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My name is John Williams and I am here as the Executive Director of the Southern Shrimp Alliance ("SSA").[1] I have over 30 years of experience in the shrimp industry. After starting as a deck hand working aboard shrimp boats in North Carolina, my wife Kathleen and I now operate a small shrimping business in Tarpon Springs, Florida. Like the rest of my industry, shrimping is more than a business to me, it is a way of life. Shrimping is a proud tradition that has defined and sustained entire seaside communities throughout the South. But our way of life is threatened by unfair trade and contaminated shrimp imports, particularly from China. I appreciate the opportunity to testify today on the devastating impact that Chinese shrimp imports have had on the Gulf Coast shrimp industry, as well as the health risks posed by imported Chinese shrimp, which often can be contaminated with banned antibiotics, pesticides, and common filth.

The SSA, founded in 2002, is a non-profit alliance of the hard-working men and women of the U.S. shrimp industry. We are the national voice for shrimp fishermen and processors in eight states: Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. Confronted by unfair trade, our industry united to stop the injury caused by dumped imports and today we remain committed to preserving the integrity of our nation's fair trade laws and the safety of our nation's shrimp supply.

Wild-caught American shrimp is premium-quality seafood caught by American shrimpers and delivered fresh to local docks. Because they are grown naturally in oceans, there is no need nor is there any economic incentive to use antibiotics or pesticides on wild-caught American shrimp. People who eat wild-caught American shrimp can be assured that their shrimp meets the standards for U.S. quality and safety.

The same cannot be said for imported shrimp. Farm-raised in crowded and dirty ponds, with almost no quality control, imported Chinese shrimp develop in poor sanitary conditions, in ponds with high feces concentrations, banned antibiotics, and toxic chemicals.[2] As a result, such imported shrimp often contain the same harmful antibiotics, pesticides, salmonella, and filth.

Domestic shrimp producers do not want to stop free trade nor do we want special treatment, we just want a fair deal. On a level playing field, there is no stopping the hard-work and dedication of U.S. shrimp fishermen. What we cannot effectively compete against is the blatant disregard of fair trade principles and food safety standards.

I. China's Unfair Trade Practices Have Devastated the Domestic Shrimp Industry and Threatens the Food Safety and Integrity of the U.S. Shrimp Supply

The flood of cheap Chinese shrimp imports is caused in part by factors related to production, which includes (1) subsidies to Chinese shrimp producers; (2) the use of banned pesticides, antibiotics, and other harmful substances to artificially increase production yields in over-crowded shrimp ponds; and (3) compromising environmental standards for increased shrimp production.

A. Unfair Subsidies to Chinese Shrimp Producers

Despite claims that China will soon become a net importer of shrimp, China's shrimp aquaculture industry remains one of the main beneficiaries of government support. China's Ministry of Agriculture fosters the development of China's shrimp and overall fisheries industry through a variety of means, including by setting broad development goals in its five-year plans, and otherwise through specific measures issued in support of that plan. Separately, leading shrimp-producing provinces, such as Guangdong, institute their own development programs for the fisheries industry.[3]

In 2006, China issued the *11th Five-Year Plan for Nationwide Fishery Development*, which set target growth rates for export-oriented fishery products for the period 2006 to 2010.[4] The plan highlights the importance of shrimp exports, stating that China "shall further accelerate the development of export-oriented farming areas for advantageous varieties including eel, shrimp, tilapia, large yellow croaker . . . ." [5]

The 11th Five-Year Plan extols China's fisheries export achievements during the previous plan period and sets a goal of 9.3 percent annual increases in exports of aquatic products through 2010 in terms of volume, and 8.8 percent annual increases in terms of value, bringing Chinese fisheries exports to a projected $12 billion in 2010, as against $7.8 billion in 2005.[6] Of this, China hopes to process 17 million tons for export and to establish 30 zones specifically for the purpose of processing aquaculture products for export.[7] To achieve these goals, the Chinese central government has spent approximately $652 million dollars from 2000 to 2005.

In addition, the 11th Five-Year Plan states that the Chinese government will continue to provide individual subsidies on a forward-going basis toward the goal's overall objectives:

> Continue to implement subsidy policies to transform offshore fishing activities . . . support fleet renovation, adjustments to operating methods; implement import tax exemption policies for aquaculture larvae, actively implement a special projects support policy for better aquaculture larvae and offshore fishing, and increase the competitive capability of industrial development.[8]

One of aforementioned subsidy policies is a processing trade tariff and value-added tax ("VAT") policy. The government of China is said to view the processing trade as an advantageous industry worthy of support due to its role of generating new employment.[9] The government currently provides for complete exemption of import tariff and VAT for imported aquatic products in China if the end product is then re-exported.

B. Use of Banned and Harmful Substances in Shrimp Aquaculture Production

Many Chinese producers of farm-raised shrimp have an economic incentive to use banned pesticides and antibiotics to artificially increase production yields in over-crowded ponds. As the Association of Official Agricultural Chemists found regarding the use of banned antibiotics and fungicide in foreign shrimp aquaculture farms:

> Small-scale shrimp farming has been in use for centuries, but it only produced about 400 pounds per acre. The large current demand has led to development of "intensive shrimp cultivation," which produces huge numbers of shrimp in pens—up to 89,000 pounds of shrimp per acre. Where traditional shrimp farms were self-sustaining, pressures from crowding have caused diseases to threaten entire farms of shrimp.
>
> Some of the bacteria that flourish in these tropical pens are *E. coli, Vibrio parahaemolyticus, V. cholerae, and V. vulnificus*, reason enough to want to use antibiotics. But human risk is not the only reason; disease frequently wipes out entire shrimp farms. Producers react to diseases by treating their pens with antibiotics and pesticides, saving the shrimp but leaving residues in the exported product. Rampant use of antibiotics, however, ensures that any bacteria remaining in exported products are likely to be resistant.[10]

Beginning in August 2007, shrimp imported from China has been subject to an Import Alert issued by the U.S. Food and Drug Administration ("FDA") because of repeated findings of concentrations of prohibited antibiotics and harmful substances in the shrimp exported from China.[11]

C. The Environmental Impact of Shrimp Aquaculture Production

The rampant use of banned substances in foreign shrimp aquaculture production also has had a devastating impact on the surrounding environment and the people working in these aquaculture farms. The Environmental Justice Foundation found that the "impacts of shrimp farming range from wrecked mangrove forests and decimated wild fish stocks to pollution- and disease-prone coastal communities." The group also found that:

> [P]esticides are often highly toxic to aquatic wildlife which can lead to bioaccumulation in the food chain. Antibiotics, which are often heavily and inappropriately used due to fears of disease, affect natural bacterial activity and can cause development of antibiotic-resistant pathogens . . . . These impacts are exacerbated by the removal of mangroves and other wetlands, which act as filters of pollutants.[12]

II. The Ineffectiveness of the FDA Has Encouraged the Diversion of Contaminated Shrimp Imports to the United States

Compounding the problem of overproduction is the laxity of the FDA's food safety controls relative to the stringent imported food safety regimes of other major importing markets, which creates irresistible incentives for exporters to ship unsafe seafood products to the United States.

The truth is that the FDA's regulatory oversight of imported seafood lags substantially behind those employed in other major importing countries (and the oversight of the U.S. Department of Agriculture). Simply put, the FDA is broken. The essence of the FDA's approach to imported food safety is to accept unverified representations of importers who have repeatedly disregarded the safety of American consumers. The FDA does not require foreign government or foreign producer equivalence as a condition of entry into the United States. In the absence of equivalence agreements or certifications, the FDA "relies solely on point-of-entry inspection."[13] Such inspections cover approximately 1 percent of all FDA-regulated imports.[14]

A. Food Safety Regimes of Other Major Importing Countries and the USDA

In stark contrast to the FDA, Canada, Japan, the European Union ("EU"), and even the U.S. Department of Agriculture ("USDA") in its oversight of meat, poultry and egg imports, all do significantly more to protect consumers than the FDA does to safeguard the American public.

The EU guarantees equivalence by conducting on-site inspections and certifying exporting countries and individual exporters prior to importation of a product. Stringent follow-up inspections are conducted both at the EU's border, currently 20 percent of imported seafood products are inspected, and regularly at the exporters' facilities.[15]

Japan has a strict risk-based system that is reinforced by high inspection rates -- currently 25 percent for shrimp imports -- as well as certification requirements and significant penalties for non-compliance.[16]

Canada imposes a minimum standard inspection rate of 15 percent for all imported seafood products and strict licensing requirements for importers.[17]

For USDA-regulated food imports, equivalence is a prerequisite for import into the United States. Equivalence is verified through foreign on-site inspections and every import is inspected at the U.S. port of entry.

The SSA, in its written comments to the Presidential Interagency Working Group on Import Safety, has provided additional in-depth discussion of the import food safety regimes of the EU, Japan, Canada, and the USDA. The SSA's comments can be found at: http://www.shrimpalliance.com/Press%20Releases/Comments%20to%20Interagency%20Working%20Group.pdf.

B. Diversion of Contaminated Shrimp Imports to the United States

As a result of the FDA's relative laxity, there is an incentive for foreign producers to direct clean product to those stringent markets and divert contaminated or likely contaminated product to the United States, where chances are approximately 1 in 100 that the import will even be inspected.

The domestic shrimp industry is painfully familiar with the perverse incentives that the FDA's food safety regime has created in this market. In November 2001, a routine on-site inspection of Chinese production facilities by EU officials "revealed serious deficiencies of the Chinese residue control system and problems related to the use of banned substances in the veterinary field."[18] In addition, EU border inspection officials found repeated shipments of Chinese shrimp imports contaminated with chloramphenicol.[19] As a result, the EU banned all shrimp imports from China in January 2002.[20] Following a 30-month ban of Chinese shrimp imports, in July 2004, the EU agreed to recertify Chinese shrimp imports only after the Chinese government agreed to guarantee 100 percent testing and compliance with EU food safety standards.[21]

As a direct result of the EU's 30-month ban, shrimp exports from China were diverted from the EU market and flooded the U.S. market. As Chinese exports of shrimp to the EU fell, shrimp exports to the United States exploded, leading to a 30 percent increase of Chinese shrimp exports to the United States from 2002 to 2003.[22] The magnitude of this increase overwhelmed the U.S. market. For some perspective, in 2000, Chinese shrimp imports totaled 38.6 million pounds. In 2001, this total increased to 59.4 million pounds. In 2002, total Chinese shrimp imports jumped to 105.4 million pounds, and by 2003, total Chinese shrimp imports reached a high of 169.1 million pounds.[23] At the same time, import prices plunged. Appendix A shows the impact of the EU's ban of Chinese shrimp imports on the U.S. market.

The influx of Chinese shrimp imports began to abate only when the U.S. domestic shrimp industry filed an antidumping petition to seek relief from these dumped imports. The domestic shrimp industry successfully sought trade relief on dumped shrimp imports and, in consequence, total import volumes from China have decreased. In 2004, total Chinese shrimp imports to the United States decreased to 124.8 million pounds, and the total amount of shrimp imports from China have since become more stable.

III. Unfairly Traded, Contaminated Chinese Shrimp Imports Injures the Domestic Industry and Harms Consumers

Despite the stabilization of import volume from China, the damage to the domestic shrimp industry has already been done. U.S. shrimpers and processors, no longer able to make ends meet because of the flood of traded imports, have had to close up shop. In a domino effect, the families, local businesses and the communities that depend on shrimping are also facing serious financial difficulties.

It is the right of informed U.S. consumers to make a choice to purchase shrimp based on the lowest price and consciously to decide to assume the health risks of consuming imported pond-raised shrimp that may well be contaminated with dangerous and banned substances. However, many U.S. consumers are put at risk when they believe they are eating "domestic" shrimp that has been unscrupulously substituted with imported, pond-raised shrimp.

A. Injury to the Domestic Shrimp Industry

From the beginning of the flood of Chinese shrimp imports, the domestic shrimp industry has pursued self-help strategies to deal with changing market conditions. The industry sought and won relief against dumped imports. The industry has also established and found funding for an organization to develop a niche market for wild-caught domestic shrimp, the Wild American Shrimp, Inc. Although these measures have assisted the industry, they have not entirely removed the imminent threat to the industry's survival.

The International Trade Commission ("ITC") found that the vast majority of shrimp fishermen incurred net losses in 2004, while a minority of fishermen had posted losses in 2001. Not surprisingly, employment in the industry declined sharply from 2001 to 2004. Trade relief came not a moment too soon in 2005 when the ITC found that the domestic shrimp industry was materially injured by dumped imports and the U.S. Department of Commerce ("Commerce") issued antidumping duty orders. After successfully prosecuting the shrimp case, antidumping duties were imposed on frozen shrimp from six different countries, including China.

While the antidumping duties imposed appear to have arrested the sharp increase in import volume and decline in import prices, the prices received by shrimp fishermen at the docks has not reflected the same price recovery seen in shrimp sold on the wholesale market.

In addition, fuel price increases severely limited the benefit the industry received from the antidumping orders. In December 2003, when the shrimp industry filed a petition for trade relief, diesel prices had fluctuated around $1.50 per gallon going back to 2000. The ITC found that by the first half of 2005, fuel and oil costs accounted for 33.8% of shrimpers' total costs. Fuel prices, however, have continued to rise. Prices for fuel in October 2007 ($3.41) were well over double what they were in January 2000 ($1.31). In result, shrimp fishermen are caught in a severe cost-price squeeze where their operational costs continue to spiral upwards and low-priced import competition prevents the industry from recovering those increased costs through an increase in sales prices.

B. Harm to U.S. Consumers

As the EU ban on Chinese shrimp imports showed, when other major seafood importing markets are closed to contaminated seafood exports, those exports are re-routed to the United States.

The health risks posed by the banned and harmful substances often times found in imported shrimp have been well publicized. For example, one of the contaminants found in imported shrimp is the antibiotic chloramphenicol, which has three known potential human health risks even if exposure to it is only at low dietary levels: (1) aplastic anemia, (2) carcinogenicity, and (3) reproductive toxicity.[24] As the FDA warned, "[c]oncern for these three health risks currently exists at all levels of exposure."[25] As such, under FDA regulations, chloramphenicol cannot be present in any level in food.

As publicity regarding the harmful effects of chloramphenicol has increased, some aquaculture shrimp producers have converted to using nitrofurans, an antibiotic that has long been recognized

by the FDA and other organizations as a dangerous carcinogen and is prohibited for use in food-producing animals, and other banned antibiotics.[26]

Compounding these health risks is the problem of species substitution of wild-caught domestic shrimp with farmed-raised imported shrimp. Imported shrimp is frequently passed off as domestic shrimp, meaning that consumers are exposed to the health risks created by imported shrimp while believing that they are purchasing a wholesome, domestic wild-caught product.

Species substitution means that U.S. consumers are exposed to the health risks of imported shrimp without any choice. Instead of obtaining the better taste and health benefits that they might otherwise receive from consuming wild-caught American shrimp, consumers obtain bland pond-raised shrimp that may be contaminated with harmful substances, all the while thinking they are purchasing a domestic product. Consumers also suffer economic harm because of species substitution in that they are sold a low-cost, inferior product -- imported pond-raised shrimp -- at prices that reflect the value of the premium product supplied by U.S. shrimp fishermen.

For the domestic shrimp industry, rampant species substitution at both the retail and restaurant level presents a significant obstacle to creating a niche market for domestic wild-caught shrimp. The failure to effectively regulate unsafe imported shrimp undermines consumer confidence in the entire shrimp market. Deceptive marketing practices and insufficient country-of-origin labeling on seafood products places the burden on consumers to find credible information on the sources of their shrimp.

IV. Challenges to the Effective Enforcement of U.S. Fair Trade and Food Safety Laws

Just when our industry began the recovery process from the injury caused by dumped Chinese shrimp imports, we have had to contend with the repeated efforts of Chinese exporters to circumvent U.S. fair trade laws by transshipping Chinese-produced shrimp through other countries in order to evade antidumping duties.

A. Transshipment of Chinese Shrimp Imports

After the imposition of the antidumping orders on shrimp, U.S. Customs and Border Protection ("Customs") found substantial shifts in import patterns that suggested transshipment of shrimp to circumvent high tariffs imposed on shrimp from China. Customs officials subsequently visited plants in Indonesia and confirmed that three Indonesian exporters were labeling Chinese shrimp as Indonesian shrimp to circumvent the antidumping orders. Customs found that 54 different importers were responsible for bringing in over $58 million in mislabeled shrimp product to avoid payment of $65 million in antidumping duties.[27]

Now, we are finding similar trends with Malaysia and Mexico. After imposition of the antidumping orders, Chinese exports of shrimp to Malaysia increased significantly. Concurrently, U.S. imports of “Malaysian” shrimp show a similar increase. The Malaysian government has even acknowledged Chinese transshipment efforts.[28] In Mexico, Chinese imports have also increased significantly, and there are unexplained discrepancies between Chinese export data and Mexican import data.

Transshipment of Chinese shrimp is particularly attractive as it avoids both antidumping duties and the FDA's Import Alert regarding contaminated Chinese farm-raised shrimp.

B. Circumvention of U.S. Antidumping Orders Through the Use of the "Dusted" Shrimp Exclusion

In addition to transshipment concerns, the domestic shrimp industry has had to deal with the abuse of an ill-conceived exclusion to the antidumping orders granted by Commerce. In the first of many baffling decisions that Commerce has taken to weaken the trade relief that the U.S. shrimp industry is entitled to under our trade laws, Commerce carved so-called "dusted" shrimp out of the scope of the orders.[29] The definition of "dusted" shrimp was intended as a narrow and specific exclusion to the antidumping orders.

However, foreign shrimp producers and Chinese shrimp producers, in particular, are using this exclusion as a means of circumvention by falsely claiming that their products meet all of the criteria for the exclusion. Shortly after the exclusion was granted, massive volumes of purportedly "dusted" shrimp from China flooded the U.S. market.

C. Undercollection of Antidumping Duties

The domestic shrimp industry along with other U.S. food production industries has experienced significant problems collecting duties on previous antidumping orders on food imports. While the shrimp industry has benefited from an enhanced continuous bonding program implemented by Customs on shrimp imports to help guarantee that assessed antidumping duties would be collected, other domestic industries continue to suffer with severe undercollection rates of antidumping duties. For example, over the last five years, Customs has reported that nearly 95 percent of the antidumping duties, totaling hundreds of millions of dollars, assessed on crawfish imported from China have been uncollected. A chart of the undercollection rates of antidumping duties assessed on several agriculture/aquaculture imports can be found at Appendix B.

Customs' enhanced continuous bonding program for shrimp imports, however, has been criticized by the World Trade Organization and may be eliminated by the United States. Termination of the program, however, will likely lead to massive under collection problems on antidumping duties assessed on shrimp imports.

D. Ineffectiveness of the FDA's Memorandum of Agreement with China

On December 11, 2007, the FDA and China's General Administration of Quality Supervision, Inspection and Quarantine ("AQSIQ") entered into a memorandum of agreement ("MOA"), which, among other provisions, required the AQSIQ to certify whether export shipments of aquaculture products, including shrimp, is in compliance with U.S. food safety standards.[30]

Despite the promises of positive reform, the MOA is essentially toothless. Fundamentally, the MOA lacks transparency to allow the public, including domestic industries, to evaluate whether U.S. food safety is actually improved by the MOA.

In addition, certification by AQSIQ is not a prerequisite for entry into the United States nor does it appear to be a prerequisite for export from China. The United States has only committed to "explore finding a mechanism to notify AQSIQ" about certain Chinese products not accompanied by an export certificate.[31] As of April 2008, four months after the signing of the MOA, the FDA is still awaiting final approval from the Chinese government on the opening of U.S. FDA's office there. FDA officials expect to "begin work" on such offices in May 2008, although the official opening of a FDA office in China is not expected until October 2008.[32]

E. Port Shopping of Contaminated Imports

Another example of the FDA's ineffectiveness to safeguard our nation's food supply is its blatant refusal to prevent unscrupulous importers from "port-shopping" contaminated food imports into the U.S. market.

The FDA does not require imports to be physically quarantined for inspection or testing prior to entry into the United States, which allows "importers to take possession of even highly suspect goods and arrange for their testing by private laboratories."[33] Even imports subject to an FDA import alert are not physically quarantined and may be delivered straight to importers.[34] In the interim, there is ample time for product to slip into the U.S. market. Reviewing the FDA's administration of its food safety program, the U.S. Government Accountability Office found that it takes an average of 348 days for the FDA to notify port-of-entry officials of a rejected import shipment.[35]

While the USDA clearly marks all rejected shipments "United States Refused Entry" and tracks all shipments through its database system, the FDA does not have any marking requirements nor does it otherwise have any procedures to prevent importers from sending rejected shipments to other U.S. ports, or "port-shopping" rejected imports. Congress explicitly gave the FDA the authority "to require the marking of refused food" in the Bioterrorism Act of 2002, [36] but to date, the FDA has yet to use this authority or issue final regulations.[37]

In the absence of effective FDA enforcement, there is nothing to stop shippers, like the company advertising in SeaFood Business (Appendix C), from importing rejected products through other ports -- in this country or elsewhere -- with no disclosure of the harmful nature of the product.

F. Unequal Enforcement of U.S. Food Law between Domestic and Foreign Shrimp Producers

In further proof of the inability of the FDA to effectively ensure the food safety of our nation, the FDA has imposed an inspection rate on domestic shrimp producers that is significantly higher than that imposed on foreign shrimp producers, despite the fact that imported shrimp accounts for 90 percent of the shrimp consumed in the United States.

Fundamentally, U.S. producers and foreign producers are required to demonstrate Hazard Analysis and Critical Control Point ("HACCP") compliance and adherence to U.S. food safety standards. But, while the FDA conducts frequent and systematic on-site inspections of domestic production facilities, foreign facilities are rarely inspected.

According to the FDA's budget summary for fiscal year ("FY") 2006, the FDA conducted approximately 2,480 inspections of domestic fish and fishery products facilities for HACCP compliance.[38] The FDA has regulatory responsibility over "approximately 210,000 food establishments."[39] Even though the same number of foreign establishments -- 210,000 foreign food establishments -- are registered to export food to the United States, the FDA made only about 200 inspections for FY 2006 for all foreign food production facilities, from vegetable growers to seafood producers, and estimates that it will make approximately 100 foreign inspections in FY 2007.[40]

G. Ineffective Enforcement of U.S. Fair Trade Laws

In addition to challenges from foreign producers and the FDA, perhaps the greatest threat to the U.S. shrimp industry is the refusal of Commerce to effectively enforce the trade relief obtained by our industry. For example, Commerce has made a series of inexplicable and faulty decisions – including decisions on multinational corporations, non-market economies, and respondent selection – that have favored foreign shrimp exporters to the severe detriment of the domestic shrimp industry.

V. SSA Recommendations to Improve the Food Safety of Chinese Shrimp Imports

The implication that the SSA seeks more stringent regulations on imported shrimp than on wild-caught domestic shrimp is a fundamental misrepresentation of our position. As the materials posted on our Web-site (www.shrimpalliance.com) make clear, one of the SSA's basic proposals is the principle of equivalence, meaning that the regulatory controls applied to domestic production should be applied equally to imported shrimp.

The SSA has created an 11-point proposal for legislative reform that would bring the FDA in line with our international counterparts and significantly improve the safety of imported seafood in the United States. The proposal incorporates the following four fundamental principles:

> **Demonstrated Equivalence**: Exporting countries and foreign producers must be subject to certification of equivalence with U.S. food safety standards, foreign on-site inspections and revocation of exporting privileges for repeated food safety violations;
>
> **Inspection and Testing**: Mandatory minimum inspection testing rates must be imposed at U.S. borders, with testing increased as problems are detected;
>
> **Enforcement**: The FDA must impose significant penalties for noncompliance with U.S. food safety standards; and
>
> **Multilateral Cooperation**: Increased multilateral cooperation with other major seafood importing countries.

For additional information, please visit http://www.shrimpalliance.com/Press%20Releases/10-16-07%20FDA%20Reform%20Proposals.pdf.

Thank you for allowing me to testify today.

Endnotes

[1] For additional information about the SSA's food safety efforts and other issues, please visit http://www.shrimpalliance.com/.

[2] See Global and Local: Food Safety Around the World, Center for Science in the Public Interest, pp. 14-16 (June 2005); "Chicken from China?," BOSTON.COM (May 9, 2007) ("In China, some farmers try to maximize the output from their small plots by flooding produce with unapproved pesticides, pumping livestock with antibiotics banned in the United States, and using human feces as fertilizer to boost soil productivity. But the questionable practices don't end there: Chicken pens are frequently suspended over ponds where seafood is raised, recycling chicken waste as a food source for seafood, according to a leading food safety expert who served as a federal adviser to the Food and Drug Administration.") (emphasis added).

[3] "The 11th Five-year Plan for Fishery Development in Guangdong Province," Guangdong Province Government, December 20, 2006.

[4] "11th Five-Year Plan for Nationwide Fishery Development (2006-2010)," Ministry of Agriculture Nong Yu Fa [2006] No. 37, November 7, 2006. The 11th Five-Plan states:

First: To continue to accelerate advantageous regional allocation of aquatic farming for export. Fully utilize regional, industrial and scientific and technological superiority to develop regional allocation for farming large amounts of superior aquaculture products; give priority to develop farmed aquaculture products superior for export, and build and strengthen large and strong industrial belts appropriate for export.

Second: To actively promote healthy farming technology and develop ecological fishery and facility fishery. Promote transforming the traditional farming methods, heavily advance standards building in farming regions, promote healthy farming technology and ecological farming models, decrease the density of farming seaside, develop wind and wave-resistant deep water cage farming, expand deep water farming territory, and heavily promote facility fishery.

Third: To solidify and upgrade industrial belt [areas] for processing. Reform and upgrade the processing industry in accordance with international standards, support a group of leading processors, encourage research and develop intensive processing technology of aquaculture products with IPR, and create indigenous brands.

Four: To strengthen measures protecting aquaculture species resource. Improve all systems and law enforcement means for fleet management and fishing management, accelerate promoting energy-saving technology for fleets, guide fishermen fishing seaside to transform their activities, and actively develop offshore fishing.

[5] Id. at 16.

[6] Id. at 14.

[7] Id. at 13.

[8] Id. at 32.

[9] US Department of Agriculture, China People's Republic of China, Fishery Products Annual 2007, December 31, 2007, p. 14.

[10] "The Seafood Initiative: Doing the Right Thing," Association of Official Agricultural Chemists available at http://www.aoac.org/ILM/may_june_07/seafood.htm (emphasis added).

[11] In September 2007, Chinese seafood exporter Zhanjiang Guolian Aquatics Products Inc. ("Guolian") became the first Chinese exporter to seek and gain exemption from the FDA's import alert on farm-raised seafood products from China. Guolian's exemption has been touted as a roadmap from which future Chinese exporters may gain unrestricted and unchecked access to the U.S. market. Such trust in exporter certification and unaccredited testing results without adequate U.S. oversight is completely misplaced.

On October 19, 2007, approximately one month after Guolian was cleared from the FDA's import alert, the Canadian Food Inspection Agency ("CFIA") issued a specific import alert on Guolian after detecting banned nitrofurans in Guolian's products. Under the CFIA's import alert system, imports from Guolian are subject to 100 percent inspection by the CFIA until four consecutive shipments are found to comply with Canadian requirements. Testing results must be issued by the CFIA or accredited and licensed private laboratories.

"Import Alert: Zhanjiang Guolian Aquatic Product Co.," Canadian Food Inspection Agency (Oct. 19, 2007) available at http://active.inspection.gc.ca/.

12 "Shrimp's Success Hurts Asian Environment, Group Says," NATIONAL GEOGRAPHIC NEWS (Dec. 20, 2004) (discussing the Environmental Justice Foundation's "concerns over the levels of antibiotics, disinfectants, fertilizers, pesticides, and other chemicals used by shrimp farmers to maximize profits and combat disease.").

13 Importing Meat, Poultry & Egg Products into the United States, USDA Food Safety and Inspection Service (Dec. 2003).

14 FDA's Imported Seafood Safety Program Shows Some Progress, But Further Improvements are Needed, U.S. General Accounting Office, Report to Congressional Requesters, GAO-04-246, p. 3 (2004); Diminished Capacity: Can the FDA Assure the Safety and Security of the Nation's Food Supply - Part 2, Hearing before the Subcomm. on Oversight and Investigations of the H. Comm. on Energy and Commerce, 110th Cong., p. 2 (July 17, 2007) (Statement of David Nelson, Senior Investigator) ("David Nelson Testimony").

15 See EU Import Conditions for Seafood and Other Fishery Products, Directorate-General of Health and Consumer Protection, European Commission.

16 See Handbook for Agricultural and Fishery Products Import Regulations, Japan External Trade Organization (Dec. 2005).

17 See Guide to Canadian Regulatory Requirements and Examination Procedures for Imported Fish, Canadian Food Inspection Agency; L. Ababouch, G. Gandini & J. Ryder, Causes of Detentions and Rejections in International Fish Trade, Food and Agriculture Organization of the United Nations, FAO Fisheries Technical Paper 473, pp. 21-22 (2005) ("2005 FAO Fisheries Paper").

In addition, Canada conducts "specialized testing" at a rate of "5 to 15 percent, depending on the product history and nature of the product." 2005 FAO Fisheries Paper at p. 22.

18 "EU Standing Veterinary Committee agrees on suspension of imports of products of animal origin from China," Press Release, European Commission, IP/02/143 (Jan. 28, 2002).

19 Id.

20 Id.

21 "EU eases food imports from China after significant improvements in veterinary standards," Press Release, European Commission, IP/04/943 (July. 16, 2004).

22 "Chinese Exports to the United States: January 1999 to January 2005," DIALOG TRADSTAT (2007).

23 U.S. Census Bureau, IM-145.

24 Letter from the U.S. Food and Drug Administration to Olsson, Frank, and Weeda, P.C., Re: 02P-0321, p. 17 (Jul. 29, 2003); see also 21 C.F.R. § 530.41 (2007).

25 Id.

26 Tropical Nitrofurans; Extralabel Animal Drug Use; Order of Prohibition, 67 FED. REG. 5470 (Feb. 6, 2002).

27 Declaration of Bruce W. Ingalls, Chief of the Debt Management Branch in the Revenue Division of the Office of Finance, National Fisheries Institute, Inc. v. United States, Court No. 05-00683 (Mar. 9, 2006). According to CBP officials, importer members of the National Fisheries Institute were responsible for "approximately 50%" of the volume of this transshipped shrimp. Id. at p. 4.

[28] "Local Link Used To Evade Prawn Anti Dumping Tariff, Says Muhyiddin," MALAYSIAN NATIONAL NEWS AGENCY (July 11, 2006) available at http://www.bernama.com.my/bernama/v3/news.php?id=207602.

[29] See, e.g., Certain Frozen and Canned Warmwater Shrimp from India, 70 Fed. Reg. 5147, 5148 (Feb. 1, 2005) (Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order).

[30] Agreement Between the Department of Health and Human Services of the United States and the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China on the Safety of Food and Feed (Dec. 11, 2007).

[31] Id. Annex § II(A).

[32] "Around the Globe," WASHINGTON TRADE DAILY (Apr. 16, 2008).

[33] David Nelson Testimony at p. 2.

[34] Import Program System Information, U.S. Food and Drug Administration, Office of Regulatory Affairs (last updated May 17, 1999) ("When a sample of an article offered for import has been requested by FDA, the owner or consignee shall hold the shipment and not distribute it until further notice is received regarding the results of the examination of the sample.").

[35] FDA's Imported Seafood Safety Program Shows Some Progress, But Further Improvements are Needed, U.S. General Accounting Office, Report to Congressional Requesters, GAO-04-246, p. 5 (2004).

[36] Implementation of the Food Security Provisions of the Public Health Security and Bioterrorism Preparedness and Response Act, Pub. L. No. 107-188, § 308 (2002).

[37] Implementation of the Food Security Provisions of the Public Health Security and Bioterrorism Preparedness and Response Act, Hearing before the H. Comm. on Energy and Commerce, 108th Cong. (2004) (Statement of Lester M. Crawford, Acting Commissioner, Food and Drug Administration).

[38] FDA FY 2007 Budget Summary: Consolidated Narrative, Program Activity Data, Office of Management, Budget Formulation and Presentation (2007) available at http://www.fda.gov/oc/oms/ofm/budget/2007/HTML/1Foods.htm.

[39] Id.

[40] Id.