

United States Senate

WASHINGTON, DC 20510

January 12, 2024

The Honorable Gina M. Raimondo
Secretary
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Richard W. Spinrad, Ph.D.

Under Secretary of Commerce for Oceans
and Atmosphere
Ms. Janet Coit
Assistant Administrator for Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

1401 Constitution Ave NW
Washington, DC 20230

Dear Secretary Raimondo, Under Secretary Spinrad, and Assistant Administrator Coit:

As the United States imports or reimports more than 85 percent of its seafood, the Seafood Import Monitoring Program (SIMP) should be strengthened and expanded to provide consumers with confidence that the imported seafood they purchase at their retail markets or in restaurants is legally harvested and truthfully represented.¹ Unfortunately, a recent study by the U.S. International Trade Commission found that the U.S. imported more than \$2.4 billion worth of illegal seafood annually in 2019, highlighting the need for strong and urgent government action to prevent illegal products from entering the U.S. market.

In a letter to you on May 18, 2023, several of the undersigned expressed our concerns with the National Oceanic and Atmospheric Administration (NOAA)'s proposed rule, issued on December 28, 2022, especially regarding the limited number of species proposed to be added to SIMP. At a time of increased attention and highlighting of IUU fishing (see Ian Urbina's reporting in [The Crimes Behind the Seafood You Eat | The New Yorker](#)), instead of expanding SIMP, NOAA chose to withdraw its proposed rule, further exposing U.S. consumers to seafood sourced from illegal, unreported and unregulated (IUU) fishing practices.

We hope that NOAA will take this opportunity to implement a stronger, more comprehensive, and transparent rulemaking process and rule. Therefore, we urge NOAA to:

1. Expand and strengthen SIMP using existing evidence of IUU fishing practices;
2. Establish clearer criteria and standards for species' inclusion in SIMP;
3. Include forced labor as a criterion for species' inclusion in SIMP;
4. Strengthen and formalize collaboration to forge a publicly accountable process for interagency coordination and with other nations for improving SIMP; and
5. Share an explicit timeline for the revised rulemaking process to strengthen and expand SIMP.

We offer the following specifics regarding these five requests:

1. *Expand and strengthen SIMP using existing evidence of IUU fishing practices*

IUU fishing is a pervasive threat that demands more resources than currently available. Therefore, we recommend that you consider well-documented research beyond NOAA's existing scope of data collection efforts. For example, recent investigations by investigative journalist Ian Urbina and the Outlaw Ocean Project identified exploitation of both the environment and human rights in China's squid fishing fleet and seafood processing facilities. Despite this devastating evidence, NOAA chose to withdraw its proposed rule that would have expanded SIMP to cover squid, among other species.

NOAA should strengthen SIMP implementation through improved audits, as directed by Congress in the Fiscal Year 2023 National Defense Authorization Act (FY23 NDAA). Section 11332(a) requires the Secretary of Commerce to "implement procedures to audit information and supporting records of sufficient numbers of imports of seafood and seafood products subject to the Seafood Import Monitoring Program to support statistically robust conclusions that the samples audited are representative of all seafood imports covered by the Seafood Import Monitoring Program with respect to a given year." Congress set a deadline of one year after the date of enactment, which was December 23, 2022. We request an update from NOAA on the agency's execution of this directive.

2. *Establish clearer criteria and standards for species' inclusion in SIMP*

The proposed rule, which has been withdrawn, proposed to expand SIMP to several additional species but did not include a process for selecting species to add to SIMP. NOAA did not explain why certain species were selected while others were not, even among similar species that can too readily be substituted for each other. For example, NOAA lists red king crab as an "at risk" species but not blue king crab. Furthermore, IUU fishing is a pervasive problem that is present wherever there is weak oversight, management, accountability, and enforcement, and it does not necessarily break down by species, but rather by the strength or weakness of the governance systems responsible for the management of a fishery. Developing and sharing explicit criteria will provide clarity on NOAA's rationale and process for making selections and will support predictability for seafood importers.

3. *Include forced labor as a criterion for species' inclusion in SIMP*

The Administration's [Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards Globally](#), released on November 16, 2023, aims to address labor rights in every sector of government:

"It is the policy of my Administration to pursue a whole-of-government approach to advancing worker empowerment and organizing, workers' rights, and labor standards globally. My Administration will undertake an ambitious and comprehensive Federal Government policy on global labor rights and standards, elevating the United States' global leadership on labor rights and standards."

This Memorandum makes clear that NOAA must work in collaboration with agencies tracking human rights abuses to identify violations in the seafood industry and address them using SIMP and other legal authorities to ensure that seafood produced under such conditions is not entering US markets.

4. *Strengthen and formalize collaboration to forge a publicly accountable process for interagency coordination and with other nations for improving SIMP*

As IUU fishing is a global concern, interagency and international collaboration is crucial, specific to seafood import through SIMP. We appreciate and support the National Marine Fisheries Service (NMFS) liaising with other agencies in this process, including the Food and Drug Administration (FDA), which last year finalized traceability requirements for a number of foods including seafood. The original Presidential Task Force on Combating IUU Fishing and Seafood Fraud, from which SIMP originated, developed its recommendations using a thorough public process, and so we encourage NOAA to set up a formalized and publicly accountable interagency process for reviewing and improving SIMP.

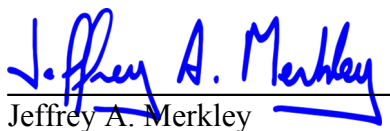
A provision enacted in the FY23 NDAA (Section 11331(a)(4)) adds the following to the responsibilities of the Interagency Working Group on IUU Fishing: “maximizing the utility of the import data collected by the members of the Working Group by harmonizing data standards and entry fields”.


5. *Share an explicit timeline for the revised rulemaking process to strengthen and expand SIMP.*

We encourage NOAA to establish and share a timeline by the end of this year to strengthen SIMP and expand it to cover all seafood imports. The timeline should include your complete schedule of listening sessions and your plans to include input from stakeholders that may have been marginalized in the previous rulemaking process.

Finally, we remind you that FY23 NDAA Section 11334 requires an annual report to Congress and the public on SIMP, no later than 120 days after the end of each fiscal year. We look forward to receiving this report in addition to hearing from you regarding our views on strengthening U.S. leadership on IUU fishing and associated labor abuses. Thank you for your efforts in addressing these crises.

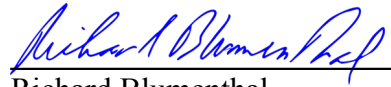
Sincerely,


Jeffrey A. Merkley
United States Senator


Benjamin L. Cardin
United States Senator



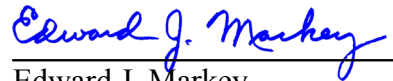
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