. consumer has in fact faced some serious food safety issues. We have experienced serious toxins in the form of e.coli and salmonella with lettuce, spinach, beef, poultry and even breakfast cereal. We have seen a botulism recall with canned sauces. Tragically, *vibrio vulnificus* toxin, mostly from raw domestic oysters, has caused deaths and it believed to be the leading cause of seafood related sickness and death in the United States. Very recent reports link Ciguatera poisoning from fish caught in the Gulf to almost 30 incidents of serious illness. Just within the past few weeks, we see a story suggesting the majority of our drinking water as tested in locations across the country is testing positive for trace amounts of many inappropriate substances, including antibiotic residues.

Not a single one of these issues I just mentioned were related to China

or seafood, and many were produced in the United States. Of course, there could be some individual problems in China in the future just like there are in the U.S. today. However, painting a broad brush about the unsafe seafood from China is inappropriate and, I believe is motivated not by health issues, but by regional protectionism. As for current complaints about Chinese seafood, I believe these cannot be defined based on any credible scientific or medical basis as representing acute health threats as the pathogens I described above nor are these issues in need of any emergency regulatory action to be applied to the entire imported seafood industry. I will address the current complaint of antibiotics below as an example of how an issue is portrayed as an emergency health issue when it is not and should be addressed by the media, government officials, and industry as a regulatory issue that requires the engagement of all parties involved. Before that, though, I will provide a brief outline of Chinese seafood production and then an example of how protectionism in the seafood industry has a history of resulting in erroneous health and other complaints.

What Is Actually Produced in China and Sent to the United States?

While it is true that China has developed a major industry with Chinese-raised seafood products, it is important to recognize that a significant portion of Chinese seafood exports are not farm-raised species. Rather, one key part of China's rise in seafood exports to the U.S. has been their development as a secondary processor of species caught all around the world - including significant landings supplied by U.S. companies or other Western countries. Species such as pollock, flounder, perch and salmon are often harvested in other parts of the world and then brought frozen to China for further processing into fillets, blocks and other forms and then sent to the United States for consumption. China has therefore become a major buyer of U.S.-produced seafood and is adding value in ways that we cannot here in the U.S. as we have neither the overall processing capacity nor labor to perform. Regarding product safety issues, I do not know of any credible claims of safety issues with this work. Yet, this further processed seafood, even if first harvested in the United States, is technically "Product of China" and therefore being painted with this very broad anti-China brush and therefore actually hurting many U.S. based seafood companies.

In addition to this product, there are myriad of species that have a history of being produced entirely in China and with absolutely no safety concerns. One of many examples is scallop production from China. China has been the world's largest producer of aquacultured scallops for many years. These scallops are well integrated in markets around the world and provide an interesting example of how imports can compliment domestic seafood production and U.S. companies. The U.S. does produce a beautiful wild-caught scallop - harvested mostly from Virginia north up the coast and into Canada. The resurgence of the U.S. wild-caught scallop production is one of the best examples of excellent fisheries management and the harvest has been strong for the past several years. Several U.S. companies are dependant on landing and processing this U.S. wild-caught product. Yet, rather than look upon imports as competition and harmful, virtually every U.S. scallop processor has embraced the Chinese imports, as well as other species from other countries, as they view themselves as global scallop suppliers and therefore utilize imports to compliment their basket of offerings to customers. There are other species and fisheries where I

could provide similar examples.

The Rise of Certain Chinese Farm-Raised Seafood Exports to the United States

The reasons for the growth of Chinese exports to the United States include price, new product offerings, consistency of product quality and supply. Price is a factor since the cost of land and labor can be significant inputs in food production. However, Chinese production also has helped fuel genuine consumer growth in terms of demand for more consistently available seafood choices in ways that our domestic industry simply has not been able to meet and it is unrealistic that it ever could meet. For the past few years, overall domestic catfish production has trended downward - one of the only areas of aquaculture that I know of anywhere in the world that has seen a downward production trend. As this has happened, there has been no attempt at product expansion in the United States even as seafood in general has seen greater consumer demand. Many retail and foodservice catfish buyers have had significant trouble keeping consistent supply of domestic catfish for ongoing programs. Chinese catfish has helped fill this need. In fact, many of the first direct importers of Chinese catfish have been some U.S.-based catfish processors who see this global supply as a way to keep their businesses growing in an otherwise difficult farming environment. It is simply that not all within the domestic industry share this view.

I can echo the same story with domestic crawfish production. Chinese picked tail meat production has filled a complete void in the national market and has done so with product that has generally represented some of the highest quality production in the world. Just ask the variety of European buyers from Sweden to Norway to France who rely on Chinese crawfish every year for their significant and growing crawfish markets.

Finally, while I know those who harvest wild-caught shrimp in the Gulf can be some of the hardest working folks on Earth, their supply is naturally limited. In addition, there has sometimes been a real disconnect between shrimp harvesters who catch the product and the processors who then take control of the product to get it to market - sometimes adding value to the fresh product, sometimes adding too much chemical and water to a terrific product and hurting its acceptance with the consumer. With the natural limitations of any wild-caught species, it is only natural for farm-raised products to help fuel additional consumer consumption as these products can be available year-round and made to the exact specifications demanded by key buyers and consuming markets in the United States. There is still a wonderful place in our markets for U.S. wild-caught product and there are many U.S. producers who have grown their companies by utilizing the imports that now make up the majority of U.S. shrimp sales. However, everybody is free to choose their business model and many for a variety of reasons have chosen to simply fight imports at every possible turn and in any way possible.

Description of Seafood Production and Infrastructure in China and Vietnam

In China and Vietnam, one will find many of the newest and most sophisticated seafood production facilities anywhere in the world with fully staffed quality control teams, internal laboratories and overall product safety built into its core. One will find the use of many of

the most modern techniques used anywhere in the world with aquaculture production. One will find even with older production facilities, management and systems in place that understand that make product safety the cornerstone to everything. Without such a focus, there would be no global market and no long term business. One will find a system that embraced HACCP for world exports ("Hazard Analysis of Critical Control Points") - a quality control system that each plant must have in place that shows how every possible safety hazard is managed for any given species. Many other food industries, including U.S. based, have been slow to adopt a formal HACCP system as it can be burdensome to put in place, especially initially. Yet, the global seafood industry actually took the lead requiring this well-proven quality-control system be part of every seafood production facility in China and Vietnam. In China today, one will find production facilities not only open to foreign visitors and inspection but actually embracing such visits. One experience that constantly repeats itself is when we bring inspectors to China to tour plants and farms firsthand. On every single occasion, we are met with comments expressing surprise at the quality standards in place since they had been led to expect something very different.

In addition to the strong HACCP foundation put in place, many large distribution and retail food companies in the U.S. (and around the world) have developed internal quality control teams that they send all over the world to inspect plants and monitor product in an effort to verify that the quality controls in place are actually working well. This system has proven effective and we commonly experience examples where private industry has helped further strengthen quality control measures. For international buyers perhaps not large enough to employ their own inspection team, private laboratories and inspection services have now developed all across Asia and are readily available to companies who readily employ their third-party inspection services.

It is therefore not a surprise to us to see this exemplary track record when it comes to overall seafood safety from China and most other countries that export to the United States.

Distinction Between Quality and Safety

A final point I would make is about the issue of "quality" vs. "safety." A shrimp or fish fillet may be absolutely safe in every regard, yet of higher or lower quality as measured in numerous ways. Product could taste bland or strong, have too much processing (for example with phosphates, very common in both domestic and imported food), have too hard or soft a texture, or have poor packaging - all measurements of quality. Yet, these issues are often blurred in a discussion about seafood safety. Genuine food safety must always be the top priority for regulatory officials. Other product attributes should be governed by the markets. We hurt our ability to monitor food safety effectively when we spend scarce regulatory resources on non-safety issues.

Without question, China has a historical reputation of being more of a "low cost" and "lower quality" provider with a variety of exports. However, I can state unequivocally from our experience on the ground in China and comparing production to other countries, including our own, the rise of actual product quality from China is rapid and noteworthy. I can say with confidence that many of the items we work with from

China, including catfish and crawfish, represent levels of quality and consistency that today actually surpass the quality of production from anywhere in the world. For example, we regularly produce catfish that has no off-flavors and absolutely no phosphate processing - both attributes that have badly hurt U.S. catfish production for many years and issues that foodservice and retail buyers cannot avoid when buying domestic product. It is my belief that the quality level of Chinese seafood imports in many ways is what is driving this recent anti-China push; many domestic companies see the quality and consistency of what is being done overseas and it truly concerns and threatens them.

Recent Background of Anti-Import and Misleading Food Safety Attacks Fueled by Protectionism

Although there are tens of millions of pounds of seafood imported from China each year constituting many different species, the public debate on seafood safety has been led almost entirely by two specific industries during recent years - shrimp and catfish (with some discussion related to crawfish as well). If one were to look up the most recent activity during just the past several months, one would find much of the rhetoric and media stories invoking safety concerns led by advocates from the domestic catfish industry. Therefore, an effective way to try to gain a better understanding of how questionable health and import complaints can stem from protectionism is to use catfish as a case study.

The U.S. catfish industry provides a good example of domestic industry development during the past 30+ years. Many in that industry have done a terrific job developing this industry into one that provides good products to markets and consumers across the United States and have done so while providing employment opportunities in some regional areas where the economy has been challenging over the years. There are many companies and individuals in the catfish industry who have done very well financially over the years and will likely continue to do so for many years to come. However, there are others who have struggled for a variety of reasons and, as I would suggest like many in other industries, rather than look inward to examine some of their tougher issues or think about ways to innovate and adapt to a changing global environment - they have chosen to point the finger squarely at competition and predominantly imported product as the reason for their troubles. A powerful lobby group has developed within the domestic catfish industry and, while there is not uniform agreement within the domestic industry about marketing and lobbying methods, a significant focus of the industry's efforts has been a very focused anti-import campaign against competitive products. Aided by some powerful political forces, the anti-import efforts have yielded some significant results. In today's current political environment, pointing to imports (and Chinese imports in particular) is analogous to catching fish in a barrel; it is difficult to miss the target.

The comprehensive approach taken by the domestic catfish industry and lawyers and lobbyist on their behalf focused against Vietnamese production is now developing the same exact way with China, so I will focus this background example here on Vietnam. Vietnam, with significant internal and European investment, began commercial development and exports of fish in the *Pangasius* family to markets around the world during the mid 1990's. It takes time and patience to develop new markets with any seafood species, but that growth has been

steady and today, *Pangasius* is recognized as one of the fastest growing seafood items - embraced by consumers and buyers in markets throughout Western and Eastern Europe as well as Asia, Australia and Canada. There may not be a stronger microscope on production and standards as exists on this product as regulators from all over the world want to ensure that this product - one of the best success stories from an impoverished Vietnam - meets and exceeds health and safety standards. While not every single issue has demonstrated perfection, however - the overall story in terms of quality and industry development has been very good. Most importantly, in the cases where there have been questions and issues regarding regulatory standards, regulators have engaged in constructive dialogue and issues have been addressed with demonstrated success. I know of not a single health or safety incident as defined by bacterial or microbial issues, seafood toxins, or consumer illness related to this species. In addition, good transparency in the farming and production process have developed in Vietnam and the doors have been open for years to regulators and other visitors regarding any questions. Yet, if you search the media and Congressional archives during the past 10 years, you would think that the Vietnamese industry has a sub-standard product that threatens the health and safety of consumers at every turn. Every possible attempt has been made by the domestic industry to stop the flow of imports and disparage the product in any theoretical way. I would summarize the efforts as a four-pronged attack against the imports:

First - we first saw national ads sponsored by the domestic catfish industry that included reprehensible, racially discriminating language. One ad led with the headline "Never Trust a Fish with Foreign Accent" and noted that "These other guys probably couldn't spell U.S. if they tried." I think these ads speak for themselves. Today, these marketing and lobbying efforts have moved to video and recently sponsored similarly offensive anti-China ads on You-Tube.

Second - at the same time these ads were running, lobbyists on behalf of the domestic industry successfully pushed for an amendment to a federal appropriations bill that dictated that the only species of catfish produced anywhere in the world that could be imported using the word "catfish" could be the single species *Ictalurus punctatus* (the species that makes up domestic production). This despite the fact that it was without question then as it is today that there are literally dozens if not hundreds of scientifically recognized species of catfish produced all over the world. Therefore, from this moment on - the Vietnamese fish, which had been marketed by some as "Vietnam catfish" was forced to begin anew under a different name. This new marketing has been made at great expense and effort by importers, producers, distributors, grocery stores, and restaurants. We are seeing similar state legislation focused specifically on Chinese imports today and a push at the federal level for the same.

Third - an antidumping case was brought against the Vietnamese *Pangasius* by the domestic industry. This happened at the same time the industry was stating as described above that the imports were so different from domestic catfish that it was inappropriate to associate the name catfish with this product. Which was the truth? However, with Vietnam sharing the same "non-market economy" designation with China as they do in all antidumping cases, history shows it to be virtually impossible for any domestic industry to lose a case as long as

experienced lawyers are in charge. Therefore, a standing dumping order has been in place on *Pangasius* for almost five years. There have been numerous rumours for months of a China-dumping case aimed at Chinese *Ictalurus punctatus*.

Fourth - and most importantly as it relates to this hearing today - all along the way, there have been loud and continuous efforts by the domestic industry to portray the Vietnamese product as "unsafe", "unregulated" and far below the quality standards of U.S. production. The vast majority of the rhetoric is based on misleading and extremely inflammatory language - yet, often echoed in the media and even among powerful state and federal officials. It has become the repetitive, boilerplate suggestion that product is raised with no quality standards and in dirty and unregulated conditions. This type of rhetoric is difficult to immediately counter as it requires the ability to prove the negative. This tactic has been especially effective in recent years when targeting imported seafood since import-interested parties, although great in number are mostly small, and like mine, family-owned and operated. We have no effective coalition and therefore no effective organization to counter the lobbyists and politicians who are constantly on the attack. Often the anti-import media stories are written entirely on the basis of the picture presented by the domestic industry. It is no less troubling that elected officials at both local and national levels are also usually willing to engage in such rhetoric with little understanding of the facts. During the Vietnam-*Pangasius* debate, one current Congressman was quoted as referring to his concern over "Agent Orange" in Vietnamese product, a remarkably offensive comment and with absolutely no factual basis. Many other consistently try to paint a picture of "sewage-like" conditions and "dangerous" products. The exact same rhetoric is taking place aimed at China today. In the case of Vietnam as with China today - this is especially concerning because these allegations are demonstrably false as neither country lives behind a secret curtain with limited access to the seafood industry. There are few if any places that cannot be visited on short notice by regulators, private inspectors, customers or politicians.

Antibiotics in Seafood and Recent State Regulatory Activity

Much of the recent focus of seafood safety has been on the topic of the detection of trace amounts of certain antibiotic residues in certain species of aquacultured seafood items. Every member of our industry stands in agreement that the use of unapproved antibiotics or unapproved additives of any kind in the production of seafood is wrong and any concerns should be analyzed and properly addressed. When problems are found, we must work to understand what is happening, what the implications are, and what can be done to eliminate the problem. The real health effects of antibiotics needs to be understood before new laws or emergency decrees are passed.

Antibiotics and other additives have always played a part in global food production, including U.S. food production. However, the role of antibiotics in imported seafood has a particularly negative image. Given that antibiotics are part of the public debate on seafood now, I will provide some details about the use, safety, and testing of antibiotics in the seafood industry. The use of antibiotics in food is not necessarily an indication of a poor product or poor farming conditions and no government official or policy should promulgate this

idea. Antibiotics in general are used in most U.S. food producing industries, including the U.S. catfish industry, and taking the time to understand antibiotics is important to determine the best regulatory response. Also, state testing methodology should be more consistent and transparent and should show relevance to health risk before new policies are implemented, especially when based heavily on developing technology. In the section of this paper entitled "Negative Actions of Regulatory and Legislative Bodies", I will discuss how federal policy could be changed to address antibiotic issues.

The use of antibiotics is not an indication of a health hazard related to farming conditions or poor product. They are approved for use at some level in virtually every U.S. food industry. We need look no further than the U.S. domestic catfish industry, on this issue. In the trade press recently, there have been full-page ads for the latest antibiotic - florfenicol - approved for use in U.S. catfish production. Statements, such as one part of the recent record of testimony from the Catfish Farmers of America to the House Ways and Means Committee stating that the product "we [U.S.] produce is antibiotic free..." are false and, I would suggest, meant to perpetuate the impression that any food industry that uses antibiotics must be one where conditions are substandard. It is very easy to twist the rhetoric regarding antibiotic use in food production to present a false picture. It is a fact that Catfish farmers in Mississippi and Alabama routinely receive special state exemptions for the use of an herbicide called Diuron to treat ponds when algae in the ponds becomes particularly bad. It is also a fact that Diuron is classified as a known carcinogen by the U.S. Environmental Protection Agency. This practice is legal in this country - yet, imagine how a discussion of algae, herbicides and carcinogens even with an accepted practice could be portrayed by advocates looking to smear the reputation of an entire industry.

State testing methodology from the Gulf States in particular has been generally nontransparent and inconsistent. Since the methodology can be opaque, it is difficult for me to say unequivocally that it is unfair or unreasonable. However, as just one example, we have no idea what is the statistical representation of the product collected by the state. The testing could be targeting (purposely or inadvertently) products from one single producer or geographic area in China that may not be representative of the majority of the overall production. The evidence of very different and very good test results both from private companies and other states points to this as a real possibility.

Another concern relates to testing methodology that appears to be inconsistent with FDA protocols that leads to bad policies and inflammatory remarks by influential government officials. Using Flourinquinolones (FQ's) as an example - press conferences have been held and legislation written based on supposed detection levels of .5 and 1.0 parts per billion (ppb) as evidence of an acute consumer safety threat. The FDA has clear technical testing guidelines that cover this subject and the current protocol clearly calls for testing FQ's down to 5.0 ppb as the proper methodology. While I am not an expert here to testify as to whether this is the perfect testing protocol, I do know that food scientists within FDA spend considerable time developing these standards. If the U.S. were exporting product to a country where product was testing under the national regulatory scheme but was being subjected to special local testing in a non-transparent way and under

technically different requirements, our government and private industry would be screaming about classic protectionism masquerading as an illegitimate food safety concern.

Science has recently given us the capability to measure residual levels of any substance. This is a terrific scientific advancement and should be utilized. However it is important to analyze the relevance to food safety of levels this small. Just because they can be detected does not mean they should be banned necessarily. In many cases, these trace amounts are found in our environment naturally and we ingest or come into contact with these trace amounts on a daily basis without any adverse effect to our health. One recent news article notes salmon from one of the most pristine production areas of Canada testing positive on two separate occasions for Malachite Green - an agent that is not approved for use in seafood production. Although there appears no clear explanation, the opinion seems to be that the testing, as it has reached such new levels of sensitivity, was likely picking up residues that could come from other sources (including lab residues). Should we be taking swift action against farm-raised Canadian salmon? If it were from China, there would probably already be an emergency decree in place. Another relevant story studying the drinking water from 24 major metropolitan areas *in the United States* revealed trace amounts, some measured in parts per billion, of a vast array of pharmaceuticals including antibiotics, mood-stabilizers and sex hormones. Do we believe that we have one of the worst safety levels of drinking water in the world and should take special and immediate regulatory actions?

It is important to note that there is no evidence that a frozen food represents an acute health or safety threat based on a trace detection of .5 or 1.0 part per billion. There are good public policy arguments supporting certain antibiotic bans and there are credible theories suggesting concerns, especially in fresh food, related mostly to antibiotic resistance concerns under specific conditions. (Note - these theories assume significant antibiotic often measured in parts per million or greater in the final product - many times higher than what is being asserted with the current Chinese). However, framing this issue as an emergency food safety concern or evidence of substandard production conditions is not supported by any science and is a misrepresentation of the overall issues.

FDA Actions and Special FDA Import Regulations

It is rarely acknowledged that when FDA does identify a credible regulatory concern related to seafood, as it has done many times in the past, the issue has been addressed effectively. An example is when Vietnam began expanding its *Pangasius* farming. The regulatory authorities in Vietnam did their best but were slow to keep pace instituting the most effective measures possible to ensure that farmers and processors everywhere were following all of the rules correctly. FDA pressed hard on officials in Vietnam to ensure that the farmers understood the correct practices and the result of such interaction was very positive. Never was this issue discussed as an "emergency or urgent safety threat" by credible speakers at a federal level, although there were state attempts analogous to what we are seeing today with China to paint all Vietnamese product as unsafe. Today, this FDA interaction with Vietnam stands as a good example of how these issues can be addressed effectively. Those who cheat or act negligently - whether in Vietnam, China or the U.S. - will always propose challenges

to any regulatory system. However, the issue is whether we have a system in place that promotes success and is effective in addressing problems as they arise. U.S. consumers have faced extremely serious safety breaches with a variety of domestic non-seafood items in recent months, but we believe very strongly that the U.S. food system is the safest in the world. Yet, imported seafood and its rather stellar track record is facing massive regulatory overhauls and debating significant legislative activity based on issues that have much less to do with food safety and may have much more to do with an anti-import backlash.

It is also relevant and revealing to examine what the FDA has found under the new Special Import Regulations currently requiring 100% testing of all Chinese catfish and shrimp imports. I do not have access to records for other companies, but I can tell you firsthand that our company has imported in excess of 1 million pounds of Chinese catfish just since the regulation took effect last August and we currently have a record of 100% compliance. Publically available import records seem to indicate that several million pounds of product subject to the mandatory testing have been imported by others at a near-perfect testing rate. This is especially illuminating since the regulation took effect at a time when catfish and shrimp were already much of the way through the farming cycle, the time when antibiotics would be most often applied to help decrease mortality in the farms. This suggests that if illegal antibiotics were the norm rather than the exception as is often promoted - with a 100% testing requirement, one would expect numerous positive tests and significant FDA rejection rates. While I do believe there have been a couple of isolated issues since the regulation took effect, the very strong overall record speaks for itself.

Positive Actions of Regulatory and Legislative Bodies:

The FDA is a positive and helpful agency. Safe food is good business and the FDA encourages the sale of safe food. The FDA has developed the regulatory expertise for effective oversight of imported seafood. Seafood production - with so many different species and global production areas - stands as a complex example of the global food supply chain. Therefore, the idea that we would be considering taking seafood or carving out particular species away from FDA to move to other agencies for safety oversight seems a very strange idea. It may be an effective strategy for some who would like to see new agencies involved for turf reasons and new barriers enacted for imported product. However, such action would be ineffective and even harmful for food safety as there would have to be a significant learning curve for any new agency to take over lead involvement, not to mention the communication inconsistencies that always occur when several agencies are involved in a decision.

The FDA has useful tools to implement its oversight duties. Two examples include the aforementioned special "FDA Special Regulation" related to specific species from China along with FDA's ability to place individual foreign exporters on automatic detention status. The other tool that the FDA uses very well is the tool of engagement. Engagement of FDA officials with Chinese exporters is the most effective way to quickly resolve problems and to ensure that new problems are not created. The FDA has been very effective in helping Vietnam move from its initial problems when first getting into the U.S.

market to where it is today with very safe products and it can do the same with China. Inflammatory remarks and emergency systems put in place with very little basis in a severe health threat are harmful to U.S. jobs and to U.S.-Chinese security and economic relations.

There are a few enhancements I would suggest that could be made within FDA that would help provide for better oversight of food safety. These include the establishment of an industry advisory committee, additional staff resources for overseas investigations, the development of common global standards, uniformity and transparency of overseas exporter certification, and further investment in scientific research.

(1) Industry Advisory Committee (IAC): Most major industries have formal IAC's under USDA or DOC engaging in constructive dialogue with government officials. The seafood industry has no such program with FDA and a formal dialogue that includes both domestic and importing concerns would be a significant positive step.

(2) Additional Resources: FDA must be optimally staffed and updated with technology in a rapidly developing scientific environment. FDA has become proactive and effective in terms of hands-on, overseas visits regarding seafood oversight, but this takes staff and resources and must be enhanced.

(3) Standards Harmonization: Standards such as how product should technically be tested to verify that rules are being followed should be harmonized so that countries better understand how food is treated in other countries and what this means for safety.

(4) Improve Harmonization with Exporter Certifications: I am not aware of any country, including China, that does not already have a system in place for exporter certification. However, there is a need for better transparency and harmonization of world systems. This will allow easier product traceability and should be a powerful aid for regulators to better target problems when problems occur.

(5) Further Investment in Science and Technology: An example of this is working to develop "rapid test kits" for use in the seafood industry. The ability to distribute meaningful product test kits that could be in place in farms and processing facilities all across the world could be a very powerful tool in helping track even the slightest concerns as they arise. This technology already exists today in different forms, but the U.S. could be a world leader in helping take this from theory to reality.

Negative Regulatory and Legislative Actions

(1) Emergency Health Legislation and Special State Certification Requirements: Emergency laws and regulations should only be used if there is a genuine and serious threat to health and human safety. Some emergency decrees are not justified in true health safety concerns and are also different from federal requirements, thus, creating a dual system of testing and certification. We would not tolerate this in other countries with our exports and we must examine how to better proceed moving forward. There is a difference between pathogens that are directly related to human safety and trace residues of antibiotics and I would expect our government officials to know that difference and for policies to reflect that difference.

A quick application of an emergency decree that often bypasses current rule of law procedures, not to mention international law agreements, often has additional and farther reaching negative effects. Such

action significantly impedes legitimate trade and, in some cases, affects the trade in other industries by leading to retaliatory barriers. Such action also infuriates the overseas country if done unfairly and weakens the integrity of the U.S. Government that claims to support the rule of law. Such action paints the U.S. as a country that does not mind treading on the impoverished countries of the world to help a few lawyers and special interests make a lot of money. Such results are not good for the economic or security relations between the United States and China.

(2) The Country-of-Origin-Labeling ("COOL) Requirement for Seafood.

This legislation has been costly and burdensome at many levels. While all legislation has a cost, we usually ask the question of whether the cost is worth it for the benefit imparted. In this case, it is very hard to understand just what benefit is imparted with COOL that justifies its cost. Every pound of imported seafood has always been required by law (Customs and Border Protection) to clearly state country-of-origin. Every consumer who cares enough about country-of-origin has always been free to simply ask this question when purchasing product. Every consumer who purchases a product and determines it to be of poor quality has the freedom to make a different choice in the future. Any seafood vendor who purposely misrepresents or even re-labels product origin is committing fraud and can be punished under existing laws. Those who have led the charge to push for COOL usually cite the need for "consumer awareness about food safety" as the reason behind the requirement, yet it seems very unclear to me exactly what COOL does to speak to or improve seafood safety. If the government believes that seafood produced from China or anywhere is not safe, then it should not be allowed in our borders.

The most recent COOL developments taking place in certain states highlight what I think are the real reasons behind these efforts. At least two states - Mississippi and Arkansas - have already passed state legislation stating that catfish - just catfish - must clearly state country-of-origin on restaurant menus. This same type of legislation is on the front burner in other states including Alabama and Louisiana. This is not legislation requiring labeling all food items, even all seafood items - *just imported catfish* and special menu labeling. The uninformed analysis of an individual consumer at the restaurant is as follows: "I read that Chinese fish have dangerous additives and are unsafe. I see that this fish, unlike everything else on the menu, has a special label noting it is from China, so I won't buy it." We are moving down a road with COOL that seems to result in more uninformed decisions, rather than informed decisions.

(3) The seafood Anti-Dumping (AD) Cases - specifically those regarding crawfish and shrimp in recent years. The antidumping actions have had a significant effect on many aspects of our industry and they deserve a special discussion that I have provided in **Annex A**. I have an extensive perspective not only as president of a company engaged in the importing and market development of some of these items both pre and post AD duties, but also with a personal legal background.

Briefly, the main point is that the AD cases have yielded no noticeable benefit to either the domestic industry or global product development and incurred great cost in many ways. Some adverse results of AD cases include the formation of cartels, an increase in market volatility, a

decrease in new product development, and a lack of domestic re-investment. One group does benefit. It is the AD lawyers and they will tell you that there are wonderful benefits to the domestic industry, but, either they are not being truthful, or they do not follow the consequences of their work to know what the real results are after the case is won.

In general, the intended result of an AD case is higher prices to the consumer so that they are discouraged from buying the imported product. However, this rarely takes place in the marketplace. The market is usually thrown in to more volatility due to the uncertainties involved with AD cases and volatility with seafood prices hurts all long-term seafood suppliers who care more about stability and product availability. I have heard the line repeated many times by domestic companies that "the things that we were told would happen to benefit us did not happen."

Even with this growth of imports, some have understood the changes and utilized imports to grow their companies while at the same time taken current domestic supply and focused on some special marketing campaigns. While I cannot personally attest to the success of the domestic marketing in terms of profitability, as both a market participant and a consumer - I see numerous examples of supermarkets and restaurants that seem very proactive embracing this product and positive domestic promotion. This would seem the much better path rather than trying to artificially place complex duties on a food import, especially during a time of obvious food inflation. In the meantime, to the extent that the U.S. will maintain its AD system (as all countries do), we should at least give serious attention to rule reforms that that seem badly needed to better match the realities of today's global trade.

Conclusion

It is without hesitation that I suggest that, overall, Chinese seafood supply as well as supply from other countries has been a positive for the United States. It has been a positive by providing more goods consumers appreciate, including many areas where we do not have production capacity, and therefore provided an economic stimulus in numerous areas. I would challenge any economist who would suggest that in the seafood industry, if we only curtailed the quantity of imports we would then see a similar rise in domestic production and profitability. We have neither the proper infrastructure nor the labor necessary that is well-suited for significant commercial development in this area. Chinese seafood and imports generally have been a positive by providing consumers with new product offerings and healthy choices. It has even been a positive for many U.S. seafood companies who have partnered with Chinese counterparts. In Virginia, we have seen several companies historically based fully on domestic production in areas such as oysters, crabs and scallops significantly grow their businesses utilizing imported products presently. One of the cornerstones of U.S. economic success over the years has been constant innovation, ingenuity and invention - all things that are pushed forward with competition and stifled with protectionism. Of course, competition must be with products that are safe for the consuming public - but I think a thorough and fair analysis reveals that this has been the case with imported seafood, including Chinese production, and we maintain a good national regulatory system to deal with the exceptions.

What does need to be addressed is the fear-mongering and almost xenophobic nature of the recent discussion focused on imported seafood in general and Chinese production in particular. In our democratic society, we should talk openly and with a factual basis about the relative merits or harm from free global seafood trade and then we can make policy decisions accordingly. However, we should be honest about the discussion and take the time to understand what is about *legitimate food safety* and not confuse other issues with this topic. This is the way that we will construct the best and proper regulatory oversight and this will benefit all of us.

Panel III: Discussion, Questions and Answers

COCHAIR SLANE: Thank you, Mr. Fass. Commissioner Fiedler?

COMMISSIONER FIEDLER: I have questions of both of you that may take two rounds to get to. Let me ask you just sort of business questions.

So you said you had a great deal of on-the-ground experience in China. So how many suppliers, for instance, do you have in China?

MR. FASS: Off the top of my head, I don't have an answer for that question. I've never been asked that question, but probably between, I'd say, 25 and 50 main suppliers.

COMMISSIONER FIEDLER: And do you inspect their facilities as an importer?

MR. FASS: They are inspected, sometimes by us specifically; sometimes by third-party independent inspectors. Sometimes we will enter a business with a long-term contract with a major end-user in this country who will hire -- will have their own quality team to inspect. So they are inspected in some form.

COMMISSIONER FIEDLER: So you inspect because you don't have confidence in the Chinese regulatory system?

MR. FASS: I would say it is a good verification step for any food supply, to be verifying that systems that are in place are actually being followed.

COMMISSIONER FIEDLER: Let me ask you a direct question. Do you have confidence in the Chinese regulatory system?

MR. FASS: In general, yes, I actually do.

COMMISSIONER FIEDLER: On food? On seafood?

MR. FASS: In seafood, I do. Are all things perfect? No.

COMMISSIONER FIEDLER: And then when you import it into the United States. Are you then the distributor of the product, or are you shipping the product from China to

Wal-Mart, say, or some other customer?

MR. FASS: I would say 95 percent of the time we take possession of the product ourselves when it hits here. Occasionally, we will ship containers directly. We still take possession of it at the port and might deliver it if it's a full container transaction to a customer.

COMMISSIONER FIEDLER: How often have you been inspected by the FDA in the last 12 months?

MR. FASS: Meaning our company in particular?

COMMISSIONER FIEDLER: Yes.

MR. FASS: We are inspected randomly once per year. And let me explain what that means. We are an importer. We don't own a processing facility in this country. So FDA has authority to come in at will, randomly, to inspect our HACCP verification and recordkeeping system. And they do come once a year.

COMMISSIONER FIEDLER: Okay, once in the last year. And roughly how many pounds have you imported, say, from China alone last year?

MR. FASS: Several million.

COMMISSIONER FIEDLER: Several million pounds. And one time they inspected?

MR. FASS: Yes. Our products are inspected on a much more regular basis. But our company, our office, our recordkeeping is inspected once a year.

COMMISSIONER FIEDLER: I was interested and only concerned with your products as they come into port.

MR. FASS: I'm sorry. That's different. Our products are -- it's a little longer answer to that question. We are involved, for example, importing Chinese catfish, which is under the special regulation. One hundred percent of those imports are currently inspected as they come into the border.

COMMISSIONER FIEDLER: Do you use NOAA at all?

MR. FASS: For that regulation, that's not really an option. I can explain what that means. There are special details as to how it's supposed to be inspected, and NOAA is not part of that system.

For other things, other products are randomly inspected by FDA. Our inspection rate happens to be greater than 1 percent. But I would suggest it's somewhere in the 5 to 10 percent range.

COMMISSIONER FIEDLER: When you inspect in China, do you take into special account the pollutants that might be found in the --

MR. FASS: I wouldn't say we take that into special account in the sense that -- and I know I'm coming at this

from a different perspective. But we have never -- and I mean what I'm saying. We have never encountered -- I've never been to any fish plant in China or anywhere where I've seen a coal plant depositing runoff or anything.

There's a lot of investment and time and strategy that goes into where aquaculture -- in what we see and others. So we have never done special -- have special pollutant concerns with what we do.

COMMISSIONER FIEDLER: That just assumes that you're talking about ground water pollution that comes out of a plant versus stuff that may be blowing in the air and then being deposited on top of the water in aquaculture?

MR. FASS: That's true.

COMMISSIONER FIEDLER: Okay. I have a second round. I don't want to take up any time. I want to come back to Miss Chauvin.

COCHAIR SLANE: Michael?

COMMISSIONER WESSEL: Thank you both for being here. I want to follow up in part on Commission Fiedler's questions. And he briefly touched on the NOAA issue. Do you use NOAA for the voluntary review of the other products you bring in?

MR. FASS: We use them on a case-by-case basis. Most often, the vast, if not a hundred percent of the time, we will be asked by a particular customer to utilize that system. They say -- there are numerous ways to have product inspected privately.

You can use the NOAA system. We may have a customer who says, "We want you to use NOAA" for some particular reason. And when they do, we utilize that. We do not normally utilize that as any kind of -- if somebody is not asking us to utilize that. We might utilize other inspection systems in other ways.

COMMISSIONER WESSEL: What percentage of your product then is being inspected? Or do you only do inspections based on when a customer asks you to, rather than as a marketing -- safe marketing technique?

MR. FASS: Overall, we do inspections for our own desire. And we think it's good business practice to be taking numerous steps to verify that what we think are very good systems in place are being followed. So we don't just inspect when a customer asks us to inspect. It's just that for NOAA in particular, that happens to be one system that we don't really utilize. We haven't up to this point unless that specific system is requested of us.

COMMISSIONER WESSEL: What's the cost of the NOAA system, which I think was related a penny per pound, versus what you may get from one of your private contractors?

MR. FASS: That is a difficult question to answer because it really depends on how much somebody is asking us to inspect. When a container comes into port, like a frozen container, it varies, but roughly 40,000 pounds of product. We may have a customer who is buying 2,000 pounds one week or 40,000 pounds one week. And the cost per pound varies greatly depending upon size. So I actually think one penny per pound is, for any size we have inspected, is not accurate. I would put it closer to actually five cents a pound.

We find it to be -- and this is no disrespect meant to NOAA, who I think has done an excellent job in many ways -- but my personal opinion is that the NOAA inspection system is not maybe the most, not only cost efficient, but even the most comprehensive analysis of a particular product.

In other words, we've never utilized nor ever been asked to utilize NOAA to look for antibiotic residues. That's done at private labs now under this new FDA regulatory regime.

I find that a more detailed look at product than the NOAA system, which often is looking more at other things, an organoleptic test, for example, how it smells, which is important too. That is scientifically based. But there are ways to do that and more in other systems.

COMMISSIONER WESSEL: In your experience, what has been your refusal rate since you indicated you do large scale testing? And just as it relates -- we're the U.S. China Commission.

MR. FASS: I understand.

COMMISSIONER WESSEL: We understand the issues you've raised versus other imports. Just in the U.S. China context.

MR. FASS: I'm not trying to be evasive. Off the top of my head, I do not know. I came back from other work I was doing to the company about 13 years ago. I believe I can count on one hand the number of actual refusals we've had from anywhere in the world. Yes, I can count on one hand the refusals based on FDA or other inspections.

I'm trying to think if what we have witnessed has been necessarily from China over the last 10 to 12 years. I think we've had one or two instances with China. One comes off the top of my head from the Philippines, one from Argentina. Minuscule.

COMMISSIONER WESSEL: Okay. Miss Chauvin, if you have some comments on your colleague's testimony, it would be welcome. We'll be more than willing to hear those.

To what extent have your marketing techniques, the Wild

American Shrimp and the opportunities that you've looked at, differentiate domestic versus foreign farmed or grown or captured seafood? What have they yielded in terms of your being able to market your product?

MS. CHAUVIN: Wild American Shrimp has done, in the last two to three years, numerous amounts of campaigning for the domestic industry. In doing that, when we were -- when we started out in 2002, we were roadside. We'd sit on the side of the road selling your shrimp, doing what you could to get past this flood of imports.

In that time from doing less than 1 percent of retail, we are now at what we catch. Probably 50 percent of what we sell goes into a wholesale market, aside from a processor. The other 50 percent will go into a processor. We do not process, you know, anything. We don't do any of the peeling or anything like that. We just sell a whole head-on product to people.

In saying that the people that now buy from us are excited they have found an avenue in which they can trust someone to bring in American product. We have traceability aboard our boats. We tag each lot that we get, each sack that we get. Each trawl drag that is brought in, it has a tag on it. And it says where it's caught, the date. And it will probably have the time of the drag and picking it up.

In doing that, they now know where their shrimp really comes from. It's coming from somewhere in the Gulf. And it will have that. And what we do is we have names for certain places in the Gulf. And so they're kind of enjoying that part of it.

But we have gone from almost losing everything we had to staying afloat and helping other people now stay afloat with us.

COMMISSIONER WESSEL: What I'm having trouble understanding is that, Mr. Fass, you talked about not being for country of origin labeling, that giving the consumer that information, if they think Chinese seafood -- if you can make the case and others can make the case that it's safe, why shouldn't there be fair competition between what you're bringing in and what she's catching, and that at the end use, the consumer has all the information they need to make a decision for their family.

MR. FASS: I think that's a good question. If I have a strong personal opinion on it. It's not necessarily representative of associations of which I'm a member. But if I may have a minute.

If we really believe, in my opinion, that product is not safe, we shouldn't allow it in our borders. I support

that. If we believe that it is, then -- I've seen with my own eyes retailers and restaurants around the country, especially in the last five, six years, being proactive depending upon the demographics of who they may be serving to, to take upon country of origin labeling on their own. Certain retail chains have been very -- they thought this was pretty good marketing for them for various reasons.

What I'm opposed to, all legislation has costs. And I think there are a lot of overt costs and a lot of covert costs a lot in country of origin labeling that sometimes aren't thought about. I just don't see how those costs, how they're offset in a beneficial way because those costs are passed on to the consumer without question.

Everyone is going to pay more for seafood because of this. And I'm not sure that they're learning more about the safety of their product.

I could tell you very stark differences about production techniques between Mississippi and Alabama and Louisiana with catfish, should we have state of origin labeling to try to educate consumers about different production techniques.

When it comes to actual food safety, I just don't see how the benefit sets off the cost. And when it comes to food service in restaurants, I would speak even more strongly about that because of the menus, and menu labeling, and the different things that restaurants go through and the cost they're under now.

I've been told by a couple of major supermarket buyers that the penalties are actually so severe, at least on paper, whether or not -- for violations of country of origin labeling, and they know that mistakes are going to be made at the seafood counter level. They have a thousand counters around the country. There will be a mistake made.

They have teams of lawyers within their companies who advise them to buy fewer -- a smaller range of seafood just to lessen the possibility of mistakes. And I have had more than one person tell me that, to them, that's meant that seasonal Louisiana product or that seasonal Florida -- especially in Florida I spoke with some buyers about this.

They are not buying from their local domestic suppliers now because in order to comply with their national rules, you must have this label here and this one here and put this in here, things that a person who only produces a few months a year and has temporary workers in his plant, things like that, are at the highest risk of noncompliance. And I hate to see that.

COCHAIR SLANE: Thank you.

VICE CHAIRMAN BARTHOLOMEW: Thank you. Miss Chauvin, I noticed you looking like you were shaking your head on the issue of cost of country of origin labeling. And I wondered if you had any comments that you wanted to make. And then I'll go into my questions.

MS. CHAUVIN: Well, not so much the cost, but do people want to know where their food is coming from. I know in the last six years, I am more aware of what I am buying as a consumer, and I am very particular about what I buy. And if the domestic product costs more, then I have no problem with it. That's my personal view on that part.

And we have people that are doing the same. This has kind of run through the nation, where people have read a lot of the articles on China and the -- how unsafe or that they're ridden with chemicals or antibiotics.

But one of the things that comes to mind is the instance of Red Lobster, on the TV, when they were caught lying about where their product is from. The biggest problem that I think it is that those who are using imports do not want to say they are using imports in those restaurants. That is the biggest problem we have.

You walk into any restaurant around New Orleans at this time, ask them where their shrimp comes from. Most of the time they can't tell you or they're going to tell you, "Well, it's from here. It's from the Gulf." Then go and ask them to see that box that it came off of. And most of the time, they had no idea that it wasn't from here. That may be a waitress or your waiter.

Even on the Red Lobster part, they had the chef come directly out to that table who lied in those consumers' face about where this came from, about where that seafood came from.

I have no problem if you want to put imports in your restaurant, you want to put imports in your store. Let's be honest about it. That's where I come with the country of origin labeling. I want to know where my food comes from.

When I walk into a grocery store -- it's not only seafood. I want to know where everything comes from. I want to know -- if it costs me more, so be it. Then I can say, "Well, you know what? I choose not to eat this because they had a bad thing with this country. I choose to do this because I feel like it's -- it may be safer." But that's my belief system. You know what I'm saying? And it will be each consumer.

I've talked extensively on the phone to many of my customers who are consumers. They are not big distributors. They are not people who do what I do or do what Mr. Fass

does. But they are people who go into a grocery store to buy things. They will tell you they want to know where the food is coming from. They are tired of being duped. And they are.

I've gone into Tennessee. And you know what they told me? Oh, this shrimp is from -- what did they tell me? It was from Kansas. And it was -- but it was American. It was American. But it was from Kansas. I don't know of any shrimp ponds in Kansas.

I don't have a problem with you saying it comes from a shrimp pond and it's American, if it came from American soil. I do have a problem when some of these people are so confused about where this comes from. It's not fair to the consumer is what we're getting at.

VICE CHAIRMAN BARTHOLOMEW: I have so many questions.

Mr. Fass, on this issue of sound science, two aspects of this. And forgive me if you put this in your testimony. But where are you on the Import Alert that the FDA put out two years ago on the five different kinds of Chinese fish?

MR. FASS: I'm not sure if your question is where I am. This is the alert that was put out, I believe, in August of last year. So it's not quite --

VICE CHAIRMAN BARTHOLOMEW: Yes. With five different kinds of Chinese seafood.

MR. FASS: Where we are with -- my personal opinion first --

VICE CHAIRMAN BARTHOLOMEW: I guess my sense would be: Do you think that that decision was based on sound science?

MR. FASS: I think it was important to try to take a constructive step to identify what is being seen in some Chinese imports. Do I think this exact step was the best way to go? My personal opinion is that it was going a little bit too far, and there was a lot of political pressure that went into it.

FDA has a lot of other tools at their disposal. For example, there are bad apples everywhere, including seafood production in this country. But it's certainly in China. It's certainly elsewhere. And we struggle. We'll always, as an industry, strive for perfection, as we should.

There are ways to tackle something like this, the antibiotic residue issue, by perhaps targeting those -- FDA has records, knowing where every single shipment and who was shipping it. So when rejections are found, they have what's called automatic detention that can immediately be placed on any entity from any country in the world, which now requires that entity to go through 100 percent testing before their product can be cleared in this country. That's different

than literally a countrywide detention, which is what they did. So I'm not sure that a countrywide detention was necessarily the right way to go.

But I would also say that I'm not naive to either the pressures out there and the political issues and the complexity of this issue, and also the need to sometimes, you know, go that extra mile to -- for different reasons.

And I think what's interesting in this -- how this is played out is since that alert has taken place, literally from one day to the next, every import had to go -- undergo 100 percent antibiotic residue testing on a range of antibiotics.

I can speak for my own company. Without giving away too much proprietary information, we've imported over a million pounds of catfish since that regulation took effect. We have not had one detection of one antibiotic in any test.

I know that there are similar results all across the country. I know there have been a couple of rejections. I think the rejection rate has been tiny, in the 1 to 2 percent range. I am not privy to all that information, but that's what I think.

That alone is actually pretty interesting evidence that all the fish was in the ponds and in the water the day before the actual new regulation took effect. So if there were a lot of bad things going on in every corner everywhere, no regulation anywhere, one would have expected a much higher hit rate on product because this is not a product that people just began manufacturing starting from zero the day after the regulation. And yet, that hasn't been the case.

So at the end of the day, while I may not have thought this was exactly the way I would have proceeded if I were in FDA, if this is what it takes to help our industry hold up the fact that we think we have safe products and a good reputation, then at the end, it will have been good for all of us.

VICE CHAIRMAN BARTHOLOMEW: I'll have a second round of questions.

COMMISSIONER MULLOY: I want to thank you both for being here. You have a little different perspective on the issue, so it can be useful to get the contrast.

Mr. Fass, on page 9 of your testimony, you say that most major industries have informal industry advisory committees under USDA or DOC engaging in a constructive dialogue with government officials. I think these are the advisory committees that industry has to advise government officials how to carry out their duties in a manner that

industry might think was the right way.

MR. FASS: I am not an expert on those IACs, but I believe I know that's what I'm referring to. I'm just not an expert in exactly how they operate.

COMMISSIONER MULLOY: Is this your testimony, or did somebody else write this for you?

MR. FASS: It's my testimony. It is my testimony.

COMMISSIONER MULLOY: You wrote this?

MR. FASS: Yes.

COMMISSIONER MULLOY: So you know about these --

MR. FASS: Absolutely.

COMMISSIONER MULLOY:

-- industry advisors?

MR. FASS: This was one of the last things I put in because I'm just learning in the -- I'm not in -- obviously, I'm not -- my background has been in the seafood industry, and before that not in the food industry. So it was kind of -- a good point was made to me that other food industries have what are called IACs. And somebody expressed surprise that our industry did not, and explained to me some of the things that are discussed. And that seemed like a very constructive idea to me.

COMMISSIONER MULLOY: Okay. So you think the industry ought to have a group advising the FDA?

MR. FASS: I think they ought to have a group that has some mechanism for having formal dialogue with the FDA. I don't mean to suggest that I think that they -- we should be dictating to the FDA everything we think is great.

COMMISSIONER MULLOY: No.

MR. FASS: But I think that both import, by the way, and the domestic industry being in the room together --

COMMISSIONER MULLOY: So Miss Chauvin should be on that same --

MR. FASS: Absolutely.

COMMISSIONER MULLOY: Okay. Now, this was raised with us earlier by the representative of Consumers Union. And she said that USTR also had these industry advisory groups. And her view was that they tilt trade policy in a way that sacrifices other interests for the so-called free trade, and that she would suggest that you have other groups represented on those advisory committees.

Do you agree with that, or would you favor that?

MR. FASS: I think it would be constructive to have other groups as long as other groups had a mindset that -- did not have preconceived ideas about trade with China and the mindset going into it. And I don't mean to sound disrespectful saying that, but I'm certainly not worried

about there being NGOs or other organizations that are part of the dialogue. I think that's constructive as long as it is constructive.

COMMISSIONER MULLOY: Do you bring shrimp into this country from China?

MR. FASS: I am not a major shrimp player. I am familiar enough, being in the industry for this many years, to be able to talk about it. But we have not been -- we have brought some wild-caught shrimp from some other countries in, but we have done very little with aquacultured shrimp, especially from China. It has just not been our company's focus.

COMMISSIONER MULLOY: Okay. here's what Miss Chauvin says on page 3 of her testimony. I would like your view on it. She said one of the reasons we have the flood of cheap Chinese shrimp imports is because they're -- the Chinese are giving subsidies to their shrimp -- maybe also their other aquaculture. I don't know.

That's what she says. They're giving subsidies. Two, they are using banned pesticides. And three, they're compromising environmental standards. And she says that the flood of cheap, cheap Chinese imports is also caused by U.S. importers' insatiable desire for profit.

Now, what do you think of that?

MR. FASS: There's a lot there. I'm going to again start with a perspective that I know is going to sound surprising. But overall -- and I earnestly believe this and I'll get into detail about it -- the rise in imports, especially from China in the last five to ten years, has to do more than anything else with the fact that they have a reputation for being a lower quality producer of numerous goods, not necessarily unsafe, but lower quality.

And there is a difference, and I can talk about that as well. That has changed a lot in the seafood industry, even in the last three to five years. By that I mean, with shrimp you have producers who produce shrimp that have absolutely no phosphates on them whatsoever. And the same -- we're importing catfish that has no chemical phosphate additives.

Let me explain what that means. The catfish industry in this country, I don't know if I were a buyer, if there's one producer who would produce domestic catfish for me that does not go through what's called a needle injection process similar to a hot dog plant, frankly, with phosphate additives being pumped into filets. It's part of yield -- with the filets, it's a long history and complicated why it's there. But it is not the favorite thing out there for

buyers.

Now, I will be the first to say that China, along with everywhere else in the world, is approved to use phosphates and additives like this there as well. And they have been guilty of what I would call phosphate abuse, which is not unsafe, but it does create poor quality product, in my opinion, as a consumer.

However, I would say in the last 3 to 5 years especially, China has developed so much in their quality and focus over there, what they're trying to do, that now I buy catfish over in China with absolutely zero phosphates, something I can't buy here. I can buy shrimp with no phosphates that have been deveined and butterflied and value added in different ways.

I think that, and its year-round availability, has more to do with why more and more comes over here. I happen not to -- I see -- do not see subsidies over in China. I see private industry everywhere I go.

Now, we could talk for a long time about the definition of a subsidy, because I see things here such as block grants to catfish farmers, and buy America only, which is military for seafood and other things. So I suspect there are things like that in China. But there are not state-owned facilities, the way I think it used to be. And we've been on the ground over there a long time. And yes, 15, 20 years ago, that was the way it used to be. So I think I have a little different perspective on that.

COMMISSIONER MULLOY: Do you have anything to add, Miss Chauvin? I'm sorry. I'm over my time.

MS. CHAUVIN: No. I have nothing to add.

COMMISSIONER VIDENIEKS: A couple of questions. We are basically looking at the Gulf Coast. It sounds to me, listening to you, Mr. Fass, is that maybe you're talking about -- to what extent is your company focused percentage-wise on the Gulf?

MR. FASS: That's an interesting question. I would say we do, as a company, very little personal distribution of our products in the Gulf area. But the reason for that is not because our basket of goods isn't -- well, I'm actually very involved with crawfish as well.

COMMISSIONER VIDENIEKS: What about the source of the goods? Is it from the Gulf?

MR. FASS: Meaning do we buy products --

COMMISSIONER VIDENIEKS: Yes. At all?

MR. FASS: We do buy product from the East Coast. And I'm was Chairman of the Virginia Marine Products Board. But we have not been involved in buying Gulf products ourselves,

the company, no.

COMMISSIONER VIDENIEKS: Mrs. Chauvin, to what extent do you market your goods nationally or outside the region to people from an organization similar to Mr. Fass?

MS. CHAUVIN: The marketing that is done for our domestic industry is done through Wild American Shrimp. I don't have any personal marketing tools that I use on the outside of that. When the marketing is done through Wild American Shrimp with the commercials and such, it will bring them back to a web page if they go and check it. And there, along on that web page, will show who is a part of --

COMMISSIONER VIDENIEKS: You mentioned like a 50/50 split between --

MS. CHAUVIN: Uh-huh.

COMMISSIONER VIDENIEKS: -- restaurants, basically, and I guess processors. Did I get it right?

MS. CHAUVIN: Not restaurant -- not 50 percent restaurants. A lot of what we do is local on seafood wholesalers, who have seafood outlets that may cook it up at that vicinity. But it's not so much a restaurant as it is where people just come in and pick it up and go.

On the other part of it, I would say half of it is done there and half of it is done where people call in and order on line. Or they just order it on line and we send it out there. And then the other part of it is done where we have smaller shrimp that will go through a process that needs to be peeled.

COMMISSIONER VIDENIEKS: Understood. The other point is this: Mr. Fass, you mentioned that the importing of seafood products is beneficial to our economy as a whole because it creates jobs and so forth. Wouldn't that be true with any source of seafood, if there were enough domestic? Produce the same jobs, same restaurants?

MR. FASS: Yes. Except for the -- I do believe that if imports were stopped tomorrow with China or anywhere, we would replace the tiniest of fraction with domestic supply.

COMMISSIONER VIDENIEKS: That leads to my next question. How long would it take if the borders were -- actually, if no imports came in, how long would it take? And is it possible at all for the domestic industry to catch up at this point to fill the void of demand?

MS. CHAUVIN: Is that to me?

COMMISSIONER VIDENIEKS: Yes. To you.

MS. CHAUVIN: Okay. I am not necessarily against all imports. I am against flooding of cheap imports because then it affects our jobs in the domestic industry. What we're looking at is because of what happened in 2002 when

everything came over here, you know, a flood of cheap imports, you cut down our domestic industry from 2002 to now -- well, to 2005 -- from 29,000 to 16,000 licenses. And only 3,000 -- come back up.

COMMISSIONER VIDENIEKS: What does that represent percentage-wise as far as imports versus domestic production? When you say these numbers to me, percentages mean a lot more. Right now apparently we import 80 percent of our either wild-caught

MS. CHAUVIN: I think we're 12 percent at this point. The domestic industry is 12 percent.

COMMISSIONER VIDENIEKS: Twelve percent. Okay. Now, how long would it take for us to -- let's say if your use prevailed, how long would it take for, if at all possible at this point, to catch up and fill domestic -- domestic demand?

MR. FASS: I'd like to make two points that I think would suggest that that actually, under almost any scenario I can think of, could never happen.

I will put the other side of that as well. I don't think we have the labor in this country. And I don't mean cheap just because it's not lower cost. I don't think we have the labor at any cost to do what it takes in the type -- I mentioned at the beginning of my talk in North China, especially, we buy flounder and pollock and other things over there that we cut in China and filet that is bought from Alaskan companies who ship their product to China because they have not anywhere close to the actual processing capacity in Alaska, nor the desire or labor to build it, to have product processed over there. I don't think we have the infrastructure or other things as well to actually build that.

But when it comes to aquaculture, let's say we actually could make it less labor intensive. You are still looking at aquaculture being what would be needed to replace product because wild-caught stocks, while I do think that has been misrepresented, suggesting that wild-caught stocks around the world are overfished, they're not ever -- they can't replace --

COMMISSIONER VIDENIEKS: My time is up. I'll ask one quick question. Do you, Mr. Fass, believe that these allegations about the sites where the Chinese grow their fish, the aquaculture, allegations that they are dirty and otherwise contaminated with their sewerage run in there and so forth, are they false?

MR. FASS: Yes. I believe they -- I can't -- I have not been to every single plant in China. I can't say -- but

in general, yes.

COMMISSIONER VIDENIEKS: My time is up.

COCHAIR SLANE: Mr. Fass, one of the things that concerns us is that the environment is very degraded in China. And most of the power plants, coal-fired power plants have no pollution control equipment on them, so there's a lot of mercury coming into the water. They have a huge void of waste water treatment plants. Fifty-five percent of the need is not there for waste water. So they're dumping a lot of raw sewage.

What we're concerned about is it's hard to have an aquaculture industry without clean water, and that's a big problem over there. Aren't you concerned that that issue is causing a lot of contamination in the aquaculture industry in China?

MR. FASS: Absolutely. We are concerned to the extent that we know that clean water and proper waste water treatment is extremely important as part of any HACCP plan would be or any oversight to ensure good quality products.

So when -- as we go to China and other places in the world -- and we're not the only ones who do this, of course. This is how the industry is based on -- and look to determine who is going to -- what the plants look like, what the quality is, we -- imperative in that is knowing that they have proper waste water treatment and proper quality of water there.

But we have, honestly -- and this is again my perspective, and I can't be in every corner of China or anywhere in the world. Nobody can. But to suggest that it is built on an infrastructure where there isn't really waste water treatment at the fish facilities or the aquaculture processing plant or at the farming level, I think it's based on a false premise because these plants and these things are built from the foundation of knowing their -- they have to do certain things for export markets.

A lot of the facilities are new. There's tremendous new infrastructure and technology over there all the time. And it's built, in our opinion, on the proper foundation.

Fish isn't raised in the general waters over there. There are ponds and reservoirs and things that are often isolated and nowhere near any coal-production facilities or other contaminants. That doesn't mean you don't look for them and that's not part of the HACCP plan and testing process. But it's not something necessarily linked to seafood production facilities all over China, or anywhere for that matter, in our experience.

COCHAIR SLANE: Do your customers -- do they raise any

of these issues with you?

MR. FASS: Absolutely. They've been mentioned a couple of times here today. Red Lobster. Darden Restaurants owns Red Lobster and Olive Garden. I believe they are the single largest seafood restaurant entity, if you will. McDonald's, just from their fish sandwich, may actually buy more quantities of one particular item.

But Darden is a major, major player in the seafood business. They have an infrastructure that I think would put other food industries, other -- not seafood necessarily, but global food production to shame in the sense that they have their own quality control production team, which is completely separate from other offices, even located in Singapore, to do things with products and plant audits and even investment that is absolutely cutting edge because they know that the foundation of everything they do is based on quality.

As soon as that is lost, then they and others in our industry -- and I would even suggest in the domestic as well. If in the eyes of the consumer we lose quality, we've really lost it in our industry.

COCHAIR SLANE: Are you aware that your testimony is diametrically opposed to the FDA, NOAA, and a lot of the Consumer Products safety people?

MR. FASS: I'm aware that it's opposed to a lot of the advocacy groups, including consumer product safety groups and stuff. I don't mean it to come across as opposed to FDA. I think in there -- for example, with the antibiotic residues, I have suggested that the science behind it -- and this is a very complicated subject. As we measure -- we are just learning for the first time to measure .5 and one parts per billion. I believe there was a story two weeks ago that we're finding that in our water supply in this country at those levels.

So as we do that, we need to be concerned. But if -- and I'm just trying to draw the distinction, which I think most people don't, between what is the advocacy and what's going on and issues such as E. Coli, and botulism, and serious health issues that are extremely important.

And I don't think I'm a -- I hope I'm not opposed to FDA in that picture. I think if I were, then they would be saying we think they're -- these antibiotic residues, things should be banned immediately. Until we can determine, you know, what .3 parts per billion means, or we need to develop even better technology. We need to stop immediately, have recalls and destroy product. I think then I'd be opposed to that. But I don't think that's what they're suggesting.

COCHAIR SLANE: Jeff?

COMMISSIONER FIEDLER: I wanted to come back to you because I missed you in the first round. I was interested in your comment that you had investigated multiple locations of Wal-Mart on the -- I presume it's the Super Center where it sells food, on the country of origin labeling.

So when you confront them with the information that it is either unlabeled or the labeling is impossible to read or difficult, what is their response to you?

MS. CHAUVIN: Half of them don't know even know that they're supposed to have a law there -- that they have a law in the first place. The one that we just did recently, we had our Wild American Shrimp gang that we brought down and brought into the store and showed them what the shrimp was looking like on the shelves that they had it in.

But for some, on the farmed-raised in whatever country, I don't know that there is a law that says how big it has to be. But you will see "Processed in the U.S.A.," huge. I mean, this thing will be like this. And then you'll have, you know, two or three inches. And then you'll have something really small.

And, we've talked to customers in the Wal-Mart store. They had no clue. They thought because it said "In the U.S.A." that it was from here.

Now, on the part where they probably peel the shrimp or they have peeled shrimp and they put it in these little containers, these little layout containers on the shelf, they were just there with the quantity of what they had, the size, and the price. You had no idea what it came from or if it was farm-raised or wild-caught. And when I did talk to the man, he had no idea. So I think it's more that they're not training their workers to know what it is.

COMMISSIONER FIEDLER: Okay.

MS. CHAUVIN: And I do confront on a daily basis. And we take pictures we send in. We do a lot of stuff like that.

COMMISSIONER FIEDLER: Thank you. Mr. Fass, a couple of questions. Do you pay insurance? Do you have insurance on your shipments coming in so in case they were rejected, you don't lose money?

MR. FASS: Some companies do and some don't. I don't mind saying that actually, we, as a policy, have chosen not to do that. And the reason is, is because we have such a working relationship and we know so -- I believe in any, frankly, any industry, but certainly any food industry where things like safety are so important, it is extremely important to have a knowledge and working relationship with

your producers and partners all over the world. So we -- insurance, we have producers who will stand behind their product if they were ever --

COMMISSIONER FIEDLER: I was going to get at something else because the increases in insurance rates would tell us that insurers were concerned and, therefore, it's a market that it responds to.

MR. FASS:

That may be happening, by the way. I don't know.

COMMISSIONER FIEDLER: You made a statement that you didn't think that the industry was subsidized at all, and you just said that you have a close relationship. So are the farms that you use, are those farms in China paying full international prices for fuel? It's my understanding that China is sub -- heavily subsidizes fuel.

MR. FASS: I would not be able to argue with that. There are probably aspects of inputs and things that do involve different subsidies in different ways.

COMMISSIONER FIEDLER: She mentions in her earlier testimony that she has to comply with all kinds of environmental regulations that are much more rigorous than they are in China. Do you view the lack of enforcement of environmental regulations in China as a subsidy or not? So if I can get away without incline --

MR. FASS: I personally don't view it as a subsidy, because, for one, I don't see -- I don't have quite the same picture, though, of the complete lack of the things that they have to do to comply.

What we are having to do with the testing for FDA and other things at the farms and the processors to comply is actually quite costly to the Chinese. So there are other things, like you mentioned, though. Fuel. And there could be other infrastructural things in China.

COMMISSIONER FIEDLER: Fuel is a major cost to anybody going out to sea, too.

MR. FASS: It is. But I would say fuel is actually not a major cost of production compared to most of the other inputs with seafood production in China because -- and it was something I touched on in my oral -- most of the product from China, as suggested, is either aquacultured, so it's -- fuel is not really a major component there because they are growing it there. And then --

COMMISSIONER FIEDLER: Aren't they oxygenating the water?

MR. FASS: They are. But that's still a smaller, a much smaller percentage of the overall cost than just the feed prices, for example, that are produced.

COMMISSIONER FIEDLER: Just one other comment. You, in answering somebody's question about advisory groups and talking to the FDA and you would involve other people so long as they didn't have preconceived notions, if we had a preconceived notion test in the United States, we'd have no organizations.

MR. FASS: It was a poor phrase of mine. I didn't mean it quite that way. Everybody has their --

COMMISSIONER FIEDLER: I can lament with you the idea of preconceived notions, but to set the test would be unrealistic.

MR. FASS: It was a poor use of words.

COMMISSIONER FIEDLER: Thank you.

COCHAIR SLANE: Michael?

COMMISSIONER WESSEL: Thank you. I'll be quick, Carolyn.

Miss Chauvin, if I could follow up on some questions that Commissioner Fiedler was asking you. And you said you took pictures, you confronted the managers, et cetera. And they said they weren't aware of what the law is. That, to me, is, of course, a major problem. What do you do as follow-up? Do you go back to the stores three months later, saying, "We advised you of what the law is. Did the company, the home office, is anyone responding? Did you bring in the authorities and inform them? Have they responded in any way"?

MS. CHAUVIN: The instances when we did this, they were fixed the very next day. So I did go back the very next day and brought them. I went and picked out the law, ran it off, and gave it to him in his hands. So now he has no other excuse not to do it.

COMMISSIONER WESSEL: And they are now labeling? Or is --

MS. CHAUVIN: I have to go back and check.

COMMISSIONER WESSEL: You simply provided them with the law the next day. They didn't change their practice?

MS. CHAUVIN: No. They changed it. They went ahead and they put what they were supposed to put on those labels. They also took down -- one of the things that we were highly upset with in our industry was they were using pictures of commercial vessels on a farm-raised product. Beautiful pictures of commercial vessels that were up above the seafood counter, which was all imported seafood.

There were a lot of people who had called in. There were many who went there and expressed how -- let me get a word for it -- ticked off they were that they would do that. We perceived that -- you're deceiving your consumers on that

part of it. They then took it down.

But they took it down in our area. It doesn't mean that they took it down in the Midwest. It doesn't mean they took it down on the West Coast. It doesn't mean they took it down on the East Coast.

We do have E-mail with several people now that I have customers. Actually, a lot of customers want to help out with this part of it. And so they'll come in. They'll go into their Wal-Marts and come back and call me and let me know or just shoot me an E-mail and say, "Okay. This is what's happening here." And we'll call in to that particular place.

So yes, I've taken it upon myself to do those kind of things. But for the most part, they've fixed them. But it doesn't mean the next year they weren't doing it again.

COMMISSIONER WESSEL: As I recall, a number of other agricultural industries have mandatory assessments, I believe -- dairy does. I believe pork. I can't remember the others -- that assist in marketing and differentiating U.S. products in terms of exports, much like New Zealand has done for their lamb, to try and differentiate that.

Is there an assessment on the domestic shrimping industry either through a governmental program or through a self-assessment by the industry?

MS. CHAUVIN: It is not a governmental program, but it is a self-assessment and it is new. Wild American Shrimp is fairly new. I think it's maybe two or three years now. We have just commenced the part where we pay 5 cents per pound on every pound that we certify as Wild American Shrimp.

COMMISSIONER WESSEL: And you have been able to find enough consumer demand because of the product differentiation?

MS. CHAUVIN: Oh, I have no problem selling my product. My product far exceeds anything that you'll pick up in any grocery store or eat at any restaurant.

COMMISSIONER WESSEL: So going back to our discussion earlier, Mr. Fass, and, relating to consumers' right to know on country of origin labeling, is your problem with the cost because they're paying 5 cents a pound to be able to differentiate, is your concern that the cost will disadvantage the imported product?

MR. FASS: I have a few concerns. I've actually seen where the cost has caused, going back to something I said earlier, has caused some buyers to not buy domestic product because they're worried about compliance from some smaller producers.

And my overall comment is that it really is more

personal. That's why I'm careful how I say it. But I just happen to care also about a lot of the things I buy, where they come from, including the food I eat. I ask. And a lot of people do. And if I'm lied to, I think that's fraud. And I think most supermarkets and restaurants should do better.

Miss Chauvin brought up an excellent example of the Red Lobster where they were selling domestic shrimp, but she -- they were told Kansas. They weren't trying to necessarily say that it was domestic when it wasn't. It was incompetence at some levels that you see. So whether it's gross incompetence or actual fraud, that's a problem.

I just think that it being mandated with penalties that I think -- I may be wrong on this -- but that read \$10,000 per violation per day, per label, and things like that are not constructive in terms of educating its purpose, which is educating the consumer about the health of our product.

If we really think the health, again, of something, or the safety of something from China or Chile or Canada or something is a problem, it shouldn't be allowed to be there in the first place.

COMMISSIONER WESSEL: Well, to be able to do that, you're going to have to have a hundred percent testing program to be able to assure that. So just speaking for myself, having the consumer with the information to make the decisions seems to me a way of forcing changes in the system and upgrading its security over time.

MR. FASS: (Nods head.)

COCHAIR SLANE: Thank you. Carolyn?

VICE CHAIRMAN BARTHOLOMEW: Thank you. And thanks to both of you for giving very thoughtful answers. And it is very interesting for us to balance and weigh the different perspectives.

Mr. Fass, I actually have a question I want to ask both of you, so if we can have kind of a brief answer on this one.

But I'm curious how, going back to this issue of sound science, if -- and you mentioned that you think that some of what's going on is fear mongering, some of it is xenophobia. But how are you reacting to these concerns about contaminated toothpaste, lead -- lead in toys, the heparin? What am I forgetting? Pet food, the pet food? Do you see that this is fear mongering across all sectors? Or do you somehow think that seafood production is safer than the other sectors?

MR. FASS: That is a wonderful question. And as a consumer -- and I have a child who is a 20 month-old to give

food to -- I believe I'm pretty well informed about seafood and feel pretty comfortable speaking about that. I'm not nearly as informed about heparin and toys and toothpaste.

I do believe based on -- and I think some of my -- the details I go into in my written testimony give me a little background as to what I define as fear mongering. And I actually get into the science a little bit about fluoroquinolone, which I want to mention very, very briefly if you wouldn't mind.

But I do think with seafood, that is what drives it more. I believe personally that we are going through a pretty interesting time right now in terms of trade in China, and protectionism versus valid concerns in other areas. And so I think other things likely play into at least some of the other issues.

Mercury is a toxin at certain levels. But there is mercury in the air we breathe. I'm not a mercury expert to know what really has happened with lead in toys. I said mercury. And it's interesting to know.

I was on the Hill not too long ago with somebody who represented to me that they are probably by far the largest toy importer from China in the country, and they have had not a single solitary problem. So I have to ask myself personally the question: How much of this problem has to do with a company doing a poor job verifying and oversight from some plants that -- and, again, there are bad actors everywhere -- and how much of it is just systemic in the whole thing.

I won't go into fluoroquinolones now, although I'd like to provide -- one or two sentences I can provide, just some background as to a little bit of the fear mongering that I think is going on out there.

VICE CHAIRMAN BARTHOLOMEW: All right. Let me take us to a different -- you mentioned -- and I was going to ask if you had children and if you thought about the toys that you were buying and if you found yourself doing a different standard. But I want to take it to a different generation.

You mentioned that your grandfather was an oysterman, and I hope that you still have your grandfather. And I imagine that he would be very proud of the company that you all have. But what would he think of the state of the domestic industry or domestic seafood industry?

I want to link that, actually, with Miss Chauvin and say: Can you talk a little bit about what's going on in your community as the product has been coming in? What's happening? Are people finding jobs in other industries?

MR. FASS: I'll be very brief and let Miss Chauvin get

to it. It was my great-grandfather. And he is not -- and my grandfather is not with us. My father is not only still with us, but he had his 75th birthday last year and is extremely active in the company still. It is his hobby and his love until he is not with us anymore. He has been very involved with the domestic industry in the past.

And I've mentioned this, but it's worth mentioning again. I've been the Chairman. And I'm still on the Board of Directors of the Virginia Marine Products Board, which is purely funded by Virginia watermen who we help to try to market domestic product.

I wish my father were here to talk a little bit today about his feelings of the domestic industry because he has been doing it for over 50 years. And he has been disgusted, frankly, at developments that he think have hurt the fisherman in terms of regulations in areas -- regulations are important for a variety of reasons, but the seafood industry has been in some ways overregulated in ways that probably Miss Chauvin can attest to way more than I can.

And one very quick example. In the Chesapeake, we have an unbelievable -- we had a lower -- we catch rock fish. Rock fish is a pretty prominent fish in our area. It has been -- it had been determined that it had been overfished.

There are regulations on the rock fish now which essentially almost destroyed it as a commercial viable industry, even though there are rock fish in our waters now that are practically -- I'm exaggerating a little bit -- the length of this table. They are enormous and they are prolific. And they are actually finding baby blue crabs in the stomachs of rock fish. They are very carnivorous creatures. So I was wondering what effect it's had to bring back the rock fish to such an extent.

And we find that when things are regulated domestically, it's very, very difficult for things to ever scale back and try to have that balance. That's a battle, I suspect, Miss Chauvin has fought her whole life.

VICE CHAIRMAN BARTHOLOMEW: Miss Chauvin, can you tell me a little bit about what's going on in your community as these changes are happening?

MS. CHAUVIN: A lot of it has taken a toll on our communities. We now had very viable communities that have now become ghost towns. They have no more grocery stores, no more hardware stores. Boats are tied up or sold off to -- we have some that have been sold to the Bahamas as lobster boats. We have some that have been sold on the East Coast for scalloping.

But as a whole, you've watched people who have worked

their whole lives in this industry lose everything they ever had. And a lot of it came from what happened with the imports.

So are they angry? Yes. They are very angry and they feel let down by our government. They feel let down by the FDA because, in their minds, they were living their dream. They were doing what they were supposed to be doing, adhering to the law, paying their deckhands as they should.

We don't get the option to pay somebody 6 cents for a half an hour. We don't get the option to have free labor. It just doesn't happen in America. And so they're angry with the situations that have happened that have led up to people -- I mean, we have banks that own most of the boats at this point that are tied up. So our communities have been distraught.

VICE CHAIRMAN BARTHOLOMEW: Just a quick follow-up. You had mentioned earlier that you're having trouble finding captains because the captains have moved into the oil industry. Are people who were working on those boats finding opportunities in other industries?

MS. CHAUVIN: Not all. The captains that were aboard many of the shrimp vessels, you can go out and get a captain's license because you have that sea time. It will take you some time before you can get your sea time to be able to do that. And, of course, you can't take 29,000, you know, or however many captains there were and put them all in one field. It just doesn't work that way.

VICE CHAIRMAN BARTHOLOMEW: Thank you.

COMMISSIONER MULLOY: Thank you both again. I can't thank you both enough for being here and giving us the perspectives that you are giving.

Mr. Fass, Chairman Bernanke, of the Federal Reserve, he went to the Strategic Economic Dialogue in Beijing in December 2006. And he said China's intervention in currency markets to keep their currency underpriced acts as an export subsidy. Do you agree with him on that point? And is that a subsidy?

MR. FASS: I'm not trying to be evasive, but I know where I'm an expert and where I'm not. And currency --

COMMISSIONER FIEDLER: And they were just warning you not to laugh.

MR. FASS: Maybe I should stop right there. I would point out a couple of things. One thing in particular on the Chinese currency. It has appreciated against the dollar somewhere between, I believe, 10 and 20 percent just over the last couple of years.

COMMISSIONER MULLOY: Yes. Thirteen percent or so.

MR. FASS: And that is having a significant effect on prices in the United States. Now, we can talk about the policy of that. But I do think it's interesting to be really focusing on this as an issue in a time where we have some of the highest food prices in the world right now, including this country. But I'm not -- in terms of its definition as an export subsidy, it is not a great area of expertise of mine.

COMMISSIONER MULLOY: I was very interested in your granddad or great-grandfather started this company. I'm sure it was all domestic oriented in the beginning. When did it reach the crossover point from being a marketer for domestic seafood to a marketer of imported seafood. What percentage of your seafood do you market now that is foreign?

MR. FASS: The vast majority. Over 95 percent. Maybe more.

COMMISSIONER MULLOY: When did you cross over from domestic to --

MR. FASS: There were a couple of -- I don't want to say tipping points, but they were over the course of a hundred years. Obviously, it started out as just a one person show, being a domestic oysterman. When my father and his brother at the time were running a company which was called Fass Brothers, it was probably one of the largest fresh fish operations in the Eastern Seaboard. Still, they had boat owners, processors, actually, a chain of restaurants.

But this was back in the 1950s, '40s, '60s. Even at that time, they were some of the first to start importing both fresh and frozen fish from other countries. So we were a pioneer in imports in certain ways. So it certainly started long before the last 5, 10 or 15 years.

Now, there have definitely been waves of significant growth. Maritime, as an entity, really focused more on imports in the early '80s. My father split off from his brother and started what was predominantly an import company, recognizing that that was where -- we didn't have enough seafood here. And it has grown since then to be more and more focused on it.

COMMISSIONER MULLOY: Miss Chauvin, you talked about the communities in decline and people angry. I can relate to that. I'm from a small town in Pennsylvania. And Senator Obama referred to people up there having the same sentiment. They're bitter or angry about what's happened to the industrial base in this country and jobs and other things in this era of globalization.

There's a gentleman that is going to come in and testify tomorrow named John Williams from the Southern Shrimp Alliance. And he is going to tell us that China has a five-year plan for nationwide fishery development. You know, they have a huge five-year plan overall. And they pick out different sectors of their economy that they are going to grow, and they provide government cooperation with industry to grow portions of their economy. They have an industrial policy.

And increasing shrimp exports is part of that policy because they want the earnings from those.

Would it strike you that our government maybe should be a little more involved in thinking about how to help our domestic industries compete in the global economy?

MS. CHAUVIN: Sure would be nice, because what we have right now is overregulation. What's happening to our industry is quite the opposite, is that we have our government coming in and saying that we're doing something wrong. And so now we have to pull a turtle excluder device. We have to pull a bicatch reduction device. We now have to move over from what was once -- they said that this was the greatest thing since sliced bread, bicatch reduction device. But now we have to move up because they made a mistake so many years back.

So it's actually costing our fishermen more money. When we look back, it cost us \$35,000 per boat to get the right TED. You know, TED, turtle excluder device. We don't have the help of our government as it should be.

COMMISSIONER MULLOY: What do you think, Mr. Fass?

MR. FASS: First of all, we have seen recent work specifically that our trade association, Natural Fisheries Institute -- when I say ours, not mine. It's the universal association. But it has been proactive trying to talk about ideas for development, for example, of more domestic aquaculture production. I am in favor of that and it would be wonderful to see some development in that way.

My concern, and it's really only one main concern, is that if it were done in a way with an eye toward or based on a premise that imports are so bad for us in every way imaginable that we better build up this domestic supply so we no longer have to worry about imports at all, I just don't think that's the right way to go at it.

But I do think doing more things to spur on new technology, industry development, which would include, I think, some reasonable aquaculture production in this country -- we have some labor. We have an extremely tight labor market, and that people go back and forth about actual

wages versus -- and unemployment numbers and things like that. But compared to the rest of the world, it is tight.

We have a crab company who is making headlines for months in Virginia who absolutely is going to have to close because he cannot find workers to pick crabs seasonally at any price level that would enable him to market product. He's not anti-import. He just can't find domestic workers to do it.

So I worry. I want to make sure if we make that kind of investment, we do it with our eyes open. But I think that it would be wonderful in some ways.

COMMISSIONER MULLOY: Thank you.

COCHAIR SLANE: Peter?

COMMISSIONER VIDENIEKS: All right. I think you answered the question to Commissioner Mulloy that primarily your company now, Mr. Fass, is an importer if you were to characterize it.

MR. FASS: Yes.

COMMISSIONER VIDENIEKS: Now, at which point do you take responsibility for the product, the FOB point? Is it the destination origin, or who is responsible shipping it across the ocean? I mean, whosoever is responsible for the quality, if you are.

MR. FASS: We feel as though we are responsible for the quality, even when it's in the farm. And I really mean that. We -- it is -- the idea of traceability, tracing --

COMMISSIONER VIDENIEKS: Contract-wise, at which point are you responsible?

MR. FASS: You would be surprised at some of the informality of some of the contracts in the seafood industry. And I mean that. We have relationships that are ongoing with producers that mean we may not physically be the legal owner of that product oftentimes until sometimes we ship it directly, say, from South Africa, or China, or Vietnam. Sometimes it is shipped by the producer and we take legal possession of it at the port.

So that's the short answer to your question. But we -- we feel as though we are responsible for it in many ways all the way through the chain of production.

COMMISSIONER VIDENIEKS: Have there been liability issues directed, let's say, suits or things of that nature because of faulty quality aimed at your company?

MR. FASS: In our experience -- and maybe this isn't the experience of others. But in ours, we have had surprisingly few problems. When we do, I will -- one example, the first one that comes to mind is a problem we had many years ago with a shipment from the Philippines

where one lot of something, there was a salmonella detection. That was ultimately resolved by the producer standing behind his product entirely, with the -- refunding product and taking care of it to bring that product back to the Philippines.

And -- but I know there were some questions earlier about reshipping -- shipping product back to ports and that policy. I think it would be helpful to very quickly say something that may surprise people. They say, "Wow, there was a salmonella finding in scallops and somebody brought it back to the country. Is that common practice?"

This goes back a little bit to perspective and fear mongering. Salmonella is present, I believe, in every chicken or a significant -- not -- a percentage, a significant statistical percentage of chickens and eggs, for example, produced in this country. It's in the water and air we breathe -- not the air we breathe. But it is in food industries all over the world.

There are -- it should not be happening in products due to poor hygiene. And when it does, product shouldn't be allowed in if poor hygiene brought salmonella to that product.

But there are countries who say if we know we are going to cook this product fully and eat it just like we do with chickens and eggs, then it's acceptable to --

COMMISSIONER VIDENIEKS: I would like to ask another question. I'd like a comment as far as the overregulation in Chesapeake may be due to local governments or to state governments, more so than federal governments.

MR. FASS: I think that's a good point, yes.

COMMISSIONER VIDENIEKS: And Maryland. As far as the domestic industry, Miss Chauvin, is your company subject to any kind of a legal action or quality-oriented originated --

MS. CHAUVIN: No, we are not.

COMMISSIONER VIDENIEKS: What regulations must your company have to comply with quality related? Are they state, regional --

MS. CHAUVIN: It's state. And we, being a boat owner, it is very -- you have your Department of Health. You have your Wild Life and Fisheries. And that's about where it ends right there.

COMMISSIONER FIEDLER: One quick question. Do you have any investment in China aquaculture or just --

MR. FASS: We have not purchased or necessarily invested in a plant. We will sometimes do some financing, depending upon a particular situation. We have a person who has been with us on the ground over there for over 15 years

and who is like a member of the family to me, who does a wonderful job being our head, eyes, and ears over there on things. So in that way, we do. Do we own a plant or a facility or a farm over there? No.

COMMISSIONER FIEDLER: Okay. Your description of the numbers, 29,000 down to 16,000 out of 3,000 plus trip tickets, is the same story in industry, after industry in this country that have been devastated by dumping, for instance, whether it be furniture, who had found in their favor all kinds of dumping cases after the industry has been destroyed so that individuals with any commonsense don't want to reinvest money after they've lost it once, and/or as you described, it seems to me, if the banks own it, that means that those individual fishermen's credit has been destroyed --

MS. CHAUVIN: Uh-huh.

COMMISSIONER FIEDLER: -- and that their ability to reenter the business is nonexistent, on a -- especially in a world today where credit is tight. And so there's the -- that is the vicious cycle. And that we have to contend with that is not protectionist; that is, that is observing that an industry has been destroyed by unfair practices and it is impossible for that industry to get off its back again or those individuals to get off its back -- I mean their back again. That's the story of dumping and trade.

And I just want to caution you on one thing. A free trade agreement, to me, is I'll buy your stuff if you buy mine. That is a free trade agreement. Any other words in the agreement is a managed trade agreement. And we don't have any free trade agreements. We have managed trade agreements.

And those agreements always take into consideration that which some powerful force in this country with a preconceived notion thinks is in their interest. The powerless, perhaps, as in the fishermen, have not had their say in these agreements in a fair way.

Thank you.

COCHAIR SLANE: Anyone else?

COMMISSIONER MULLOY: I just have one question for Mr. Fass. Mr. Fass, were you involved in efforts to get PNTR for China?

MR. FASS: No.

COMMISSIONER MULLOY: Did you lobby at all in that effort? Did your industry?

MR. FASS: I don't think so in any way. Our -- the one trade association that represents, including domestic interests, the National Fisheries Institute, has changed a

lot over the last four or five, six years. I don't believe at a time of PNTR there were any lobbying efforts. But I can't be 100 percent certain.

COMMISSIONER MULLOY: What percentage of your imports come from China?

MR. FASS: It changes. It is very dynamic. I would say over the last year, it has to be between 50 and 75 percent.

COMMISSIONER MULLOY: The majority?

MR. FASS: Yes. I would say the majority recently. Recently.

COMMISSIONER MULLOY: Did you envision that at the time PNTR was being debated?

MR. FASS: To be perfectly honest, there was very little attention paid to our industry to PNTR at all. We just don't spend a lot of time focused on big trade agreements. We should in different ways, but we haven't. So I don't think there was much discussion at all about the PNTR issue.

COCHAIR SLANE: Thank you very much. It's been very, very helpful. We really appreciate your time and coming to testify. Thank you.

We're going to take a 15-minute break. And then we'll be ready for a public comment period.

(WHEREUPON, A SHORT RECESS WAS TAKEN)

COCHAIR SLANE: Okay. We're back on the record.

Do we have anyone listed for public comments? No one is listed and no wants to speak?

COMMISSIONER FIEDLER:

No one wants to change their minds?

COCHAIR SLANE:

All right. We will stand adjourned until tomorrow at 8:30 a.m.

(WHEREUPON, AT 3:02 P.M., THE HEARING WAS ADJOURNED)

CHINESE SEAFOOD: SAFETY AND TRADE ISSUES

FRIDAY, APRIL 25, 2008

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Washington, D.C.

The Commission met in the Orleans Room, Pan American Conference and Media Center, New Orleans, Louisiana at 9:00 a.m., Vice Chairman Carolyn Bartholomew (Hearing Cochair), and Commissioner Daniel M. Slane (Hearing Cochair), presiding.

**OPENING REMARKS OF CHAIRMAN CAROLYN BARTHOLOMEW
HEARING COCHAIR**

VICE CHAIRMAN BARTHOLOMEW: Good morning, everyone. We'll get started again this morning. Welcome to everybody and thank you for your hosting of us here in New Orleans. Some of us went out this morning for a tour of the Ninth Ward and St. Bernard Parish. Once again, we want to express our condolences to what happened in this city and our extraordinary appreciation and respect for the spirit that is rebuilding.

I want to start by introducing our first panel. Senator Vitter will be here to join us at 9:00 this morning. But we're very pleased to have Mr. Harlon Pearce, who is the chairman of the Louisiana Seafood Promotion and Marketing Board, the Department of Wildlife and Fisheries here in Louisiana. He has been involved in the seafood industry for over 40 years.

After attending Southeastern Louisiana College and Loyola Law School, he returned to the industry that is his passion. Mr. Pearce has been an advocate of developing strong and viable industries that correctly utilize the abundant natural resources of the state of Louisiana and the Gulf of Mexico.

His many years of experience in the seafood industry have lead to numerous interviews by publications and medias as a go-to source of information. He's been a guest speaker and lecturer to major colleges and business institutions across the state. He served on many local, state, and

federal committees, advisory panels, boards and councils, and also the managing member of Harlan's LA -- is that supposed to be Louisiana or L.A.?

MR. PEARCE: Whatever comes to your mind.

VICE CHAIRMAN BARTHOLOMEW: LLC. He served in his current position as Chairman of the Louisiana Seafood Promotion and Marketing Board for the last four years. He's got a very distinguished list of credentials that he does.

We had a very interesting discussion yesterday on the challenges that Chinese seafood is presenting, both economically and to consumer safety and health. And, Mr. Pearce, we look forward to hearing from you today. Thank you very much for joining us.

PANEL IV: VIEWS AND PLANS OF GOVERNMENT OFFICIALS

**STATEMENT OF MR. HARLON PEARCE, CHAIRMAN
LOUISIANA SEAFOOD PROMOTION & MARKETING BOARD
PRESIDENT, HARLON'S L A FISH, INC.
NEW ORLEANS, LOUISIANA**

MR. PEARCE: You're welcome. You put everything you just said in a box and shake it up, all I am is a South Louisiana fish peddler. That's all I am. Nothing more.

But as you took your tour this morning, you saw what happened to Louisiana. But the fishermen in Louisiana are strong. They're very tough people. We're still down about 35 percent in vessel loss. We're still down in a bunch of products. We're down from 18,000 commercial fishermen to 12,000 commercial fishermen in the state today. But we're working hard. But even with that, we're producing as much as we ever did.

The fabric of our culture and heritage is seafood in Louisiana. One-third of the U.S. production of domestic production comes from Louisiana in this country, one-third. One-third of the estuary in the United States is in Louisiana. We're number one in crawfish. We're number one in shrimp. We're number one in oysters in the country. We're number two in finfish, number two in crabs. So this little small spit of land down here means a lot to the economy of this great country.

I like to use an analogy with the mouth of the Mississippi River when I talk sometimes, in that if you look at the mouth of the Mississippi River and you perceive it as the head of an ice cream cone, Louisiana gets all the cream. The rest of the states get the drippings. We have a very, very strong fishery. And as long as we maintain that

thought process and that ability to keep that river strong, we're in good shape. It has its problems, but we all have our problems.

In my testimony, I included some of the different totals of the fisheries, as opposed to crawfish and shrimp, for you to look at and basically get an idea of where we were and where we are. And you can clearly see in some of those graphs to where the tariff money for the shrimp came in. And it slowed down the production from the Chinese products that were coming in. You can see what crawfish has done over the years.

I'll get into some of this later. But even in crawfish and even in shrimp, we don't try to keep our people alive. We don't keep them in business. We tend to regulate our industries out of business. And I'll talk more about that.

As a country, we need to change that philosophy. We need to become a producing country. We need to be like we were in the '50s and '60s and work. We're giving our country away right now. A dollar spent in Asia or anywhere is a dollar lost. A dollar we spend in our country is a dollar gained. But we don't seem to have that philosophy.

I'm getting way ahead of myself. I'm also on the Gulf of Mexico Fishery Management Council. And we will work very hard to shut a fishery down, but we don't spend any money to try and keep it open or try to help it stay open or whatever we have to do to make it work.

Getting stock assessments in the Gulf of Mexico is impossible. We have a fishery that's been closed for 20 years, and I can't get a stock assessment to let people know that we should fish that fishery again.

I think this country is plagued with that. I think that we take knee jerk reactions to everything we do. I think that we overregulate rather than try to figure out how to make things work correctly for our industries.

As Chairman of the Seafood Promotion Board trying to address some of our problems in our industry, we began with shrimp. I formed a shrimp task force. That shrimp task force -- and I have a board. But I wanted a stronger task force, which I will create for all of my industries. I'll start with shrimp, go to oysters, go to crawfish, everything, next.

And on that board we have restaurant tours. We have retailers. We have shrimp processors. We have shrimp dock buyers. We have shrimpers. We have economists. We have a good group of people to sit down and say, "What do we need to do to fix our industry or to help our industry in a better way?"

One of the first things that we did is we commissioned a focus group to find out what the consumers wanted. And it was very interesting. And it pretty much validated where we were going with the task force.

Sixty-five percent of those consumers were very concerned or extremely concerned about food safety. Eighty-three percent of those consumers wanted more safety inspections. Eighty percent of those consumers needed traceability that we don't have now. They were most concerned about many of the additives, the antibiotics, the pesticides, and so on and so on. They had made comments about that.

A certification seal of approval from some strong organization meant a lot, and it was most important to them to see that happen, that somebody was checking what they were doing. But clearly, the biggest concern, 93 percent were concerned about eating Chinese imports, 93 percent in that.

But what happens there is that negativity doesn't help our country either because the more negative we become about imports, the less people eat our shrimp too. We lose market share because of that.

I think 39 percent of the people asked didn't know that it wasn't domestic shrimp that had the problems. They thought it was domestic shrimp. But that's just a marketing thought. That's a marketing idea.

But clearly, we've got to get more positive with our thought process as we've got to increase our market share and we've got to bring our product to a different level.

Clearly, in Louisiana, we've been spoiled. We've had all the production we wanted for years. You don't come to New Orleans to eat a steak, ladies and gentlemen. You come here to eat seafood. And we're losing that ability. We're losing.

There's a tear in the fabric of our culture in that every time we lose another finfish or another in our state, it hurts this state. It hurts this city and hurts this country. I don't want to see a menu that's got tilapia and imported mahi on the menu and that's all. But we're going in that direction. It scares me and it really hurts, hurts what I've known to love and hold close to my heart, which is Louisiana and Louisiana seafood.

Part of that focus group, we did a quadrant graph. And I'm not necessarily one that understands it completely. But in one of the quadrants, "price of entry" was part of it. And the better quadrant to the right was "loyalty." The second quadrant to the bottom is "neither," and then

"differentiation."

The most interesting part of that was that if price of entry did not matter, it didn't matter if they paid more money for a quality product or an inspected product or a product they felt was food safe. This country is -- food safe is the driving thought process right now in this country, food safety, whether it be from abroad or from local, either way.

If we doubled the price of shrimp, doubled the price of shrimp, we would only lose 17 to 18 percent of our market if we followed the guidelines of quality assurance and quality marketing.

On the other hand, tops in their thought process was highest quality standards. They want high quality standards. They wanted it to arrive quicker. Carbon footprint. They wanted stuff that's right here in their own backyard. They don't want to worry about something coming from overseas.

They want it harvested fresh. They want it chemical-free. They want it environmentally sound. They want no overuse of antibiotics. And they want to preserve the shrimping industry. That's all the top priorities that they had on this study that we did.

Because Louisiana is a driving force in this country when it comes to seafood, we make -- we have to make sure that we have a food-safe commodity coming out of this state. Because we're trying to make a food-safe commodity, because we're trying to do our job, there's been a cubbyrise of customers that have come to the state of Louisiana to buy domestic products, over imported products, because of quality. And I'm talking large customers.

I've got some hundred million dollar importing companies that want Louisiana products if we do what I'm going to tell you we're going to try to do here today. I've got people like Wal-Mart and I've got people like Rouses, which is a major grocery store in the state. I've got people like Topco and associated grocers and big companies that really want to talk to us and want to buy product with the prime target to pay the fishermen more money for product that's good.

Right now a fisherman comes to a dock in Louisiana or anywhere in this country, and he's not paid any more for a sharp product than for older product. There is a market for commodity products in this country, and we'll have that. And that's where the Asians and we will compete. But we have to take our higher-end product and put it to another level.

We know that our wild shrimp is in high demand overseas and everywhere. We know that it's a better product. But we have to prove to people that we're doing our job right in this state and in this country. And we have to prove to them that it's safe to eat and that we have a safe food supply for them as a country.

Part of our quality assurance program -- and we're going to take the quality assurance program not -- start with shrimp. That's our beginning. We're going to go to the other industries, as I said. But development of that is there's an educational component involved.

The shrimper has got to go to school. He's got to learn what -- even though he knows, we're going to teach him again what quality is all about. We're going to make sure he understands the cold chain, that his product has to be iced, that he has to have shorter tow times and so on and so forth.

The dock buyer has to be educated. He's got to go to school. He's got to understand what we're looking at for quality. He's going to learn what organoleptics really means. He's going to learn some different thought processes.

The processing facilities that we are going to do the product in are going to be inspected to a USDC meat sanitation inspection with some tweaking for seafood, because meat, you can't have water on the floor. But our processing plants do.

We're going to be transparent with our whole operation. We're going to key in on quality, chem free, and we're going to end it with our own Department of Louisiana -- Department of Agriculture with an inspection program to make sure that we followed all the things that we're supposed to do.

And I skipped one, traceability. In Louisiana, we're blessed with trip tickets in all of our seafood industry, so I can tell you where that shrimp came from. And that's an important component if we want to step out of this country or step into this country with a better product.

So this is what we're working towards. We aren't ready to come out with it yet. I think by the August white shrimp season, we will be ready. But we don't want to make any mistakes. We want to do it correctly the first time. We only get one shot and one bite at this apple.

But the key component, again, is more money to the shrimper. We need to get more money to the shrimper. I can talk about fuel. I can talk about all this. But that's part of a problem. But the real problem is we continue beating our shrimpers down as we try to compete in this

commodity marketplace that we've got to get out of.

We don't belong there with our products in Louisiana. Some of it does. But if I can bring 30 million pounds of shrimp into this market, I've done something. And that's what our goal is on the seafood promotion board.

For the end, this 40 years I've been in it, this is something I love and this is something I really believe in. And I think that this country needs us desperately, and they're throwing us to the side.

When it comes to inspections, the U.S. government must ensure citizens that what they eat is safe, whether it's from this country or from without this country. We have to have a level playing field.

I can talk about tariffs. I can talk about everything else. But if we level the playing field with the inspection process, we're way ahead of the game. And there are many ways that we can do that, and I'm sure you guys are more aware of that than I am.

But imports have to be on a level playing field for what we do here in this country. And food safety should be our first concern, food safety for our citizens.

The country that produces the most and consumes the most is the strongest country. The U.S. is lagging way behind. Again, in the '50s and '60s, we produced. We don't produce anymore. We really need to get back to a work ethic that we've had in the past, and we've got to have our government protect us in that.

We have to become more self-sufficient on food-safe products for many, many reasons, much deeper than what we're talking about here today. This wild world we live in, some day we're going to have to protect ourselves. And we have to be here and have our own food for ourselves, and we're not doing that right now. We're going the exact opposite way, overregulations -- it's just we're going in the wrong direction. I can't even get, like I said, stock assessments. I can't get data. I can't get things to protect us to help us stay alive.

I know this is different than what you might have thought I was going to say today. But that, I believe, is very important to all of the situation. We can't chase our tail. We've got to change. We've got to be on a level playing ground with the imports. The tariffs have clearly helped the shrimpers. And you look in the grass and you can see that.

We must spend money to help our fisheries grow, rather than overregulate every aspect of our lives. We'll continue to have challenges. But as long as we work together to

level the playing field on inspections and increase the quality in demand of domestic products, it will be a win-win situation and scenario.

And that ends my testimony.

[The statement follows.]⁴

Panel IV: Discussion, Questions, and Answers

VICE CHAIRMAN BARTHOLOMEW: Wonderful. Thank you very much, Mr. Pearce. I think I'll start, take the prerogative of the Chair and start with questions.

Can you talk a little bit more about what needs to be done to level the playing field in terms of what you think unfair practices are that the Chinese government might be engaging in?

MR. PEARCE: I think you're going to hear a lot more of that from the people that speak behind me. I just know that they have to be at the same level of inspections. They have to be at the same environmental levels that we are. We're not even talking about unfair labor practice. We're not talking about all those things, because that's a part of the whole problem.

But we have to be sure that what's coming from over there is inspected correctly and then inspected to what we want it inspected to. And that's another thought process of mine, is that in a lot of cases, we're living with science that's old, just like I live with science that's old in my seafood industry.

I think we have to really know to what levels we need to test products. I don't think we should have knee jerk reactions to any of the antibiotics or chloramphenicols or whatever.

Zero tolerance is wrong because at some level it's going to bite us in Louisiana or somewhere else because it's going to come back to haunt us. We need to know what's really right at the levels that FDA tells us that we can have in products, whether it's good or bad. And we have to live to those levels on all fronts, domestically and imported.

And it's very clear that the Chinese are excellent at production and processing, very poor at marketing. So what will happen is they'll pour products into this country because they don't know what to do with it other than that. And they'll start chasing their tail and dropping their quality standards to make sure they can drop their prices

⁴ [Click here to read the prepared statement of Mr. Harlon H. Pearce, Jr.](#)

even further to compete in this marketplace as we try to adjust to compete.

I believe that there are plenty of good processing facilities in Asia. There are. But just like in this country, the bad apples are what draw us to this table. So we have to make sure that those bad apples aren't a part of the program. We have to make sure that whatever we expect from our people in this country, we have to expect from them. And I hope that answers your question.

But, I'm specifically targeting what I'm doing in this state. I thought today that you wanted me to talk about what I'm doing here in this state. So I feel very good about what I'm doing here.

VICE CHAIRMAN BARTHOLOMEW: And can you talk a little bit about what's happening in the communities that you're trying to bolster?

MR. PEARCE: Seafood was the horse that Louisiana rode to strength. No doubt about it. We're the first defense. We're the first people that got hit the hardest by the storm.

I fought very hard in Congress -- we formed a Louisiana Fish and Community Recovery Coalition that I co-chaired with Mike Voisin in the oyster industry. We put together 18 or 19 seafood industry groups. We had Sea Grant. We had LSU. We had Department of Wildlife and Fisheries.

We put together the numbers that we needed after the storm to get -- and this is just storm problems. But it took about a \$1.1 billion problem that we shopped around Washington. And we got all the way to the end, in fact, one of the senators held up in his hand my brochure and said this is the smelliest piece of pork he's ever seen.

But we almost got there.

But the sad part is that even till today, no federal aid is guided into the fisherman's hands, not one dollar. It's coming because we had a \$41 million supplemental from last time that will probably be issued out May and June.

We had help from Shell Oil. Shell Oil stepped in and gave me 600,000 to put ice machines in. When I put that ice machine in Cameron Parish, it was like the I took the weight off their shoulders because there was no ice to even put -- just to take care of the product.

We put another one in St. Bernard. Then we got Shell Oil to donate another quarter million to grease the wheels for a grant program that we had in the state of Louisiana. And we're fortunate enough to get some of that grant for our fishermen.

I opened up saying that we're down to 12,000 fishermen

now. And that's good and that's bad. Because I think that in this country and in Louisiana, we have to professionalize our industry, which we don't. Anybody with a pickup truck and a flatboat can be a fisherman after he's out of work. I think we need to change that with food safety in mind, with everything we're expecting other people to do in mind. And I think the educational components will help that.

And we're producing as much as we've ever produced before with a smaller fleet. But I don't like the term, "limited entry." I much prefer the term that we professionalize and allow anybody that really wants to get into this business, into this business. And that would make it a stronger business.

But we're in jeopardy of losing our coastal cities, our coastal towns. We're in jeopardy of losing what's made Southern Louisiana strong all across the coast. And a lot of that can be attributed to what's happening overseas. A lot of it can be attributed to the storm and a lot of it can be attributed to the fact that we're not getting the help that we need from government.

VICE CHAIRMAN BARTHOLOMEW: Okay. Commissioner Mulloy?

COMMISSIONER MULLOY: Thank you. Mr. Pearce. Mr. John Williams, who is going to be appearing later today submitted some prepared testimony. And I wanted to read something that struck me in that testimony.

He tells us that there's been a massive increase of shrimp and other items, seafood items from China over the last four to five years. And it's had a detrimental impact on the domestic industry. He tells us that U.S. producers and foreign producers are both required to demonstrate hazard analysis and critical control point compliance. But he says while the FDA conducts frequent and systematic on-site inspections of the domestic industry, foreign facilities are rarely inspected.

He tells us further that the EU in 2002 banned Chinese shrimp because it was unsafe and that our own government let the situation go on for years before they went into action with regard to this to the unsafe product.

Do you agree essentially with that analysis?

MR. PEARCE: Completely. If we're on a level playing field, which we're not right now, things are fine. That's not a level playing field. That's why I agree completely.

COMMISSIONER MULLOY: Okay. He also says this new Memorandum of Understanding, MOA, that they've reached with the Chinese which supposedly is going to ensure that the product coming in is safer than it was before, he says it's essentially toothless.

Have you looked at that MOA, or do you have any views on it?

MR. PEARCE: Nothing short of us doing our job here in this country at our borders is going to work. And MOA or no MOA or whatever, the FDA or whatever agency is going to be there, we've got to stop at the border everything right now and check it. We have to.

The problems that we've had in the past are only going to go away if we ensure people that we've done our job. And an MOA in another country doesn't mean anything to me right now. When it gets to this border and we check and it's inspected to the quality standards that we need to inspect it here, that's first.

Second, part of the situation, of course, is overseas, make it so the facilities are fine. Because the beginning of your thing was the HACCP and what's going on with HACCP. You're correct that I visited the facilities in Asia. I've been to Asia. And some of the facilities are beautiful, perfect. But, again, it's the other facilities that really are our problem, and it's their chasing the dollar that really gives us trouble.

It's the same old thing in any business. You try to find a way to make more money. And so you start playing games. You start cheating. And that's what's happening. We have to stop that game playing. We have to stop that ability. We have to keep them from being able to do that just as we're kept from doing here in this country. And I hope I've answered you. I don't know if I did.

COMMISSIONER MULLOY: He further says that there have been actions taken by our own Commerce Department and the International Trade Administration which have been detrimental to the domestic industry.

Do you have a view on that? I think they deal with some dumping actions that have been brought and that Commerce has not been aggressive in using our own dumping laws to ensure that you guys are not hammered by unfair trade practices by the Chinese.

MR. PEARCE: Well, it's clear. First off, the Byrd Amendment is dead. That's part of it. So that we no longer have the Byrd Amendment to have our tariff funds that kept -- really helped our industry. So yes.

COMMISSIONER MULLOY: The Byrd Amendment, which permitted the higher tariffs to go to the injured party?

MR. PEARCE: That's correct.

COMMISSIONER MULLOY: And that was knocked out --

MR. PEARCE: Last year, I believe.

COMMISSIONER MULLOY: By the WTO?

MR. PEARCE: I believe so, yes, sir. I'm not sure of that. I'm sure John is going to have more to say about that.

COMMISSIONER MULLOY: Okay. Thank you.

VICE CHAIRMAN BARTHOLOMEW: Cochairman Slane?

COCHAIR SLANE: Mr. Pearce, I was a little confused by your charts, the volume of frozen shrimp imports from China. Did the data end in 2004?

MR. PEARCE: No, no. That's when the tariffs took place. When the tariffs came into being, that's why you see the production -- the volume drop. So that's the effect that it had right off the bat.

Your product dropped from -- I have it written down here in the beginning. In year 2000, domestically, we had a monster year in our shrimp industry. We had 145 million pounds, 252 million in value. The same year, the imports from China were \$140 million in value but only 39 million pounds. But when you got to year 2003 -- and their price per pound, by the way, three forty-five in 2000.

In year 2003, we started to really feel it domestically with our price per pound average. It dropped from one seventy-four to a dollar seven. Domestic production stayed strong, as it has with 125 million. But the value dropped to 138, whereas imports went from 39 million in 2000 to 170 million in 2003, from a value of 140 million to 440 million in just two years, because the gates were open.

But then after the tariff, you watched that the imports dropped from 170 -- 170 million to 25 million in 2005. Their value was from 440 to 60 million. And the prices stayed stable at about 250, 260.

Good morning, Senator.

SENATOR VITTER: Good morning.

MR. PEARCE: And ours started to come up a little bit from 107 to 130. But what you're seeing on that graph is the effect of the tariff.

COCHAIR SLANE: Great. Thank you.

VICE CHAIRMAN BARTHOLOMEW: Mr. Pearce, if it's all right with you, we'll go ahead and cut our questioning, but we'd love to come back and ask you some more questions after we've had a chance to hear from Senator Vitter.

We're very pleased to welcome Senator Vitter to our hearing today. And Senator Vitter, as I think most of you know, was first elected to the U.S. Senate in 2004. He was the first Republican in over 120 years to represent Louisiana in the U.S. Senate.

Prior to his service in the Senate, he was in the Louisiana State House from 1991 to 1999 and represented

Louisiana's first Congressional district in the U.S. House of Representatives from 1999 until 2004.

He graduated from Harvard, from Tulane Law School. And he was a Rhodes scholar, serves on the Senate Committees on commerce, science, and transportation, environment and public works, small business and entrepreneurship, and foreign relations, where he is on the East Asian and Pacific Affairs Subcommittee.

He has taken an active interest in both seafood trade issues and seafood health and safety issues. On May 25th, 2007, Senator Vitter, along with five other senators, wrote a letter to Secretary of Commerce Secretary Gutierrez urging the enforcement of antidumping duties on warm water shrimp.

We look forward to hearing your perspective today, Senator Vitter. Thank you very much for taking time out of what we know is a busy schedule for you here in New Orleans. We saw you on the news this morning. And we welcome you and look forward to your comments.

**STATEMENT OF DAVID VITTER
A U.S. SENATOR FROM THE STATE OF LOUISIANA**

SENATOR VITTER: thank you very, very much, Madam Vice Chairman. And all of the commissioners, thank you. Thank you for bringing this very important hearing to Louisiana in particular.

Safety of Chinese seafood is of paramount concern to us here, as it is to the nation. First, we have a very significant and large and diverse domestic seafood industry here which obviously is impacted by unfair competition or safety issues.

Secondly, our tourism industry here thrives on a lot of things, including great prepared seafood. And so that is an additional reason these safety and other concerns are so paramount.

Your agenda includes a good group of experts who will provide you with a number of different perspectives. In 2005, I held something vaguely similar, a seafood forum, featuring many of these same experts and representatives of industry groups and representatives of federal and state agencies. So I know what a great opportunity it is to gather this information.

The seafood industry, as I said, is enormously important to Louisiana. According to the LSU Ag Center, in 2007 Louisiana produced almost \$171 million in total product value from aquaculture. And from marine fisheries, the total is almost \$227 million. That's about 30 percent of

our nation's seafood production, top state, second only to the state of Alaska.

Those economic numbers are important. But it really doesn't communicate everything because it's also not just a huge part of our economy, it's part of our personality and part of our way of life. Many communities around Louisiana are built around fishing and seafood. Of course, there are folks who do that directly, but then there are all sorts of folks who maintain paper boats and process catch and sell related equipment.

I know you heard yesterday from Kim Chauvin of the Mariah Jade Shrimp Company. She's been a very effective voice of the Louisiana shrimp industry. But she's also a great example of somebody who lives in that sort of community, whose family has done that for generations, who is wed to that way of life and who's a great person because of it.

Along with fishing of wild shrimp and other catch, Louisiana has a significant presence in aquaculture, mostly in crawfish. In 2007, we produced \$85 million worth of farmed crawfish. And I know later today you'll hear from Stephen Minvielle, who's a leader in the Crawfish Farmers Association here. He shared his knowledge with me, and I especially appreciate his perspective on that and the relation of Chinese imports to that.

When we talk about imports, I want to be very clear. I'm not here to advocate that we block all imports, that we build trade barriers, that we stop everything at the gates. Not at all. Our nation couldn't survive that way. I don't think that would be the right policy.

I do think we need to build up our ability to have a more flourishing domestic industry, but I'm not here to say no to all imports. But we do need a fair, even playing field with regard to these imports. And I think that's the attitude of almost all of the domestic seafood representatives you'll hear today. They are eager to compete. They are very proud of their product. But they want a fair, even playing field that we absolutely do not have now for many reasons.

As you know, China is currently the third largest supplier of imported seafood into the U.S., \$1.9 billion in fish and shellfish. But I think they are the top offender on a number of issues.

On trade, there are a number of antidumping and countervailing duties assessed on products from China. And across the board, not only for seafood, but for all products, China is the biggest offender regarding unpaid

antidumping and countervailing duties.

In 2007, China left more than \$200 million of duties completely unpaid. About \$80 million in duties for crawfish tail meat imports went uncollected, the most owed for all imported product from all countries. Since 2002, about \$500 million of duties for Chinese crawfish meat is unpaid and still owed.

Customs and Border Protection have articulated many hurdles, many problems they face. When the time to collect comes, often the import company is nowhere to be found, seemingly just disappearing into thin air. And yet the pace of imports continues unabated. It seems very clear to me that this is a system of avoiding the proper payment of duties, and we need to do something about it.

And, of course, along with these antidumping and unpaid duty issues are very important health and safety concerns. And aquaculture operations producers in China often use chemicals and other treatments that the FDA either bans outright or says they don't know nearly enough about and expresses concerns about.

Many of these chemicals are known to cause or contribute to cancer. And the use of certain antibiotics in seafood can lead to resistance to treatment of other organisms.

When unsafe products are not properly tested and reach our market, that has devastating impact. It causes concern about the safety of our food. It has health and safety impacts. That concern about food safety spills over to domestic seafood. Even though that's clearly unfair, that is a natural spillover in terms of consumer concern. And it is a very unfair competition to safe domestic product.

In 2001, the FDA began issuing import alerts for particular seafood products from China. From February 2006 to May 2007, the FDA increased monitoring of imported seafood produced from Chinese aquaculture and continued finding unapproved substances. So there is some progress there. But we have a long, long way to go.

After repeated warnings by the FDA and on-site visits to China resulted in no progress in really addressing the issue, on June 28, 2007, the FDA issued an import alert for all farm-raised catfish, basa, shrimp, dace, and eel from China. These products are to be detained at the border unless a supplier provides documentation that shows the shipment is safe in one of three ways:

First, that a minimum of five consecutive shipments have been analyzed by a third party and found to be contamination free;

Or second, documentation from a third party demonstrating that an inspection was conducted and verifying that the seafood was processed in accordance with FDA standards;

Or third, documentation that the processor is in compliance with all requirements of the government for exporting seafood.

While these actions by the FDA are useful, they help address some of the safety concerns. Quite frankly, I think there is a lot more we need to do.

Just yesterday, coincidentally, the U.S. Senate Committee on Commerce, Science, and Transportation on which I serve passed out the Commercial Seafood Consumer Protection Act. This bill will do a number of important things in advancing the ball. Let me mention just three.

First, it will strengthen the cooperation of the FDA and the National Marine Fisheries part of NOAA. It would require these agencies to cooperate to help keep our imported seafood safe by truly empowering them to do more coordinated testing, sending inspection teams abroad, establishing tracking systems and the like.

Second, it would increase the number of laboratories certified to the standards of the FDA to analyze seafood both in the U.S. and in foreign nations; and specifically, exports from abroad. Having more laboratories certified to FDA standards will not only increase our testing capacity, but also ensure that testing is done accurately.

And third, and most importantly, it will give the FDA the power it needs to detain seafood at the border.

As I mentioned earlier, the FDA has taken some actions to detain Chinese seafood with harmful chemicals. And I applaud that. But those actions come after a very long, very bureaucratic process and notices to detain and more notices and more notices.

This bill would allow reasonable but much quicker refusal of imported contaminated seafood and would increase the percentage of shipments tested for seafood originating from countries where there is clear evidence of contamination.

Now, to strengthen even these efforts which are in the Congressional pipeline, I have very recently introduced another bill. And it would build on these provisions. It's called the Seafood Safety enhancement Act. It would establish stronger procedures for what happens after a shipment is found to contain unapproved chemicals.

Often, as you undoubtedly know, importers of seafood that should be rejected and are rejected at a particular

port just port shop and immediately find another point of entry. And we need to close that really glaring loophole and horrible practice.

They often know where the best labs are, and therefore, ship somewhere else. Or when a shipment is found to contain some banned substance, as I said, they just reroute the shipment to another U.S. port.

Under my bill, after a shipment is rejected, we would require that there be clearly marked on the packaging a very significant label that says, "Refused Entry by the United States Government," and we would make sure this label was clearly and permanently affixed so it can't be covered up or ripped off. Also, it would require other procedures after a shipment is rejected to ensure that they are not recycled back into the country.

Right now it takes an average of 348 days for the FDA to notify other ports. Think about it. Something comes into one port. It's found to be contaminated. Great. We've actually identified it, a needle in the haystack, one-tenth of one percent of what we should be doing. And yet, to notify ports right down the road, right down the coast, it takes an average of 348 days.

In the era of Blackberries and cell phones and E-mail, that is absolutely absurd, so my bill would require notice to other stakeholders and ports within five days.

Also, to help address both the trade issues and safety issues, I'm developing a second bill that would use duties collected from Chinese seafood to fund increased testing programs. As we all know, the Byrd Amendment, which used some of the duties collected on dumped products to compensate injured industries, was found noncompliant with our WTO requirements.

While I disagree with this determination, perhaps another way to get at sort of the same thing is to use these duties for testing and safety programs. And I'm exploring the legal validity of that. I'm trying to advance that through the Congress.

Also, I support efforts by Customs to require enhanced bonding upfront to ensure duties are collected. An enhanced bonding pilot program for shrimp was the subject of two WTO cases recently with Thailand and India. Under this program, bond amounts were determined based on the value of imported shrimp from the previous year.

Now, the WTO panel found against this enhanced bonding. But I would encourage us to explore ways to either strongly appeal that determination or fine-tune the program. The reason I would really encourage that is this works. The

enhanced bonding program showed dramatic increases in the amount of collected tariffs for shrimp. After implementing it, Customs reported less than 11 percent of antidumping duties on shrimp went uncollected last year, while uncollected duties on other aquaculture and agriculture remained at more than 70 percent. That's a pretty significant difference.

As our trade officials develop our response to the appeals on this issue, I'll continue to encourage them to protect the enhanced bonding requirement in a counter appeal and/or fine-tuning of the program. Because that is real progress and success that we need to preserve and replicate.

All of these issues are absolutely affecting the people of the United States and certainly the people of Louisiana. Just as an example, Reed Galjour has been in the shrimp business all his life. He lives in Larose with his wife and daughters and a grandchild. Shrimping is his job and really his way of life. And yet, he is on the brink of losing everything, not because it's impossible for him to compete, but because it's impossible for him to compete when the playing field is so grossly unequal.

We need to act quickly to address trade and safety issues for the good of our country and out of respect and thanks for people like Reed.

Again, I want to thank you for holding this important hearing. I can't think of a better place to examine seafood safety and trade issues with China than here in Louisiana. And I certainly look forward to any discussion or questions you may have.

[The statement follows:]

**Prepared Testimony of David Vitter
A U.S. Senator from the State of Louisiana**

Thank you for holding this hearing in Louisiana. The safety of Chinese seafood is a great concern for Louisiana, because not only do we have a very large and diverse seafood industry in our state but also because we have a lot of people who like to eat seafood.

Your agenda includes a good group of experts who can provide you with a number of different perspectives. In 2005, I held a Seafood Forum featuring representatives from many of the same industry groups and state and federal agencies that you have here. I know it was a great opportunity to explore these important issues with the people directly involved, and I am sure it will help your examination of these issues.

The seafood industry is very important to Louisiana's economy. According to the LSU Ag Center, in 2007 Louisiana produced almost \$171 million in total product value from aquaculture. From marine

fisheries, the total is almost \$227 million. We produce 30 percent of our nation's domestically-produced seafood, second only to Alaska.

Aside from these economic numbers, there are many other effects that are hard to measure. Seafood production is not just a job for Louisiana. It is a way of life. Many communities in Louisiana are built around fishing. Aside from the people who actually fish, there are related jobs in a whole number of things - maintaining boats, processing the catch, and so on. I know you heard from Kim Chauvin of the Mariah Jade Shrimp Company yesterday. She has been an effective voice for Louisiana's shrimp industry, but she also is a great example of someone who lives in a community centered on seafood production. For many generations, her family has been in the shrimp business, and I hope they will be able to continue for generations to come.

Along with fishing of wild shrimp and other fishing operations, Louisiana has a significant presence of aquaculture. As one example, in 2007, Louisiana produced \$85 million worth of farmed crawfish. I know later today, you will hear from Steven Minvielle, who is a leader in the Louisiana Crawfish Farmers Association. He has shared his knowledge with me, and I especially appreciate his perspective as a crawfish farmer - someone who knows what it takes to bring crawfish from the pond to our plates and who also can speak directly to issues his industry faces, particularly from Chinese imports.

I want to be clear - I don't believe we should block all seafood imports. We shouldn't, as we know our nation's seafood producers are unable to provide enough to meet our demands. In 2005, 84 percent of our seafood consumption was from imported products, up from 55 percent in 1995. I think we should explore a number of options to further the ability of our nation to be self-sufficient for seafood, but that can't be done overnight. As we work on that, we should address safety and trade issues now.

We do need a fair, even playing field. Of course that must include adequate health and safety measures for imports, just as we enforce those measures for domestic seafood. But we don't that level playing field now, especially for imports from China. Let me cite a few examples.

As you know, China is currently the third largest supplier of imported seafood into the United States, \$1.9 billion in fish and shellfish. But I think they are the worst offender on a number of issues.

On trade, there are a number of antidumping and countervailing duties assessed on products from China. Across the board, not only for seafood, but for all products, China is the biggest offender regarding unpaid antidumping and countervailing duties. For example, in 2007, China unpaid by more than \$200 million on duties owed. About \$80 million in duties for crawfish tail meat imports were uncollected, the most owed for all imported product from all countries for all products. Since 2002, about \$500 million of duties for Chinese crawfish meat is still owed.

Customs and Border Protection has expressed many obstacles in collecting these duties. When the time to collect comes due, often the importing company is no where to be found, seemingly just disappearing

into thin air. Things like this make me think there is a deliberate and organized effort to bring seafood into our market and avoid paying the required duties.

Along with many trade issues, there have been a number of safety problems with Chinese seafood imports. In aquaculture operations, producers in China often use chemicals and other treatments that the FDA either bans outright or does not yet know the effects that may occur with human consumption. Many of these chemicals are known to contribute to cancer, and the use of certain antibiotics in seafood can lead to resistance to treatment of many organisms that are harmful to humans.

When unsafe products are not properly tested and reach our market, not only does that cause concern for the safety of our food, but it also displaces product produced domestically with something that should have been refused entry. In 2001, the FDA began issuing import alerts for particular seafood products from China. From February 2006 to May 2007, the FDA increased monitoring of imported seafood produced from Chinese aquaculture and continued finding unapproved substances.

After repeated warnings by the FDA and on-site visits to China resulted in no progress in addressing the issues, on June 28, 2007, the FDA issued an import alert for all farm-raised catfish, basa, shrimp, dace, and eel from China. These products are to be detained at the border, unless a supplier provides documentation that shows the shipment is safe in one of three ways:

- That a minimum of five consecutive shipments have been analyzed by a third party and been found free of contamination;
- Documentation from a third party demonstrating that an inspection was conducted and verifying that the seafood was processed in accordance with FDA's seafood regulation; or
- Documentation that the processor is in compliance with all requirements of the Chinese government for exporting seafood.

While these actions by the FDA help address some of the safety concerns of Chinese seafood, I think there is much more that we should do. Yesterday, the U.S. Senate Commerce, Science, and Transportation Committee, on which I serve, passed the Commercial Seafood Consumer Protection Act. This bill will do a number of important things to increase our seafood safety.

First, it would strengthen the cooperation of the Food and Drug Administration and the National Marine Fisheries, part of the National Oceanic and Atmospheric Administration. This bill would require these agencies to cooperate to help keep our imported seafood safe by empowering them to do more coordinated testing, send inspection teams abroad, establish tracking systems for shipments of seafood in our distribution chain, and other actions.

It would increase the number of laboratories certified to the standards of the Food and Drug Administration to analyze seafood both in the United States and in foreign nations that export seafood to the United States. Having more laboratories certified to FDA standards will not only increase our testing capacity and but also ensure that testing is done accurately.

And, most importantly, it would give the FDA more power to detain seafood at the border. As I mentioned earlier, the FDA has taken some actions to detain Chinese seafood with harmful chemicals, and I applaud that action. But those actions come after a long bureaucratic process and notices to detain, other notices, and so on. This bill would allow quicker refusal of imported contaminated seafood and increases in percentage of shipments tested for seafood originating from countries where there is evidence of contamination.

To strengthen these efforts even further, I introduced a bill that will build on these provisions. The Imported Seafood Safety Enhancement Act would create stronger procedures for what happens after a shipment is found to contain unapproved chemicals and is rejected.

Often, importers of seafood that should be rejected "port shop" in order to get the product into our market. They often know where the best labs are and therefore ship somewhere else. Or when a shipment is found to contain banned substances, the shipments could still come in by being rerouted to another port and perhaps evade the testing at that port.

After a shipment is rejected, my bill would require these to be clearly marked "Refused Entry by the United States Government" so that it can't enter another port. Also, it would require other procedures after a shipment is rejected to ensure the unsafe products are not cycled through other countries to come back here.

Right now, it takes an average of 348 days after rejection for the FDA to notify port-of-entry officials of a rejection of a shipment. My bill would require notice within 5 days when an importer has a rejected shipment, so those ports can know to be on the look out for similar shipments from that importer or country.

Also, to help address both the trade issues and safety issues, I am developing a bill that would use duties collected from Chinese seafood to fund increased testing programs. The Byrd Amendment, which used some of the duties collected on dumped products to compensate injured industries, was found non-compliant with our World Trade Organization requirements. While I may have disagreed with that determination, perhaps another way to help injured industries would be to ensure duties collected are used for programs that help the injured industries to ensure that imported seafood is here safely and legally.

Also, I support efforts by Customs to require enhanced bonding up front to ensure duties are collected. An enhanced bonding pilot for shrimp was the subject of two WTO cases with Thailand and India. Under this program, bond amounts were determined based on the value of imported shrimp from the previous year. The WTO panel found against enhanced bonding, but Thailand and India are both appealing the ruling, apparently because they thought the ruling did not go far enough in limiting our abilities to enforce our trade laws.

The enhanced bonding program worked by showing dramatic increases in the amount of collected tariffs for shrimp. After implementing the enhanced bonding requirement, Customs reported less than 11 percent of antidumping duties on shrimp went uncollected last year, while

uncollected duties on other aquaculture and agriculture products remained high at more than 70 percent. As our trade officials develop our response to the appeals by Thailand and India, I will continue encouraging them to protect the enhanced bonding requirement in a counter appeal. I hope we can replicate the success of enhanced bonding on other uncollected duties.

All of these issues are really affecting real people here in Louisiana. For example, Reed Galjour has been in the shrimp business all his life. He lives in Larose with his wife, daughters and a grandchild. Shrimping is his job and an important part of his way of life. Reed is on the brink of losing everything, because the costs of doing business have become too much to handle. We need to act quickly to address the trade and safety issues of imported shrimp so that we can have the fair and level playing field that fishermen like Reed deserve.

Again, I want to thank you for holding your hearing. I can't think of a better place to examine seafood safety and trade issues with China than right here in Louisiana.

I look forward to any questions you may have.

Panel Discussion, Questions and Answers

VICE CHAIRMAN BARTHOLOMEW: Wonderful. Thank you so much, Senator Vitter. We hold most of our hearings in Washington, DC. But over the course of the past four years or so, we have made a point of going out into the country and holding hearings in different communities once a year. We've been to Dearborn, Michigan; to Columbia, South Carolina; Akron, Ohio, all communities that have seen some real challenges coming from China trade; and also to Seattle and to cities in Northern and Southern California to see some places that have seen a little bit more of the upside than the downside.

So in addition to the seafood safety issues, we really are interested in some of the impact on the communities here in Louisiana. Could talk a little bit more or elaborate on some of the challenges that the communities are feeling because of these unlevel playing fields that are going on.

SENATOR VITTER: Well, as I said, we can look at a lot of dollar figures and facts and figures in terms of seafood's impact to the economy in Louisiana. That is very real and very dramatic. But it really is throughout South Louisiana in particular, part of the heart and soul of so many communities.

And so you do a lot more than lower dollar figures when -- I say "you." All of us, the impact is a lot more when we allow unfair or contaminated product into the country and simply lowering those dollar figures. You are impacting the heart and soul and the sustainability of those

communities. Those communities face enormous challenges.

On a completely separate front, there is coastal erosion. And those issues are threatening these communities. And it really is a -- not just a way of life, but a very wholesome, positive way of life that undergirds our value system in Louisiana. So, there are a lot of dollar figures you can place on it. But the most important impact are the intangibles.

And, again, I think the great majority of the seafood industry would agree -- we're not saying cut off all imports. We're not saying promote some ultraprotectionist policy. We're just saying be fair and be vigilant about very legitimate health and safety concerns.

VICE CHAIRMAN BARTHOLOMEW: We've overindulged in the day and a half that we've been here in Louisiana seafood and other wonderful food dishes here in New Orleans, so we've really seen some of the benefits of this.

I'd like to turn to the co-chair of this hearing, Commissioner Slane, for questions or comments.

COCHAIR SLANE: Thank you, Senator, for taking the time to appear. One of the criticisms that we've heard here is over the country of origin labeling. And people feel like it's difficult for the American consumer to actually identify where the shrimp is coming from. And there are a lot of loopholes. So I don't know whether you've gotten into that or whether you think we can tighten that up.

SENATOR VITTER: I have looked at that, and I think that is a very reasonable area to act on. And, again, that's an area where you're leaving it up to the consumer. You're giving the consumer information. But you hit the nail on the head in terms of really being able to get clear information about where something is coming from.

Now, part of the challenge is that because of the nature of the business, that's not always easy. And there is often mixing of product for other legitimate reasons than avoiding any country of origin issues.

But to the extent we can make that clear and leave it to the consumer, I think that's a very valid policy option. It's not going to be enough to address all of these issues, but it should be part of the menu.

COCHAIR SLANE: Thank you, sir.

VICE CHAIRMAN BARTHOLOMEW: Commissioner Fiedler.

COMMISSIONER FIEDLER: Thank you, Senator. The State Department and, actually, the FDA, signed an MOA, a Memorandum of Agreement, with the Chinese to basically handle inspections of seafood. And we're going to assign something like eight FDA employees to China and maybe five

local hires.

The Chinese don't have a very good history of compliance. And so Mr. Pearce was making a comment earlier, which is that we have to ensure that our borders are safe to this stuff, that we can't necessarily rely on the Chinese. Do you have any views on the efficacy of this MOA?

SENATOR VITTER: I don't know all of the details of the agreement and I don't want to pretend that I do. My opinion, based on what I do know is that I think, unfortunately, it's another example of the State Department being more interested in an agreement with another country than the substance of it or the efficacy of it.

Quite frankly, I serve on the Foreign Relations Committee. I don't want to get on to other issues. But I think this is a fairly broad cultural problem with the State Department. They're in the business of deals. And they consider themselves more successful, the more deals they reach.

I don't look at it that way. Some deals are worth signing and others are not worth signing. But I think so often they get so wrapped up in the process of reaching the deal, that there is a bias there. I would suggest this is one example of that.

Again, not to change subjects, but I would suggest the deals in the last two years with North Korea on their nuclear program another example. I think in reaching all these things, it's very important that you have folks there, perhaps, who are not careerists who can step back and say, "Let's not get carried away. If this is worth signing, great. But is it worth signing?"

I'd suggest this is more about their wanting to feel good about our relationship with the Chinese than it is about the substance of the Chinese process of seafood inspection. And, having eight FDA people there, I think, makes my case. That's ridiculous. You essentially might as well have none.

And so I would suggest that needs to be relooked at, and it certainly means that we shouldn't let up one bit at the border.

COMMISSIONER FIEDLER: Thank you very much.

VICE CHAIRMAN BARTHOLOMEW: Thank you, Senator Vitter. That's a point that this Commission has made repeatedly on trade issues, on proliferation issues. We can look at any number of agreements that the Chinese government, for example, has made on protecting intellectual property rights. And if they had only complied with the ones that they've already signed, we wouldn't be in the situation that

we're in. And yet the response of, frankly, both Democratic and Republican administrations has been: Let's sign another agreement.

And our skepticism has been quite high when we have administration officials come in about okay, you know, that's really nice you got another agreement, but at some point you have to stop talking and actually start getting some action. So thank you for that. Commissioner Mulloy?

COMMISSIONER MULLOY: Yes. Senator, thank you for being here. We had a chance to ask some questions of Mr. Pearce. We have a witness coming in later who is the Chairman of the Fisheries and Aquaculture Department at the University of Arkansas. And she's going to talk about these subsidies that are given by the Chinese government to their catfish industry. I think it extends beyond that somewhere along the line they discovered that this could be a big export earner.

SENATOR VITTER: Sure.

COMMISSIONER MULLOY: And they have a desire to build export earnings and then use that money that they gain for other purposes. You've been interested, I think, in foreign relations and sovereign wealth funds.

SENATOR VITTER: Absolutely.

COMMISSIONER MULLOY: And we've done a hearing on that area. So the dollars we send them for their food can be coming back to buy real assets in this country.

SENATOR VITTER: Absolutely.

COMMISSIONER MULLOY: And I think that's what's going on.

SENATOR VITTER: The only thing I would disagree with you on is the claim in many, if not all cases, by the Chinese that what they're pointing to is catfish. But that's another issue. They call a lot of things and the Thais call a lot of things catfish.

COMMISSIONER MULLOY: We try and bring in a lot of different perspectives. We had a witness from the seafood importing industry in here yesterday who said he's bringing in 95 percent of what he sells is imported. And he didn't see any subsidies being given by the Chinese.

We asked him if China does deliberately under price its currency. And we asked him if he considered that a subsidy. And he said, "Well, I don't know enough about that," so he didn't want to get into it.

Have you focused on the currency issue and whether that might be considered a subsidy by the Chinese government to its export industries?

SENATOR VITTER: I've been concerned about that. A lot

of members of Congress have been and have tried to push the administration on that. Once again, you run into this sort of brick wall at the State Department, quite frankly. "Oh, we can't push too hard. We can't be too assertive." But I am concerned about that impact.

And the notion on the pure subsidy side, the notion that the Chinese isn't subsidizing these domestic producers, I think, is ridiculous. The whole nature of their system is predisposed to that. And we need to address that.

I am a believer in trade. But we will not sustain a pro trade policy in this country unless we're aggressive about demanding a true, even playing field. The American people will get fed up with it, and the result will be -- the result will be what I said a few minutes ago I'm not interested in, which is sort of arbitrary closing of our borders. That would hurt the economy. But that will be the result unless we're a lot more assertive in terms of enforcing a true, even playing field.

COMMISSIONER MULLOY: I just wanted to make one other comment. A number of witnesses have talked about the loophole that you're trying to plug, that they'll bring it into one port. They can't get it in there because it's unsafe. And they just go and bring it in another port. So are you optimistic that that provision of your bill can get enacted, or is there opposition to that that you can see?

SENATOR VITTER: I am very optimistic. I've just introduced that. But already Senator Inouye, Senator Stevens, others have approached me even before I had time to reach out to them and others with a great interest in this. So I am optimistic.

COMMISSIONER MULLOY: Thank you, Senator, very much.

VICE CHAIRMAN BARTHOLOMEW: Great. Senator Vitter, we'll have Commissioner Videnieks next.

COMMISSIONER VIDENIEKS: Great analysis of the bilateral relationship in the seafood area.

Now, it's my understanding that the collection of duties that's -- whatever is collected since the Byrd Amendment got knocked down, everything goes back to the Treasury. So to what extent -- we were talking about the leveling of playing fields and so forth. To what extent would the improving the collection of import duties, in your opinion, level the playing field?

SENATOR VITTER: Well, it's a very good point. As I said, one thing I'm exploring in light of the WTO issues with the Byrd Amendment is if we can do anything else rather than just have it go into the general fund. And an example is safety and testing requirements.

In the federal government, we have revenue streams that go for specific purposes all the time. And the gas tax goes for highways. Certain user fees go for dredging of waterways. So I'm exploring if we could basically dedicate these funds to increase our testing and safety program. And that would have a lot more direct impact than just the general treasury.

COMMISSIONER VIDENIEKS: Thank you, sir.

VICE CHAIRMAN BARTHOLOMEW: Great. Commissioner Wessel.

COMMISSIONER WESSEL: Thank you, Senator, for your time this morning. This is a relatively quick question, but one that goes back to several issues you raised. You talked about the Byrd Amendment and you talked about the advanced bonding issues, both of which I think a number of domestic WTO lawyers look at as WTO overreach seeking to impose obligations that were never negotiated.

We're now involved in the Doha round, and those negotiations are ongoing. And I believe the administration has taken a position that it wants to try and negotiate through those issues and say that these are, in fact, rights that we are going to continue to pursue.

Have you talked to Ambassador Schwab or any of the other trade officials to find out how hard they're pursuing those issues and whether we should condition the completion, successful completion of the round when making sure that only those areas that we've negotiated are, in fact, rights and obligations that are imposed on us?

SENATOR VITTER: I've talked to Ambassador Schwab about these issues in general two or three times, but it hasn't been in the last six months. I didn't ask her that specific question. My fear is that that's a position of the administration, but will fall off rather quickly. And if that really gets going in earnest, I'll certainly be asking them to adopt a much stronger position on those issues in particular.

Specifically, I think based on the statistics I talked about, there is enormous progress, has been enormous progress in terms of some of those new enhanced bonding requirements. The proof is in the statistics. And we need to do everything we can to protect that.

COMMISSIONER WESSEL: Thank you.

VICE CHAIRMAN BARTHOLOMEW: Senator Vitter, this is just a question of curiosity now. But has the FDA ever explained why it takes 348 days on average? I'm thinking you could probably ride Pony Express to all of those ports and do it faster.

SENATOR VITTER: Absolutely. I asked them that, but it

was only 330 days ago, so I haven't gotten an answer.

VICE CHAIRMAN BARTHOLOMEW: Wonderful. We are always very cognizant of the demands on your time, so I don't know that we have any more questions. I don't know if there's any more comments you want to leave us with. But we're very appreciative of the fact that you came to meet with us today as we explore all of these issues yesterday and today.

SENATOR VITTER: Thank you again for your work and specifically for bringing this discussion to Louisiana.

VICE CHAIRMAN BARTHOLOMEW: We look forward to working with you as things move forward.

SENATOR VITTER: Thank you.

MR. PEARCE: Madam Vice Chair, if I can, on behalf of the seafood industry, I want to thank the great senator from Louisiana for all the work he does for our seafood industry. He will always answer our calls. He will always work to try and help us. And we're very appreciative of that.

VICE CHAIRMAN BARTHOLOMEW: Thanks very much. Mr. Pearce, do you have a little bit of time to stay and finish some more questions?

MR. PEARCE: Sure. Take your time.

VICE CHAIRMAN BARTHOLOMEW: Okay. Wonderful.

Thank you, Senator Vitter. Okay. In our questioning, Commissioner Videnieks, you were up next.

COMMISSIONER VIDENIEKS: Thanks. The question I had is kind of a basic one. What's included in the term "seafood"? Are we concentrating just on shrimp, on crayfish? Or maybe you could go through the percentages, what aquaculture versus wildly -- actually, the fish seafood, what's included in that. What --

MR. PEARCE: What constitutes seafood in Louisiana?

COMMISSIONER VIDENIEKS: Yes. What proportions maybe.

MR. PEARCE: That the aquaculture is of seafood or --

COMMISSIONER VIDENIEKS: Both, fish and aquaculture.

But

what's in it? Maybe the top three components. Crayfish, and what percentages maybe.

MR. PEARCE: In Louisiana you're --

COMMISSIONER VIDENIEKS: Yes. You're speaking for Louisiana.

MR. PEARCE: Basically, shrimp, of course, is number one. And that's 130 million pounds a year. Shrimp is number one. Oysters will be number two. Then you're going to step back into your finfish and crab production and crawfish behind that.

COMMISSIONER VIDENIEKS: Can you give us some relationship between these quantities instead of just

ranking? Is shrimp predominant?

MR. PEARCE: Yes. Shrimp and oysters are our two predominant industries. There's no doubt about that. That's our strongest industries. And we're number one in both of those in this country.

Crawfish we're number one in this country, but it's probably not as strong an industry as some of the other industries. There's crab that we have in the state. But they're all strong industries.

Crawfish is both aquaculture as in wild, whereas our shrimp is all wild, whereas our oysters is -- oysters are quasi aquaculture, because we'll take oysters off of a wild reef and we'll replant them in another bed or area for growth. As these oyster farmers continue their harvest, they've always got beds that are coming up year after year after year. They keep growing. So it's a quasi wild aquaculture-type program.

We don't have a strong finfish aquaculture program anywhere in this country as far as I'm concerned.

COMMISSIONER VIDENIEKS: How about the fishing industry? How much of that is finfish?

MR. PEARCE: The finfish, we've got a large menhaden industry, which is the largest -- and that brings plenty of tonnage. Finfish is below oysters and below crabs, if that helps.

COMMISSIONER VIDENIEKS: But can you give us just a rough information as to what the relative weights of these components of seafood --

VICE CHAIRMAN BARTHOLOMEW: Maybe, Mr. Pearce, you could provide that for the record so that we can get the information.

MR. PEARCE: I can get you the full data. I don't want to say the wrong things. That's what I'm trying to avoid. But I do know that we do 130 million pounds of shrimp; and I do know that we do 250 million oysters, individual oysters in this state. So we do that.

VICE CHAIRMAN BARTHOLOMEW: Two hundred. I think we've eaten a good share of oysters in the past couple of days.

COMMISSIONER VIDENIEKS: I just have a related question. As far as the state GDP and the labor involvement in both fishing and aquaculture, we'd like to know how big a role does seafood play in the economy of Louisiana.

MR. PEARCE: \$2.1 billion.

VICE CHAIRMAN BARTHOLOMEW: What percentage of the total?

COMMISSIONER VIDENIEKS: Gross domestic product of this state.

MR. PEARCE: Oh, I'm sorry. I really couldn't answer that for you off the top of my head.

VICE CHAIRMAN BARTHOLOMEW: So we can find out what percentage seafood is --

MR. PEARCE: I can get that information for you.

VICE CHAIRMAN BARTHOLOMEW: -- in Louisiana's economic -- great. Okay.

MR. PEARCE: I'm sorry I couldn't answer it.

VICE CHAIRMAN BARTHOLOMEW: You don't have those numbers?

MR. PEARCE: No. I'd rather not say.

VICE CHAIRMAN BARTHOLOMEW: Commissioner Wessel.

COMMISSIONER WESSEL: I'm a little confused by something, and my recollection from yesterday may be a little wrong. We had a witness who I believe indicated that the state legislature recently defeated a measure for labeling, seafood labeling in the state. Is that correct?

MR. PEARCE: In the House, I think it was 15 to 3. On Wednesday it was a labeling bill for restaurants that they defeated, yes. And that's not as easy to do as it might seem. We are working right now with the restaurants in the state on a different thought process as to where labeling goes and where we go with that. It's pretty clear to me that --

COMMISSIONER WESSEL: What was the position of your organization on that?

MR. PEARCE: My organization position at the restaurant level is that -- and I'm trying to state this one. We believe that any institution that either substitutes or lies or plays games at that restaurant should be fined severely. But we don't believe that we should be in the business of managing a restaurant for what he buys product and what he has.

Let's say a restaurant -- it's difficult for him to change his menu daily or sometimes half a day. It's not as easy to do. And I don't think we're ready to make that step yet. I think that in the future, in 15 years, everything will be on everything. But not yet.

If you go into a cooler of a fish house, for instance, he may have fish from Florida. He may have fish from Uruguay. And it all gets mingled sometimes and into a restaurant's menu. It's very difficult for them to do that. And at some point you don't want that menu to look like a road map. And that's what it might be before it's over.

I think what we're trying to do to stop substitution, we're trying to make sure that the restaurants are using as much domestic products as they can and that one of the

thoughts that we had just yesterday was that we would put enforcement in a restaurant to ask the managers what they were doing.

If the manager said that he was doing imports -- or domestic and he was lying, that we'd put severe fines on that gentleman.

But it's difficult to ask a waitress. It's difficult to ask a waiter. You need to go to the head people. Because staff changes so dramatically in this city right now. Labor is very difficult, a tough commodity.

But we want to address the problem, but we want to address it correctly and not just knee jerk reaction to addressing it.

COMMISSIONER WESSEL: So let's go back then to some of the other outlets. Because, as you know, there's federal country of origin labeling in both beef and cattle, as well as on seafood products.

As it relates to other retail outlets, supermarkets, fish markets, et cetera, what has the State done and what is the position of the organization?

It seems to me that -- and you've talked about the focus groups earlier -- that the public, while this affects the consumption of all seafood, they have higher confidence in seafood grown, farm-raised, et cetera, here in the U.S., farm raised, caught, that we want to be able to let them make some choices for themselves. What has the State done in those areas?

MR. PEARCE: I agree with all those premises. The problem we have is that just like in the State Department, when you make a law and you do an MOA, it's the enforcement or the education that's behind it that's not there.

If you go to Florida -- and I was talking with John Williams about this -- they are educating the Florida stores about what to do and what not to do. But if you go to the West Coast, I understand that it was 100 visits, and 80 of them weren't doing what they were supposed to do.

But we need to learn to educate more or to enforce correctly and not just slam the door on somebody, but come and teach them and tell them what they need to do. Because it's a difficult program doing that. And I think that once we do, people begin to try to do the right thing because they want to do the right thing.

But we have to do more than just say, "Hey, you got to do it." You've got to step up and say, "Hey, we have to educate them."

COMMISSIONER WESSEL: But if you're talking about safety and the consumer's right to know, and again,

marketing the product that your people produce here in the state which you believe is of high quality, doesn't the consumer need to know that it's actually coming from this state?

MR. PEARCE: On our program, that's part of what we're going to do. We're going to make sure that it's labeled "Louisiana -- Certified Wild Louisiana Shrimp, Certified Wild Louisiana Oysters." And that's going to be a marketing program. And we're going to make sure that shows up in the cases. We're going to do our job on our end to assure the public what they're getting. And we're going to make them want to ask for that product.

So we're kind of taking another approach to the problem by increasing the knowledge of the consumer that our product is better and to look for our label, look for our logo. And that's where our marketing plan is going to go.

You've watched Alaska do an excellent job of that, Alaska Seafood. Well, you think about Louisiana. Louisiana is tops. You go to Europe and everyplace, they want Louisiana seafood.

We just have to do a better job because we've been basically spoiled. We've been basically just sit back, because we've got so much stuff here. But that's changing. And the way that we can help our fishermen today is to take them out of that commodity-driven market by the Asians and put it into another market that will demand better money.

I can give you one for instance real quick. We brought some West Coast technologies, the salmon technology on freezing and better boats and better capabilities. And one boat put that on his boat. He's now selling shrimp in the Williams-Sonoma catalog for \$119 for five pounds.

And that's just the upper end of that program. But it shows you that when we do our job correctly and we market our product correctly, the market is there for our fishermen. And the big thrust is to get the money back to the fisherman. He's where we need to get to with the money for the product.

We know that overseas there's products that we're getting two and two-fifty for at -- in this state or up to 10 and 12 bucks overseas. But we have to do our job right. We have to have traceability. We have to have all the things that they need for us to make it work. And we only get one bite at the apple. We screw up, we're dead.

So we have to raise our level in this state and this country of quality assurance, and we have to make sure people understand what we're doing. And that will take care of itself after that.

VICE CHAIRMAN BARTHOLOMEW: Mr. Pearce, one of the issues that we have heard about a lot over the years and have focused on some is intellectual property right protection. I'm not sure it's a question as much as a warning. But as you guys do all of your job to build your brands, what the Washington State apple people found -- of course, they wanted to sell into China itself -- is that the Chinese have been growing inferior quality apples, doing knock-offs of the Washington State Apple Growers logo, and marketing in other places these inferior quality apples that are not only taking market share away from the Washington State apple growers, but also hurting their brand, because people in Japan or other places were buying apples that were not the quality of Washington State.

Do you have something in your program to try to make sure that all of the work that you're doing in branding and marketing doesn't get knocked off and end up working against you?

MR. PEARCE: We're not necessarily overseas with that thought process.

VICE CHAIRMAN BARTHOLOMEW: Right.

MR. PEARCE: But we are with that thought process within the state. And we want to brand it like Vidalia onions. We want those type of branding names for our Louisiana products, just as Alaska has done with its products. And we are worried about not necessarily overseas yet, but people here trying to utilize our brand.

VICE CHAIRMAN BARTHOLOMEW: Right.

MR. PEARCE: So we have teeth in our law. And our Department of Agriculture already has that ability to enforce what we put in place.

VICE CHAIRMAN BARTHOLOMEW: All right. Any other questions? Mr. Fiedler?

COMMISSIONER FIEDLER: Could you give me an overview, not the entire chain, but the economics of imported shrimp and its profit making? Let's take your earlier statement of Louisiana shrimp is a commodity. Chinese shrimp is a commodity. Who's making the money and what's the difference? Let's assume that the price is the same.

MR. PEARCE: I'll start with Louisiana. The problem we have is that we keep chasing our tail, trying to compete with that commodity from China. As they drop, we drop. Or we'll do something different, a different way to try to meet that market. Okay?

So the shrimper is taking the beating. The shrimper gets paid less money. If we drop a price on the sell side, it goes directly down to that shrimper, wrongfully so. The

middlemen make their monies -- and I'm saying they're making a fortune, because they're starving in a lot of cases because they're still having to compete.

But the reverse of what you're asking me that the shrimper is losing the money. He's not making it. But it's being made up along the chain all the way. And as we get to the restaurants, of course, the restaurants are taking advantage of that lower price on their menus to make more money at the restaurant level. But that's just business. That's the way that should be.

The Chinese situation is that as they came into this country, I think they first started at three forty-five a pound average. They're down to about a two-fifty a pound average and dropping. They'll continue to drop or do what they have to do to meet our -- come back to them or the way we're going to compete with them.

And so in that case, the Chinese really are taking a beating as well on their end trying to get it done. Wrongfully so. But when they do that, in all instances games begin to be played. Short waits. Chemicals. You name it. That's what starts to happen. And you move away from what you started out with, which is the development of a quality program and a quality market and upper end program.

So it always filters deck down to the bottom that they make the least money. And our fishermen, which are the lifeblood of our industry, are the ones that are suffering the most now. And that's why our quality assurance program is aimed at getting the fishermen first more money.

And when we sell this program to any institution in this country, that's the first thing we tell them. If you're coming to us, you're going to pay more money. But we're going to do what you tell us to do.

It's a customer-driven program. We're going to set benchmark levels below which our people can't go quality-wise. But if you want levels up to here, we're going to inspect at that level. But you're going to pay a price to that fisherman for that and expect that. I hope that's answered it.

COMMISSIONER FIEDLER: That's fine. Thank you very much.

VICE CHAIRMAN BARTHOLOMEW: Any other questions?

COMMISSIONER WESSEL:

Just a follow-up to that? You mentioned the restaurant level. What's happening at the retail level? Are we seeing that the price reductions that are coming as a result of this being a commodity reflected fully at the supermarket level; or are we seeing some --

COMMISSIONER FIEDLER: Somebody just taking the money. Profiting from it, what you characterize as normal?

MR. PEARCE: I understand.

COMMISSIONER WESSEL: We would have seen that in a lot of other --

MR. PEARCE: Yes. You're going to see that if you're a substitution-type idea guy, you're going to try to substitute a lower-priced shrimp and try to make the long dollar. There's no doubt about that. That's business. But it's the wrong kind of business because it's done based on substitution.

COMMISSIONER WESSEL: I understand that. But what has been the history and the experience at the retail level on shrimp over the last three or four years? Do you know?

MR. PEARCE: In Louisiana I can tell you that it's very competitive because we're a seafood state. So it's very difficult. And the prices end of season are going to begin to drop because of that season is there. So there's no major profit-taking at that level because of an importer or because of something else. Because we compete very dramatically here in this state.

COMMISSIONER WESSEL: Outside of the state, do you know a national average of what's been happening?

MR. PEARCE: I would think that nationally you're going to see a different thought process. I think that nationally you're going to see profit-taking at these institutions because of that, because there's no benchmark or no level to where the average consumer knows what's going on.

COMMISSIONER WESSEL: So the ultimate consumer isn't benefiting from the --

MR. PEARCE: No. I don't think so.

COMMISSIONER FIEDLER: Your price sensitivity chart that you said basically indicated that a lot of people have a willingness to pay for shrimp. Was that the pre-recession economics?

MR. PEARCE: Yes, probably six or eight months ago we did this study. But I don't think there's a change there. I think there's a cubbyrise of customers and a cubbyrise of major retailers and importing companies, actually, that see the benefit of this quality assurance program, and that the people are -- food safety. That's the buzz word.

People want safe food, and they're going to pay for it. And they know that. And pre-recession, after, whatever, it doesn't seem to matter to me right now. I think they're still going to look forward to what we're going to give them because they're concerned about everything you guys have talked about here today.

Take Sysco as a wholesale grocer. They've got a bull's-eye on their back. And if we can take that bull's-eye off their back and take that liability because they're sure of what we're doing, they're sure that we've got traceability, that that fisherman was educated, that we've had that inspection, and that we've got teeth in somebody that plays games, they feel a lot more comfortable. And you will see programs developed at a company like Sysco. Their portico program, I believe, that is an upper-end program that charges more money.

COMMISSIONER FIEDLER: You mean Costco?

MR. PEARCE:

I'm talking about Sysco.

COMMISSIONER WESSEL: Sysco, the food service.

MR. PEARCE: Costco is down here talking to us about some peel-and-eat shrimp.

COMMISSIONER FIEDLER: S-Y-S, the food service?

MR. PEARCE: Yes. But, they're looking for this because they're very worried about the liabilities that they've got. It's a lot broader picture than just profit-sharing and profit-taking. It's the ability to offer your customer what he knows is a safe product. And he feels good about it.

VICE CHAIRMAN BARTHOLOMEW: Anything more? No?

Mr. Pearce, thank you very much for your time and for the work that you do. And we look forward to working with you further to see how we can help out.

MR. PEARCE: Any of those numbers you need me to get, please let me know if I can follow-up.

VICE CHAIRMAN BARTHOLOMEW: Wonderful. We'll have somebody be in contact with you.

We're actually running a few minutes ahead of schedule, so if our next panelists are here, what we'd like to do, rather than starting at 10:15 would be to take a 15-minute break and start at 10:05.

(WHEREUPON, A SHORT RECESS WAS TAKEN)

**PANEL V: THE EFFECTS OF CHINA'S COMPETITION, PRICING,
AND DELIVERY CAPABILITY ON THE U.S. SEAFOOD INDUSTRY**

VICE CHAIRMAN BARTHOLOMEW: We'll get started again. Thank you, everybody, for your flexibility.

Our next panel will bring us some interesting perspectives on the effects of China's competition, pricing, and delivery capability on the U.S. seafood industry.

We're very pleased to have with us today Mr. Stephen Minvielle, a crawfish farmer and member of the Louisiana

Crawfish Farmers Association. He's a native of New Iberia, Louisiana, spending most of his career in the automotive industry, some 24 years.

Having an interest in crawfish farming, in 1998 he purchased a tract of land and started a crawfish farm. After finding his passion for the farming, he sold his automotive business to his employees and devoted his full efforts to farming.

I think as somebody who has experience in the automotive industry and to seafood farming, he's certainly going to have an interesting perspective on some of the challenges created by China trade.

Finding a need for organization in his fish farming, he joined a group that reorganized the Louisiana Crawfish Farmers Association, where he served as president for two years. Then recognizing the industry's need for representation on state and local committees, he sought and was appointed to the Louisiana Crawfish Research and Promotion Board, where he served for three and a half years, one and a half of those years as its chairman.

He served on a number of state technical advisory committees on the Farm Bureau Crawfish Advisory Committee, and now filling the position as executive director of the Louisiana Crawfish Farmers Association. During his tenure as director, the LCFA has grown to a 1,200 plus membership with over 1,000 being crawfish farmers.

And it's pretty clear from his biography, he's a man who doesn't like to sit still but likes to keep things moving and growing.

We also have John Williams, the president of the Southern Shrimp Alliance, born in Eastern Virginia, raised in Eastern North Carolina, worked as a commercial fisherman while attending middle and high school to help support his family.

At the age of 17, he left North Carolina and relocated to the Florida Keys to begin a career in the Florida shrimp industry, working as a deck hand and then as captain, relocated to Tarpon Springs, Florida, in 1979, remains there to this day, the lucky man.

He has owned several shrimp trawlers over the years and now owns four vessels and is the managing general partner in a seafood unloading facility and a seafood retail market. In 2002, he became a founding board member of the Southern Shrimp Alliance and then an officer with the Southern Shrimp Alliance in 2003. In 2005, he became its first executive director and remains so till this day.

Forty years of experience in the domestic shrimp

industry, and it's allowed him to work very closely with the trade attorneys of the association to protect the domestic shrimp industry from unfair trade. Also has been involved with a number of government organizations.

And, finally, Carol Engle, who's the chair and the director of the Aquaculture and Fisheries Center at the University of Arkansas in Little Rock, Arkansas. She is an aquaculture economist with over 27 years of experience in the analysis of economics and marketing issues related to aquaculture businesses.

She received a Ph.D. in aquaculture and fisheries with a specialization in economics from Auburn in 1981, has worked in 19 different countries on all major continents, has published over 100 scientific articles.

And while her work has focused on the economics and marketing of catfish, she has also made important contributions related to bayfish, carps, hybrid striped bass, shrimp, tilapia, and trout, a past president of the U.A. Agriculture Society, and the current president of the International Association of Aquaculture Economics and Management.

We really look forward to all of your testimony and what you can teach us today. And we'll start with Mr. Minvielle.

**STATEMENT OF MR. STEPHEN MINVIELLE
DIRECTOR, LOUISIANA CRAWFISH FARMERS ASSOCIATION
NEW IBERIA, LOUISIANA**

MR. MINVIELLE: Good morning. Thank you. I appreciate the opportunity to address you.

I represent a group that is strictly unique to Louisiana. Many other areas have tried to grow crawfish with little success.

The crawfish industry currently at the farm level and based on wild production is about a \$100 million a year industry. It is a self-supporting industry. There are not currently any programs that support the industry in the event of tragedy or anything else.

Thanks to the Congress, after Hurricane Rita, the \$4 1/2 million provided in relief kept us in the black. Other than that, we have a few NRCS conservation programs that have come along and provided us with cost shares on habitat programs for wetland conservation.

The crawfish industry has been growing steadily since the mid-'80s, sometimes by leaps and bounds. Then all of a sudden in the late '90s, we ran into the imports. Imports

were a huge economic hit to our industry. We had 120 to 130 of little mom and pop size operations, but also a lot of larger ones processing, which processed a lot of pounds of tail meat. It was mainly culturally here to Louisiana, which was good. It was an infrastructure rollover within the state.

Chinese imports came in well below what we could possibly even produce it at the field level. Not to mention the market on the processed tail meat level, which put about 80 processing plants out of business.

Then along came the tariffs, which were helpful. Another thing that came along was the Byrd Amendment, which took those tariffs and placed it back in the hands of what they thought was the industry.

Congress's intent by looking at the legislation and all the things that were filed over the years -- and I'm not an expert on it, but I've tried to muddle through it all. Their intent seemed to be clearly to support the industry as a whole. It didn't happen, folks.

If you look at actions and reactions, first off, the collection rate on crawfish coming into the continental United States has been sadly around 8 to 10 percent. It's very bad, 77 point something million dollars in the last two years that has just been left on the table uncollected. That product is flowing in and competing right at the farm level and at the retail level in the state of Louisiana here where it's produced.

We have looked into other areas. The price of the product in St. Louis or wherever, seems to be more applicable what it costs us here on the production level. The only thing that we can figure out is that it is being used as a lever here on the production industry to keep it at a certain level of operation.

It has gotten to the point where last year we left approximately 18 to 22 million pounds of crawfish in the fields. They just literally drained the fields and let the birds have them. The wildlife loved them.

This year it's playing into the same scenario. Right now we are in what is the prime time crawfish production time. Your highest numbers of rate per yield per day is right now in the 30 days of April.

Sixty-five percent of the ponds have been drained. There's no market. We can't harvest it. Our processing plants who received the \$38 plus million over the last five or six years utilized the money for God knows what because it hasn't gone into their processing facilities.

We have no new ones. We have no physical size

increase. Their ability to handle more volume has not increased. So then, on the backside, we on the production side are cut back. Our industry on the farm level and the wild caught has grown. It seems the live sales are sustaining themselves, but the part that we need on the production side for the live crawfish to be processed into tail meat, and it is just not there.

We are having a hard time understanding why Customs is having such a hard time collecting this. If it keeps cycling in and the same program keeps failing day in and day out, it's time to readjust. We've wondered why they don't go to the point of distribution within the continental United States.

Trying to catch an importer on a bond that is leaving tomorrow and you might never see again for the lack of changing his company name, or his brother-in-law's company coming in, or port shopping the shipments like y'all were discussing earlier.

Go to the point of distribution. Don't hammer them. They're U.S.-based companies. But if they find out that they are going to be held accountable for what they're using in this United States in competition, I'm sure that their lust for that imported product that is not illegally brought into the United States will soon diminish. It's all about money, so let's attack it from a money standpoint.

Thank you.

[The statement follows:]⁵

VICE CHAIRMAN BARTHOLOMEW: Thank you very much. Mr. Williams?

**STATEMENT OF MR. JOHN WILLIAMS
EXECUTIVE DIRECTOR, SOUTHERN SHRIMP ALLIANCE
TARPON SPRINGS, FLORIDA**

MR. WILLIAMS: Good morning. Thank you. I also appreciate the opportunity to testify here. I am here as a lifelong shrimper and as the executive director of the Southern Shrimp Alliance.

SSA is a nonprofit alliance of my fellow shrimpers and processors into the Gulf Coast and South Atlantic. Our domestic shrimp is wild caught, delivered fresh to local docks, and free of banned antibiotics and pesticides. We follow strict food safety standards.

The same cannot be said for imported farm-raised shrimp

⁵ [Click here to read the prepared statement of Mr. Stephen Minvielle](#)

from China. Raised in crowded and dirty ponds, farm shrimp is very susceptible to disease. Chinese producers, like shrimp farmers throughout the world, often use harmful antibiotics and pesticides to treat the diseased shrimp, which become contaminated with the same harmful chemicals.

The exporters of these shrimp appear to put production volumes and profit ahead of human and environmental safety.

Since August 2007, Chinese shrimp imports have been a subject to an import alert issued by the FDA because of repeated findings of banned substances in these shrimp imports. Shrimp production is further encouraged by subsidies from the Chinese government to export to markets like the United States.

In spite of claims that China will soon become a large shrimp importer, their shrimp industry remains one of the main recipients of government support because of its export orientation.

The Ministry of Agriculture subsidizes the development of the country's shrimp and fisheries industries through a number of means. In the latest five-year plan for its fisheries industry, China is pushing for an annual growth, export growth rates of 9.3 percent for fishery exports.

To achieve these goals, the Chinese government spent more than \$652 million from 2000 to 2005 to develop this fisheries industry. Now the government has set its sight on growing the processing side of this fisheries industry.

Government subsidies and shoddy production practices have resulted in massive overproduction of shrimp in China. Adding to the problem of overproduction is the failure of the FDA to properly enforce U.S. food safety laws. It is now widely known that the FDA is broken. Worst of all, the FDA does not require foreign producers, including China, to demonstrate equivalence with U.S. food safety standards. Instead, the FDA relies solely on border inspection of imports, which covers about one percent of all FDA-regulated imports.

By contrast, Canada, Japan, the EU, and even our own USDA all do much more to protect the safety of food for consumers. The mix of shrimp overproduction and a lax U.S. enforcement has led to a flood of cheap and contaminated Chinese shrimp imports to the U.S. market.

For example, when the EU banned all Chinese shrimp imports in January of 2002 because of contaminated shrimp, exports were diverted from the EU to the United States. In a single year, from 2002 to 2003, Chinese shrimp exports to the United States increased 30 percent.

For some more perspective, in 2000, Chinese shrimp

imports to the United States totaled around 38 million pounds. By 2003, these imports jumped to a high of 169 million pounds, more than four times the total in 2000. Not surprisingly, import prices plunged.

The flood of Chinese shrimp imports only decreased when our industry filed an antidumping petition to seek relief from these dumped imports. We were successful in demonstrating that shrimp from six countries, including China, was dumped and was injuring the U.S. industry. As a result, antidumping duties were imposed and a massive amount of cheap Chinese shrimp left our market.

Importers, however, had not easily given up the profit opportunity presented by cheap Chinese shrimp. Once antidumping duties were imposed, Chinese shrimp slipped into this market falsely labeled as product excluded from the antidumping order.

Over our strong objections, commerce carved so-called dusted shrimp out of the scope of the antidumping orders. Once dusted shrimp was declared to be excluded, substantial volumes of so-called dusted shrimp from China flooded the U.S. market. Little, if any, of the product appears to meet the definition.

We were fortunate in that Customs was willing to look into imports of dusted shrimp. And while the specifics of what Customs found cannot be shared with us, information available to us from other sources in the case said Customs uncovered systematic unlawful efforts to avoid the payment of duties.

In addition to shrimp being falsely labeled as a different type of product, Chinese shrimp is also finding its way into this country falsely labeled as a product of another country. For example, U.S. Customs found that 54 different importers brought in over \$58 million in Chinese-produced shrimp intentionally mislabeled as Indonesian shrimp to avoid paying \$65 million in antidumping duties.

With the Indonesians' conduit largely shut down, Chinese shrimp now find its way into the United States through countries like Malaysia. The transshipment of Chinese shrimp through Malaysia is done openly and obviously. When Customs cracked down on falsely-labeled dusted shrimp imports, importers were given the option of paying duties or sending the shrimp out of the United States.

The use of Malaysia as a transshipment point is so open and obvious that it was no surprise for us to learn that we are now, for the first time, receiving imports of dusted

shrimp from Malaysia, a product that had never before existed in Malaysia until dusted shrimp started getting sent back to China.

In fact, the Malaysian government has previously acknowledged problems associated with the transshipment of Chinese shrimp through their country. Nevertheless, I understand that Malaysia had refused to cooperate with the U.S. government in trying to prevent transshipment through their country.

In addition to the avoidance of paying of duties, the frequent use of transshipment schemes to get Chinese shrimp into the United States under false pretenses raises difficult questions about whether the FDA's import alert has been effective.

Importers easily responded to the FDA's action about simply rerouting the shrimp through third countries and relying on the agency's testing of only one percent of seafood imports to avoid detection.

Overall, however, our trade action has successfully responded to import trends that threaten to completely wipe out our industry. Import volumes have generally stabilized, as have import prices. The relief has provided breathing room for an industry to pursue strategies to adjust to import competition.

The domestic shrimp industry is working to develop a niche market for wild-caught domestic shrimp through WASI, Wild American Shrimp, Incorporated.

Despite our trade relief and marketing efforts, the damage to our industry has already been done. Many U.S. shrimpers and processors have had to close up shop because we can no longer make ends meet. As a result, families and communities that depend on shrimping are also at risk. Import volume and import price may be stable, but the prices received by shrimpers at the docks have not seen the same recovery as shrimp sold on the wholesale market.

In addition, severe increases in fuel prices have prevented our industry from receiving the intended trade relief of the shrimp antidumping orders. In 2003 when our industry filed a petition for trade relief, diesel fuel cost around one-fifty a gallon. Now fuel prices are more than double what they were back then.

As a result, shrimpers are forced into a tight cost price squeeze. Our operational costs continue to skyrocket while low price imports prevent our industry from recovering our increased costs through sales price increases.

The domestic shrimp industry, along with other U.S. food producers, has had major problems collecting duties on

previous antidumping orders on food imports. The shrimp industry has benefited from an enhanced continuous bonding program implemented by Customs on shrimp imports to help guarantee payment of these duties. However, this program has been criticized by the WTO and may be eliminated by USTR and the United States.

Our industry is working hard to make sure that this doesn't happen. Ending this program would lead to huge under collection problems on the duties assessed on shrimp imports. On the food safety front, the SSA has created an 11 point proposal that would bring the FDA in line with other major importing countries and the USDA. Our proposal can be found on our website, shrimpalliance.com.

Fundamentally, we believe the harmful contaminated food imports should not enter this U.S. market. However, the FDA has completely failed to ensure the safety of these imports. Whether it is making toothless agreements with China or allowing port shopping of rejected food imports, the FDA is allowing foreign producers to run this show.

Our proposal would ensure a more effective food safety agency. The SSA is proud of the shrimping tradition that has sustained the entire communities throughout the Gulf Coast and South Atlantic. We do not want to stop free trade. We do not want special treatment. We just want a fair deal.

Given an even playing field, there is no stopping the hard work and dedication of U.S. shrimpers. We cannot compete when exporting countries do not abide by the same fair trade laws and food safety standards. Thank you.

[The statement follows:]⁶

VICE CHAIRMAN BARTHOLOMEW: Thank you. Dr. Engle, I understand you recently returned from a trip to China; is that correct?

**STATEMENT OF CAROLE R. ENGLE, Ph.D.
CHAIR/DIRECTOR, AQUACULTURE/FISHERIES CENTER
UNIVERSITY OF ARKANSAS AT PINE BLUFF
LITTLE ROCK, ARKANSAS**

DR. ENGLE: That's right. I was there last October. Thank you. Good morning. On behalf of the Catfish Farmers of America, I would like to thank you for this opportunity to talk with you. I will be talking about the extent of subsidies and catfish production in China, make

⁶ [Click here to read the prepared statement of Mr. John Williams](#)

some comments about food safety and contamination issues, and also provide some information on the effect that these imports are having on the U.S. farm-raised catfish industry.

I was in China for a couple of weeks last October. I toured catfish farms and processing plants in two different provinces, in Jiangsu Province and Hubei Province in the interior. I also toured a pharmaceutical company and talked with researchers and met with people at the government-owned and operated hatcheries in both of those provinces.

One of the key points of this testimony that I have and what was most striking about the trip is the extent and nature of the subsidies provided by the government to the farmers and processors who are raising channel catfish. What is striking is that these subsidies were in the form of grants of capital, not just to construct facilities, but to also operate facilities.

As grants, the principal does not have to be repaid and there is no interest charged because they're not loans. The government of China continues to make what they refer to as investment decisions or budget decisions based on these multiple-year plans.

The capital is made available to those areas in those plans that are considered as high priority. Well, several years ago they switched their priority from capture fisheries to aquaculture in their plans. They have a priority area of commodities for export market as well.

Within aquaculture for export, there are at least three different species that are considered high priority for production for export. And those are catfish, shrimp, and tilapia. So individuals who develop businesses in these prioritized areas are eligible for these capital grants to both construct and operate businesses.

There's another program called the New Research Achievement Program that funds capital grants for new technologies. Catfish farming is considered a new technology, so someone raising catfish for export is also eligible for this other program.

There are also some land grant programs in the country. There's one in Jiangsu Province, for example, that's a resettlement program to pull people out of the cities and try to attract them to resettle in some areas where new lands are being developed by deposition of sediments from the Yangtze River.

For example, one of the farms that we visited was built and put together by an individual who formed what they called a unified management company in Jiangsu Province. He was eligible for one of these grants of land, and so he was

given land to build and construct a catfish farm.

When we showed up to the headquarters to pick him up and to meet with him first, the headquarters looked like a very upscale hotel. It looked like a five-star hotel. I thought we were going to have a meal or something at this building. It was the headquarters of the farm. The people with me told me that you can always tell which are the state-financed farms because they have headquarters that look like hotels.

The individual who ran this unified management company recruited tenant farmers. The tenant farmers provided 30 percent of their working capital, and the unified management company provided 70 percent of the working capital.

When I asked the owner what percent of that working capital from the unified management company was from subsidies or from direct government grants, he refused to answer that particular question. But it was clear that there was some there.

The hatcheries are all government owned and operated, and so that's another significant subsidy. We visited several hatcheries, but those are not grants. They're directly owned and operated by the government. The employees are government employees.

To give some idea of the magnitude of what I heard during this visit, I was told that Jiangsu Province spent one billion yuan in the previous year to support 120 new enterprises through these kinds of capital grants. I was also told that crawfish processors received 6 to 8 million yuan from the government to construct facilities.

VICE CHAIRMAN BARTHOLOMEW: Crawfish processors?

DR. ENGLE: Crawfish processors. This is important for the catfish industry because they're the same processors that are processing catfish.

They started out with crawfish. The crawfish crop comes in from March through September, and they've added catfish in it. The catfish crop comes in from September to February. They're using the same facilities. Because it's all hand labor, they switch over to catfish the latter part of the year. So it is a subsidy that's affecting the catfish industry as well as the crawfish industry.

Another aspect of these subsidies is that while I did not visit any tilapia farms, these same subsidy programs are applicable to tilapia. The lowest-priced tilapia in the U.S. market is coming from China, and there are many who believe that the low-priced tilapia is also being substituted for catfish in the U.S. market.

I did visit a pharmaceutical company in China while I was there. In their product supply room, I observed Enrofloxacin on sale, labeled for use in fish production in China.

I also was given samples of different products in different categories. Two of the samples were antibiotics that are not approved for use in the United States for fish, but they were labeled for fish use in China. One was doxycycline, an antibiotic used to treat humans for malaria, and the other was Neomycin.

There were a lot of other products that were in Chinese that I could not read. It was very clear to me from talking with a lot of people that there are many, many people in China that really do not understand that a safe food supply requires zero tolerance for the use of these kinds of antibiotics and other kinds of fungicides.

The other part that's bothersome about this is that the continued testing is continuing to identify new types of adulterations. For example, nitrofurans was just found in certified product from China in Canada. So it was certified as free of substances, but when the Canadians retested it, they found nitrofurans in Chinese catfish. So we don't know what else they're going to use next, making testing programs difficult.

The U.S. catfish industry is the largest and most successful component of aquaculture in the United States. It's a major source of employment and economic output in states like Arkansas, Mississippi, and Alabama. There are communities where it is the major industry in those areas of the United States. Of course, those areas are in a highly-impooverished area of the Mississippi Delta Region, one of the most impooverished regions in the United States.

The catfish industry has been a tremendous success story. When you look at the 19 percent annual growth of the catfish industry up through 2003, it's an amazing shining story of success of U.S. aquaculture industry.

However, since 2003, the catfish industry has been in a four-year period of decline. Production has dropped 25 percent since the 2003 levels. These result in total annual economic losses of \$750,000 annually. There are approximately 4,600 jobs that have been lost in this industry since 2003. 2003 was when imports of catfish from China began to enter the U.S. market.

When you look at this, the Chinese catfish are being sold for about a dollar a pound less than U.S. catfish fillets of the same size. However, feed costs in China are two to three times higher than feed costs in the United

States. And so these lower costs of fillets in the United States are not due to lower costs of production in China. I've spent time developing budgets and costs of production, and I cannot see how it is profitable for the Chinese farmers to raise catfish even before their price declines of last year.

I cannot see how it is profitable, given the cost information that I collected, unless you account for the subsidies. I believe they're the explanation for why this industry has grown.

The U.S. industry is facing rapidly-increasing feed prices, along with all livestock sectors. But the catfish industry is being disproportionately hurt by these feed prices because it faces a higher percentage of imported product than our beef and egg and poultry industries in the United States.

I'd like to make one comment about transshipment. I was also in Vietnam last June and talked with Vietnamese exporters of basa and tra. They talked openly about selling to Chinese companies that were, in turn, reselling back to the United States.

During the two weeks I was in China, people told me repeatedly that there is no production of basa and tra in China. But if you look at the import numbers of basa and tra coming into the United States, they're increasing dramatically.

I believe there's reason to be concerned about transshipment of basa and tra through China to circumvent the antidumping ruling against the basa and tra from Vietnam.

The U.S. catfish industry has suffered tremendous losses in the last several years. The current trend is that the losses in 2008, we're likely to see the largest single year loss of catfish production in 2008 that has ever been seen in the catfish industry. I do not believe that that's an exaggeration.

From what I'm seeing happening in Arkansas and Mississippi; there are banks foreclosing on catfish farms as we speak right now in Arkansas and Mississippi.

The downsizing of the U.S. catfish industry is reverberating throughout the entire U.S. aquaculture industry. The feed mills that primarily have a business of producing catfish feed are also producing feed for the minor segments of U.S. aquaculture, like the hybrid striped bass and other segments of the tilapia industry in the U.S. and the large mouth bass industry, in these other segments. The situation that the U.S. catfish industry is facing is also

facing all U.S. aquaculture.

On behalf of the U.S. catfish industry, I do thank you for the opportunity to appear before you today. I'd be happy to attempt to answer questions that you may have. Thank you.

[The statement follows:]⁷

Panel V: Discussion, Questions and Answers

VICE CHAIRMAN BARTHOLOMEW: Thank you very much. I'm going to start with sort of a factual question, which is: Do we have any sense in all of your sectors of the industry that Chinese aquaculture, how much of it is going into Chinese domestic consumption and how much of it is being produced for export? Rough percentages. Dr. Engle, any information on that at all?

DR. ENGLE: When you look at Chinese aquaculture--I'm not going to be able to give you a specific percent. I could perhaps find that for you in the FAO database and send it to you.

The largest portion of Chinese aquaculture is in the basic traditional carp products: Grass carp, big head, silver carp. Nearly all of that is going for domestic consumption. They have some growing areas where, of all things, they're raising largemouth bass now in China. That is nearly all going into their domestic market. There's quite a strong demand for largemouth bass.

So I can't give you a percent. I believe the majority of what they're producing is going into the domestic market. But they're targeting certain other crops like this for export. I believe it could be pulled out of the FAO databases. And if you would like, I could try to look at that when I get back.

VICE CHAIRMAN BARTHOLOMEW: Yes. That would be helpful information. Commissioner Wessel?

COMMISSIONER WESSEL: Thank you all for being here. I, too, have a couple of factual questions to inform us. I've never been to a crawfish farm.

The crawfish that's coming over here, is it all picked and just tails; or is it coming in other ways?

MR. MINVIELLE: We are starting to see a slight influx of what is called a whole boil like you would buy here at the local restaurant. But it's blanched and it's frozen solid like IQF. And it's put in one-, two-, three-, four-pound packs. We've been noticing a heavy influx. It's

⁷ [Click here to read the prepared statement of Dr. Carole R. Engle](#)

been increasing. If it's increasing here in the Acadiana area, it has to be increasing in other areas of the country.

COMMISSIONER WESSEL: Tell me a little bit more because I have a little more knowledge of shrimp where some of it is shelled and deveined here. Is there a mix of Chinese product coming into our U.S. processing facilities and then being mixed with U.S. product, or is there a complete differentiation in terms of what's reaching the consumer?

MR. MINVIELLE: I have had firsthand conversations with people that worked in some of these processing plants that are here in Louisiana and have been told that it is occurring on a pretty regular basis, they are very scared to testify or to put it in writing, and swore they would call me a liar if I ever put their name up for the fear of their life on a couple of them.

What's happening with the processed crawfish coming into Louisiana, may I stretch that a little bit?

We did a little assessment when I was the chairman of the promotion and research board. It was on all the money we pay in assessment on sacks and bait coming into Louisiana by all the production, wild and farm raised. That money is used by the promotion and research board to do our research and marketing and promotion.

We found that, sitting at the table, the production side of the industry were the only ones paying. So we decided to assess the imported product, who has been benefiting from all our marketing for years in Louisiana and all over the place, and assess them one penny per pound, a very small incremental amount.

"Surprise" is a nice word. We were completely blown away on who actually paid the assessments. The people that received the Byrd Amendment tariff money were ones making the majority of the payments, people who testified in front of a committee just like this in 2005 and others and told how damaged they were and how bad they needed the money from this horrible imported product. I read the things from last --

COMMISSIONER WESSEL: So it was the processors, not the producers, who were the ones --

MR. MINVIELLE: They, the processors themselves that are paying the assessment. I gave a copy of it to you in my summary.

Something has to be done. There is no oversight in this at all. They are playing both hands against the middle. They are just busting up whoever they have to, whether it's the U.S. consumer on nonsafety, or whether it's the farmers who are investing in the industry.

The farmers invest, just like any other agricultural crop, many millions of dollars invested into it. Wild product at least it doesn't die. It has a place to escape to if you cannot harvest it. But it still doesn't bring a profit. But the farmer has to harvest that product. And when it's left in the fields like it's been for the last two years, it's lost. You're chances of staying in the black falls drastically.

COMMISSIONER WESSEL: I understand. Dr. Engle, if you could share some information because of your long history on aquaculture. I assume it's a science-based and pretty -- there are probably a lot of manuals about how to do all of this --

DR. ENGLE: Certainly.

COMMISSIONER WESSEL: -- that if you were to look at per acre -- let's take shrimp, catfish, or almost any other product -- that there is, depending on the flow of order through the facility -- if there's a flow and not just recirculating, that you can determine a maximum output per acre before you're going to have to put extensive antibiotics or other chemicals in to ensure that you can maintain the higher output. Am I correct in that?

DR. ENGLE: To some degree. Ponds are a little bit more complex than that. Because in static pond production, which is the way catfish are raised in the United States, they do not flush water through the ponds. They apply aeration and they add aeration to it.

COMMISSIONER WESSEL: Right.

DR. ENGLE: And with adequate aeration, they can increase the overall yield. But if they try to go above what's called maximum sustainable yield in ponds, that's when fish will become more stressed and will become more sick and you'll trigger that cycle.

Those levels are a little bit different depending if it's an indoor recirculating system or a cage system or a pond system, depending on the amount of aeration.

COMMISSIONER WESSEL: But you're going to be able to roughly approximate the point at which there's maximum sustainability and you're going to have to apply chemicals or some other application to ensure that the output goes up. Is that right or not?

DR. ENGLE: Yes. I think you can estimate that. For production systems, it'd be a different quantity for different species and different production systems.

COMMISSIONER WESSEL: So in addition to the FDA examination at the border, if we were to roughly look at the acreage, understanding whether it's inside, outside, et

cetera, and output, we would be able to do some kind of risk assessment as to what the application of other chemicals would be that would then be apparent in the flesh when we bring it in?

DR. ENGLE: You could look at it that way. I think it would be very interesting to do that in Vietnam. I've toured the basa farms in Vietnam. And in China, what you'll find on the catfish farms is that they're within those ranges. They're applying antibiotics and things almost more prophylactically. There's more of a sense of just keeping things healthy and you feed these.

I heard a lot of comments about even people taking some of these compounds. If they take them when they're sick, they give them to their fish. Because if they're sick, their fish might be sick. And there's just sort of an indiscriminate use of these compounds in China.

Their production levels in China are not higher than ours are in the United States. They're not higher. They're not more efficient. They're not higher than what they are in the United States.

COMMISSIONER WESSEL: And so the application of these chemicals -- there's not a significant cost pressure there?

DR. ENGLE: I don't see it as a cost pressure. They're using them indiscriminately because they use a lot of things in order to -- their notion of health of animals, I think, is very different from ours. And they apply all of these different compounds and --

COMMISSIONER WESSEL: So it is not being used to increase output?

DR. ENGLE: I don't believe so. They're using it because they think it will increase output. I don't know to what extent that's really happening. Their yields are very similar to ours. There's just no sense of restricting themselves to things that have been legally approved.

In the United States, our farmers abide by the laws and there are only a very small number of compounds they're allowed to use. In China, there's no sense that they need to restrict what they're using. So if they see anybody using it, if it's good for them and their families, they seem to just be willing to apply whatever, whenever.

VICE CHAIRMAN BARTHOLOMEW: Okay. Commissioner Videnieks.

COMMISSIONER VIDENIEKS: Quick question. Does your assessment with these heavily-subsidized industries in PRC fall in the category of SOEs or state-owned enterprises, or is it only a question of subsidy?

DR. ENGLE: I'm not familiar with the SOE concept.

COMMISSIONER VIDENIEKS: It's a term basically saying: Does the government own these facilities. Is there any government ownership in there?

DR. ENGLE: The only government-owned facilities we saw were the hatcheries. All of the hatcheries that we saw were completely owned and operated by the government. They were part of different sectors of the government. The hatcheries were. The farms and the processing plants were all -- we met an owner who was a private owner, but they were eligible for these grants of capital.

The way it seems to work is that they maintain very close relationships with the local government people who know what's in the budgets and in the long-range plans and where these capital grants are. They maintain very close relationships with the local government officials.

The local government people are evaluated based on how much of an increase occurs, increase in GDP occurs in the county where they're stationed. So it's in their interest to see that this capital gets to businesses and for businesses to grow and have GDP growing in their economies.

So an individual running a business works very closely with their government people. Part of this means lavish meals and all this sort of entertainment and this sort of thing to know where the capital grants are. And then they apply, and the local government people help them get these grants of capital.

So the farms that we saw were owned by an individual, but the individuals were clearly accessing capital grants to construct and operate facilities.

COMMISSIONER VIDENIEKS: Thank you. You mentioned that the feed costs are three times greater in PRC than in this here U.S. Is that an exchange rate type of comparison or purchasing power parity type thing?

DR. ENGLE: No. That's looking at their cost. They would give me the cost in yuan. Then converting that at the exchange rate that was common at the time is what it was based on. They told me that it was because they import all of their soybean meal from the United States. That's why their feed costs are so high.

COMMISSIONER VIDENIEKS: Thank you. I have one more. Mr. Minvielle, when you mentioned that the Customs only has an 8 percent collection rate, does that mean that duties charged -- everything else, like 92 percent gets passed at that duty collection point without being charged at all --

MR. MINVIELLE: Correct, sir.

COMMISSIONER VIDENIEKS: -- whether these corporations simply disappear or --

MR. MINVIELLE: From what we've been told -- and I've had a hard time getting some answers on a lot of this and other industry leaders also -- is they come in and they pay their bond, but the bond is misrepresented of exactly what they have. They're only paying a small percentage of what is owed, by paperwork shuffle --

COMMISSIONER VIDENIEKS: So this would not be a duty, a tariff question? It would be a bonding question?

MR. MINVIELLE: Well, both. Because the bond is paid for assurance of the collection of the tariff. So when they misrepresent the size of the shipment that they're coming in with -- I'm telling you I'm bringing in 100,000 pounds, but in all reality, I'm bringing in 200,000 tons -- there's a little bit of discrepancy.

And this shows up in the U.S. market, and they can't find them. All of a sudden, they come in and start a basic little company under an assumed name. It makes one hit, and it's gone.

COMMISSIONER VIDENIEKS: Now, the question is: What percent of the margin apparently is narrow. What percent of costs would evasion of these costs at the border constitute for the importer? Is that the differential that makes them competitive, unfairly competitive with domestic growers?

MR. MINVIELLE: The cost of --

COMMISSIONER VIDENIEKS: The tariff rate, basically the tariff rate and maybe the cost associated with bonding. That's a factual question we could probably find out ourselves, but I just wondered what the tariff rates would be.

MR. MINVIELLE: I don't know that -- and it varies from year to year, and then what the assessment on the shipment is at the time, I'm pretty sure.

COMMISSIONER VIDENIEKS: Did I understand you correctly when you said that there was a bottleneck right now, that the producers cannot get their product to the processors, they're sitting on the plants?

MR. MINVIELLE: The plants, the dollars that came down was some 38 million, went to 27 recipients. The majority went to about eight of them. From the time the tariffs started to the present day, there has not been any enlargement of production facilities in any way, shape, or form.

COMMISSIONER VIDENIEKS: And consequently, product will remain --

MR. MINVIELLE: It used to be the industry that was about a 40 percent processed product and about a 60 percent live, which would be consumed in your local restaurants.

Now it's become about an 85 to 90 percent live product, and 10 to 15 percent is processed. They just do not have the capacity.

COMMISSIONER VIDENIEKS: Thank you.

VICE CHAIRMAN BARTHOLOMEW: Commissioner Mulloy.

COMMISSIONER MULLOY: Thank you, Madam Chairman. Thank you all for being here. This is great testimony.

Dr. Engle described how the Chinese government works with its producers to maximize the success of their industry and the earning of foreign exchange currency for the Chinese to help them build their society, grow bigger, stronger, more influence on the world.

And Mr. Williams and Mr. Minvielle, you think our government is not only not working with you, but actually at times working against you. That's the impression I get.

For example, Mr. Williams, you state on page 10 of your testimony: The Commerce Department has made a series of inexplicable and faulty decisions, including decisions on multinational corporations, nonmarket economies, and respondent selection that have favored foreign shrimp exporters to the severe detriment of the domestic industry.

Sounds to me like you're saying our government is working on their behalf rather than on behalf of our industry.

MR. WILLIAMS: I would say certain agencies appear to be working more toward the favor of the importers or exporting nations than our domestic industry, yeah. Not the entire government, but certain agencies and --

COMMISSIONER MULLOY: And the Commerce Department is one of those agencies?

MR. WILLIAMS: The Commerce Department, with their latest two or three decisions they have made, yes.

COMMISSIONER MULLOY: What are those decisions?

MR. WILLIAMS: One is zeroing. They --

COMMISSIONER MULLOY: Zeroing?

MR. WILLIAMS: Respondent selection, what you were just talking about.

Normally, on a respondent selection for antidumping duties to assess duties on different companies in China, for example, or Vietnam, or any of those, they would randomly select companies to provide them information to determine the amount of dumping.

Now it appears they have decided to choose the very largest ones, ones that are more prepared to go through an administrative review by the Department of Commerce, ones that have -- can -- are more apt to manipulate their books or be able to manipulate their books, as opposed to someone

that, as a very small company, can't do it. And they choose it a certain time now, this mandatory respondent. And they both know who they're going to be choosing instead of just who's not going to be chosen.

COMMISSIONER MULLOY: You also refer to "including decisions on multinational corporations." What does that mean?

MR. WILLIAMS: That one I would have to get back, because that's a very long, drawn-out question.

COMMISSIONER MULLOY: That's a long, drawn-out one?

MR. WILLIAMS: Yes.

COMMISSIONER MULLOY: And nonmarket economy, this is where we weren't using our countervailing duty laws --

MR. WILLIAMS: Right.

COMMISSIONER MULLOY: -- against nonmarket economies despite the subsidies?

MR. WILLIAMS: That would be Vietnam and China, yes. Now, on the zeroing, for example, we had a form that is a way to calculate duties and use a zeroing. One analogy we've been using is -- what the foreign companies argued was you base your duties on a zero. Ever how much you are dumping, that's how much you're being assessed.

What they argued, it was illegal. And WTO ruled against us. The analogy for that is: They have to include all entries, whether you're dumping or not. If you had one entry that was, say, 40 percent below the cost, then the next day you had 160 percent below the cost, you should have a 20 percent duty. That's like saying -- you're speeding one day. You're doing 60 miles an hour over the speed limit. The police officer pulls you over.

And they say, "You were speeding."

"Well, Officer, I was doing 60 miles under the speed limit the other day, so we're even. We're zero."

COMMISSIONER MULLOY: Yes. That's a very complicated area, but I understand. And we'll focus on that. There was a witness yesterday who referred to the same problem, that the U.S. trade policy is focused on not the health of the domestic industry, but on gaining U.S. companies' access to foreign markets and foreign investment in foreign markets.

And they will sacrifice your interests for the sake of that other interest, which sends me the multinational corporations, their interests at the expense of the domestic guy's interests.

Dr. Engle, do you have a comment? Does that sound right to you, what's happening here? What's driving all of this?

DR. ENGLE: The U.S. catfish industry, many catfish

farmers would agree with that, that they believe that their industry is essentially being sacrificed, that if these are subsidies happening in the country of China, their industry is ill-equipped to deal with it.

They think that there is more consideration for the companies, as you said, the larger industries that are exporting to China. They believe that they're being sacrificed to that. The decisions --

COMMISSIONER MULLOY: They think our government is not in their corner, but in the corner of the other guy who is trying to --

DR. ENGLE: Yes. I think they would say, again, there are people in the government, there's certain agencies that have tried to work with them and help them. But in general, right now the emphasis of the United States is to promote export to China from some of these other industries, and that they are being sacrificed.

COMMISSIONER MULLOY: Thank you.

VICE CHAIRMAN BARTHOLOMEW: We'll have time for a second round. Commissioner Fiedler.

COMMISSIONER FIEDLER: Thank you. A couple of questions. Dr. Engle, have you taken Chinese imports yourself and had them independently tested for things that perhaps the FDA is not testing for or just very extensively tested?

MR. WILLIAMS: I haven't, no. Our organization hasn't.

COMMISSIONER FIEDLER: No.

DR. ENGLE: The State of Arkansas has tested Chinese catfish and they found crystal violet. That was a different substance. The State of Alabama is the one that did the testing that found Enrofloxacin and Ciprofloxacin and malachite green. The State of Louisiana tested it and found something else. The State of Arkansas found crystal violet in Chinese catfish coming into Arkansas.

COMMISSIONER FIEDLER: But this is episodic testing. Is there a regular testing basis by these states?

DR. ENGLE: The State of Arkansas is supposed to be implementing a regular testing program. It has not started yet. The industry has been promised that, but it's not happened yet. It's expensive.

MR. WILLIAMS: One point. While our organization hasn't taken -- independently tested it, we have encouraged several states to do that. And the results are very scary, to say the least.

MR. MINVIELLE: And if I may interject, our Commissioner of Agriculture, definitely our former commissioner, Odom, definitely was involved in testing.

Independent chemicals besides the popular three, I'm not aware of.

COMMISSIONER FIEDLER: It strikes me from the testimony of yesterday and some today -- and I'm not a scientist -- that we're testing for things that were somehow found before and were not -- it is harder to test for things we haven't found yet; right, that somebody hasn't told us about, unless you visit a supply room and see a bunch of things -- I mean boxes -- although one could probably speculate about the kinds of tests one might want to run.

Commissioner Slane raised a question yesterday about environmental pollutants. It's hard to figure out what it is that we should test for. But there are, perhaps, even more substances in this seafood than we have currently discovered.

I'd like to make another, actually, question. We've heard testimony about the private ownership nature of this business in China. And yet, you used a very interesting term, "unified management company," which in my experience I first learned about once studying Chinese military companies and their civilian relationships. And they called them unified management companies.

Now, you meet an individual, you have a heavily-subsidized thing. Property ownership of land is not. You were talking in countryside areas where village collectives and village industries exist. But to your knowledge, is there anybody collecting corporate documents to look at the true ownership of these things within China?

DR. ENGLE: Not to my knowledge.

COMMISSIONER FIEDLER: So we're just taking their word that's it's private?

DR. ENGLE: Um-hum.

COMMISSIONER FIEDLER: Do you have any experience with anybody in the States who's investing in these enterprises in China? We're investing in everything else. Okay?

MR. MINVIELLE: I've heard quite a bit of rumor about it, but trying to paper trace that down is a nightmare. I have spent a lot of time in different clerks of courts. They'll file it in different parishes in North Louisiana. We found little things, but nothing that was concrete. We hear a lot of conjecture and a lot of rumor, but we can't prove it.

DR. ENGLE: The American Soybean Association has invested a tremendous amount of research in helping to develop the channel catfish industry in China. They have full-time employees in China, and they've constructed some research facilities. A lot of it is in conjunction with the

government.

COMMISSIONER FIEDLER: So individual soybean processors or growers?

DR. ENGLE: No. This is the association. The American Soybean Association has put some employees in China to run studies to develop feed formulations for channel catfish in China. And not just catfish, but to raise other aquaculture species as well.

It's as an association. They're not investing in processing facilities or grow-out facilities. It's to help encourage other people to do this and help encourage the government to invest in aquaculture, soybean-based aquaculture.

COMMISSIONER FIEDLER: Because yesterday I asked Mr. Fass, who testified before us, who is an importer, whether or not he owned anything, they're invested. And his answer to my question was that they did some financing, which don't own. But you're investing in a way by financing.

We should talk some more on an ongoing basis with the staff of the commission on the question of investment. This would be the only industry that the United States doesn't have investors in, in China.

MR. MINVIELLE: Mr. Fass is a very good dancer I would assume.

VICE CHAIRMAN BARTHOLOMEW: Commissioner Slane?

COCHAIR SLANE: Thank you. Dr. Engle, thanks for coming today. In addition to the antibiotics and the other drugs and chemicals that you talked about, one of the things that worries me is that they have degraded their environment to such an extent that 80 percent of their rivers are polluted, et cetera, et cetera. Could you tell whether these ponds were polluted?

DR. ENGLE: I'm certain that they are because the water supply that's used for all the areas that I was in, which is the central part of the country, is drained by the Yangtze River. And the Yangtze River is the water supply for all of the pond production in that part of China.

I'm sure you're all familiar with all the irrigation canal systems that China has built over centuries and centuries and centuries. So the water supply is through these irrigation canals. The government builds all of the structures for pumping to convey this water in the areas that are being used for fish production.

But all of the pond production in that part of China, the water supply is the Yangtze River, which is a surface water source. It's a huge river. There's tremendous shipping on it. Everything in that area drains into the

Yangtze River. So anything that is in any of the tributaries to the Yangtze, it will end up in that water and that will end up in the fish ponds.

So without a doubt. I think it's a very legitimate concern, and I suspect there are many things that need to be tested for that we're not looking for.

The reports in the United States, I had sort of assumed that the reports of environmental degradation were exaggerated because I sort of think a lot of things often are exaggerated in the media. But they're not in terms of the environment.

It was unbelievable for me to not see the sun for two weeks of my life when I lived there. I felt like I was coughing things up out of my lungs for two weeks afterwards. I kept going outside when I got back to Arkansas and said, "Look at the sun. Look at the sky."

We take it for granted in the United States. If anything, the issues are worse. The waters are polluted. Some of the pollution you can see, but the local inhabitants know that they're polluted and they know that there are serious issues with it.

Now, some of the catfish in China are being raised in reservoirs. And I do think, in all honesty, the reservoirs, the quality of the water is more variable. In some of the reservoirs, it's very, very clear that there's a lot of discharge and industrial wastes and chemicals into those reservoirs.

There are some other reservoirs that we were told were very, very clean. And one of the ones we did visit was in sort of an isolated area. We didn't see any factories around it. There were some communities. The people working on the cage farm lived on the cages. And there was no sewage system, so you know where that was going.

But the water looked clean and clear in some of those reservoirs. So there may be some reservoirs that don't have a serious problem with environmental contamination, but there are others that clearly do that have industries right on the side of the lakes.

I heard a lot of comments about things like: Everyone knows when the EPA inspector is coming. I was told that all processing facilities put in place all of the treatment systems that are required and would meet U.S. standards, but they don't run them. They run them the 24 hours before the inspector from Beijing comes, and they take them out and show them that. Then they all go out and have a big meal and have a good time. The inspector goes back to Beijing and they turn the system off is what I heard about at the

larger processing facilities.

The environmental problems are serious. Fish tend to take up and absorb whatever is in the water. So I do have serious concerns about what all we are not testing for in this product coming in from China.

COCHAIR SLANE: And if we were to do those tests, we may find lead and mercury and other --

DR. ENGLE: In some cases for certain. Anything that's in those surface waters -- and their industrial wastes are being discharged into their waters. Whatever those are coming out of whatever industries along the way are likely to be in the product, yes.

COCHAIR SLANE: One of my primary concerns here is, you know, how do we protect the American consumer? The Chinese are dominating the importation of fish into our marketplace. And these things are very insidious. You don't react having one shrimp and getting sick. It just builds up over time. And just like the American consumer should know what they're buying and what the risks are.

DR. ENGLE: Uh-huh. The U.S. catfish industry in the farm bill has a program that they are very, very interested in. And in the program, in the farm bill, they have some things that they've been pushing for related to inspection.

They believe that FSIS inspection is what they need to protect imported product from these kinds of things. They believe that the inspection of imported catfish should come under USDA and be treated the same as beef, eggs, and poultry, and moved from FDA.

They clearly support the additional testing and strengthening the resources in FDA, but they're skeptical that that's going to move it to the level that it needs to be at, given the low level of resources of FDA and the inability of FDA to date to be able to really provide that assurance. The Catfish Farmers of America believe that FSIS inspection would protect the consumer on that on a much different level.

COCHAIR SLANE: Thank you.

VICE CHAIRMAN BARTHOLOMEW: We'll go to a second round. I'll start.

Dr. Engle, the states that you said found different chemicals in different products, were they testing for different things? Is it that it was a different batch that contained something different, or were they looking for different things in the testing that they were doing?

DR. ENGLE: Well, any testing you do, you have to run a test for a specific substance. I'm not as familiar with the testing in Alabama. I imagine that they had a list of

things that they were testing for.

This is what Arkansas is doing. They have a list of things they're testing for, and then they went out and pulled samples from different food service distributors and pulled samples of product. Then they tested all of those different products for different things.

I believe that's what Alabama and Mississippi did too. They had a list of things that were likely to be found. A number of the things I've talked about here, they were not testing for.

VICE CHAIRMAN BARTHOLOMEW: On a different topic, do any of you know if the American Soybean Association is getting U.S. government funding in order to promote these products in China? You could see how there would be a potential conflict. They're trying to do it all at greater markets for soybean growers. But I don't know if there's anybody along the way who would be thinking about the consequences on a different sector of our economy, the catfish --

DR. ENGLE: I don't know that, but I could possibly find out.

VICE CHAIRMAN BARTHOLOMEW: That would be an interesting question.

DR. ENGLE: I have some contacts there.

VICE CHAIRMAN BARTHOLOMEW: And then a question that probably isn't fair to ask of any of you because it won't be your topic of expertise. But I am finding myself thinking again on the health status of consumers, that how do we know?

The FDA inspects. But presumably, first, people have got to understand if they get sick, what it is in their own day that has caused them to get sick. And then if they are in a system that is somehow reporting an illness, I presume it would be going to the CDC. So I don't know if there's any crosschecking between the FDA and the CDC.

The reason I really started thinking about this is, Dr. Engle, when you mentioned that Cipro is being used in some of these things, some people in Washington, DC, after 9/11 ended up having to go on Cipro because of the anthrax that showed up on the Hill. And people found that they were getting muscle tears. And, there were consequences to Cipro consumption.

I know that there are some people who believe that these things are not showing up in a quantity large enough. But, if I'm going through my daily life and I have an unusual muscle tear, I don't know that it would ever occur to me to wonder if that muscle tear came because I might

have been exposed to something that I happened to eat that day or the day before or over a period of time.

I wonder where in our government we could even track that kind of information or where consumers would even know to be able to report things.

MR. WILLIAMS: I don't know where you would track it, but you make a very good point. But another point with these antibiotics in low doses is the concern that they will create antibiotic-resistant pathogens. And then we will be completely helpless in the future.

DR. ENGLE: I just found some information from the Alabama testing, and this is where they found Cipro as well as Enrofloxacin. Their testing in 2005, 19 out of 21 samples tested positive for the fluoroquinolones. That's both Cipro and Enrofloxacin. They found three of those cases had malachite green.

And then in 2007, they did further testing. And of 20 samples, 14 still tested positive for fluoroquinolones, the Enro, and Ciprofloxacin. And so they had multiple samples, but there were such high percentages that were testing positively.

VICE CHAIRMAN BARTHOLOMEW: And Alabama is the state that bans the fish; correct?

DR. ENGLE: They issued a stop sale on Chinese catfish, as Louisiana and Mississippi and Arkansas did later on. But the states found different compounds. Alabama is where they found a lot of fluoroquinolones.

VICE CHAIRMAN BARTHOLOMEW: All right. Commissioner Wessel, second round.

COMMISSIONER WESSEL: Thank you. I want to follow up on Commissioner Bartholomew's comment because I still have a friend who many of us know who is still walking with a cane, was in a wheelchair as a result of the Cipro because of the anthrax incident in Congress.

So when you mentioned that, I was thinking of the CDC numbers yesterday, that roughly 1,000 deaths per year come from ingestion of seafood, whether that's just a latent allergy or whether it's because of other compounds we're finding now is something we really need to understand that.

But you talked about Doxycycline, Cipro, and others which are used not only for anthrax, but plague. And others are given to our troops should there be any problems in the field. And if we are dealing with bioaccumulations -- we may be harming those people who are most at risk. And that's something that I think we should be looking at substantially.

Let me go back to crawfish for a moment. Because most

of what we've discussed has been the issue of the antidumping order, et cetera. What have you found in terms of the safety issues? Are you finding the same problems that both shrimp and catfish and other commodities have been having? Have you been finding the same kind of toxicity?

MR. MINVIELLE: From talking to the commissioners, that is not my field of expertise. I can pass on what I have been told by the authorities that are taking care of that.

The Department of Agriculture had found significant enough positive tests. In fact, it even led to a court case right here in this very city in which it was ruled that the Commissioner of Agriculture did not have the right to hold that product because by legislative act, it was not within his authority.

So the judge did cut it loose. Thank God Health and Hospitals picked it up. And I understand the case is under appeal or something currently, and it's still up in the air. There is action pending on the outcome of the appeal on this that is sitting, waiting to go to the Louisiana legislature to give a diverse group of departments the authority to check.

COMMISSIONER WESSEL: Okay. We've heard over the last two days -- and some here on this panel as well -- the differing rates of inspection by EU, Japan, and others. Do you have any further knowledge on that in terms of how their -- what's that going to cost, what is the makeup of their production versus processing? Why are they so willing to do it and we're not?

DR. ENGLE: Off the top of my head, I simply believe the EU has higher standards for seafood quality. And I think it's an issue in the United States. I think it's an absolute issue.

I believe there's some differences in some of the programs, but I believe the EU program requires a third-party certification. And they approve those companies. And so the cost of doing that is put back on either the exporters or the importers of doing the testing. I don't believe they're doing their own testing in the EU. I could be corrected on that, but I believe that's what I've read.

COMMISSIONER WESSEL: So similar to the bonding requirements that we have for an importer. They may be doing the same thing for their importers in terms of checking the toxicity and the freshness, et cetera, for all their imports, et cetera?

DR. ENGLE: Yes. And they simply have higher standards. I believe they require a third party, but that

party has to be approved by the EU. And that testing company then is inspected by the EU, and they have to provide those results. And the cost is paid at that end before it comes into the EU.

COMMISSIONER WESSEL: And do you know anything about costs, any of you, in terms of what the market price for seafood there is versus the U.S.? Is this resulting in significantly higher costs to their consumers?

MR. MINVIELLE: I do not know.

COMMISSIONER WESSEL: Okay. Thank you.

VICE CHAIRMAN BARTHOLOMEW: Commissioner Mulloy.

COMMISSIONER MULLOY: Yes. Thank you, Madam Chairman. This is a terrific panel. I want to thank you again.

Dr. Engle, on this last point about who bears the cost, it strikes me we're now going to get into the business of putting FDA people in China, using our taxpayer money to help our importers bring in Chinese seafood which then undermines their own industry. Does that strike you as a little crazy?

DR. ENGLE: Yes.

COMMISSIONER MULLOY: I was really delighted, Mr. Williams. You talked about this going around the ports in your testimony, that you get stopped at one port and then they just bring it in another port. And Senator Vitter told us today that he's introduced a bill very recently to try and stop that practice. I presume you'll be working with him to try and make sure that that bill moves through?

MR. WILLIAMS: Yes. We've actually worked with Senator Vitter on a lot of these issues. And I would like take one moment to say and thank him very much for what he's done, not only for the Louisiana shrimp industry, but the entire domestic shrimp industry.

COMMISSIONER MULLOY: Yes. I was going to refer to this. Commissioner Wessel just raised this issue about the EU and then the U.S. In January of 2002, according to your testimony, Mr. Williams, the EU banned shrimp imports because they were testing bad --

MR. WILLIAMS: Right.

COMMISSIONER MULLOY: -- unhealthy for their people. They've said no. Why did it take the United States five more years, in your view, to get onto this issue and say that there's a problem?

MR. WILLIAMS: We do not have multinational cooperation. We do not have equivalence. We have less than one percent testing from the FDA on all imported products, which translates to seafood. God knows why. But that --

COMMISSIONER MULLOY: But wouldn't they have paid

attention that the EU did this testing and manned it, and then said, "Maybe we ought to do some testing too?"

MR. WILLIAMS: Well, you have some importer opposition in DC.

COMMISSIONER MULLOY: Do you think that there was opposition from the guys that are bringing it in, and that kept the FDA from maybe doing the job they should be doing on behalf of the American consumer?

MR. WILLIAMS: We feel that that's played a role, yes. But on the port shopping, we had an incidence where one importer organization that represents importers had suggested as far as marking the shrimp when it comes to rejection at ports. We have tried to have these shrimp marked with big red letters, "Refused Entry in the United States," much like USDA. They suggested that we use invisible ink so we don't discriminate against these poor importers or these poor countries.

VICE CHAIRMAN BARTHOLOMEW: Invisible ink?

MR. WILLIAMS: Invisible ink. That is actually a suggestion.

COMMISSIONER MULLOY: From the importer?

MR. WILLIAMS: From an organization that represents importers.

COMMISSIONER MULLOY: There's one more question. Under the Constitution, the federal government and Congress has control over foreign trade, interstate, and foreign commerce. So like when Arkansas or Mississippi or other people, when they find these unhealthy things in the imported catfish, they can't stop its importation, but they can act under their own responsibility to protect public health, to ban it within that state. So that's what they're doing as a remedy to try to at least protect the citizens of that state. Is that what's going on here?

DR. ENGLE: Yes, that's correct. The problem that they face, though, is that their states, while they may consume a lot of catfish per capita, are not their major markets. The largest markets for catfish are Dallas and Chicago and places like that.

COMMISSIONER MULLOY: Why don't the states there test and maybe ban the sale?

DR. ENGLE: Because someone needs to be in a position to get the attention of people in terms of how critical this is. And the states where catfish is a major industry, the state governments understand that it's a major industry. And they're much more responsive.

The state of Texas, there are people trying to do the same thing. But the aquaculture industry and catfish is

just not as important to the state of Texas. The state departments of health are busy, and so they say they're too busy. They say they don't have the equipment. They don't have the manpower. They don't have the money.

In the state of Arkansas, they've actually asked the catfish farmers of Arkansas to help purchase equipment. And they've actually -- the catfish farmers have done that to try to help get the testing moving forward.

And even so, the testing program that they've been promised has not been initiated even in Arkansas. But these other states, it's a matter of states' priorities. And it's up to that group of people in the state to try to make it happen. And a lot of these industries are just not strong enough to make that happen on a state level.

COMMISSIONER MULLOY: Now, just one last question on this point, because I think it's an important one to get on the record.

Yesterday we had a witness come in here and said -- who implied that Mississippi, Alabama, and others might be banning this stuff as a protectionist. In other words, as a protectionist trade measure to protect their domestic industry rather than to protect the health and safety of their citizens.

How would you respond to that charge, that these states are really acting in a protectionist manner to protect the industry rather than to protect the health and safety of their people when they're doing this kind of testing and manning?

DR. ENGLE: I would say absolutely not. It's not a protectionist measure. If product is coming in labeled as catfish, which is their product, and the catfish that's imported is not safe to eat, it's not safe to eat, it's going to hurt their entire market.

They want to make sure that there are standards for anything that is going to be a substitute for their product, and they want everybody to maintain those same standards. And it was done with an interest for the health and welfare of citizens there in the states, absolutely.

COMMISSIONER MULLOY: Thank you.

VICE CHAIRMAN BARTHOLOMEW: Commissioner Fiedler.

COMMISSIONER FIEDLER: I think, Dr. Engle, you mentioned that there were 4,600 jobs lost in the catfish industry in Arkansas, Mississippi. And was there one other place?

COMMISSIONER MULLOY: Alabama.

DR. ENGLE: Alabama. And Louisiana has essentially lost its catfish industry.

COMMISSIONER FIEDLER: And I have some life experience in Indianola, Mississippi, organizing catfish workers back in the '80s originally, so I know at least 1,200 of them.

What was the total employment levels in those three states or those four states?

DR. ENGLE: It's a 25 percent loss.

COMMISSIONER FIEDLER: Okay. So it's a 25 percent loss.

DR. ENGLE: Yes.

COMMISSIONER FIEDLER: And the loss in the crawfish industry here percentage-wise from 2000 to now?

MR. MINVIELLE: Actually, the farmers have made up -- because of the processing loss, we have switched gears and went into the more live haul market. We're probably leveled out.

COMMISSIONER FIEDLER: You're leveled out?

MR. MINVIELLE: We probably did. And the bad thing is, we've got a commodity that is just begging to grow. The consumers are just screaming for it, and we can't get it to them. It's trying like to jump rope with a rope around your neck. It just -- you're not going to go very far.

COMMISSIONER FIEDLER: Is that because of credit problems, people borrowing money?

MR. MINVIELLE: No. We're competition. You're a processor. I'm a processor. I'm getting \$600,000. My total gross sales a year are \$4 million. We're equal on that. I'm getting 6 or \$700,000. Under standard business practices, Blue Skies are the third. So automatically, I got a half of the percentage of profit before we start the day because I'm the tariff recipient.

I let you go to, let's say, St. Louis, open up a bunch of markets, which are peel product. I just sit back and watch you. When you get it opened up and everything, I just slip right in there and take them all away from you because I can cut the price to basic, even where you can't make it and survive.

COMMISSIONER FIEDLER: So this gets to the point you were making earlier. And let me see if I really sort of got your point simply. The wrong people got the tariff?

MR. MINVIELLE: Very much so. With no oversight is the real problem.

COMMISSIONER FIEDLER: This is on crawfish. I'm not casting any dispersions on anybody else.

MR. WILLIAMS: Actually, I wanted to say something about the decrease in the shrimp industry, for the record, if you would allow me.

COMMISSIONER FIEDLER: Yes. Please.

MR. WILLIAMS: In the late '80s and '90s, we were estimated to be -- in the Gulf alone now, just in the Gulf of Mexico, offshore shrimp vessels -- over 7,000 vessels. We were a very good industry. Even up till the late '90s, we were the most valuable fishery in the United States. It's hard to believe, above both salmon, king crab. It doesn't matter. We were the most valuable fishery in the United States.

In 2007, we were down to 1,900 permits. We are now under a ten-year moratorium. You can only have so many permits. That permit is 1,962, I believe. Out of that 1,962, 1,100 boats unloaded shrimp in 2007. And we are down 75.5 percent in levels of effort, which is days fished in the Gulf of Mexico from 2001, mostly because of cheap imports.

COMMISSIONER FIEDLER: Thank you very much. And I'll pursue that with you later.

VICE CHAIRMAN BARTHOLOMEW: Okay. Commissioner Slane?

COCHAIR SLANE: Dr. Engle, I don't know if you can answer this question, but we've been reading about reports of Chinese catfish being substituted for grouper in restaurant menus, Florida and other places. Do you have any comments on that?

DR. ENGLE: Not really. I've read the report. I know that it's happening, not just Chinese catfish, but Vietnamese basa has been substituted for it. I've heard some that Chinese tilapia were being substituted for grouper and a variety of other species. But I don't have any firsthand experience other than what I've read of those reports.

VICE CHAIRMAN BARTHOLOMEW: Could I ask, being not an expert on fish, if you're a chef and you're handling fish, would you be able to tell the difference between a grouper and a catfish or tilapia? Is there a physical feeling that's different that a trained chef should know?

MR. WILLIAMS: If you consider yourself a chef, you better be able to tell the difference. Yes, there is a difference in texture between grouper, tilapia, catfish. Every one of them has a separate texture.

VICE CHAIRMAN BARTHOLOMEW: Okay. And the Chinese shrimp that are coming in, do they look different than the wild shrimp that you're catching? Is there a different taste, a different texture?

MR. WILLIAMS: There might be a little different texture, but no taste, period.

VICE CHAIRMAN BARTHOLOMEW: They have no taste, or there's no taste difference?

MR. WILLIAMS: But they're still the same. They're vannamei white shrimp. They're almost exactly alike. The only difference would be a DNA test. But they're almost exactly like shrimp we catch except they're pond raised. Ours are wild.

VICE CHAIRMAN BARTHOLOMEW: I find myself wondering about the complicity of the purchasers somewhere along the way, too, that -- there was a story in the New York Times a couple of years ago about somebody went and did a test in all of these grocery stores in New York of wild salmon and farm-raised salmon.

They tested the wild salmon to see how much of it was actually wild salmon and how much of it was farm-raised salmon being sold as wild salmon. And a very high amount of it was farm-raised salmon.

We're talking high-end grocery stores. There were a number of explanations for it along the way, that the distributors had provided it, that blah, blah, blah, blah.

And so, again, I keep wondering is it everywhere in the food chain, the consumption food chain that people are saying, "Okay. Well, yes. We know this might not be right, but it's cheaper and we're going to use it and" -- yes?

MR. WILLIAMS: In Florida, product substitution on seafood is rampant, especially with grouper. It is rampant.

DR. ENGLE: It's happening. We get a lot of calls about the situation. Consumers definitely do not want to be eating Chinese catfish. And I tell them repeatedly, "You need to go in the back and ask for the box." I can tell you story after story.

Arkansas has a restaurant labeling law and has had it for many, many years. So it is illegal for a restaurant to not say where the fish is from in Arkansas. But that law, until the last year or two, has not been enforced.

And even with that, we just had a situation on our campus where we had a group of people, including some catfish farmers, were going to be on campus. My secretary kept asking our catering service, "Is this U.S. farmeries catfish?"

They hedged around. She finally went over and went in the back of the room and brought out a box. It was from China. It was Chinese catfish. But they were not saying that. They've been serving it on campus.

Our students have started demanding to know what was being sold to them. An Arkansas catfish does not stay on a buffet. Arkansans eat a lot of catfish and love it. At the university, nobody is eating the fish. There was a meeting with the chancellor.

So the U.S. consumer really does not want this product and is afraid of it. But a lot of people are doing a lot of things to sort of cover it up and try to stay in a gray area, did not let consumers know that it is coming out of China.

VICE CHAIRMAN BARTHOLOMEW: All right. Mr. Minvielle.

MR. MINVIELLE: Something that's weird that has happened in the crawfish industry as far as the product, like Miss Carole was alluding to, the retailers, a lot of the stores do not put the Louisiana brand crawfish peeled meat in their regular case along with the others. They put it in an ice chest by the front counter because they steal it.

VICE CHAIRMAN BARTHOLOMEW: Huh.

MR. MINVIELLE: It's gotten to the point where I know it's a little more expensive and all, but it's actually disappearing out of the grocery cases at an alarming rate to where it's a hot item for them to take.

I don't know about sticking a pack of frozen crawfish up under my armpit and walking out the store. You've got to be able to walk pretty quick. But I guess they obviously do it.

VICE CHAIRMAN BARTHOLOMEW: And then I'll raise the same point that I think you were all in the audience when I asked Mr. Pearce or cautioned Mr. Pearce about often the next step or a step that the Chinese will do is knock off your branding.

Obviously, if you see a box that says "product of China" or has Chinese labeling on it, you know that it's from China. But there isn't any guarantee that a box that says "product of Indonesia" or someone else, as we've heard, is actually not a product of China.

Or even ultimately at some point there, you know, we heard from Senator Levin about auto parts that were knock-offs that were made in China that were brought into this country. And the box said, "Made in the U.S.A." So it's something that you also have to watch for, as these issues mature. It's certainly a lot of challenge.

Commissioner Mulloy, I think you have our last question.

COMMISSIONER MULLOY: I just have a question for Dr. Engle or whoever.

The state can ban the sale of these imported catfish products. FDA could, I believe, have the legal authority to stop the import of these products. Can they also ban the sale of these products in the country? Do you know whether they have legal authority, just, say, like the states would:

Bingo. No selling. Can't sell this stuff?

DR. ENGLE: I'd have to look at that. I believe they do. But I'd have to read their guidelines carefully. I'm not positive.

COMMISSIONER MULLOY: Okay. I think we can get our own staff to look at that. But thank you, Doctor.

VICE CHAIRMAN BARTHOLOMEW: Bingo is a relative concept if we heard that it took 348 days to get the news from port to port that product had been stopped. So we want to play that kind of bingo.

Thank you all very much. This was a very interesting panel. We look forward to having additional contact with you and working with you to address some of these issues. Thanks.

We're going to take a 15-minute break, and start the next panel a few minutes early. And hopefully, on a nice Friday afternoon, get everybody out just a little bit early this afternoon.

(WHEREUPON A SHORT RECESS WAS TAKEN)

**PANEL VI: CHINA'S ADHERENCE TO MULTILATERAL AND
BILATERAL TRADE AGREEMENTS IN SUPPLYING SEAFOOD INTO THE
U.S. MARKET, CASE STUDY**

VICE CHAIRMAN BARTHOLOMEW: Before we start with our witnesses, I just would like to thank the people who helped make yesterday and today's hearing possible, particularly LaVerne Saulney, who's the regional manager for Senator Mary Landrieu's office, for her significant assistance to us in identifying and reserving the hearing room, our hotel accommodations at what we know is -- and we're very pleased to see -- a very busy time in New Orleans.

Most of us are leaving today, I'm sorry to say. So we'll miss the festivities of the weekend and the next week. But we are just so grateful to LaVerne; to Michael Duplessis, who's the manager of the Sodexo Corporation Services, for supervising the arrangements and setup in this hearing room with the Pan-American Life Conference and Media Center; to Denise Centanni, the court reporter from the firm of Curren and Landrieu who is preparing the transcript for us -- and as soon as she can get it done, we can get it up on line -- to our own staff, Paul Magnusson, Nargiza Salidjanova, and John Haverty, who arranged the witnesses and prepared the briefing materials for us. You guys did a terrific job. Thank you very much.

Scott Bunton, we always want to thank for overseeing all of this. And we'd like to thank M.L. Faunce and Nick

Barone for the hearing logistical and material setup, operating the witness timer, and all of the other arrangements, most of which are unseen by all of you, but which allow these to go forward and to go forward with relatively few glitches.

And now we'll move on to our final panel. We're very pleased to have with us today, Dr. Walter Keithly who earned his Ph.D. in food and resource economics at the University of Florida, currently holds a joint appointment in the Department of Agricultural Economics and AGRA Business, and the Coastal Fisheries Institute at Louisiana State University.

He serves on numerous state and federal committees, including the Standing Scientific and Statistical Committee of the Gulf of Mexico Fishery Management Council. He's been the Chair since 1999; and the Socioeconomic Panel of the Gulf of Mexico Fishery Management Council, the Chair since 2002.

He's the author of approximately 100 reports and received grants from NOAA, the U.S. EPA, Sea Grant, and various state agencies. And we also have a new and upcoming scholar, Schuyler Porche, who was born in New Orleans and raised in Mandeville, Louisiana. He is an international relations scholar and economist who studies international political economy, trade policy, and China.

In 1998, the federal government awarded him a year-long national security education program scholarship to study Mandarin Chinese at Capital Normal University in Beijing.

After completing a master's degree in economics at Miami University of Ohio in 2002, he worked as an economist for the Employment Policy Foundation in Washington, DC, is a co-author of several peer-reviewed journal articles.

He is currently a doctoral candidate in the Department of Political Science at Louisiana State University where he is writing his dissertation on the political process of international economic integration from 1950 to 2000.

Doctor-to-be Porche, we are looking forward to hearing your testimony. And we'll start with Dr. Keithly.

**STATEMENT OF DR. WALTER R. KEITHLY, JR., PROFESSOR
CENTER FOR NATURAL RESOURCE ECONOMICS AND POLICY
LOUISIANA STATE UNIVERSITY, BATON ROUGE, LOUISIANA**

DR. KEITHLY: Thank you, Vice Chairman Bartholomew, Commissioner Slane, and other commissioners. Thank you for inviting me here to participate in these hearings.

As mentioned, I am a resource economist at Louisiana

State University. And while my presentation will focus on one component of the Gulf of Mexico seafood industry, that being the shrimp industry and primarily the issue of the antidumping petition and ruling, I will be glad, after I'm finished, to discuss any issues you may wish to bring up. I think I'm relatively familiar with most of the industries in the Gulf of Mexico.

With landings valued at close to \$700 million at dockside and several hundred million dollars more added along the marketing chain, the contribution of the Gulf of Mexico commercial seafood industry in the U.S. or even the Gulf Region is frankly a drop in the bucket.

Having said that, though, we have local communities that are highly dependent on the seafood industry, and it is a way of life that is quickly being lost by many of our commercial fishermen.

The financial viability of the Gulf of Mexico seafood industry has been on the decline for more than a decade now as several members throughout the last two days have mentioned. And there's no signs that there's going to be a reversal in that trend anytime soon.

While the increasing import base is not the sole reason for this decline, it is a contributing factor. Furthermore, China is a large export to the United States of certain seafood products that compete with the harvest from the Gulf of Mexico, again, depending on the product being considered. For most of the products, crawfish being one of the few exceptions, there are many, many players of the international arena.

Of all the Gulf of Mexico commercial fisheries, the shrimp industry has been the most severely impacted from the increasing import base. The impact is wide in scope, ranging from a significant decline in the number of harvesters, probably in excess of 50 percent to a large consolidation in the processing industry.

Vessels that have managed to cope with the significant decline in deflated dockside price are now forced to cope with rising fuel prices. And as I've noted, there is really no sign of any improvement in the industry.

I'd first like to just place China shrimp in perspective. In 1990, total U.S. imports from China were approximately 150 million pounds. Currently, total seafood imports from China exceed a billion pounds a year. During this period, the U.S. share of edible seafood imports from China advanced from about 5 percent to more than 20 percent. Now, approximately 20 percent of the imports of the total U.S. edible seafood products are derived from China.

While the export market to the U.S. of edible seafood from China has advanced significantly, it should also be mentioned, that we have also developed a large export market to China; primarily West Coast groundfish. While the export market is still a fraction of what we import, it is a large and increasing industry.

Shrimp from China was roughly 125 million pounds in 1990, U.S. imports of shrimp. At the time it accounted for roughly three-quarters of total Chinese exports to the U.S.

In 2003, U.S. shrimp imports from China peaked at about 180 million pounds. At the peak, the share of imports from China represented by shrimp was only about 25 percent. So they are increasing other products as well as shrimp.

Since 2004, China's exports of shrimp to the United States have averaged about 125 million pounds annually, with the share of total U.S. shrimp imports from China approximating 15 percent.

While much of the discussion of U.S. shrimp imports, have focused on products from China, the total number of larger sources of shrimp to the U.S. market exceeds 25. And over time, China has become a significantly lesser supplier in terms of the percentage of U.S. shrimp imports.

In 1990, for example, China accounted for about one-quarter of the 500 million pounds of shrimp imported by the United States.

Given problems with its own production systems, problems with the ponds and diseases and increased exports from other countries, such as Thailand, China accounted for only about 3 percent of the 700 million pounds of shrimp exported to the United States in 1998.

At its peak in 2003, China's share of the 1.1 billion pounds of shrimp imported by the U.S. equaled only about 15 percent.

Mr. Williams covered much of the material that I have in terms of the antidumping duties. As such, I will just briefly review some highlights.

As you know, at the end of 2003, a petition was filed against six separate countries alleging that shrimp was entering the country unfairly and being priced unfairly. Again, the six countries ran from China to Brazil to Ecuador.

The Department of Commerce and the International Trade Commission ruled that, in fact, dumping was occurring from these six countries and set duties accordingly. A particularly high duty was imposed on China's exports to the U.S. Very low duties were imposed on some other countries, primarily Thailand, and even more so Ecuador.

In terms of the six named countries, U.S. imports increased rapidly from about 450 million pounds in 1990 to more than 800 million pounds in 2003. In association with the filing of the antidumping petition, U.S. imports from the named countries declined to approximately 700 million pounds in 2004. So there was a decline, but by 2006, imports from these six countries had returned to pre-filing levels. A small decline in imports was observed in 2007.

However, you do notice many changes. Exports of shrimp from China, for example, which face the heaviest duties, did decline. Exports from some other countries with relatively low duties, such as Ecuador and Thailand actually increased after the petition.

Another thing that we saw was a large increase in exports to the U.S. from the non-named countries. Again, there's over 25 exporters to the U.S.

In 2004, at the onset of the investigation, exports from the non-named countries to the U.S. were about 400 million pounds. Exports increased significantly after the investigation, and they are now taking a larger and larger share of the U.S. market. In other words, it's simply trade diversion from named countries to non-named countries and from the high-duty countries to the low-duty countries.

In essence, we are now back to where we were prior to the investigation. As Mr. Williams indicated earlier, prices have stabilized somewhat. I suspect, however, that it is a short-term stabilization in prices.

As countries further develop their aquaculture practices, I foresee a further erosion in dockside price and a continued erosion in the harvesting sector.

As stated, duties appear to have provided only marginal and probably only short-term relief to the domestic shrimp industry. In the absence of significant income growth in Asia, further increases in cultured shrimp production will result in additional product being sent to the U.S. and a further suppression in the Gulf of Mexico dockside shrimp price.

Vessels have left the commercial fishing industry. The way remaining vessels have survived, though, is through an increase of catch per unit of effort. Again, there's a relatively fixed shrimp stock in the Gulf of Mexico. And by vessels leaving due to a lack of profitability, it has allowed other vessels to increase their catch per unit of effort, which has helped their gross profit margin.

Finally, since this meeting is about U.S.-China relations, I think it's worthwhile to end this presentation

on the subject of China seafood and the impacts of China's exports to the U.S. fishing sector.

Certainly, increasing seafood exports from China to the United States have negatively impacted various components of the domestic seafood industry throughout the country, not just the Gulf of Mexico.

At present, the Gulf industry impacts from China product are relatively limited, primarily shrimp and crawfish. And with respect to shrimp, I would hypothesize that should China, for whatever reason, stop exporting shrimp to the U.S. market, China's share would quickly be captured by other countries.

As China and other countries further develop their respective of seafood industries, however, impacts throughout the Gulf and the rest of the nation will become more widespread. Consumers, on the other hand, will benefit from the increased supply of seafood being provided at more affordable prices.

Thank you.

[The statement follows:]⁸

VICE CHAIRMAN BARTHOLOMEW: Thank you. Mr. Porche?

**STATEMENT OF SCHUYLER RICHARD PORCHE
DOCTORAL CANDIDATE, DEPARTMENT OF POLITICAL SCIENCE
LOUISIANA STATE UNIVERSITY, BATON ROUGE, LOUISIANA**

MR. PORCHE: I'd like to begin by thanking the Review Commission for offering me the opportunity to provide testimony here. And I'd also like to thank my co-author, Dr. Cameron Thies, for working with me to bring this research to fruition.

And finally, as a side note, Dr. Keithly and I don't know each other, but I actually have a lot of respect for your work and I wouldn't disagree with anything that you said here today.

VICE CHAIRMAN BARTHOLOMEW: However.

MR. PORCHE: No. Hopefully, we can talk. I was going to say hopefully we can talk in the future.

Also, while the body of my comments will not address food safety, I would like to take this opportunity, as a consumer of seafood, to observe that the federal government, through its agency such as the Food and Drug Administration, has an important responsibility to ensure imported foods meet some basic standards of safety and quality.

⁸ [Click here to read the prepared statement of Dr. Walter J. Keithly, Jr.](#)

I can also speak from personal experience, that having lived and eaten for extended periods of time in different areas of the People's Republic of China, based on my own personal experience, the meats and foods are generally processed under very different standards which can have results for the consumers of those food products.

In 2003, the International Trade Commission reviewed its original decision from the 1990s to impose an antidumping duty on imported frozen crawfish tail meat from China and raise the China-wide antidumping duty from approximately 201 to 223 percent of value claimed for imported frozen crawfish tail meat from the People's Republic of China.

However, the ITC's original finding in which it claimed that there was dumping, excludes the fact of labor costs from its decision. And the reality is that the United States and China have comparative advantages in two very different types of things.

They have an abundance of labor. And the process of producing frozen crawfish tails is a manual process. There is no machine that you can take of that of boiled crawfish and dump them into a machine and produce a sack full of frozen crawfish tails. You need workers to peel the crawfish, to manually peel the crawfish with their hands.

And most of the data suggests that for manual labor, the cost of manual labor in the United States is about 28 times that of the People's Republic of China.

And so I'm sure over the last two days you've heard testimony about all sorts of horrible practices by the Chinese government or health concerns. And these are things to take in mind. But in reality, the policy decisions that we've made so far, when we claim that there's dumping of frozen crawfish tails, has excluded labor costs from that decision.

And that, frankly, is hard to swallow given the reality of the situation. The economics of the situation is that producing frozen crawfish tails is a manual process. It involves manual labor. And the cost of manual labor in China is just substantially lower than it is here.

I guess the other point that I would want to make when we talk about Chinese products or products from Southeast Asia when we're talking about fish, in some of the cases, other claims that we're talking about, a different species of animal, particularly with the catfish case, there's some discussion about how the Vietnamese are producing a different kind of animal and they're labeling it catfish.

The actual species of crawfish that's being imported

from China to here is actually the exact same species. in sort of a circuitous route, the Japanese, in the 1920s and '30s, imported crawfish from Louisiana to feed to imported bullfrogs.

And while the Japanese were in control over about two-thirds of China, some of these crawfish were brought over and -- we believe they were probably brought there as pets. They got into the waterways and systems. And as we're familiar with invasive species here in Louisiana, they prospered. The people of China, rice farmers, felt that they were essentially a pest. And they would have loved to have gotten rid of them.

In the 1980s, the cost of protein and various meats in China began to rise. Because while we talked about China as if it's a nonmarket economy, since the late 1970s with the rise of Deng Xiaoping, China has essentially become, while it is still very much an authoritarian country -- and I personally wouldn't want to express political dissent there -- it is a market economy in large measure. And if you want to buy a pound of oranges or a bottle of water or negotiate for a hotel room, it involves significant haggling.

And so there is a market economy there in large measure. And I believe this is the case with aquaculture as well.

And so the crawfish that we are eating when they are produced in China are actually the exact same crawfish in terms that they're a species that is raised here in the swamps of Louisiana or in agricultural farms.

While I am somewhat sympathetic -- well, while I am sympathetic to producers, I think we should also bear in mind the cost to consumers. With the introduction of Chinese crawfish tails, the consumption of crawfish tail meat has expanded dramatically. I don't want to give you the exact figures because I don't have them in front of me and my testimony is being recorded.

But approximately, you know, the amount of crawfish that's being consumed today in Louisiana is 200 percent times what it was in, say, the 1990s. So substantially more crawfish is actually being consumed in the United States.

But the reality is that political officials in Louisiana use the ITC process to look like they were protecting consumers. You know, if we look back to statements, public statement by Bob Odom or Former Senator Breaux in the 1990s after the case was originally brought, you would think that their efforts to petition the federal government had, in fact, protected crawfish farmers or

seafood processors.

And the reality of the ITC, the International Trade Commission, process is that if you look at any of the cases -- and crawfish is just one example -- they never really set their countervailing duties high enough to actually protect producers.

And so in any industry, whether we're talking about shrimp or crawfish or if it was steel imports in the 1980s, if we look at some of the older cases, the reality is that foreign producers are still able to import to the United States -- or excuse me -- export to the United States their products and dominate the domestic industry.

Do I have 36 seconds? Is that --

VICE CHAIRMAN BARTHOLOMEW: You can take more than 36 seconds.

MR. PORCHE: Okay. So if we look at the hard numbers, the amount of land that's being farmed to produce crawfish since its high point in the late 1980s has steadily declined through the 1990s.

In the early 1980s, the crawfish industry believed that -- in the United States -- believed they were going to be able to export to Scandinavia. And so there was a great deal of investment in aquaculture in South Louisiana because there had been a blight in Spain that had wiped out their crawfish production.

But with the introduction of frozen crawfish tails from China, by any measure, the amount of crawfish being produced in South Louisiana has decreased dramatically, but the amount of crawfish being consumed has increased dramatically.

And while I know that most of the people here are concerned about the producers, if we think about it from a consumer standpoint -- and I am a consumer of crawfish -- it allows me to prepare more crawfish etouffee, more crawfish bisque, more crawfish pies at a lower price. You know, you think about that in concrete terms when you're thinking about trade.

Yesterday I was actually in a fabric store with my wife and the woman my wife was buying some fabric to make some crafts. And I asked the woman who was cutting the fabric if she actually knew how to sew. And she said yes, she did. She used to make clothing for her family. It was more cost-effective for her in the past to make clothing for her family. But for the last 20 years, she hasn't really been making clothes for her family because clothing is so much cheaper now. Well, that's because of free trade.

And I know that most of the people here are concerned

about producers. But the reality is that consumers throughout the United States now consume crawfish, whereas ten or 15 years ago, the only people that consumed crawfish were in South Louisiana. And the reason for that primarily is the lower cost.

There are health concerns, and I don't want to dismiss those. And I hope you take those into consideration. But I hope you also take into account the fact that free trade benefits society generally. And the reality is that if we look at consumption, consumption of crawfish in the United States has increased dramatically. And so that's, I guess, what I'd like to close with.

[The statement follows:]⁹

Panel VI: Discussion, Questions and Answers

VICE CHAIRMAN BARTHOLOMEW: Thanks very much. Commissioner Wessel, would you like to start with questions?

COMMISSIONER WESSEL: Sure. Thank you, gentlemen. You've provided somewhat of a different approach on these issues.

I understand, Mr. Porche, you're pre-Dr. Porche, you're --

MR. PORCHE: I'm nobody special.

COMMISSIONER WESSEL: I'm sorry?

MR. PORCHE: I'm nobody special.

COMMISSIONER WESSEL: We've seen the use of our antidumping countervailing duty laws as a way of setting rules of fair competition. I have not read the crawfish case in some time, but I do recall that the ITC, in their estimates, did include proxy rates as it related to labor because they could not get the exact data from China, which was unwilling to provide it.

MR. PORCHE: Well, they used Spain as a comparison. And Spain has a completely different labor market. And they've also used --

COMMISSIONER WESSEL: Also used India.

MR. PORCHE: They also used India, but the problem there is that the Indians don't really engage in that much aquaculture engaged in shellfish. And so I don't know that that's really a fair comparison. They weren't accounting for labor costs. If you actually read the finding, they discount the role of labor costs and the difference in price.

⁹ [Click here to read the prepared statement of Mr. Schuyler Richard Porche](#)

COMMISSIONER WESSEL: Again, you have studied it more than I. And it's been some time. My recollection was that the Chinese refused to provide data on the exact inputs into their production; and therefore, our law allows for the use of proxy rates when a respondent to a case refuses to participate.

MR. PORCHE: Well, the ITC could have used international labor organization data, which is publicly available and free, to determine what the cost of manual labor is in China. And they didn't use that. You know, they tried to get data from seafood producers. No. That's correct. And the Chinese producers were difficult. You're reading the case correctly, that the Chinese producers were unresponsive.

COMMISSIONER WESSEL: And my recollection is also, just looking at the shrimp case, for example, as I remember, Ecuador has been dropped out of the case recently; is that right?

DR. KEITHLY: That's correct, yes.

COMMISSIONER WESSEL: That the ITC and the Department of Commerce have been generous in their approaches in terms of trying to make sure that the laws are being fairly applied. As has been discussed earlier today, they have, with quite a bit of disagreement in the political setting, have responded to what some, including myself, feel is overreaching decisions as it relates to zeroing and other activities.

So I'm somewhat concerned from an economics point of view that free trade has to include fair markets in that as part of a fair market, that would also include a free labor market.

You're seeming to argue for a winner-take-all approach, that rules and standards of competition should not apply.

MR. PORCHE: Well, I guess the first thing I would say is that there is a -- if you actually look at the way the Chinese economy operates for manual labor, there is a free market for labor. You see people moving around the country. One of the most dramatic things -- I'll address your question specifically in just a second.

But, the reality is that there is a free market for manual labor in China. And you can see that because people move around the country, from the countryside to the cities, in order to achieve better wages, for example, to move from being a manual right -- to farming rice manually, for example, to moving into a factory to try and engage in --

COMMISSIONER WESSEL: I would not necessarily call the right of greater movement, which I would not say is free

yet, would equate to free labor rights, where the core labor standards, right to bargain and associate, et cetera, are clearly not available. I believe there's been rampant refusal of many employers to, in fact, pay wages.

So the ability of a worker to move in response to the poverty in the western part of the nation, to move to Guangzhou or somewhere else to get a job does not necessarily denote a free market.

MR. PORCHE: I would disagree with you. People in China can vote with their feet. If they dislike the way their village head is treating them, they do have the ability today to move in a way that they didn't in the past. And I'll admit to you that China is not perfect, but it's a work in progress.

And when we think about our trade policy and our trade relations with the Chinese -- and, of course, I mean, crawfish, as far as the Chinese are concerned, are marginally -- you refer to it as a drop in the bucket. So I don't think this is going to have negative implications for our -- the U.S. relations with China.

But the reality is that it's a work in progress. And the situation for workers has improved substantially.

Now, Chinese workers do take to the streets all of the time in today's China, you know. There are thousands of violent protests every year by workers who have been cheated or mistreated. And there are problems with corruption in China.

But, you know, the reality is that China is a work in progress. And if we compare it to the way it was, say, in the 1970s, it's improved dramatically.

But getting back to some of your concerns earlier about the ITC case itself, I would agree with you that the ITC is generally very generous in the way it treats foreign producers. You know, I would say that the ITC hasn't protected the domestic industry in any meaningful way.

If we look at the price per pound for a consumer, going down and trying to buy domestic crawfish is about twice the cost of what it costs, including the countervailing duty -- 30 or 50 percent higher, excuse me -- than what it costs to buy Chinese crawfish.

So you're right. The countervailing duty hasn't really protected domestic producers. I think that's true. But I think that's true of most. If you actually look at most ITC cases, the kind of tariff that they -- or the countervailing duty that they impose doesn't really protect the domestic industries.

They've imposed countervailing duties on the steel, you

know, foreign steel production and other things in the past. And we can just look at what's happened to the steel industry in the United States.

So I don't think that the ITC's findings, you know, its countervailing duties of 201 or 223 percent, have actually protected domestic producers. I mean, I would agree with you that they've been very generous. But I think the basis of their decision really doesn't account for the difference in labor costs.

VICE CHAIRMAN BARTHOLOMEW: Commissioner Videnieks.

COMMISSIONER VIDENIEKS: Dr. Keithly, to summarize the way I understood what you stated was that our imports in the region have maybe increased, yet the imports from China have dropped significantly?

DR. KEITHLY: The examination of the data after the investigation, before and after it, does suggest that exports from China to the U.S. have fallen. They had a relatively high duty imposed on this.

COMMISSIONER VIDENIEKS: Seafood trade that's come in this direction?

DR. KEITHLY: Just shrimp. However, any loss by China or reduction in exports to the U.S. from China was quickly made up by other countries. And you would expect such a scenario with trade diversion. There's a lot of shrimp on the world market. Cultured shrimp is now roughly 13 billion pounds. Much of it is being consumed in China and so forth. But there are certainly plenty to go around wherever there's a shortage.

COMMISSIONER VIDENIEKS: And the reason for this would be lower production costs in these other countries?

DR. KEITHLY: Yes. Primarily, there are much lower production costs in Asia than in the U.S. or even Central or South America now.

COMMISSIONER VIDENIEKS: The question I have is: We had prior testimony here that feed costs for maybe all seafood are three times greater in China, current exchange rates, than they are here. And per your testimony, the whole process is very labor-intensive.

But obviously, using your numbers, 28 times a lesser rate for labor and PRC would probably cancel out the disadvantages they have in seafood -- in the food costs, feed costs.

But can you kind of expand on that a little bit, how labor-intensive is the industry and how important a part of the production is in feed?

DR. KEITHLY: I don't have the numbers with me and I'd hate to speculate. I did hear that feed costs were twice as

high in China as in the U.S. I do not quite understand why that would be the case because you should have transportation differences, unless, in fact, there is some tariff on the product going to China.

Overall, though, about all I can say is that the costs of producing shrimp in Asia are significantly less. And it varies tremendously from one country to another, largely depending on labor costs.

COMMISSIONER VIDENIEKS: Any expansion on that, I mean, those generalities?

MR. PORCHE: If we speak in general terms, I think I can give you a good analogy of why there's a problem for domestic producers.

First, when the Chinese want to build a road, what they do is they don't get out a grader or a bulldozer or any sort of capital-intensive things that they would use to -- that we would use in the United States to build a road. They get a gang of 15, 20, 30 men with shovels and large metal implements. And they go out and they shovel the asphalt by hand and they stamp it out by hand.

The problem with crawfish is that there is no peeling machine. People have tried in the past to develop pneumatic peelers to peel the crawfish to kind of process them so that they could use what is the United States' comparative in production, which is capital. We are very good at producing capital-intensive high technology goods.

COMMISSIONER VIDENIEKS: But what part of the preparation process --

MR. PORCHE: The entire process is manual. So when you harvest the crawfish, it generally involves a man going out in a little boat and picking up crawfish traps and dumping them in his boat. And then they're hauled around.

When the crawfish is processed, they're boiled, which you can deal with sort of in quantity. But when you peel them when they're dumped out, there's not a machine that you can dump them in and have a machine peel them. Because of the way the crawfish are, you have to peel them. And you can't sell them --

COMMISSIONER VIDENIEKS: Is the process different here in the U.S. than it is in PRC?

MR. PORCHE: To the best of my knowledge -- and I've been over there -- the processes are similar. COMMISSIONER VIDENIEKS: Okay. That's basically the questions I had.

VICE CHAIRMAN BARTHOLOMEW: Mr. Porche, since you brought up the road-building analogy, I just want to point out, of course, that when the Chinese want to build a road, they can toss the people off who live along the path of that

road without any legal recourse and without any compensation.

And, in fact, in Beijing, they tossed tens of thousands of people off of the sites where the Olympics venues have been built. And those people have had, for the most part, no legal recourse and no compensation.

So there are inherent advantages that they have built into the system. Some of us might call them indirect subsidies. There's a whole list of subsidies, though. I know that there's some dispute. Mr. Fass is in our audience, and we had some discussion about that yesterday.

I'd like to take you both in a different direction right now, though, which is: What is happening to the people in the communities here who have left the industry, as you say, people who no longer have shrimp boats? Are they finding other employment? Are they staying in these communities? How are they supporting themselves? What's happening to them?

DR. KEITHLY: They are largely staying in the communities. South Louisiana is a close-knit community and people don't tend to move. We luckily have -- well, unluckily, depending on how you look at it -- two factors that have resulted in a tremendous demand for employment in the regions.

The first factor is the increased oil prices. We have a very large offshore oil and gas industry. And they've picked up a lot of the individuals that used to be fishermen. In fact, many of them would be part-time fishermen, part-time working in the oil industry.

You may -- from unlucky is with the hurricanes. There's been tremendous demand for labor just for rebuilding after these hurricanes. Anybody who was a good captain on a shrimp boat or any other type of boat has mechanical skills, carpentry skills, and all the skills needed to rebuild South Louisiana after the hurricanes.

VICE CHAIRMAN BARTHOLOMEW: It is an issue, of course, that one doesn't want to do economic planning based on disasters that happen. You're right. It's fortuitous in the sense that these people who are losing jobs in one industry are able to find it. But I would hate to project forward a ten- or 15-year economic plan.

One of the problems I've always had -- and I think we can fall into this a little bit about the larger trade policy debate -- is free trade versus protectionism. I think that it's really easy for people to dismiss other people's arguments by putting a label on it, on both sides, frankly, as we call it that.

One of the problems I have always had in the debate is that people who have had a tendency to focus on trade and trade economics have often or generally focused on the movement of goods and services and not so much focused on the people who produce the goods and services and the people who consume the goods and services.

You mentioned, Mr. Porche, the ability of people to buy more crawfish and eat more crawfish. The presumption in other places, though, is that they need to be able to have jobs in order to have the income to be able to do it.

The advantage we have on this Commission of going around the country over a period of years is we have been looking at some of the bigger pictures. People in Akron have been losing their jobs because of unfair competition from China; people in Dearborn, Michigan similarly; people in Columbia, South Carolina.

I wonder when you take a step back and look at the bigger picture of all of this, whether the question of Ricardo's theorem even holds anymore.

I'm sorry that I'm bringing an academic topic into this now, but you're both academicians.

MR. PORCHE: I guess one thing I would say is that I am concerned about people. And getting into sort of the crawfish industry specifically, a lot of those individuals are also -- were also involved in the rice industry and are also involved in other industries as well. Crawfish, particularly for the farmers and for the fishermen, is a seasonal business. So they were involved in other things.

The people who were hurt most by the current situation were the processors. If we looked at the number of seafood processors that handled crawfish in Louisiana in the 1980s, it was somewhere over 40. Just say 45 is an approximation. As you've heard earlier, today the number of seafood processors that handle crawfish is approximately 27. And so that number has fallen off and so the government hasn't really protected them in any sort of meaningful way.

But other industries over the last 25 or 30 years have expanded in Louisiana. The movie industry, for example, tourism. People come to Louisiana not to eat frozen crawfish tails, but to eat crawfish etouffee.

VICE CHAIRMAN BARTHOLOMEW: But they think when they're coming here, they're eating Louisiana crawfish, not --

MR. PORCHE: Well, they're eating a product. There's a value-added aspect to the product. And so people go to cooking school. There's a really great cooking school in Thibodaux, Louisiana. People go to cooking school. They work in the restaurant industry. That's not necessarily a

better alternative, but it is an alternative.

And he's right. People from Louisiana are very close-knit to their families and so they don't want to leave.

But the crawfish industry has always been a seasonal business by its nature, and so most of those individuals were also very much involved in the rice industry, which today, the world price for rice is substantially higher than it was, say, three or four years ago.

And so in that sense, we would be benefiting from the rising price of rice in India and China. I would suspect they were exporting rice. I haven't looked through the numbers in a while. But for a rice farmer, the price of rice has increased dramatically over the last few years.

VICE CHAIRMAN BARTHOLOMEW: Mr. Keithly, any comments? I know. In a minute.

DR. KEITHLY: It's a loaded question. The only thing I'll say is that certainly free trade generates winners and free trade generates losers. Certainly, as Mr. Porche said, the processors were the losers in the crawfish industry. Consumers gain. In fact, it did open up new markets.

It's a political decision on what type of weight you want to assign to the gainers versus the losers. The U.S. ITC investigates unfair trade practices. And, in fact, they levied a very high duty on crawfish products.

It has not had much of an impact at all on the domestic crawfish industry, not because it wasn't high enough. But as a previous panelists mentioned, importers have been able to evade the duties. I thought it was 5 percent. I heard today 8 percent of the duties that had been collected.

So effectively, a 200 percent duty is now a 16 percent duty, which does allow for the product to be sold, the imported product to be sold much cheaper than the domestic product, which is what you see in the market. Consumers are gaining, but the processing industry did lose in this case.

VICE CHAIRMAN BARTHOLOMEW: Commissioner Mulloy.

COMMISSIONER MULLOY: Thank you, Madam Chairman. It's nice to have you economists here. You both emphasized that consumer welfare may be served by this present situation. I got that from what you both said. Is that correct?

MR. PORCHE: That's correct.

DR. KEITHLY: That's correct.

COMMISSIONER MULLOY: And you both -- and Mr. Porche in particular, said our antidumping laws are kind of a hoax. They're out there just to protect some people who want to pretend they're doing something to protect the producers, but they don't really do the job. MR. PORCHE: I think

that's fair. I think politicians use the ITC process to look like they're protecting domestic producers. But, in fact, they don't.

COMMISSIONER MULLOY: Yes. So the idea that we have those laws that are there to protect against unfair trade practices. But you say they don't really work to protect people against unfair trade practices.

MR. PORCHE: I would say that they don't work to protect domestic producers from foreign competition. Whether or not it's unfair, I think there is a question there.

COMMISSIONER MULLOY: We've had a chance to look at this China trade issue, a lot of different aspects. What I see going on down here is very similar to what I see going on in other industries in the country. The economists all come in. You're trained in a certain way of thinking about these matters. You understand that. That's the way you're trained. I'm a lawyer. I'm trained in a little different way.

MR. PORCHE: That's fair.

COMMISSIONER MULLOY: Here's what I see. I see China had a bad 200 years. And the Westerners, because they got ahead technologically, really put China in a bad hole. We're going to colonize it essentially.

China went through a big rejection of all that, and they ended up with a communist revolution and Mao Tse-tung in 1949 who tried the collectivist economic approach. Didn't work to move China forward to strengthen their economy.

Deng Xiaoping came in 1978 and said, "I want to try a different approach. I want to entice the foreigners to come in and help me build my economy," which is essentially what he's doing.

The Chinese have been following that path. They entice the foreigners that provide subsidies. They provide underpriced currency to make it better for you to produce there and ship back here because you get an export subsidy.

I think it's important to get this on the table. You say America, we build roads with capital equipment and they build it with 40 or 50 guys going out and digging. But imagine we're in the process now where the Chinese are incentivizing our corporations to move our technology to China and make stuff and ship it back here.

We are running a trade deficit with China of \$40 billion in advanced technology products. So it's not like they're the low cost. They're just producing cheap goods. You know, they're moving up the food chain, and they have it

as part of their five-year plan to move up the food chain. It's a very high priority in China; right? Okay.

Since 1990, the United States has had \$1.7 trillion of trade deficits with China. China now has \$1.7 trillion of foreign currency reserves. They put \$200 billion into a sovereign wealth fund. We held a hearing on their sovereign wealth fund.

So that means what they're doing is coming back and having, essentially, a hedge fund to come up and buy productive assets in the U.S. economy: Morgan Stanley, J.P. Morgan. They're investing in our economy.

Fortune Magazine recently said the road we're on, the Chinese are going to colonize us by investment. Okay? Warren Buffet, who I respect -- I don't think he has a Ph.D., so he's not a real economist like you guys. But he says this. Warren Buffet says the United States is on a road where we're like the rich family living on the hill. And each year, we're running a current account deficit of \$800 billion. And we can't finance that by selling off except that we sell off assets to finance the current account deficit.

In other words, what used to be ours is now somebody else's; right? The foreigners get the dollars, and they come back and buy assets here. So what used to be our farm each year is less our farm and more theirs. Warren Buffer says this.

He says on the road we're on, we're not going to be an ownership economy. We're going to be a sharecropper economy. We're going to be the people working for the man who's got the money. The Chinese are fast on that road to have the money.

That's my view of what's happening here. And you guys are so focused on consumer welfare, I don't think you really grasp the enormity of the problem that we're facing in this country. What do you think of that analysis?

VICE CHAIRMAN BARTHOLOMEW: Sorry to say, Commissioner Mulloy, that you used up your entire time in the preface to the question. So we're going to move on.

COMMISSIONER MULLOY: Maybe we'll have a second round. We'll open it up.

VICE CHAIRMAN BARTHOLOMEW: We'll have a second round. They can take the opportunity to answer.

COMMISSIONER MULLOY: I'm glad I put that on the table because that's what I think is going on.

VICE CHAIRMAN BARTHOLOMEW: Okay. Commissioner Slane.

COCHAIR SLANE: Dr. Keithly, you painted a pretty bleak picture for the shrimp industry between the high cost of oil

and the imports. And my question to you and to Mr. Porche is: As the Chinese economy increases, their middle class gets bigger and bigger, do you see a shift from exporting the shrimp to supplying their domestic needs and allowing our industry to regenerate?

DR. KEITHLY: A very good question, Commissioner Slane. I can remember back in about 1987 when exports of the shrimp to the U.S. from China really began to expand before they had some disease problems in the ponds. But many individuals in the shrimp industry basically said it's not a problem because as income in China increases, they'll be buying more or keeping the shrimp for domestic consumption. And they do consume a lot of shrimp. I don't know the specifics.

However, what's happening is that the growth rate in aquaculture production has been so great in the past half dozen years, that income growth in China has not begun to counter or offset the increased production. It may some day. It's tough to tell.

Again, as I mentioned in my presentation, we have developed a large export, seafood export market with China, still lower-priced products than what China tends to export to the U.S. in seafood. But certainly as China's income to the middle class increases, I would expect increased domestic consumption of shrimp and all other seafood products in the possible leveling off of exports to the U.S.

COCHAIR SLANE: Would you agree with that?

MR. PORCHE: I wouldn't disagree with anything he said.

COCHAIR SLANE: Great.

VICE CHAIRMAN BARTHOLOMEW: Any other questions?

COCHAIR SLANE: Thank you.

VICE CHAIRMAN BARTHOLOMEW: Commissioner Fiedler.

COMMISSIONER FIEDLER: Mr. Porche?

MR. PORCHE: Yes, sir.

COMMISSIONER FIEDLER: You characterized the Chinese economy as a free market.

MR. PORCHE: Well, most economies are mixed economies, and I think the Chinese economy is a mixed economy.

COMMISSIONER FIEDLER: Just for fullness of order here, I've asked every economist that comes before the Commission to describe to me in a couple of phrases what the Chinese economy is. And I will give you some of the other people's answers.

Bureaucratic capitalism. The Chinese call it market socialism. Others call it authoritarian capitalism. Nobody has called it a free market, by the way, in a country where 60 percent of the assets are still owned by the government

and state enterprises and where they just selected about 17 different industries that you and I can't buy. So what would you call them?

MR. PORCHE: I like the term, "authoritarian cap" -- Usually when I talk to students or when I'm describing to someone what the Chinese political economy is like, I would say it's authoritarian capitalism.

When I was talking about a free market for labor, I was talking about something very specific. And that's the manual labor of peasant farmers. And peasant farmers today compared to -- so I guess what I would say to you to directly answer your question is that I think authoritarian capitalism is very appropriate because there is no role for political dissent.

And I can speak from firsthand experience that there is no -- when the Chinese need to exercise eminent domain, as you were referring to before, I mean, I've seen what they do. They simply spray a sign. They spray a character on someone's building and they say -- and it basically means we're going to come knock it down next week. So the Chinese government does exercise substantial control.

And there are no private owners of land. All land in China is owned by the state. There have been some efforts at some land reform in the last few years. But the labor of a peasant farmer in China, you know, they -- in the past, they did not have the ability to move around the country. And today they do.

We are seeing the largest mass migration in human history going on right now in China. And that is the movement of laborers from the countryside to cities. And then there are cases now where wages -- for example, we've often thought of the labor pool in China as being sort of a bottomless pit that will always be filled. But in the Southeast in China, wages are rising. And it's because they're having to compete for labor. People, if they don't like their working conditions, after a few years they go back to their home village.

And so China is not a free market economy in the way that Adam Smith would describe it. But there is an element in the manual labor market.

COMMISSIONER FIEDLER: You said authoritarian capitalism. But isn't property ownership a fundamental of capitalism? Without property ownership, it's hard to have capitalists?

MR. PORCHE: In the current Chinese legal structure, people are able to own buildings. They're able to own cars. They're now able to own their own apartments. And so they

earn a certain amount. They earn certain types of property. But the Chinese state essentially has long-term leases on the land. And so the Chinese government --

COMMISSIONER FIEDLER: Still owns the land. It can move you off at any time?

MR. PORCHE: That's right. Yes, sir.

COMMISSIONER FIEDLER: So --

MR. PORCHE: But the workers own their labor.

COMMISSIONER FIEDLER: If the Chinese government decides that it wants to nurture an aquaculture industry, is that called an industrial policy or -- do we have any sort of like policy similar to that in the United States?

MR. PORCHE: Well, sir, we offer \$17 billion a year approximately in agricultural subsidies. I mean, there's approximately \$3 billion a year in cotton subsidies. So there's a -- I mean, we grow cotton in Arizona.

COMMISSIONER FIEDLER: So I --

MR. PORCHE: So we do subsidize agriculture. I mean, the Europeans do it as well.

COMMISSIONER FIEDLER: Right.

MR. PORCHE: And it does. I mean, crawfish --

COMMISSIONER FIEDLER: We don't subsidize fish farmers, shrimp.

MR. PORCHE: That's correct. And I think there are reasons for that. The fish farmers have and aquafarmers have had difficulty mobilizing to petition their government for protection. It's mainly because they're a very small industry. You know, we provide tremendous amounts of subsidies for corn. And maybe that's because the Iowa primaries are, you know, so important.

The problem for crawfish farmers is that they're not politically powerful.

COMMISSIONER FIEDLER: Yes. I noticed that you're a political economist. And that's why --

MR. PORCHE: But for Chinese -- but for the Chinese farmers, you know, their policies largely allow -- they create incentives, essentially. Farmers are allowed to be entrepreneurs and plant different kinds of crops. They have quotas that they have to meet, a certain amount of rice or whatever it is their village is supposed to produce. But for over the last 30 years, what they've transitioned to is the system's incentives.

COMMISSIONER FIEDLER: My time is running out. I'm going to ask you one quick question or make an observation.

The International Harvester and a number of other Japanese bulldozer companies sell a large amount of capital equipment to the Chinese. They didn't build the Three

Gorges Dam with people and shovels, did they?

MR. PORCHE: I think if we were to compare two dams --

COMMISSIONER FIEDLER: Have you seen them?

MR. PORCHE: If we were to compare two dams, one in the United States and one in China, I think you'd see the amount of wage cost associated with building --

COMMISSIONER FIEDLER: That was not my point. Your characterization earlier was like they build their roads with a bunch of people with shovels. And if you've ever really watched a road go up, like the highway between Dali and then Changchun, you would see that it was done with a whole lot of bulldozers and equipment and pavers and just the way pretty much we make roads here, although with a few extra people.

VICE CHAIRMAN BARTHOLOMEW: We're going to go to a second round, and I'm going to take the prerogative of the Chair and start it off. I'm thinking of the winners and losers in a global trading system. I was thinking about how to balance regional interests and different -- earlier in the panel, in an earlier panel, we heard about the American Soybean Association that is working to develop markets for soybean meal, feed, which is having, I suppose, an unintended consequence or a consequence that they're probably not much concerned about with the Louisiana catfish farmers.

But one of our tasks always is to take what we learn and try to translate it into recommendations for Congress and policy. And I'd like you both -- tying into also what Mr. Fielder said. But, you know, you mentioned the 11 -- the five-year plan.

The Chinese government has plans in place to which they direct the subsidies to build certain sectors of their economy. And often those sectors are targeting sectors of our economy.

And how you all would recommend, both from the perspective of -- what we would just say is the smaller -- the big interest here locally, but the smaller interests in terms of a bigger national perspective, how do you think the policymakers should make their decisions about what we do to decide who the winners and losers are in terms --

I'm always struck with the fact that the Chinese government has a plan. And somehow what we do is make decisions based on -- I don't know who has the biggest lobbying association or some of those other factors.

We are a nation, a nation that's built of Louisianans and New Mexicans and people from Maine. And how would you recommend that people move forward helping to maintain the

character that makes this country a place of different communities?

DR. KEITHLY: Madam Vice Chairman, I'm not sure you can maintain a status quo. As I did mention, the issue of trade involves winners and losers. One way which could at least help benefit the losers now that the Byrd Amendment money has run out is possibly compensation of the losers, at least in the short run, to help them find employment opportunities and retraining skills.

Again, I have no problems with the 200 percent duties on crawfish. That would provide significant income for retraining opportunities. It's an issue with Customs, though, in terms of collecting that money. And they may not be able to do it for whatever reason.

But the politicians or commissioners like yourselves are the ones that have to make the decisions on whether we should try to help the losers and -- or the gainers in this case. That's about all I can say. It's whatever weight you decide to attach to each of the groups is where you have to move.

VICE CHAIRMAN BARTHOLOMEW: Mr. Porche, any thoughts on that one?

MR. PORCHE: Maybe just to expand on his ideas a little bit. I think one of the real problems that we have, you know, a lot of people have talked about industrial policy. If this meeting was being held in the 1980s, we'd be talking about how the Japanese were going to take over. And nobody would be having that conversation right now. The Japanese engaged in a lot of industrial policy. And the Chinese are now as well.

One thing that we really failed to do is to invest in retraining of workers who are in their midcareer and trying to make a transition. You know, we simply just -- in the United States, one thing that I think we could really benefit from is investing more, not just in education as we normally think of it, K through 12, although that's very important, but utilizing education institutions like junior colleges to help people move from one industry to another, possibly to get their ship's captain's license or to learn how to work on an oil rig or something like that.

And, you know, there has been a lot of talk about industrial policy. You know, the Chinese, when they hold U.S. currency, it's in US-issued government bonds by and large. I mean, we've heard recently about sovereign wealth funds.

But one of the problems that we face as a government is that we fund our debt. You know, when we can't pay the

taxes, when we sell bonds essentially to raise funds, we're selling them to other governments.

And so, you know, if you're concerned about the Chinese holding all of this foreign currency, you know, they're holding U.S. government bonds. And so we might want to think about, in terms of policy, sort of large macroeconomic policy. Think about who's buying our bonds. And I'm not necessarily suggesting that you restrict who buys them. But perhaps we need to get our government spending in line with what we can afford.

VICE CHAIRMAN BARTHOLOMEW: Again, just one comment. And that is, we have communities across this nation, former manufacturing communities, you know, small towns in the Northeast that are trying to reinvent themselves, you know, with little boutiques and antique stores and art galleries. We have people who are trying all sorts of things.

I take notice you mentioned the cooking school. But how many of those kinds of boutique avenues can we sustain and sustain the living standard of the people of this country?

MR. PORCHE: Well, I mean, we're primarily a service economy today. I mean, we are not -- the United States has not been an industrial economy for, you know, 30 or 40 years. I mean, lawyers, you know, when we think about sort of where a legal practice or a doctor or an economist fits in, those are all services, by and large. You know, education is a service.

VICE CHAIRMAN BARTHOLOMEW: Many of which can be outsourced. Remember?

MR. PORCHE: Right. That's right. That's right. That's why I like being in a higher institution.

COCHAIR SLANE: Don't be so certain.

MR. PORCHE: Right. Certain self-serving purpose isn't there. But -- and it's important to be honest about that.

But, you know, the reality is that we, A, we don't invest in education, you know, education that gives people job skills to do things in this current economy. And we don't, in this country, invest in infrastructure, like bridges and roads, physical infrastructure.

You know, you're talking about industrial policy. And if you look at how hard it is to get sort of useful infrastructure built -- I mean, these are things that are really keeping us back. I mean, those are things if you want sort of broader policies, we need to invest more in education and we need to invest more in physical infrastructure.

VICE CHAIRMAN BARTHOLOMEW: Commissioner Wessel, second

round.

COMMISSIONER WESSEL: Thank you, gentlemen. Pursuing our earlier, my earlier line of questioning and, for the last two days, as I look at the witnesses from the industry that we faced, I see a lot of people who work hard, play by the rules, expect their government to stand by their side. And from the economic theory point of view, the economists, I see them being called losers.

I'm troubled by the way that the economists have put together their equations, if you will, as to what a loser and a winner is and whether the consumer benefit, in fact, is there.

Last year -- and I don't know whether you know Dr. Lawrence Chimerine who used to be chairman of Chase Econometrics. WEFA Econometrics, I believe, and may have been at one point the head of the American Economists Association -- released a study, an econometric study.

And one of the industries he studied was the shrimp industry, and was able to look at quote/unquote the consumer benefit, and found that for every dollar of cost from the shrimp tariffs, there was over \$50 of benefit to the community, benefit from the tax base that was not being diminished for the provision of services, payments that were being protected or not having to be offered in terms of welfare and other benefits.

Number one, I'd commend the study to you, but I'd also like your comments in terms of shouldn't we be looking at consumers? I think Commissioner Bartholomew pointed out earlier is also a producer. One who has to be -- their interests have to be gauged with many externalities and opportunity costs that I don't think classical economics looks at.

VICE CHAIRMAN BARTHOLOMEW: We recognize these are difficult questions that we're asking.

DR. KEITHLY: I don't even know where to begin on that one. Certainly consumers are producers. I would also certainly say that even classical economics considers the concept of externalities.

COMMISSIONER WESSEL: But as you've done your work, for example -- and we've had a discussion here about safety over the last several days. And, you know, fair trade is never meant, I don't believe -- or unfair trade laws, I should say -- are not meant to stop imports, but are designed to change the equation to make sure that products are fairly priced.

When we look at the externality, the question of food safety, for example, as imports increase, as product in

China increases, whether it's crawfish or any of the other products we've heard over the last couple of days, we see potential for increased health risks.

When I hear you talk about consumers, I only hear you talk about price. I don't hear you talk about what may happen from the health costs in our own economy. And all of those issues need to be factored in as we look at what the economic benefits and costs are to trade. And from the traditional, theoretical approach that I hear both of you taking, I don't see that.

DR. KEITHLY: Okay. I see what you're saying. I would argue, first of all, that certainly the FDA and Congress do have standards on seafood. The question is: Do the imported seafood products meet those standards? If not, then those products should be blacklisted. COMMISSIONER WESSEL: I have no argument with that.

DR. KEITHLY: -- someone has determined what the standards are and why it should be prohibited if it does not meet those standards.

Now, the issue of whether you can test for the standards, the issue came up this morning --

COMMISSIONER WESSEL: But let me stop you here, and I apologize. Because I want to get at the theoretical construct that both of you use as you do your equations. I agree with you. If it's harmful, it shouldn't be imported. Some of it is being imported.

So as you look at your equations and look at the reality of trade and not the theory, do your models include the costs of those -- let's just take the safety issue. Are you factoring those into your modeling?

DR. KEITHLY: Yes. Certainly a model would factor those costs.

COMMISSIONER WESSEL: In your work, have you included the costs of the safety issues? A thousand deaths last year CDC says in terms of --

DR. KEITHLY: Yes. Not with shrimp, but with, say, the oyster industry has roughly 20 fatalities a year from the domestic oyster industry. Or historically. It may have been reduced now.

But yes. I look at it from a cost benefit perspective on closing a part of the year from domestic harvesting. And the issue comes down: What are the costs of doing so versus the benefits. And part of the benefits reflect lives saved.

Now -- on the assumption that the consumers do not have perfect information. If they had perfect information, were willing to take the risk of consuming that product, that's fine. But, in general, consumers don't have perfect

information. And it would certainly be a cost -- death or fatality would be a cost which is taken into account in any good econometric model.

MR. PORCHE: I guess one thing I would say about the crawfish industry is that I do think safety concerns are legitimate. And they do need to be factored into a model.

Regarding the countervailing duty and the ITC's findings, though, they don't account for health concerns at all in any of their past decisions. You know, that's not the issue. And what my research really speaks to is -- and I want to be clear. I believe health concerns are a legitimate thing. But they are something for the FDA to deal with primarily in our bureaucratic structure.

But for the ITC, they weren't really factoring health concerns into their decision. And the basis of their decision of setting a countervailing -- countervailing duties aren't really designed to protect people's health and safety. You know, that's not the correct --

COMMISSIONER WESSEL: I'm not arguing that. I'm arguing only you're the loser, winner, and --

MR. PORCHE: Well, and I guess -- you know, this term "loser," I mean, I would never refer to any of my extended family as losers. Okay? We're talking about -- when we say "loser," we're talking about who's harmed specifically. We're talking about who's harmed by a policy decision. Because whatever political policy decision you make, there are going to be people who benefit and there are going to be people who are harmed.

And so when we use the term "loser" -- and I know it carries a certain connotation to it -- but we're talking about who is harmed. And the people that are harmed under the current decisions are seafood processors. And the people who benefit are consumers of seafood.

COMMISSIONER WESSEL: My time is up.

VICE CHAIRMAN BARTHOLOMEW: One clarification, though. Listening, I was just thinking in a lot of ways "losers" is an appropriate term when you talk about people who are losing their jobs. Sometimes they're losing their homes and they're losing their communities. They really are in a lot of places in this country losing in this.

Again, I'll commend to you the North Carolina Community College model. We had a very interesting hearing last year in North Carolina which has struggled a lot through these changes. And they have a very proactive community college model that as soon as they get notice of a plant closing, they move right in and they try to retrain.

Part of the problem is retrain for what? North

Carolina, like Louisiana, has very close-knit communities where people don't pack up and move someplace else where there may be opportunities.

When we were in Ohio a couple of years ago. I still remember someone saying Ohio's biggest exports is its young people because there are no futures for them there and no economic opportunities. And there are so many places in this country where it's happening.

I found myself at that point thinking well, where are those young people even moving to? Where is the land of opportunity here in the United States?

Enough of my lecture. Commissioner Mulloy, could you briefly summarize what your question was in your last one and give these men an opportunity to answer?

COMMISSIONER MULLOY: Thank you, Madam Chairman.

Let me build on winners and losers because I think the theory on what you're operating is that although there may be winners and losers in our economy, overall nations benefit from free trade and globalization. Is that the premise under which you're operating?

DR. KEITHLY: Yes, sir.

COMMISSIONER MULLOY: And that the nation will benefit even though that there may be losers. Is that your premise?

MR. PORCHE: I think for most trade theorists -- and please disagree with me if you want. But I think the consensus in economics is that when you reduce protection for some industry, a small group of individuals are harmed, but the society on the whole benefits.

COMMISSIONER MULLOY: Okay. Because we had a hearing where we looked at globalization. Ricardo's Theory, of course, on which this comparative advantage is based, is based on non-mobile capital. So that's a problem. We're running around based on a theory that applies to nonmobile capital.

So there's a new book out called Global Trade and Competing National Interests by Bill Baumol and Ralph Gomory in which they challenge the idea that all the nation states are going to be winners.

They're contending that nation states can be losers, not just people within nation states. That doesn't mean everybody in the nation state, but the nation state as a whole can be a loser from globalization.

DR. KEITHLY: Okay.

COMMISSIONER MULLOY: Chairman Bernanke -- by the way, I went to China for the first time in 1981. I like the Chinese people. They're hardworking. Nothing anti-Chinese. But I also like our people. Even though I'm not wearing an

American lapel pin, I like our people.

Here's my concern. Bernanke went to China. He's the chairman of the Federal Reserve Board. He's an economist. And he said in December of 2006 that China's underpricing of its currency acts as an export subsidy. In other words, it gives their exports a competitive advantage in our market.

Do you agree with Chairman Bernanke on that?

MR. PORCHE: I think his comments are probably slightly more nuance than that. I might be wrong about that, sir. But if the Chinese quit holding their -- let's say the Chinese got rid of all the dollars that they're holding, they quit -- they wouldn't -- they allow their currency to float. Let's just say the Chinese allow their currency to float.

COMMISSIONER MULLOY: I'm not asking that. No, no. The holding of the dollars by the Chinese government is because when the dollars come in there, they're earned. They don't let the people hold them. They require them to turn them in to the Central Bank for yuan. And then they give their people yuan. So then they don't want the dollars on the market because that would depress the value of the dollar. So they take those dollars and they buy U.S. government treasures, which also gives us a benefit in keeping interest rates lower than they would be otherwise when we're running these unbalanced budgets at home and permits us to finance the Iraq war without having a political group complaining that we're running higher interest rates.

So there's a benefit. There's a lot of things going on here. But what I want to ask you is Bernanke, he said it was an export subsidy. Do you guys agree?

DR. KEITHLY: I don't have any reason to doubt it if he says it.

COMMISSIONER MULLOY: Okay. So you would take it. And if we could show you the --

MR. PORCHE: Yes, sir. I mean, Bernanke is an economist of the first order.

COMMISSIONER MULLOY: Absolutely.

MR. PORCHE: I mean, he's -- well, he's one of the best monetary economists this country has.

COMMISSIONER MULLOY: Absolutely.

MR. PORCHE: And an expert subsidy, what that means is that I can go into the store or you can go into the store and buy things at a --

COMMISSIONER MULLOY: Cheaper.

MR. PORCHE: -- at a much lower price than you otherwise would. If the Chinese released all of their U.S.

currency holdings and began to hold Euros, for example, that means that almost everything you buy, other than things like housing, would be become extraordinarily expensive. And the political implications of that are very severe.

I mean, you know, if the price of everything in the United States went up by 20 or 30 -- I'm just speculating now -- but went up by 20 or 30 percent -- that's not a hard number. That's just complete speculation.

But if all their currency was released, you'd see the dollar, the value of the dollar fall precipitously. And the implication of that would be that just about anything you purchased probably from the suit you're wearing right now to any of the -- you know, a lot of the things you consume -- would rise dramatically.

COMMISSIONER MULLOY: One last comment.

MR. PORCHE: It's a two-way street.

COMMISSIONER MULLOY: Warren Buffet, again, said that he's betting against -- he wrote to his shareholders and said he's betting against the dollar because no country can run an \$800 billion current account deficit and have a strong currency.

And we see the dollar falling rapidly against, particularly, the Euro, because they don't prop it up. But it's not dropping as dramatically against the Asian currency because they prop it up for trade purposes. But it will. When it stops being propped up, it will drop dramatically against those currencies as well. Do you agree with that?

MR. PORCHE: Well, sir, the people that are harmed by the Chinese currency policy are Chinese consumers. I mean, what the Chinese are doing is they're making consumption in China more expensive.

COMMISSIONER MULLOY: Right.

MR. PORCHE: And they're making consumption for us less expensive.

COMMISSIONER MULLOY: But they're building producers.

MR. PORCHE: I mean, that's what's happening is that the Chinese are essentially -- they're causing their people to pay more for everything, and they're allowing us to buy our consumables at a much lower price.

COMMISSIONER MULLOY: Good.

VICE CHAIRMAN BARTHOLOMEW: Okay. We have two, Commissioner Slane and Commissioner Fiedler have follow-up questions that they want to ask. And Karl Turner, who has been patiently sitting in our audience for all of today and I think much of yesterday, who is a member of the public, would like to be able to address the Commission for five minutes before we close.

COMMISSIONER FIEDLER: I forfeit.

VICE CHAIRMAN BARTHOLOMEW: We have time. We actually have time. Commissioner Slane.

COCHAIR SLANE: I just have a quick observation. I believe that many Americans are oblivious to what is going on in China. And it seems to me that we react to their five-year plans. And they are telescoping to us what they are doing. I mean, and if we had looked at this closely, they are clearly expanding their aquaculture and directing it toward the export industry.

Do you two believe that it would have been -- it would be helpful if our government were to identify these areas and, early on, alert people in the shrimping and other fish industries?

DR. KEITHLY: Very good question, Commissioner Slane. In fact, I'd go beyond that. Many of the problems that we face in the natural fisheries now -- shrimp fishery, grouper fishery -- is the result of what I will call government inaction.

Historically, these fisheries have been what we call open access fisheries. Anyone could enter them when he wished. So when the price of grouper was high, individuals would enter the fishery.

It's tough to leave the fishery once you've invested so much capital, though. So fisheries tend to become very overcapitalized. Prices have fallen dramatically in shrimp. I think some other fisheries are going to see the same thing happening shortly.

Fishermen can't leave. So you've had a large reduction in profits and negative profits, certainly in the shrimp fishery in the recent years.

The government could have acted back in the early 1980s when it saw that the fishery was overcapitalized and it was on the horizon that China and other Asian countries were going to be producing shrimp, to begin to build in limited entry into the shrimp fishery, at least put a cap on the amount of effort, number of vessels in the fishery, and then possibly further actions after that that would limit entry in the fishery so that those -- or effort in the fishery so that those participants that were in the fishery could make a decent living.

As Mr. Williams said, until two years ago or so, they never even had a moratorium on the number of vessels that could fish in the EEZ. And it's really inaction by, in this case, the Gulf of Mexico Management Council, that has led to at least part of the problems that we see in terms of the large negative income being generated in that industry,

certainly with the very rapid decline in dockside price since 2001.

We would have had problems no matter what. But we've seen a declining dockside shrimp price and deflated terms since the mid-1980s when Ecuador first began exporting farm-raised shrimp and then followed shortly thereafter by the Asian countries.

So the government has not helped the process in terms of steering the fishermen or management's process in a manner that would be conducive to the harvesting sector in the long run earning a decent wage.

COCHAIR SLANE: I just wanted to thank both of you. It's been very, very helpful. We appreciate you taking the time to come down here.

VICE CHAIRMAN BARTHOLOMEW: Mr. Fiedler. No?

Okay. Gentlemen, it's an interesting closing panel for us. You can see we've been grappling with some of these bigger economic theories for quite a while. I hear Ecuador. I hear Vietnam.

I think one of the reasons that we're, of course, focused on China and we don't have an Ecuador, U.S., Vietnam commission on economic and national security issues is that the very nature of the size, the speed, the scope of China expansion -- I don't think anybody could have predicted it. That's what raises the questions about the fundamental economic theories. Will they hold, which is an interesting question to consider.

We thank you very much for your participation and for your forbearance with the questions that we have, and appreciate it and look forward to more contact with you.

PANEL VII: PUBLIC COMMENT PERIOD - OPEN MICROPHONE

I would like to recognize Mr. Turner. Since we're not set up for public comment today, I think if you just come up to the table and speak for five minutes, we'd love to hear what you have to say.

Thank you again.

MR. TURNER:

My name is Karl Turner. I'm president of a company called A La Carte Specialty Foods. My business partners and I own and operate three different companies here in Louisiana. We own a shrimp processing plant where we process Louisiana-caught shrimp.

We have a company, A La Carte Specialty Foods, which manufacturers and distributes value-added food productions. We recently completed one for domestic shrimp.

And we operate another company, Gulf Marine Products, which imports product, mainly crawfish.

Let me say that we have probably imported 300 containers of Chinese crawfish in the last three years or so. And it has all been inspected. And none has been found to be contain the banned substances that have been described here.

I would say that while this Commission and others have talked about a lot of different subjects, trade and economics and policy, clearly, the priority in the seafood industry is food safety. And this is a topic I've had -- in my past work, I've worked for about 14 years as the president and executive director of the Louisiana Seafood Promotion and Marketing Board. I have probably visited every seafood plant in the state of Louisiana. I visited lots of plants in China.

I would say that when we begin to get into this issue of whose seafood contains the worst substances, that everyone loses at one level in the industry. Clearly, no restaurant wants to serve unsafe seafood. No retailer wants to sell unsafe seafood.

And let me just, on the sidebar, suggest I happen to have in my briefcase this magazine. It's called "Grocery Headquarters, China Syndrome." It's the February 2008 edition. It talks very clearly about food safety and what needs to be done. And there are some recommendations in here by the Grocery Manufacturers Association of what they would like to see done in terms of working with FDA.

And indeed, they recommend the placing or the better cooperation, rather, between FDA and USDA and Chinese officials so that the seafood is, indeed, inspected at the source and that we are not reacting once it's found to be tainted here. So I think there's some validity to that premise.

Let me talk just a moment briefly as I flip through to my key page here. I'm going to hit a number of topics. Some have talked about the drop in the number of the shrimp vessels and the corresponding loss of jobs that have occurred as a result of imports and how that has impacted employment.

I would suggest, too, that when you look, for example, at the shrimp processing sector in this state and other Gulf states, that there has been very little, if any, investment in plant improvements in the past 25 years.

Why didn't they improve their plants? I don't know the answer to that question. But perhaps, you know, they saw that -- you know, I can't speculate. But I can say that all

the problems are not them. Some of us need to better evaluate the competition and perhaps figure out better ways to make our plants more competitive.

And I think that we've talked about subsidies. I mean, maybe there needs to be some way for our plants and our operations to be become more efficient in their operations because it's driven by labor costs. You cannot process crawfish without labor.

It's very difficult to get people to work to peel crawfish, to shuck oysters. And so the oyster industry has come up with some technological improvements that are taken from the other industries that open oysters using pressure as opposed to human labor. So that's one point.

Next is this whole issue of, you know -- this is not a popular -- and I'm not going to run for candidate or any office here. But, we have a shrimp policy in the state of Louisiana that was established in 1930. It was that the shrimp season would open when 50 percent of the shrimp caught in the test trawl is at a hundred count. That means it's a tiny shrimp. We're the tiny shrimp capital of the world.

And it was done when we had a lot of shrimp canneries. We don't have any more shrimp canneries. We still manage shrimp based on a 1930 policy. You can catch fewer shrimp that are larger that have a higher value. But you have more employment this way. It's a populace approach, I guess.

So when we talk about the loss of the vessels and the reduction in effort, we should ask this question: Since Katrina -- and a lot of boats were lost -- have we actually reduced the harvest of shrimp in Louisiana? There are fewer shrimpers catching the same amount of shrimp, probably working harder, but making more money because there was a need for a limited entry program a long time ago, which I think Dr. Keithly was alluding to.

So, in closing, we need to find ways to manage our fisheries better and to make our plants more efficient, because labor isn't cheap. And it's very difficult to obtain labor to do those types of jobs.

VICE CHAIRMAN BARTHOLOMEW: Mr. Turner, thank you. I would note for the record that we tried to get somebody from the Grocery Manufacturers Association to come and testify in front of us. We tried several other trade associations, and they declined.

MR. TURNER: All right.

VICE CHAIRMAN BARTHOLOMEW: Could leave that magazine with us?

MR. TURNER: You can have it.

VICE CHAIRMAN BARTHOLOMEW: Thank you.

MR. TURNER: It's my contribution.

VICE CHAIRMAN BARTHOLOMEW: Thank you very much and thank you for adding some final thoughts. They're very interesting. We appreciate it.

MR. TURNER: All right. Thank you.

VICE CHAIRMAN BARTHOLOMEW: Thank you. Again, thank you to everyone. Our hearing is adjourned. We'll get the transcript up on the Commissioner's website as soon as we can, and we'll be considering this for our report to Congress.

(WHEREUPON, AT 1:19 P.M., THE HEARING WAS ADJOURNED)