

May 13, 2022

The Honorable Charles Schumer
Senate Majority Leader
United States Senate
Washington, D.C. 20515

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Republican Leader
United States Senate
Washington, D.C. 20515

The Honorable Kevin McCarthy
House Republican Leader
United States House of Representatives
Washington, D.C. 20515

RE: Comments from Commercial Fishing, Seafood Producers and Charterboat Operators on the Conference Process for the U.S. Innovation and Competitiveness Act (S.1260) and America Competes Act (H.R. 4521)

Dear Majority Leader Schumer, Speaker Pelosi, Leader McConnell, and Leader McCarthy:

Our associations represent U.S. commercial fishermen, seafood processors/companies, and charter boat operators from both coasts and the Gulf of Mexico. We ask for your help to ensure in the *U.S. Innovation and Competitiveness Act* and *America Competes Act* Conference process that Congress rejects the House language regarding expansion of the Seafood Import Monitoring Program (SIMP) and Automated Identification System (AIS) that will be damaging to the U.S. seafood industry. This language, if enacted, will harm U.S. harvesters, processors and charterboat operators. As such, **we ask that Leadership and the Conferees defer to the Senate USICA language in S.1260, especially on the issues of SIMP and AIS.**

Our companies fish and utilize products from fisheries on both coasts and in the Gulf of Mexico. These companies value seafood sustainability and are proud of the wholesome, nutritious protein they provide to millions of Americans. Unfortunately, a proposal now before Congress threatens these companies and the tens of thousands of workers they employ.

Sections 70101-70131 of the America COMPETES Act, H.R. 4521, mandate expansion of the ineffective NOAA Seafood Import Monitoring Program (SIMP) to include all seafood in U.S. commerce, increase the required reporting, and – for the first time ever – force most U.S.-flag vessels to submit to perpetual, open-source government satellite tracking. These provisions, which will do nothing to reduce illegal fishing or human trafficking in the international seafood supply chain, will make our companies less competitive food industry players and will subject anglers to harassment and even violence as they attempt to work fisheries that have long been among the world’s most sustainable.

We oppose Sections 70101-70131 of the America COMPETES Act entirely, but in particular we object to the unjustified expansion of SIMP to all seafood items and the requirement for fishing vessels to utilize the Automatic Information Systems (“AIS”) in their operations across the entire U.S. EEZ. By contrast, the United States Innovation and Competitiveness Act (USICA), S. 1260 contains no such language. Instead, S. 1260 Sections 71001-71002 directs the Administration to make targeted improvements in its approach to combating unfair worker treatment in foreign fishing operations. **We urge Leadership and all Conferees to reject the House language on these topics, and instead to defer to the Senate language.**

Section 70101 of COMPETES broadens SIMP from its current 13 items to all seafood items – from roughly 1,100 species to 13,000. Further, Section 70114 dramatically expands the data elements that all regulated companies will have to submit and directs NOAA to develop dozens more via subsequent rulemaking. Section 70131 compels all but the smallest U.S.-flag vessels to install and operate AIS beacons whenever at sea and throughout the entire U.S. EEZ.

These provisions contained in H.R. 4521 will result in unrealistic and unworkable demands on both domestic producers and the foreign supply chain the bill purports to scrutinize. The legislation will raise costs for everyone in our industry and will invite foreign governments to retaliate against the seafood exports that many of our companies rely upon. Some proponents of this legislation in fact welcome the protection that SIMP expansion will afford certain domestic producers. For an overwhelming majority of U.S. seafood industry participants, however, implementation of nontariff barriers by overseas regulators will place U.S. producers at a sharp disadvantage in overseas markets.

To be clear, our companies strongly support meaningful efforts to eliminate illegal fishing and forced labor. Illegal, unreported and unregulated (IUU) fishing degrades marine ecosystems, and forced labor is an affront to human decency. These practices in any part of global seafood production hurt American producers by undercutting U.S.-harvested seafood in U.S. and global markets. Unfortunately, Sections 70101 to 70131 of the America COMPETES Act will do nothing to address IUU fishing or forced labor, principally because in its present form SIMP fails to effectively detect and deter either practice.

In April 2021, NOAA Fisheries published a [report on SIMP implementation](#), concluding that “SIMP does not prevent or stop IUU fish and fish products from entering U.S. commerce.” From this report – and from our industry’s experience with the regulation – two clear conclusions emerge:

- **First, program implementation is already enormously challenging for both government and industry.** Compliance with SIMP reporting requirements is difficult and costly for even for the most sophisticated industry participants. To take just one example: NOAA auditors reviewing documentation relating to U.S.-harvested Pacific cod often lack familiarity with U.S. harvest record systems. They have routinely refused to accept product tracing to a harvest event in the Alaska Region eLandings interagency digital catch accounting system as sufficient to satisfy program documentation requirements. This is the context for the remarkable 43 percent non-compliance rate reported by NOAA Fisheries. These routine instances of “non-compliance” are not indicative of the presence of IUU fishing products. Rather, they are technical violations of incredibly burdensome reporting requirements.

In this context, the expansion of SIMP data requirements proposed in H.R. 4521 is extreme. The COMPETES provisions require complete chain of custody data, with names, addresses, and the beneficial owner of every custodian, including the overseas truckers, storage facilities, distributors, and anyone else in the often long and complex seafood supply chain. A certificate from a competent authority is required for every transfer point in the supply chain. Moreover, regulated companies must supply documentation separately tracing back to distinct harvest events in any given seafood shipment, which would exponentially increase the program’s data requirements and complexity. These mandates – which H.R. 4521 mandates for all categories of seafood products, regardless of IUU risk – impose crippling costs on the U.S. seafood industry. This would be devastating for U.S. producers, reducing ex vessel prices paid to fishermen and suppressing value at every stage of U.S. production.

- **Second, broadening SIMP to include certain data elements and to mandate AIS utilization by fishing vessels is unnecessary and unjustifiable.** The COMPETES Act provisions at issue expand reporting of the specific type of gear used to harvest all seafood products, as well as location of wild-capture harvest for every type of domestic seafood product. These operational details have nothing to do with the question of whether a given shipment was produced via illegal fishing operations, in the U.S. or elsewhere. However, knowing gear type and location of harvest will be of great interest to nongovernmental organizations intent on subjecting harvesters and their customers to consumer-driven boycotts and public harassment.

The Section 70131 AIS mandate – applicable to every single U.S. fishing, processing, or fish tender vessel greater than 65-feet in length – is excessive and unjustifiable for IUU purposes. In addition, this legislation would eventually require AIS units be carried on all U.S. fishing vessels greater than 50-feet in length throughout the entire U.S. EEZ. By comparison, the United States Coast Guard originally implemented the AIS provisions for U.S. fishing vessels greater than 65-feet in length only out to 12 nautical miles, and specifically for purposes of vessel safety within the U.S territorial sea. The expanded AIS requirements in the House COMPETES ACT have nothing to do with foreign IUU fishing and human trafficking activities but will allow nongovernmental organizations to track, harass, and publicly disclose key fishing locations of our domestic fishing fleets.

SIMP is a very limited tool for addressing the IUU challenge. It is a unilateral program aimed at a global problem; and its stage of intervention is at the point of import, long after harvest activity has occurred. Illegal fishing is a complex challenge to address. Requiring mountains of paperwork at the U.S. border has done nothing under the current program to alter longstanding practices in fisheries that occur outside the United States and that can turn to markets outside the U.S. in response to U.S. regulation; a massive expansion of the same approach will simply make the mountain higher.

Our companies are held to high sustainability and other standards. Those standards should be more broadly applied to fisheries around the world in ways that directly target bad actors and do not impose undue burdens on lawful seafood trade. Unfortunately, the House-passed provisions ignore our perspectives, take aim at our industry, and focus on the wrong categories of intervention. They will do nothing to deter IUU or forced labor activity; rather, they will burden lawful seafood trade, harming U.S. seafood industry workers and American seafood consumers. We urge you to reject these provisions entirely.

Thank you for considering our perspective on these critical issues.

Sincerely,

West Coast Seafood Processors Association
Lori Steele, Executive Director

Florida Keys Commercial Fishermen's Association
Captain Bill Kelly, Executive Director

California Wetfish Producers Association
Diane Pleschner-Steele, Executive Director

Garden State Seafood Association
Scot Mackey, Executive Director

California Coast Crab Association
Ben Platt, President

Organized Fishermen of Florida
Jerry Sansom, Executive Director

Fishing Vessel Owners' Association

Robert D. Alverson, Executive Director

Southeastern Fisheries Association

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National Association of Charterboat Operators; Captain Bob Zales II, President

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