US reinstates tariff exclusions for haddock, sole, crabmeat imported from China

By Jason Huffman

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Haddock on ice. Photograph by Picture Partners on Shutterstock.

The US Trade Representative (USTR) on Wednesday declared that it was reinstating exclusions to tariffs as high as 25% on nearly a dozen seafood import products from China, including Alaskan sole and snow, king, Dungeness and other crabmeat frozen in blocks as well as haddock not in blocks.

The tariff exclusion reinstatements are for some 352 out of the original 549 products that were eligible and also include certain pesticides, plastic caps and gun safes, to name a few. USTR announced the move in a pre-publication version of its *Federal Register* notice and also a press release on its website.

The extensions will continue through Dec. 31, 2022 and be backwards-dated to apply as of Oct. 12, 2021. Most of these extensions had earlier expired on Dec. 31, 2020, the USTR noted.

The agency said US Customs and Border Protection will issue instructions on entry guidance and implementation.

US seafood importers and consumers have paid dearly for the trade war started three years ago by former president Donald Trump, even though he's now been out of office for more than a year. More than $703.6 million was spent in sect. 301-related tariffs on seafood imported by the US between September 2018 and August 2021, based on data made available by the National Oceanic and Atmospheric Administration (NOAA) per request by *Undercurrent News*.

Katherine Tai, US trade representative. Photograph from USTR website.

Flatfish, including flounder, sole, halibut and turbot, was the sixth-most tariffed group of products, *Undercurrent* found when it studied the NOAA data. From 2018 to the first eight months of 2021, the US imported 56,203 metric tons of it worth $309.3m from China and paid $31.6m in tariffs.

Haddock was eighth, as the US imported 39,411t of it worth $246.6m during the period, paying $18.5m in tariffs.

Katharine Tai, appointed by president Joe Biden to head USTR in March 2021, promised in early October to reopen the tariff exclusion process. That happened on Oct. 8, 2021, when USTR posted a notice on the *Federal Register* requesting comments. It received more than 2,000 before the Dec. 1, 2021, deadline.

Tilapia. Credit: Shutterstock

Despite multiple requests, USTR has not yet granted a further tariff exemption to frozen Chinese tilapia, the most tariffed of all seafood items imported by the US. The US imported 466,556t of frozen Chinese tilapia worth $1.3 billion during the first three years of the trade war, paying $195.4m in tariffs.

However, USTR has extended tariff exemptions to:

- Haddock (*Melanogrammus aeglefinus*) not in frozen blocks (0304.72.5000);
- Alaskan sole (yellowfin, rock or flathead), flounder and other -- skinned, whether or not divided into pieces, and frozen into blocks each weighing over 4.5 kg, imported to be minced, ground or cut into pieces of uniform weights and dimensions (0304.83,1015, 1020, 5015, 5050 and 5090);
- King crabmeat, frozen in blocks each weighing at least 1 kg but not more than 1.2 kg in airtight containers (1605.10.2010);
- Snow crabmeat (*C. opilio*), frozen in blocks each weighing at least 1 kg but not more than 1.2 kg in airtight containers (1605.10.2022);

- Dungeness crabmeat, frozen in blocks each weighing at least 1 kg but not more than 1.2 kg in airtight containers (1605.10.2030); and

- Crabmeat (other than King crab, snow crab, Dungeness or swimming crabs), frozen in blocks each weighing at least 1 kg but not more than 1.2 kg in airtight containers (1605.10.2090).

USTR's latest action should come as some good news to Seattle, Washington-based importer and processor Aqua Star, which submitted six requests for extending tariff exclusions for various crabmeat products.

"Chinese processors have years of experience with this product and are very efficient," Aqua Star said in its request for a tariff exemption in relation to king crabmeat. "Our attempts to move processing to third countries has been challenging with regard to both cost and quality. Providing this exclusion will provide relief to our industry and our customers during this time of supply chain difficulties and price inflation."

Also in a good mood is the staff at the National Fisheries Institute (NFI), which wrote a seven-page letter to USTR making the case for easing 10 tariff lines, all of which have been granted.

With regard to flatfish, the letter, signed by NFI president John Connelly, advised: "Denying relief to these products in effect will keep prices on US-harvested seafood items high, making it more difficult for American consumers to access high-quality, sustainable seafood from their own country. It will increase the chances that US processors and distributors will seek out substitutes from 3d countries not involved in the underlying dispute – and therefore not subject to a debilitating 25% duty – especially as to low-margin products such as flounder. It will harm US workers in a proceeding designed to protect them. By contrast, a 25% reduction in the cost of goods sold will once more hand Alaska-based fishermen a powerful advantage in the US marketplace.

"In sum, continuing to place a sect. tariff on a U.S.-harvested product, in order to discipline China for trade violations wholly unrelated to seafood, will punish the American workers whom in general USTR intended to aid in bringing the sect. 301 investigation in the first place," the letter continued. "If any products entering via the 549 eligible tariff lines deserve a break, it is the flatfish entering via these five lines. USTR should give it to them."

NFI published a statement on Thursday praising the USTR, saying its action "will not only benefit American workers throughout the seafood value chain but also will help make the healthiest animal protein on the planet more available and affordable".

John Connelly, president of the National Fisheries Institute. Photo by Jason Huffman.

NFI continues to advocate for responsible trade policies that directly benefit American seafood workers and the American consumers who depend on those workers for a reliable supply of nutritious seafood.

Another letter was written on behalf of Alaska sole by Conrad Sales Group, a seafood wholesaler based in Greensboro, North Carolina.

"This product is harvested in domestic waters by US fishermen," Conrad Sales argued. "Adding a 25% tariff on to this item hurts both our domestic fishermen and US citizens who make a living supporting them. The additional cost adds a disincentive for companies like mine to support our Alaskan partners."

Seven Seas International, an importer, processor and distributor that reports to have seven sales offices spread across four countries, including the US (North Carolina and Kentucky), The Netherlands (Amersfoort), Vietnam (Ho Chi Minh City) and China (Hong Kong), also went to bat for sole. But the company tried expanding its exemption request to include frozen tilapia under HTS code 0304.61.0000.

"Neither the United States nor third countries have a viable domestic industry for the farming and processing of frozen tilapia fillets, and much less so for kosher-certified product," Seven Seas argued. "Nearly all frozen tilapia product is available in China."

Jessica Rifkin, an Illinois-based senior attorney specializing in trade and customs issues for Benjamin L. England & Associates, said Thursday that the latest USTR is good news but a little more elbow grease will be required by the seafood industry to take advantage.

Trade attorney Jessica Rifkin

"This is a hopeful development for seafood importers who've been hit with these high tariffs, but you know, the important thing that they should remember is, not only does this give relief going forward, at least through December of this year, and the notice also notes that possibly they may be extended again, but that importers can get relief retroactively for duties that they paid back to October," Rifkin said. "But they have to actually apply for it. They have to take action to get those refunds."

Because the USTR action applies to entries going back to Oct. 12, 2021, they are well within the 180 days that importers have to protest, she also noted.

Contact the author jason.huffman@undercurrentnews.com