

Written Testimony of Michele Kuruc
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My name is Michele Kuruc, Vice President of Ocean Policy at the World Wildlife Fund here in the United States. As the world's leading conservation organization, WWF works in nearly 100 countries to help local communities conserve the natural resources they depend upon; transform markets and policies toward sustainability; and protect and restore species and their habitats.

WWF thanks the Committee for the invitation to testify. Legal and sustainable trade is essential to conserving our planet's richest and most biodiverse landscapes and seascapes and improving livelihoods. Each year, billions of dollars of wildlife, timber, and fish are illegally trafficked. This illegal trade and overexploitation harms communities and the environment, finances criminal networks, undermines law-abiding businesses, and significantly impacts U.S. economic and security interests. Over the past two decades, Congress and successive US administrations have acted in a bipartisan manner to improve the traceability, transparency, and accountability of globally traded commodities.

My testimony today is focused on illegal, unreported, and unregulated (IUU) fishing and forced labor in seafood supply chains. However, I want to begin by speaking to WWF's ongoing efforts to halt illegal trade in timber and wildlife and establish strong standards of supply chain traceability and transparency. In 2008, the United States, the world's largest consumer of forest products, adopted the bipartisan Lacey Act Amendments and became the first country to ban trafficking of products containing illegally sourced wood. WWF has joined industry calling for immediate US action to enforce the law and halt imports of illegal timber. In addition, WWF strongly supports the bipartisan FOREST Act proposed by Chairman Blumenauer and Representative Fitzpatrick as a vital effort to stop the illegal destruction of critical ecosystems such as the Amazon rainforest and Cerrado savannah for agricultural production. There are notable parallels here with the seafood sector.

Seafood is the most highly traded food commodity internationally, with vastly complex and often opaque supply chains, requiring governments to use a number of tools to improve fisheries conservation and management, combat illegal, unreported, and unregulated (IUU) fishing, protect food security and the livelihoods of coastal communities, address labor and human rights abuse in the industry, and level the playing field for those who fish and trade fish legally.

With the U.S. being the largest single country market for seafood in the world with almost 85% of the seafood Americans consume imported,ⁱ it is critical for the U.S. to take strong action to combat IUU fishing globally and increase transparency and traceability around fishing operations. Absent such measures, the combined and often confounding effects of IUU fishing and forced labor, will severely and increasingly undermine marine ecosystems, coastal communities and workers in the industry, and threaten food security. U.S. action to address the environmental and labor concerns associated with IUU fishing will strengthen the durability, health and resilience of marine ecosystems; reduce labor abuses around the world; safeguard the health of American consumers; promote sustainable fish stocks, food security, the coastal livelihoods of communities that depend on them; and ensure greater economic prosperity for American fishermen.

These illegal practices undermine U.S. fishermen, unfairly disadvantage legal fishers who follow the rules, and allow for illegal products, often created with forced labor, to be sold to American consumers. Trade measures and import controls, can drive positive change for ocean conservation and fisheries management in both importing and source countries. Overall, the White House, federal agencies and Congress should work together to advance policies to ensure that all seafood is legally caught, responsibly sourced and not created with forced labor. Setting the minimum standard that seafood must meet to enter and be sold in the U.S. market will level the playing field for fishers who comply with the law and help drive change in both source and market states.

IUU Fishing and Forced Labor in Seafood Supply Chains

Representing up to a third of global catches, illegal, unreported, and unregulated (IUU) fishing is one of the greatest environmental threats to ocean health and to the sustainability of seafood supply chains. A significant proportion of farmed seafood products also rely upon IUU wild-caught fish as the source of feed for the aquaculture. This fishmeal is also at greater risk of having forced-labor on-board vessels.

The lack of transparency and traceability in the seafood sector, provides opportunities for large amounts of illegally caught and fraudulently labeled fish, and seafood products created with forced labor, to reach importers that ship seafood to the U.S. The documentation and traceability gaps occur at many levels: at sea, where monitoring, control and surveillance remain frequently inadequate; in ports, where systems to document catches are often weak or non-transparent; and in market countries, where effective systems to require traceability and proof of legal origin are lacking. Coupled with the financial incentives to fish illegally, these gaps allow IUU fishing and forced labor to remain profitable, with devastating effects on global fish populations, workers in the fishing industry, communities that depend on fish for food and the livelihoods of legitimate fishermen.

The U.S. is the single largest country market for seafood by value in the world; with almost 85 percent of the seafood Americans consume is imported. The lucrative U.S. market, if not subject to more rigorous controls, is facilitating many of these problems, with implications for American economic competitiveness, national security, fisheries sustainability, and ocean health in a changing planet, lives and livelihoods, and the human rights of fishers around the world.

The U.S. International Trade Commission (ITC) recently estimated that the United States imported \$2.4 billion worth of seafood imports derived from illegal, unreported, and unregulated (IUU) fishing in 2019.ⁱⁱ By volume, China was estimated to be the largest source of IUU seafood imports, and many vessels from the Chinese distant water fishing (DFW) fleet have been linked to IUU fishing around the world, including throughout the Pacific Ocean, the Indian Ocean, and in the Atlantic Ocean in proximity to Africa and South America.ⁱⁱⁱ Additionally, working conditions on these vessels vary, with several reports noting cases of hazardous conditions and forced labor, and China's distant-water vessels were particularly likely to engage in IUU fishing in certain regions of the world.^{iv} The ITC also found that of China's seafood exports to the United States, over 99 percent of the seafood that originated with the Chinese DWF fleet in African waters was estimated to be the product of IUU fishing, as was over 35 percent of the seafood originating with that fleet in South American waters, and over 23 percent originating with that fleet in Asian waters; and that, the Chinese market and processing sector have a high prevalence of and vulnerability to imports of seafood obtained via IUU fishing.^v

The absence of comprehensive mandatory requirements to provide catch documentation and traceability for internationally traded products is a problem within the global seafood trade. This means that illegal fishery products are still being imported into most countries without having to face any scrutiny or provide any information on their origin to establish legality. Without routine transparency of fishing practices, catch documentation requirements and traceability of seafood products, it is nearly impossible for responsible businesses to avoid commerce in illegal products.

Forced Labor and Human Rights Abuses

In addition to the environmental threats that compromise the sustainability of fisheries, human rights and forced labor risks also overlap and often occur where there is IUU fishing. Conditions that facilitate the contravention of fisheries management regulations—such as poor governance, inadequate monitoring, control, and surveillance (MCS) systems that lead to IUU fishing – as well as the remote nature of industrial fishing also foster environments where labor violations can occur.

Human trafficking and forced labor, in particular, are linked with other illegal maritime activities and transnational organized crime, that use the unobserved nature of fishing to commit crimes like drugs and weapons trafficking, but also including those related to fisheries management regulation violations and associated crimes such as document fraud, corruption, money laundering and tax evasion.^{vi} Fishing vessels using unscrupulous methods to save costs and increase profits by engaging in illegal activities use similar methods to avoid detection and enter their landings into global supply chains, including the legal but easily abused use of open-water and in-port transshipment, flying flags of convenience, and engaging in long-term distant water fishing (fishing outside of their own EEZ).^{vii}

As noted earlier, forced labor, human trafficking, child labor, and other major human rights violations often co-occur with IUU fishing. Declining fish stocks force boats to fish further out at sea and for longer periods of time, as it becomes harder and harder to turn a profit. To compensate for the higher costs of distant-water fishing, vessel owners often turn to illegal trafficking networks to supply cheap labor at the expense of vulnerable populations, often migrant workers.^{viii} Unfair and illegal labor practices, in turn, allow these operators to fish further and more intensively, forcing workers to work as much as 22 hours per day and further jeopardizing overtaxed fish stocks.

As vessels fish in more remote locations for longer periods of time they can take advantage of the low risk of being caught for labor abuses and illegal fishing activities.^{ix} Fishermen have been trapped at sea for months and even years and have been abused on board these vessels, including physical abuse and murder. Human rights abuse also extends up the supply chain, where allegations have included workers locked into shrimp peeling plants and similar processing facilities.^x Furthermore, as with IUU fishing, the violations of labor laws and standards lower the costs of production and depress the price of the product, giving those goods an unfair economic advantage when competing with legal U.S. products caught or processed under stronger labor protections.

A recent Government Accountability Office (GAO) report found that seafood imports often involve complex supply chains, which may include forced labor.^{xi} Forced labor can occur at various points along the seafood supply chain—which can be long and complex—with limited visibility at various points, making it difficult to detect. The GAO report highlights that, “forced labor may occur if workers are held on fishing vessels for long durations without adequate breaks or the ability to return to land. It may also occur in later stages of seafood processing, such as during filleting and canning the fish for export and

sale to consumer.”^{xii} Additionally, during the harvesting and processing stages, seafood caught with forced labor may be combined with legally caught seafood, making illegal shipments more difficult to identify. For example, companies may combine catches from several smaller boats onto a bigger vessel before transporting it to shore for processing. Moreover, some seafood supply chains have an additional layer of complexity because low-value fish may not be directly exported but, rather, used as feed for farm-raised seafood that could eventually be imported into the United States. Forced labor related to this type of situation can be difficult to detect because the source of feed for farm-raised fish is an early step in a supply chain that occurs well before the seafood is imported into the United States.

A 2017 United Nations report estimated that there are 24.9 million people in forced labor around the world, 12 percent of whom work in the agriculture and fishing sectors.^{xiii} Additionally, the U.S. Department of State’s 2019 Trafficking in Persons report identified more than 40 countries with human trafficking associated with the seafood supply chain.^{xiv} The Department of Labor’s Bureau of International Labor Affairs (ILAB) reports a “List of Goods Produced by Child Labor or Forced Labor” as part of the Trafficking Victims Protection Reauthorization Act. In 2020, the list of countries in the ILAB report which used child or forced labor in the production of fish included 19 countries: Bangladesh, Brazil, Cambodia, China, El Salvador (shellfish), Ghana, Honduras (lobster), Indonesia, Kenya, Nicaragua (shellfish), Paraguay, Peru, Philippines, Taiwan, Tanzania (perch), Thailand, Uganda, Vietnam, and Yemen.^{xv} Most of the workers—estimated to be in the tens of thousands—are migrants from Indonesia and the Philippines.

The threats to fisheries and vulnerable workers are widespread. Cases involving the use of forced labor in the fisheries of some countries have been documented, particularly involving recent reports in the use of modern slavery in the Thai fishing industry. One study found that 76 percent of migrant workers in the Thai fishing industry had been held in debt bondage and almost 38 percent had been trafficked.^{xvi} Slavery in commercial fisheries is not unique to Thailand though, and there have been media reports of labor abuses aboard Chinese, British, Taiwanese, and Korean vessels more recently. The Seafood Slavery Risk Tool, developed by the Monterey Bay Aquarium Seafood Watch Program, Liberty Asia and the Sustainable Fisheries Partnership, identified more than 20 global fisheries that were assessed as either at critical risk or high risk to having forced labor occurring on fishing boats.^{xvii} Many of these fisheries have hundreds of vessels operating across vast areas of the high seas and multiple jurisdictions, and are targeting valuable species that are imported into the U.S.

Preventing the use of forced labor and ensuring safe labor conditions involves not just the country where a vessel is registered, but also the country or regional fishery management organization (RFMO) where the fishing occurs, the home country of the fishers, and the countries where the fish may be processed or consumed.

U.S. Actions in Trade Agreements

The good news is that U.S. has a number of tools that can be used to more effectively combat IUU fishing and forced labor in seafood supply chains. Trade agreements and initiatives like the Indo-Pacific Economic Framework, the Americas Partnership for Economic Prosperity, the Taiwan Agreement provide the U.S. with an opportunity to raise the standards for management and oversight of fisheries by requiring that countries meet the same standards as the U.S. for sustainability and legality. The U.S. should continue to push for strong binding measures in trade agreements or initiatives that work to prevent the trade in illegal products, by requiring partners countries to have in place traceability

systems that can document the legal origin of a product and track its chain of custody throughout the supply chain.

Trade initiatives or agreements should also ensure that partner countries can comply with conservation requirements, particularly around the management and oversight of their fisheries, and for vulnerable and endangered species, and that the fishery products they trade are not derived from illegal fishing. To ensure this, partner countries should be required to establish management measures comparable to the U.S. requirements established in the Magnuson-Stevens Act, the Marine Mammal Protection Act, and the Endangered Species Act. This means that partners should have catch documentation and traceability systems in place if they do not already, that can collect and report information on the legal origin of a product, at a minimum, throughout the supply chain.

New trade initiatives or agreements should also adopt the same standards that were included in the USMCA agreement, which has the strongest and most far-reaching labor provisions of any trade agreement. This includes:

- requiring partner countries to adopt and maintain in law and practice labor rights as recognized by the International Labor Organization (ILO), to effectively enforce its labor laws, and not to waive or derogate from its labor laws;
- requiring partner countries to take measures to prohibit the importation of goods produced by forced labor;
- requiring partner countries to address violence against workers exercising their labor rights;
- requiring partner countries to address sex-based discrimination in the workplace;
- requiring partner countries to ensure that migrant workers are protected under labor laws;

New trade initiatives or agreements should also require partner countries to commit to specific legislative actions to provide for the effective recognition of the right to collective bargaining if legislation is not currently in place. And trade initiatives or agreements should have in place mechanisms for stakeholders and workers to petition for a rapid response where a partner country is failing to comply with these labor provisions or obligations, including through the establishment of a U.S. interagency labor committee for monitoring and enforcement to monitor compliance with the provisions.

For many countries, particularly in the Indo-Pacific region this will require technical assistance and aid from the U.S. to support needed reforms, to strengthen labor standards to protect workers, to promote acceptable conditions of work, and to address the risks of forced labor.

Fishing Subsidies

Another important tool that the U.S. should take advantage of in the fight against IUU fishing is the World Trade Organization's recent Agreement on Fisheries Subsidies. The new Agreement is a historic step towards tackling one of the key drivers of overfishing in harmful subsidies. One-third of fish stocks worldwide are exploited beyond sustainable levels, according to the United Nations Food and Agriculture Organization.^{xviii} The \$22 billion a year in government subsidies^{xix} is helping drive this overfishing; with the funds going primarily to industrial fishing fleets to artificially lower fuel and vessel construction costs. These subsidies allow large vessels to catch more fish than is sustainable by enabling

fishing farther out to sea and for longer periods, essentially increasing each vessel's capacity. Many of these industrial fleets would not be profitable without government assistance.

Under the new WTO agreement, countries will need to consider the current state of fish stocks when granting subsidies—a provision that should help curtail overfishing, improve ocean health and protect livelihoods in coastal communities. This deal, the first multilateral agreement reached by the WTO that links trade and the environment, creates a global, legally binding framework that limits subsidies for IUU fishing and fishing of overfished stocks, as well as subsidies to vessels fishing on the unregulated high seas.

Going forward, 109 members must ratify the agreement for it to take effect. The U.S. should continue to push members at the WTO to ratify, implement, and strengthen the new agreement. The U.S. should also ensure that any new trade initiatives or agreements require partner countries to fully implement the WTO Agreement, and, ultimately, eventually eliminate subsidies for fishing operations, particularly those for overcapacity, and clearly for vessels where labor and human rights violations have been identified.

U.S. Tools to Combat IUU Fishing

Basic information on the legal origin of products, across commodities – from fish to timber to minerals – and requirements for traceability throughout the supply chain are needed to help combat illegal activity and prevent the trade in illegal products. U.S. action to strengthen transparency and traceability requirements of the supply chain is key and necessary to combat IUU fishing and prevent the trade in illegal products, including those created with forced labor. The U.S. has several tools available using existing authorities to help combat these threats and strengthen seafood supply chains. To ensure that seafood supply chains are as resilient as possible, the U.S. should strengthen the documentation and traceability requirements in the NOAA Seafood Import Monitoring Program (SIMP) and expand the program to cover all seafood, strengthen the identification system for countries engaged in IUU fishing, expand requirements for transparency of fishing vessels, especially around vessel operations and ownership, and address the use of forced labor in supply chains.

Expand and Strengthen SIMP

In 2016, the Obama Administration finalized new rules that set-up transparency and information requirements to establish the legal origin of seafood imports. SIMP was designed to leverage U.S. purchasing power to incentivize change on the water and across supply chains. Despite a specific roadmap for action provided by the Obama Administration, SIMP still only applies to about 40 percent of the U.S. seafood imports, does not address labor or human rights violations, has some clear and unchecked implementation problems, and fails to maximize the power of existing digital infrastructure and machine learning, and is not paired with a meaningful diplomatic system to address IUU problems at the foreign nation level.

The U.S. should expand the Seafood Import Monitoring Program to have the traceability requirements apply to all imported seafood and ensure that the Program is working effectively. NOAA should expand the Program to cover all fishery products by a date certain and make necessary changes to Program implementation to ensure illegal products are not entering the United States, including as the result of mislabeling between covered and uncovered products, and competing with honest domestic products.

Robust implementation of the Program is also needed to ensure that information requirements, including for key data elements related to labor practices, can effectively identify the legal origin of products, and prevent the entry of illegal products. As currently implemented, SIMP does not clearly require an importer of record to provide certain key data elements, such as the Unique Vessel Identifier (UVI) or authorization to fish, at the time of entry into U.S. commerce. Moreover, it is unclear if standard auditing procedures for SIMP derived data includes data validation as well as confirmation of collection. Without transparency about audit procedures and how SIMP data are being verified, confidence in the program's efficacy will undermine support for the program and impair importers' ability to get the necessary documentation from their suppliers.

SIMP can be strengthened significantly to prevent the trade in illegal products and close the U.S. market to illegal seafood if the following information that is currently required to be reported at the time of entry of an import is more detailed:

- Evidence of authorization to fish at time of entry (mandatory reporting of a fishing permit and/or license number)
- Require mandatory reporting of a unique vessel identifier
- Date of landing/offloading at the end of a fishing trip, or the date of transshipment at-sea
- Geographic location of catch, at a resolution of 1-degree latitude by 1-degree longitude
- Chain-of-custody records, including transshipment, processors, storage facilities, or distributor
- Require information on transshipment of product at the time of entry
- Require documentation of commingling and transformation of product including: source(s), ingredients, weights, date(s), location(s), product formats
- Unique identifiers that connect commingling documents to the supply chain

Additionally, some new information should be required to be reported within SIMP to help establish the legal origin of a product, including:

- The maritime mobile service identity (MMSI) number of an AIS device for the harvesting or transshipment vessel
- Beneficial owner of harvesting and transshipment vessels

Automatic Identification System (AIS) is an open-source vessel tracking system that transmits a vessel's location, behavior, and identity. This includes the name, unique identifier (MMSI and IMO), callsign, size, flag state, and type of the vessel along with its speed, direction, and geographical position. Originally designed for safety at sea, AIS is increasingly used to provide greater transparency at sea. Transparency of fishing vessels is a deterrent of illegal activity as it allows governments and others to know the location and movements of fishing vessels whether they are fishing within EEZs or the high seas.

AIS provides a near continuous stream of location points and identity of vessels at sea. With respect to fisheries, because it is open-source information, this continuous data stream can be processed using machine learning and neural networks, as done with Global Fishing Watch, to identify patterns and behaviors. For example, fishing activity can be isolated from transiting. Offloading catch at sea, or transshipping, can now be identified by vessel behavior and the associated vessels tracked. Even the type of fishing gear used by the vessel can be inferred as the fishing behavior of a trawler is different than a purse seiner which is different than a long liner.

The U.S. can require greater transparency as a condition of import by collecting a Maritime Mobile Service Identity (MMSI) number -an identification number associated with an AIS device - as a key data element under the SIMP program. NOAA could use this information to help verify catch documentation and use for risk-based screening and enforcement. AIS is a relatively inexpensive technology that would increase the number of known vessels at sea and give the U.S. more information about fishing activity. By committing to more transparency, the United States can both address national security concerns and fight IUU fishing.

Information on beneficial ownership is also key to identifying the individuals who ultimately own and control the operations of fishing vessels, aquaculture farms, or processing facilities where labor or human rights abuses may have occurred. The lack of transparency around beneficial ownership allows these individuals to remain anonymous while they may be facilitating illicit activity. Improving the transparency around fishing operations, especially around the reporting of the beneficial owners of fishing vessels, and overall disclosure of beneficial ownership across commodities, will help to strengthen oversight and accountability, especially to address concerns related to forced labor.

The full information set required within SIMP should be submitted to Customs and NOAA at least 72 hours prior to entry of the product to allow for review of the information and identification of any shipments that may be of a likely illegal origin. Additionally, it is key that the information set that reported and is supposed to establish the legal origin of a product is reviewed and verified by the competent authorities with jurisdiction over the management of those products. This is the standard that has been in place for the information submitted to the EU for seafood imports since 2010, which requires a catch certificate that has been validated by government officials with oversight of the catch and is also now the standard for Japan in its new import control requirements that began on December 1, 2022.

To be truly effective, SIMP must also be formally embedded as an operational enforcement tool relied on by NOAA Office of Law Enforcement and Customs and Border Protection with clear procedures for actionable intelligence and information transfer. These gaps hamper NOAA's ability to proactively identify at-risk shipments.

The failure of SIMP to cover all species, to effectively verify the information currently provided, and to require all key data elements at the time of entry are serious impediments to establishing the legal origin of all fish products entering the U.S. market. Given that in-port inspection capacity is profoundly limited, NOAA's leadership in making SIMP as robust, efficient, and sophisticated as possible is essential if the program is to achieve its objective of "ensuring that imported fish and fish products derived from illegal harvest of species designated to be at risk of illegal fishing or seafood fraud can be excluded from entry into U.S. commerce."^{xx}

Strengthen the Identification System for Countries Engaged in IUU Fishing and Forced Labor

The U.S. should strengthen the system for ensuring country level compliance with respect to IUU fishing derived from mandates in the High Seas Driftnet Fishing Moratorium Protection Act (HSDFMPPA). The U.S. system has based its determination on the actions of individual vessels rather than the flag state. The narrow focus has led to a pattern in which nations have been positively certified for past performance, and relisted in the very same report, without addressing the underlying conditions at the national level that allow IUU fishing to continue.

Historically, NOAA has erred on the side of caution in listing countries for IUU fishing activities in its biennial report to Congress. When a country is listed, the agency consultation process with identified nations is not action-forcing. In the limited cases where a negative certification has occurred, there has been limited action taken against the country (i.e., limiting port services to specific vessels, but no significant import restrictions). Multiple countries (e.g., Korea, Ecuador), have been identified by NOAA for IUU fishing under multiple biennial reports, given positive certifications, only to be re-identified in future reports. In addition, NOAA's efforts have been narrowly focused on violations that occur in U.S. waters or of regulations of the four Regional Fisheries Management Organizations (RFMO) of which the U.S. is a member. The United States' limited interpretation of IUU in this context, which runs counter to the existing legal definition, results in an ineffective deployment of what could be a powerful tool.

The model the U.S. system should work to approximate is the carding system approached employed by the European Union. In this system, the EU evaluates a country's ability to comply with its catch documentation requirement, its overall management system and enforcement capabilities, and therefore its ability to combat and prevent IUU fishing. Where there are serious concerns with a country's ability to comply or prevent IUU fishing, a yellow card may be issued, that warns a country that if further improvements to the management and oversight of their fisheries are not made, that country's exports to the EU may be prohibited. Where a warning has been issued and no improvements have been made, or where the overall management and oversight is completely lacking, a red card may be issued which prohibits the export of products the carded country. This system has had a profound effect in driving improvements in the overall management and oversight of fisheries in exporting countries to ensure that a country can continue to export their products.

To strengthen the U.S. system and address the earlier identified limits, the U.S. should apply the existing legal definition of IUU, as codified through Maritime SAFE Act of 2019^{xxi} and the Illegal, Unreported, and Unregulated Fishing Enforcement Act, to the HSDFMPA process. This definition should be interpreted broadly to apply to all IUU fishing, regardless of where it occurs, and to include labor and human rights violations to allow the U.S. to address the most egregious actions of vessels from other countries. Additionally, the Maritime SAFE Working Group should establish systems and processes to increase the coordination and flow of information between federal agencies, and to use these various data streams, together with information collected under SIMP to develop predictive analysis tools for evaluating risk in seafood supply chains. Increasing and improving data sharing would allow IUU fishing and labor factors to be used more effectively across government agencies and processes for risk-based targeting.

The Administration should also work with Congress to also make the certification and sanctions authority more reflexive such that NOAA must act. For countries identified and not subsequently positively certified, the U.S. should restrict importation of fish and fish products not only from the vessels engaged in IUU fishing, but more broadly from vessels flagged to that nation. At the same time, the U.S. should increase its efforts to provide technical assistance to those countries, and others, to help them develop needed capacity.

Address the Use of Forced Labor in Supply Chains

The U.S. has some programs and authorities designed to enhance transparency, combat IUU fishing and human trafficking, that could be utilized better to also address labor and human rights abuse. These include SIMP, the Tariff Act and the Food Safety Modernization Act.^{xxii} The U.S. should ensure that agencies, like Customs and Border Patrol, NOAA, the Department of Labor, the Food and Drug Administration, and the State Department, are using existing authorities effectively to ensure that all

products entering the US market are not produced through IUU fishing or with forced labor. The U.S. should also direct agencies to pursue additional tools under these authorities, including requirements for importers to formally share their due diligence approach and management systems with regards to forced labor in their supply chains.

NOAA's Seafood Import Monitoring Program, an already existing Government platform, could also be utilized to help reduce the risks of forced labor in seafood supply chains by requiring that supply chain actors maintain records for some key information related to wages, recruitment, and working conditions. Specifically, records of the following information should be required to be maintained by supply chain actors as a condition of import into the U.S. market:

- Worker/crew manifest at sea^{xxiii}
- Labor recruitment channel (whether government or private entity; if private entity, the names of recruitment agencies or brokers)
 - The number of workers from different countries recruited through each channel
 - Verification of no recruitment or placement fees or guarantee deposits were charged to workers or deducted from wages
- Duration of work at sea between trips to port (no more than 3 months)^{xxiv}
- Records of previous labor rights violations, and their effective remediation, that is published
- Proof of effective, safe grievance mechanisms, including at-sea, that meet the UN Guiding Principles on Business and Human Rights
- Details of grievance mechanism (at-sea and on-land) available to crew
- Contract provisions in the language of the worker, explained to the worker, in line with ILO Convention No. 188 – Work in Fishing Convention^{xxv}
- An assessment of compliance with ILO Core Conventions, the International Bill of Rights and ILO Convention No. 188

Requiring maintenance of records of this information within SIMP, would allow Government officials who may be conducting an audit or investigation to better identify products and supply chains that might be at greater risk of using forced labor, and would also improve the ability of supply chain actors to conduct due diligence regarding their suppliers, and ensure that products created with forced labor are not in their streams of commerce. These records should be supplemented during an audit or investigation with direct reports or interviews from workers before and after being at-sea to verify the information, including a verification of pay stubs (withholding, fees, deductions, payment method); time at-sea; working hours; and freedom of movement.

Customs' Withhold Release Orders (WROs)

Customs' withhold release orders (WROs) – which can be issued to prevent products that have been produced illegally and/or with forced labor from being imported into the U.S. – are one of the most powerful tools the U.S. has to combat IUU fishing and forced labor in seafood supply chains. If product has been identified as being produced illegally or with forced labor Customs' can seize the product or deny its entry. With respect to seafood, Customs' has only issued seven WROs to prohibit the import and prevent the entry of fish products that had been produced using forced labor.

These WROs have all been issued for products – tuna and swordfish - that currently have requirements to document the legal origin of a catch and trace its chain of custody through the supply chain to import.

For Customs to effectively implement the Tariff Act and prevent the entry of illegal products and products created with forced labor, basic information on the origin of the product and the chain-of-custody throughout the supply chain is first needed to link an import back to a vessel, aquaculture farm, or processing facility where allegations of forced labor have occurred.

Strengthening the information and traceability requirements of NOAA's SIMP, and expanding their application to all imported seafood is a clear way to enable CBP to better identify and prohibit the entry of products created with forced labor and to more effectively use WROs to drive change for improved practices from the various fisheries the U.S. sources from around the world. Congress and the Administration should take the opportunity to strengthen and expand SIMP to ensure that Customs and NOAA are more effectively preventing the trade of illegal products, including seafood created with forced labor, from entering the US market.

Additionally, as highlighted in the GAO report, the U.S. should encourage effective interagency collaboration, to better connect anti-IUU related processes with expertise around forced labor, including taking advantage of the existing State Department Trafficking in Persons report process and internal agency knowledge, the Department of Labor's List of Goods produced with forced and child labor, and other similar efforts. The U.S. should also support efforts in other countries to put in place and enforce sustainable fisheries management and labor rights systems. Similarly, increased investment in integrated risk analysis and detection systems with a focus on IUU and labor abuses in the seafood trade should be made a priority for the CBP's Commercial Targeting and Analysis Center (CTAC). CTAC already serves this mission but needs to be better supported and integrated with SIMP and other available tools.

Taking these steps will safeguard American health and the economy, combat IUU fishing and strengthen fisheries and marine ecosystems, and address the disproportionate impact on migrant groups and other socially disadvantaged communities that bear the brunt of the labor in the supply chain, both onboard fishing vessels and in processing facilities.

Conclusion

The U.S. can and should be a leader in combatting IUU and forced labor and preventing the entry of illegal products into the U.S. market and global supply chains. Ensuring our trade agreements have strong provisions requiring traceability and documenting the legal origin of a product, and strengthening our own controls to prevent the entry of illegal products into the U.S., will go a long way to preventing the overall trade of illegal products globally and help to combat IUU fishing and forced labor in seafood supply chains

Increasing information on the legal origin of products and requiring traceability throughout the supply chain will help regulators address concerns IUU fishing and the use of forced labor in production from entering the U.S. market. The Seafood Import Monitoring Program, the Tariff Act, and the Identification Process for nations engaged in IUU all provide the U.S. Government with a set of tools to combat IUU, prevent illegal products from entering the United States and to protect workers, the environment, and U.S. fishermen and exporters operating legally from this unfair competition.

Sincerely,

Michele Kuruc
Vice President, Ocean Policy
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- ⁱ NOAA. Fishwatch: U.S. Seafood Facts. <https://www.fishwatch.gov/sustainable-seafood/the-global-picture>
- ⁱⁱ U.S. International Trade Commission (ITC). February 2021. ITC Investigation: Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries. <https://www.usitc.gov/publications/332/pub5168.pdf>
- ⁱⁱⁱ Ibid.
- ^{iv} Ibid.
- ^v Ibid.
- ^{vi} ITC. 2021.
- ^{vii} Ibid.
- ^{viii} McDowell, R., Mason, M., and Mendoza, M., 2015. AP Investigation: Slaves may have caught the fish you bought. <https://www.ap.org/explore/seafood-from-slaves/ap-investigation-slaves-may-have-caught-the-fish-you-bought.html>
- ^{ix} Lewis, S.G., Alifano, A., Boyle, M. and Mangel, M., 2017. Human rights and the sustainability of fisheries. In Conservation for the Anthropocene Ocean (pp. 379-396). Academic Press. Available at: <http://fishwise.org/wp-content/uploads/2017/12/Lewis-et-al-2017-human-rights-and-fisheries-sustainability.pdf>
- ^x The Guardian. 12/14/15. "Shrimp sold by global supermarkets is peeled by slave labourers in Thailand." <https://www.theguardian.com/global-development/2015/dec/14/shrimp-sold-by-global-supermarkets-is-peeled-by-slave-labourers-in-thailand>
- ^{xi} Government Accountability Office (GAO). June 2020. Forced Labor – Better Communication Could Improve Trade Enforcement Efforts Related to Seafood. <https://www.gao.gov/assets/710/707686.pdf>
- ^{xii} Ibid.
- ^{xiii} UN International Labor Organization (ILO). 2017. Global Estimates of Modern Slavery. https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf
- ^{xiv} The Trafficking Victims Protection Act of 2000 defines severe forms of trafficking in persons, in part, to include the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Pub. L. No. 106-386, § 103(8)(B), 114 Stat. 1466, 1469 (2000) (codified as amended at 22 U.S.C. § 7102(11)(B))
- ^{xv} At this time there are no legal consequences for country or product being identified in the List of Goods Report. Department of Labor, International Labor Affairs Bureau. 2020. 2020 List of Goods Produced by Child Labor or Forced Labor. https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2019/2020_TVPRAListOnlineFinal.pdf
- ^{xvi} Issara Institute and International Justice Mission 2016, *Not in the same boat: prevalence & patterns of labour abuse across Thailand's diverse fishing industry*. Available from: <https://www.ijm.org/thai-fishing-study> https://docs.wixstatic.com/ugd/5bf36e_9ec3ea47011343158f7c76fc7f14591f.pdf. [23 July 2017].
- ^{xvii} Seafood Slavery Risk Tool. <http://www.respect.international/seafood-slavery-risk-tool/>
- ^{xviii} FAO. 2022. State of World Fisheries and Aquaculture. <https://www.fao.org/3/cc0461en/cc0461en.pdf>
- ^{xix} Sumaila et. Al. 2019. Updated estimates and analysis of global fisheries subsidies. Marine Policy. Volume 109, November 2019, 103695. <https://www.sciencedirect.com/science/article/pii/S0308597X19303677>
- ^{xx} NOAA Fisheries, Seafood Import Monitoring Program Final Regulatory Impact Review and Final Regulatory Flexibility Analysis at 18 (2016).
- ^{xxi} The Maritime SAFE Act was included in the National Defense Authorization Act for Fiscal Year 2020, Public Law 116-92, sec. 3531-3572.
- ^{xxii} Tariff Act Sec. 307 as amended by the Trade Facilitation and Trade Enforcement Act "[a]ll goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited."
- ^{xxiii} Including a proof of minimum age requirement of 18 years of age or older.
- ^{xxiv} Including a record of ports docked at and how long crew stayed ashore.
- ^{xxv} ILO C188 – Work in Fishing Convention, 2007 (No. 188). [Convention C188 - Work in Fishing Convention, 2007 \(No. 188\) \(ilo.org\)](https://www.ilo.org/convention188)