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January 30, 2015

Dr. Margaret Hamburg, MD
Commissioner
Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993-0002

Re: Malaysian Shrimp Imports

Dear Commissioner Hamburg,

The Southern Shrimp Alliance is an organization of shrimp fishermen and associated shoreside businesses in the coastal states of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas. A thriving U.S. shrimp industry supports thousands of small and medium-sized family-run enterprises throughout the coastal South and is a vital contributor to the economies of dozens of communities in the region. As an organization, the Southern Shrimp Alliance is committed to enhancing the long-term viability of one of the nation's most valuable commercial fisheries and delivering a healthy, wholesome food product to the American public.

We consider the U.S. Food and Drug Administration (FDA) an essential partner in maintaining consumer confidence in the shrimp market. While the quality and safety of shrimp products produced by the domestic industry are also regulated by local and state government officials, the FDA plays an important oversight role in ensuring that the U.S. wild-caught shrimp available in the marketplace meets all applicable standards. Because the regulation of seafood produced overseas differs substantially from that produced domestically, the FDA's role is even more vital with respect to imported merchandise. Where imports of shrimp from a particular source demonstrate a flagrant disregard for U.S. food safety standards, this imperils the entire shrimp market while forcing consumers to accept entirely unnecessary risks to their own health and safety.

We believe that shrimp and shrimp products shipped from Malaysia pose a unique and substantial threat to the health and safety of U.S. consumers. The Southern Shrimp Alliance's compilation of import refusal information – through FDA's data reporting in the Operational and Administrative System for Import Support (OASIS) – indicates that the agency refused a total of

203 entry lines of shrimp imports from all sources for either violation code "VETDRUGRES" or "NITROFURAN" in 2014. This is a remarkable number, given that for the three years spanning from 2011 to 2013, the FDA reported refusing a total of only 253 entry lines of shrimp imports for those two violation codes (2011 = 127; 2012 = 53; 2013 = 73). In result, the FDA's actions in 2014 have led to a profound reduction in the volume of tainted shrimp sold in the U.S. marketplace. This is a welcome development. The agency's vigilance ensures that shrimp posing a health and safety risk does not reach consumers and also sends a powerful message to foreign aquaculture industries that the use of banned antibiotics to reduce production costs of intensive aquaculture will not be tolerated.

We believe that the substantial increase in refusals of shrimp contaminated by antibiotics is the result of improved risk targeting. If this is true, it is of particular interest that of the 203 entry lines of shrimp refused for antibiotic contamination, 106 – or 52.2% percent – were of shrimp shipped from Malaysia. These refusals have been a consistent feature of Malaysian shrimp shipments throughout the year, with refusals reported in nine of the twelve months of 2014 (January, March, and April are the only exceptions). Moreover, the volume of refusals accelerated over the course of 2014: For the second half of the year, more than two-thirds of the shrimp entry lines (94 out of 139) refused for these violation codes came from Malaysian shippers.

Entry line refusals are not the only indication of a serious, systemic problem with Malaysian shrimp exports. As of today, the FDA's Import Alert 16-129 "Detention Without Physical Examination of Seafood Products Due to Nitrofurans" includes listings for nineteen companies in four countries.[1] All are listed for shrimp products. A significant majority of the companies listed (14 out of the 19) are Malaysian. In the first eleven months of 2014, frozen warmwater shrimp imports from the other three countries exceeded 424 million pounds. Malaysia accounted for roughly eight percent of that volume (35.1 million lbs.). Thus, in terms of relative contribution to the market, the sheer number of Malaysian entities on this Import Alert is stunning.

Further, as of today, there are 71 companies from six countries listed on the FDA's Import Alert 16-124 "Detention Without Physical Examination of Aquaculture Seafood Products Due to Unapproved Drugs."[2] Of those 71, twenty-three companies are listed for shrimp products and of these twenty-three, eighteen are listed for chloramphenicol. The biggest contributor to that group – accounting for seven of the eighteen companies listed – is Malaysia. The others are located in China (4), India (1), and Vietnam (6). In the first eleven months of 2014, frozen warmwater shrimp imports from these three countries totaled over 380 million pounds. Malaysia, for its part, accounted for roughly nine percent of that volume.

Through the first eleven months of 2014, official import statistics show that the United States has imported over 35.1 million pounds, worth over $161 million, of frozen warmwater shrimp from Malaysia. With the final month of 2014 yet to be reported, these volume figures are

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[1] These are: (1) Bangladesh, (2) India, (3) Indonesia, and (4) Malaysia. http://www.accessdata.fda.gov/cms_ia/importalert_31.html (Jan. 21, 2015).

[2] http://www.accessdata.fda.gov/cms_ia/importalert_27.html (Jan. 21, 2015).

slightly higher than they were in 2012 and 2013 – equal to an annual average during those two years of 32.1 million pounds, worth over $109 million.

Yet, while these numbers demonstrate that Malaysia is an important supplier to the U.S. shrimp market, its overall share of shrimp imports is relatively minor. Through November, Malaysia accounted for just 3.3% of the total volume (1.06 billion pounds) and 2.8% of the total value of such imports ($5.8 billion). These shares are consistent with our recent historical trade patterns with Malaysia: in 2012 and 2013, total frozen warmwater shrimp imports from Malaysia accounted for 3.2% of the volume of all such imports from all countries (64.2 million pounds of 2.0 billion pounds) and for 2.5% of the value of all such imports ($218.2 million of $8.8 billion).

In light of Malaysia's relatively limited participation as a supplier in the U.S. shrimp market, the level of the FDA's actions with respect to Malaysian shrimp imports are impressive and appear to be unprecedented. In sum, the FDA's experience with shrimp exported from Malaysia to the U.S. market over the last several years demonstrates a particular, peculiar problem with the Malaysian industry. In 2014, Malaysia was the seventh-largest supplier of frozen warmwater shrimp to this market.[3] Yet, shrimp exported from Malaysia comprised the majority of entry lines of shrimp refused for banned antibiotics and Malaysian shrimp companies populate Import Alert 16-124 and 16-129 more than shrimp companies from any other country.

At the same time, one of the more troubling aspects of our trade with Malaysia is the frequent use of the country as a transshipment point resulting in the falsification of the country of origin of merchandise and evasion of U.S. laws. In 2009, the U.S. Government Accountability Office published an extensive report regarding seafood fraud in the U.S. market that described the findings of investigations by U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) into transshipment of Chinese shrimp through Malaysia to both evade payment of antidumping duties and the FDA's Import Alerts 16-131:

> In June 2007, FDA announced a countrywide import alert on five Chinese-farmed seafood products, including shrimp. This import alert required that all Chinese shrimp be detained and refused entry, unless the importer could prove the absence of unapproved drugs in the shrimp. On the basis of industry information and CBP and ICE investigations, CBP determined that Chinese shrimp was being transshipped to the United States through Malaysia. Due to this illegal transshipment, importers of Chinese shrimp were able to circumvent not only the 2005 antidumping duty but also FDA's recent import alert. In September 2007, CBP tested shipments of suspected Chinese shrimp illegally transshipped through Malaysia for the presence of unapproved drugs and found some contaminated shrimp. On the basis of CBP's information, in March 2008, FDA issued a new import alert requiring importers of shrimp from one Malaysian manufacturer to

[3] The following six countries shipped more frozen warmwater shrimp to the U.S. market in 2014: India, Indonesia, Ecuador, Vietnam, Thailand, and Mexico.

> prove the absence of unapproved drugs prior to entering future shipments of shrimp into U.S. commerce.[4]

The subject of the country acting as a conduit for transshipped shrimp was openly discussed in Malaysia in 2013. The president of the Malaysia Shrimp Industry Association, Syed Omar Syed, was quoted addressing U.S. government concerns regarding transshipment and noted that the combined quantity of local consumption of shrimp, along with exports to other markets, exceeded the volume of shrimp produced in Malaysia.[5] In his public comments, Mr. Syed openly encouraged enforcement efforts against those participating in fraud: "Action should be taken against the companies which are involved in transshipment activities."

Concerns regarding the transshipment of Chinese shrimp and Malaysia were also addressed recently in an administrative proceeding before the U.S. Department of Commerce (Commerce). In an administrative review of antidumping duties on Chinese shrimp, the Ad Hoc Shrimp Trade Action Committee (AHSTAC) filed extensive comments noting that, according to publicly available bills of lading data, the entity (Ocean Rancho Inc.) that acted as the consignee for a Chinese exporter involved in the review had also acted as the consignee on shipments of purportedly Malaysian shrimp from Labuan Food Industries Sdn. Bhd.[6] AHSTAC's submission observed that another paper importing company related to Ocean Rancho, T.G. Ocean Inc., had formerly acted as the consignee on large volumes of shipments of purportedly Malaysian shrimp from a number of different Malaysian shippers, including Seiko Marine Products Sdn. Bhd., N.T. Huat Kee Fisheries Sdn. Bhd., Gropoint Fisheries Sdn. Bhd., and Super Grade Resources. In response to the investigation ultimately conducted by Commerce, the Chinese exporter eventually declined to participate further in the administrative proceeding. While the specific findings of the federal agency are, for the most part, not disclosed in a public record, Commerce did issue a letter to CBP in November 2014, the public version of which began: "It has come to the attention of {Commerce} that evasion of antidumping duties may be occurring on imports of certain frozen warm water shrimp from the People's Republic of China."[7] The public version of the letter also

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[4] U.S. Government Accountability Office, *Seafood Fraud: FDA Program Charges and Better Collaboration among Key Federal Agencies Could Improve Detection and Prevention*, GAO-09-258 (Feb. 2009) at 15.

[5] David Star, *M'sian Shrimp Industry Will Lose RM511 Million if U.S. Anti-dumping Duty Is Imposed*, The Star (Malaysia) (Sept. 2, 2013), available at: http://www.thestar.com.my/Business/Business-News/2013/09/02/Local-shrimp-industry-to-lose-RM511mil-if-US-antidumping-proposal-goes-through/?style=biz.

[6] Letter from Picard Kentz & Rowe LLP on behalf of the Ad Hoc Shrimp Trade Action Committee to the U.S. Department of Commerce, Case Number A-570-893 (Certain Frozen Warmwater Shrimp from the People's Republic of China) (Oct. 23, 2013).

[7] Letter from the U.S. Department of Commerce to U.S. Customs and Border Protection, Case Number A-570-893 (Certain Frozen Warmwater Shrimp from the People's Republic of China) (Nov. 12, 2014). The letter, along with a discussion of recent refusals of frozen shrimp shipped by the Chinese exporter to Australia following the detection of banned antibiotics in that merchandise, is available here:

observed that the confidential record before the agency "suggests that a respondent in our administrative review transshipped subject merchandise to its U.S. importer via a third country and that the U.S. importer entered the goods into the United States as Type 01 entries {exempt from antidumping duties} from that third country."

Transshipment of Chinese merchandise through Malaysia to falsify the country of origin and evade U.S. law is a repeated theme for many different products. For example, in a 2013 complaint filed by the U.S. Department of Justice in a civil False Claims Act suit, the government described transshipped Chinese aluminum extrusions through Malaysia to falsify the country of origin and evade the payment of antidumping duties.[8] Likewise, in a criminal proceeding resulting in a plea agreement, the U.S. Department of Justice described a scheme by which Chinese honey was transshipped through Malaysia (as well as India) to falsify the country of origin and evade the payment of antidumping duties.[9]

Several years earlier, the Office of United States Senator Ron Wyden (OR) had issued a report containing the results of his staff's investigation of widespread circumvention of duty payment through various illegal schemes.[10] Senator Wyden's staff contacted various Chinese manufacturers of goods subject to antidumping duties to gauge the extent to which circumvention schemes were employed. In the majority of instances of transshipment discussed in the report, use of Malaysia as a conduit to falsify the country of origin was suggested as the means of evading U.S. law. Specifically, the report included the following examples:

- Company A, a Chinese exporter of concrete nails, writes that "we can arrange the container shiping [sic] from Xinpang to Malaysia, Bangladesh or Singapore. And the shiping [sic] agent can help us to issue the original certification, it will increase the cost but I think it must be lower than duties."

- Company C, another Chinese exporter of concrete nails, wrote: "if you want to avoid paying the duties ,there is the way is send the goods to Malaysia and change a box ,then send to U.S." Senator Wyden's staff sought clarification, "So you can transship through Malaysia and change the country of origin to avoid paying the anti-dumping duties?" Company C confirmed: "Yes .our company can do this . but in this way ,the cost will increase."

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http://www.shrimpalliance.com/u-s-department-of-commerce-requests-u-s-customs-and-border-protection-to-investigate-evasion-of-antidumping-duties/

[8] U.S. Department of Justice, "United States' Complaint in Intervention and Demand for Jury Trial," United States of America, ex. rel. James F. Valenti, Jr. v. Wingfield *et.al*, Case No. 1:11-cv-00368 (Nov. 14, 2013, M.D. Fla.) at 34-38.

[9] U.S. Department of Justice, "The Government's Position Paper as to Sentencing Factors," United States v. Yang, Case No. 1:13-cr-00139 (Nov. 8, 2013 N.D. Ill.) at 8-9.

[10] Office of United States Senator Ron Wyden (OR), *Duty Evasion: Harming U.S. Industry and American Workers*, (Nov. 8, 2010). The report is available here: http://wyden.senate.gov/download/?id=ab312b37-d16b-495c-a103-c1887afb37af

- Company D, a Chinese exporter of lined paper products, sketched out a strategy to avoid payment of antidumping duties: "Solution is Shipping goods to Malaysia, transship to America to avoid paying the anti-dumping duties." Senator Wyden's staff sought clarification, "Can your company transship through Malaysia and change the country of origin to evade the anti-dumping duties?" and Company D responded "yes, we can do that."

- Company L, a Chinese exporter of steel wire garment hangers, sent out an offer to sell to hangers stating: "We have two ways to ship containers to US. One is from Taiwan, the transport charge is $4200.00 per container. Another is from Malaysia, transport charge is $3200 per container, but the shipping date will be much longer than from Taiwan."

In Europe, the European Anti-Fraud Office (OLAF) has also identified Malaysia as a conduit for fraudulent trade in Chinese-origin goods. For example, in 2007, OLAF issued a press release regarding an investigation into transshipped Chinese cigarette lighters that found that "in the past four years more than 300 million flint-operated lighters from China have passed through Malaysia. They were solely transhipped in order to disguise the true Chinese origin of the goods."[11] OLAF's investigation determined that a Malaysian company obtained false certificates of Malaysian-origin and that "[h]undreds of container loads of Chinese lighters were switched in commercial free-zones in Port Klang, Penang and Johor Bahru." In July 2011, the European Union (EU) published an implementing regulation extending antidumping duties imposed on certain iron or steel fasteners originating from the People's Republic of China to imports of that merchandise shipped from Malaysia "whether declared as originating in Malaysia or not."[12] In extending the antidumping duties to merchandise shipped from Malaysia, the EU observed that OLAF's investigation found that "several companies, mainly traders, had committed fraud by falsifying the origin of certain iron or steel fasteners imported from the {People's Republic of China} to Malaysia when re-exporting the product." Thus, continued the EU, "{t}he existence of transhipment of Chinese-origin products via Malaysia was therefore confirmed."

In a 2013 letter to Congressman Walter B. Jones (NC), the U.S. Trade Representative reported that in the context of ongoing negotiations of the Trans Pacific Partnership (TPP), the agency was "also engaging directly with the Malaysian government regarding access to investigative reports of possible transshipment of Chinese shrimp through Malaysia."[13] In both of the EU investigations, OLAF made reference to helpful cooperation from Malaysian government authorities. However, the experience of U.S. federal agencies appears to have been less positive.

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[11] European Anti-Fraud Office (OLAF), *OLAF Brings Light Into the Dark*: *Illegal Trade with Lighters*, (Jan. 31, 2007) available at: http://ec.europa.eu/anti_fraud/documents/partners-press-release-2007/illegal_trade_en.pdf.

[12] Council of the European Union, *COUNCIL IMPLEMENTING REGULATION extending the definitive anti-dumping duty imposed by Regulation (EC) No 91/2009 on imports of certain iron or steel fasteners originating in the People's Republic of China to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not,* Interinstitutional File: 2011/0171 (NLE), 12110/11 (July 12, 2011).

[13] Letter from the U.S. Trade Representative to The Honorable Walter B. Jones (Mar. 28, 2013).

In a 2012 report, the GAO observed that while the Indonesian government had allowed CBP officials to collect samples of shrimp from Indonesian producers, "the Malaysian government initially gave them approval to visit honey and shrimp producers in their country but ultimately rescinded its approval without explanation."[14]

Nevertheless, despite the apparent poor track record of the Malaysian government in preventing and deterring circumvention of U.S. laws – particularly those relating to imported shrimp – information available through the FDA's Inspection Database indicates that there have only been limited inspections of Malaysian facilities purportedly producing frozen shrimp. A review of data regarding inspections going back to October 2008 identifies only three entities listed as shippers on bills of lading of Malaysian frozen shrimp that have been inspected by the agency, of which the most recent was in 2011.[15] In comparison, bills of lading data from 2010 indicate that there have been at least forty-five (45) different Malaysian shippers of frozen shrimp, many of which report unique FDA facility registration numbers in their documentation.[16]

Nine of these 45 are currently listed on either Import Alert 16-124 or 16-129.[17] For another four of these 45, the FDA has reported multiple entry line refusals for the detection of banned antibiotics in the shipments of frozen shrimp attributed to the company, but these have not

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[14] U.S. Government Accountability Office, *Antidumping and Countervailing Duties: Management Enhancements Needed to Improve Efforts to Detect and Deter Duty Evasion*, GAO-12-551 (May 2012) at 15.

[15] These are: (1) Jeenhuat Foodstuffs Industries Sdn. Bhd. (2009); (2) Gropoint Seafood Industries Sdn. Bhd. (2011); and (3) Ocean Pioneer Food Sdn. Bhd. (2011).

[16] These 45 are: (1) Agrobest (M) Sdn. Bhd.; (2) AIM Oceanic Marketing Sdn. Bhd.; (3) Aquatech Venture Sdn. Bhd.; (4) Asia Aquaculture (M) Sdn. Bhd.; (5) Blue Archipelago Bhd.; (6) CAB Food Sdn. Bhd.; (7) CAB Marine Resources Sdn. Bhd.; (8) Double Memory Sdn. Bhd.; (9) Eastern Global (M) Sdn. Bhd.; (10) Fishergold Sdn. Bhd.; (11) Flashmax Enterprise Sdn. Bhd.; (12) Globe Season Enterprise; (13) Great Ocean Seafood Sdn. Bhd.; (14) Gropoint Seafood Industries Sdn. Bhd.; (15) HK Foods (M) Sdn. Bhd.; (16) Jeenhuat Foodstuffs Industries Sdn. Bhd.; (17) Kian Huat Aquaculture Sdn. Bhd.; (18) Labuan Food Industries Sdn. Bhd.; (19) Lakudang (M) Sdn. Bhd.; (20) Lean Heng Huat Fishery; (21) Modern Ocean AIM Sdn. Bhd.; (22) Mutiara Seafood Exporter; (23) Ocean Famous Sdn. Bhd.; (24) Ocean Pioneer Food Sdn. Bhd.; (25) Ocean Vision Sdn. Bhd.; (26) OceanPac Sdn. Bhd.; (27) Paramount Products Sdn. Bhd.; (28) Permatang Urus Sdn. Bhd.; (29) Rasidan Enterprise; (30) Ria Budimas Trading; (31) Sanjune Sdn. Bhd.; (32) Sea Glory Enterprise; (33) Sea Gull Frozen Foodstuffs Sdn. Bhd.; (34) Sea Master Trading Co. Sdn. Bhd.; (35) Sen Up Huat Seafood Trading Sdn. Bhd.; (36) Seng Enterprise Seafood Supplier; (37) Solid Tatt Fish Farm Sdn. Bhd.; (38) Starfoods Industries Co., Ltd.; (39) Sunlight Seafood Sdn. Bhd.; (40) The Peak Network (M) Sdn. Bhd.; (41) Ting Seng Brothers Sdn. Bhd.; (42) TM Foods Sdn. Bhd.; (43) Value Pack Resources; (44) Wah Sin Global (M) Sdn. Bhd.; and (45) Win Seng Hung Enterprise.

[17] These are: (1) CAB Marine Resources Sdn. Bhd. (2012); (2) Double Memory Sdn. Bhd. (2014); (3) Mutiara Seafood Exporter (2011); (4) Ocean Famous Sdn. Bhd. (2014); (5) Ocean Pioneer Food Sdn. Bhd. (2014); (6) Sanjune Sdn. Bhd. (2013); (7) Sea Master Trading Co. Sdn. Bhd. (2013); (8) Sunlight Seafood Sdn. Bhd. (2014); and (9) Ting Seng Brothers Sdn. Bhd. (2009).

yet been added to either Import Alert.[18] In addition to the 45 companies identified through bills of lading, another seven Malaysian companies are listed on either Import Alert 16-124 or 16-129 based on shipments of frozen shrimp,[19] while, for another company, the FDA reported multiple entry line refusals for the detection of banned antibiotics but it is not currently listed on either Import Alert.[20]

Thus, commercial shipment data and the FDA's own experience demonstrate that there are dozens of Malaysian entities shipping frozen shrimp to the U.S. market, the vast majority of which have not been subject to formal facility inspections overseas. The small number of facility inspections is particularly troubling in light of the fact that so few Malaysian entities appear to be removed from either Import Alert 16-124 or 16-129 once placed on the Alert. In other words, rather than demonstrate that any issues with banned antibiotics have been meaningfully addressed, thereby obtaining a removal from an Import Alert, Malaysian entities simply stop shipments under the name of that entity and divert those shipments through another company not yet listed on an Import Alert.

As just one example, a consignee named FHZ Trading Inc. – a company registered in the State of Nevada with only a single corporate officer (for whom the only address listed is in Chuansha town in the Pudong district of Shanghai, China)[21] – is listed on at least ninety-eight bills of lading of frozen shrimp shipped by Ocean Famous Sdn. Bhd., and only Ocean Famous, between November 2013 and September 2014. The FDA reported refusals of entry lines of frozen shrimp from Ocean Famous in July 2014 and added the company to Import Alert 16-129 in October 2014. Once shipments from Ocean Famous stopped, there were at least 27 bills of lading of frozen shrimp shipped by Lean Heng Huat Fishery through the month of October. By the third week of October, Lean Heng's shipments to FHZ Trading had stopped and a new company with no prior history of shipping shrimp to the U.S. market – Ocean Vision Sdn. Bhd. – began shipping large quantities of shrimp to FHZ Trading.[22] Per Ocean Vision's filings with the Companies Commission of Malaysia (Surhanjaya Syarikat Malaysia) on March 17, 2014, it is a "dormant" company without a business address that had absolutely no revenue in 2013, posting a loss of 4,651 ringgit.

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[18] These are: (1) Aquatech Venture Sdn. Bhd. (Dec. 2014); (2) Kian Huat Aquaculture Sdn. Bhd. (Nov. 2011; July 2012); (3) Seng Enterprise Seafood Supplier (Dec. 2014); and (4) TM Foods Sdn. Bhd. (Dec. 2014).

[19] These are: (1) Hong San Frozen Foods Sdn. Bhd. (2013); (2) N.T. Huat Kee Fisheries Sdn. Bhd. (2009); (3) One-East Marketing Sdn. Bhd. (2012); (4) Seiko Marine Products Sdn. Bhd. (2008); (5) Soonfroze Corporation Sdn. Bhd. (2005); (6) Straits Sea Foods Trading Co., Sdn. Bhd. (2003); and (7) Super Grade Resources (2009).

[20] This company is OceanPac Sdn. Bhd. (Oct. 2008; May 2009).

[21] The address for the sole corporate officer, Feng Hua Zhu, is listed in the Nevada corporate registration as "Xinde Road, 604 Lane, #4, Room 203, Chuansha Town, Pudong New."

[22] Between October 24th and December 31st 2014, there were at least 25 container loads of shrimp shipped to multiple ports (Long Beach; St. Louis; Houston; and Newark) to FHZ by Ocean Vision.

Another Malaysian shipper, Ria Budimas Trading, began exporting shrimp to FHZ Trading at the end of December. Per its registration with the Companies Commission of Malaysia, Ria Budimas Trading began operations on April 7, 2014. Although the registered address of the company is an office address in Penang Island,[23] the physical address listed for the company in bills of lading is the same as the address that had been used by Kian Huat Aquaculture Sdn. Bhd.[24] Kian Huat appears to have stopped shipping frozen shrimp to the U.S. market in the first quarter of 2013, after four entry lines of its shrimp were refused for nitrofuran contamination in November 2011 and another four entry lines of its shrimp were refused for the same reason in July 2012. Also in 2013, Kian Huat refused to answer any questions or otherwise participate in a Commerce investigation of whether countervailing subsidies were being granted by the Malaysian government to the Malaysian shrimp industry.[25] As currently registered with the Companies Commission of Malaysia, Kian Huat's business is as a "forwarding agency" and it does not report its income or balance sheet items as an "Exempt Private Company."[26]

In addition to FHZ Trading, bills of lading data indicate that Ria Budimas has shipped shrimp to four other consignees, two of which (Ramona Trading and E & G Trading) had formerly sourced frozen shrimp from Kian Huat. A third, North Food Group, had previously been sourcing frozen shrimp from Sanjune Sdn. Bhd. (currently on Import Alert 16-129). And the fourth, Captain Seafood Import Corp., had previously been sourcing frozen shrimp from Double Memory Sdn. Bhd. (also currently on Import Alert 16-129). Per the Office of the Comptroller in the state of Texas, Captain Seafood was registered as a corporation in March 2014 but is currently listed as "Franchise Tax Ended," meaning that "{t}he entity's franchise tax responsibilities ended because the entity has ceased to exist in its state or country of formation or has ceased doing business in Texas."

These trade patterns evince a profound disrespect for U.S. law. As discussed above, there is a documented history of Malaysian companies acting as a conduit for the falsification of the country of origin of Chinese goods, including shrimp. With respect to shrimp, transshipment of Chinese-origin shrimp through Malaysia substantially undermines the efficacy of Import Alert 16-131, resulting in shrimp contaminated with banned antibiotics reaching unsuspecting American consumers. And where the agency has taken action against individual Malaysian shippers based

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[23] The registered address is: 19, Pesiaran Sungai Ara 1, 11900 Bayan Lepas, Pulau Pinang.

[24] That address is: Lot 11162 Mk 15 Lorong IKS Simpang Ampat K 14100, Pulau Pinang.

[25] *Certain Frozen Warmwater Shrimp from Malaysia*, 78 Fed. Reg. 50,381 (Dep't Commerce, Aug. 19, 2013) (Final Affirmative Countervailing Duty Determination); *Certain Frozen Warmwater Shrimp from Malaysia*, 78 Fed. Reg. 33,345 (Dep't Commerce, June 4, 2013) (Preliminary Countervailing Duty Determination).

[26] As described by the Companies Commission of Malaysia, "[a]n exempt private company is a private company having not more than 20 members, none of whom are corporations having direct or indirect interest in its shares." Available here: http://www.ssm.com.my/en/company/updating-of-local-company

on the detection of antibiotics (whether such shrimp originates in Malaysia or elsewhere), trade patterns indicate that the same shrimp is simply shipped by a company with a different name.

While the volume of shrimp shipped from Malaysia to the U.S. market has been limited over the last three years, our historical experience demonstrates that Malaysia's exports of shrimp to this country could be substantially higher. In fact, 2014 volumes are currently only about half what Malaysia shipped to the United States in 2008 (65 million pounds; $182 million; 5.7% of total imports) or 2011 (63 million pounds; $206 million; 5.5% of total imports). After CBP increased enforcement efforts regarding purportedly Malaysian shrimp in 2007 and 2008, frozen shrimp import volumes from the country fell by 40% between 2008 and 2009. Yet, it only took two more years before Malaysian shrimp imports again increased to near record level volumes. Now, enhanced FDA scrutiny has also impacted Malaysian shrimp import volumes. But absent the FDA's continued vigilance, we anticipate that import volumes would reach record levels in short order. This would have significant harmful consequences for American consumers and it would be disastrous for the U.S. shrimp market as a whole.

As described above, increased scrutiny of shrimp shipped from Malaysia has led to a massive spike in the FDA's detection of banned antibiotics in these shipments. The continued and increasing detection of contaminated shrimp shipped from this country necessitates additional action. We believe that, at a minimum, it would be appropriate for the FDA to conduct an on-the-ground assessment of Malaysia's aquaculture industry similar to the assessment conducted regarding the Vietnamese aquaculture industry by the agency in May 2012.[27] We also request that the FDA conduct significantly more on-site inspections of facilities claiming to produce frozen shrimp in Malaysia. Finally, we believe that the data and information summarized above should lead the FDA to issue a country-specific Import Alert regarding shrimp shipped from Malaysia to the U.S. market until such time as these concerns are meaningfully remedied.

The Southern Shrimp Alliance would appreciate the opportunity to meet with you, along with officials from the Office of Regulatory Affairs and the Center Food Safety and Applied Nutrition to discuss the issues discussed in this correspondence.

In previous correspondence, the FDA has confirmed that "{s}eafood safety issues, such as the use of unapproved chemicals and animal-drugs in farm-raised fish products intended for human consumption, are among the agency's greatest concerns and thus a top regulatory priority."[28] We believe that the FDA has demonstrated its commitment to these words in its recent actions to prevent contaminated shrimp shipped from Malaysia from reaching American consumers. We are grateful for the FDA's efforts to date and hope that the agency is actively considering using all tools available to it in order to ensure that no further contaminated shrimp shipped from Malaysia enters the U.S. market.

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27 Letter from U.S. Food and Drug Administration to the Southern Shrimp Alliance (Dec. 12, 2012).

28 Letter from U.S. Food and Drug Administration to the Southern Shrimp Alliance (Dec. 12, 2012).

Thank you, in advance, for your response.

Sincerely,

John Williams
Executive Director

cc: Senator Lamar Alexander, Chairman, Committee on Health, Education, Labor and Pensions
Senator Patty Murray, Ranking Minority Member, Committee on Health, Education, Labor and Pensions
Senator Richard Burr, Member, Committee on Health, Education, Labor and Pensions
Senator Johnny Isakson, Member, Committee on Health, Education, Labor and Pensions
Senator Tim Scott, Member, Committee on Health, Education, Labor and Pensions
Senator Bill Cassidy, Member, Committee on Health, Education, Labor and Pensions
Senator David Vitter, Chairman, Committee on Small Business and Entrepreneurship
Senator Ron Wyden, Ranking Minority Member, Committee on Finance
Congressman Fred Upton, Chairman, Committee on Energy and Commerce
Congressman Frank Pallone, Jr., Ranking Minority Member, Committee on Energy and Commerce
Congressman Steve Scalise, Member, Committee on Energy and Commerce
Congressman Pete Olson, Member, Committee on Energy and Commerce
Congressman Gus Bilirakis, Member, Committee on Energy and Commerce
Congressman Gene Green, Member, Committee on Energy and Commerce
Congressman G.K. Butterfield, Member, Committee on Energy and Commerce
Congresswoman Kathy Castor, Member, Committee on Energy and Commerce
Congressman Walter B. Jones, Jr.
Congresswoman Rosa DeLauro
Ambassador Joseph Y. Yun, United States Ambassador to Malaysia
Melinda K. Plaisier, Associate Commissioner of Regulatory Affairs
Douglas Stearn, Office Director, Office of Enforcement and Import Operations
Capt. Domenic Veneziano, Director, Division of Import Operations
John Verbeten, Chief, Import Program Dev. and Implementation Branch
Susan T. Mayne, Director, Center for Food Safety and Applied Nutrition
Nega Beru, Director, Office of Food Safety
William R. Jones, Acting Deputy Director, Office of Food Safety
Melissa Abbott, Center for Food Safety and Applied Nutrition
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