



Southern Shrimp Alliance

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Submitted Electronically

Matthew Fraterman
Office of Child Labor, Forced Labor, and Human Trafficking (OCFT)
Bureau of International Labor Affairs
United States Department of Labor
200 Constitution Ave., NW
Room S-5315
Washington, DC 20210
Fraterman.matthew@dol.gov

Re: Comments on Efforts by Certain Foreign Countries to Eliminate the Worst Forms of Child Labor; Child Labor, Forced Labor, and Forced or Indentured Child Labor in the Production of Goods in Foreign Countries; and Business Practices to Reduce the Likelihood of Forced Labor or Child Labor in the Production of Goods (Docket No. DOL-2022-0008)

Dear Mr. Fraterman,

On behalf of the Southern Shrimp Alliance, we hereby provide information and comments on the three reports issued by the U.S. Department of Labor's Bureau of International Labor Affairs ("ILAB") regarding child labor and forced labor in certain foreign countries, consistent with ILAB's request.¹ Specifically, the comments herein address products originating in China, Thailand, and Vietnam that were not included in ILAB's 2022 *List of Goods Produced by Child Labor or Forced Labor*.²

The Southern Shrimp Alliance greatly appreciates ILAB's careful consideration of the public comments the agency receives regarding its reports. In the past few years, the Southern

¹ See Efforts by Certain Foreign Countries to Eliminate the Worst Forms of Child Labor; Child Labor, Forced Labor, and Forced or Indentured Child Labor in the Production of Goods in Foreign Countries; and Business Practices to Reduce the Likelihood of Forced Labor or Child Labor in the Production of Goods, 86 Fed. Reg. 60,200 (Department of Labor, Oct. 4, 2022).

² See <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods-print>.

Shrimp Alliance has expressed concerns regarding the prevalence of forced labor in the operations of distant water fishing fleets from certain countries³ and the continuing presence of child and forced labor in multiple export industries within India.⁴ Although ILAB has not agreed with all of the arguments presented by our organization, the agency's consideration of the issues raised in our correspondence was clearly reflected in the *2020 List of Goods Produced by Child Labor or Forced Labor*⁵ and in the *2022 List of Goods Produced by Child Labor or Forced Labor*.⁶

We write currently to express concern regarding documented forced labor practices in the supply chain for an essential input into shrimp aquaculture – fishmeal and fish oil (“FMFO”). The *2022 List of Goods Produced by Child Labor or Forced Labor* contained extensive explanation of ILAB's practice regarding the inclusion of inputs and downstream goods on its list.⁷ As the agency observed, “ILAB's mandate requires the TVPA to include, to the extent practicable, goods that are produced with inputs that are produced with forced labor or child labor.”⁸ This means that ILAB identifies and lists input goods that are produced through forced labor or child labor, investigates the use of these input goods in the production of downstream products, and lists any downstream good where there is a demonstration that the input has been used in its production.⁹ Where there is insufficient evidence tying the use of the input in the production of a downstream good, but there are general product categories that use such inputs and the production of these goods may face labor risks, ILAB will identify them as “downstream goods at risk.”¹⁰

For the purposes of the next scheduled update of the *List of Goods Produced by Child Labor or Forced Labor* in 2024, the Southern Shrimp Alliance requests that ILAB consider whether there is sufficient evidence to include FMFO products produced in China, Thailand, and Vietnam in the *2024 List of Goods Report* as an input produced through forced labor. Further, we believe that ILAB should consider whether, in addition to the listing of shrimp produced in Thailand as being produced through child labor and forced labor, it is appropriate to list shrimp produced in China and Vietnam as a downstream good incorporating inputs produced through forced labor or, at a minimum, include aquacultured seafood in China, Thailand, and Vietnam as downstream goods at risk.

³ See Letter from the Southern Shrimp Alliance to the Office of Child Labor, Forced Labor, and Human Trafficking (OCFT), Bureau of International Labor Affairs, United States Department of Labor (Jan. 13, 2020).

⁴ See Letter from the Southern Shrimp Alliance to the Office of Child Labor, Forced Labor, and Human Trafficking (OCFT), Bureau of International Labor Affairs, United States Department of Labor (Jan. 14, 2022).

⁵ See pp. 26, 33-34, 62-63, and 74-75.

⁶ See pp. 26, 30, and 80-81.

⁷ See p. 45.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

In its February 2021 report, *Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries*, Inv. No. 332-575, USITC Pub. 5168, the U.S. International Trade Commission (“ITC”) observed that illegal, unreported, and unregulated (“IUU”) “products are often used to make fishmeal and fish oil, products that aquaculture industries rely on for feed.”¹¹ Based on its analysis of available evidence on the record of the proceeding, the ITC concluded that “IUU marine-capture products used in feed ingredients are estimated to be equivalent to nearly 9 percent of the harvested weight of farmed seafood exported to the United States in 2019.”¹² The ITC summarized the substantial impact that feed, produced from wild-caught seafood, has as an input in the production of aquacultured seafood:

Aquaculture production is heavily reliant on feed. Aquaculture feed inputs (the food needed by farmed animals to grow to harvest weight) often incorporate capture-produced products, such as fishmeal and fish oil products derived from anchovy and other small pelagic fish. These small fish are often caught deliberately as inputs for the aquaculture supply chain. However, fishmeal and fish oil can also be produced from byproduct trimmings that are generated by industrial processing of capture fish destined for human consumption, or from fish that are caught as bycatch. For certain products, particularly larger carnivorous fish such as Atlantic salmon, the volume of captured product that is used in feed is greater than the amount of farmed product that is produced.¹³

Describing its construct of the methodological basis for the agency’s estimate of the amount of IUU products incorporated in farmed seafood imported into the United States in 2019, the ITC observed that IUU activities included the utilization of forced labor in the harvesting of the fish used in feed but that this did not encompass all categories of illegal activities implicated in aquaculture production:

The IUU capture of fish used as aquaculture feed inputs is only one type of violation that may occur in global aquaculture production. Labor violations in the aquaculture industry include not only those occurring in upstream marine capture fisheries, but also the processing of those inputs (from whole fish into derivative products that are then used in fishmeal and fish oil) as well as aquaculture outputs (such as the peeling of farm-raised shrimp).¹⁴

While the ITC’s analysis did not separate out FMFO produced through IUU fishing involving forced labor and FMFO produced without forced labor, the agency reviewed significant evidence regarding the role of forced labor in the harvesting of fish used to make FMFO. For example, discussing the commercial fishing industry in Thailand, the ITC observed:

¹¹ *Id.* at 11.

¹² *Id.*

¹³ *Id.* at 32 (footnote omitted).

¹⁴ *Id.* at 103 (footnote omitted).

IUU fishing and violations of labor laws in Thai waters and by Thai vessels outside the country's waters have been widely documented and acknowledged by the Thai government as a persistent issue in its industry. Over several decades, overfishing and overexploitation of Thai fish stocks has reduced catches in the Thai EEZ. This in turn has increased Thailand's need to source raw materials for its processing and aquaculture sectors outside of Thai waters, which has been linked to a higher risk of IUU fishing and labor violations on fishing vessels. In 2018, Thai authorities detained 22 Thai vessels and 67 foreign-flagged vessels in the Thai EEZ for suspected IUU fishing violations. Further, driven by the decline in valuable fish stocks in Thai waters, commercial Thai fishing vessels are reported to make incursions into neighboring waters, including Indonesian waters, to increase their catch, and many have been seized by local authorities for fishing without authorization.

Thailand has also been identified by the U.S. Department of Labor as having goods produced with forced and child labor, and it was ranked by the U.S. Department of State as a Tier 2 country in the 2019 Trafficking in Persons Report. Moreover, Thailand was classified as being at high risk of modern slavery by the Global Slavery Index on Fishing due to several factors. These included direct evidence that modern slavery occurs within Thailand as well as outside its own waters, where a high proportion of catch is taken at a greater than average distance from home waters; poor governance (high levels of unreported catch) in Thailand; and higher than average levels of fishing subsidies.¹⁵

Thailand, China, and Vietnam are reported to be the three largest fishmeal producers in Asia.¹⁶ The production of FMFO in these countries has increased dramatically due to greater demand for farmed seafood and a consequent surge in demand for quality protein in the form of fishmeal.¹⁷ ILAB's analysis of these three countries has appropriately identified risks of child labor or forced labor with respect to the commercial fishing industries in each. In fact, in ILAB's *2022 List of Goods Produced by Child Labor or Forced Labor*, "fish" from China and Thailand are listed as goods produced through forced labor, while "fish" from Vietnam is listed as a good produced through child labor.¹⁸

Thailand's Department of Fisheries reports that "[t]he industry of the fish meal production in Thailand are supplied by 2 groups of raw material namely trash fish (38%), and by products

¹⁵ *Id.* at 18-19 (footnotes omitted).

¹⁶ See "Fishmeal and Fish Oil: Production and Trade Flows in the E.U.," *European Market Observatory for Fisheries and Aquaculture Products* (Sept. 2021).

¹⁷ See Nicki Holmyard, "Driving change in South East Asian trawl fisheries, fishmeal supply, and aquafeed," *The Marine Ingredients Organisation and the Global Aquaculture Alliance* (March 2019) at 2-4.

¹⁸ See *2022 List of Goods Produced by Child Labor or Forced Labor* at 25, 28.

from fish processing (62%) for aquatic animals feed production.”¹⁹ Thailand and Vietnam have similar FMFO industries in which they have concentrated fishmeal plants near their shores for trash fish processing and both export these products to multinational companies such as CP Foods.²⁰

According to a report published by the Guardian, one escapee from a Kantang fishing vessel revealed that a major proportion of the boat’s catch were of trash fish used in FMFO production.²¹ The escaped fisherman, along with other Burmese men, had been sold to a boat trawling in international waters, catching trash fish that was “later ground into fishmeal for Thailand’s multibillion-dollar farmed prawn industry.”²²

A report by the Environmental Justice Foundation (EJF) looked into the operations Vietnamese commercial fishing vessels working illegally in Thai waters.²³ EJF documented “several incidences of child labour on board Vietnamese vessels, with the youngest worker only 11 years old.”²⁴ The report described the harsh reality of forced child labor on these Vietnamese boats:

These children are often related to the captain or other crewmembers but are still expected to work on the vessel, with the promise of a meagre wage on their return to shore. Many of the children EJF has spoken to reported that they no longer attended or would choose to go fishing over school in order to help support their families. Living and working conditions on board these fishing vessels are already fraught with danger - with fishing being listed as one of the most dangerous professions in the world by the FAO and ILO. Crew testimonies from these Vietnamese vessels reveal consistently harsh work environments with often low-

¹⁹ Thailand Department of Fisheries, “Thailand’s Progress on Combating IUU Fishing and Labour Issues towards Fisheries Sustainability,” (Feb. 10, 2022), https://www4.fisheries.go.th/dof_en/view_news/426

²⁰ See “Fishing for Catastrophe: The risk to aquaculture and retailers from the production of fishmeal and fish oil to feed farmed seafood,” *The Changing Markets Foundation*, http://changingmarkets.org/wp-content/uploads/2020/02/Fishing_for_Catastrophe_Investor_Briefing.pdf. See also Kate Hodal and Chris Kelly, “Trafficked into slavery on Thai trawlers to catch food for prawns,” *The Guardian* (Jun. 10, 2014), <https://www.theguardian.com/global-development/2014/jun/10/-sp-migrant-workers-new-life-enslaved-thai-fishing>

²¹ See Kate Hodal and Chris Kelly, “Trafficked into slavery on Thai trawlers to catch food for prawns,” *The Guardian* (Jun. 10, 2014), <https://www.theguardian.com/global-development/2014/jun/10/-sp-migrant-workers-new-life-enslaved-thai-fishing>

²² *Id.*

²³ See “Caught in the Net: Illegal Fishing and Child Labour in Vietnam’s Fishing Fleet,” *Environmental Justice Foundation* (Nov. 2019), <https://ejfoundation.org/resources/downloads/ReportVietnamFishing.pdf>

²⁴ *Id.* at 4.

quality food and water, gruelling working hours for little pay, and squalid, cramped sleeping quarters.²⁵

With respect to China, while some of the fishmeal produced in the country comes from the by-products of fish processing, most Chinese fishmeal is made from what are commonly referred to as trash fish.²⁶ Greenpeace East Asia found that one-third of China's commercial fisheries catch is trash fish, equalling about 4 million tonnes out of a total harvest of 13 million tonnes of fish,²⁷ an amount exceeding the landings of all of Japan's commercial fishing vessels.²⁸ Chinese trawlers account for about half of China's total commercial fisheries harvest and are the most common of the vessels in the distant water fishing fleet.²⁹ For these boats, trash fish account for roughly half of all of the fish landed.

Forced labor has been documented on these vessels. For example, on one trawler operated by a Chinese company called Qingdao Tanfeng Ocen Fishery, worker Lamin Jarju told an interviewer that he was treated like a dog.³⁰ The fishermen reported that the Chinese captain had hired more workers than the ship could accommodate, resulting in terrible living conditions on board.³¹ Investigators found clear signs of labor abuse on these Chinese ships:

On one Chinese-owned vessel, there weren't enough boots for the deckhands, and one Senegalese worker was pricked by a catfish whisker while wearing flip flops. His swollen foot, oozing from the puncture wound, looked like a rotting aubergine. On another ship, eight workers slept in a space meant for two, a four-foot-tall steel-sided compartment directly above the engine room and dangerously hot. When high waves crashed onboard, the water flooded the makeshift cabin, where, the workers said, an electrical power strip had twice almost electrocuted them.³²

As ILAB is acutely aware, numerous incidents of forced labor have been reported aboard Chinese fishing vessels. The *2022 Trafficking in Persons Report* published by the U.S.

²⁵ *Id.* at 4.

²⁶ See Annie Rueter, Melanie Woods, Oscar Beardmore-Gray and Ryan Patrick Jones, "Fishmeal," *Global Reporting Program* (2020), <https://globalreportingprogram.org/fishmeal/>

²⁷ See "Almost one third of China's annual fisheries catch is 'trash' fish – Greenpeace," *Greenpeace East Asia* (Jul. 31 2017), <https://www.greenpeace.org/eastasia/press/1163/almost-one-third-of-chinas-annual-fisheries-catch-is-trash-fish-greenpeace/>

²⁸ *See id.*

²⁹ *See id.* See Miren Gutiérrez, Alfonso Daniels, Guy Jobbins, Guillermo Gutiérrez Almazor and César Montenegro, "China's distant-water fishing fleet. Scale, impact and government," *The Overseas Development Institute* (Jun. 2020) at 16, https://cdn.odi.org/media/documents/chinesedistantwaterfishing_web.pdf

³⁰ See Ian Urbina, "The factories turning West Africa's fish into powder," *The British Broadcasting Corporation* (Mar. 23, 2021), <https://www.bbc.com/future/article/20210323-the-factories-turning-west-africas-fish-into-powder>

³¹ *See id.*

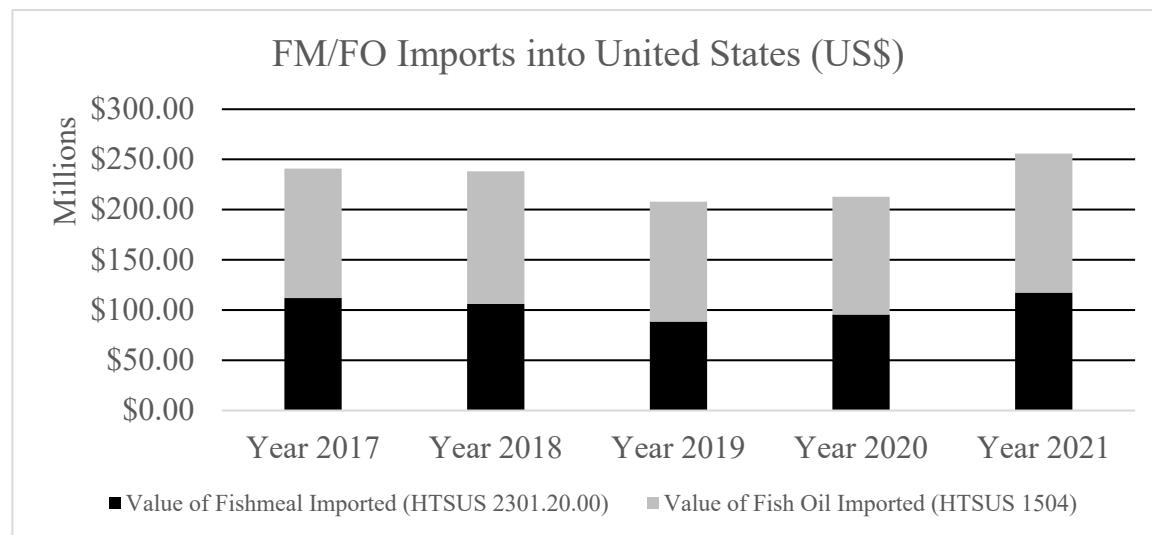
³² *Id.*

Department of State (“State Department”) discusses several incidents of actors within the Chinese commercial fishing industry abusing vulnerable populations and migrant workers:

African and Asian men reportedly experience conditions indicative of forced labor aboard PRC-flagged and PRC national-owned, foreign-flagged fishing vessels operating worldwide in the PRC’s [Distant Water Fishing Fleet (“DWF”)]; men from other regions may be in forced labor aboard these vessels as well.³³

The State Department’s report also discusses other labor practices indicative of forced labor including abusive contract provisions that featured “worker-paid fees driving indebtedness to unregistered brokers.”³⁴ As the agency notes, insufficient government oversight led to “PRC fishermen subjected to forced labor were generally unable to report abuses to local authorities or access protection services when returning to the PRC.”³⁵

In the United States, domestic aquaculture producers appear to utilize FMFO supply chains that do not raise risks of forced labor. As shown in the chart below, official U.S. import statistics indicate that this country imports around \$250 million in FMFO products annually.³⁶



Virtually all of these imports of FMFO were from sources other than China, Thailand, and Vietnam. In fact, in 2021, of the \$256 million in FMFO imports, just \$1.2 million of that total was sourced from China (\$1.1 million), Vietnam (\$0.1 million), or Thailand (none). Thus, in contrast

³³ “Trafficking in Persons Report,” *The U.S. Department of State* at 174 (Jul. 2022).

³⁴ *Id.*

³⁵ *Id.* at 173.

³⁶ Official U.S. import data was obtained from the U.S. International Trade Commission’s *Dataweb*. Fishmeal import’s custom value numbers are tabulated from Harmonized Tariff Schedule of the United States (HTSUS) number 2301.20.00. Fish oil import’s custom value numbers are tabulated from HTSUS number 1504.

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to their foreign competitors, the supply chains for U.S. aquaculture producers do not appear to present significant forced labor risks.

As noted above, the Southern Shrimp Alliance's review of labor conditions in FMFO production in China, Thailand, and Vietnam indicates that this is an input that is produced through forced labor. As ILAB considers updates for the purposes of publishing the *2024 List of Goods Produced by Child Labor or Forced Labor*, the domestic shrimp industry requests that the agency further investigate the production of this input in these three countries as well as the downstream goods that utilize this input.

Thank you for any consideration you may provide to these comments and the supporting information referenced herein. I am available to address any questions you might have regarding this correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "John Williams". The signature is fluid and cursive, with a large initial "J" and "W".

John Williams
Executive Director