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COMMITTEE ON
APPROPRIATIONS

COMMITTEE ON
AGRICULTURE, NUTRITION,
AND FORESTRY

COMMITTEE ON
ENERGY AND
NATURAL RESOURCES

COMMITTEE ON
RULES AND
ADMINISTRATION

The Honorable Gina M. Raimondo
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Secretary Raimondo:

I am writing concerning ongoing antidumping and countervailing duty investigations currently before the U.S. Department of Commerce regarding frozen warmwater shrimp from Ecuador. I strongly support the petitions on shrimp imports from Ecuador, India, Indonesia, and Vietnam that were filed in October 2023 by the American Shrimp Processors Association (ASPA). Obtaining meaningful relief from these dumped and subsidized imports is absolutely vital to the domestic shrimp industry throughout Mississippi and the Gulf Coast.

I have observed a number of troubling recent decisions by Commerce officials, regarding Ecuadorian cases in particular, that threaten to undermine Commerce's ability to counteract the full amount of dumping and subsidies that may be occurring. These decisions were not required by law or precedent, and instead reflect an exercise of agency discretion in favor of Ecuadorian respondents and at the expense of the domestic industry. I appreciate Commerce's recent rescission of the administrative review of the antidumping duty order on U.S. imports of certain frozen fish fillets from the Socialist Republic of Vietnam after hearing my concerns with Commerce's preliminary decision. Although I am disappointed to again see Commerce prioritizing foreign industries over domestic, I believe that Commerce's ultimate decision to protect the domestic catfish industry through the outcome of the fish fillets case serves as a strong guide for you to follow for this case. I strongly encourage you to rapidly change course regarding the Ecuadorian shrimp case and ensure that you vigorously enforce trade laws to the maximum extent possible.

The ASPA petitions showed that over five billion dollars of shrimp imports took market share from domestic producers, undersold the domestic like product, depressed prices, and resulted in injury to domestic shrimp processors and fishermen. Imports from Ecuador, which are rising the fastest and priced the lowest, are a key factor injuring domestic shrimp producers. In 2023, the domestic shrimp industry's operating margin was just 0.2 percent, and boats were tied up all along the Gulf due to historically low prices.

Commerce's preliminary subsidy and dumping determinations may determine whether the Gulf shrimp industry can survive the next season, which opens in May. If domestic producers cannot get meaningful preliminary relief from unfair imports and prices do not improve, the viability of the entire industry is at risk. Shrimp fishermen and processors in Mississippi desperately need a lifeline to help insulate them from injurious dumping and subsidies.

I am very concerned this relief will be jeopardized by a recent Commerce decision to excuse a major Ecuadorian producer from reporting its home market sales in the antidumping investigation. After giving respondents repeated lengthy extensions to report required information, on April 19, 2024, Commerce decided

to indefinitely suspend the requirement that one Ecuadorian producer report its home market sales.¹ This is despite the fact that the company was required to notify Commerce of any such home market viability issues in January, and, even at this late date, the information it claims justifies exclusion from the reporting requirement does not reconcile. There is no reason to grant this producer's untimely and unsupported request to be exempt from basic reporting requirements. Commerce must have all of the information it needs to calculate dumping margins ahead of next month's preliminary determination, including this company's home market sales data.

Unfortunately, this follows on the heels of Commerce's decision to revise preliminary subsidy rates for Ecuador that ranged from 7.55 to 13.41 percent down to 2.89 percent. It is my understanding that Commerce is only allowed to revise preliminary rates at this point based on errors that are "ministerial," *i.e.*, mistakes in math or clerical errors. Commerce explained it was revising these rates because it allegedly overlooked certain contradictory claims and inadvertently treated two similar situations differently.² These were conscious methodological choices that Commerce explained in its preliminary decision,³ not mathematical or clerical errors. I am deeply disappointed that Commerce has deviated from its practice to significantly and prematurely lower Ecuador's subsidy rates under the guise of correcting a ministerial error.

I am committed to ensuring your agency takes appropriate actions to protect this industry that is so essential to the Mississippi Gulf Coast. I am deeply concerned that Commerce is acceding to Ecuadorian companies' untimely requests, granting repeated extensions, waiving basic reporting requirements, and permitting unwarranted deviations from normal practice. These actions are a slap in the face to the domestic industry your agency is supposed to protect. I, again, urge Commerce to make these important cases a top priority, strictly enforce antidumping and countervailing duty laws, and fully investigate and counteract all unfair trade practices to the maximum extent possible. Anything less puts the future of the entire Gulf shrimp industry at risk.

Thank you for your attention to this matter. Please let me know if I can be of any further assistance.

Sincerely,



CINDY HYDE-SMITH
United States Senator

¹ See Letter to Industrial Pesquera Santa Priscila S.A., "Frozen Warmwater Shrimp from Ecuador: Response to Home Market Viability Comments and to Request to Modify Supplemental Questionnaire, and Third Request to Extend the Deadline for the Second Supplemental Sections A-C Questionnaire Response" (Apr. 19, 2024) (ACCESS Barcode 4546085-01).

² See Memorandum to James Maeder, Deputy Assistance Secretary for Antidumping and Countervailing Duty Operations, "Countervailing Duty Investigation of Frozen Warmwater Shrimp from Ecuador: Allegations of Significant Ministerial Errors in the Preliminary Determination" (Apr. 19, 2024) (ACCESS Barcode 4546321-02) at 4 – 5.

³ See Memorandum to Abdelali Elouaradia, Deputy Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for the Preliminary Affirmative Determination of the Countervailing Duty Investigation of Frozen Warmwater Shrimp from Ecuador" (Mar. 25, 2024) (ACCESS Barcode 4532208-02) at 16 (noting the contradictory claims regarding the subsidy program and explaining Commerce's decision how to treat these claims).