

Administration of Joseph R. Biden, Jr., 2022

Memorandum on Combating Illegal, Unreported, and Unregulated Fishing and Associated Labor Abuses

June 27, 2022

National Security Memorandum/NSM-11

Memorandum for the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Commerce, the Secretary of Labor, the Secretary of Homeland Security, the United States Trade Representative, the Representative of the United States of America to the United Nations, the Director of the Office of Science and Technology Policy, and the Administrator of the United States Agency for International Development

Subject: Combating Illegal, Unreported, and Unregulated Fishing and Associated Labor Abuses

Illegal, unreported, and unregulated (IUU) fishing and related harmful fishing practices are among the greatest threats to ocean health and are significant causes of global overfishing, contributing to the collapse or decline of fisheries that are critical to the economic growth, food systems, and ecosystems of numerous countries around the world. Distant water fishing vessels, which engage in industrial-scale fishing operations on the high seas and in waters under other states' jurisdictions, can be significant perpetrators of IUU fishing and related harmful fishing practices. IUU fishing often involves forced labor, a form of human trafficking, and other crimes and human rights abuses. Left unchecked, IUU fishing and associated labor abuses undermine U.S. economic competitiveness, national security, fishery sustainability, and the livelihoods and human rights of fishers around the world and will exacerbate the environmental and socioeconomic effects of climate change.

Section 1. Policy. It is the policy of my Administration to address the problem of IUU fishing, including by distant water fishing vessels, and associated labor abuses, including the use of forced labor in the seafood supply chain. I hereby direct executive departments and agencies (agencies) to work toward ending forced labor and other crimes or abuses in IUU fishing; promote sustainable use of the oceans in partnership with other nations and the private sector; and advance foreign and trade policies that benefit U.S. seafood workers. No nation, government entity, or non-governmental organization can address IUU fishing and associated labor abuses single-handedly. I therefore direct agencies to increase coordination among themselves and with diverse stakeholders—public and private, foreign and domestic—to address these challenges comprehensively. With this memorandum, I direct agencies to use the full range of existing conservation, labor, trade, economic, diplomatic, law enforcement, and national security authorities to address these challenges. Where applicable, activities will be carried out through or in coordination with the Interagency Working Group on IUU Fishing established pursuant to section 3551 of the Maritime Security and Fisheries Enforcement (SAFE) Act (16 U.S.C. 8031), the Forced Labor Enforcement Task Force established pursuant to section 741 of the United States-Mexico-Canada Agreement Implementation Act (19 U.S.C. 4681), and as appropriate the President's Interagency Task Force to Monitor and Combat Trafficking in Persons established pursuant to section 105 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103).

Sec. 2. Forced Labor in the Fishing Industry. The United States is committed to promoting labor rights and human rights and fundamental freedoms through worker-centered trade policies, and to working to eliminate abusive labor practices, in particular forced labor, in supply chains. Agencies shall enhance interagency coordination and the use of existing tools and authorities to address the challenge of forced labor in the seafood supply chain.

(a) The United States Trade Representative (USTR), in coordination with the Secretary of State, the Secretary of Labor, the Secretary of Commerce through the Administrator of the National Oceanic and Atmospheric Administration (NOAA), and other relevant agencies, shall:

- (i) continue to engage in the World Trade Organization negotiations on fisheries subsidies to seek additional disciplines prohibiting fisheries subsidies that contribute to overcapacity and overfishing, and to seek additional transparency with respect to IUU fishing and the use of forced labor on fishing vessels;
- (ii) engage, in coordination with the Secretary of Labor, with trade partners, including free trade agreement partners and preference program beneficiaries, to address forced labor and other abusive labor practices in fishing; and
- (iii) seek to collaborate with Mexico and Canada under the United States-Mexico-Canada Agreement to prohibit the importation of goods, including seafood, produced in whole or in part by forced labor.

(b) The Secretary of State, the Secretary of Labor, the USTR, and the Administrator of the United States Agency for International Development (USAID), in coordination with the Administrator of NOAA and other relevant agencies, shall continue to highlight links between IUU fishing and forced labor and other abusive labor practices, with a focus on distant water fishing and vessels using flags of convenience to continue unsustainable fishing practices. These heads of agencies shall adjust the mix of United States Government messaging and promotion of non-governmental voices to achieve the greatest effect and shall develop themes and narratives that resonate with target audiences including foreign governments, the private sector, and global and U.S. consumers.

(c) The Secretary of Homeland Security, through the Commissioner of U.S. Customs and Border Protection (CBP) and in coordination with the Administrator of NOAA, shall:

- (i) investigate fishing vessels and operators suspected to be harvesting seafood with forced labor and issue withhold release orders, as appropriate;
- (ii) at the discretion of relevant CBP officials, share evidence with allies and partners to encourage parallel customs enforcement actions, as appropriate;
- (iii) investigate prospective civil penalty cases against importers connected to previously issued fishing vessel withhold release orders, as appropriate;
- (iv) in coordination with other relevant agencies, use the Forced Labor Enforcement Task Force to monitor United States enforcement of the prohibition under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) to prevent the importation of seafood harvested with forced labor into the United States; and
- (v) use Maritime Operational Threat Response processes to facilitate interagency notifications, responses, and legal enforcement actions for IUU fishing offenses, including taking appropriate action when forced labor is identified.

(d) The Secretaries of State and the Treasury shall, as appropriate, consider whether their respective sanctions and visa restriction authorities may be used to address IUU fishing and associated labor abuses. These heads of agencies shall consider, as appropriate, whether to share evidentiary packages with allies and partners to facilitate parallel sanctions or visa restriction actions.

(e) The Secretary of Labor, in coordination with the Secretary of State and the Administrators of NOAA and USAID, shall engage financial institutions, business organizations, labor stakeholders, and seafood importers on forced labor in seafood supply chains, including by

promoting supply chain transparency and responsible business practices. These heads of agencies shall promote dissemination of information on the harms of IUU fishing and associated labor abuses in order to encourage greater corporate and consumer demand for due diligence, mechanisms to certify that seafood supply chains are free of forced labor, and the halting of financial transactions involving forced labor. These heads of agencies are encouraged to apply lessons learned from United States Government policies addressing the use of forced labor in the cotton sector and in other relevant sectors. The Administrator of USAID shall work to build regional networks between civil society organizations, trade unions, migrant worker networks, and recruitment agencies to address exploitation in the seafood industry. These networks should incorporate worker voices, including survivors of forced labor, to counter labor abuses and provide legal aid to migrant workers in the fishing industry.

(f) The Secretary of Labor shall use labor and development programs to provide training and technical support to national security-focused agencies, including the Department of Defense and the United States Coast Guard, and foreign partners on combating forced labor and other abusive labor practices on fishing vessels.

(g) The Secretary of Labor shall continue to raise public awareness about labor practices in the seafood industry, including by continuing to maintain its list of goods it has reason to believe are produced by forced labor or child labor in violation of international standards.

Sec. 3. Multilateral and Regional Solutions That Support Sustainable Fishing. It is the policy of my Administration to revitalize U.S. leadership in multilateral institutions, including regional bodies. I therefore direct agencies to collaborate with these organizations to increase global attention to the challenges of IUU fishing, including by distant water fishing vessels, and related abusive labor practices, such as the use of forced labor in seafood supply chains. My Administration will harness our international partners' energy and innovative capacity to design and implement solutions.

(a) The Secretaries of State and Labor, the USTR, and the Administrators of NOAA and USAID shall promote decent work, counter forced labor, and take other actions to address IUU fishing and related harmful fishing practices at the Food and Agriculture Organization (FAO) of the United Nations (UN), the International Labor Organization (ILO), and the International Maritime Organization (IMO). These heads of agencies shall work with the FAO to draft guidelines on social responsibility in fisheries and value chains and shall support ILO research on forced labor in fishing.

(i) The Secretaries of State and the Treasury shall consider whether to seek funding from the Congress and donors for multi-donor trust funds or regional programs at multilateral development banks to combat IUU fishing.

(ii) The Secretary of State, the Attorney General, and the Administrators of NOAA and USAID shall, as appropriate, elevate the issue of IUU fishing at the UN Food Systems Summit.

(iii) The Attorney General and the Administrators of NOAA and USAID shall support the International Criminal Police Organization to combat conservation crimes, including those related to IUU fishing, and build capacity for fisheries managers and investigators.

(iv) The Secretaries of State and Labor, the USTR, and the Administrators of NOAA and USAID shall explore concrete efforts to collaborate with G7 members on addressing forced labor in fishing. The Secretary of State, the Administrator of NOAA, and other relevant agencies shall use the G7's focus on addressing unsustainable fishing

practices as outlined in the 2030 Nature Compact to increase attention to and pursue efforts to counter harmful fishing practices.

(b) The Administrator of NOAA, in coordination with the Secretaries of State and Labor, the Secretary of Homeland Security through the Commandant of the United States Coast Guard, and the USTR, shall engage with regional fisheries management organizations to encourage adoption of measures that identify and counter IUU fishing, including high seas boarding inspection schemes. Additionally, these heads of agencies shall collaborate on regional initiatives to address forced labor and other harmful practices in the seafood industry, which will include:

(i) The Administrator of NOAA and other relevant agencies shall promote transatlantic cooperation to counter the use of forced labor in seafood supply chains, including through the United States-European Union (EU) High-Level Dialogue on Fisheries.

(ii) The Secretaries of State and Defense shall collaborate with counterparts in the Quad (which is composed of Australia, India, Japan, and the United States) to design and facilitate the implementation of a multilateral initiative, the Indo-Pacific Partnership for Maritime Domain Awareness, to strengthen maritime domain awareness and maritime security in South Asia, Southeast Asia, and the Pacific Islands using advanced commercial satellite data. The Administrators of NOAA and USAID, the Commandant of the United States Coast Guard, and the Intelligence Community shall support this endeavor as appropriate.

(iii) The Secretaries of State and Labor and the Administrators of NOAA and USAID shall collaborate with the Association of Southeast Asian Nations (ASEAN) to encourage the design of technical assistance programming to address forced labor in fishing, linking these efforts to the US-ASEAN Plan of Action.

(iv) The Secretary of State and the Administrators of NOAA and USAID shall collaborate with Pacific Island nations, including through the Pacific Islands Forum, to counter IUU fishing and related human trafficking, including forced labor.

(v) The Secretaries of State and Labor and the Administrator of NOAA shall explore opportunities for cooperation in the Asia-Pacific Economic Cooperation (APEC) to begin discussions on forced labor and other abusive practices in fishing, linking these efforts to the APEC Roadmap on Combatting IUU Fishing.

(vi) The Secretary of State, in collaboration with the Administrators of NOAA and USAID, shall elevate the issue of IUU fishing, including by distant water fishing vessels, and related harmful fishing practices, at any future Our Ocean Conferences and in meetings and working groups of the Organization of American States, APEC, the African Union, relevant African sub-regional bodies, and the Pacific Alliance.

(vii) The Administrator of USAID shall work to initiate partnerships with and support multilateral institutions such as the Southeast Asian Fisheries Development Center and the Coral Triangle Initiative to counter IUU fishing.

(viii) The Secretaries of State and Defense, in collaboration with the Administrator of NOAA, shall explore opportunities for cooperation between Atlantic Basin African maritime forces and the United States Africa Command to improve West African capacity to detect and counter IUU fishing.

(ix) The Director of the Office of Science and Technology Policy, in collaboration with the Secretaries of State and Commerce and the Administrator of NOAA, shall continue to pursue opportunities through the High Level Panel for a Sustainable Ocean Economy (Ocean Panel) to promote international collaboration to counter IUU fishing and

integrate best practices into the National Sustainable Ocean Plans of each Ocean Panel country.

Sec. 4. Partner Engagement, Capacity, and Resilience. The United States benefits from an unparalleled ability to shape global discourse and convene stakeholders from government, civil society, and the private sector. The United States' track record of conserving fisheries and combating forced labor enables it to lead by the power of example. The United States' robust network of alliances and partnerships and its broad array of conservation, law enforcement, trade, economic, diplomatic, labor, and other authorities and programs can be used to generate innovative, cross-cutting, and powerful solutions. It is the policy of my Administration to harness these advantages to address the challenge of IUU fishing, including by distant water fishing vessels, and related harmful fishing practices, such as forced labor in the seafood supply chain.

(a) The United States has a strong track record of making environmental data, such as data produced by the U.S. Global Change Research Program and its participating agencies, freely available to partners and the general public. The Office of Science and Technology Policy shall support the interagency policy committee process in assessing the best-available evidence concerning fisheries-environment interactions. This may include, for example, identifying regions more likely to be at risk of harmful and unsustainable fishing practices due to climate change and its resulting threats to food security.

(b) The Secretaries of State and Defense and the Administrator of USAID shall work with partners to use all available tools to increase maritime domain awareness to combat IUU fishing, including increasing the use of vessel tracking systems, aerial surveillance, and radio frequency data, as well as utilizing emerging technologies such as advances in machine learning paired with synthetic aperture radar, as appropriate. The Administrator of USAID shall also continue to promote the use of communication technology to improve connectivity and safety for commercial fishing vessels and support ethical and sustainable fishing practices.

(c) The Administrator of USAID, in coordination with the Secretaries of State, Commerce, and Labor; the USTR; the Commandant of the United States Coast Guard; and the Administrator of NOAA, shall strengthen alliances with non-governmental organizations, think tanks, organized labor, academia, industry associations, and the business community to highlight and address IUU fishing and associated labor abuses, including forced labor, in the seafood sector, and to develop best practices for combating these abuses, promoting sustainable fisheries, rebuilding fish stocks, and empowering fisheries workers. These heads of agencies shall engage with fishers, fish processing workers, port workers, and relevant trade unions to seek input on the real-world impacts of IUU fishing and abusive labor practices. The Administrator of USAID and other relevant agencies shall use development and technical assistance programs, as appropriate, to address corruption in governance systems; support judicial reform and public financial management; and build journalist, trade union, and civil society capacity to raise awareness of IUU fishing.

(d) The Secretary of State, in coordination with the Secretaries of the Treasury, Defense, and Homeland Security; the USTR; the Administrators of NOAA and USAID; the Commandant of the United States Coast Guard; the United States Mission to the European Union; and other heads of departments and agencies as appropriate, shall cooperate with the EU, Japan, other G7 members, and other partner countries, together or individually, to work to counter harmful fishing practices in West Africa, Latin America and the Caribbean, and the Indo-Pacific. These heads of departments and agencies shall:

(i) identify and, as appropriate, seek resources for technical skills training in littoral Africa, including ship inspections, ship maintenance, and oversight of maritime governance programs;

(ii) develop information-sharing networks and arrangements with partner countries to inform a maritime common operating picture to improve regional maritime domain awareness and combat IUU fishing in the South Atlantic, Oceania, Indo-Pacific, Eastern Pacific, and West Africa;

(iii) leverage opportunities to include IUU fishing provisions within existing and new bilateral maritime law enforcement agreements with partner nations, including in Latin America and the Caribbean and Africa; and

(iv) use all available intelligence capabilities to identify and enable, as appropriate, interdiction of vessels conducting or engaged in IUU fishing, particularly those that are operating within the exclusive economic zones of nations with which the United States has bilateral maritime law enforcement agreements.

(e) The Administrator of NOAA, in collaboration with the Secretary of State and the Commandant of the United States Coast Guard, shall encourage adoption of the Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing and shall provide assistance, as appropriate, for its implementation, including training and capacity building, as directed by the Maritime SAFE Act. The Administrator of USAID shall strategically support interagency partners to strengthen Port State Measures programs in individual states.

(f) The Administrator of NOAA shall seek resources, as appropriate, to deploy fisheries enforcement representatives to posts to support regional efforts to counter IUU fishing and to build capacity for monitoring, control, and surveillance to combat IUU fishing and related harmful fishing practices, such as forced labor.

(i) The Administrator of NOAA, in collaboration with the Secretary of State and the Commandant of the United States Coast Guard, shall work to improve maritime law enforcement coordination in partner countries to address IUU fishing, related abusive labor practices, and trade of protected marine species.

(ii) The Secretary of Defense shall use, as appropriate, Maritime Security Initiatives to enhance maritime detection capabilities of eligible countries within their exclusive economic zones, increase maritime domain awareness in the Indo-Pacific and Africa, and develop a common operating picture for regional information sharing.

(g) The Secretary of State and the Administrators of NOAA and USAID shall endeavor to assist developing countries with the establishment and enforcement of marine protected areas to promote the conservation of fish species and sustainable coastal management.

(h) The Secretary of State, the Administrators of NOAA and USAID, and other relevant agencies shall engage with partners to promote legally caught fish and seafood supply chains that are free of forced labor as the preferred option and to highlight its benefits.

Sec. 5. Import Markets. The United States is the world's single largest country market for seafood; more than 85 percent of the seafood Americans consume is imported. The United States has taken steps to limit the market for products derived from IUU fishing and forced labor, but additional action is required. It is the policy of my Administration to combat abuses and to strengthen incentives for ethical behavior in the global seafood industry, including by limiting the market for products derived from IUU fishing, forced labor, or other abusive labor practices. Agencies should seek opportunities to leverage the United States' large seafood import market to advance these objectives and unify public messaging that condemns IUU fishing. Wherever possible, agencies should seek opportunities to coordinate international messaging that condemns IUU fishing with like-minded partners. The United States, the EU, and Japan together account for

approximately 55 percent of the global seafood market, providing an opportunity to work with democratic market economies to develop more powerful signals to the global seafood market.

(a) By the end of 2022, the Administrator of NOAA shall initiate a rulemaking to expand the Seafood Import Monitoring Program (SIMP) to include additional species and species groups, as appropriate. NOAA shall continue to seek resources and technological tools to improve the effectiveness of SIMP and other efforts to address IUU fishing. NOAA shall pursue its ongoing efforts to conduct risk-based assessments of SIMP species and species groups and continuously expand coverage of the program, as appropriate, to meet the objectives of combating IUU fishing and seafood fraud most effectively.

(b) The Administrator of NOAA, the Commissioner of CBP, and other relevant agencies shall work to leverage existing and emerging technologies to detect IUU fishing and prevent or deter illegal seafood imports from entering U.S. markets.

(c) The Secretaries of State and Labor, the USTR, the Administrator of NOAA, the Commissioner of CBP, and other relevant agencies shall explore opportunities to use existing trade tools and authorities to counter forced labor in the seafood supply chain and IUU fishing generally, such as through the use, as appropriate, of countervailing duties, actions pursuant to section 301 of the Trade Act of 1974 (19 U.S.C. 2411), import declarations, certification under the Pelly Amendment to the Fishermen's Protective Act of 1967 (22 U.S.C. 1978), and due diligence requirements. These heads of agencies shall work to develop new tools and authorities to address gaps and shall work with partners to take parallel actions.

(d) The Secretaries of State and Labor and the Administrator of NOAA shall work to build on existing dialogues and cooperation mechanisms with allies, partners, and international organizations to develop joint or complementary approaches to addressing forced labor in the global seafood industry.

(e) The Administrator of USAID shall convene leaders from industry, civil society, and government to develop recommendations for improving information flows that create meaningful deterrence, accountability, and remedies for illegality in labor and harvesting practices in wild fisheries.

Sec. 6. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

JOSEPH R. BIDEN JR.

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