

RUSSIAN SEAFOOD BAN IMPLEMENTATION AND SEAFOOD TRACEABILITY

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON WATER, OCEANS, AND
WILDLIFE

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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OVERSIGHT HEARING ON “RUSSIAN SEAFOOD BAN IMPLEMENTATION AND SEAFOOD TRACEABILITY”

Thursday, April 7, 2022
U.S. House of Representatives
Subcommittee on Water, Oceans, and Wildlife
Committee on Natural Resources
Washington, DC

The Subcommittee met, pursuant to notice, at 1:02 p.m., in room 1324, Longworth House Office Building, Hon. Jared Huffman [Chairman of the Subcommittee] presiding.

Present: Representatives Huffman, Case, Soto; Bentz, Graves, Radewagen, González-Colón, and Fulcher.

Mr. HUFFMAN. Good afternoon, everyone. The Subcommittee on Water, Oceans, and Wildlife will come to order. We are meeting today to discuss the execution of the President’s Executive Order banning Russian seafood imports.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member, or their designees. This allows us to hear from our witnesses sooner, and keeps Members on schedule. Therefore, I ask unanimous consent that all other Members’ opening statements be made part of the hearing record if they are submitted to the Subcommittee by 5 p.m. today, or the close of the hearing, whichever comes first.

Hearing no objection, that is so ordered.

Without objection, the Chair may also declare a recess at the call of the Chair.

As described in the notice, statements, documents, or motions must be submitted to the electronic repository at HNRCDocs@mail.house.gov. Members physically present should provide a hard copy for staff to distribute by email.

Please note that Members are responsible for their own microphones. As with our fully in-person hearings, Members can be muted by staff only to avoid inadvertent background noise.

And, finally, Members or witnesses experiencing technical problems should inform Committee staff immediately.

We are going to just hold off for one moment to wait for Ranking Member Bentz before we go any further. So, if everyone can just bear with me, we will get going as soon as Ranking Member Bentz joins us.

[Pause.]

Mr. HUFFMAN. Do we have any indication for when Ranking Member Bentz will be with us?

VOICE. Congressman, this is Lora. He is voting right now, so it is going to be a few minutes.

Mr. HUFFMAN. OK, good. Well, we are just going to recess then for whatever time it takes for Mr. Bentz to join us, and we will resume when he gets here.

[Recess.]

Mr. HUFFMAN. Good afternoon, everyone. The Water, Oceans, and Wildlife Subcommittee is back in session.

Ranking Member Bentz, I apologize that we had some confusion in the hearing room and on my remote video. We weren't clear that you were not with us, so we started the hearing and then recessed. But I understand that we are ready to go. I won't repeat all of the prefatory statements I made to begin the hearing. I will just recognize myself for 5 minutes for an opening statement, and I want to thank everyone for joining us today.

STATEMENT OF THE HON. JARED HUFFMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HUFFMAN. Last month, President Biden issued an Executive Order banning the import of Russian seafood, one of many sanctions we have put in place in response to the unprovoked, unjustified aggression, war crimes, and atrocities of Vladimir Putin in Ukraine.

The United States imported more than \$1.2 billion of crab, cod, and other fish from Russia in 2021. Banning those imports is intended to ensure that American consumers are not funding Putin's war machine.

While I fully support the President's goal, I regret to inform the President and all of you that this well-intentioned ban won't work, not under current laws and policies, not under the less-than-watchful eye of the National Oceanic and Atmospheric Administration, or NOAA. And here is why—

As we have heard repeatedly in this Committee, NOAA only requires transparency and traceability for 13 species groups through its Seafood Import Monitoring Program, or SIMP, representing only about 40 percent of the species imported into the United States. SIMP requires importers to track fish from the initial catch, throughout the supply chain, and to their entry into the United States.

There is no requirement for traceability for the remaining 60 percent of the species entering our markets, which includes most of the seafood originating in Russia, including pollock. So, while the Executive Order, in theory, is supposed to block seafood imported directly from Russia, how will it actually work if most of that seafood is not required to be tracked under SIMP?

It actually gets even more complicated. Russia sends a significant amount of seafood to China for processing, hiding the true origins. In fact, 26 percent of the fish caught in Russia is already sent to other countries for processing, making it a product of the other country. Unless that fish is one of the 13 species that happened to be covered by SIMP—and we know most of them are not—the Russian origins of this seafood is untraceable, and the ban is impossible to enforce.

But if NOAA required SIMP for all species, we could ban all seafood imports from Russia. Until that happens, Russian seafood will continue to line grocery store shelves in the United States, and

American consumers will continue unwittingly supporting Putin's war machine.

The ineffectiveness of the Russian seafood ban is just one example of the many reasons why I and others have long advocated for NOAA expanding SIMP to cover all species imported into the United States. In fact, when NOAA first developed the SIMP program to address illegal fishing, seafood fraud, and slave labor in the seafood supply chain, they explicitly stated in the final rule that they planned to expand the program to cover all species. Since then, story after story demonstrates the need to expand, but NOAA consistently refuses to do so.

Even more disappointing, NOAA refused to testify at this hearing today. They won't act, and apparently they don't want to talk to Congress about why they won't act.

During my tenure as Chair of this Subcommittee, we have had several hearings highlighting the need for full transparency and traceability of all seafood entering the United States to make sure that it is not resulting from IUU fishing, from fraud, or slave labor in the supply chain, and it is not being sold in our supermarkets and restaurants, undercutting American fishermen.

The bill I introduced alongside Congressman Graves, H.R. 3075, would do just that. The America COMPETES Act includes critical components of our bill, and it must be enacted, especially given NOAA's resistance to acting and their blatant disregard for appropriately dealing with these issues, despite everything that we have learned over the years.

At one of our hearings we heard from Pulitzer Prize-winning journalist Ian Urbina, who told us about a Cambodian migrant who was held captive on a trawler at sea for 3 years, shackled by the neck and forced to catch fish destined for American shelves. NOAA was at that hearing. They heard it, and yet they have done nothing.

We have learned about the deadly secret of China's fishing vessels illegally fishing in North Korean waters, violently displacing smaller North Korean boats, killing fishermen, catalyzing a more than 70 percent crash in the once abundant squid stocks. Squid, of course, is one of the species that NOAA does not include in the SIMP program. So, we continue to import all of this through China, and yet NOAA has not acted.

We have learned that the Department of Labor identified 68 seafood species produced by slave or child labor that we continue to import into the United States. But SIMP only covers 12 of those seafood species. And still, NOAA has not acted.

We have learned that SIMP covers only 29 percent of seafood imports from China, China being a notorious bad actor. Almost 60 percent of offenses in the industrial fishing sector are related to Chinese-owned vessels, according to a new study. But despite pressure from both sides of the aisle to be tougher on China, NOAA has not acted.

Finally, we learned that SIMP doesn't cover many Russian seafood products like pollock and salmon, even though Russia is engaged in IUU fishing. Government reports estimate that over 16 percent of seafood imports from Russia were obtained through

illegal fishing. But I think you know—and I am starting to sound like a broken record here—NOAA has not acted.

Seafood traceability is imperative for preventing the illegal importation of Russian-derived, often IUU-related, seafood into the United States. NOAA must immediately take steps to expand SIMP so that we can keep slave-caught, illegal, and Russian seafood out of this country and stop funding Putin's atrocities.

I am eager to discuss this critical and timely topic, and I look forward to the invaluable testimony of our invited witnesses.

As noted, it is regrettable that NOAA chose not to appear before the Committee today, but I do appreciate those of you who care enough about this issue to join us in this hearing.

[The prepared statement of Mr. Huffman follows:]

PREPARED STATEMENT OF THE HON. JARED HUFFMAN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA

Thank you all for joining us today.

Last month, President Biden issued an Executive Order banning the import of Russian seafood—one of many sanctions put in place in response to the unprovoked and unjustified aggressions of Vladimir Putin that are wreaking havoc on the lives of millions of innocent people in Ukraine.

The United States imported more than \$1.2 billion of crab, cod, and other fish from Russia in 2021, and banning those imports is intended to ensure that U.S. consumers are not funding Putin's atrocities. While I fully support the President's goal, I regret to inform him that his well-intentioned ban, under current laws and policies, and under the less than watchful eye of the National Oceanic and Atmospheric Administration (NOAA), will not have the desired effect.

Here's why:

As we have heard repeatedly in this Committee, NOAA only requires transparency and traceability for 13 species groups through its Seafood Import Monitoring Program, or SIMP, representing only about 40 percent of the species imported into the United States. SIMP requires importers to track fish from the initial catch, throughout the supply chain, to their entry into the United States.

There is no requirement for traceability for the remaining 60 percent of the species entering our markets, which includes most of the seafood originating in Russia—like pollock. So, while the Executive Order, in theory, is supposed to block seafood imported directly from Russia, how will it actually work if most of that seafood is not required to be tracked under SIMP? But it gets even more complicated.

Russia sends a significant amount of seafood to China for processing, hiding the true origins. In fact, **26 percent** of the fish caught in Russia is sent to other countries for processing, making it a product of the other country. Unless that fish is one of the 13 species currently covered by SIMP—and we know most of it is not—the Russian origins are not traceable, and the ban impossible to enforce.

But, if NOAA required SIMP for all species, we could ban ALL seafood imports from Russia. Until that happens, Russian seafood will continue to line grocery store shelves in the United States, and U.S. consumers will continue to unwittingly support Putin's madness.

The ineffectiveness of the Russian seafood ban is just one example of the many reasons I have and many others have long advocated for NOAA to expand SIMP to cover all seafood imported to the United States.

In fact, when NOAA first developed the SIMP program to address illegal fishing, seafood fraud, and slave labor in the seafood supply chain, they explicitly stated in the final rule that they planned to expand the program to cover all species. Since then, story after story demonstrates the need to expand, but NOAA consistently refuses to do so. And, even more disappointing, NOAA refused to testify at this hearing today.

During my tenure as Chair of this Subcommittee, we have held several hearings highlighting the need for full transparency and traceability of all seafood entering the U.S. to ensure that seafood resulting from IUU fishing, fraud, or slave labor in the supply chain is not being sold in our supermarkets and restaurants.

The bill I introduced alongside Congressman Graves, H.R. 3075, the Illegal Fishing and Forced Labor Prevention Act, would do just that. The America

COMPETES Act includes critical components of our bill and must be enacted—especially given NOAA’s resistance to act and blatant disregard for appropriately dealing with these issues despite what we have learned over the years.

We heard from Pulitzer Prize-winning journalist Ian Urbina who told us about a Cambodian migrant, held captive on a trawler at sea for 3 years and shackled by the neck, catching fish destined for American shelves. NOAA was actually at that hearing, but has not acted.

We have learned about the deadly secret of China’s fishing vessels illegally fishing in North Korean waters, violently displacing smaller North Korean boats, killing fishermen, and catalyzing a more than 70 percent decline in once-abundant squid stocks. Squid is also not covered by SIMP, and we continue to import it from China. And yet, NOAA has not acted.

We have learned that the Department of Labor identified 68 seafood species produced by slave or child labor that we import into the United States, but SIMP only covers 12 of these seafood species. And still, NOAA has not acted.

We have learned that SIMP only covers 29 percent of seafood imports from China, a notoriously bad actor—almost 60 percent of offenses in the industrial fishing sector are related to Chinese-owned vessels, according to a new study. But, despite pressure from both sides of the aisle to be tougher on China—NOAA has not acted.

Finally, we have learned that SIMP doesn’t cover many Russian seafood products, like pollock and salmon even though Russia is engaged in IUU Fishing. Government reports estimate that over 16 percent of seafood imports from Russia were obtained through IUU fishing. But, I think you know by now that NOAA has not acted.

Seafood traceability is imperative for preventing the illegal importation of Russian-derived, often IUU-related, seafood into the United States. NOAA must immediately take steps to expand SIMP so that we can keep slave-caught, illegal, and Russian seafood out of this country and stop funding Putin’s horrific war.

I am eager to discuss this critical and timely topic and look forward to the invaluable testimony of our invited witnesses. As noted, it is regrettable that NOAA chose not to appear before the Committee today, but I appreciate those of you who made the time to be with us.

Mr. HUFFMAN. With that, I will turn it over to the Ranking Member for his opening remarks.

**STATEMENT OF THE HON. CLIFF BENTZ, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF OREGON**

Mr. BENTZ. Thank you, Mr. Chairman, and thanks for your understanding of the challenges in getting votes done in what appears to be a fly out day.

The main focus of today’s hearing is on President Biden’s Executive Order that sought to stop Russian seafood imports as one of the many consequences of its invasion of Ukraine. The Executive Order, however, allows Russian-caught seafood to be imported into the United States if it is processed in another country.

The late Dean of the House, Don Young, introduced legislation aimed at ending this processing allowance and, unfortunately, that legislation is stuck in the Ways and Means Committee. While the Russian seafood ban is subject to trade laws and another committee’s jurisdiction, this hearing is being used as a means to justify the proposed legislative expansion of the Seafood Import Monitoring Program, otherwise called SIMP.

SIMP is a risk-based traceability program aimed at discouraging illegal, unreported, and unregulated, or IUU, seafood and misrepresented seafood from entering the U.S. market. Like Russian seafood or Chinese processed Russian seafood, I don’t know anyone here who supports illegal fishing, fraudulent seafood, or seafood produced through forced labor. But the question is

whether expanding SIMP is the right way to stop these kinds of practices.

NOAA has conceded, "SIMP does not prevent or stop IUU fish and fish products from entering U.S. commerce." Unfortunately, we are unable to hear from the agency, NMFS, about this since NMFS declined to participate today. I join the Chair in expressing my dissatisfaction with their refusal to show up.

One witness here today, Mr. Mike Lahar, who is testifying on behalf of the National Customs Brokers and Forwarders Association of America, also questions the effectiveness and efficiency of expanding SIMP. As a custom broker, he knows firsthand about how this program is being carried out, and will focus his testimony on the extensive and incredibly burdensome documentation process created by SIMP. He will also say that SIMP will not have an impact on the Russian seafood ban.

We have also heard from inland aquaculture producers that SIMP expansion will impact them through WTO sufficiency requirements brought on by added SIMP requirements.

Lastly, our former colleague from Alaska, the late Mr. Young, also opposed this, saying, and I quote, "Although I have long supported the goal of fighting IUU fishing in foreign fisheries and leveling the playing field for U.S. seafood producers, SIMP is not up to the task. This program should be reformed, not expanded."

With the state of Alaska producing 60 percent of this nation's seafood, we should be careful about passing such measures while we await the arrival of Mr. Young's successor.

It seems to me that one of the goals here is to know the country of harvest. With all the issues that we have heard and will hear today with SIMP expansion, we need to look at how finding country of harvest can be done without undue burdens.

I am told that the Department of State's turtle excluder program requires importers to certify that shrimp shipments come from countries that have committed to using turtle excluder devices. Importers must identify the country of harvest in their paperwork, regardless of where their product was processed. So, we ought to be looking at examples such as this.

Mr. Chairman, when we import at least 85 percent of our seafood, and we have a looming food crisis because of the unholy combination of the Russian-Ukrainian war, drought, and restrictions on too-narrow allowances of the use of Federal water policies, we need to clearly produce more food in our country. We need to unleash both aquaculture and agriculture producers, not handcuff them. But that is, sadly, what is happening.

Take, for example, what is now pending in the Klamath Basin, where the Bureau of Reclamation could release water for over 170,000 acres for farmers, but has yet to make a choice about delivering water to farmers or holding it back for higher lake levels.

Food independence is a part of our essential national security program and is something that we all must support. We just have to work together to figure out how to achieve that goal.

With that, I yield back and welcome today's witnesses.

[The prepared statement of Mr. Bentz follows:]

PREPARED STATEMENT OF THE HON. CLIFF BENTZ, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF OREGON

Thank you, Mr. Chairman.

The main focus of today's hearing is on President Biden's Executive Order that sought to stop Russian seafood imports as one of many consequences of its invasion of Ukraine. The Executive Order, however, allows Russian-caught seafood to be imported into the United States if it is processed in another country. The late Dean of the House, Don Young, introduced legislation aimed at ending this processing allowance and that legislation rests with the Ways and Means Committee.

While the Russian seafood ban is subject to trade laws and another Committee's jurisdiction, this hearing is being used as a means to justify the proposed legislative expansion of the Seafood Import Monitoring Program, otherwise called SIMP.

SIMP is a risk-based traceability program aimed at discouraging illegal, unreported, and unregulated—or IUU—seafood and misrepresented seafood from entering the U.S. market. Like Russian seafood or Chinese-processed Russian seafood, I don't know anyone here who supports illegal fishing, fraudulent seafood or seafood produced through forced labor.

But the question is whether expanding SIMP is the right way to do it.

The National Oceanic and Atmospheric Administration (NOAA) has conceded that "SIMP does not prevent or stop IUU fish and fish products from entering U.S. commerce."¹ Unfortunately, we are unable to hear from the agency about this since it declined to participate today.

One witness here today, Mr. Mike Lahar, who is testifying on behalf of the National Customs Brokers and Forwarders Association of America, also questions the effectiveness and efficiency of expanding SIMP. As a customs broker, he knows firsthand about how this program is being carried out and will focus his testimony on the extensive and incredibly burdensome documentation process created by SIMP. He will also say that SIMP will not have an impact on the Russian seafood ban.

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Mr. Chairman, when we import at least 85 percent of our seafood and we have a looming food crisis because of the unholy combination of the Russia/Ukraine war, drought, and restrictive, narrow Federal water policies, we need to clearly produce more food in our country. We need to unleash both aquaculture and agriculture producers, not handcuff them but that's what's happening.

Take, for example, what's now pending in the Klamath basin, where the Bureau of Reclamation could release water for over 170,000 acres for farmers but has yet to make a choice about delivering water to farmers or holding it back for higher lake levels that the science says does not help the sucker fish. The longer they wait, the more life saving food production we lose.

Food independence is part of an essential national security strategy and something we all must support. We just need to have to work together toward that goal. With that, I yield back and welcome today's witnesses.

¹Nat'l Oceanic and Atmosphere. Admin., Report on the Implementation of the U.S. Seafood Import Monitoring Program, page 6, <https://media.fisheries.noaa.gov/2021-05/SIMP%20Implementation%20Report%202021.pdf?null>.

Mr. HUFFMAN. I thank the Ranking Member. We will now hear testimony from our witnesses.

Let me remind the witnesses that, under Committee rules, you should limit your oral statements to 5 minutes, but your entire written statement will be entered into the hearing record.

When you begin, the timer will start counting down. It turns orange when you have 1 minute remaining. I recommend that Members and witnesses joining remotely lock the timer so that it remains visible.

I will remind non-Administration witnesses that you are encouraged to participate in the Witness Diversity Survey we have created through the Congressional Office of Diversity and Inclusion. Witnesses may refer to your hearing invitation for more information about that.

After your testimony is complete, please do remember to mute yourself to avoid inadvertent background noise.

I will also allow the entire panel to testify before we bring it back to the Members for questions.

We will hear first from Ms. Sally Yozell, Senior Fellow and Director of Environmental Security at the Stimson Center. The Chair now recognizes Ms. Yozell for 5 minutes.

STATEMENT OF SALLY YOZELL, SENIOR FELLOW AND DIRECTOR OF ENVIRONMENTAL SECURITY, STIMSON CENTER, WASHINGTON, DC

Ms. YOZELL. Good afternoon, Mr. Chairman and members of the Subcommittee. My name, as you said, is Sally Yozell, and I am the Director of the Environmental Security Program at the Stimson Center, a non-partisan research organization in Washington, DC.

First, let me commend Congressman Huffman and the Subcommittee for holding this emergency hearing on seafood traceability and the ban of Russian seafood, and for your continued leadership on these important issues.

Today is day 43 of the devastating Russian war on Ukraine. We have all witnessed the unspeakable atrocities taking place daily, causing the greatest humanitarian crisis in Europe since World War II. President Biden has rallied nations around the globe to impose sanctions on Putin for his egregious actions. In the United States, a whole-of-government effort is underway to impose import bans on energy products, technology, Russian vodka, and diamonds. And as Secretary Yellen said last week, we will continue to target Putin's war machine with sanctions from every angle until this senseless war of choice is over.

In March, the President signed an Executive Order banning the importation of Russian seafood, which I expect will be with us for quite some time. Unfortunately, this plan to strike an economic blow to Russia via seafood sanctions to the United States won't be successful if we don't close the loopholes that exist across the seafood supply chain.

To ensure sanctions are successful, we need full seafood traceability with real information on the origin of catch, and NOAA has an opportunity to be a leader in that effort.

Since 2014, Russian seafood exports to the United States have grown by 173 percent. Last year, Russia exported \$1.2 billion worth

of crab, cod, pollock, salmon, and other fish to the United States. However, the full extent of seafood caught by Russian vessels and sent to U.S. markets goes well beyond those products imported directly from Russia.

Under the U.S. Country of Labeling Act, or COOL, seafood products harvested in one country and then processed in another are labeled as a product of the country where the processing occurs. This means Russian seafood processed in China and sent on to America is labeled as Chinese product, not Russian.

The United States imports about 85 percent of its seafood, and roughly 35 percent of U.S. seafood consumed is initially caught in U.S. waters, exported to Asia for processing, and then re-imported back into the United States. Russian catch is processed alongside the U.S. fish, where it is co-mingled together and processed into fish blocks, fish sticks, canned salmon, or frozen filets, and then sent back to grocery stores and restaurants here.

In fact, according to the ITC, one-third of processed, wild-caught fish imported to the United States from China in 2019 was actually caught by Russian ships, vessels. This includes 69 percent of Atlantic cod imports and 50 percent of Alaskan pollock. So, don't let that name fool you.

A recent paper out of the University of Florida found that 39 percent of the processed salmon imported from China came from Russia.

When it comes to rebranded Russian catch, American consumers do not want to buy it, and chefs do not want to serve it. Fortunately, stopping the importation of Putin's pollock is an easy fix. NOAA has the ability to impose traceability requirements which track all seafood through the supply chain before it enters our country.

In 2016, the IUU Fishing and Seafood Fraud Task Force created the Seafood Import Monitoring Program, known as SIMP, which is managed by NOAA. As a former co-chair of the task force, I can state with certainty that while the program initially targeted 13 species groups considered at highest risk of being IUU fish, the intention was always to expand SIMP to cover all species and prevent illegally harvested seafood from entering U.S. markets.

If properly implemented and enforced, SIMP would provide the tools to identify and track the origin of seafood imports, including imports that may have been caught by Russian vessels. Yet, after 4 to 5 years, SIMP covers only about 40 percent of U.S. seafood imports, and does not cover several Russian-caught species like pollock, salmon, and halibut. So, when fish is processed in China, we really have no idea if it is Russian or not.

But Chinese processors can accommodate these full traceability requirements. They already separate out seafood to comply with the European Union's Catch Certification Scheme. And with Europe's proposed ban announced yesterday, they will be able to comply.

There are many options to expand SIMP to all species immediately: the President could issue an Executive Order tomorrow; NOAA could show its leadership and propose an emergency rule; or Congress could pass the bipartisan SIMP provisions included in the House America COMPETES Act and appropriate

the funding needed for NOAA to adequately implement a robust SIMP.

In closing, if SIMP were expanded to cover all species, the ban on Russian seafood imposed by the President could be implemented effectively and stop Putin's pollock from entering the United States.

It could also provide consumers, retailers, and restaurants with the confidence that the seafood they buy is not supporting the horrific war in Ukraine, and give American importers the certainty they need to ensure they are not culpable of importing banned Russian products.

Thank you, Mr. Chairman and Members, for your commitment on this issue, and I look forward to answering any questions.

[The prepared statement of Ms. Yozell follows:]

PREPARED STATEMENT OF SALLY YOZELL, DIRECTOR, ENVIRONMENTAL SECURITY PROGRAM, STIMSON CENTER

My name is Sally Yozell, and I am the Director of the Environmental Security program at the Stimson Center, a non-partisan research organization in Washington, DC. Our program conducts research that examines the suite of environmental and climate threats that have the potential to undermine global security. Expanding seafood traceability and combatting IUU fishing are a central focus of our program.

I appreciate your leadership on combatting IUU fishing, expanding transparency in the seafood supply chain, and protecting our precious marine resources. I commend you and your colleagues on the House Natural Resources Subcommittee on Water, Oceans, and Wildlife for your work to date on these issues. I am grateful for the opportunity to provide written commentary in support of my verbal testimony on seafood traceability and implementing the ban on Russian seafood.

The Executive Order and Ban on Russian Seafood

Today is day 43 of the devastating Russian war on Ukraine. We have all witnessed the unspeakable atrocities taking place daily, causing the greatest humanitarian crisis in Europe since World War II.

President Biden has rallied nations around the globe to impose sanctions on Putin for his egregious actions. In the U.S., a whole of government effort is underway to impose import bans on energy products, technology, Russian vodka, and diamonds. As Secretary Yellen said last week, "We will continue to target Putin's war machine with sanctions from every angle, until this senseless war of choice is over."

On March 11, President Biden signed Executive Order 14068, on Prohibiting Certain Imports, Exports, and New Investment with Respect to Continued Russian Federation Aggression. This Executive Order banned the importation of Russian "fish, seafood, and preparations thereof," among other products, into the United States, and aims to strike another economic blow to Russia in response to their unprovoked invasion of Ukraine. The seafood ban is set to take effect on June 23, 2022, and I suspect it will be with us for many years moving forward.

Despite the good intentions to strike an economic blow to Russia after its unprovoked invasion of Ukraine, this ban will not work without full seafood traceability, and real information on the origin of the catch. The National Oceanic and Atmospheric Administration (NOAA) has an opportunity to be a leader in that effort.

A lack of transparency exists throughout the global seafood supply chain, but the U.S. Seafood Import Monitoring Program, or SIMP, provides the tools which can allow NOAA and Customs and Border Protection (CBP) to more effectively identify imports that may have been caught by Russian vessels. Full traceability across all seafood imports will allow the U.S. to track the chain of custody of the seafood that ends up in our restaurants, grocery stores, and markets.

In order to ensure the effective implementation of the ban, the U.S. Seafood Import Monitoring Program, or SIMP, should be expanded to cover all seafood imports. This would ensure traceability from Russian vessels to when it enters U.S. commerce and that the catch is not laundered in another country or fraudulently mislabeled.

Numerous recent polls show that American consumers increasingly demand to know how and where their seafood was caught.¹ A new poll conducted by the Walton Family Foundation found that 80 percent of consumers expect their restaurants and stores to ensure that the seafood sold is not the product of IUU fishing and not caught with forced labor or human rights violations.² And now given Russia's continued aggression toward Ukraine, consumers have been supportive of efforts by major chain restaurants to remove Russian seafood from their menus and supply chains.³

U.S.-Russia Seafood Trade and Chinese Ramifications

By banning Russian seafood imports, the Executive Order will also redress the imbalanced seafood trade that has grown between the U.S. and Russia over the last few years.

Russia banned U.S. seafood in 2014 following U.S. sanctions levied after Russia's invasion of Crimea.⁴ However, since 2014, Russian seafood imports have grown by 173 percent.⁵ In 2021, Russia was the eighth-largest exporter of seafood to the U.S., with \$1.2 billion worth of crab, cod, pollock, and other fish,⁶ including \$900 million in king crab alone.⁷

While the Executive Order bans seafood whose country of origin is Russia, the ban does not cover Russian-caught fish shipped for processing to other countries like China, where most of the world's seafood is processed.⁸ Russian catch is sent to China for processing, and is comingled with catch from the U.S. and other countries, some of it illegal, and processed into fish sticks, canned salmon, or crab with its origin masked. The National Fisheries Institute, or NFI, a trade group representing some U.S. seafood processors, sent a note to its members after the signing of the Executive Order to clarify that Russian catch processed in China and imported into the U.S. would not be subject to the import ban.⁹

This is a significant loophole given the large amounts of Russian and U.S. seafood processed in China, and the large percentages originating from Russian vessels. According to a study by the U.S. International Trade Commission (ITC), in 2019, the U.S. imported almost \$2 billion of seafood from China. Roughly one-third of China's wild caught seafood imports into the U.S. were caught by Russian ships, including 50 percent of Alaskan pollock.¹⁰ And a recent paper out of the University

¹See: Emma Desrochers. "New poll finds US voters want assurances merchants are selling legally caught seafood." *Seafood Source*. March 25, 2022, <https://www.seafoodsource.com/news/environment-sustainability/new-poll-finds-us-voters-want-assurances-merchants-are-selling-legally-caught-seafood> (Accessed April 5, 2022); Oceana. "American Voters Want to End Illegal Fishing & Seafood Fraud." January 2021, <https://usa.oceana.org/american-voters-want-end-illegal-fishing-seafood-fraud/> (Accessed April 5, 2022); Chris Clark, NRDC. "Chefs Urge Congress: End Illegal Fishing & Labor Violations." October 20, 2021, <https://www.nrdc.org/experts/chris-clark/chefs-urge-congress-end-illegal-fishing-labor-violations> (Accessed April 5, 2022).

²Desrochers, "New poll finds US voters want assurances merchants are selling legally caught seafood."

³Christine Blank. "Major US restaurant chains cease buying Russian seafood." *Seafood Source*. March 8, 2022, <https://www.seafoodsource.com/news/foodservice-retail/major-us-restaurants-chains-cease-buying-russian-seafood> (Accessed April 5, 2022).

⁴Jordan Andrews. "Maine seafood industry expects indirect hit from Russian invasion." *Portland Press Herald*, February 25, 2022. <https://www.pressherald.com/2022/02/25/maine-seafood-industry-expects-indirect-hit-from-russian-invasion/> (Accessed April 5, 2022).

⁵Lane Welch. "Alaska lawmakers take up seafood trade deficit." *National Fisherman*. January 31, 2022, <https://www.nationalfisherman.com/alaska/alaska-lawmakers-take-up-seafood-trade-deficit> (Accessed April 5, 2022).

⁶Laine Welch. "Ban on US purchases of Russian seafood opposed by some national food marketers." *Anchorage Daily News*. March 1, 2022, <https://www.adn.com/business-economy/2022/02/28/ban-on-us-purchases-of-russian-seafood-opposed-by-some-national-food-marketers/> (Accessed April 5, 2022).

⁷Rachel Sapin. "US seafood industry backs Russia seafood ban, but says clarity is needed on its impact." *IntraFish*. March 11, 2022, <https://www.intrafish.com/opinion/us-seafood-industry-backs-russia-seafood-ban-but-says-clarity-is-needed-on-its-impact/2-1-1183613> (Accessed April 5, 2022).

⁸Tom Seaman. "NFI: Russian fish processed in China shouldn't be subject to import ban." *Undercurrent News*. March 14, 2022, <https://www.undercurrentnews.com/2022/03/14/nfi-russian-fish-processed-in-china-shouldnt-be-subject-to-import-ban> (Accessed April 5, 2022).

⁹Ibid. (Accessed April 5, 2022).

¹⁰U.S. International Trade Commission. "Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries." February 2021, <https://www.usitc.gov/publications/332/pub5168.pdf>, p. 148 (Accessed April 5, 2022) ("ITC Report").

of Florida found that 39 percent of the processed salmon imported from China came from Russia.¹¹

The U.S. is a major seafood importer, and from 1998 to 2018 U.S. seafood imports doubled from 1.5 million tons to 3 million tons.¹² As of 2021, the U.S. is the second-largest market for seafood imports in the world after the European Union. The U.S. imports up to 85 percent of the seafood consumed,¹³ but a third of those imports are comprised of fish originally caught by U.S. vessels that is sent to China for processing before being reexported back into the U.S.¹⁴

Limitations of Existing Regulations on the Ban

The U.S. Country of Origin Labeling (or COOL) law, implemented by the U.S. Department of Agriculture, requires retailers to notify customers with information on the source of certain food products, including wild caught and aquaculture seafood.¹⁵ COOL unfortunately exempts seafood that is processed in another country and re-exported. So Russian seafood is disguised when processed through China and re-exported to the U.S. with the country of origin a product from China, not Russia.

When it comes to rebranded Russian catch, American consumers do not want to buy it, and chefs do not want to serve it. Fortunately, stopping the importation of “Putin’s pollock” is an easy fix. NOAA has the ability to impose traceability requirements which track all seafood through the supply chain before it enters the country.

In 2016, the IUU Fishing and Seafood Fraud Task Force created the Seafood Import Monitoring Program, known as SIMP which is managed by NOAA. As a former co-chair of the Task Force, I can state with certainty that while the program initially targeted 13 species groups considered at highest risk of being IUU fish, the intention was always to expand SIMP to cover all species and prevent illegally harvested seafood from entering U.S. markets.

This is clearly outlined in our original 2016 Action Plan. Recommendation 15 of the Action Plan, which directed the Task Force to establish a risk-based seafood traceability program, which ultimately became SIMP, noted that this was to be the “first phase” of a risk-based traceability program. The Action Plan mentions that the program will apply “initially” to products of particular concern, either subject to significant seafood fraud or a species significantly at-risk of IUU fishing. Further, the program was to be reevaluated and use lessons learned to eventually expand the program to include all seafood entering the U.S. The Task Force also directed that the program be “evaluated regularly” to see how it’s meeting objectives and how it can be expanded. This is also detailed in the final SIMP regulation.

In operation since 2018, SIMP was designed to prevent illegally harvested seafood from entering U.S. markets but it only covers 40 percent of U.S. seafood imports.¹⁶ SIMP does not cover many key species caught by Russian vessels, like pollock, salmon, and halibut. Further, even for covered species, SIMP has an exemption for “highly processed seafood products.”¹⁷

To fully implement the ban, SIMP needs its traceability requirements to apply to all seafood imports. With all species covered, consumers will have greater confidence that the seafood they buy was not harvested by Russia or comingled with Russian catch if processed elsewhere.

¹¹ Frank Asche, et al. “China’s seafood imports—Not for domestic consumption?” *Science*. January 27, 2022. 375: 6579, 386–388, <https://www.science.org/doi/10.1126/science.abl4756> (Accessed April 5, 2022).

¹² Eric Abaidoo, Max Melstrom & Trey Malone. “The Growth of Imports in U.S. Seafood Markets.” *Choices*, <https://www.choicesmagazine.org/choices-magazine/theme-articles/the-economics-of-us-aquaculture/the-growth-of-imports-in-us-seafood-markets> (Accessed April 5, 2022).

¹³ Oceana. “U.S. Seafood Demand Drives Illegal Fishing Around the World, Says Oceana Report.” February 1, 2022, <https://usa.oceana.org/press-releases/u-s-seafood-demand-drives-illegal-fishing-around-the-world-says-oceana-report/> (Accessed April 5, 2022).

¹⁴ Jessica A. Gephart, Hally E. Froelich & Trevor A. Branch. “To create sustainable seafood industries, the United States needs a better accounting of imports and exports.” *PNAS*. May 7, 2019. 116 (19) 9142–9146, <https://www.pnas.org/doi/10.1073/pnas.1905650116> (Accessed April 5, 2022).

¹⁵ USDA. “Country of Origin Labeling (COOL).” <https://www.ams.usda.gov/rules-regulations/cool> (Accessed April 5, 2022).

¹⁶ Oceana. “Loopholes put illegally caught seafood on Americans’ Plates. February 2022, <https://usa.oceana.org/reports/loopholes-put-illegally-caught-seafood-on-americans-plates/> (Accessed April 5, 2022).

¹⁷ NOAA. “Compliance Guide: U.S. Seafood Import Monitoring Program. June 2019, https://www.iuufishing.noaa.gov/Portals/33/SIMPComplianceGuide_June2019.pdf?ver=2019-05-28-134131-697 (Accessed April 5, 2022).

Chinese processors can accommodate these traceability requirements. The EU's Catch Certification Scheme applies to all wild-caught EU seafood imports, and Chinese processors are able to separate out catch to comply. The level of enforcement in Chinese processing facilities is not fully understood but if SIMP was to cover all U.S. seafood imports, the Chinese processors would be able to treat U.S.-bound fish with the same catch documentation as fish going to the EU.

SIMP was created to keep IUU fish from entering the U.S. seafood market and undercutting domestic U.S. catch. IUU fishing (IUU) fishing is one of the biggest threats to sustainable fisheries around the world, comprising 20 to 50 percent of all global seafood catch and generating an estimated \$36 billion a year in illicit revenue. IUU fishing contributes to food and economic insecurity, perpetuates unsafe labor conditions on vessels, and has the potential to increase instability in coastal communities who rely on fisheries for their livelihood. With three billion people around the world dependent on fish as a primary source of protein, this has significant economic and security implications for U.S. interests. The U.S. ITC report estimated that the U.S. imports \$2.4 billion worth of IUU catch seafood derived from IUU fishing in 2019, amounting to 11 percent of total U.S. seafood imports.¹⁸

Expanding SIMP to all species would also provide greater transparency into Chinese seafood imports to the U.S. as SIMP only covers 29 percent of all seafood imports from China.¹⁹ The good news is that the expectation is for the U.S. fishing industry to be able to make up the difference by increasing U.S. caught seafood in our markets, which would in turn increase domestic revenues to the benefit of our fishing communities, growing jobs and economic opportunity at home.

Next Steps Needed

President Biden's Executive Order to ban Russian seafood has widespread support on Capitol Hill and in the U.S. seafood industry. Now we need to close the loopholes and ensure its success.

NOAA recently assessed its SIMP program and recognized there is room for improvement. This is a pivotal time for the program. They are considering adding new species, increasing use of electronic catch documentation and catch verification, applying artificial intelligence, and expanding enforcement and auditing. As NOAA continues to advance changes to SIMP, they should continue to work closely with the research community, industry (like my colleague here from the National Brokers), NGOs, and the international community, to improve the SIMP process by holding public meetings and roundtable discussions, work with foreign governments and conduct international training and capacity building, improve program transparency, and seek to improve the program's effectiveness. They should also support and work with other federal agencies and share seafood trade data to minimize reporting redundancy and effort and further focus on the magnitude of risks associated with IUU fishing. An annual evaluation and reporting on the SIMP program should also be made public.

NOAA should also provide detailed budget information to Congress in terms of what specific resources are needed to successfully implement an expanded SIMP to covers all seafood imports. And they should report annually to Congress on the progress of the SIMP program.

Today there are many options to expand SIMP to all species immediately, stop Putin's pollock from entering U.S. commerce, and meet the urgency of the war in Ukraine:

- The President could issue an executive order tomorrow;
- NOAA could show leadership and propose an emergency rule; or
- Congress could pass the bipartisan SIMP provisions included in the America COMPETES Act and appropriate the funding needed for NOAA to adequately implement a robust SIMP.

¹⁸ ITC Report, p. 11.

¹⁹ Marti Flacks, Jacqueline Lewis & David McKean. "Reeling In Abuse: How Conservation Tools Can Help Combat Forced Labor Imports in the Seafood Industry." February 15, 2022, <https://www.csis.org/analysis/reeling-abuse> (Accessed April 5, 2022).

The Russian seafood ban is likely to stay in place for many years to come, and if properly implemented and enforced, it will provide a powerful sanction for Russia's invasion and heinous acts on the Ukrainian people and infrastructure.

With Russian seafood removed from the market, U.S. seafood can make up the difference. Illegal fishing depresses the revenues for honest U.S. fishermen, and it gives a disadvantage to legal U.S. catch in the marketplace. American consumers support the ban on Russian seafood and do not want to buy seafood that was caught illegally or with labor or human rights violations.²⁰

Attachment: Op-ed by Sally Yozell & Jean Flemma. "Are you sure the seafood you just bought isn't Russian?" *Seattle Times*. March 17, 2022.

²⁰ Desrochers, "New poll finds US voters want assurances merchants are selling legally caught seafood"; Oceana, "American Voters Want to End Illegal Fishing & Seafood Fraud"; and Clark, "Chefs Urge Congress: End Illegal Fishing & Labor Violations."

ATTACHMENT

Are you sure the seafood you just bought isn't Russian?

The Seattle Times, March 16, 2022 (Updated March 17, 2022 at 12:20 p.m.)
by Sally Yozell and Jean Flemma



A worker packs salmon caviar in cans in the Russian Far East village of Kitovy. In escalating the U.S. drive to squeeze Russia's economy . . . (AP Photo / Sergei Krasnoukhov, File)

After the unprovoked invasion of Ukraine, countries and companies around the globe rightly announced plans to stop doing business with Russia. Just last week, the U.S. issued its latest restrictions: An executive order banning a number of iconic Russian products, including vodka and seafood. While Russia may be better known as a purveyor of the infamous liquor, the U.S. buys significantly more seafood from the country—importing more than \$1.2 billion in crab, cod and other fish in 2021.

The ban on seafood could pack a significant blow to Russia's economy. It is meaningless, however, without tools to help the U.S. trace the origins of the food that ends up in restaurants, grocery stores and seafood markets. The U.S. government has already gone to great lengths to ban the import of Russian oil, liquefied natural gas and coal, and the same steps should be taken with seafood.

Seafood is one of the most traded food commodities in the world, but a lack of transparency and traceability exists across the seafood supply chain. Currently, Russian-caught fish can easily be shipped to another country, such as China, where much of the global seafood is processed, and then shipped to the U.S. masking its origins. In fact, an industry trade association reportedly told its members that Russian fish processed in China would not be impacted, effectively giving the green light to continue to import Russian seafood into the U.S., where it can be masked in breaded fish sticks, canned salmon and crab.

Instead of taking steps to evade the ban, the industry should work with the U.S. government to take the steps necessary to implement it. This reinforces why we need a strong, effective seafood traceability program that requires fish to be tracked from the boat to when it enters the U.S. Only through such a system can the government truly prevent Russian fish from coming into our markets and ending up on the plates of unwitting American consumers.

The U.S. government has a program to track seafood known as the Seafood Import Monitoring Program (SIMP). Operating since 2018, SIMP was designed to prevent illegally harvested seafood from entering U.S. markets but, unfortunately, only focuses on 13 species, and it does not require traceability for many Russian products entering U.S. markets, including pollock, salmon and halibut.

To be effective, SIMP must be extended to all fish stocks, ensuring Russia seafood cannot be laundered halfway around the world, through another market or disguised under another label. This will provide greater confidence to consumers that the seafood they buy was not harvested by Russian ships, processed in Russian facilities or co-mingled with Russian catch.

The good news is that the U.S. fishing industry would be able to make up the difference by increasing U.S. caught seafood in our markets, increasing domestic revenues, benefiting our fishing communities, and growing jobs and economic opportunity at home.

The decision by President Joe Biden to ban Russian seafood has widespread support on Capitol Hill and in the U.S. seafood industry, but to ensure this ban is effective, strong traceability provisions must be adopted either legislatively or through further executive action.

Congress could pass the America COMPETES Act (H.R. 4521), which includes provisions that would allow for full traceability for all seafood imports, including banned Russian products. And the Biden administration could complement its executive order and ensure the ban will have meaning by also announcing an expanded traceability system under SIMP.

We have a big opportunity before us, which merits thoughtful solutions. A successful ban on Russian seafood requires an effective seafood tracking system, and Congress and the administration both have the power to make that system a reality. Denying Russia a market for more than \$1 billion worth of their seafood products is another way to stand with Ukraine that is needed now more than ever.

QUESTIONS SUBMITTED FOR THE RECORD TO SALLY YOZELL, DIRECTOR,
ENVIRONMENTAL SECURITY PROGRAM, STIMSON CENTER

Questions Submitted by Representative Huffman

Question 1. The United States imports millions of dollars' worth (and tens of thousands of MT) of AK pollock, as well as prepared fish sticks with AK pollock as the main ingredient, from China every year. How does the United States know what the origin of this fish is—whether it is from Russian sources or US—if no information on the origin is reported when imported?

Answer. The short answer is that it is very difficult to discern the country of harvest for imported seafood that is processed and exported from any intermediary nation, including pollock from China.

Pollock, as we discussed during the hearing, is not one of the species covered by the U.S. Seafood Import Monitoring Program (SIMP). An importer of products covered under SIMP must provide specific information at the time of import on the harvest and chain of custody of the seafood imports, including: the vessel ID, vessel country (flag state), location of harvest, method of harvest (gear type), place of first off-load, responsible entity receiving the fish, and other as well as other critical pieces of information. Pollock is not a SIMP species, so importers of pollock currently provide none of these detailed pieces of information on the chain of custody to the government.

Pollock imports are covered by the U.S. Department of Agriculture (USDA)'s Country of Origin Labeling (COOL) standards, which cover all imported wild caught and farmed fish and shellfish, among other imports, unless the imported shipment falls under an exception. COOL standards require covered products to be labeled with their "country of origin" to inform consumers, but this term can be misleading if processing occurred in country where the fish was not harvested.

In the case of pollock, under COOL requirements any pollock imported directly from Russia would be labeled with its country of origin as Russia. However, any pollock that is sent to China for processing would now bear China as its country of origin, regardless of where the fish was originally caught. So pollock that is caught in Russian waters or by Russian vessels, or by U.S. vessels, has its "country of origin" changed to China when it is sent for processing. And COOL requirements allow for commingling of catch in processing across different harvests, allowing for U.S. and Russian catch to be combined as well as the potential fraudulent inclusion of other cheaper fish species.

This is because COOL labeling requirements contain an exception that applies to much of the pollock imported into the U.S. The exception provides that fish that is processed into or as part of a "processed food item" is exempt from COOL labeling requirements. The exception is potentially a large one, as in 2019, approximately

62.4 percent of all U.S. imported seafood by value entered in a processed form.¹ The COOL Act defines a processed food item and details methods of production that are covered under this exception:

Processed food item means a retail item derived from a covered commodity that has undergone specific processing resulting in a change in the character of the covered commodity, or that has been combined with at least one other covered commodity or other substantive food component (*e.g.*, chocolate, breading, tomato sauce) . . . Specific processing that results in a change in the character of the covered commodity includes cooking (*e.g.*, frying, broiling, grilling, boiling, steaming, baking, roasting), curing (*e.g.*, salt curing, sugar curing, drying), smoking (hot or cold), and restructuring (*e.g.*, emulsifying and extruding). Examples of items excluded include roasted peanuts, breaded chicken tenders, and fruit medley.²

Much of the pollock that is processed in China and imported into the U.S. has undergone processing that falls under this broad exception of “a change in the character of the covered commodity.” Pollock is commonly imported as breaded fish sticks or fried fillets, and ultimately purchased and eaten as such by U.S. consumers and diners in retail grocery stores or restaurants.³

For imported pollock from China, exempted from SIMP and processed to be exempted from COOL labeling, it can be challenging to impossible for the U.S. government or U.S. consumers to discern the true origin of the catch.

As we discussed during the hearing, the easiest way to learn the true origin of the imported pollock is to extend SIMP to cover pollock. That can be done through an Executive Order or by NOAA issuing an emergency rule tomorrow, or through the passage of the America COMPETES Act containing the bipartisan SIMP provisions included in the version that passed the House and then appropriate the funding needed for NOAA to adequately implement a robust SIMP. To ensure that the Russian seafood ban is fully implemented, SIMP needs its traceability requirements to apply to all seafood imports, not just pollock. With all species covered, consumers will have greater confidence that the seafood they buy was not harvested by Russia or commingled with Russian catch or mystery species if processed in China or elsewhere.

Question 2. While the percentages reported appear small, in reality, the volumes and values of AK pollock product that are moving between the United States and China is substantial—in 2021 alone, the United States imported more than \$70 million worth of AK pollock (24,558 MT) and exported more than \$40 million worth of AK pollock (18,539 MT). (Source: NOAA Fisheries Foreign Trade Statistics). These figures don’t even include the large amounts of fish stick or other prepared meals—the secondary processing—imported from China using AK pollock (\$22 million of fish sticks were imported from China in 2021.) Don’t U.S. consumers deserve more clarity when purchasing, that they are in fact buying American-caught seafood?

Answer. Yes, we absolutely agree. The global seafood supply chain is opaque and rife with opportunities for illegality and fraud in the harvest, transshipment, processing, and marketing of seafood that can enter U.S. markets. U.S. consumers deserve greater transparency about all the seafood they purchase, and that clarity is particularly necessary if that fish was caught in foreign waters or caught domestically and sent for processing to China or elsewhere overseas and then reimported.

The U.S. Seafood Import Monitoring Program, or SIMP, provides the tools which can allow NOAA and Customs and Border Protection (CBP) to more effectively identify imports that may have been caught in Russia and/or by Russian vessels. In order to ensure the effective implementation of the U.S. ban on Russian seafood, the U.S. Seafood Import Monitoring Program, or SIMP, should be expanded to cover all seafood imports—which would of course include all pollock processed in China. SIMP applies to 157 specific HTS codes that indicate inclusion of a species group(s) that it covers. If an importer uses an HTS code not covered by SIMP or claims to import a species not covered under SIMP when using any of the covered HTS codes,

¹U.S. International Trade Commission. “Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries.” February 2021, <https://www.usitc.gov/publications/332/pub5168.pdf>, p. 83 (Accessed April 28, 2022) (“ITC Report”).

²7 CFR § 65.220.

³ITC report, p. 259.

SIMP harvest and landing data is not required to clear customs.⁴ An expansion to all seafood would allow the U.S. to effectively and efficiently prevent all Russian seafood entering the U.S., whether it was processed and exported by Russia, China, or any other nation. This would ensure traceability from Russian vessels to when it enters U.S. commerce and that the catch is not laundered in another country or fraudulently mislabeled.

Full traceability across all seafood imports will allow the U.S. to track the chain of custody of the seafood that ends up in our restaurants, grocery stores, and markets, and provide U.S. consumers the greatest clarity in their seafood purchasing decisions.

Question 3. While there may be restrictions on what can be marketed as “AK pollock” to end-consumers at retail, isn’t the same species being imported under the name “AK pollock” as a result of HTS codes for those products? How does a retailer distinguish then when they are sourcing from imported products?

Answer. Assignment of a Harmonized tariff schedule (HTS) code is used to assign duties to commercial scale imports, and for that reason can vary greatly in their specificity. HTS codes are not typically carried forward in domestic sourcing or consumer-facing product labeling. While there are HTS codes specifically for importing Alaskan pollock, there is no regulatory connection between the HTS codes and the tariff regime, on the one hand, and the end-consumer retail requirement for catch to be labeled “Alaska Seafood” or “Alaska Pollock” on the other. More research could be done to look into Alaskan pollock sourcing, chain of custody requirements, and brand protection, to see how their labeled product is maintained separately from other pollock in the U.S. seafood supply chain. More broadly, we would be happy to conduct further research on private sector retail sourcing decisions and processes and share our understanding of these dynamics.

We would also appreciate an opportunity to discuss the U.S. government’s purchasing power through the USDA Section 32 Program. The USDA has the authority to ask if seafood it procures under Section 32 contracts was caught in the U.S. NOAA Fisheries would benefit from receiving more funding under the Section 32 distribution, and for having those funds able to be used to address illegal, unreported, and unregulated (IUU) imports in order to support a level playing field for American fishers, producers, and consumers. U.S. seafood producers should not have to compete against disguised foreign imports and consumers deserve greater clarity on the origin of their seafood.

Mr. HUFFMAN. Thank you very much, Ms. Yozell.

We will hear next from Dr. Tabitha Grace Mallory, Founder and CEO of the China Ocean Institute. The Chair recognizes Dr. Mallory to testify for 5 minutes.

**STATEMENT OF TABITHA GRACE MALLORY, FOUNDER AND
CEO, THE CHINA OCEAN INSTITUTE, SEATTLE, WASHINGTON**

Dr. MALLORY. Thank you. Chairman Huffman, Ranking Member Bentz, and members of the House Natural Resources Subcommittee on Water, Oceans, and Wildlife, thank you very much for the opportunity to testify before you today.

My name is Tabitha Mallory. I run a consulting firm that conducts research on Chinese ocean and fisheries policy, and I am also part-time at the University of Washington. I appear before you today to address banning Russian seafood imports into the United States, and the role that China plays in this trade, and how the United States can best respond in terms of improving seafood traceability.

The ban is important not only because of the unjust Russian invasion of Ukraine, but also for stopping flows of unsustainable

⁴ See NOAA Fisheries, “Harmonized Tariff Codes for Seafood Import Monitoring Program,” March 11, 2019, <https://www.fisheries.noaa.gov/resource/form/harmonized-tariff-codes-seafood-import-monitoring-program> (Accessed April 28, 2022).

seafood from Russia into the United States. However, the United States still imports seafood from China that is of Russian origin, but passed through China for processing.

The goal of seafood traceability is to improve the sustainability and legality of catch and to mitigate criminality and fraud. Seafood traceability is an important tool for stopping IUU fishing, which causes up to an estimated \$50 billion annually in losses.

Ultimately, we are going to need a fully electronic, globally interoperable seafood traceability system that uses blockchain technology, because seafood trade is so global in nature. But for now, the United States is still likely importing IUU catch.

According to one index, in 2021, China scored the highest in the world on measures of IUU fishing, and Russia scored the second highest. And the same year, the United States imported \$1.76 billion in seafood from China and \$1.21 billion in seafood from Russia.

SIMP requires information about only 13 types of fish. Russia is a good example of the challenge here. In 2021, the United States imported 50 million kilograms of seafood from Russia. Approximately 91 percent of those imports by value were crab. Of the crab imports, 62 percent of them were not covered by SIMP. And then, of the remaining imports, none of those species were covered by SIMP either, including groundfish such as pollock. Russia and the United States account for 94 percent of global pollock production, and pollock sourced from Russia is much more likely to be of illegal and unreported origin.

About 89 percent of Chinese imports of pollock are raw material coming from Russia to be processed. China does not have any pollock fishing of its own. And the United States also sends pollock raw material to China for processing, and then those final products are imported back into the United States. So, if we analyze the U.S. trade data using mandated yield ratios—this is the percentage of material retained after processing—raw imports of pollock caught by the U.S. fleet cannot account for all of the processed pollock that is re-imported back to the United States. So, depending on the year, anywhere between 30 and 65 percent of pollock imports into the United States from China are actually from Russia.

So, even though the United States has stopped buying pollock directly from Russia, we are still buying it indirectly through China. And it is currently impossible to know whether the processed pollock was caught by the U.S. or the Russian fishing fleets, because country of origin labeling is not required. Labels of processed pollock frequently state that the fish is a product of China, even though the fish was not caught by the Chinese fleet.

Salmon is a similar case. I won't go into it, but it is very similar in terms of the processing yields. But another challenge with salmon is that there is not harmonized customs categorization across all countries. So, countries record species on product forms differently. Russia, China, Japan, and the United States all code the various species of salmon differently.

So, in terms of policy recommendations, I agree expanding SIMP to include all aquatic species, starting with the ones that feature prominently in the U.S. processing and re-export trade with China

is great, and this will also help stop IUU seafood imports from places like North Korea.

We also need to make it mandatory to include country of origin labeling for seafood products, as distinguished from country of consignment for processing purposes, so that we know which country actually caught the fish.

And we also need to increase transparency. The U.S. seafood traceability system and trade data are optimized for regulatory traceability and compliance, but not for consumer or civil society information.

U.S. seafood trade data should also account for the raw material that is sent to China for processing and then re-imported, so this trade can be better tracked and monitored for IUU fishing risks. A couple of people just in this hearing have said that the United States imports 85 percent of its seafood, but the truth is we don't really know how much of that fish was actually caught by the U.S. fleet.

And then, we also need to work to standardize the customs code for seafood across countries and to increase the granularity to the species level so we can match this information up better, too.

Thank you very much, and I look forward to your questions.

[The prepared statement of Dr. Mallory follows:]

PREPARED STATEMENT OF TABITHA GRACE MALLORY, PH.D.

CEO, CHINA OCEAN INSTITUTE

AND

AFFILIATE PROFESSOR, JACKSON SCHOOL OF INTERNATIONAL STUDIES,
UNIVERSITY OF WASHINGTON

Chairman Huffman, Ranking Member Bentz, and members of the House Natural Resources Subcommittee on Water, Oceans and Wildlife, thank you very much for the opportunity to testify before you today.

My name is Tabitha Mallory, I run a consulting firm that conducts research on Chinese ocean and fisheries policy using primary language sources, and I am also an affiliate professor at the University of Washington. I appear before you today to address the executive order banning Russian seafood imports into the United States, the role that China plays in this trade, and how the United States can best respond in terms of improving seafood traceability.

On 11 March 2022, President Biden issued an executive order prohibiting the importation into the United States fish, seafood, and preparations thereof that are of Russian Federation origin. This action is important not only for ending trade that provides indirect U.S. support for the unjust Russian invasion of Ukraine, but also for mitigating flows of unsustainable seafood from Russia into the United States. However, fully implementing the ban on Russian seafood imports will require additional steps, given the nature of the trade. Even though the United States imports seafood directly from Russia, it also imports seafood from China that is of Russian origin but processed in China.

In my remarks, I will first briefly explain the importance of seafood traceability, discuss the seafood trade involving Russia and China, and conclude with some policy recommendations.

Seafood Traceability

Traceability is defined as “the ability to access any or all information relating to that which is under consideration, throughout its entire life cycle, by means of recorded identifications.”¹ Traceability improves global seafood governance by addressing issues of sustainability and legality of catch, as well as issues such as criminality and fraud.² Seafood traceability is an important tool for stopping illegal,

¹Olsen, P. and Borit, M. (2013). How to Define Traceability. *Trends in Food Science and Technology*. 2013-02, Vol. 29 (2), p.142–150.

²Moe, T., “Perspectives on Traceability in Food Manufacture,” *Trends in Food Science & Technology*, Vol. 9, No. 5, May 1998, pp. 211–214; Garcia-Torres, Sofia, Albareda, Laura, et al.,

unreported, and unregulated (IUU) fishing, which causes estimated losses of \$26–50 billion annually.³ As much as one-fifth of global catch is IUU. In addition to economic losses, governments around the world lose an estimated \$2–4 billion annually in tax revenue.

U.S. seafood imports may contribute to IUU fishing. According to one index, in 2021, China scored the highest in the world on measures of IUU fishing, and Russia scored the second highest.⁴ In the same year, the United States imported \$1.76 billion in seafood from China and \$1.21 billion in seafood from Russia.⁵

Efforts to create a global seafood traceability system are based on a framework of critical tracking events (CTEs) and key data elements (KDEs).⁶ CTEs are points along the supply chain—such as harvest, landing, processing, distribution, and market—at which the product is moved between locations, changed, or otherwise requires a capture of data to ensure traceability. KDEs are the data components—such as vessel identification, time and location of catch, landing, distribution, and market entrance—necessary to maintain traceability throughout the CTEs. A fully electronic, globally interoperable system using blockchain technology is key to the success of seafood traceability.

In January 2018, the U.S. Government launched the U.S. Seafood Import Monitoring Program (SIMP) to prevent IUU fish imports.⁷ In its initial phase, the United States requires information about the provenance of 13 species of fish. However, as the United States imports a majority of its seafood, and a number of species are not covered by SIMP, the United States is likely still importing IUU catch.

Another significant challenge to seafood traceability is the lack of customs granularity and proper customs categorization. In some cases, harmonized system (HS) codes are not standardized at the genus- or species-level, and in other cases HS codes are not standardized across countries at the eight- or ten-digit level, making it impossible to preserve traceability across borders.⁸

U.S. Imports of Russian Seafood

In 2021, the United States imported from Russia 50 million kg of seafood worth \$1.21 billion. Approximately 91 percent of these imports by value are crab—including snow crab, red king crab, and blue king crab. Of the crab imports, 62 percent were not covered by SIMP.

Of the remaining seafood imports, none of those species were covered by SIMP either, including groundfish such as pollock. Together, Russia and the United States account for 94 percent of global pollock production, with Russia providing 50 percent and the United States 44 percent.⁹ Pollock sourced from Russia is more likely to be of illegal and unreported (IU) origin than that from the United States. U.S.-sourced pollock raw material generally originates from a well-regulated U.S. fishery, though occasionally with exception.¹⁰ The Russian Pollock Association obtained MSC certification for pollock from the Sea of Okhotsk in 2013, accounting for 43 percent of Russia's pollock catch.¹¹ However, the remainder of Russian catch—nearly 60 percent—does not conform to any sustainability standards. Outside of the

³“Traceability for Sustainability—Literature Review and Conceptual Framework,” *Supply Chain Management: An International Journal*, Vol. 24, No. 1, 14 January 2019, pp. 85–106.

⁴Sumaila, R. et al., “Illicit trade in marine fish catch and its effects on ecosystems and people worldwide,” *Science Advances* 6, 2020.

⁵IUU Fishing Index, <https://iuufishingindex.net/ranking>.

⁶NOAA Fisheries, *Foreign Fishery Trade Data*, Foreign Trade Division of U.S. Census Bureau and U.S. Customs and Border Protection, <https://www.fisheries.noaa.gov/national/commercial-fishing/foreign-fishery-trade-data>.

⁷Global Dialogue on Seafood Traceability, <https://traceability-dialogue.org/>.

⁸NOAA Fisheries, *Compliance Guide: U.S. Seafood Import Monitoring Program*, 11 March 2019, <https://www.iuufishing.noaa.gov/Portals/33/SIMPComplianceGuide2017.pdf>.

⁹Cawthorn, Donna-Maree and Mariani, Stefano, “Global trade statistics lack granularity to inform traceability and management of diverse and high-value fishes,” *Nature Scientific Reports*, Vol. 7, No. 12852, 2017, pp. 1–11.

¹⁰FAO, *Wild and Aquaculture Capture Production*, 2018.

¹¹Hilborn, Ray, et al., “Pramod et al. methods to estimate IUU are not credible,” *Marine Policy*, Vol. 108, 2019, <https://doi.org/10.1016/j.marpol.2019.103632>; Pramod, Ganapathiraju and Pitcher, Tony J., “In defence of seafood import analysis: Credulity bamboozled by supply chain laundering,” *Marine Policy*, Vol. 108, 2019, <https://doi.org/10.1016/j.marpol.2019.103651>; Blank, Christine, “American Seafoods settles scale-tampering cases,” *SeafoodSource*, 15 October 2014, <https://www.seafoodsource.com/news/supply-trade/american-seafoods-settles-scale-tampering-cases>.

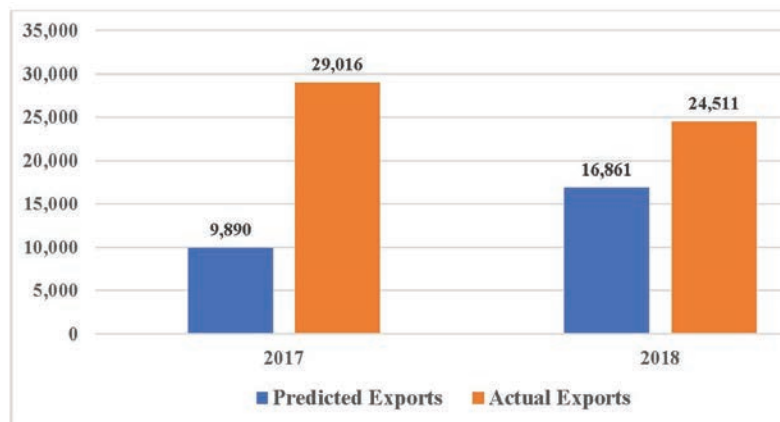
¹²Marine Stewardship Council, <https://fisheries.msc.org/en/fisheries/>.

MSC-certified portion, the Russian pollock industry faces problems with illegal fishing, bycatch and ecosystem impacts.¹²

Aside from direct imports of pollock from Russia, the United States also imports Russian pollock indirectly through China, where it is sent for processing. The Chinese fishing fleet does not engage in pollock fishing, so does not contribute raw material to the processing industry. Instead, about 89 percent of Chinese imports of pollock raw material comes from Russia. After processing, over 75 percent of Chinese pollock exports are destined for EU and U.S. markets.

The United States also sends pollock raw material to China for processing, and final products are then re-exported back to the United States. About 10 percent of China's pollock imports in 2018 were from the United States. An analysis of these 2018 trade flows using mandated yield ratios (the percentage of material retained after processing) indicates that raw inputs of U.S. pollock could only account for 68–70 percent of the pollock fillet outputs that were re-exported to the United States. Almost all of the non-U.S. material inputs would have to come from Russia, given that 99 percent of Chinese pollock imports are from either Russia or the United States. In some years, the amount could be even higher depending on trade fluctuations—U.S. pollock inputs only accounted for 34–35 percent of outputs in 2017.

China Pollock Fillet Exports versus Predicted Exports to the United States under Import and Contract Processing, by weight in tons, 2017 and 2018



Even though now the United States forbids the use of the name “Alaska pollock” if the fish does not originate from Alaskan waters, it is impossible to know the source of processed pollock in the United States because country-of-origin labeling is not required. Labels of processed pollock frequently state that the fish is a “product of China” even though the fish was not caught by the Chinese fleet, but only processed in China. Current regulations mean that we do not know whether the fish was caught by the U.S. or Russian fishing fleet.

Cross-border trade between Russia and China also makes it easier for the supply chains to intersect. In China, there are 21 HACCP-certified fishery processing plants licensed to export pollock to the United States, and 17 of them are located near Russia in the Chinese northeast provinces of Shandong, Liaoning, and Jilin.¹³ China’s General Administration of Customs has a different import classification for border trade, allowing imports across the border to receive fewer tariffs in an effort to encourage the local economy—such imports are intended for local consumers. However, it has been anecdotally reported that some of these border trade imports are used for processing inputs for export purposes.¹⁴ While China requires catch certificates from Russia for pollock imports, these certificates are taken at face-value,

¹² Seafood Watch, *Walleye Pollock*.

¹³ The latest List of Approved HACCP Verified Fishery Processing Plants Intended to Export to U.S. released by China GAC (<http://www.customs.gov.cn/customs/jyjj/qyzzgl/dttx5/hgwjwzcdspscqymd/2295439/index.html>).

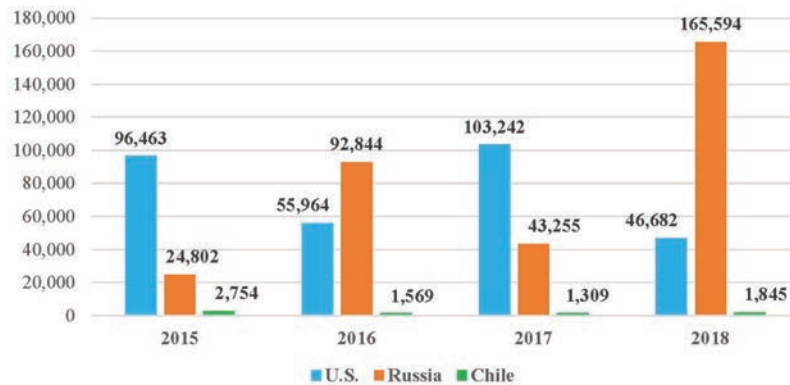
¹⁴ Interview with Chinese processing company.

and no inspection of the legitimacy of Russian catch certificates occurs in China.¹⁵ Sometimes catch certificates are issued after the product has left Russian territory, and some products transit through South Korea, where oversight of catch certificate integrity may be spotty.¹⁶

Salmon is a similar case. The United States imports salmon directly from Russia, but also likely indirectly through China because of the processing industry. None of the salmon species are covered by SIMP. China does not have its own large-scale salmon capture industry. The United States, Russia and Chile are the top three suppliers of salmon to China. Nearly all of U.S. and Russian exports to China are wild, raw Pacific salmon species that are sent for processing and then re-exported. The United States is the top importer of Chinese salmon exports. Despite Russia being one of the top two raw salmon suppliers to China, Russia is not one of the top ten importers of Chinese salmon. Analysis of the 2018 trade flows using yield ratios indicates that, given the volume U.S. raw material inputs, predicted exports were 56 percent smaller than actual exports. Processed salmon fillet exports to the United States cannot be fully accounted for by imports of salmon raw materials from the United States, and salmon raw materials imported from other countries account for the gap—Russia likely fills much of this gap given the high volume of Russian raw material sent to China.

Estimates for IUU salmon in the Russian Far East as a percentage of legal catch have ranged from 40 percent to as high as 90 percent.¹⁷ One study used sockeye salmon trade data from Russia, China, Japan and South Korea to estimate that true catch in Russia was 60–90 percent higher than reported catch.¹⁸

China Imports of Raw Pacific Salmon from the United States, Russia and Chile, 2015–2018



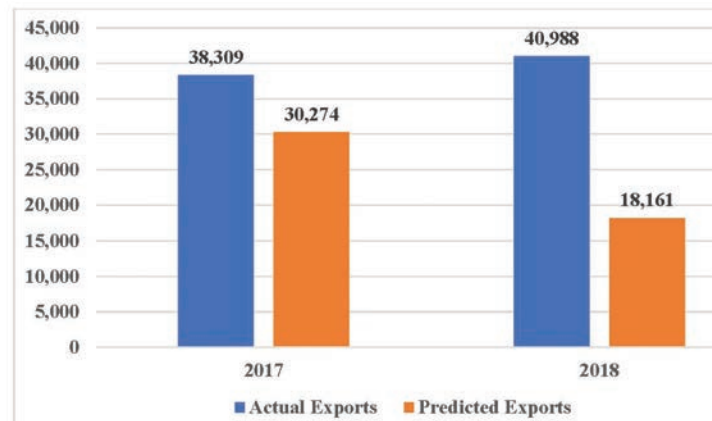
¹⁵ In accordance with the 2012 “Cooperation Agreement between the Government of the People’s Republic of China and the Government of the Russian Federation on the Prevention, Prohibition and Elimination of Illegal, Unreported and Unregulated Fishing of Living Marine Resources,” as of 1 November 2014, China requires a “Certificate of Legal Wild-Capture Fishery Products for Customs Clearance” for some fish species imported from Russia. Interview with Chinese processing company [Xinhua News Agency], “[Sino-Russian Prime Minister’s Seventeenth Regular Meeting Joint Communiqué],” [People’s Daily], 7 December 2012, <http://politics.people.com.cn/n/2012/1207/c1024-19818361.html>; [Ministry of Agriculture] and [General Administration of Customs], “2146 [General Administration of Customs and the Ministry of Agriculture Notice No. 2146],” 29 September 2014, http://jiuban.moa.gov.cn/zwlml/tzgg/gg/201409/t20140929_4069117.htm.

¹⁶ Clarke, “Traceability, Legal Provenance, and the EU IUU Regulation.”

¹⁷ The Wild Salmon Center, *A Review of IUU Salmon Fishing and Potential Conservation Strategies in the Russian Far East*, May 2009, https://www.wildsalmoncenter.org/wp-content/uploads/2016/02/WSC_IUU_paper_v3.pdf.

¹⁸ Clarke, Shelley et al., “Estimating Legal and Illegal Catches of Russian Sockeye Salmon Using Trade and Market Data,” *ICES Journal of Marine Science*, Vol. 66, Issue 3, April 2009, pp. 532–545.

Comparison of Actual and Predicted China Salmon Fillet Exports to the United States under Import and Contract Processing, 2017–2018



Another challenge to salmon traceability is proper customs categorization—countries record species on product forms differently. Compared to Atlantic salmon, a single species that is mostly farm-raised, accurate tracing of the six different Pacific salmon species along supply chains is much more difficult. Russian customs data records sockeye salmon but groups together all other Pacific salmon species, while Japanese import statistics differentiate sockeye and coho from all other salmon. China only differentiates sockeye salmon from all other Pacific salmon species. U.S. customs data differentiates each type of Pacific salmon except for Masu salmon.

Policy Recommendations

Expand SIMP to include all aquatic species, starting with the ones that feature prominently in the U.S. processing and re-export trade with China, such as pollock and salmon. A more robust U.S. traceability program would decrease the chances that the U.S. is importing seafood that originates not only from places like Russia, but also from IUU fishing activity in places like, North Korea, Indonesia, some South American countries, and on the high seas as well.

Make it mandatory to include country-of-origin labeling for seafood products, as distinguished from the country of consignment for processing purposes. This is the only way to know which country caught the fish.

Increasing transparency is critically important in addressing these issues. The U.S. seafood traceability system and trade data are optimized for regulatory traceability and compliance, but not for consumer or civil-society information demands, and thus lack transparency.¹⁹ U.S. seafood trade data should also account for raw material that is sent to China for processing and then re-imported so that this trade can be better tracked and monitored for IUU fishing risks.

Work to standardize customs codes for seafood across countries and to increase granularity to the species level.

Thank you very much and I look forward to your questions.

Mr. HUFFMAN. Thank you very much, Dr. Mallory.

We will next hear from Mr. Austin Brush, Senior Analyst at the Center for Advanced Defense Studies. The Chair recognizes Mr. Brush for 5 minutes.

¹⁹He, J., “From country-of-origin labelling (COOL) to seafood import monitoring program (SIMP): How far can seafood traceability rules go?” *Marine Policy* 96, 2018, pp. 163–174; Bailey et al., “The role of traceability in transforming seafood governance in the global South,” *Current Opinion in Environmental Sustainability* 18, 2016, pp. 25–32.

**STATEMENT OF AUSTIN BRUSH, SENIOR ANALYST, THE
CENTER FOR ADVANCED DEFENSE STUDIES, WASHINGTON,
DC**

Mr. BRUSH. Mr. Chairman and distinguished members of the Subcommittee, thank you for the invitation to provide testimony in today's hearing. My name is Austin Brush, and I am a Senior Analyst with the Natural Resources Program at C4ADS, a non-profit organization dedicated to providing data-driven analysis and evidence-based reporting on global conflict and transnational security issues. It is a privilege to represent our work on this topic.

I appear before you today to discuss the importance of traceability and transparency in global seafood supply chains. Our research suggests that improvements are needed to ensure the United States does not inadvertently import seafood linked to IUU fishing, fraud, or other illicit activity.

More specifically, I would like to discuss two main points: how improving traceability in seafood supply chains is essential to understanding where seafood originates and is processed; and the need for greater transparency in relation to vessel and corporate ownership, in order to understand who ultimately profits from the harvest, processing, and sale of seafood.

My goal is to illustrate how enhanced transparency and traceability in seafood supply chains can help ensure that American consumers are not unwittingly supporting the Russian economy by purchasing Russian seafood.

To my first point, traceability in seafood supply chains is critical for understanding where seafood products originate. This is especially important in the United States, which imports much of the seafood it consumes. In the absence of enhanced transparency and traceability measures, it remains challenging for American businesses to avoid trading in untraceable or illegal seafood products.

In the context of our discussion today about the Russian seafood ban, this question of traceability is of the utmost importance. For example, C4ADS recently analyzed the trade of specific groundfish species between the United States and China that are not covered by the Seafood Import Monitoring Program, or SIMP. We discovered that nearly a third of the Chinese companies exporting groundfish products to the United States were simultaneously importing groundfish products from Russia. This raises questions about the true origins of Chinese groundfish exports and re-exports entering the United States.

In the United States, existing traceability measures, such as SIMP, are intended to prevent the importation of seafood linked to forced labor and other crimes by requiring enhanced reporting for seafood products. However, the gaps in SIMP's coverage leaves the United States vulnerable to importing seafood products, thanks to a variety of illicit or non-compliant activities.

SIMP should, therefore, be expanded to encompass all seafood entering the United States, as well as chain of custody data, such as information pertaining to all processing facilities and trading companies that interact with the seafood product. These improved requirements would help illuminate seafood supply chains in their entirety, from the point of catch to import. In doing so, American seafood companies and government authorities would be able to

prevent Russian seafood from entering the U.S. market with a higher degree of confidence.

To my second point, lacking transparency and beneficial ownership disclosure requirements in the seafood industry mean that the people and companies behind key industrial fishing fleets remain relatively unknown. Companies are able to hide their true ownership using complex cross-jurisdictional corporate structures, secrecy jurisdictions, and the use of shell companies. These methods can be used to shield the individuals and companies ultimately profiting from illegal fishing and other violations from meaningful repercussions.

In order to ensure compliance with the Russian seafood ban, it will be critical to understand who owns industrial fishing vessels and seafood companies around the world. This is particularly relevant for Russian seafood companies, which are frequently linked to politically exposed persons and potentially sanctioned oligarchs.

We are currently screening for potential sanctions risk linked to Russian companies, and have already found a number of examples of connections to Russian oligarchs or politicians. For example, we identified a major Russian seafood company that was owned by the son-in-law of a Russian individual who had been sanctioned since 2014. The son-in-law was then sanctioned by the U.S. Department of the Treasury on March 24, 2022. In response, he sold his ownership stakes in and resigned from at least two major Russian fishing companies.

Although increasing the transparency of beneficial ownership data is a critical step to ensure true traceability and accountability in the seafood industry, disclosing beneficial ownership is not currently required of most fishing vessels or seafood companies. Just as the Corporate Transparency Act established beneficial ownership reporting requirements for certain businesses, U.S. policy-makers should expand SIMP to include beneficial ownership reporting requirements. Without this information, it can be difficult to know which vessels and companies are ultimately owned by Russian individuals.

Furthermore, detailed beneficial ownership information is needed to hold the beneficiaries of illicit activity in the seafood industry accountable.

And then, finally, any beneficial ownership information should be made publicly available in order to support enhanced industry and civil society due diligence within seafood supply chains.

To conclude, lacking transparency and traceability is a major obstacle to the successful implementation of the Russian seafood import ban. The expansion of SIMP to encompass all seafood species, chain of custody data, and beneficial ownership reporting is critical to ensuring that Russian seafood cannot enter the United States. As a major importer of seafood, and a leader in effective fisheries management, the United States has an opportunity to set the gold standard for transparency and traceability in the seafood industry by implementing these changes.

Thank you for the time to speak, and I look forward to your questions.

[The prepared statement of Mr. Brush follows:]

PREPARED STATEMENT OF AUSTIN BRUSH, SENIOR ANALYST ON THE NATURAL
RESOURCES PROGRAM, C4ADS

Mr. Chairman and distinguished members of the Subcommittee, thank you for the invitation to provide testimony in today's hearing. It is a privilege to represent our work at C4ADS on this topic. My name is Austin Brush, and I am a Senior Analyst with the Natural Resources Program at C4ADS, a nonprofit organization dedicated to providing data-driven analysis and evidence-based reporting on global conflict and transnational security issues.

I appear before you today to discuss the importance of traceability and transparency in global seafood supply chains. Our research suggests that improvements are needed to ensure the United States does not inadvertently import seafood linked to IUU fishing, fraud, or other illicit activity. More specifically, I would like to discuss two main points:

1. How improving traceability in seafood supply chains is essential to understanding where catch originates from and where it passes through prior to its consumption; and
2. The need for greater transparency in relation to vessel and corporate ownership in order to understand who ultimately profits from the harvest, processing, and sale of seafood.

My goal is to illustrate how improved transparency and traceability in seafood supply chains can ensure the effective implementation of sanctions, trade restrictions, and import bans designed to ensure that American consumers are not unwittingly supporting the Russian economy by purchasing Russian seafood.¹ The U.S. should build off recent corporate transparency efforts and require the seafood industry to provide more thorough ownership and supply chain disclosures. Existing regulations should also be expanded to ensure enhanced traceability under the Seafood Import Monitoring Program (SIMP) and other legislation. Combined, these efforts will help ensure true supply chain traceability in the fishing industry, and will help prevent Russian seafood products from entering the United States.

Traceability in US Seafood Supply Chains

Traceability in seafood supply chains is critical for understanding where seafood products originate. This is especially important in the United States, which is one of the largest importers of seafood in the world. According to certain estimates, the U.S. imports between 85% and 90% of the seafood it consumes.^{2,3} In the absence of enhanced transparency and traceability measures, it remains challenging for American and foreign businesses to avoid trading in untraceable or illegal seafood products.

In the context of our discussion today about the recent Executive Order banning the import of Russian seafood products, this question of traceability is of the utmost importance. For example, C4ADS recently analyzed the trade of specific groundfish species between the United States and China that are not covered by SIMP. We discovered that a number of Chinese companies exporting groundfish products to the United States were simultaneously importing groundfish products from Russia in 2018. In fact, nearly a third of the Chinese companies we identified exporting groundfish to the US were also importing the same species from Russia. This raises questions about the true origins of Chinese groundfish exports and re-exports entering the United States.

This scenario, in which seafood products pass through multiple countries before arriving in destination markets, is common in the seafood industry. Tracing their movements across several different jurisdictions becomes extremely difficult given varying regulations and reporting requirements from country to country. In order to address this, there would ideally be a comprehensive global standard for transparency and reporting in seafood supply chains. In the meantime, enhanced traceability disclosure requirements in destination countries would make a significant difference.

¹Yozell, S. and Flemma, J. (March 16, 2022). "Are you sure the seafood you just bought isn't Russian?" Seattle Times. Retrieved from: <https://www.seattletimes.com/opinion/russian-seafood-ban-is-meaningless-without-real-traceability/>.

²"USA fisheries statistics: production, consumption and trade." Food and Agriculture Administration. http://www.fao.org/in-action/globefish/countries/countries/usa/usa-trade/en/?page=7&ipp=5&tx_dynalist_pi1%5Bpar%5D=YToxOntzOjE6Ikw03M6MT0iNSI7fQ%3D%3D.

³"Global Wild Fisheries." Fish Watch. <https://www.fishwatch.gov/sustainable-seafood/the-global-picture>.

In the United States, existing traceability measures, such as SIMP, are intended to prevent the importation of seafood linked to forced labor and other crimes by requiring enhanced reporting for seafood products.⁴ However, SIMP only applies to 13 species, which account for less than 40% of U.S. fishery imports.⁵ The gaps in SIMP's coverage leaves the United States vulnerable to importing seafood products linked to IUU fishing, forced labor, seafood fraud, and other crimes. For example, according to a recent study by the United States International Trade Commission (ITC), it is estimated that the United States imported an estimated \$2.4 billion of seafood products derived from IUU fishing.⁶ Of the major US import source countries, Russia was estimated to be one of the major exporters of IUU-linked seafood products to the United States.⁷

SIMP should therefore be expanded to encompass all seafood entering the United States as well as chain of custody data, such as information pertaining to all processing facilities and trading companies that interact with a seafood product. These improved requirements would help illuminate seafood supply chains in their entirety, from the point of catch to processing, export, and import. In doing so, American seafood companies and government authorities would, with a much higher degree of confidence than is currently possible, be able to prevent Russian seafood from entering the U.S. market.

Vessel and Corporate Ownership Transparency

Lacking transparency and beneficial ownership disclosure requirements in the seafood industry mean that the people and companies behind key industrial fishing fleets remain relatively unknown.⁸ Companies are able to hide their true ownership using complex, cross-jurisdictional corporate structures; secrecy jurisdictions; and the use of shell or front companies.⁹ These methods can be used to separate a range of illegal fishing and other violations, including illegal access to fishing quotas and vessel authorizations, document forgery, vessel identity fraud, forced labor, crew labor abuses, and tax evasion, from the individuals ultimately profiting from that activity.¹⁰

Complex and opaque ownership structures in the seafood industry also enable the laundering of illicit or untraceable catch into global seafood supply chains, meaning American companies and consumers may be unknowingly supporting these activities. Furthermore, research has also shown that the use of 'open' vessel registries, which have particularly low requirements for registration and are open to foreign vessels, can further obscure the identity of beneficial owners of fishing vessels. The practice of flagging out to flags of convenience can further disguise the true beneficiary of a vessel and its activities at sea. This practice is not limited to fishing vessels—it is also frequently employed by vessels attempting to evade sanctions or engage in other illicit trades, such as North Korea sanctions evasion activities.¹¹

In order to ensure compliance with the Executive Order banning Russian seafood from entering the United States, it will be critical to understand who owns industrial fishing vessels and seafood companies around the world. This is particularly

⁴"U.S. Seafood Import Monitoring Program." National Ocean Council Committee on IUU Fishing and Seafood Fraud. Retrieved from: <https://www.iuufishing.noaa.gov/RecommendationsandActions/RECOMMENDATION1415/FinalRuleTraceability.aspx>.

⁵"Re: NOAA Seafood Import Monitoring Program—Robust Implementation and Expansion." <https://www.nrdc.org/sites/default/files/noaa-simp-expansion-and-implementation-letter-20190429.pdf>.

⁶"Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries" (February 2021). United States International Trade Commission. Retrieved from: <https://www.usitc.gov/publications/332/pub5168.pdf>.

⁷Ibid.

⁸"Who Controls the Distant Water Squid Fishing Fleet?" (March, 2022). C4ADS. Retrieved from: https://static1.squarespace.com/static/566ef8b4d8af107232d5358a/t/6227b37c99c14857172166b4/1646769046233/Squid+Fleet_Brief.pdf.

⁹"Spotlight on the Exploitation of Company Structures by Illegal Fishing Operators." Trygg Mat Tracking and C4ADS. Retrieved from: https://static1.squarespace.com/static/566ef8b4d8af107232d5358a/t/5fd21567ce71ee580fb1cb72/1607603565040/TMT-C4ADS_Spotlight+on+Transparency.pdf.

¹⁰"The Role of Beneficial Ownership in Combating IUU Fishing." Rusi, Trygg Mat Tracking, and C4ADS. Retrieved from: <https://c4ads.org/blogposts/2021/6/4/the-role-of-beneficial-ownership-in-combating-iuu-fishing>.

¹¹For registries that are often classified as providing flags of convenience, and see vessel registration as a source of revenue rather than a utility that the government provides for the registration of vessels with tangible links to the state, investing further resources to raise its regulatory standards not only cuts into their bottom line, but also renders them less attractive to vessel operators seeking low regulation environments. See: <https://static1.squarespace.com/static/566ef8b4d8af107232d5358a/t/613b9610b3cdba196d524b8b/1631294997128/Unmasked+-+North+Korea+Vessel+Identity+Laundering.pdf>.

relevant for Russian seafood companies, which are frequently linked to politically exposed persons (PEPs) and potentially sanctioned oligarchs. We have spent the past couple weeks screening for potential sanctions risk linked to Russian seafood companies, and have already found a number of examples of connections between these companies and Russian oligarchs or politicians. For example, we discovered that one major Russian seafood company was owned by the son-in-law of a Russian individual who has been sanctioned since 2014. The son-in-law was sanctioned by the US Department of the Treasury on March 24, 2022.¹² In response, he sold all of his stakes and resigned from management from at least two major Russian fishing companies.¹³

Although increasing the transparency of beneficial ownership data is a critical step to ensure true traceability and accountability in the seafood industry, disclosing beneficial ownership is not currently required of most fishing vessels and seafood companies. Just as the Corporate Transparency Act established beneficial ownership reporting requirements for certain businesses, U.S. policymakers should expand SIMP to include beneficial ownership reporting requirements for fishing vessels and seafood companies. Without this information, it can be difficult to know which vessels and companies are ultimately owned by Russian individuals. Furthermore, detailed beneficial ownership information is needed to hold the beneficiaries of illegal and illicit activity in the seafood industry accountable. Any beneficial ownership information should be made publicly available in order to support enhanced industry due diligence and civil society research focused on the continued improvement of transparency in seafood supply chains.

Conclusion

Lacking transparency and traceability is a major obstacle to the successful implementation of Russian sanctions and the recent seafood import ban. The expansion of SIMP to encompass all seafood species entering the United States, chain of custody data, and beneficial ownership reporting is critical to ensuring that Russian seafood cannot enter the United States. As a major importer of seafood and a leader in effective fisheries management, the United States has an opportunity to set the gold standard for transparency and traceability in the seafood industry by implementing these changes.

More broadly, the effective implementation of sanctions requires broader transparency initiatives to help elucidate the offshoring of wealth and use of low transparency jurisdictions to hide ownership. The methods used to obfuscate ultimate beneficial ownership by other actors engaging in illegal activities are not drastically different from IUU vessel owners. The same data gaps and low transparency that undermine traceability in seafood supply chains also enable countries and individuals to hide wealth through assets like property, ships, and companies all over the world.

QUESTIONS SUBMITTED FOR THE RECORD TO AUSTIN BRUSH, SENIOR ANALYST, THE
CENTER FOR ADVANCED DEFENSE STUDIES

Questions Submitted by Representative Huffman

Question 1. The United States imports millions of dollars' worth (and tens of thousands of MT) of AK pollock, as well as prepared fish sticks with AK pollock as the main ingredient, from China every year. How does the United States know what the origin of this fish is—whether it is from Russian sources of United States—if no information on the origin is reported when imported?

Answer. The origin of seafood products that enter the United States from China can be difficult to confirm with absolute certainty due to lacking traceability or transparency requirements. This is made more complicated by the fact that seafood can pass through several countries before entering the United States. Without catch documentation and other traceability requirements, it can be difficult or impossible to trace these products to their true point of origin.

¹² "Russia-related Designations; Publication of new Frequently Asked Questions" (March 24, 2022). US Department of the Treasury. Retrieved from: <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20220324>.

¹³ Chase, C. (March 28, 2022). "Gleb Frank sells Russian Fishery Company and Russian Crab as sanctions hit". Seafood Source. Retrieved from: <https://www.seafoodsource.com/news/business-finance/gleb-frank-sells-russian-fishery-company-and-russian-crab-as-sanctions-hit>.

In the case of pollock, Chinese companies often import pollock from Russia, the United States, or Japan. In 2018, Russia was the origin of 90% of the frozen pollock imports into China. In our own research into the groundfish trade, we identified Chinese companies that were simultaneously purchasing Russian seafood and exporting seafood products to companies in the United States. US regulations should be updated to combat this and similar practices so that seafood shipments can easily and consistently be traced back to their true origins.

Enhanced regulations could include reporting requirements for information related to beneficial ownership, both for the vessels linked to the harvest of seafood as well as for commercial entities exporting seafood to the United States. Additionally, information pertaining to the custodians of seafood products throughout the supply chain, such as processing facilities and trading companies, would help illuminate each supply chain in its entirety. Expanding SIMP to require data, such as chain of custody reporting and catch documentation, is critical to establish traceability of seafood products from point of catch to sale and prevent the entry of untraceable seafood products into the United States.

Question 2. While the percentages reported appear small, in reality, the volumes and values of AK pollock product that are moving between the United States and China is substantial—in 2021 alone, the United States imported more than \$70 million worth of AK pollock (24,558 MT) and exported more than \$40 million worth of AK pollock (18,539 MT). (Source: NOAA Fisheries Foreign Trade Statistics). These figures don't even include the large amounts of fish stick or other prepared meals—the secondary processing—imported from China using AK pollock (\$22 million of fish sticks were imported from China in 2021.) Don't U.S. consumers deserve more clarity when purchasing, that they are in fact buying American-caught seafood?

Answer. We believe that US consumers deserve more clarity when purchasing seafood and as a result there needs to be improvements to existing traceability mechanisms like SIMP. In research we conducted looking at the trade of groundfish species between the US and China, we identified several instances of risk or traceability concerns, including exposure to potential seafood fraud, safety infractions, and unclear sourcing. This suggests that US groundfish imports are currently exposed to risk that could be mitigated by requiring enhanced traceability measures for more seafood species.

Since enhanced reporting standards and traceability measures already exist within the Seafood Import Monitoring Program, a tenable solution could be to expand SIMP to cover more seafood species frequently imported into the United States. Our past research clearly indicates that seafood supply chains remain relatively opaque, and are therefore exposed to risk. The US government should prioritize the expansion of SIMP to limit the US seafood market and US consumers' exposure to illegally harvested fish or to Russian seafood imports.

Question 3. While there may be restrictions on what can be marketed as "AK pollock" to end-consumers at retail, isn't the same species being imported under the name "AK pollock" as a result of HTS codes for those products? How does a retailer distinguish then when they are sourcing from imported products?

Answer. We haven't examined this aspect of Alaskan pollock supply chains in detail, but without thorough catch documentation and chain of custody reporting, a retailer would struggle to differentiate between different products marketed as "AK pollock."

Mr. HUFFMAN. Thank you very much, Mr. Brush.

Finally, we will hear from Mr. Mike Lahar—Lahar, I believe—Chair of the Regulatory Agencies Committee for the National Customs Brokers and Forwarders Association of America. The Chair recognizes Mr. Lahar to testify for 5 minutes.

STATEMENT OF MIKE LAHAR, CHAIR, REGULATORY AGENCIES COMMITTEE, NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION OF AMERICA, SILVER SPRING, MARYLAND

Mr. LAHAR. Mr. Chairman, members of the Committee, I wish to thank you for this opportunity to present testimony on behalf of the National Customs Brokers and Forwarders Association of America (NCBFAA). My name is Mike Lahar. I am a licensed customs house broker working for A.N. Deringer, a customs brokerage firm with over 30 offices based out of Saint Albans, Vermont.

I ask that my full written comments be considered, as I am summarizing my points with this testimony.

The NCBFAA represents over 1,100 licensed customs brokerage firms filing over 95 percent of all customs entries and at the front line for merchandise entering the United States.

The NCBFAA wholeheartedly supports the ban on Russian seafood and sees it as an important measure to demonstrate our solidarity with the Ukrainian people. We are working closely with our clients to ensure full compliance with the ban.

We are surprised and concerned, however, that some of the witnesses are using this occasion to call for the immediate and significant expansion of the Seafood Import Monitoring Program, SIMP, a provision contained in H.R. 4521, the America COMPETES Act. They boldly claim that the Russian ban is meaningless unless the SIMP program is immediately expanded. Yet, the SIMP expansion would take years to implement. It would ultimately have no impact on the Russian ban.

As customs brokers, we also understand how supply chains work, and we know it is critical to the well-being of the U.S. economy and individual consumers that supply chains are efficient and reliable.

Any discussion of seafood trade must recognize that seafood supply chains are long. They are complex. Many are a maze of cross-border movements and interdependencies designed to achieve maximum efficiencies. These supply chains flow in all directions. It is routine and common for seafood caught and landed in one country to be shipped to a third country for processing. In fact, that is the case for many U.S.-caught seafood.

The International Trade Commission estimates that 11 percent of imported seafood consists of IUU seafood. This means that 89 percent of seafood imports are compliant. The challenge for regulators is this: how to stop the 11 percent without disrupting the vast majority of legal compliant imports.

We need effective enforcement, as well as efficient enforcement, yet NOAA already collects more data at entry than just about any other agency. The 15 required data elements may not seem like a big deal until you consider the complexity of seafood supply chains and the reality of the entry process.

So, shall we consider what this means in the commercial world? When a typical shipment of canned seafood arrives in the United States, it may consist of 20 ocean containers holding 60,000 tins. The seafood in these products may have easily originated from 10 or 12 different vessels, catching the fish from over 100 different locations. So, for this one typical customs entry, 15 additional data elements explodes into thousands of data elements at entry, as all

of these variations are accounted for. That equates to 18,000 discrete data elements, each of which must be manually entered and transmitted to NOAA via the CBPA system.

Now, the America COMPETES legislation doubles down on this approach, calling for a significant expansion of SIMP by requiring 72 hours in advance of entry complete chain of custody data with verification and certification by a competent third party of all major transfer points.

The bill also expands the scope of SIMP by including all species of seafood and seafood products and widens NOAA's mission by requiring data on labor conditions in the harvest and processing of seafood products.

The other witnesses deem this legislation as essential for enforcing the Russian ban and apparently envision this legislation, if passed, taking effect immediately. Yet, many, if not most of these provisions, would be impossible to implement for years, at best.

Ultimately, smarter use of 21st century technology will provide for more streamlined, effective results than relying on voluminous data entry on a shipment-by-shipment basis at the time of entry. Artificial intelligence, predictive analytics, and blockchain all offer exciting and innovative opportunities that should be explored. The NCBFAA stands ready to help in this effort.

Thank you again for allowing me to present the NCBFAA's perspectives on this matter. I look forward to your questions.

[The prepared statement of Mr. Lahar follows:]

PREPARED STATEMENT OF MIKE LAHAR, NATIONAL CUSTOMS BROKERS AND
FORWARDERS ASSOCIATION OF AMERICA

Mr. Chairman, members of the committee—I wish to thank you for this opportunity to present testimony on behalf of the National Customs Brokers and Forwarders Association of America (NCBFAA). I am Mike Lahar, a customs broker from A.N. Deringer in Vermont. I ask that my full written comments be considered as I am summarizing my points in this testimony.

NCBFAA represents over 1,100 licensed customs brokers, filing over 95% of all customs entries and are at the frontlines for merchandise entering the US. Licensed by CBP, customs brokers provide the important and unique perspective of intermediaries who serve as the interface between importers, CBP and other government agencies.

NCBFAA wholeheartedly supports the ban on Russian seafood and see it as an important measure to demonstrate our solidarity with the Ukrainian people following the unprovoked attack on Ukraine sovereignty by Russia. We are working closely with our clients, U.S. seafood importers, to ensure full compliance with the ban.

We are surprised and concerned, however, that some of the other witnesses are using this occasion to call for the immediate and significant expansion of the Seafood Import Monitoring Program (SIMP)—a provision contained in H.R. 4521, the America COMPETES Act. They boldly claim the Russian ban is meaningless unless the SIMP program is immediately expanded. Yet, SIMP expansion would take years to implement. It would have no impact on the Russian ban. And, before rushing headlong into SIMP expansion, we need to ask: is the H.R. 4521 SIMP provision really the best way forward to deter Illegal, Unreported and Unregulated (IUU) seafood imports?

No one wants illegal or fraudulent seafood, or seafood produced by forced labor, to enter U.S. commerce. Certainly, our industry is strongly committed to safe and legally compliant supply chains. Compliance is what we do. SIMP expansion is not the answer to effectively ban Russian seafood.

As customs brokers, we also understand how supply chains work. And, we know it is critical to the well-being of the U.S. economy and individual consumers that supply chains are efficient and reliable.

Any discussion of seafood trade must recognize that seafood supply chains are long. They are complex. Many are a maze of cross-border movements and inter-

dependencies designed to achieve maximum efficiencies. These supply chains flow in all directions. It is routine and common for seafood caught and landed in one country to be shipped to a third country for processing. In fact, this is the case for U.S.-caught seafood. Large quantities (an estimated \$695 million by value) of seafood harvested in the U.S. by U.S. commercial fisheries are exported to foreign countries for further processing before being imported back into the U.S. market.¹ This is the way supply chains work.

The International Trade Commission estimates that 11% of imported seafood consists of IUU seafood. This means 89% of the seafood imports are compliant. The challenge for regulators is: how to stop the 11% without disrupting the vast majority of legal, compliant imports. We need effective enforcement. But we also need efficient enforcement.

And that is where the current Seafood Import Monitoring Program falls short. It is a well-intentioned program to deter IUU seafood imports. Yet, SIMP already collects more data at entry than just about any other agency. For 1,100 species of seafood, we provide the vessel name, the vessel country flag, the location of the harvest, the gear used, the place of first off-load and the entity receiving the fish, among other details. The 15 required data elements may not seem like a big deal—until you consider the complexity of seafood supply chains and the reality of the entry process.

Consider what this means in the commercial world. A single fishing vessel may be out at sea for six to eight weeks at a time catching up to 350 tons of fish from 20 to 30 different locations. When a typical shipment of canned seafood arrives in the U.S., it may consist of 20 containers holding 60,000 tins. The seafood in these products may easily have originated from 10 or 12 different vessels catching fish from over a hundred different locations. So, for this one typical customs entry, 15 additional data elements explode into thousands of data elements at entry, as all these variations are accounted for.

Every one of these 1,000+ data elements must be manually keyed in by a customs broker, making this a labor intensive and costly process for the trade. But perhaps even worse, all this work and all this data does not necessarily lead to compliant supply chains. Tracking supply chain data on a shipment-by-shipment basis is the least efficient and effective means to identify products that use forced labor or violate IUU fishing laws.

Now, the America COMPETES legislation doubles down on this approach, calling for a significant expansion of SIMP by requiring *72 hours in advance of entry* complete chain of custody data, with verification/certification by a competent third party of all major transfer points. The bill also expands the scope of SIMP by including all species of seafood and seafood products and widens NOAA's mission by requiring data on labor conditions in the harvest and processing of seafood products.

The other witnesses deem this legislation as essential for enforcing the Russian ban and apparently envision this legislation, if passed, taking effect immediately. Yet, many if not most of these provisions would be impossible to implement for years, at best. For example, they call for certification of all parties in a seafood supply chain. Yet, no country has such a certification program in place. Designing and implementing a meaningful certification program with controls in place to prevent fraud is difficult. It is never an overnight process. Nor has any thought been given to how those multiple certifications per supply chains would move through the supply chain. Are we talking dozens of paper certificates accompanying each shipment? Or will there be electronic certificates? And what system would be used and how would each government system interconnect globally?

Just to give you an idea of the challenges in devising an import certificate, consider that the US Department of Agriculture has been working on an electronic Organics certificate for several years and only now is moving toward implementation in another year or so. And that is only after working diligently with the organics industry and brokers and importers for over a year to develop a process that can actually work in the real world.

¹See USITC, Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries, Inv. 332-575, Publ. 5168 (February 2021).

NCBFAA encourages you to step back and reconsider the options before going forward with SIMP expansion. It will not impact implementation of the Russian ban on seafood. Nor is it the best way to deter IUU fishing. We offer the following perspectives:

- **You cannot “data” your way out of IUU fishing.** Another 10, 20 or 50 data elements per seafood provider at entry will not lead to more compliant seafood chains or enable NOAA to stop illegal imports—especially if the data is not put to good use. The existing data requirements at entry are already detailed and demanding. More is not necessarily better. Greater targeted use of existing data elements is essential.
- **SIMP Envisioned A Balanced Approach:** SIMP was designed to balance IUU fishing deterrence while limiting the burden on lawful trade. The aim was to minimize the impact on legitimate trade. The SIMP Expansion Act runs directly contrary to this goal.
- **The SIMP Expansion Reflects a Poor Understanding of Supply Chains:** The additional data will be crushing to the entry process. Complete supply chain information, with certifications for *each and every* entry, provided 72 hours before entry is wildly unrealistic. And it is without precedent. Other agencies, such as the Food and Drug Administration (FDA), require importers to establish food supplier verification programs for imported food products—the detailed data on the food supply chain is *not provided as part of the entry process*. Most of the detailed supply chain records are reviewed post-entry through regular audits.
- **The Limits of ACE:** The Automated Commercial Environment (ACE) is a sophisticated system with robust capabilities but is not capable of accepting all this additional data, it is not a magic wand. The data for each shipment that arrives at the border must be manually keyed in at entry. And, because no two shipments are exactly alike, this process must be repeated for each and every entry (and for each line in an entry). Given the complexity of a typical seafood shipment, there is a cost, in time and money, associated with every data collection requirement—both in gathering the necessary data and manually entering each keystroke.
ACE cannot handle such massive amounts of data. There is already a limitation on the number of “records” that can be reported per entry. And the system shuts down for maintenance all too frequently. For these very reasons, CBP is looking at ACE 2.0 because the current system cannot function as originally designed in today’s trade environment. The system cannot handle the data requested.
- **Avoid Duplication of Effort:** There are numerous overlapping initiatives in this space. NOAA alone has four separate import programs (including SIMP), requiring the very same data to be input separately at entry for certain species of fish. In addition, the Food and Drug Administration is conducting innovative pilots involving Artificial Intelligence to target unsafe seafood products and looking at ways to trace food through the supply chain. Also, CBP has launched a robust program to combat forced labor, with a focus on forced labor in the seafood industry. Other agencies are already addressing issues such as forced labor. Before adding a new SIMP program, we need to take stock of existing resources.
- **Single Window Not Intended To Be A Data Dump:** ACE/ITDS was never meant to serve as the conduit for a massive data dump from the trade. As the various Partner Government Agencies have implemented ACE requirements, each agency has carefully weighed what are the most critical data elements for enforcement, often paring down an initial “wish list” to a handful of key data elements (with the rest available as part of post-entry audits).
- **Lessons Learned From Other Agencies:** Other agencies with stringent import requirements have mastered this process, requiring a limited number of data elements and effectively utilizing that data to target problem shipments works better. Enforcement is strong, yet efficient. This includes the Food and Drug Administration, the Environmental Protection Agency, the Animal and Plant Health Inspection Service, the Fish & Wildlife Service, among others. Many of these agencies relied on NCBFAA members to help them overcome challenges in designing and implementing their programs to ensure they were realistic, efficient and effective. We are willing to do the same with NOAA.

- **Assess the Current SIMP:** Before expanding or changing SIMP, we need to better evaluate the operation of the existing program:
 - **Confusing SIMP Forms:** The format for SIMP forms is confusing and lacks clear guidelines. For example, the SIMP forms apply to ocean caught fish, but do not reflect the circumstances for aquaculture moving from the pond to the processing plant. This leads to confused, nonresponsive data at entry.
 - **SIMP Audits—Form Over Substance:** SIMP audits tend to be overly focused on minor non-substantive errors and are beset with a “gotcha” mentality. For example, an auditor cited an importer for noncompliance when an “a” was substituted for an “i” in “Khatulistiwa” on entry documents. This fixation on minutiae detracts from the overall goal of identifying the producers and supply chains responsible for IUU abuses.
 - **NOAA Report:** A recent report from NOAA reveals that nearly 60% of audited shipments were compliant. Of the 40% noncompliant shipments that only a small number warranted enforcement action. Most “noncompliant” involved inadvertent misspellings or similar errors.

Ultimately, smarter use of 21st century technology will provide far more streamlined, effective results than relying on voluminous data entry on a shipment-by-shipment basis at the time of entry. Artificial Intelligence, predictive analytics, blockchain—all offer exciting and innovative opportunities that should be explored. Rather than expanding the current ineffective process, Congress should encourage regulators, industry and NGOs to reimagine the process with a tech-enabled approach.

NCBFAA stands ready to help in this effort. Thank you again for allowing me to present NCBFAA’s perspectives.

QUESTIONS SUBMITTED FOR THE RECORD TO MIKE LAHAR, NATIONAL CUSTOMS
BROKERS AND FORWARDERS ASSOCIATION OF AMERICA

Questions Submitted by Representative Bentz

Question 1. One witness testified that the FDA is working on a food traceability rule that may include seafood. If FDA can do this, why do you say the proposed SIMP expansion requirements are “wildly unrealistic” for NOAA to implement?

Answer. Unlike the SIMP expansion legislation, the FDA supply chain tracking proposal does NOT require the supply chain data and records to be reported as part of the **entry process**. The FDA proposal establishes a standardized approach to traceability recordkeeping, requiring the first entity that both purchases and takes physical possession of the food to maintain and pass on Key Data Elements to the next party in the supply chain. The proposal is meant to pave the way for industry to adopt, harmonize and leverage more digital traceability systems in the future. This data moves as part of the supply chain—but it specifically does NOT propose that all this data be entered as part of the customs entry process. So, yes, the SIMP expansion proposal, with its massive manual data entry requirements, is indeed “wildly unrealistic.”

We should also add that the FDA has been working on this concept of full traceability for a decade, with the first pilots conducted in 2012, only last year was a proposed rule published in the Federal Register.

In the meantime, FDA has had a supplier verification program in place for several years. Under this Foreign Supplier Verification Program (FSVP), the FDA requires as part of the entry process the name and contact person for a U.S. person who has the records to verify that the overseas supplier of the food product maintains the preventative controls to produce a safe product. As you can imagine for food-borne illnesses, this tracking mechanism is very important to get to the source, but it is not a requirement for entry of the goods. The requirements include onsite audits of the supplier or a certification by a 3rd-party certifier. The FDA later audits these records. An entity who fails to verify the supplier’s controls can lose the ability to import the product into the U.S.

Unlike NOAA, the FDA is a border enforcement agency with over 100 years of experience in developing systems which give them the necessary information to pinpoint critical supply chain issues while not impacting our economy and the government with unnecessary duplicate data collection.

We should also be asking, if FDA will be implementing traceability of seafood supply chains, why are we attempting to duplicate that effort with NOAA? Why not leverage what other enforcement agencies are already doing?

Question 2. Ms. Sally Yozell testified that if the SIMP expansion legislation were implemented, that “Chinese processors can accommodate these traceability requirements.” Do you see the Chinese processors as a reliable mechanism for tracing the origin?

Answer. No, in our experience, the Chinese producers cannot be relied upon as a resource for accurate data on the origin of the seafood. That is a pipe dream that will only lead to unreliable data. They have no incentive to keep track of the origin, nor are they accountable to U.S. enforcement authorities. They will merely provide whatever information is asked for, rather than take steps to ascertain accurate origin data.

The responsibility for data accuracy should be a shared responsibility between the parties who have a financial interest in the importation. Again, we look at the approach taken by the FDA with a third-party certification that the supplier has the controls in place to ensure US requirements are met, with the importer responsible for auditing to ensure data is correct.

Question 3. The ban on Russian seafood is the most urgent concern right now. You stated that SIMP expansion would not prevent Russian seafood from entering the United States since it would take years to implement. Do you have any suggestions for how we could prevent Russian origin seafood from entering the United States?

Answer. We already do this in other situations, such as antidumping—where the original source of raw materials must be tracked for products processed in a 3rd country. In these circumstances, an MID (Manufacturers Identification Number) code is provided by the U.S. importer/customs broker to identify the exporter as well as an MID for the original manufacturer/country of manufacture.

In the context of seafood and the Russian ban, a similar approach could be taken requiring only minimal changes in ACE, whereby the importer would provide the identity of the exporter (as they do now) AND the identity of the country/entity where the seafood was harvested or first landed.

This method could provide a more immediate and straightforward solution to enforce the Russian ban, rather than hastily enacting a drastic and questionable expansion of SIMP that would take years to accomplish.

Question 4. You mention leveraging the use of technology, such as blockchain and AI, to improve seafood supply chain transparency. How do you envision this working? And, is the SIMP expansion legislation compatible or incompatible with this approach?

Answer. The focus of any SIMP legislation should be on how current and emerging technologies can be utilized to target violative seafood shipments and to enhance the visibility of seafood supply chains. We do not yet know exactly what this will entail, but we do know the opportunities are promising. For example, the FDA is in its 3rd phase of a pilot using Artificial Intelligence to identify unsafe seafood shipments. Without sharing details of their methods, the agency tells us that the pilot is proving to be a huge success in interdicting unsafe seafood before it enters the country. I can’t help but think there must be an overlap between “unsafe” seafood and IUU seafood shipments. Can the seafood AI program be expanded to include IUU? Or, at the very least, can NOAA learn from FDA’s experience with AI and seafood?

Of even greater significance, Customs and Border Protection (CBP) is in the early stages of an acquisition process to enable the development of a new system to replace the Automated Commercial Environment (ACE)—which is the current platform connecting CBP, the Partner Government Agencies (including NOAA) and the private sector for the submission and processing of entry data.

Called ACE 2.0, this is a transformative effort to completely reimagine the entry process. ACE 2.0 will embrace 21st century processes and emerging technologies to achieve greater supply chain transparency and a completely automated supply chain. It would allow interoperability with blockchain and other future systems and incorporate the concept of “the digital twin”—where the physical movement of goods is reflected digitally. More information is available at: <https://www.cbp.gov/sites/default/files/assets/documents/2022-Mar/NGF%20ACE%202.0%20Issue%20Paper.pdf>.

Achieving transparency in the seafood supply chain should be part of this effort. Instead, the SIMP expansion legislation is an overly prescriptive solution grounded in yesterday’s technology. It builds upon the current plodding inefficient process,

relying on vast amounts of manual data input, with no clear vision of how this data will be used to actually improve the visibility and legality of seafood supply chains.

The goals of the SIMP expansion are solid. The means to achieve those goals are not. The SIMP legislation, with its elaborate certification scheme and massive data input requirements, gets ahead of itself. Never once does it ask: is this the right approach? Can the private sector even do this? How will the government utilize this data? How can we better leverage technology? There are no pilots to test out the feasibility of this plan. There is no engagement with the private sector. We, therefore, urge Congress to rethink the SIMP legislation.

Mr. HUFFMAN. Thank you, Mr. Lahar.

We will now bring it back to the Members for questions. I will start by recognizing myself for 5 minutes.

Mr. Lahar, just to pick up where we left off, do you agree that if you are unable to identify the origin of these seafood products, especially products that may have been processed in other countries, it is really not possible for you to enforce this nominal ban on Russian seafood right now?

Mr. LAHAR. The ban, as it stands, is based upon declaration of the country of origin of the goods as imported, correct?

Mr. HUFFMAN. Yes. So, since these products are processed through China and come through as a Chinese product, wouldn't you agree that, right now, if we are pretending to ban Russian seafood, you can't do that?

Mr. LAHAR. The customs laws, the way they work—

Mr. HUFFMAN. Yes or no. Just yes or no, sir, I have limited time.

Mr. LAHAR. No, I disagree that this would limit the ability to track.

Mr. HUFFMAN. But you can, with the tools you have right now, ban Russian seafood.

Mr. LAHAR. I am not here to debate economic sanctions. I am here—

Mr. HUFFMAN. All right, I am going to reclaim my time and move on to other witnesses.

I heard some interesting testimony from Mr. Lahar suggesting that only 11 percent of the seafood imported into the United States is actually the product of IUU fishing. I have heard dramatically different data from other experts and studies over the years. So, let me just ask our other witnesses if they agree with that statement, that we only have an 11 percent problem when it comes to IUU fishing products being imported into this country.

Ms. YOZELL. Mr. Chairman, this is Sally. I would have to say that I do not agree with only 11 percent, because, as Tabitha just said, and I am sure she can elaborate more, we just don't know. When seafood is mixed and co-mingled alongside Russian catch, and as well as Chinese catch, we do not know.

And also, we do not know if labor and human rights violations are narrowed also to that small window. I mean, as pointed out, Russia and China are—China is probably the No. 1 on IUU, as well as Russia comes right behind, as well as for labor and human rights abuses.

So, we do not know when seafood is processed overseas and comes back. It is just an unknown quantity.

Mr. HUFFMAN. Thank you, Ms. Yozell. And you have testified unequivocally, as someone who was there at the initiation of the

SIMP program, the clear intent was to expand it to all species imported into the United States.

Mr. Lahar just testified that this would take years to happen, that it wouldn't make a difference in terms of preventing Russian seafood from entering our markets, and that it is just too hard and complex to really do this.

Look, I have a bunch of my own thoughts about that. I think if we only asked Federal agencies to do easy things, we would have a lot less Federal agencies with much smaller budgets. Sometimes we need them to do the hard stuff.

And I also note that all of these seemingly impossible tracing and tracking things seem to have been accomplished when it comes to seafood entering the European Union. Do they just have better systems than us? Do they have better math? Do they have better agencies?

Let me invite both Dr. Mallory and Ms. Yozell to answer that question. Is it just too hard? Can we just not get there from here?

Dr. MALLORY. I will go ahead and say something, Mr. Chairman. This is Tabitha Mallory.

I think I am actually one of the people that didn't say that we need to, just tomorrow, expand SIMP to all the aquatic species. I think that should be our ultimate goal. But I do think there are bureaucratic challenges, and we could start with the major species that the United States imports, so pollock, salmon, squid. And these are species that we know have problems also with labor abuses.

And another part of this is the transparency in our data. A lot of this data actually exists, but it is not released to the public. So, it is up to people like me to essentially reverse-engineer using yield ratios and just estimating what the actual volumes of trade are, what percentage would be IUU catch. So, I think, with a combination of increasing transparency and expanding the program, we can get the program in place and get to a place where we want in terms of our knowledge.

Mr. HUFFMAN. So, you would start, though, with expanding SIMP to the targeted species, then develop these other traceability tools, as I understand from your testimony, right?

Dr. MALLORY. Yes. I think that is a perfectly good way to handle it. I mean, that is what SIMP did already. They started with 11 species and expanded it to a couple more. And I assumed that they were going to keep expanding to more species gradually.

Mr. HUFFMAN. Right. And Ms. Yozell, you said China already separates seafood to comply with European Union rules, right?

Ms. YOZELL. That is correct.

Mr. HUFFMAN. So, if—

Ms. YOZELL. Yes, I mean—

Mr. HUFFMAN. Go ahead, please.

Ms. YOZELL. No, what I was going to say is, with regard to the length of time Mr. Lahar noted, I mean, we heard from the Joint Chiefs of Staff yesterday, General Milley, that this war could go on for a very long time.

And also, let us not forget that I expect the seafood ban to go on for even longer, much longer. I mean, Russia has banned U.S. seafood for 8 years now. I would think, at a very minimum, that

is what we should do to at least try to level the playing field with our own fishing community and our own fishers.

But on the point you mentioned, yes, I agree with Tabitha. We need to let NOAA walk before it can run. But it has now been 4½ years. Rome was not built in a day, but it is time for them to have a program that is operational.

In addition, there is a lot of great technology. We need to enhance technology: barcodes, QR codes, and blockchain, all of which can be implemented and NOAA is working in that direction. But we should at least get it happening now.

We need to be able to track seafood from when it is caught all the way through the seafood supply chain, and we are only going to be able to do that if we move away from paper-based documentation, which can be falsified, to electronic catch documentation, and expand those key data elements required under SIMP to include trans-shipment data, beneficial ownership data, vessel tracking, and forced labor data, all of which are noted in your bill, Mr. Chairman, the America COMPETES Act, in the House-passed version.

I think we need to also expand enforcement and improve SIMP's programmatic staffing, grow training programs with the brokers and others around the world, so that people like Mr. Lahar and others in other countries have training and understanding of what the SIMP program needs.

And lastly, I would like to note that SIMP is aligned with the EU Catch Certification Scheme, and Japan now has a new program. So, as we move forward, we need to have all of these countries aligned, because many more are coming on. I would urge NOAA to work, as I know they are, with other countries to align programs around the world, so it is less burdensome to the brokers and to fishers.

Thank you.

Mr. HUFFMAN. Thank you, Ms. Yozell. I am going to hand it over to the Ranking Member with apologies.

I owe you some time, Mr. Bentz, but let me just conclude that Mr. Brush, in his testimony, reminds us that oligarchs are very likely the beneficial owners of a bunch of these Russian seafood companies. In so many other ways, we see other Federal agencies finding creative ways to track down these oligarch funds, to seize yachts, and just to bring a can-do approach to sanctions. It would be great to see that same can-do approach when it comes to Russian seafood.

With that, I will yield to the Ranking Member and recognize him.

Mr. BENTZ. Thank you, Mr. Chair. And near as I can tell from my clock, I have an additional 3 minutes, is that correct, on top of my 5?

Mr. HUFFMAN. Take whatever you need, Mr. Bentz. I took great liberties with the clock a moment ago.

Mr. BENTZ. Thank you, Mr. Chair.

And Mr. Lahar, we have a number of situations in the forestry space, where we ask for bureaucracy—Forest Service, Bureau of Land Management—to do the impossible. It generally takes them years. And sometimes we ask them to do the possible and it takes

years. So, all the time that we are waiting for these good things to happen, the folks that we place these impossible tasks before struggle to try to actually get things done. And in the meantime, the goal that we are trying to achieve remains unresolved.

You mentioned how difficult it would be to make this happen. It was asserted that Europe has somehow taken care of it. Do you agree?

Mr. LAHAR. Thank you, Representative Bentz. I agree in the way that they do have a program, and it is functioning.

But the legislation, as it stands before the House of Representatives in Bill 4521, requires the certification of major points of transfer of the product back to the harvesters or the growers. And there currently is no program set to allow for that. So, just the development and the implementation of setting up the certifying bodies would take years. We just don't have the infrastructure in place to allow us to do that currently.

I do agree with Ms. Yozell about the use of new technologies. That is a very interesting subject, and the NCBFAA really is supportive of that. The current ACE system is limited in the amount of data that it can take, and adding all of this data into the current data flow could literally take the system down. It comes down two or three times a week currently. It is not designed to do that, but it is just receiving so much data currently that every time it exceeds its capabilities it goes down, and that leaves our ports of entry open. So, while that system is down, we have goods flowing into our country without good results. It is not able to be vetted by customs vetting center, so that leaves us open to terrorism and a lot of other things that could happen.

But ACE 2.0, which Customs is working on, leverages these new technologies, and would be the ideal opportunity to use things like a blockchain in order to make this a much more robust program.

Mr. BENTZ. So, let me ask you again, Mr. Lahar, as it relates to achieving this outcome, you suggested that the SIMP approach is too burdensome, too time consuming, and not manageable. Do you have some alternatives that would achieve the outcome desired, which appears to be that we would address the pollock issue, at least the salmon issue, at least perhaps the squid?

Do you have something in mind that we could do that would allow us to stop Russia from benefiting from the export of these types of commodities?

Mr. LAHAR. It is interesting that Representative Huffman mentioned the turtle excluder program. That is one of the ideas that has been mentioned. It is a fairly simple form that importers complete, and it would allow us to address some of these problems without having to immediately address issues like the certifying bodies.

There are other programs, like FDA's Food Safety Verification Program, where U.S. importers are required to monitor their supply chains.

If we could model a system on the turtle excluder or the FSVP program, these are examples that are already out there, they are already working. I would suggest that we may want to look at those before we go ahead and take further action on the SIMP legislation.

Mr. BENTZ. So, the question, Mr. Lahar, is what can we do right now to effect damage, hurt in some way, respond to what Russia is doing, which is so wrong? What can we do now? Because it appears that the suggestion that we use the SIMP program wouldn't result in an immediate impact. Do you have something in mind that we could do quickly?

Mr. LAHAR. Like I said, the turtle excluder program is a great example. We have the technology in place right now to require those certificates and to get them into the entry system, and stop the importation of Russian-originating seafood.

Mr. BENTZ. Thank you, Mr. Chairman. With that, I yield back.

Mr. HUFFMAN. Thank you, Ranking Member Bentz.

I am not sure—let me ask staff to tell me the next Member in order for questions, please.

VOICE. Mr. Case.

Mr. HUFFMAN. Mr. Case, you are recognized for 5 minutes.

Mr. CASE. Thank you, Mr. Chair.

Ms. Yozell, I think there have been allusions to other efforts throughout government that seem to have a better overall understanding of how to pull this off, whether it be the FDA, general traceability, or some of President Biden's efforts on just supply chain, tracking. I mean, this is not the only example where somebody tries to circumvent our rules by routing something through another country. So, this isn't new stuff.

And, certainly, it seems to me that we have been down this road before. So, what are the lessons to be learned?

If I understand the testimony here correctly—and I don't, frankly, know what to make of NOAA's absence here. I think it is unfortunate. I think, for me, it is uncharacteristic. And I don't know whether NOAA just doesn't have an answer right now or doesn't want to go down this road to start with. But sooner or later, we need to hear from NOAA.

And the bottom line is that there are other approaches out there. So, what is your comment along those lines? Who is doing this right within our government, and how do they answer the concerns, and how can they be instructive to NOAA, who I am sure is listening?

Ms. YOZELL. Yes, thank you, Mr. Case.

First, you are absolutely right. This is not the first time anyone has had to try to track or trace a commodity in our U.S. system. I mean, timber is an example that has been tracked for years. Oil and gas is traced. You may recall when we were even considering about nutrition labeling, the industry said that was going to kill them. The timber industry said that was going to kill them. Oil and gas said that was going to kill them. Well, guess what? They all seem to be thriving pretty well. So, I think the seafood industry does have a chance to be able to take on the lessons learned from some of these previous tracking and tracing programs.

But I would also say the FDA has proposed a rule that requires supply chain actors to maintain traceability records for almost all seafood products. So, importers and their supply chains will soon have a place where traceability systems for almost all seafood products works. And this should make the expansion of SIMP actually easier, because industry will already be required to do a significant

amount more than they are currently doing on the chain of custody.

And it is for health and safety reasons. I mean, we know also, if I could just add, tuna. Tuna is tracked from where it is harvested all the way into the can, with a barcode that you and I can look up online to see all of the elements.

Mr. CASE. Let me just ask you a basic question there. If the FDA is busy doing this right now, then what is the relationship of the FDA's proposed rule applicable to seafood to whether NOAA does or doesn't proceed on this?

Ms. YOZELL. Yes, that is a great question. It focuses on health and safety. It doesn't look at all the other risk issues that perhaps the SIMP program does——

Mr. CASE. I see. So, they are not factoring in IUU, or forced labor, or for that matter, just a broader——

Ms. YOZELL. They aren't, although we are urging them to do so.

Mr. CASE. But, I mean, it is a model that you can easily just apply over, right?

Ms. YOZELL. Exactly.

Mr. CASE. OK.

Ms. YOZELL. And I would also add, too, that FDA and NOAA are working together. I mean, we do have an all-of-government approach, and I would urge them to continue to do so——

Mr. CASE. OK. I am going to move on, just because I have limited time.

Ms. YOZELL. Sure.

Mr. CASE. Mr. Brush, Mr. Lahar says that—first of all, Mr. Lahar says he fully supports the ban on Russian imports, and he is all into it, and his industry, and I take him at his word on that. We all want to do that. But he says this program is not the right way to do it.

So, the question was, well, if this isn't the right way to do it, then what is?

And he says the turtle monitoring program. What do you say to that?

Mr. BRUSH. I don't have quite as much familiarity with that specific program, but I would still fundamentally believe that for an effective implementation of the ban, you do need that chain of custody data to be able to follow where those shipments might have come, whether they originate in Russia and then went through China, to get them to the United States.

Mr. CASE. OK. So, if I understand you correctly, you are saying the turtle monitoring program offers half of the solution, or some of the solution, but it is not a complete solution?

Mr. BRUSH. Yes, I think there is a little bit more information required in these reporting on shipments and——

Mr. CASE. OK. And then the same basic question to you. Is this the right program to go after the basic goal of avoiding circumvention of our ban of Russian seafood?

I mean, is there another approach that we can take, or is this just the avenue we should be going down, period?

Mr. BRUSH. I mean, from my perspective, I would say yes. I think the data elements are some of the more key angles that I can

focus on, the need for chain of custody data, the need for beneficial ownership information.

These are critical pieces of data in any kind of investigation, or regulatory work looking at shipments to confirm where they came from and their legality. So, that element of it, that collection of data is where, I think, it is the most critical, and where this program would be able to collect that data.

Mr. CASE. OK, great. Thank you very much.

I yield back, Chair.

Mr. HUFFMAN. Thank you, Mr. Case. The Chair now recognizes Mr. Graves for 5 minutes.

Mr. GRAVES. Thank you, Mr. Chairman. Can you hear me?

Mr. HUFFMAN. Yes, we can.

Mr. GRAVES. OK, great. Thank you.

So, hey, first of all, thank you all for being here. I want to thank the Chair for working with us on this important—

[Audio malfunction.]

Mr. GRAVES [continuing]. Support for the goals of the bill that we co-sponsored with Don Young to ban imports of Russian seafood. But I also want to be clear that this IUU bill is separate from the Don Young Russian seafood ban bill. And this IUU bill was introduced before all of the Ukraine mess and before Don Young had introduced his bill. So, there is the Don Young bill that we are a co-sponsor of on Russian seafood being banned, and then there is the IUU bill that we have co-sponsored with the Chair.

I just wanted to distinguish the two. Our IUU bill was introduced—and I don't claim, as you stated in your testimony, that the Russian ban is meaningless unless the SIMP program is immediately expanded. I think they are separate, but they are important pieces of legislation.

The goal is to combat slave labor, prevent human rights abuses, protect our resources, and, I think, provide consumers with a choice. Like, that is really what the objective is there. But in order for them to have a choice, you have to be able to distinguish. So, the SIMP helps to distinguish what their choices are, and you have to provide that information to consumers.

Mr. Lahar, similar to what is required of our domestic seafood producers, your testimony points out that additional overhead would be incurred as a result of compliance with traceability and with transparency. We did, with Mr. Huffman, try to make a concerted effort to improve and automate the process. But I will tell you, I am all ears in regard to other ideas or feedback on how we can maintain traceability, transparency, and accountability, while streamlining it. I would love to hear if you have any thoughts or reaction on that.

Mr. LAHAR. I thank you very much, Representative. I think that is the point. We are rushing forward with this legislation to address the conflict in Ukraine. But this concept is something that has been chugging along, and the NCBFAA has been working with NOAA, and suggesting that they talk to the Food and Drug Administration, and giving them examples of ways that this could be addressed: blockchain, artificial intelligence. The Food and Drug Administration is doing some wonderful things with artificial intel-

ligence. We have ACE 2.0 that is coming up from Customs that is going to revolutionize the way that we file entries.

So, I think the key is to look at all of these different things that could be leveraged to do this. But if we rush this legislation through, it may be too late to take some of those actions. My chief concern is that we pass a bill that would be imperfect on a program that has already been admittedly described as imperfect, when we could make this a much, much better program, much more robust, and stop goods from coming into this country illegally.

Mr. GRAVES. OK. So, just a couple of things. No. 1, let's keep in mind—I mean, you talk about rushing through. The bill has largely already passed the House through COMPETES and Coast Guard.

But also, this bill was introduced—Mr. Huffman, I want to say spring of last year, right?

Mr. HUFFMAN. You are correct.

Mr. GRAVES. OK. So, nobody looks at Congress as the model of efficiency. But it has certainly been around for a while. And I don't know that there is any rushing going on.

I will tell you again I am all ears in regard to ideas that you may have to help to streamline or prevent additional costs, but still achieving the objective of the traceability, the accountability, the transparency that is there. I don't speak for Mr. Huffman, but I think those are our real objectives here. And it also helps to provide the consumers choice. And the only way they have the choice is if we know some of those facts and are able to communicate to consumers.

Look, last, I just want to say that the objective of this bill—we are one of the largest seafood producers in the United States. The objective of this bill, of holding countries like China and Russia accountable that have some of the worst illegal fishing fleets in the world, that is unfair competition, it is overfishing, it is lack of sustainable practices, and these are objectives that we should all be sharing.

I want to thank Mr. Huffman again and yield back.

Mr. HUFFMAN. Thanks very much, Representative Graves, I appreciate it.

And just a reminder, there actually is some urgency in doing something about the importation of Russian seafood. We have other Federal agencies finding ways to very quickly seize assets, including yachts. And we need to bring that same sense of urgency to the problem of how our seafood import system is actually funding the Russian war machine.

With that, are there any other Members in the hearing room that would like to be recognized?

Mrs. RADEWAGEN. Radewagen.

Mr. HUFFMAN. Mrs. Radewagen, sorry about that. You are recognized for 5 minutes.

Mrs. RADEWAGEN. Thank you, Chairman Huffman and Ranking Member Bentz, for holding this hearing on Russian seafood and actions we can take.

Thank you both for testifying today, the panel here.

My concern with Russian seafood goes back to the end of the cold war, when I seem to recall Mikhail Gorbachev announcing from Vladivostok that the Soviet Union was a Pacific nation.

Mr. Lahar, my questions are for you. As it relates to Russian-caught seafood that is processed in other countries, are there any examples of other programs—I think this was asked earlier—currently in place that track country of harvest without the burdensome requirements of SIMP? You mentioned the turtle excluder program.

Mr. LAHAR. Yes, the turtle excluder program, as it stands now, could be modified in order to fit in with the desire to limit the importation of seafood originating in Russia.

Also, the Food and Drug Administration's FSVP program, which requires importers to monitor the supply chain back to the originators, would be another model that would allow the implementation of a policy to exclude Russian seafood from being imported into the United States.

Mrs. RADEWAGEN. So, as a followup, how would SIMP expansion penalize compliant parties in the seafood supply chain?

Mr. LAHAR. Well, the ITC study, which is a federally funded study, finds that 89 percent of seafood imported into the United States is compliant. So, we are looking for the 11 percent of the seafood imports that are coming from bad actors. We are looking at penalizing those 89 percent of the importers bringing in legitimate and compliant product into the United States to go after those 11 percent. And it can be quite costly to importers to do that. So, it ultimately can go back to the consumer, and they will foot the bill for this program.

Mrs. RADEWAGEN. Thank you, Mr. Chairman. I yield back.

Mr. HUFFMAN. I thank the gentlelady. Mr. Soto, you are recognized for 5 minutes.

Mr. SOTO. Thank you, Chairman. In Florida, fish is a big part of our diet, as well as our way of life, with the red snapper, grouper, mahi mahi, and other major types of fish from our area, Florida lobster. But we also love our salmon, pollock, crab, and canned tuna.

The *New York Times* reported that the fish most likely to slip through our import ban is, in fact, pollock, and that the increase in crab demand has pushed a lot of Russian crab into the market, fish caught by Russian ships and Russian seas. This is at a time when we are seeing Russia unjustifiably and violently invade Ukraine, and we are all inspired by the Ukrainian soldiers fighting for freedom. And I am proud to be part of that \$14 billion in relief that we are helping to support them. But thousands are dead, and war crimes have been committed, so we need to make sure, as we are doing our part with bans on imports like fishing bans, that the least we can do is make our fish stick supply chain more secure to enforce against the Russian fishing ban.

I do want to mention first that we also are concerned about Russia's blockade of U.S. fishing rights in the South Georgia Patagonian fishery, which is a key source of Chilean sea bass that we will take up with Commerce. But for today, we know we are looking at traceability.

Ms. Yozell, if NOAA made the decision to require all species to be covered under the SIMP program, what would that process look like?

Ms. YOZELL. Thank you, Mr. Soto, for that question. NOAA could do this immediately through an emergency regulation. And as I said earlier, the White House could pass and execute an Executive Order, and Congress could pass the America COMPETES Act—of course, the House version.

So, again, just to reiterate, NOAA has been working hard to get the program right. They have been working to improve SIMP implementation by focusing on technology improvements, using data analytics, increasing audits, adding new species, reducing human trafficking. And these are just a few of the things that they have been doing.

However, while they are doing that, they can expand to all species. They have already been doing it for 13 species groups. It is not a huge lift to go to all species.

And, again, it could be an emergency rule, and it could be an emergency rule to focus on, first, salmon and pollock, and then it could expand to others in the near term. But to effect the—

Mr. SOTO. Thank you, Ms. Yozell.

Dr. Mallory, can you walk through just a little bit for my constituents of China's role in processing seafood that are from Russian waters, Russian fishermen?

Dr. MALLORY. For any species, or one in particular?

Mr. SOTO. For just generally speaking—actually, let's talk about pollock, since that is the most likely one slipping through right now.

Dr. MALLORY. OK, so it is different, depending on if it is Russian raw material or U.S. raw material.

Russia generally sends its raw material to China for processing, and then that process product ends up on, usually, the European and U.S. markets. It doesn't re-import a lot of the processed material. The United States is different. In the United States, we have a big pollock fleet. We send our raw material to China for processing and then re-import it.

So, one easy way to actually solve this is—China knows the difference between the pollock that is of Russian origin versus Chinese origin. Actually, China requires—they have a bilateral documentation scheme—they require catch certificates from Russia. So, if we just want to do this fast, and require the fish that is caught by the U.S. fleet—which, you know, the consumer should have a choice, we want Americans buying our seafood—let's just ask China. Let's have our seafood labeled. And China knows the difference. There are some challenges with enforcement because we are not actually there, but that is how the system works.

Mr. SOTO. Thank you, Dr. Mallory.

And Mr. Lahar, I am intrigued by your suggestion about using blockchain. I passed amendments first identifying through the budget, then requiring reporting, and now a pilot program utilizing blockchain for food traceability. And that pilot program that just was utilized is for romaine lettuce outbreak, which we were able to help solve. So, feel free to send my office more information on your suggestion on that.

We are now going to go into a much bigger program through USDA, getting into this next 2023 budget.

Thanks so much, and I yield back.

Mr. HUFFMAN. Thanks, Mr. Soto. Miss González-Colón, you are recognized for 5 minutes.

Miss GONZÁLEZ-COLÓN. Thank you, Chairman, and thank you for the witnesses that we do have today. I think this is a very important issue, and loopholes should not be a part of that Executive Order. And in that case, I would love to make a question to Ms. Sally Yozell.

You said in your written testimony, and pointed out that the Executive Order banning the importation of Russian seafood contains a major loophole. And we have been talking about that. It does not cover Russian-caught fish shipped for processing in other countries like China. My question will be, can you discuss the implication of this loophole?

And more than that, why is it so important that we ensure that the ban is expanded to include Russian seafood processed in other countries?

And if you can also discuss what available policies or proposals we need to have to achieve this. For instance, does the Administration currently have any—the necessary authorities to expand an Executive Order to include Russian-caught seafood processed or substantially transformed in other countries? Or do they need legislation to achieve this?

I know there are many questions, so feel free to jump on all of them.

Ms. YOZELL. Thank you. Yes, as we have said already, Russian exports to the United States have grown by 173 percent since 2014. And Russia is the eighth largest exporter of seafood to the United States.

So, in order to really figure out how to stop the Russian pollock and the Russian salmon from entering the United States, we really need to be able to have electronic catch verification that tracks seafood all along the supply chain. And that is what, again, they are doing with the European Union. And then, when it happens in China, when they are processing, they can literally segregate that.

So, we have an opportunity and an ability, because it is already being done, to learn from the European Union and how they process seafood overseas so that it reaches those catch verification requirements by the EU.

I have to say, I spoke yesterday with a Seattle-based catcher-processor who catches crab and cod, and he said that it is easy for us to be able to track seafood, that we do it with tuna, we do it with other species, SIMP is doing it. It is not a heavy lift. And he also suggested that I urge folks to not over engineer this, do not overthink this, make it simple, and it is very viable to do.

But the key is having it electronically verifiable, and the technology exists. Whether you are a small-scale fisher with a handheld device, or a larger scale, you can track your seafood from where it is caught, as it moves through the supply chain, to when it is shipped, to when it is processed, and back into the United States. That is what technology has offered us today. Twenty years ago maybe we didn't have it. We have it today, and we should be doing it.

Miss GONZÁLEZ-COLÓN. But a question—in order to achieve this policy that has been used in the European Union, do we need, I

mean, does the executive power here, the President have the power to ban it and amend the Executive Order to include this? Or do you believe that we need to have Congress step up and legislate this?

Ms. YOZELL. Well, we have the power, as the President issued his Executive Order, to ban Russian seafood.

However, to get to the specific details, we either need to have an emergency rule from NOAA; we need Congress to pass, for example, the American COMPETES Act, which would cover that; or third, we need a new Executive Order that specifically targets pollock and salmon and says that it should be required under SIMP.

Miss GONZÁLEZ-COLÓN. So, you understand that issue to be addressed two ways: legislation to give more power and be specific in the terms of how the fish is caught, and amending the Executive Order to close that loophole.

Thank you, Ms. Yozell, and I yield back.

Mr. HUFFMAN. Thank you, Miss González-Colón. If there are no other Members seeking to be recognized, I will begin a second round of questions and start by recognizing myself for 5 minutes.

So, just to be clear, Ms. Yozell, I am hearing the suggestion that keeps creeping up that we have to either have SIMP or use all of these fancy technologies that can help us trace seafood through the processing and supply chain.

As I understand it, SIMP is agnostic as to the data and the tools that are used to help us carry out these safeguards. Am I misunderstanding something, or could SIMP use blockchain and all of these other fancy data tools to achieve our policy objective?

Ms. YOZELL. Mr. Huffman, you are absolutely correct. SIMP is agnostic and could use many of these new technologies—or not-so-new technologies—that have been used. And, in fact, they are looking at it. But we need to urge them along to look at it and move forward more quickly.

I think, as an example, you have authorized in your legislation \$20 million a year for NOAA to implement SIMP. That is the kind of funds that, in my understanding, would be needed. I mean, they could do it now, but I think the kind of funds you provided, they can't say that it is burdensome, they don't have the funding, they don't have the staff, and blah, blah, blah. They can move this forward, and I think your America COMPETES Act will really help them do that.

Mr. HUFFMAN. Great. I think we are going to have to zero in on pollock a little more, and I appreciate the witnesses who have done that because it seems to me that one of the reasons they haven't used SIMP is that we have a huge American pollock fleet that relies on China for processing, where all of this fish that gets re-imported into the United States gets commingled with a bunch of other pollock and other fish, and it is burdensome and inconvenient, I suppose—or we are told—to segregate it and trace it.

But Ms. Yozell, I missed the exact figure. You are suggesting that there is a significant percentage of what is represented as Alaskan pollock in the American seafood market that is actually Russian pollock. Would you remind me what percentage that is?

Ms. YOZELL. Yes. And while I am just making sure I have the right number, let me also urge that, Mr. Chairman, you might

want to reach out again to this catcher-processor in Seattle, who told me yesterday that much of the pollock industry that is processed—where they have their processing overseas—could be done in the United States. He said it is not a heavy lift. They do it and that we should bring those jobs back. Because technology has advanced so far, it is not like cutters, like it used to be in the old days. We have technologies that could provide good-paying jobs in America for people to process fish here. We don't have to send it overseas for low-cost labor and human rights violations and what not—

Mr. HUFFMAN. I appreciate that. While you are looking for that statistic, though—

Ms. YOZELL. I found the number, I am sorry.

Mr. HUFFMAN. Yes, go ahead.

Ms. YOZELL. It is 50 percent, roughly 50 percent of Alaska pollock comes from Russian ships.

Mr. HUFFMAN. That is just mind-boggling.

Ms. YOZELL. And as I said, Alaskan pollock.

Mr. HUFFMAN. Yes, thank you for that.

Ms. Mallory, can you demystify this a little bit? Is it possible for us to avoid punishing the American pollock fleet, which we support and we want to be successful, while still having some commonplace protocols in place to prevent importation of Russian pollock and other seafood?

Dr. MALLORY. Yes. I think it would actually be in our interest to differentiate. I mean, already now we require, or we actually don't allow Russians to call their Alaskan pollock. So, if we are able to do that, I think we just need to ask that we have the product differentiated, have it labeled.

If you have ever tried just to go online, on Amazon even, to buy pollock and you want it from the U.S. fleet, a lot of the sales on there, it doesn't indicate what country it comes from.

And the volume switches from year to year. The amount of pollock that ends up in the United States that is from Russia, it fluctuates based on how much was produced.

Mr. HUFFMAN. Do you agree, Dr. Mallory, that using the SIMP program and using blockchain and other technologies that you have alluded to are not mutually exclusive, they can go together? You can expand the number of species covered and use cutting-edge tools to feed the data into the program, is that correct?

Dr. MALLORY. Yes, I agree. I think we just have to ask for what we want.

Mr. HUFFMAN. Thanks very much. I yield back, and I will recognize Ranking Member Bentz for 5 minutes.

[Pause.]

Mr. HUFFMAN. If the Ranking Member is unavailable, let me see if there are any other Members that would like to be recognized at this point.

And seeing none, we are done. So, let me thank our witnesses very much, and thank the Members for really thoughtful questions. This is an important hearing, and I think we have shed some light on a subject that absolutely deserves and requires it. So, my thanks to all of you.

The members of the Subcommittee may have some additional questions for the witnesses. We will ask you to respond to those in writing. Under Committee Rule 3(o), members of the Committee must submit witness questions within 3 business days following the hearing, and we will keep the record open for 10 business days to allow for responses to those questions.

If there is no further business, and without objection, the Subcommittee stands adjourned.

[Whereupon, at 2:37 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submissions for the Record by Rep. Huffman

Statement for the Record

**U.S. Customs and Border Protection
U.S. Department of Homeland Security**

U.S. Customs and Border Protection (CBP) submits this statement for the record regarding CBP's role in enforcing the March 11, 2022, Executive Order (EO) 14068, *Prohibiting Certain Imports, Exports, and New Investment With Respect to Continued Russian Federation Aggression*.

CBP is committed to enforcing EO 14068 and prohibiting the entry of fish, seafood, and preparations thereof that are of Russian Federation origin, among other commodities, including alcoholic beverages and non-industrial diamonds. CBP has a close working relationship with the Office of Foreign Assets Control (OFAC), the U.S. Fish and Wildlife Service (USFWS), and the National Oceanic and Atmospheric Administration (NOAA), and together we have collaborated to support the enforcement of EO 14068.

EO 14068 and current OFAC guidance prohibit the importation of fish, seafood, and preparations thereof that are products of Russian Federation origin. The prohibition does not apply to goods extracted in the Russian Federation if such goods were incorporated or substantially transformed into a foreign-made product. Substantial transformation is a legal standard invoked in U.S. customs laws to determine the country of origin for goods imported into the United States (*see, e.g.*, 19 C.F.R. § 134.1(b), (d)).

Data related to the country of harvest are collected by CBP's Automated Commercial Environment (ACE) as part of the Seafood Import Monitoring Program (SIMP) for those species included in the SIMP. However, consistent with current OFAC guidance, country of harvest data is not used by CBP to enforce import sanctions under EO 14068.

CBP is committed to our role of enforcing U.S. import laws and sanctions. We will continue to collaborate with our OFAC, USFWS, and NOAA partners to leverage each agency's capabilities and authorities to fulfill our critical trade enforcement missions.

Russian ships are ditching their flags and registering in the Marshall Islands and St. Kitts, a tactic that could be used to evade sanctions,

Business Insider, April 5, 2022 by Hannah Towey



Following sanctions, French authorities intercepted a Russian-owned commercial ship in the strait of Pas-de-Calais. Sylvain Lefevre/Getty Images

- **18 vessels ditched their Russian flags in March—more than three times the normal rate.**
- **They're re-flagging under nations like the Marshall Islands, according to Windward AI.**
- **The tactic—while legal—could allow businesses to hide their connections with Russia.**

An abnormally high number of ships ditched their Russian flags this March and re-registered to nations such as the Marshall Islands and St. Kitts, according to data provided by Windward AI, a maritime risk consultancy.

A total of 18 ships changed their Russian flag to a different nationality during the month of March. That's more than three times the normal rate of 5.8, Windward's data showed. Five of the vessels are linked to Russian ownership.

The tactic—while legal—could allow businesses to hide their connections to the Russian regime and “deceive authorities” in order to evade sanctions, Windward said in its monthly report.

“Right now, tracking a Russian vessel with a Russian flag is very easy,” Windward CEO Ami Daniel said in an interview with Insider. “If you build a shell company, you put a vessel in there with a new name . . . I think it's a different ball game.”

In the shipping industry, a vessel's flag signifies the nation it is registered in, which then has legal jurisdiction over the ship. In fact, in most cases, a vessel's flag is a different nationality from the business that actually owns it. About three-quarters of ships are registered in a country separate from where they're owned, according to the BBC.

Eleven of the Russian ships that changed their flags in March registered instead to the Marshall Islands, a nation with an “open registry” that allows the registration of all vessels, no matter their origin. Insider previously reported on the popular cost-saving loophole, also known as a “flag of convenience.”

Several countries, including the US and the UK, have barred both Russian oil and Russian vessels from ports following the country's invasion of Ukraine. The sanctions against Russian oligarchs have led to a flurry of highly scrutinized ship movement as superyachts and their owners attempt to escape seizure.

But not all flag changes are necessarily an attempt to skirt sanctions. The trend could also include “honest business people trying to continue trading as usual without the potential hurdles that a Russian flag could create for them,” the report said.

The high number of Russian flag switches comes amid other abnormal activities, such as Russian tankers turning off their tracking systems. Both tactics are included in a US Treasury advisory from May 2020 that lists seven categories of deceptive shipping practices.

“Bad actors may falsify the flag of their vessels to mask illicit trade. They may also repeatedly register with new flag states (“flag hopping”) to avoid detection,” the advisory warns.

