

September 11, 2015

VIA ELECTRONIC SUBMISSION AND U.S. MAIL

Ms. Danielle Rioux  
1315 East-West Highway  
Silver Spring, MD 20910

**Re: Comments of Ecuador’s National Chamber of Aquaculture on the Presidential Task Force on Combatting Illegal Unreported and Unregulated (“IUU”) Fishing and Seafood Fraud Action Program; Docket No. NOAA-NMFS-2014-0090**

Ecuador’s National Chamber of Aquaculture (*Cámara Nacional de Acuicultura*), Av. Francisco de Orellana y Miguel H Alcívar, Centro Empresarial Las Cámaras, 3er Piso, Guayaquil, Ecuador, appreciates the chance to provide its thoughts on the draft principles for determining seafood species at risk of IUU fishing and seafood fraud, and the draft list of “at risk” species resulting from the principles. The Chamber represents individuals, corporations, and associations active in the breeding, cultivation, processing, and marketing of aquatic species and in related activities. The Chamber was established in order to achieve efficiency and international competitiveness through good service to its members, encouraging aquaculture along with a deep respect for the environment, thus contributing to economic development and growth.

The Chamber, while disagreeing with several of the Task Force’s actions regarding IUU and designation of Ecuador, would welcome the opportunity to have a more meaningful discussion than the Task Force draft principles and species designations afford. Given the importance of the U.S. market for Ecuador’s seafood industry, we consider it imperative that the United States more fully considers the impact that these ideas will have on Ecuadorian and other seafood exporters.

**ECUADOR’S SEAFOOD EXPORTS TO THE UNITED STATES**

Ecuador is a major supplier of seafood to the United States market, so our comments reflect the economic importance of our seafood to Ecuadorians and Americans. According to U.S. Department of Commerce data,<sup>1</sup> Ecuador exported the following products to the United States in 2014:

Tuna:	18,576 MT	\$126,246,934	8% of U.S. total
Shrimp:	92,405 MT	\$901,153,656	14% of U.S. total
Swordfish:	2,505 MT	\$19,162,612	37% of U.S. total
Dolphinfish:	2,519 MT	\$12,305,391	36% of U.S. total

Ecuador is the sixth largest tuna exporter to the U.S., the third largest shrimp exporter, and the largest swordfish and dolphinfish exporter. Tuna, swordfish, and dolphinfish are solely wild-

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<sup>1</sup> Data from the Fisheries Statistics Division, NOAA Fisheries, available at: <http://www.st.nmfs.noaa.gov/commercial-fisheries/foreign-trade/applications/trade-by-country>.

caught species. Ecuadorian shrimp is now entirely produced through aquaculture. In fact, by Presidential Decree, since January 2013, shrimp trawling has been prohibited. Therefore, shrimp produced through aquaculture is already completely traceable.

## **ALLEGATIONS OF TASK FORCE AGAINST IMPORTANT ECUADORIAN SEAFOOD EXPORTS TO THE UNITED STATES**

The Task Force alleges the following regarding the four major species of seafood that Ecuador exports to the United States:<sup>2</sup>

Tuna:

- 1) Is a “high visibility” species
- 2) History of fisheries violations in certain tuna fisheries
- 3) Harvesting, transshipment, and trade patterns of tunas can be complex
- 4) Information standards among tuna fisheries management organizations vary
- 5) Lack of complete catch documentation scheme
- 6) History of species substitution

Shrimp:

- 1) History of fishing violations
- 2) Level of processing often associated with shrimp products
- 3) Significant amount of mislabeling and/or misrepresentation of shrimp, tied largely to misrepresentation of weight, including where product has been treated with sodium tripolyphosphate to increase water retention
- 4) Mislabeling of aquaculture shrimp as wild shrimp
- 5) Substitution of one species of shrimp for another when imports cross the border into the United States

Swordfish:

- 1) History of fisheries violations in certain swordfish fisheries and regions
- 2) Lack of enforcement capability
- 3) Lack of catch documentation scheme that includes the full range of information that would be expected in a traceability program
- 4) Substitution of mako shark for swordfish

Dolphinfish:

- 1) Lack of enforcement capability
- 2) Lack of catch documentation scheme throughout the geographic range of fishing activity
- 3) Concern over mislabeling product origin
- 4) History of species substitution of yellowtail flounder for dolphinfish

## **FUNDAMENTAL FLAWS EXIST IN THE TASK FORCE’S METHODOLOGY AND ALLEGATIONS**

The Task Force’s analysis is fundamentally flawed because it suggests that politics, rather than science, form the basis for its decisions. The analysis contains no specifics, treats all tuna,

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<sup>2</sup> See 80 Fed. Reg. 45955-45963 (August 3, 2015)

shrimp, swordfish, and dolphinfish as coming from the same sources, conflates a complex supply chain of processing with IUU or fraud, and demonizes a legitimate processing aid. Furthermore, it does not discriminate between actions that happened before the United States border and those that happen after the U.S. border.

The Task Force's analysis suggests politics rather than science as a basis for its decisions: For instance, the Task Force notes that tuna is a "high visibility" species. What does the prominence of a species have to do with whether it is illegally caught or mislabeled? To highlight the "visibility" of a species suggests that the Task Force is more concerned with meeting a political objective with respect to a "high visibility" species than addressing IUU or fraud.

The Task Force's analysis contains no specifics: The Task Force alleges that tuna, shrimp and swordfish have a "history of fisheries violations." The Task Force further alleges that swordfish and dolphinfish "lack enforcement capability." Nowhere in the Task Force's nearly 8,500 word Federal Register notice does it provide any documentation of these allegations. They appear to be the subjective opinion of "working groups" and "subject matter experts." Without the specifics of why the United States government alleges these shortcomings, it is difficult for the Chamber to adequately respond to these charges.<sup>3</sup>

The United States prepares a biennial report in which it charges countries with illegal fishing. In 2011, 2013, and 2015 the U.S. suggested Ecuador must improve its regulation of tuna fisheries.<sup>4</sup> In reports from 2009, 2011, 2013, and 2015, however, the Government of the United States never alleged any illegal fishing of shrimp, swordfish, or dolphinfish. The Task Force, however, makes allegations against these species, for two of which (swordfish and dolphinfish) Ecuador is the major supplier to the United States. These facts demonstrate an entire disconnect in U.S. policy.

Similarly, the Task Force alleges a history of mislabeling of tuna, shrimp, swordfish, and dolphinfish. Nowhere in its recommendation does the Task Force document its charges of fraud against these important Ecuador exports.

The Task Force's analysis treats all tuna, shrimp, swordfish, and dolphinfish as coming from the same sources: Fourteen other nations are major exporters of tuna, shrimp, swordfish or dolphinfish to the United States. The Task Force makes no effort to differentiate between any of these countries, suggesting that it believes that all countries that harvest or export tuna, shrimp, swordfish, or dolphinfish are guilty of illegal fishing or mislabeling product.

Ecuador is not among the 20 largest harvesting nations for wild caught shrimp. In fact, nearly

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<sup>3</sup> The Chamber understands that these comments are designed to enable comments to the United States. However, the fact that the Government of the United States has already published the allegations in an official U.S. document has already created market challenges for Ecuador's seafood exporters. It is unacceptable for the Task Force to not appreciate the consequences of its unfounded charges, and that is how these recommendations are viewed, would not have an impact on the market.

<sup>4</sup> See "NOAA to Work with 10 Nations to Address Illegal, Unreported, and Unregulated Fishing and Stem the Bycatch of Protected Species." NOAA Fisheries, 11 January, 2013; and "NOAA Identifies Six Nations Engaging in Illegal, Unreported, and Unregulated Fishing," Department of Commerce, 10 February 2015.

all Ecuador shrimp is farmed. It is, by definition, impossible to illegally harvest farmed shrimp. Nevertheless, the Task Force has labeled all shrimp as being at risk for IUU fishing, a decision that has already created confusion in the marketplace and tarred Ecuador's aquaculture industry with allegations of illegal practices for which producers in Ecuador cannot possibly be responsible. Here again, the Task Force makes no attempt to differentiate between countries or methods of production.

The Task Force's analysis conflates a complex supply chain of processing with IUU or fraud: The Task Force suggests that a complex supply chain is analogous to IUU or fraud. To re-emphasize, the Task Force provides no evidence that the processing of shrimp makes it subject to IUU. Especially in Ecuador's case, where nearly all shrimp is farmed, this allegation has no basis in logic.<sup>5</sup>

The Task Force's analysis demonizes a legitimate ingredient: The Task Force raises the use of tripolyphosphate as an issue of concern. Existing U.S. laws and regulations already require food additives, like tripolyphosphate, to be listed as ingredients on the label. What connection does this issue have with illegally caught fish or mislabeled shrimp?

The Task Force's analysis does not discriminate between actions that happened before the United States border and those that happen after the U.S. border: The U.S. Food and Drug Administration conducted a 2 year long study of seafood fraud.<sup>6</sup> The agency focused its efforts on fish that were alleged to be fraudulently labeled. The results showed that, at the wholesale level, the vast majority of fish sold in the United States are properly labeled. This begs the question as to the purpose of the mandated traceability requirement. More specifically, why should the United States government require of Ecuador's seafood suppliers a costly and burdensome tracking system for fish, when most fish fraud appears to happen after the wholesale level?

## CONCLUSION

Ecuador's seafood harvesters, processors, and exporters will be economically harmed if the United States Government designates tuna, shrimp, swordfish or dolphinfish as being at high risk for IUU or fraud. However, the Task Force has not demonstrated that Ecuador's seafood is at risk for illegal fishing or fraud. This is simply unfair.

The Chamber urges the Government of the United States to reevaluate its approach to its goal to eliminate IUU and fraud. Multilateral efforts through the United Nations system, in which the United States is an active participant, are a more effective means to generate global support for efforts to ensure all fish are caught and distributed legally. Enforcing existing U.S. laws is a far more effective means to stop fraud than requiring exporters to adhere to new and costly traceability mandates.

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<sup>5</sup> Being designated an IUU or fraud species will have significant impact on Ecuador's processors, requiring the tracking of significant new amounts of data.

<sup>6</sup> See Christine, Blank, "FDA Seafood Fraud Investigation Finds Fewer Offenses." SeafoodSource.com, 27 Oct. 2014.

We look forward to the response of the Government of the United States.

Sincerely,

/s/ José Antonio Camposano

Executive President  
Cámara Nacional de Acuacultura