

**Written Testimony of Sally Yozell  
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**Subcommittee on Water, Oceans, and Wildlife, House Committee on Natural Resources  
“Russian Seafood Ban Implementation and Seafood Traceability” Hearing**

**April 28, 2022**

**Responses to Additional Questions**

I remain grateful to Chairman Huffman and his colleagues on the House Natural Resources Subcommittee on Water, Oceans, and Wildlife for the opportunity to address additional questions following my written and verbal testimony at the hearing convened on April 7, 2022.

**1. The U.S. 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 U.S. know what the origin of this fish is - whether it is from Russian sources of US - if no information on the origin is reported when imported?**

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

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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.<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup>

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.

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<sup>1</sup> U.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”).

<sup>2</sup> 7 CFR § 65.220.

<sup>3</sup> ITC report, p. 259.

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.

**2. While the percentages reported appear small, in reality, the volumes and values of AK pollock product that are moving between the U.S. and China is substantial - in 2021 alone, the U.S. 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?**

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, SIMP harvest and landing data is not required to clear customs.<sup>4</sup> 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

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<sup>4</sup> 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).

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.

**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?**

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.