

Testimony before the U.S.-China Economic and Security Review Commission
Chinese Seafood Imports: Safety and Trade Issues, April 24-25, 2008
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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 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.

Annex A: Commentary Regarding The Recent Seafood Anti-Dumping Cases Brought Against China

The AD cases are characterized by some of the most complicated regulations we have in our country. While every case is unique and individual cases can form the basis of a doctoral thesis (as I believe you will hear about tomorrow), let me highlight a few of the basics of any AD case:

- Contrary to popular belief, these cases do not analyze whether product is being exported at below cost or with the benefit of some unfair subsidies. Rather, they ask the question as to whether the imported product is being sold at what is determined to be below “fair market value.” Thus, governments can use whatever numbers they believe to be fair market value...whether it is a true indication of the market or not. As we see strong inflationary pressure on all food prices today, it seems perverse that we would support what can be very politically-driven attempts to artificially push prices to higher levels.
- AD cases do not attempt to affix one set duty on a product; rather, every individual exporter hires lawyers to achieve its own unique duty rate. Thus, it is common in every case to see some exporters with duties of 100 or 200% and others with zero or extremely low duties. We have therefore constructed a very strange system that breeds large overseas cartels and is often wrought with fraud that no public regulatory system can ever effectively police. Such fraud and other very borderline legal maneuvering is perpetrated by both foreign and U.S.-based companies.
- AD cases in the seafood industry attempt to attach duties in a retroactive fashion on a perishable product. The basic idea that this could ever be an effective system seems flawed just from this standpoint, especially in light of the fact that some cases literally take several years to calculate duties with no relation whatsoever to natural production cycles.
- The enforcement of penalties reaches only to the U.S. importer. This creates some especially perverse incentives as an importer can act with the highest degree of integrity and due diligence and yet be crushed with penalties for activities completely out of its control. Without some better system of international cooperation, it seems nearly impossible to envision effective long term enforcement.

Based on this foundation, we see results such as:

- One result in some instances has been the formation of overseas cartels to control the trade and, in many ways, this results in the exact opposite of the intent of the AD case. Very large and strong entities are created that are sophisticated enough to hire the best lawyers and tie up the system in ways that are often legal and yet counter to the purpose of the AD order. For example, individual dumping margins and deposit liquidations that must realistically be finalized on an annual basis for the system to function smoothly can go on for many years without final resolution. Entire production seasons come with production often long-since consumed by a final purchaser before dumping margins are finalized and liquidations take effect. In the end, the annual flow of product is not curtailed and prices do not rise and the cases seem to actually reduce fair competition by providing a distinct advantage to the entities who can hire the most creative lawyers and tie up the system for the longest period of time.
- Another result is very little new product development as the trade becomes all about working with the duties. This often hurts buyer interest and product development of the *domestic product* as well as foodservice and retail buyers are so perplexed by the market confusion caused by the

AD cases that they prefer to turn their attention to other items not subject to this market manipulation.

- Another result is that there is little money that is invested into the domestic industry. Instead, the money is fought over by lawyers and politicians and owners....the workers rarely see a monetary benefit. To the extent that any individual domestic producers have benefited either from higher priced product and even a time with special Byrd Amendment money, I have neither seen nor heard of a single instance of domestic re-investment in the form of product or plant improvements. I have, however, heard of several instances of small groups of individuals suing each other for what they believe to be their share of Byrd money in the past. In fact, the latest legal actions include “settlement” money with some exporters who will pay private money to the domestic industry each year in order to keep their duties as stable as possible.

All AD cases are unique and it is therefore difficult to make too many general statements that apply to every case, but a few things I can say about the cases most relevant to this area – crawfish and shrimp.

Regarding Crawfish

The AD order has been in effect against Chinese Crawfish tail meat for nearly 10 years. While the United States, mostly Louisiana, has produced crops of varying quantities over the years of crawfish (this is mostly wild-caught product subject to numerous harvest forces) – most U.S. product has been focused on marketing and distribution of Whole Crawfish, often live for sales to local Gulf markets. China has therefore developed a market for the very labor intensive picked and de-veined tail meat and has always produced the vast majority of the world’s entire product in this category.

I firmly believe that the Chinese imports could have benefited many domestic companies, including some of the very few Gulf companies who actually may still pick crawfish tail meat today. Long before Chinese imports, the Gulf area has historically never picked enough tail meat to develop any substantial national markets. Neither the raw material nor the labor exists to fuel real market growth. In fact, U.S. crawfish producers did a terrific job developing more markets for live/whole Crawfish and left virtually no raw material for processors to pick at any price level. The Chinese imports therefore responded to a desire to see more national consumer development of a product that was simply not available in the market.

Almost ten years into the case, I see no growth or even slight resurgence of any domestic crawfish industry whatsoever. Yet, there has been market chaos, incredible stories of legal wrangling over the duties, buyers who have turned away from interest in imported or domestic product, and claims of massive fraud and even organized crime with this product.

Regarding Shrimp

An AD order has been in effect for over three years against shrimp exports to the U.S. covering the aquaculture production from a few different countries, with China’s duties being some of the most severe.

Prolific shrimp aquaculture infrastructure has developed in many parts of the world that and helped take a healthy protein and make it available for the first time to consumers all across this country and around the world. Imports make up approximately 80% of shrimp consumption in the U.S. and have helped not only with consumer availability but also fueled economic growth in many industry sectors. Unless we are considering making shrimp aquaculture a cornerstone of U.S. industry, something that does not seem realistic given the relative cost of land and tight labor markets here, the general notion that our domestic wild-caught product could ever even partly meet growing U.S. demand is not realistic.