

California's ban on shark fins doesn't stop the trade from passing through its ports

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Three years ago, a cargo container purportedly transporting thousands of pounds of pickles from Panama was placed on a Hong Kong-bound ship that stopped at the Port of Oakland on a chilly February night. Hundreds of rectangular containers were stacked on the giant vessel like Lego blocks, but state and federal wildlife agents knew there was something fishy about this one.

Inside, the agents found nearly 52,000 pounds of frozen shark fins, cut from an estimated 9,500 sharks. A cursory inspection revealed that some of the fins were from protected species that require permits to be legally traded. So officials seized the shipment, valued at just under \$1 million, making it one of the largest single shark fin seizures in U.S. history.

California may have banned the shark fin trade years ago, but the container is hardly the only one of its kind passing through the state's bustling ports: A recent report from the Natural Resources Defense Council estimated that hundreds of thousands of pounds of shark fins from Latin America transit West Coast and other U.S. ports each year, destined to land in a bowl of shark fin soup in Hong Kong and other Asian cities.

"We think we've just found the tip of the iceberg, and it's a little hard to say how big the iceberg is," said the report's author, Elizabeth Murdock, the San Francisco-based director of the environmental group's Pacific Oceans Initiative.

The wildlife agents and scientists waiting for the container in Oakland on Feb. 10, 2017, had been tipped off by U.S. Customs and Border Protection, whose agents had cracked open the container at the Port of Long Beach. An agency spokesperson declined to comment on what led to the container's initial inspection, but its contents were a far cry from the "cucumbers/gherkins" listed as the shipment's tariff code.

The fin trade is driven by the high demand for shark fin soup, a Chinese delicacy that has caused the value of fins to skyrocket to as much as \$500 a pound.

Historically, shark fins were scarce, and so too was the soup, which was reserved for the rich and powerful. But the rise of China's middle class in the last several decades led to increasing demand at big celebrations such as weddings and the Lunar New Year. The soup also became more popular as an exotic delicacy in foreign markets. California had the largest demand for shark fins outside of Asia until the Legislature banned them beginning in January 2013.

Former state Assemblyman Paul Fong, a Silicon Valley Democrat, led the effort to outlaw shark fins after seeing photos and videos of the practice of “finning,” which entails cutting off a shark’s fins and throwing the shark overboard to die.

“I thought it was really gruesome and horrific,” Fong said in a recent interview. “I knew they were doing that to millions of sharks.”

Congress banned finning in U.S. waters in 2000. But possessing shark fins is still legal in most U.S. states if the whole shark is harvested — as opposed to just its fins. Unfortunately, once part of a fin is in a bowl of soup, it’s virtually impossible to know how it got there.

California’s shark fin ban, signed into law by then-Gov. Jerry Brown in 2011, removed the state’s demand from the trade by making it illegal to possess, sell and buy shark fins. California and 12 Twelve other states now have similar bans.

Capt. Patrick Foy, a law enforcement officer for the California Department of Fish and Wildlife, said the ban is enforced by inspecting restaurants, markets and fishing vessels throughout the state. In the six months after the law went into full effect in July 2013, most of the citations issued by state wildlife agents were for minor violations. But in January 2014, agents busted a San Francisco fish vendor after they found 2,000 pounds of shark fins inside his business.

Foy said the seized product was worth at least \$200,000, but possibly up to half a million dollars. And while violating the shark fin ban is only a misdemeanor, the huge loss of a valuable product sent a message that trafficking in illegal shark fins is risky in California.

“I think it’s safe to say that the shark fin ban ... has significantly reduced the black market for shark fins” in California, he said.

But state laws don’t apply to products moving through U.S. ports, where a shipment’s legality largely depends on federal laws and international trade agreements.

Monitoring cargo has been a high priority since 9/11, when U.S. ports were found particularly vulnerable to terrorist attacks because of the constant flow of opaque, faceless containers — about 11 million of which arrive at our ports each year, according to U.S. Customs and Border Protection. The Cargo Security Initiative was enacted in 2002 to beef up security, establishing an automated system to identify high-risk containers with X-rays, gamma rays and other technologies.

The initiative also increased collaboration with officials at foreign ports to identify and prescreen containers before they’re put on U.S.-bound ships. But while this helps prevent terrorist attacks, it is unlikely to identify shipments of contraband like illegal shark fins.

International treaties such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or CITES, govern which species can be legally traded between countries. There are now 38 CITES-listed shark and ray species, many of which can still be traded with permits from the countries where they were harvested.

This differs from the outright ban on trade of products like elephant ivory, which are protected by the tightest CITES restrictions — a distinction that challenges enforcement officials at ports. To determine whether a shipment requires CITES permits, officials need to visually identify each species of shark from its fin, which requires specialized training and often needs to be verified with genetic testing.

No CITES permits were included with the container full of fins at the Port of Oakland. And by the time Special Agent Matt Martin of the U.S. Fish and Wildlife Service was staring at the 684 bags of frozen shark fins stuffed in the container, the only way to verify the shipment's legality was to pick it apart.

According to a U.S. Fish and Wildlife report on the investigation obtained by this news organization, Martin, aware that smugglers often conceal contraband in hard-to-reach spots, climbed over all the cargo to inspect the least accessible part of the container first. Sure enough, he found fins that seemed different from the legally traded blue shark fins near its entrance. A forensic wildlife scientist then identified them as being from smooth hammerhead sharks, a protected species that can be traded legally only if accompanied by a CITES permit.

Several days of digging through the container ensued, as federal agents and scientists pulled apart the frozen-together fins to determine what species were in the shipment. The arduous process was made even more unpleasant by the clinging odor of rancid shark fins.

"My vehicle hasn't smelled the same since," Martin said.

The seizure was a shining example of CITES enforcement working well, showing effective collaboration across state and federal agencies that dealt a blow to the illegal shark fin trade. But it was a rare one. The investigation revealed evidence of a larger shipment only months earlier in 2016, going from the same Panamanian supplier to the same destination in Hong Kong. But unlike its 2017 counterpart, the shipment was never seized.

Both containers also had the same tariff code, which investigators found was most likely caused by an error by the shipping company that owned the container, which had no motive to smuggle shark fins on behalf of the seafood companies involved. But the apparent attempt to hide the nine CITES-listed species in the container pointed to smuggling.

The U.S. Fish and Wildlife investigation also described the fins' complex journey from small fishing boats in Panamanian waters to the giant container ship that stopped in Oakland.

Each link in the supply chain provided an opportunity to dodge laws that would undercut profits. And the same seedy techniques that allow fin smuggling to proliferate might also aid more serious criminal trafficking.

The shark fins were first amassed on a transshipping vessel — a large ship that meets up with smaller fishing boats to relieve them of their catch so they can remain at sea — called the Victoria 168.

The ship Victoria 168 has a sordid history. In 2015, an American marine biologist named Keith Davis went missing at sea while working on the boat as a fisheries observer for the Florida-based consulting company MRAG Americas. Fisheries observers like Davis are tasked with ensuring that fish brought aboard are in accordance with international laws. Transshipping vessels like the Victoria 168 are mandated to have such observers on board by an international fisheries organization called the Inter-American Tropical Tuna Commission.

While Panamanian officials concluded that he simply fell off the boat, an investigation by Hakai magazine highlighted evidence that the Victoria 168 may have been involved in human trafficking. Images on Davis' phone and other evidence indicated he may have been killed because he witnessed illicit activities, the online Canadian magazine reported.

The story of Keith Davis reflects the knot of criminality that surrounds the shark fin trade. According to environmental advocacy groups like the Natural Resource Resources Defense Council, this shadow of illegality, which is responsible for crashing shark populations around the world, demands an immediate response.

One way to simplify enforcement in the U.S. would be for Congress to pass a shark fin ban similar to the one that already exists in California, making all fins illegal regardless of the species of shark. New Jersey Sen. Cory Booker introduced such a bill last March when he was still running for the Democratic presidential nomination.

The NRDC backs that approach in its report, arguing that it would reduce U.S. participation in the shark fin trade. But the group notes that the federal fin ban won't necessarily address the transport of fins through U.S. ports.

And some experts argue that a ban may have unintended negative consequences.

"It's actually going to remove one of the only sources of legal and sustainably harvested shark fins in the international fin trade," Debra Abercrombie, a shark conservationist based in Miami, said of the proposed ban.

She contends that a federal ban would punish law-abiding fishermen by requiring them to discard the most valuable part of their catch, wasting a part of the animal that could otherwise be consumed.

Abercrombie works as a consultant on shark and ray conservation initiatives internationally and in the U.S. She trains wildlife inspectors to differentiate fins of unprotected species from those that require CITES permits to be legally traded. And traveling around the world with her own fins from CITES-listed species, which she uses for training purposes, requires navigating the very customs laws she helps train officials to enforce.

The U.S. contribution of shark products to global markets is small, but sharks in U.S. waters are harvested sustainably from a well-managed fishery. Abercrombie said a fin ban wouldn't prevent other countries from participating in the trade, but may shift demand to other less regulated shark fisheries.

The NRDC report also urges the U.S. to tighten regulations, increase collaboration between federal and state agencies, and pressure countries where many fins are sourced to increase their own enforcement and fisheries management.

"If there were unlimited funds and unlimited enforcement, that would be great," Abercrombie said. "But the U.S. is already a leader in shark conservation, including with global initiatives."

Martin echoes Abercrombie, noting that state and federal wildlife enforcement agencies have traditionally been underfunded and understaffed. "You have to prioritize what you're going to look for," he said. "There's things going on other than shark fin trafficking in the world that we're trying to catch."

Martin said U.S. laws are unlikely to cripple the shark fin market. Much more effective, he said, would be tougher oversight by the nations where the sharks are fished — and stepping up efforts to reduce demand.

"Extra regulations are great and they might help a little bit," Martin said. "But I still have a job because people don't follow those regulations."

WildAid, a San Francisco-based conservation organization, has used advertising to dramatically decrease demand in China. In 2011, one of China's most famous celebrities, retired basketball player Yao Ming, appeared in a number of commercials highlighting the horrors behind shark fin soup.

That ad campaign, combined with other efforts, resulted in an 80% reduction in demand over the last decade, according to China's CITES management authority. China also banned shark fin soup from government banquets in 2012.

But WildAid says that demand is increasing in other Asian countries such as Indonesia, Thailand and Vietnam. And just like enforcement will never be perfect at regulating an expansive international trade, demand will likely never entirely go away.

"I'm very sympathetic to the fact this is a large task," the NRDC's Murdock said. "When you look at those photos of the containers lined up at the Port of Oakland, you get a sense of how big a task it is to find illegal anything in those containers."

But, she said, the search for illegal shark fins needs to be a higher priority.

"We know it's passing through" U.S. ports, Murdock said. "We should be looking."