



July 21, 2020

Response to Request for Information, RTID 0648-XQ012
Recommendations for a Comprehensive Interagency Seafood Trade Strategy
Sent via email: SeafoodTrade.Strategy@noaa.gov

Dear Secretary Ross, Ambassador Lighthizer, and Taskforce Members:

We write as American producers of Wild Alaska Pollock. Our industry is proud to harvest and process pollock in the United States, creating family-wage American jobs and fueling the export economies of Alaska and the Pacific Northwest. Federal trade policy should be formulated and implemented to support industries such as ours. Instead, in recent years it has repeatedly created chaos for our operations and become one of the most acute business challenges that we face. In short, federal trade policy is spectacularly and consistently failing our industry. It is imperative that this Task Force thinks expansively about how to fundamentally reimagine the Federal Government's approach.

Overview

Wild Alaska Pollock is our nation's largest fishery, and one of the three largest fisheries in the world. It accounts for more than one-third of all commercial fishery landings in the United States and generates \$800 million annually in "first wholesale" value. A significant amount of our product is sold domestically: pollock is the fifth most consumed seafood in the United States, and it reaches countless American consumers in forms ranging from "white-tablecloth" restaurant entrées, to McDonald's Filet-O-Fish sandwiches, to fish sticks and surimi sold via retail. A majority of our product, however, is exported. Japan and Europe have traditionally been our most important export destinations, with China emerging over the last decade as our most critical growth market. The most important HS Codes for our exports are: 0304.75.10, 0304.75.50 and 0304.94.10.

Our industry has long been a vocal advocate for free trade. We seek fair access to export markets, and we welcome fair competition here at home. Unfortunately, we are increasingly denied both—all too often as a direct result of our government's policy choices and negotiating

priorities. Section 2 of the Executive Order that constituted this Task Force stated the policy of the Federal Government as being to “further fair and reciprocal trade in seafood products”. As a starting point, this Task Force must understand how profoundly we are failing to achieve anything approaching fair and reciprocal seafood trade. It must then thoroughly and honestly analyze the reasons for this failing, and propose bold and far-reaching reforms in response. These proposals should focus, at minimum, on the following six areas:

1. A reorientation of trade policy to support U.S. seafood producers.
2. Elimination of tariffs imposed by trading partners on U.S. seafood exports.
3. Strategic steps towards reciprocity in the tariffs imposed on seafood imports.
4. Elimination of non-tariff barriers to U.S. seafood exports.
5. Advancement of transparency and fairness through a Geographical Indication for Alaska pollock.
6. Reorganization of how the executive branch formulates and executes trade policy.

Reorienting Seafood Trade Policy

There is a growing bipartisan consensus that United States trade policy has too often, in recent decades, been insufficiently supportive of U.S. producers. Even while many trade policymakers continue to prioritize economic efficiency and consumer price outcomes, there are widespread efforts to balance those important objectives with policies that are less likely to decimate domestic industries and drive U.S. production offshore. Under this administration, a stated interest in supporting domestic producers and boosting domestic production has led, *inter alia*, to the renegotiation of NAFTA and numerous Section 301 investigations and remedies.

Unfortunately, there is no evidence of any such recalibration of United States trade policy objectives as they relate to seafood. On the contrary, as our comments below review in detail, the interests of domestic producers have been repeatedly de-emphasized or ignored.

The treatment of seafood in the escalating trade dispute with China provides just one recent example. China imposed retaliatory tariffs of 25 percent on Wild Alaska Pollock and numerous other U.S. seafood species exports on July 6, 2018. Those tariffs increased to 35 percent on September 1, 2019, and adjusted to 30 percent on February 14, 2020. As detailed further below, the impacts of these retaliatory tariffs have been devastating, leading to the collapse of our margin and market share in the largest and fastest-growing seafood market on earth. Yet the United States has done little to support domestic seafood producers.

- First, in stark contrast with agricultural producers of export commodities, which have received tens of billions of dollars in direct financial assistance for their losses due to retaliatory tariffs, our sector has received no direct assistance for the same economic harm.
- Second, despite imposing four rounds of Section 301 tariffs on Chinese imports since June 2018, targeting goods valued at approximately \$370 billion, the administration is yet to impose even the most modest tariffs on Chinese-processed pollock. As a result, while our market share in China has been decimated by tariffs that at their high watermark totaled 42 percent, pollock has continued to enter the United States from China completely tariff-free, claiming an increasing share of the U.S. domestic market at our expense.

How can such policy decisions possibly be justified? From our perspective, this treatment of our industry through the escalating trade dispute with China over the last two years is symptomatic of a more fundamental problem: the interests of U.S. seafood producers simply aren't receiving attention and support from federal trade policymakers. Fixing this problem will require a sustained commitment to far-reaching reform. At the core of any such reforms must be an explicit and deliberate reorientation of trade policy to support U.S. seafood producers.

Tariff Elimination

United States seafood producers face steep tariffs in almost every important export market. These tariffs erode our margins and market share, and in the most egregious cases completely undermine our ability to compete. Furthermore, in recent years several bilateral and multilateral trade agreements to which the United States is not a party have eliminated seafood tariffs and thus harmed our position against third-country competitors. In this context, it is imperative that the United States urgently pursue the elimination of seafood tariffs via bilateral and/or multilateral negotiations with leading trading partners.

Specifically:

- **Japan:** Tariff barriers on important U.S. seafood product forms range from 1 percent to 10.5 percent. They include, but are definitely not limited to, a 10 percent tariff on Alaska pollock fillet products; a 7 percent tariff on fish oil; a 4.2 percent tariff on Alaska pollock, Pacific cod and Pacific whiting surimi products; a 4.2 percent tariff on Alaska pollock roe; a 3.5 percent tariff on Alaska salmon products in all product forms (i.e., surimi, roe, fillet, etc); and a 3.5 percent tariff on groundfish, including Atka mackerel, Pacific Ocean perch, and sablefish products.

The elimination of tariff barriers for U.S. products exported to Japan would provide a critical boost to U.S. competitiveness in the Japanese market. This is not only in relation to domestic Japanese product but also vis-à-vis Russia, which is a very large and direct

competitor for our industry in Japan. It would also address a competitive disadvantage created by implementation of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, which eliminated tariffs on seafood exported to Japan from all countries that are party to the agreement.

We view the failure of the 2019 U.S.-Japan “Phase One” Trade Agreement to secure any gains whatsoever in market access for the U.S. seafood industry as a huge—and telling—missed opportunity. We encourage the Task Force to carefully review the process by which very significant market access gains for agricultural products were secured by U.S. negotiators, while nothing was achieved for U.S. seafood exporters. These are precisely the kinds of opportunities that the administration must be oriented to identify, prioritize and seize.

- **European Union:** Our exports to the European Union face tariffs of 13-15 percent—although, as discussed below, a cumbersome Autonomous Tariff Quota system provides us with some measure of tariff relief. We understand that previous trade negotiations between the United States and the European Union have contemplated the elimination of all seafood duties, but those negotiations have never advanced to achieve a final agreement. Finding a way to revive and conclude such negotiations would be an enormous boost for U.S. seafood producers.

The importance of such an outcome is magnified by the conclusion of other agreements that give a competitive advantage to third-country competitors. Most notably, the Comprehensive Economic and Trade Agreement concluded between the European Union and Canada in 2016 eliminated tariffs on nearly 96 percent of Canadian seafood exports to Europe. In the absence of progress in negotiations between the United States and the European Union, U.S. seafood exporters are being left behind.

An even more urgent and immediate concern is that U.S. seafood exports could face new and increased barriers in the EU market as a result of escalating trans-Atlantic trade tensions. Various seafood product forms were included on a 2019 list released by the EU for threatened retaliatory tariffs in the Boeing / Airbus dispute. Seafood would also very likely be targeted for EU retaliation if the administration ultimately moves forward with the imposition of 232 tariffs on automobiles, and it could be collateral damage if disputes regarding Digital Services Taxes escalate. We ask the administration to do everything possible to forestall the imposition of any such additional tariffs by the EU on U.S. seafood exports.

- **United Kingdom:** It was concerning to see the United Kingdom recently announce a preliminary post-Brexit tariff regime that included tariffs of 12-14 percent on our key product forms. Furthermore, it remains unclear whether the UK will adopt an ATQ system that would provide us with some measure of relief. In this context it is critical that the United States prioritize the elimination of tariffs on seafood in their current

bilateral negotiations with the United Kingdom, and work towards expeditious conclusion of an agreement.

- **China:** Our long-term growth strategy has been laser-focused on China—the largest and most rapidly-growing seafood market in the world. Our industry invested heavily to position itself for an anticipated period of explosive growth in Chinese seafood consumption. That anticipated growth has materialized: between 2017 and 2019, global seafood exports to China almost doubled, from \$8B to \$15.4B. Instead of riding that incredible growth wave, however, Wild Alaska Pollock exports to China have been decimated by the retaliatory tariffs that have been implemented by China commencing in July 2018. In 2017, total exports of non-fishmeal Wild Alaska Pollock products to China totaled \$121.2M. If our exports had enjoyed the same growth rate as global seafood exports to China over the following two years, they would have totaled \$231.3M in 2019. Instead, in the face of crippling retaliatory tariffs that rendered our product uncompetitive in the Chinese market, they collapsed to \$69.2M. The 2020 trade data released to date confirms that the devastating decline of our industry's footprint in the China market is accelerating.

We appreciate that Chinese retaliatory tariffs on seafood are a very small part of a bilateral economic relationship that impacts almost every corner of the global economy. We express hope, however, that the dynamics of that relationships can soon evolve to enable the removal of the retaliatory tariffs that have over the last two years so deeply wounded our industry.

- **Russia:** The Russian market has been entirely closed to almost all U.S. seafood products since 2014. This action was taken in retaliation for sanctions imposed by the United States after the Russian invasion of the Crimean Peninsula. We appreciate that this Russian embargo on U.S. seafood is part of a broader geopolitical dispute. We express hope, however, that the administration can find a way to reestablish access for U.S. seafood producers to the Russian market.
- **Republic of Korea:** U.S. seafood exports to ROK have increased notably since implementation of the U.S.-Korea Free Trade Agreement. Nonetheless, significant tariff barriers remain; and the timetables for tariff reduction and/or expansion of tariff-rate quotas (TRQs) under the agreement should be considered. Specifically, until 2025, Alaska pollock in a “whole round” and “headed and gutted” form is allowed to enter ROK duty-free only until a severely restricted TRQ is reached—after which tariffs of up to 22 percent are assessed. If the current timetable is not revisited, it will be a decade until U.S. producers can be competitive in the Korean market with these product forms. We urge the administration to explore paths to accelerating progress.

The elimination, or where that is not possible the reduction, of tariffs on U.S. seafood exports is the most tangible and important trade policy outcome the Federal Government can achieve for

U.S. seafood producers. We look forward to working with you to ensure that current and future bilateral and multilateral trade negotiations deliver results for our industry.

Strategic Steps Towards Reciprocity

Our industry remains firmly committed to free trade, and hopes that the tariff eliminations contemplated above can eventually result in duty-free trade in seafood between the United States and leading trading partners. In the absence of meaningful progress towards that goal, however, it is important for the administration to think strategically about how else it can further “fair and reciprocal trade in seafood products”.

Such thinking does not appear to have occurred to date. Rather, the Federal Government has granted unfettered duty-free access to the large and valuable U.S. market to almost any seafood importer, without any consideration of reciprocity. Among other things, this blanket approach causes economic harm to U.S. seafood producers; and reduces the administration’s leverage to win market access gains for U.S. seafood products in bilateral and multilateral negotiations.

To review:

- While our exports to **China** remain subject to 30 percent retaliatory tariffs, on top of the 5 percent or 7 percent Most Favored Nation tariff rate, Chinese-processed pollock continues to enter the United States tariff-free. A second whitefish, Chinese tilapia, was originally included in List 3 tariffs and started being assessed a 25 percent duty. However, on March 26th USTR took the decision to grant an exclusion for certain Chinese tilapia products (HS Code 0304.61.00), restoring their duty-free treatment. Tilapia, which is often grown in appalling conditions, together with Chinese-processed pollock, which is often harvested in Russia and twice-frozen, compete with us directly in the domestic market. Tilapia imports have surged by 14 percent so far in 2020, their first such increase since 2015.
- Despite **Japan** not making any market access concessions for U.S. seafood in last year’s “Phase One” agreement, and tariffs of up to 10.5 percent remaining in place, the United States grants Japanese seafood exporters duty-free access to our market.
- Despite our exports to the **European Union** continuing to face significant tariff and non-tariff barriers—including tariffs of 13-15 percent on our key product forms and a cumbersome Autonomous Tariff Quota (ATQ) system that creates uncertainty and distorts prices even while it provides some measure of tariff relief—the United States grants EU seafood exporters duty-free access to our market.

- During the six-year period when the **Russian** market has been entirely closed to almost all U.S. seafood products, we have continued to import Russian pollock and other leading Russian seafood products into the United States tariff-free. As a result, the value of Russian seafood imported into the United States has grown 69 percent since 2013.

It would be unwise and counter-productive to move quickly to establish reciprocity of seafood tariffs in all cases: we have no interest in precipitating an escalation in seafood trade tensions with major trading partners without a clear plan for success. Nonetheless, we believe there are instances where moves towards greater reciprocity would be appropriate.

We urge the administration to start with China: by not granting the extension request for the List 3 exclusion for Chinese tilapia, and by including Chinese-processed pollock on any future list of new tariffs the United States chooses to impose on Chinese products. As a matter of fairness and reciprocity, Chinese tilapia and pollock should be subject to duties equivalent to those imposed on Wild Alaska Pollock exports, currently 35-37 percent.

In other instances, we urge the administration to carefully consider moves towards reciprocity in the context of U.S. trade policy objectives and U.S. producer interests. Could threats of reciprocal U.S. sanctions on Russian seafood help force reconsideration by Russia of their embargo? Should the possibility of tariffs on seafood imports from the United Kingdom be on the table in the event that the UK is not willing to work towards fair market access for U.S. seafood in the current bilateral negotiations? These are the kinds of strategic calculations that U.S. trade policymakers and negotiators should feel empowered to weigh, and that the Task Force must squarely address.

Elimination of Non-Tariff Barriers

In many export markets, U.S. seafood faces additional trade barriers in the form of non-tariff measures that limit access, impose costs, or otherwise reduce competitiveness. These protectionist measures take many forms—ranging from long-established structural barriers such as “tariff quota” systems in the European Union and Japan, to Sanitary and Phytosanitary (SPS) measures that are not grounded in sound science. These non-tariff barriers add cost and complexity for our export operations, and in the most egregious instances block our access to valuable export markets.

We are grateful for the assistance that the administration provides to our industry in pushing back against various new efforts to impede market access through the use of non-tariff barriers. The most alarming recent examples come from **China**, where there seem to have been efforts to limit seafood imports under the pretext of COVID-19 transmission reduction—when in fact health authorities in both the United States and China have been clear that neither food nor food packaging is a source of transmission. Initial steps by Chinese authorities had an immediate adverse impact on our exports. The Federal Government’s clear and timely response has helped to reduce ongoing fallout.

Similarly, we appreciate the provisions of the China “Phase One” agreement that seek to address non-tariff barriers to trade in seafood. Chapter 3 of that agreement commits China to processing seafood and fishmeal facility registrations quickly, limiting audits and inspections to risk-based evaluations, and continuing its use of bilaterally agreed-upon NOAA certificates. These provisions have the potential to help ease some of the burdens of accessing the Chinese market over the long term, provided that U.S. authorities monitor China’s implementation of these provisions and promptly address any instances of non-compliance.

Although we do not seek to provide comprehensive comments here on the various country-by-country regimes that are in place, we take the opportunity to highlight two other challenging examples:

- Non-tariff barriers imposed by **Japan** include operation of the country’s anachronistic Import Quota (“IQ”) system. Under this system, United States exporters of Alaska pollock and other seafood products are required to obtain quota in order to move their exports. This is time consuming and expensive, and it creates an additional layer of business uncertainty. Exempting U.S. products from the IQ system would foster predictability and help U.S. exporters avoid unnecessary costs and delays from bureaucratic processes.
- The **European Union** maintains an Autonomous Tariff Quota (ATQ) system for certain fish imports, including a number of fish species exported by our member companies. ATQs are set on a species or product form basis for total imports into the **European Union**, regardless of the country of origin. Fish products covered under an ATQ can enter the EU duty-free, or with a reduced tariff under an ATQ, up until the point that the quota is filled. Imports above the established autonomous quota are subject to higher ‘normal’ tariffs. In some instances, the ATQ significantly reduces the tariff burden on our exports.

In important respects, however, the benefits of the ATQ system are limited. First, there is no ATQ category for numerous important seafood products, e.g. salmon. That means in many instances the ATQ system offers no potential for relief from existing EU seafood tariffs. Second, in some instances an ATQ for a particular species does not apply to all product forms. So, for example, although Alaska pollock currently enjoys an ATQ of 320,000 metric tons, it is not extended to Individually Quick Frozen (IQF) pollock fillets, meaning that a 13.7 percent tariff is imposed on all such U.S. exports to the EU. Third, in some instances, ATQs are set at a level insufficient to cover imports for the full calendar year. For example, the ATQ for Pacific whiting has been reached as early as July in recent years, triggering a 6.1 percent tariff on all imports above the ATQ level. Finally, reliance upon the ATQ system gives rise to business uncertainty and encourages market-distorting behavior, inflicting damage on the entire sector.

We encourage the administration to support, including adequately resource, experts at NOAA Fisheries and other agencies who work to prevent and overcome non-tariff barriers to seafood trade. We also encourage the administration to maintain a focus on non-tariff barriers to seafood trade in future bilateral and multilateral trade negotiations.

A Geographical Indication for Alaska Pollock

Theragra Chalcogramma is often traded and sold to consumers as Alaska Pollock regardless of whether or not it originates from U.S. waters off the coast of Alaska. As a result, non-U.S. pollock – in many instances inferior product originating from Russia – is purchased by consumers under the mistaken belief that it has been harvested from waters off the coast of Alaska and originates from the United States. Domestic law has now recognized that misleading consumers in this way is unacceptable, and as a result only U.S.-origin product can carry the label Alaska Pollock in the United States. In key export markets, however, Wild Alaska Pollock continues to compete against foreign-harvested product that misleadingly carries the Alaska Pollock label.

We urge the administration to promote transparency and minimize confusion in the marketplace by pursuing a Geographical Indication for Alaska Pollock. The current trade negotiation with the United Kingdom provides one immediate opportunity for the administration to expand the common-sense approach to labeling already adopted in the United States. Securing a commitment from the United Kingdom to protect the Alaska Pollock Geographical Indication in their domestic law would promote transparency in the UK marketplace, and empower British consumers to make informed choices about their purchases of pollock products. Similar efforts should be undertaken in future negotiations as the opportunity arises.

Executive Branch Organization

A critical issue hanging over all of the priorities detailed above is precisely how responsibility for seafood trade matters is apportioned within the administration. Establishment of this Task Force provides a welcome opportunity for different agencies with seafood trade equities to reconsider the mechanisms by which they coordinate and the interagency structures that will secure successful outcomes.

Although we don't presume to know the best answer in every instance, we have a strong view that changes to the status quo are needed. It seems clear that seafood trade challenges too often suffer from the absence of a whole-of-government approach, leading to their deprioritization or resulting in our issues "slipping through the cracks".

We encourage the Task Force to consider what more formal interagency processes could support successful outcomes. One possibility could be the creation of a permanent interagency

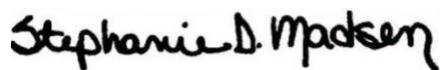
technical working group to address seafood trade challenges. Such a working group would benefit from a designated agency lead, and sustained participation from all relevant member agencies.

There also appear to be challenges arising from the way in which responsibility for seafood is assigned within the Office of the United States Trade Representative. Our understanding is that substantive responsibility for seafood trade matters falls to at least three distinct USTR offices depending on the precise nature of the seafood trade issue in question. As industry stakeholders, it is difficult for us to avoid the conclusion that this structure has contributed to the failure of recent trade negotiations to deliver successful seafood trade outcomes. The most stark recent example is the Japan “Phase One” agreement. Our impression is that the team that successfully negotiated market access gains for U.S. agricultural interests did not consider securing tariff reductions for U.S. seafood exports to be a responsibility that fell under their purview. The resulting failure of the Japan “Phase One” agreement to deliver any gains whatsoever for U.S. seafood producers was a devastating blow to our industry at a critical time. We urge USTR to consider whether changes in organization or coordination could have resulted in a more successful outcome for seafood in this instance, and could better support successful outcomes in future negotiations.

Conclusion

Thank you again for constituting this Task Force to consider issues that are of critical importance for our industry. We look forward to working with you throughout the Task Force process to help secure recommendations that will fundamentally change the Federal Government’s approach to seafood trade matters, and position U.S seafood producers for long-term success.

Sincerely,



Stephanie Madsen
Executive Director
At-sea Processors Association