

**Statement of John P. Connelly**  
**President, National Fisheries Institute**  
**United States House of Representatives**  
**Natural Resources Committee**  
**Water, Oceans, and Wildlife Subcommittee**  
**“Oversight of NOAA’s Report on Illegal, Unreported, and Unregulated Fishing”**  
**November 14, 2019**  
**Washington, D.C.**

Chairman Huffman, Ranking Member McClintock, Members of the Subcommittee, good afternoon. My name is John Connelly. I serve as President of the National Fisheries Institute (“NFI”), an association of seafood companies from across the nation. Founded 73 years ago, NFI is the leading voice for the fish and seafood industry and America’s largest seafood trade association. Our members span the entire seafood value chain – from vessel owners, harvesters, producers, processors, exporters, importers, to national distributors, and seafood restaurants to promote high quality and sustainable seafood at a variety of price points so that all Americans can enjoy. As such, the responsible management of our oceans is extremely important to our member’s livelihoods and businesses. I appreciate the opportunity to appear before the Subcommittee on their behalf.

Today’s hearing concerns significant national objectives – objectives that NFI and its member companies have been working towards for years and in some cases, decades. Our commitment to prevent illegally caught fish from entering our supply system is long standing. We take a back seat to no one in our efforts to ensure accurate labeling of our products, and addressing allegations of labor abuses in the seafood supply chain.

**1. Illegal, unreported, and unregulated fishing.**

Illegally harvested seafood damages our industry in multiple ways. First, illegal, unreported, and unregulated (“IUU”) fishing punishes NFI harvesters that operate in strict adherence to applicable fishery management requirements and the member companies that source from those harvesters. Second, IUU fishing undercuts confidence in the fishery management systems we rely on, as any fishery management system is only as good as the enforcement that accompanies it. Third, IUU product in any particular seafood category can erode consumer confidence in seafood sustainability broadly, thus punishing all for the transgressions of a few.

To address this challenge, Congress in 2007 directed the National Marine Fisheries Service (“NMFS”) to produce a biennial report to Congress on, among other things, improving international fisheries management. The law requires NMFS to identify countries that are engaged in IUU fishing or certain other activities, and to consult with those countries on improving their fisheries management and enforcement practices. Two years after an identification, the agency must certify whether actions by the identified countries have adequately addressed the activities of concern.

In its 2019 Biennial Report, NMFS identifies three nations, Ecuador, Korea, and Mexico, for reported IUU fishing activities involving red snapper, toothfish, tuna, and shark fins. In six reports since 2009, NMFS has identified 18 nations for failure to address IUU fishing in their fishing fleets, in connection with a total of nine species.

NFI commends NMFS for the 2019 Biennial Report and supports vigorous investigation and identification of IUU fishing activities wherever they occur. The Report demonstrates that effectively combatting IUU fishing requires that a “whole of government” approach to engage its counterparts around the world. As the Report also shows, making progress requires collaboration with regional fishery management organizations (“RFMOs”), fishery management regulators abroad, and international law enforcement. Identifying IUU fishing activity and then bringing dogged – but *targeted* – pressure to bear on the countries involved to punish violators may not be glamorous work, but it is the most effective means to generate concrete results.

That said, NFI has supported and helped to advance a series of initiatives to detect and reduce IUU fishing around the world and especially in the United States. Over nearly two decades, NFI:

- Was an early proponent of the Port State Measures Agreement (“PSMA”). NFI detailed staff to the Department of State for portions of three years to assist the Administrations in negotiation of an agreement that extends IUU requirements and enforcement beyond fishing vessels, to the global containerized shipping supply chain.
- Consistently supported ratification of the Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2015, which implements the PSMA.
- Created, in 2007, the Better Seafood Board (the “BSB”), a unique food industry initiative through which NFI member CEOs commit to economic integrity by selling seafood in the proper weight and count; assuring it has the proper name; making certain it has not been transshipped to circumvent duties and tariffs; and utilizing proper labels for any additives.
- Developed model specification language to ensure member company purchases are solely from vessels with an International Maritime Organization number, integrating “IMO” numbers into supply agreements and thereby making it more difficult for vessels engaged in IUU fishing to move their harvests into commerce.
- Was an early supporter of the most important food safety legislation in many decades – the Food Safety Modernization Act – and its traceability requirements.
- Worked with the National Marine Fisheries Service (“NMFS”) to ensure industry compliance with requirements of the seafood import monitoring program (“SIMP”) and to advise on the design of the agency’s “trusted trader” SIMP alternative.

SIMP itself, however, presents numerous problems. NMFS established the program in December 2016 via regulation. SIMP requires that U.S. companies sourcing any of the covered

seafood items (including farmed products that cannot be illegally fished) to develop and upload 16 specific data elements to the CBP International Trade Database System. These data points include information such as product location, date of harvest, but also include proprietary information such as gear type, and details on processing equipment. U.S. seafood companies must then maintain voluminous chain of custody documents to substantiate to NMFS the reported information – all at a cost of millions of dollars to these companies.

In contrast to the IUU initiatives in the bullets above, the program burdens our companies with significant, perpetual reporting and auditory requirements, without identifying illegally harvested seafood in the U.S. market. As some U.S. producers utilize overseas processing for fish caught domestically, the program compels our companies to supply required information about fish caught by U.S.-flagged vessels in U.S. waters, thus raising the cost of doing business with *American* fishermen already working under one of the world’s finest fishery management systems. To put this into context, for a 40,000+ pound container of frozen Pacific cod that could have come from a number of different U.S. vessels, from across Alaska, primarily processed in several plants, and then processed into frozen blocks at another, before being shipped back into the U.S., the U.S. company would have to collect all required information, report that information to the government, and then maintain all necessary custodial documents, as if the product were from a foreign fishery.

A misperception persists that IUU seafood is connected to seafood fraud within our borders, and that SIMP is the cure. According to NMFS, however, SIMP “is not a labeling program, nor is it consumer facing.”<sup>1</sup> SIMP does not address the circumstances in which the vast majority of mislabeling of seafood occurs – at companies that illegally repackage imported product as domestic product after it has entered into our country.<sup>2</sup> Moreover, the evidence concludes that species mislabeling does not occur frequently, and is largely confined to the very tail of the supply chain. For instance, the FDA found, in the most exhaustive study to date, that nearly all seafood is properly labeled when provided to restaurants, and it is often chefs who mis-menu the fish to help with their marketing.<sup>3</sup> To combat this, NFI has entered into a Memorandum of Understanding with the National Restaurant Association to help restaurants understand their responsibilities for correct menu labeling. Moreover, the federal government, via the FDA, the Department of Justice, and the Federal Trade Commission, has the necessary tools to go after bad actors in the United States. It should use them. Our industry and our members do not want bad actors giving seafood a bad name.

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<sup>1</sup> NOAA Fisheries, “Fact Sheet: U.S. Seafood Import Monitoring Program” (2018) (<https://www.iuufishing.noaa.gov/Portals/33/SIMP.FactSheet.Rev2018.pdf?ver=2019-02-07-204941-770>).

<sup>2</sup> Blank, C. [US supplier allegedly mislabeled USD 4 million worth of crab](#), Seafood Source (June 27, 2019).

<sup>3</sup> United States Food and Drug Administration DNA Testing at Wholesale Level to Evaluation Proper Labeling of Seafood Species in FY 12-13 (<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Seafood/ucm419982.htm>).

As for the effectiveness of SIMP as a tool for combatting IUU fishing, let us look at what has transpired since the program started two years ago. In a recent discussion with industry representatives, a NMFS official conceded that of several hundred thousand seafood containers subject to the program thus far, and of over 1,000 audits done of international fisheries trade permit holders, NOAA’s Office of Law Enforcement (“OLE”) was alerted to approximately only 50 administrative discrepancies. Of those 50 referrals, according to this official, OLE has taken not a single enforcement action itself and has made not a single referral to the Department of Justice. We have long sought to understand how sweeping up voluminous information about legitimate seafood trade will improve anti-IUU and economic integrity outcomes achieved by U.S. agencies via their prior programs, including the NMFS Biennial IUU Report. This has been done at a cost of millions of extra dollars that our members have had to pass along to the American consumer, and for what? The recent exchange confirms our concerns.

Furthermore, the technical justification for SIMP – a paper in the journal *Marine Policy* – has been undercut. Researchers in 2017 published a study in this journal, claiming that 22 percent of U.S.-harvested pollock in the Japan market was IUU product. They based this conclusion largely on confidential interviews with undisclosed persons. A group of academic and seafood experts, including NMFS administrator Chris Oliver, debunked this approach in the same journal, and the authors of the Japan study were compelled to withdraw their work. Two of these authors, however, used the same approach in 2014 to claim that 32 percent of fish entering the U.S. market was IUU product. The 2014 study was the single most important research document justifying the need for SIMP. Government officials cited it at least 59 times in defense of the program, including in the NMFS Regulatory Impact Review and Final Regulatory Flexibility Analysis that accompanied the final rule.

The controversy calls into question the entire program. The authors state *“deficiencies in the estimate of IUU in Alaskan Pollock must cast serious doubt on [the authors’] approach for all fisheries.”*<sup>4</sup> Co-author and University of Washington Professor Ray Hilborn reportedly explained that “their approach simply is not creditable when experts who know a specific fishery have a chance to look at their estimates, and if the same kind of errors are made in other fisheries then estimates of IUU may be significantly inflated.”

Rather than regulatory mandates that do not appear to be unearthing actual IUU product destined for the U.S., what matters is that the applicable *system of fisheries management* be effective, workable, and rigorously enforced. The U.S. fishery management approach is widely recognized as one of the world’s best. That reputation gives NMFS the standing to help maintain and improve those systems outside the U.S., through the Biennial Report, engaging with RFMOs, and through similar channels. Doing this – in addition to using the ample legal authorities already available – should be the agency’s primary means of attacking the IUU challenge.<sup>5</sup>

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<sup>4</sup> G. Pramod, K. Nakamura, T.J. Pitcher, et al., “Estimates of illegal and unreported fish in seafood imports to the USA,” *Marine Policy* (2014); G. Pramod, T.J. Pitcher, G. Mantha, “Estimates of illegal and unreported seafood imports to Japan,” *Marine Policy* (2017). See C. Oliver, R. Hilborn, et al.; “Pramod et al. methods to estimate IUU are not credible,” *Marine Policy* (2019).

<sup>5</sup> IUU fishing and seafood fraud were already illegal under multiple Federal laws that predate agency establishment of SIMP. Through the Lacey Act, the Federal Food, Drug, and Cosmetic Act,

## **2. Allegations of human rights abuses in the seafood supply chain.**

Allegations of mistreatment of seafood workers have arisen in multiple countries, including the United States. These allegations often but not always pertain to workers invited in to a country to work there, which makes them more vulnerable to unfair labor practices. NFI and its members abhor any labor abuses of any worker in the commercial seafood industry, whether or not the mistreatment involves fish connected with the U.S. market. We have prioritized this issue on an ongoing basis since 2006, and have acted forcefully to stamp out mistreatment wherever it can be substantiated. Our priority actions have included:

- Working with major retailers, processors, and human rights and environmental nonprofits to establish the Seafood Task Force, a Thailand-based group that has implemented a series of reforms designed to stamp out abuses of fishermen working in the Thailand fishing fleet.
- Working with the Government of Thailand to amend Thai law to give all non-Thai workers in the country greater rights and protections from unscrupulous employers.
- Supporting congressional repeal of the “consumptive demand” exception to Section 307 of the Trade Act, which prohibits entry of goods manufactured using prison labor or forced labor.
- Serving as a resource to Associated Press investigations into labor abuses involving China and Indonesia.
- Serving on the Customs Operations Advisory Committee Forced Labor Working Group.
- Collaborating with social-focused nonprofits to develop and implement a global certification program applicable to fishing vessels, which once in place will give harvesters an International Labor Organization-consistent standard to use in protection of their fishermen.

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country of origin provisions, the Nicholson Act, and other statutes, numerous Federal agencies (including the Departments of Justice, Commerce, Health and Human Services, Agriculture, Interior, and Homeland Security) have wide-ranging authority to investigate and punish those who, for instance, illegally fish in U.S. waters; inaccurately label or short-weight their seafood in interstate commerce; import into interstate commerce seafood that was harvested in violation of the harvest nation’s laws; attempt to land any fish caught on the high seas, or any product made from that fish, in a port of the United States, under a foreign flag, unless authorized by treaty; or transport across state lines fish that has been illegally harvested or impermissibly labeled. Punishments for violations of these provisions of U.S. law range from modest civil penalties to \$500,000 per violation and five years in prison, plus forfeiture of tainted seafood.

In addition to all this, NFI will assist law enforcement authorities and legitimate media organizations in understanding and immediately addressing credible reports of abuses of workers at any stage in the supply chain.

We disagree, however, with those who call on NMFS to expand the uses of SIMP to include the seafood labor challenge. NMFS is in the business of fishery management and seafood sustainability, and so it is natural for the agency to collaborate on those objectives with overseas counterparts. Not so with respect to the treatment of seafood workers, where the Departments of State and Labor already have expertise and experience. Even if NMFS were the right place to locate some form of labor rights regulatory function, it is far from clear that using an indiscriminate program such as SIMP would be productive, for the simple reason that the program is unproven in its current form. Expanding the program to include labor rights will spread the agency's international team even thinner than it already is, committing the agency to a new tasking for which it is unprepared, under-resourced, and unlikely to respond effectively.

The better course is to keep up the interagency pressure on governments to forcefully address this challenge, and to work collaboratively with sectors such as ours in targeting and immediately eliminating abuses wherever they are found. That is the approach we at NFI have taken for the past 14 years. We believe it has yielded genuine improvements in our industry.

Thank you once more for the opportunity to appear before the Subcommittee. I will be pleased to answer your questions.