

WRITTEN TESTIMONY TO SUPPLEMENT THE RECORD

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CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

COMMISSION HEARING:
FROM BAIT TO PLATE—HOW FORCED LABOR IN CHINA TAINTS AMERICA’S
SEAFOOD SUPPLY CHAIN

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1. Overview

Chair Smith, Co-chair Merkley, Commissioners, thank you for the opportunity to provide written testimony to supplement the record. My name is Stephanie Madsen, and for the last 17 years I have served as Executive Director of the At-sea Processors Association (APA).

APA represents proud American seafood companies, all participants in the Bering Sea Alaska pollock fishery. My members are some of the many seafood sector participants who have read *The New Yorker’s* gut-wrenching new reporting on human rights abuses in the Chinese seafood sector and concluded that the status quo is completely unacceptable. Ian Urbina’s Outlaw Ocean Project spent four years conducting brave, innovative and harrowing reporting on the inhumane treatment of workers on board some of China’s distant water fleet vessels and in several seafood processing plants in Shandong Province. The reporting team present very credible evidence that forced labor is widespread aboard some Chinese fishing vessels. They also use analysis of social media posts to confirm the presence of Uyghur laborers in some Shandong Province seafood processing facilities—laborers who are victims of China’s brutal repression of Xingjiang and its “re-education” of the province’s minority populations.

These human rights abuses should be intolerable for all of us. Equally intolerable is a system that allows seafood products harvested and processed under these conditions to enter global commerce. Unfortunately, while strict U.S. labor and environmental regulations hold my members to stringent performance standards, federal and multilateral policy settings have been largely ineffectual in discouraging and preventing the exploitation of workers in the Russian and Chinese seafood sectors.

We can and must do better. On a national level, federal authorities and the seafood industry must act with urgency to put in place stronger systems that can prevent seafood produced with forced labor or via IUU fishing practices from entering our domestic market. On a global level, we need reforms that will bring greater transparency and assurance to seafood supply chains and drive down international rates of IUU fishing and human rights abuse in seafood production.

2. Wild Alaska Pollock

The contrast between the practices of my members and those of their Russian and Chinese competitors could not be more stark. I represent the Bering Sea's Alaska pollock catcher-processor fleet. Our vessels fish sustainably, exclusively in U.S. waters, operating under U.S. labor laws. All vessels are crewed overwhelmingly by U.S. citizens and green card holders. Two federally-trained independent observers are on board at all times. Vessels return to port every 10-14 days. We have voluntarily subjected our vessel operations to independent third-party social audits in an effort to demonstrate and extend best practices. We are proud to provide stable, family-wage jobs—with full labor and safety protections—to thousands of American workers.

The United States produces vast quantities of Alaska pollock for domestic and global consumption. Our products reach consumers in the form of fish sandwiches, fish sticks, frozen fillets, seafood surimi, and in many other product forms. The Bering Sea Alaska pollock fishery is conducted entirely within U.S. federal waters in conformance with strict federal regulations. This single fishery accounts for more than one-third of total U.S. fishery landings and provides American and global consumers with more than three *billion* seafood meals every year.

The Bering Sea Alaska pollock fishery is also vital for communities across Alaska, in addition to coastal communities in Washington and Oregon where many Alaska pollock fishing vessels home port. We provide a tax revenue base, sustain infrastructure, and generate economic activity in coastal communities with few alternative means of economic development. Among the beneficiaries are numerous western Alaska villages that are some of the most remote and socio-economically disadvantaged in the Nation.¹

Our vessels not only harvest Wild Alaska Pollock, they also immediately perform primary processing on board. This process utilizes the entire fish to produce a variety of products, with frozen fillet and frozen surimi blocks the two most important for human consumption. After offload to cold storage and other facilities in Unalaska, AK, these products are transported to secondary processing facilities located in or near the markets where they are consumed. U.S. secondary processing facilities are located in Anacortes, Bellingham and Redmond, WA;

¹ For general background on the Community Development Quota (CDQ) program, which has enabled Western Alaska communities to now control catch rights to more than one-third of Bering Sea Alaska pollock quota, see: <https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/community-development-quota-cdq-program>.

Brunswick and Carrollton, GA; Braintree and Gloucester, MA; Portsmouth, NH; Cucamonga, CA; Motley, MN; and Carteret, NJ. At these facilities, fillet and surimi blocks are cut to size and made ready for consumers through processes such as breading, battering, and re-manufacturing before being packaged for final sale in retail or foodservice outlets. In total, the U.S. Alaska pollock sector generates approximately 30,000 jobs in the American seafood harvesting, processing, distribution, wholesale, retail, restaurant and food service industries.²

Wild Alaska Pollock harvested by our vessels remains fully traceable throughout the supply chain, and anyone handling our product at any point can see detailed information about its origin. This includes the name of the vessel that harvested the fish, the harvest time and date, and even the exact tow. Importantly, in the United States only U.S.-harvested pollock can carry the name “Alaska” on the label. If you purchase a fish sandwich, fish sticks, or other whitefish product labeled as “Alaska” or “Alaskan” pollock, you can be assured that its entire production life cycle—from bait to plate—occurred under the most ethical conditions.

3. The Russia-China Seafood Axis

Few global seafood supply chains are so simple and transparent. Part of what makes *The New Yorker*'s reporting so important is that China is a global seafood juggernaut. Not only does it farm and harvest huge amounts of fish every year, it is also the world's biggest seafood processing hub. The full supply chains of seafood products that pass through these Chinese processing facilities can be incredibly complex and opaque. Product often moves through the hands of myriad supply chain actors, sometimes becoming intermixed or anonymized over time.

² McKinley Research. The Economic Value of Alaska's Seafood Industry (January 2022) available at https://www.mcdowellgroup.net/wp-content/uploads/2022/05/mrg_asmi-economic-impacts-report_final.pdf.

Assurance mechanisms that can provide greater supply chain transparency frequently fail or are non-existent. Importers and retailers too often lack visibility of whether the seafood they are buying is sustainably or ethically produced. This urgently needs to change.

While human rights abuses in the Chinese seafood sector are rightly under the microscope today, to focus exclusively on China is to miss a critical part of the picture. It is impossible to tell the story of the Chinese seafood industry without expanding one's gaze to neighboring Russia. That is because so much of the raw material entering Chinese processing facilities originates in Russian waters. It is harvested by Russian fishing vessels where human rights abuses, including the exploitation of North Korean and other vulnerable migrant workers, are an open secret. These fisheries also directly fund Russia's war in Ukraine. For example, in 2023 the Russian budget allocated \$US3.97 billion in revenue from auctions distributing pollock and crab fishing quota;³ and on October 1st, 2023 Russia imposed a new export duty on seafood that is now raising significant additional sums for the Kremlin.⁴

Recognizing the importance of seafood production to the Russian economy, on March 11, 2022 President Biden signed Executive Order 14068 prohibiting the importation of Russian seafood into the United States.⁵ Yet sanctions have had minimal impact. Ilya Shestakov, the head of Russia's federal fisheries agency, recently stated: "the situation in the [Russian seafood] industry is stable. The sanctions, in fact, did not touch us at all".⁶

³ See: <https://www.seafoodnews.com/Story/1246973/Russia-Ready-to-Attract-397-Billion-as-Result-of-Crab-and-Pollock-Actions-This-Year>.

⁴ <http://government.ru/en/docs/49567/>.

⁵ <https://www.federalregister.gov/documents/2022/03/15/2022-05554/prohibiting-certain-imports-exports-and-new-investment-with-respect-to-continued-russian-federation>.

⁶ See: <https://www.youtube.com/watch?v=sUP2auVdNiw>.

The primary reason for this is the axis that Russia has built with the Chinese seafood processing sector. The act of re-processing Russian seafood in China constitutes “substantial transformation” under international trade rules, conferring “Chinese origin” on Russian seafood products and allowing them to evade sanctions and continue entering the U.S. market—without any import duties or serious regulatory scrutiny.

Russia and China combine to form a seafood superpower axis. In 2023, analysts estimate that the total Russian wild-capture harvest will exceed five million tons—a stunning total. Pollock is a key pillar of Russia’s seafood economy, sometimes accounting for up to 40% of total Russian fishery landings.⁷ Indeed, Russia harvests a majority of the world’s “Alaska pollock”, with its 2023 Total Allowable Catch set at more than two million tons.⁸ A huge portion of this harvest is sent directly to China, where it moves through Chinese seafood processing facilities. Thanks to Ian Urbina’s reporting, the world now knows the conditions under which some Chinese seafood processing occurs—and much of the time it is Russian raw materials that are moving through the facilities that lack any serious human rights due diligence or supply chain integrity.

The Russia-China seafood superpower axis is only getting stronger. Just this month it was reported that Chinese economic development officials are planning to open a significant new seafood processing center to deliver semi-finished products made from imported Russian

⁷ In 2023, analysts expect that approximately two million tons of Russia’s approximately five million tons of fishery landings will be “Alaska pollock”. See: <https://www.youtube.com/watch?v=sUP2auVdNiw>.

⁸ See: <https://www.intrafish.com/fisheries/russia-sets-pollock-quota-for-2023/2-1-1340793>.

seafood.⁹ The new facility will be built in Hunchun, a Chinese city in far eastern Jilin province, which, tellingly, shares a border with both Russia and North Korea.

4. A Stronger Seafood Import Control System

Important work has been done over the last two decades to try and improve seafood supply chain transparency, and now is the time to scale up what has been proven to work. It will take a range of approaches—from policymakers, seafood sector participants, and other stakeholders—to bring needed reforms to the global seafood sector. A critical category of reforms that APA is calling for today is the adoption of a more uniform and robust system of import controls by seafood importing nations.

(a) EU Documentation Requirements:

In 2010, the European Union implemented a new Illegal, Unregulated and Unreported (IUU) Regulation.¹⁰ Although by no means perfect, the Regulation was a quantum leap forward in the fight against IUU fishing, and it established effective systems that should inform U.S. action now.

A core tenet of the EU's IUU Regulation is the requirement that a catch certificate accompany all seafood imports. The catch certificate must be issued by a flag state. Among other things, the certificate requires disclosure of the type and quantity of seafood harvested, as well as an attestation that it was caught by a licensed fishing vessel operating legally. Additionally, the EU

⁹ See: <https://www.intrafish.com/processing/chinese-officials-launching-seafood-processing-center-to-produce-value-added-product-from-imported-russian-crab-pollock/2-1-1530304>.

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32008R1005>.

system creates what is referred to as an “Annex IV” document requirement. This obliges any third-country processor or exporter to confirm: (i) that seafood products received from another country were accompanied by a valid catch certificate; and (ii) that the final products being re-exported are coming from that specific consignment. Critically, the Annex IV document must be endorsed by regulatory authorities of the transiting state.

These document requirements are in no way a silver bullet. They are, however, vastly superior to the requirements currently facing seafood products entering the United States:

- (i) *They are more comprehensive*, applying to all seafood products, not merely a subset considered to be “high risk”.
- (ii) *They are more streamlined*, creating a uniform set of requirements that impose a manageable administrative burden on both industry and regulatory authorities.
- (iii) *They are more credible*, carrying the imprimatur of regulatory authorities in both harvest and transshipment countries.

Adopting the EU import documentation requirements would be an immediate and significant improvement on the status quo for the U.S. seafood import system. Furthermore, the benefits would be significantly magnified by the alignment it would create between the two most important global authorities in the fight against IUU fishing. Uniform documentation would allow for far deeper U.S.-EU cooperation on enforcement, limiting the ability of bad actors to present fraudulent information on catch certificates and Annex IV documentation, and providing authorities in both jurisdictions with specific, complementary information about how seafood moves through supply chains globally. If other major importing nations, notably Japan, could be

encouraged to follow suit, the effectiveness and potential impact of the document requirements would become even more significant.

APA calls for immediate action from the United States Congress and the Biden Administration to follow Europe's lead and require catch certificates and the equivalent of Annex IV documentation to accompany all seafood imports.

(b) "Identification and Certification" Authorities:

A second element of the European Union system should also be targeted for adaptation. The EU's IUU Regulation enables issuance of a "yellow card" or "red card" against any flag state that is not providing an acceptable level of cooperation in the fight against IUU fishing. This element of the IUU Regulation arms EU authorities with critical leverage. It allows them to insist upon state cooperation on catch certificate and Annex IV requirements; and it empowers them in broader anti-IUU consultations.

In the United States, the High Seas Driftnet Fishing Moratorium Protection Act and its implementing regulations provide some parallel authorities, allowing the President to take action against non-cooperating countries.¹¹ Pursuant to the Act's requirements, NOAA Fisheries produces a biennial report to Congress on improving international fisheries management. The report enables NOAA to (i) "identify" nations and entities for certain problematic activities; (ii) consult with identified nations and entities; and (iii) issue negative certifications against nations or entities that are not cooperating on corrective action.

¹¹ <https://www.federalregister.gov/documents/2011/01/12/2011-507/high-seas-driftnet-fishing-moratorium-protection-act-identification-and-certification-procedures-to>.

The EU “carding” system and the U.S. biennial IUU reporting process have both resulted in specific, measurable, and important improvements in fishing activities and seafood supply chains globally. For example, The EU issued a “yellow card” against Thailand in April 2015. This resulted in a highly productive dialogue between Thai and EU authorities, and the subsequent enactment and enforcement of new Thai laws and regulations. These reforms improved transparency in Thai seafood supply chains, created a new system for registering and monitoring vessels, and channeled more resources into enforcement activities.¹²

Successes have also been achieved through the NOAA Fisheries biennial IUU reporting process. For example, after the 2019 report had identified three countries—South Korea, Ecuador and Mexico¹³—the 2021 report revealed that two of those countries had taken significant corrective actions as a result of bilateral consultations with U.S. authorities. First, in November 2019 South Korea responded to U.S. consultations by enacting legislative changes that enable quick enforcement action against a vessel found to have fished illegally. Second, consultations with Ecuador resulted in an end to Ecuadorian recalcitrance in the Inter-American Tropical Tuna Commission, enabling more effective cooperative action in that critical multilateral forum.¹⁴

Nonetheless, shortcomings are evident. Most significantly, bilateral consultations resulting from the U.S. biennial report come without the clear sequence of economic consequences prescribed

¹² See: https://ec.europa.eu/commission/presscorner/detail/en/IP_19_61.

¹³ NOAA Fisheries. Improving International Fisheries Management: 2019 Report to Congress (September 2019) available at: https://media.fisheries.noaa.gov/dam-migration/improvingintlfisheriesmgmt_2019_report_final.pdf.

¹⁴ See: <https://media.fisheries.noaa.gov/2021-08/2021ReporttoCongressonImprovingInternationalFisheriesManagement.pdf>.

by the EU’s IUU Regulation. We believe an optimal program design would distinguish itself from the EU system by enabling a more targeted approach to “carding” trading partners. Different seafood supply chains have vastly different challenges even within individual countries. It is possible for some fisheries or regions to have effective measures in place while others are plagued by serious IUU activity. Furthermore, a clear shortcoming of the EU system is that major nations are, in reality, “too big to card”. For example, it is almost impossible to imagine the EU issuing a “red card” against China and prohibiting the importation of all Chinese seafood into the EU. Both shortcomings can be addressed by giving the NOAA Administrator power to exclude imports of a specific species from a specific country when such action is warranted by serious IUU concerns. APA calls for adoption of such a system as quickly as is practicable.

(c) Forced Labor and Human Rights:

As Commissioners will be aware, Section 307 of the Tariff Act of 1930 provides U.S. Customs and Border Protection (CPB) with the power to detain any import shipment when it has reason to believe that the goods—or their inputs—were made with forced labor.¹⁵ These authorities have become far more meaningful in recent years thanks to Congress’s enactment of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) repealing the “consumptive demand”

¹⁵ For general background see: [https://crsreports.congress.gov/product/pdf/IF/IF11360#:~:text=Section%20307%20of%20the%20Tariff,\(CBP\)%20enforces%20the%20prohibition.](https://crsreports.congress.gov/product/pdf/IF/IF11360#:~:text=Section%20307%20of%20the%20Tariff,(CBP)%20enforces%20the%20prohibition.)

clause.¹⁶ Since the 2016 implementation of TFTEA, Withhold Release Order (WRO) authorities have been issued by CBP against seafood shipments on several occasions.¹⁷

With respect to products tainted by Uyghur labor specifically, the Uyghur Forced Labor Prevention Act provides strong authorities to ensure that such products are denied entry to the U.S. market. It is very concerning that the law does not yet appear to have been enforced with respect to seafood. If investigative journalists have been able to identify the use of Uyghur laborers at specific seafood processing plants in China, U.S. Customs and Border Protection authorities should be able to do so as well. APA calls for full implementation and enforcement of this landmark law with respect to seafood imports immediately.

Beyond Uyghur and other forced labor, APA welcomes dialogue about other import control system improvements that may be necessary to ensure that all seafood imports are produced through processes that respect the human rights of workers at every stage of production.

(d) The Seafood Import Monitoring Program:

APA is sharing the above ideas in good faith and with a spirit of cooperation. We stand ready to listen to alternative ideas, and to engage in authentic dialogue about their merits with policymakers, members of civil society, and other seafood industry participants. This includes with NGOs advocating for Seafood Import Monitoring Program (SIMP) expansion.

¹⁶ <https://www.congress.gov/bill/114th-congress/house-bill/644/text>.

¹⁷ See, for example: <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-withhold-release-order-seafood-harvested-forced-labor> and <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-withhold-release-order-chinese-fishing-fleet>.

APA has consistently held the view that SIMP has a central design flaw: it imposes all the obligations on a single and often marginal player in the supply chain, namely the seafood importer. For many seafood products, the importer is moving inventory just a single, modest step along a lengthy global supply chain. The role is transactional, connecting customer quality and product form specifications with the lowest cost raw material that can satisfy them. Importers have expertise in seafood trading, import documentation compliance, and logistics. What they often lack is either knowledge or leverage that can be helpful in the fight against IUU.

Transactional importers are not harvesters, or processors, or retailers. They are not price setters, and they do not define market tolerance for risk. To make them the central character in our Nation's seafood import control system is to fundamentally misread the cast.

SIMP stands in contrast with the programs and initiatives discussed above that focus on fishing and processing operations—and, critically, the governments that regulate them. The respective results to date stand in clear contrast, too: since SIMP's implementation in 2018, we are unaware of even a single instance in which it has operated to secure any positive change with respect to fishing practices or meaningful seafood supply chain integrity. The reality is that transactional importers attempting to comply with SIMP reporting requirements are not currently reaching up complex and opaque seafood supply chains to extract useful information or press for needed changes. Unfortunately, given the position of transactional importers in most seafood supply chains, we believe it is unrealistic to expect that this will ever change.

SIMP advocates and responsible seafood sector participants share strong alignment on values and objectives. Today we are calling for a renewed dialogue across stakeholder groups to reach agreement on how our shared objectives can be achieved.

5. Corporate Due Diligence

Although not the primary focus of today's hearing, it is important to note that more effective corporate due diligence in seafood supply chains must be part of the solution. Seafood companies and corporate buyers should put in place due diligence programs that are calibrated to the nature of the risk and designed to provide true assurance relating to supply chain integrity.

Social auditing is often a central element of such corporate due diligence processes. As *The New Yorker's* reporting makes clear, social auditing is not a panacea. It is ineffective in identifying collusion among bad-faith operators, for example, or in uncovering falsified government information or secret government activities. A social audit provides insights into practices at a specific location and at a specific moment in time. This may be insufficient in high-risk environments, in which case additional corporate due diligence methods will be required.

When used appropriately, however, we strongly believe that social auditing is an important tool for the seafood sector. It can define minimum acceptable standards, provide a measure of assurance, and drive needed improvements globally. In particular, voluntary programs can enable good-faith actors to receive external scrutiny and feedback, which in turn can help strengthen effective operational procedures.

In this context it is important to understand that, in many cases, human rights abuses in the seafood sector occur not as a result of pre-meditated actions but because of serious process failures. Where a vessel operator has not prioritized translation services, crew members may commence work under conditions they do not fully understand. Where a company has not anticipated and planned for a scenario where they go out of business while crew remain at sea, workers may find themselves stranded. Where recruiting firms rather than vessel operators hold the contractual relationship with crew members, three-way misunderstandings may lead to pay or other conditions being contrary to what was promised. Voluntary social audits can be a mechanism for the establishment of robust systems in these and other areas.

APA is proud to have undertaken independent, voluntary social audits of its vessel operations, and we hope other seafood companies and associations will follow our lead. At the same time, it is always critical to be honest about the limitations of such programs. They should never be relied upon as a singular solution, and they should never be used as a shield against valid criticism of failures to undertake more comprehensive due diligence in high-risk environments.

6. Consumer Empowerment

The New Yorker's reporting underscores the shortcomings of another aspect of the seafood sector's current operations. Opacity in seafood supply chains and seafood labeling too often disempowers even the most well-intentioned consumers in the United States and globally, limiting the ability of even highly diligent individual seafood buyers to make informed decisions.

For example, in Europe consumers purchase pollock products carrying the “Alaska pollock” species name and assume that it is ethically sourced. Unfortunately, EU authorities allow this confusion to prevail, refusing to grant a Geographical Indication to Alaska for pollock harvested off its coasts. As a result, people from Spain to Slovenia who purchase “Alaska pollock” products harvested in Russia and processed in China mistakenly assume they are from Alaska. We remain grateful to the United States Congress for enacting legislation to prohibit the use of the “Alaska pollock” name on foreign-harvested seafood products. This is the kind of “truth in advertising” that should be expanded across more seafood labeling laws in the United States and globally.

The role of the Marine Stewardship Council (MSC) in seafood supply chain labor assurance was a focal point of *The New Yorker’s* reporting. Today, however, I want to highlight another highly concerning dimension of the MSC’s impacts on the global seafood industry: its evolution to become a barrier to transparency in seafood labeling. The MSC’s revenue model has long relied on logo license fees. In its most recent annual report, logo license fees from use of the MSC eco-label were reported as totaling more than £29 million. In our opinion, a thirst to maintain and grow this organizational revenue compromises the integrity of the MSC program in numerous ways. One is the MSC program’s concerted, decades-long effort to market a generic MSC logo designed to provide blanket and anonymous “assurance”.

Since last year’s invasion of Ukraine, this problem has become far more acute. The MSC has refused to stop certifying Russian seafood, and its eco-label is now serving to “blue-wash” a Russian seafood industry that many consumers of good conscience have no desire to finance.

Russian “Alaska pollock”, Pacific salmon, Pacific halibut, Pacific cod and other species reach global consumers behind the veil of a reassuring MSC “blue check”. In many cases, there is no easy way for seafood buyers to see that these products are harvested in Russia and processed in China, often under completely unacceptable labor and environmental conditions. As a result, on supermarket shelves the world over, identical-looking seafood products hide behind identical MSC eco-labels, leaving even the most diligent seafood consumer disempowered.

Consumers have a right to know where their seafood comes from, and governments, seafood companies, and assurance programs should all do their part to bring transparency to consumer purchasing decisions. A good place to start is to require the display of harvest origin on all seafood products. APA supports federal action to mandate such disclosures.

7. Conclusion

We want to recognize again the important reporting of *The New Yorker*, which has shone a needed spotlight on individuals in the Chinese seafood sector who are victims of a failing system. To date, while important progress has been made in the fight against IUU fishing, there have also been far too many failures. The truth is that some industry initiatives in this area have been too weak to make a difference; while some NGO proposals would grind legitimate and ethical seafood trade to a halt. This issue is too serious to tolerate a continuation of such failures. We must all work together to implement more transparent, more ethical global seafood supply chains. APA stands ready to do its part.