

How Trump's trade war kept Russian fish sticks in US school lunchrooms

By Michael Warren

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Washington (CNN)—A trade decision by the Trump administration has inadvertently protected a price advantage enjoyed by Russian-caught fish sold in the US, much of which ends up in fish sticks served to American school children.

For years, Alaskan fishermen have been frustrated by foreign competition from Russia, particularly in the lucrative pollock market. Caught in Russian waters, this cold-water cousin of the cod is processed in China before being sold in the US for use in frozen and breaded fish products, as well as imitation crab meat.

Russian pollock costs less than its US-caught equivalent. That's helped it gain share of the roughly \$200 million US market for frozen pollock, to the point that by 2017, about half the fish sticks served in US school cafeterias were made from fish caught in Russia and pumped with additives in China, according to the Genuine Alaska Pollock Producers, a trade group that represents 14 different seafood companies.

Domestic fish producers thought President Donald Trump would fix all that. The administration's move to slap a 10% tariff last year on thousands of imports from China was supposed to erase the price advantage enjoyed by Russian fish. But instead of fixing the problem, the Trump administration has made things worse for Alaskan fishermen.

Enter the office of the US Trade Representative (USTR), which ended up excluding Russian pollock from the tariffs, preserving its price advantage over domestic-caught fish. On top of that, China's retaliatory tariffs against the US means that Alaska's pollock producers are now subject to an additional 25% tariff, limiting their access to the growing Chinese market.

Sales of American pollock in China nearly doubled between 2016 and 2017, says Pat Shanahan, the program director of the Genuine Alaska Pollock Producers. The industry was expecting even faster expansion in China in the coming years. But the trade war has dashed those hopes.

"The Chinese retaliatory tariffs have essentially closed the Chinese market for Alaska pollock," says Shanahan.

Trade codes

At the center of the gaffe is confusing nomenclature and an arcane coding system that trade and customs officials use to label thousands of products that come into the US every day. The common name for the species, no matter where it's caught, is "Alaska pollock," though it's also called "walleye pollock." Up until 2015, pollock

caught in Russian waters was still marketed as "Alaska" pollock. That year Congress legislated that only pollock from Alaska could be called Alaska pollock, at least in the US.

PRIMORYE TERRITORY, RUSSIA - MAY 29, 2018: Alaska Pollock in the hold of the Uraganny seiner (MRS-450) of the Dobroflot Fishing Company. Yuri Smityuk/TASS (Photo by Yuri Smityuk/TASS via Getty Images)

While that helped consumers trying to differentiate between foreign and American fish in the frozen food aisle, it wasn't much help last year to bureaucrats having to navigate international customs codes. That's because the tariff codes used by the USTR still identify the fish as "Alaska pollock" regardless of its origin.

The problem arose during last year's public comment period on the administration's new tariffs on China. The Alaska Seafood Marketing Institute, a group representing a broad range of commercial seafood interests, [submitted a letter](#) to the US trade representative, Robert Lighthizer, on Sept. 5 urging him to exclude a long list of Alaska-origin seafood processed in China, including products made from "Alaska pollock."

According to Jim Gilmore of the pollock-focused At-sea Processors Association, who saw draft versions of the letter before it was submitted, the intent was to encourage the US government to exclude only seafood that had originated in Alaska.

But the wording of the letter was confusing, a "poorly conceived request," Gilmore calls it, that failed to recognize that the international tariff codes did not differentiate a product's country of origin. The administration failed to realize this, too.

At the same time, other Alaska fishing groups were expressing reserved support for tariffs on pollock from China. Nevertheless, the administration, based on the poorly-worded recommendation from ASMI, issued tariff exclusions for all "Alaska pollock" products from China, including fish originally caught in Russia.

Jeremy Woodrow, the interim executive director of ASMI, said he was unaware of the pollock industry's opposition to the exclusions until after the public comment period had passed. "Had we known prior to the deadline, our request may have been different," Woodrow says.

Some in the fishing industry have taken a dim view of the administration's approach to trade policy.

"You had people trying to do the right thing, but in the mix of all this going on with tariffs, due diligence was not being done," says one fish industry lobbyist who works

closely with the Commerce Department. "It was just rolled out in a very haphazard way."

Who's in charge of the fix?

Two days after the public comment period closed on Oct. 9, essentially sealing the decision, a trio of seafood interest groups sent a [letter](#) to Lighthizer requesting the new exclusion on Chinese pollock imports be lifted.

So far, according to the At-sea Processors Association, one of the groups that signed the letter, neither Lighthizer nor his office have responded. A source at the Department of Commerce, which regulates the fishing industry, says that officials at the department's International Trade Administration were aware of the problem, and at a meeting last year discussed "fixing" it, even bringing in Secretary Wilbur Ross.

Jim Gilmore says he's been lobbying the administration to remove the tariff exclusion for Russian pollock, meeting with ITA officials on Nov. 15 and remaining in contact with the National Oceanic and Atmospheric Administration, a division of the Commerce Department that oversees fisheries. But so far, he says, nothing has been done.

A Commerce spokesman confirms that pollock industry representatives sought guidance from the ITA on how to lobby for a reversal of USTR's decision to grant the exclusion. But according to the spokesman, USTR informed the Department that no changes could be made because the public record on the matter had already closed. Ross spoke with Alaska Sen. Dan Sullivan, a Republican, in early December to communicate USTR's position.

"During and after the call, Secretary Ross and his team agreed to continue looking further into the matter to see if a solution can be found," said the Commerce spokesman. Sullivan's office did not reply to CNN a request for comment.

Friendly Fire

This isn't the first time the President's trade war has led to unintended consequences for US industry.

Last year, after the administration's steel and aluminum tariffs went into effect, hundreds of American companies complained about the Commerce Department's process of granting exclusions, arguing that requests were often caught in a [bureaucratic limbo](#), forcing them to pay tariffs since no domestic producers could supply the kind of metal they needed. At the time, more than 37,000 steel tariff exclusion requests had been submitted, while just 2,550 had been approved and more than 1,800 had been denied.

Smaller companies also argued that the process favored big production companies which were often able to block their exclusion requests by objecting to them.

In September, Commerce [announced](#) it would amend the process to allow firms to respond to any objections filed to their exclusion requests.

In November, the inspector general at Commerce circulated internally its plans to audit the exclusion process after lawmakers publicly expressed frustration the process was "arbitrary," according to The Hill.

Things have improved a bit. As of Feb. 4, Commerce had processed about 45 percent of the steel tariff exclusion requests it had received, 29,155 out of a total of 65,223.

While the pollock exclusion did not originate at Commerce, the Department has become a resource for seeking a tariff exclusion, says Gilmore. "Given USTR's smaller staff they do seem to look to ITA's analysts for support," he says. "This is pretty arcane stuff."

It doesn't help that Commerce itself has staffing shortages. According to the [Washington Post and the Partnership for Public Service](#), 29 percent of the political jobs at Commerce are either still pending before the Senate or don't even have nominees. The director of public affairs at the department's International Trade Administration, who CNN tried to contact for this story, is vacant.

No end in sight

What worries some in the industry is that undoing the Alaska pollock screw-up may be as challenging for the administration as getting it right the first time, at least as long as the current trade negotiations between the US and China continue.

Until then, Russian pollock remains in the grocery aisle. Conagra, the Chicago-based packaged foods giant, uses cheaper Russian pollock for its Van de Kamp's and Mrs. Paul's frozen food brands, but not in what it sells to restaurants, dining halls and school cafeterias. "We do not sell pollock through our food service channels," says Dan Hare, a spokesman for Conagra.

In addition, uninformed schools may continue to purchase cheaper fish sticks made from Russian pollock—hurting not just the domestic fishing industry but perhaps facilitating a violation of federal school lunch laws. The longstanding "Buy American" provision requires schools to use American-sourced food products whenever possible and feasible. Alaska's Sen. Sullivan fought to include in last year's farm bill a section directing the Secretary of Agriculture to "enforce full compliance" with Buy American.

As Sullivan [told](#) Alaska Public Radio in December, without full compliance, Russian-caught pollock processed in China has been sold in the US for purchase by school lunch programs.

"USDA is reviewing the recently passed bill and will work to efficiently implement its provisions now that our agency has reopened," according to an Agriculture Department statement sent to CNN on Jan. 29.

Neither US Foods nor Sysco, two of the largest food services companies in the United States, responded directly to questions about whether they provide Russian-caught pollock to school lunch programs.

"We offer a variety of products to our customers, however, the National School Lunch Act requires participating schools to comply with the 'Buy American' provision and the program is subject to monitoring by school food authorities and local agencies to help ensure compliance," said Sara Matheu of US Foods, when asked if the company sells Russian pollock to schools.

Sysco did not reply to multiple requests for comment.