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# THE ILLEGAL FISHING AND FORCED LABOR PREVENTION ACT:

## A BILL TO COMBAT ILLEGAL, UNREPORTED, AND UNREGULATED FISHING AND HUMAN RIGHTS ABUSES AT SEA

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Illegal, unreported, and unregulated (IUU) fishing, a top threat to ocean ecosystems and global food security, is inextricably linked to human rights abuses at sea. Workers on fishing vessels around the world routinely deal with multiple abuses at sea—withholding of pay, debt bondage, beatings, excessive working hours, and much more. IUU fishing, human trafficking, and forced labor in the seafood industry are human rights and environmental crises that demand swift action.

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Fishing operations that engage in human trafficking and forced labor are often the same ones that ignore fisheries management regulations and laws. Illegal fishing is not a small problem. Of the annual global seafood catch, an estimated one-third—as much as 56 billion pounds—is illegally fished.<sup>1</sup> IUU fishing contributes greatly to overfishing, which has impacted fisheries around the world. Depletion of nearshore fisheries resources exacerbates human rights abuses, forcing vessels to travel farther and remain out at sea longer, raising costs, and increasing incentives to engage in illegal labor practices and abuses.

As it becomes harder to find laborers willing to voluntarily work in these conditions, more operators resort to human trafficking to assemble crews. Further, demand in the U.S. and elsewhere for cheap seafood contributes to low prices in some markets that do not reflect the true cost of production.

The United States imports more seafood than any other single nation in the world and is thus in a unique position to deal with these intertwined crises. Lack of action means U.S. dollars are perpetuating these problems. With its strength of governance and ample resources, the United States should be able to reject illegally fished and unethically harvested

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***With congressional and administrative action, the United States can ensure that all seafood sold in the United States is safe, legally caught, ethically sourced, and honestly labeled.***

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seafood from its commerce stream. Yet, according to a recent report by the U.S. International Trade Commission, the United States imported an estimated \$2.4 billion worth of seafood derived from IUU fishing in 2019.<sup>2</sup>

By requiring information about the origins of seafood and its supply chains, tracking seafood from boat to plate, expanding transparency, and working with other countries to drive changes on the water, the United States could lead in the fight against IUU fishing, forced labor, and other human rights abuses. Congress and federal agencies have laid the groundwork with initiatives such as the Seafood Import Monitoring Program and capacity-building with other nations under international agreements. Much work remains to be done, however, to effectively deter IUU fishing, protect basic human rights in the seafood industry, and close our markets to illegally sourced products.

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***The Illegal Fishing and Forced Labor Prevention Act provides a comprehensive approach for the U.S. government to tackle these global crises.***

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The Illegal Fishing and Forced Labor Prevention Act represents a significant step forward in explicitly linking illegal fishing to forced labor in the seafood industry, enhancing traceability and transparency in seafood supply chains, and strengthening enforcement against IUU fishing and associated labor abuses.

### **IMPROVING THE UNITED STATES' TRACEABILITY SYSTEM FOR SEAFOOD IMPORTS**

The Illegal Fishing and Forced Labor Prevention Act fills key gaps in the Seafood Import Monitoring Program (SIMP), which currently requires importers of some seafood products to report certain supply chain data to verify legality. The bill takes a critical step in making seafood supply chains more traceable by expanding the SIMP to require reporting for imports of all species. The current program applies to only 40 percent of imported seafood, a glaring loophole that IUU fishing operations exploit by deliberately misreporting species to escape regulation.

Expanding the SIMP to all seafood would allow U.S. Customs and Border Protection (CBP) to use the Tariff Act, a law prohibiting imports produced by forced labor, to block or seize all seafood imports that may have been produced in this way. To enforce the Tariff Act, a product must be traceable from the point in the supply chain where the forced labor is occurring to the point of importation. Currently, some seafood known to be harvested by forced labor is not fully traceable to the vessels (the site of the forced labor), and CBP is therefore unable to determine if such tainted goods are entering the U.S. market. Since the SIMP requires



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traceability from the vessel to the point of entry into U.S. commerce, it is a necessary tool for CBP to exclude seafood that may have been produced by forced labor. Expanding the SIMP to all species would close the U.S. market for the remaining 60 percent of seafood that could be produced by forced labor.

The legislation requires a rulemaking process for the SIMP to mandate reporting of data relating to labor conditions in the seafood supply chain. It further requires importers to provide additional supply chain data at the time of entry—transshipment information (e.g., when seafood is moved from one vessel to another at sea), more granular information about the location of the harvest, and information about vessel ownership to make it easier to hold bad actors accountable.

The National Oceanic and Atmospheric Administration (NOAA) will be required to develop a comprehensive data audit procedure, prioritizing the audit of imports from countries identified by other agencies as having human trafficking, forced labor, or child labor in any part of their seafood supply chain. This will make the SIMP more effective and explicitly link IUU fishing to human rights abuses.

### **MAKING THE SEAFOOD IMPORT SCREENING SYSTEM MORE EFFECTIVE**

In its current form, the United States' seafood import control system does not effectively block IUU-fished or unethically harvested seafood imports. The bill directs CBP and NOAA to update the electronic import control system—the Automated Commercial Environment—to better verify the data received and to use predictive analysis to detect illegal imports. By incorporating artificial intelligence into the system, the United States will be able to more proactively identify seafood shipments at risk for IUU fishing and labor abuses.

### **ILLUMINATING FISHING ACTIVITIES**

The invisibility of fishing operations, including transshipment, is a key reason why IUU fishing and its associated human rights abuses abound. Illuminating supply chains from the point of harvest is essential to eradicating



these problems. Under current federal law, nearly all information submitted by seafood importers to U.S. agencies that pertains to legality of harvest and seafood supply chain practices is kept highly confidential. The Illegal Fishing and Forced Labor Prevention Act increases transparency of the data that accompany seafood imports into the United States, including information on the legality of catch, and improves the ability of federal agencies to share information with each other to better enforce conservation and labor requirements.

It would also expand the use of automatic identification systems (AIS), important vessel tracking tools that can aid in monitoring transshipping events, identifying vessels at higher risk of labor abuses, and overall enforcement. Seafood importers will be required to provide the unique mobile maritime service identity associated with their AIS as a condition of seafood import.

### **PORT-TO-PLATE SEAFOOD TRACEABILITY**

Currently, seafood labeling and traceability requirements end when imported seafood reaches U.S. ports, leaving a massive gap in accountability. The bill extends traceability reporting requirements for imported seafood throughout the entire supply chain. It also empowers seafood consumers by establishing seafood labeling requirements for basic information such as what fish it is, where and how it was caught, and if it was wild-caught or farm-raised.

### **INTERNATIONAL PRESSURE AND CAPACITY BUILDING TO DRIVE CHANGE BEYOND U.S. WATERS**

The High Seas Driftnet Fishing Moratorium Protection Act (High Seas Driftnet Act) is one of the main tools the United States can use to put pressure on other nations to end IUU fishing. It requires NOAA to submit a regular report to Congress identifying nations engaged in IUU fishing and other harmful practices if NOAA has evidence of specific vessels engaged in IUU fishing. If listed nations do not address the issue, NOAA can issue a negative certification, which can have drastic consequences, including denial of access to U.S. ports and restrictions on seafood and other fish product imports. Yet NOAA has repeatedly failed to use this powerful law to accomplish what it was intended to do: leverage its resources and market power to protect fisheries and ecosystems.

The Illegal Fishing and Forced Labor Prevention Act allows the United States to identify nations for failing to address IUU fishing as a whole, rather than citing only specific IUU activity of specific vessels. The bill also allows NOAA to consider data from nongovernmental organizations, the public, and other stakeholders when making determinations about which nations should be listed. It also expands the identification criteria to include whether other federal agencies have found human trafficking, forced labor, or child labor in any part of a nation's seafood supply chain and aligns the definition of IUU fishing with that used by the U.N. Food and Agriculture Organization.



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### **REINTERPRETING IUU FISHING TO INCLUDE VIOLATIONS OF FUNDAMENTAL LABOR RIGHTS**

The Illegal Fishing and Forced Labor Prevention Act recognizes that illegal fishing and labor rights abuse are interconnected and that compliance with international labor standards is critical to ending illegal fishing and overfishing. Restrictions on migrant workers' ability to form or lead trade unions, systemic discrimination against migrant fishers in many distant-water fisheries, and rampant forced labor in many fisheries combine to significantly reduce the cost of labor and keep otherwise unprofitable fishing operations afloat. By expanding the authority of the United States government under the High Seas Driftnet Act and the Magnuson-Stevens Fishery Conservation and Management Act to penalize fishing nations for labor rights abuses and demand labor reforms in their fisheries, IUU fishing and overfishing will also be substantially curtailed.

### **BETTER INTERAGENCY COOPERATION**

The IUU Interagency Working Group, established by Section 3551 of the National Defense Authorization Act of 2020, is tasked by this legislation to develop a whole-of-government approach for federal agencies to work more cohesively and collaborate with state agencies to investigate and prosecute IUU fishing and seafood fraud. This interagency cooperation, along with stronger enforcement tools, will make the U.S. response to IUU fishing more efficient and effective.

### **CONCLUSION**

IUU fishing is a scourge on its own, contributing to the loss of marine biodiversity and the depletion of the world's fisheries. But it is also inexorably tied to forced labor, human trafficking, and human rights abuses of crew members around the globe. Because these problems are intertwined, the United States must tackle both together. Passing the Illegal Fishing and Forced Labor Prevention Act is a critical step for U.S. leadership in addressing IUU fishing and human rights abuses in the seafood sector. With this holistic framework, the United States will be poised to drive change for all communities dependent on the ocean.

#### ENDNOTES

- 1 David J. Agnew et al., "Estimating the Worldwide Extent of Illegal Fishing," *PLoS ONE* 4, no. 2 (February 2009): e4570, <https://doi.org/10.1371/journal.pone.0004570>.
- 2 U.S. International Trade Commission, *Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries*, March 2021, <https://www.usitc.gov/publications/332/pub5168.pdf>.