



Southern Shrimp Alliance

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Austin Pedersen & Chanda Uluca
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

Re: Comments on Child Labor, Forced Labor, and Forced or Indentured Child Labor in the Production of Goods in Foreign Countries and Efforts by Certain Foreign Countries to Eliminate the Worst Forms of Child Labor (Docket No. DOL-2019-0005)

Dear Mr. Pedersen and Ms. Uluca,

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 ILAB's (incomplete) discussion of various seafood products in the U.S. Department of Labor's *2018 List of Goods Produced by Child Labor or Forced Labor (Required by the Trafficking Victims Protection Reauthorization Act of 2005)* ("2018 List of Goods Report").²

The continued use of forced and child labor in the foreign production of seafood exported to the United States has a significant detrimental impact on the U.S. commercial seafood industry, including shrimp fishermen. For this reason, the Southern Shrimp Alliance offers these comments in the hopes of augmenting the federal government's response to the corruption of seafood supply chains through forced labor and child labor.

¹ See Child Labor, Forced Labor, and Forced or Indentured Child Labor in the Production of Goods in Foreign Countries and Efforts by Certain Foreign Countries to Eliminate the Worst Forms of Child Labor, 84 Fed. Reg. 53,474 (Department of Labor, Oct. 7, 2019).

² See <https://www.dol.gov/sites/dolgov/files/ILAB/ListofGoods.pdf>.

Background on the Southern Shrimp Alliance

Founded in 2002, the Southern Shrimp Alliance is an organization of shrimp fishermen, farmers, processors, unloading docks, and associated shoreside businesses in the coastal states of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas. We are committed to enhancing the long-term viability of one of the nation’s most valuable commercial fisheries and delivering a healthy, wholesome food product to the American public. A thriving U.S. shrimp industry supports thousands of small and medium-sized family-run enterprises and is a vital contributor to the economies of dozens of communities.

For roughly two decades, the Southern Shrimp Alliance has worked to improve the industry’s understanding of how international trade impacts the prices fishermen receive at the dock. To that end, we have focused on educating the public on non-market distortions of international trade, such as the unregulated use of antibiotics in aquaculture; export and fishery subsidies; illegal, unreported, and unregulated (“IUU”) fishing; market access limitations in other importing nations; as well as weak environmental standards in foreign countries. The continued existence of forced and child labor in seafood supply chains similarly distorts international trade.

Seafood Products Included (or Not Included) on the TVPRA List

ILAB has long recognized the vulnerability of seafood supply chains to labor abuse. As explained in the agency’s *2018 List of Goods Report*, “ILAB added seven seafood-related goods to the initial [*Trafficking Victims Protection Reauthorization Act* (“TVPRA”)] list published in 2009, including both Thai and Burmese shrimp produced by foreign labor.³ In ILAB’s most recent list, “fish” was identified as one of the goods with the most child labor and forced labor listings by number of countries.⁴ When listed fishery products are consolidated – comprising seven different seafood products from eighteen different countries – seafood accounts for the third most child and forced labor listings by number of countries, trailing only “gold” and “bricks.”⁵

Good	Child Labor	Forced Labor	Child Labor & Forced Labor
Dried Fish			Bangladesh
Fish	Brazil, Cambodia, Kenya, Paraguay, Peru, Philippines, Uganda, Vietnam, Yemen	Thailand	Ghana, Indonesia
Lobsters	Honduras		
Nile Perch (fish)	Tanzania		
Shellfish	El Salvador, Nicaragua		
Shrimp	Bangladesh, Cambodia	Burma	Thailand
Tilapia (Fish)			Ghana

³ *2018 List of Goods Report* at p. 42, Box 11.

⁴ *See id.* at 16 (behind “gold,” “bricks,” “sugarcane,” “cotton,” “coffee,” “tobacco,” and “cattle”).

⁵ *See id.* at 11-14.

Over the past two decades, beyond identifying and listing seafood goods produced through forced and/or child labor, ILAB has additionally extensively supported civil society organizations in combatting labor abuses in the commercial fishing sector in a large number of countries, “including in Bangladesh, Cambodia, Ghana, Honduras, Haiti, Indonesia, [the] Philippines and Thailand.”⁶ Based in important part on these efforts, “more governments now have a greater understanding of the issue and are beginning to act. They are extending protections to migrant fishers working on their vessels and instituting joint inspections so that labor issues can be checked even when Labor Ministries do not have a mandate to inspect vessels.”⁷

Forced and child labor potentially corrupts seafood supply chains at both the harvest level (both wild-caught and farmed) and at the processing level (both at-sea and shoreside). ILAB’s recognition of the prevalence of child and/or forced labor in the shrimp processing sectors in both Bangladesh and Thailand has drawn needed attention to the susceptibility of “pre-processing” contract workers to exploitation through child and forced labor practices. Moving ahead, the Southern Shrimp Alliance looks forward to working with ILAB and others to document and address the proliferation of contract “pre-processing” activities, with attendant increases in the vulnerability of “pre-processing” contract workers, in the Indian shrimp industry.

However, as an organization of commercial fishermen, we also recognize the incredible vulnerability of commercial fishery workers to forced labor. ILAB correctly and appropriately acknowledges in the *2018 List of Goods Report* that “[w]orkers at sea are among the world’s most vulnerable.”⁸ As explained in the *2018 List of Goods Report*, over the last ten years substantially more information has become available regarding forced labor abuses in the commercial fishing industries operating overseas.⁹

The agency’s listing of products plays a seminal role in the private sector’s ability to effectively evaluate risk – and subsequently address – forced and child labor in seafood supply chains. In the *2018 List of Goods Report*, ILAB identifies a number of seafood-specific consumer-, purchaser-, and supplier-facing tools that rely upon the agency’s listings:

Civil society groups and the private sector are creating tools to help the sector combat labor abuses, several of which incorporate the TVPRA List into their methodology or resource lists. For example, the ResponsibleSourcingTool.org is a suite of tools that provide guidance to companies on how to develop compliance plans to address and prevent human trafficking in their supply chains. Its Seafood Compliance Tool 4: Risk Assessment Guidance for the Seafood Supply Chain draws on the TVPRA List as its source of documented incidences of forced labor in the industry. The Seafood Slavery Risk Tool, which rates the likelihood that forced labor, human trafficking, or hazardous child labor is occurring within a fishery, and

⁶ *Id.* at p. 42, Box 11.

⁷ *Id.*

⁸ *2018 List of Goods Report* at p. 42, Box 11.

⁹ *See id.*

the Labor Safe Screen, which helps client trace seafood supply chains and focus on the riskiest fisheries, also use the TVPRA List as a key source of data.¹⁰

For our own part, the Southern Shrimp Alliance encourages shrimp purchasers to check their suppliers for forced labor concerns through ILAB's reports, as well as through the "Sweat & Toil" app and through the agency's "Comply Chain."¹¹

For these reasons, the incomplete nature of ILAB's inclusion of seafood products known to be produced through forced and/or child labor is both surprising and deeply troubling. As others have recently observed in correspondence to ILAB, "[w]hile several countries have been listed in your report for forced labor produced seafood, some of the worst offenders are conspicuously missing."¹² Citing communications with agency officials, these groups assert that ILAB has adopted a policy of only considering seafood harvested within a nation's Exclusive Economic Zone ("EEZ") as eligible for inclusion on its lists.¹³ If accurate, the administration of such a policy would mean that the agency has – without a statutory basis – created two massive categories of seafood-specific exemptions for goods produced through forced or child labor from ILAB's reporting obligations.

First, any goods produced through forced or child labor on vessels operating in international waters are considered exempt from inclusion on the TVPRA List. Under this category of exemption, while a commercial fishing industry of one country working within that nation's EEZ would be subject to listing because of the prevalence of forced labor on fishing vessels, another commercial fishing industry from that same country using the same forced labor practices would not be listed if its operations were beyond the EEZ, in international waters.

Second, any goods produced through forced or child labor on foreign-flagged vessels operating in another country's EEZ are considered exempt from inclusion on the TVPRA List. Under this category of exemption, if two vessels work side-by-side within a nation's EEZ – one foreign-flagged and the other flagged in-country – with their seafood entering international commerce through the same supply channels, ILAB has construed its TVPRA obligations as

¹⁰ *Id.*

¹¹ See <https://www.shrimpalliance.com/take-action/foreign-food-safety-resources/forced-labor/>.

¹² Letter from the American Federal of Labor-Congress of Industrial Organizations (AFL-CIO), Coalition of Immokalee Workers, Environmental Justice Foundation, FishWise, The Freedom Fund, Freedom United, Gavin McDonald (Project Researcher, The Environmental Markets Solutions Lab, University of California, Santa Barbara), Greenpeace USA, Human Rights Watch, International Labor Rights Forum, International Pole & Line Foundation, International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations, Liberty Shared, Minderoo Foundation, NAECO, Natural Resources Defense Council, Oxfam, Pergerakan Pelaut Indonesia, Serikat Buruh Migran Indonesia, Serve the People Association, Taiwan Association for Human Rights, Taiwan International Workers' Association, Whole Foods Market, and Yilan Migrant Fishermen's Union to Marcia Eugenio, Director, Office of Child Labor, Forced Labor, and Human Trafficking, U.S. Department of Labor Bureau of International Labor Affairs (Dec. 17, 2019), available at: https://www.greenpeace.org/usa/wp-content/uploads/2019/12/GPUS-Letter-to-ILAB_12.17.19_FINAL.pdf; attached here as **Appendix 1**.

¹³ See *id.* at 8, n. iii.

applicable only to the vessel flagged in-country and ignores any forced or child labor that may be taking place on the foreign-flagged vessel.

As should be self-evident, this approach is devoid of a rational basis. Moreover, nothing in the statutory language mandating that ILAB create and maintain the TVPRA List supports this narrow construction. Section 105(b)(2)(C) of the Trafficking Victims Protection Reauthorization Act of 2005 requires ILAB “to develop and make available to the public a list of goods from countries that the Bureau of International Labor Affairs has reason to believe are produced by forced labor or child labor in violation of international standards . . .” The final procedural guidelines published by ILAB in the *Federal Register* define the term “countries” as meaning “any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands,” and define the term “Produced” as meaning “mined, extracted, harvested, farmed, produced, created, and manufactured.”¹⁴ Thus, the statutory formulation, coupled with the ILAB’s adopted regulatory definitions, indicate that the agency is required to broadly list all goods produced by forced labor or child labor.

In contrast to the agency’s current practice, a broad approach would be consistent with ILAB’s obligations under Section 105(b)(2)(E) to work with other federal agencies “to ensure that products made by forced labor and child labor in violation of international standards are not imported into the United States.” There is no reasonable basis to dispute that seafood harvested through forced labor in international waters or by foreign-flagged vessels in other countries’ EEZs is at risk of entering the U.S. market through importation. Despite ILAB’s apparent determination to exempt these seafood products from its TVPRA List, last year U.S. Customs and Border Protection (“CBP”) issued a withhold release order on seafood products harvested from a fishing vessel operating beyond its home nation’s EEZ based on information indicating that the relevant goods were produced through forced labor. In the agency’s press release,¹⁵ reproduced below, CBP explained that it had obtained information indicating that tuna harvested by the vessel Tunago No. 61 was being produced through forced labor:

CBP Issues Detention Order on Tuna Harvested by Forced Labor Aboard the Tunago No. 61

Release Date: February 6, 2019

WASHINGTON—On February 4, 2019, U.S. Customs and Border Protection issued a withhold release order against tuna and tuna products from the Tunago No. 61 based on information obtained by CBP indicating tuna is harvested with the use of forced labor. The order is effective immediately as of the date of issuance.

¹⁴ Notice of Procedural Guidelines for the Development and Maintenance of the List of Goods from Countries Produced by Child Labor or Forced Labor, 72 Fed. Reg. 73,374, 73,378 (Department of Labor, Dec. 27, 2007).

¹⁵ Available at: <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-detention-order-tuna-harvested-forced-labor-aboard-tunago>.

The order will require detention at all U.S. ports of entry of tuna and any such merchandise manufactured wholly or in part by the Tunago No. 61. Importers of detained shipments are provided an opportunity to export their shipments or demonstrate that the merchandise was not produced with forced labor. . . .

Beyond its departure from Congress' clear intent, ILAB's category exemptions for certain seafood from the TVPRA List is grossly inconsistent with the federal government's broad recognition of the prevalence of slavery in certain seafood supply chains, particularly as originating from distant water fishing fleets. In a recent report to Congress, NOAA Fisheries acknowledged that:

A growing body of evidence documenting severe labor rights abuses and exploitation on board fishing vessels has led to calls for greater international attention to labor and other social welfare concerns in the fishing sector. These reports document that some fishermen, many of them migrant workers, are subjected to labor rights abuses, including forced labor, on board fishing vessels.¹⁶

Consistent with ILAB's recognition that "[w]orkers at sea are among the world's most vulnerable,"¹⁷ NOAA Fisheries' report to Congress recognized the immense vulnerability of workers on board vessels in distant water fishing fleets:

According to the International Labor Organization (ILO), workers in fisheries and aquaculture operations are particularly vulnerable to labor-related misconduct due to isolated workplaces and length of time at sea, which physically restricts workers' abilities to leave or escape abusive situations. Additionally, workers in this industry experience non-physical forms of coercion, such as debt bondage, and many victims are migrant workers who have had their possession of or access to identity documents taken away from them, making it difficult to leave their exploitative workplaces. Severe physical abuse and acts of violence – including murder – perpetrated by ship captains further compel many victims to remain in conditions of servitude. Detection and enforcement of criminal laws prohibiting this form of abuse is complicated by overlapping jurisdictions, language barriers, and inconsistent legal frameworks inherent in transnational fishing operations.¹⁸

Because of this severe vulnerability, "[t]he United Nations has underscored the severity of labor issues in fisheries, and encouraged nations, both individually and collectively, to combat forced labor in the seafood sector."¹⁹

¹⁶ NOAA Fisheries, *Improving International Fisheries Management: 2019 Report to Congress* (Sept. 2019) at 77 ("*NOAA Fisheries 2019 Report*"), available at: <https://www.fisheries.noaa.gov/feature-story/noaa-fisheries-releases-report-congress-identifying-three-nations-reported-iuu-fishing>.

¹⁷ *2018 List of Goods Report* at p. 42, Box 11.

¹⁸ *NOAA Fisheries 2019 Report* at 77.

¹⁹ *Id.*

In a 2016 report addressing the national security risks posed by the proliferation of IUU fishing, the National Intelligence Council similarly recognized the risk of forced labor in distant water fishing fleets:

IUU fishing also acts as a vector for human trafficking in the form of forced labor, particularly for boats that remain at sea for long periods of time, according to a nongovernmental organization. Fisheries workers are often poorly-paid migrant workers operating under poor labor conditions, and are sometimes abused and forced to remain at sea, according to nongovernmental organization and open-source reports. In many places, declining catches from overfishing increases pressure to reduce fishers' costs by exploiting cheap labor. Many labor migrants are inexperienced fishers, exacerbating the dangers and difficult conditions found in most forms of industrial fishing. Long-haul fishing vessels—those operating at sea for a month or more—have been accused of having particularly acute labor abuses, according to UN and nongovernmental reporting. A survey in 2013 by the International Labor Organization, for example, found that 25 percent of workers on long haul fishing ships in Thailand were not working willingly.²⁰

Furthermore, when the agency adopted procedural guidelines for listing goods from countries produced by child labor or forced labor, ILAB emphasized that it “consults such sources as DOL’s *Findings on the Worst Forms of Child Labor*; the Department of State’s annual *Country Reports on Human Rights Practices* and *Trafficking in Persons Reports* . . .”²¹ But the U.S. Department of State’s (“State Department”) most recent *Trafficking in Persons Report (June 2019)*,²² extensively identifies forced labor in commercial fishing operations that are not reflected in ILAB’s TVPRA List. The State Department’s reporting is explicitly and specifically tied to vessels from individual countries operating in the waters of other nations or on the high seas. For example, discussing China, the State Department’s report observes:

African and Asian men reportedly experience conditions indicative of forced labor aboard Chinese-flagged fishing vessels operating in the Atlantic Ocean; men from other regions may be in forced labor aboard these vessels as well.²³

²⁰ National Intelligence Council, *Global Implications of Illegal, Unreported, and Unregulated (IUU) Fishing* (Sept. 2016) at 16, available at: <https://www.dni.gov/index.php/newsroom/reports-publications/reports-publications-2016/item/1630-global-implications-of-illegal-unreported-and-unregulated-iuu-fishing>.

²¹ Notice of Procedural Guidelines for the Development and Maintenance of the List of Goods from Countries Produced by Child Labor or Forced Labor, 72 Fed. Reg. 73,374 (Department of Labor, Dec. 27, 2007).

²² U.S. Department of State, *Trafficking in Persons Report (June 2019)*, available at: <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

²³ *Id.* at 143.

Similarly, discussing the Republic of Korea, the *Trafficking in Persons Report (June 2019)* explains:

Traffickers exploit foreign workers on fishing vessels registered and operated by South Koreans. South Korea is a transit point for Southeast Asian fishermen subjected to forced labor on fishing ships bound for Fiji and other ports in the Pacific. Foreign fishermen aboard small fishing vessels operating beyond the purview of the government or owners' cooperatives are vulnerable to exploitation, including forced labor.²⁴

The *Trafficking in Persons Report (June 2019)*'s most comprehensive discussion of forced labor in the production of seafood, however, relates to Taiwan. In particular, although the State Department noted that some improvements had taken place in the government of Taiwan's response to slavery in its commercial fishing fleet, "separation of purview between the Ministry of Labor (MOL) and the Fisheries Agency (FA), coupled with insufficient inspection protocols, continued to impede efforts to address forced labor on Taiwan-flagged and -owned fishing vessels in the highly vulnerable Distant Water Fleet (DWF)."²⁵ The State Department catalogued the ways in which fishermen in Taiwan's DWF were enslaved and coerced to work:

Documented and undocumented Chinese, Indonesian, Filipino, and Vietnamese fishermen working on Taiwan-owned and -flagged fishing vessels experience non- or under-payment of wages, long working hours, physical abuse, lack of food or medical care, denial of sleep, and poor living conditions while indebted to complex, multinational brokerage networks. Migrant fishermen have reported senior crewmembers employ such coercive tactics as threats of physical violence, beatings, withholding of food and water, and wage deductions to retain their labor. These abuses are particularly prevalent in Taiwan's DWF, comprising over 2,000 Taiwan-owned and -flagged fishing vessels operating thousands of miles from Taiwan and without adequate oversight. Senior crew force migrant workers to fish illegal stock, including threatened, endangered, and protected species, placing them at higher risk of criminal repercussions. Many ships remain at sea for years at a time, selectively disabling their transponders and stopping at "refrigeration mother ships" or remote, uninhabited islands to resupply, transfer victims to other ships, and offload illegally caught fish while avoiding detection by law enforcement.²⁶

In response to these exhaustive observations, the State Department set out detailed recommendations to address human trafficking in Taiwan, with a heavy emphasis on the distant water fishing fleet:

Increase efforts to prosecute and convict traffickers under the anti-trafficking law. •
Sentence convicted traffickers to adequate penalties, which should include

²⁴ *Id.* at 277.

²⁵ *Id.* at 445.

²⁶ *Id.* at 448.

significant prison terms. • Increase inspections and, where appropriate, prosecute the senior crew and owners of Taiwan-owned and -flagged fishing vessels suspected of forced labor in the Distant Water Fleet. • Conduct comprehensive, victim-centered interviews to screen foreign fishing crewmembers for forced labor indicators during portside and at-sea vessel inspections, and ensure these interviews take place away from the main vessels, separate from vessel senior crew, and with the assistance of a qualified interpreter. • Train maritime inspection authorities on victim identification, referral, and law enforcement notification procedures. • Reduce the incidence of debt-based coercion among migrant workers in Taiwan by amending relevant policies and legislative loopholes to eliminate the imposition of all recruitment and service fees on workers, and by coordinating with sending countries to facilitate direct hiring. • Strengthen efforts to screen for trafficking among individuals returned to Taiwan in connection with alleged overseas criminal activity, and among foreign workers falling out of visa status within Taiwan after fleeing abusive working conditions and/or surrendering to immigration authorities under the voluntary departure program, and refer them to protective services accordingly. • Allocate increased resources for and streamline the maritime inspection process by requiring Distant Water Fleet vessels to use standard international maritime call signs, and by registering all Taiwan-owned and -flagged fishing vessel names, licenses, authorized operation areas, and foreign-hired crew manifests in a single, standardized database system. • Clearly define roles and responsibilities for, and increase coordination between, the agencies that oversee Taiwan-owned and -flagged fishing vessels. • Enact legislation that would address gaps in basic labor protections for household caregivers and domestic workers. • Extend trafficking victim identification authority to social workers and labor inspectors. • Improve the effectiveness of anti-trafficking training for prosecutors and judges. • Strengthen efforts to publicize the foreign worker trafficking hotline number among migrant crewmembers of Taiwan-owned and -flagged fishing vessels.²⁷

In addition, the State Department's reporting makes clear that Chinese, Korean, and Taiwanese vessels (as well as those from other nations operating distant water fishing fleets) harvesting seafood through forced labor are operating in the EEZs of other nations across the expanse of the planet, with specific examples discussed from Uruguay, the Solomon Islands, and Tanzania. Discussing Uruguay, the *Trafficking in Persons Report (June 2019)* explains:

Foreign workers aboard Taiwan and Chinese-flagged fishing vessels in Uruguay's waters and docked at the Montevideo port may be subjected to abuses indicative of forced labor, including unpaid wages, confiscated identification, and physical abuse, and rumors of murder at sea were common. Since 2013, one dead crewmember per month from these vessels has been recorded.²⁸

²⁷ *Id.* at 445.

²⁸ *Id.* at 493.

With respect to the Solomon Islands, the State Department reports:

Fishermen from Indonesia, the Philippines, Vietnam, Sri Lanka, the Democratic People's Republic of Korea, and Fiji have reported situations indicative of labor trafficking, including non-payment of wages, severe living conditions, violence, and limited food supply, on Taiwan-flagged fishing vessels in the Solomon Islands' territorial waters and ports.²⁹

And with respect to Tanzania, the *Trafficking in Persons Report (June 2019)* observes:

In 2017, an NGO reported that 14 Indonesian trafficking victims were identified aboard a Malaysian-flagged fishing vessel and in 2018, another NGO reported that 12 Tanzanian trafficking victims were identified aboard a Chinese-flagged fishing vessel, both in Tanzanian territorial waters; there were no further reports indicating whether these victims were assisted or whether the government undertook law enforcement efforts to address these cases of trafficking.³⁰

Further, the *Trafficking in Persons Report (June 2019)* documented a number of other countries where foreign-flagged fishing vessels using forced labor operated without specific identification of the country-of-origin of those vessels, including Seychelles, Jamaica, New Zealand, Timor Leste, South Africa, and Palau.³¹

In light of the extensive treatment afforded by the State Department to the prevalence of forced labor practices in these fishing fleets, ILAB's failure to include the goods produced by the operations of industries from these countries on the TVPRA List is difficult to understand, let alone justify. If nothing else, ILAB's indifference to goods produced by forced labor in international waters as well as goods produced by forced labor on foreign-flagged vessels in the EEZs of other nations substantially undermines the utility of the TVPRA List.

Accordingly, the Southern Shrimp Alliance requests that ILAB modify and correct its practice to now make the TVPRA List inclusive of all seafood harvested through forced and/or child labor regardless of where that seafood is harvested. If the agency does not believe that a change in its approach is warranted, in its reports, ILAB should explicitly set forth the basis for

²⁹ *Id.* at 424.

³⁰ *Id.* at 453.

³¹ *Id.* at 413 (“NGOs report migrant workers also face exploitative conditions in fish processing plants, and fishermen aboard foreign-flagged fishing vessels in Seychelles’ territorial waters and ports are subjected to abuses indicative of forced labor, including nonpayment of wages and physical abuse.”); *id.* at 262 (“Traffickers subject foreign nationals to forced labor in Jamaica and aboard foreign-flagged fishing vessels operating in Jamaican waters.”); *id.* at 349 (“Foreign workers aboard foreign-flagged fishing vessels in New Zealand waters are vulnerable to forced labor.”); *id.* at 460 (“Traffickers exploit foreign fishing crews as forced labor on foreign-flagged vessels that transit Timor-Leste waters.”); *id.* at 428 (“Traffickers exploit foreign male victims aboard fishing vessels in South Africa’s territorial waters; NGOs estimated 10 to 15 victims of labor trafficking disembark each month in Cape Town.”); and *id.* at 371 (“Foreign workers on fishing boats in Palauan waters also experience conditions indicative of human trafficking.”).

this interpretation in order to facilitate Congressional oversight. To date, ILAB appears to have issued no public statement indicating that the agency has implemented category exemptions from its TVPRA List responsibilities.

There Is Extensive Evidence of Forced Labor in the Production of Seafood Goods that Is Not Reflected in ILAB's Lists

The issue of how to treat seafood harvested by vessels in the high seas and foreign-flagged vessels in other countries' EEZs is squarely presented to ILAB because there is extensive, well-documented evidence of forced labor in distant water fishing fleets around the world. Consistent with the guidelines adopted by ILAB, the nature, date, and source of this information, as well as the overwhelming corroboration of this evidence, demonstrates that the incidence of forced labor practices in the production of fish and other seafood products in multiple distant water fishing fleets is significant and, as such, merits identification on the TVPRA List.³² For ease of reference and to facilitate ILAB's consideration of this information, the Southern Shrimp Alliance has compiled documentary support for this conclusion as part of this submission. This material is by no means exhaustive, but, on its own, should constitute information sufficient to warrant additions to the TVPRA List.

Attached as **Appendix 2** is a recent report issued by Greenpeace in collaboration with Serikat Buruh Migran Indonesia ("SBMI"), *Seabound: The Journey to Modern Slavery on the High Seas* (Dec. 2019).³³ The report catalogues and documents indicia of forced labor on thirteen (13) different fishing vessels, of which six (6) are from China, five (5) are from Taiwan, and two (2) are from Fiji.³⁴ Further, the report explains that the government of the Philippines has fourteen open cases related to complaints filed by Filipinos working on foreign fishing vessels, ten (10) of which pertain to Chinese vessels, two (2) to Taiwanese vessels, and one (1) each to vessels in Vanuatu and Seychelles.³⁵ More generally, the report observes that "[o]n the high seas 86% of fishing effort has been attributed to only five fishing entities: China Mainland, Taiwan, Japan, South Korea, and Spain."³⁶ The report additionally notes that migrant workers are a seminal component of distant water fishing fleets, with the Indonesian government reporting that "there were 186,430 Indonesian migrant fishers aboard Malaysian fishing vessels, 12,278 in Taiwanese fishing vessels, and 4,885 in South Korean fishing vessels in 2018."³⁷ Similarly, the Taiwanese

³² See, e.g., Notice of Procedural Guidelines for the Development and Maintenance of the List of Goods from Countries Produced by Child Labor or Forced Labor, 72 Fed. Reg. 73,374, 73,377 (Department of Labor, Dec. 27, 2007).

³³ Available at: <https://www.greenpeace.org/southeastasia/publication/3428/seabound-the-journey-to-modern-slavery-on-the-high-seas/>.

³⁴ See *id.* at 28-29.

³⁵ See *id.* at 39.

³⁶ *Id.* at 18 (citing McCauley, D.J. et al., *Wealthy Countries Dominate Industrial Fishing*, Science Advances (Aug. 1, 2018) Vol. 4, No. 8, eaau2161).

³⁷ *Id.* at 13.

government reports that, as of June 2019, there were 21,994 migrant fishers from Indonesia and 7,730 migrant fishers from the Philippines working on Taiwanese distant water fishing vessels.³⁸

Attached as **Appendix 3** is a recent report from the Environmental Justice Foundation (“EJF”), *Blood and Water: Human Rights Abuse in the Global Seafood Industry* (June 2019).³⁹ EJF’s report discusses a number of case studies documenting forced labor in distant water fishing fleets, including the detention of the Taiwanese-flagged vessel Fuh Sheng No. 11 in South Africa in 2018.⁴⁰ Attached as **Appendix 4** is a separate EJF report that provides more particularized detail regarding labor conditions on vessels within the Taiwanese distant water fishing fleet, *Illegal Fishing and Human Rights Abuses in the Taiwanese Fishing Fleet* (Dec. 2018).⁴¹ This report includes specific accounts of forced labor aboard Taiwanese fishing vessels, such as the following report:

In one described example of abuse, the captain reportedly refused to send a Filipino crewmember home for eight months, forcing him to work without pay during this time. Eventually, the Filipino challenged the captain about this. The captain provoked him into a fight on board the vessel.⁴²

Summarizing its findings in their investigation of five (5) Taiwanese vessels in October and November 2018, EJF described crewmember conditions as follows:

Many of the crewmembers when asked why they carried out actions on board their respective vessels responded saying that they had no choice in the matter. If they complained, objected, or asked questions to the captain they could face salary deductions, be sent home without any pay or be subject to intimidating behaviour and physical abuse.⁴³

Attached as **Appendix 5** is a separate Greenpeace report that also details labor abuse and forced labor practices in the Taiwanese distant water fishing fleet, *Misery at Sea: Human Suffering in Taiwan’s Distant Water Fishing Fleet*.⁴⁴ This report discusses specific examples of forced labor practices on vessels within the Taiwanese distant water fishing fleet, including Tunago No. 61, the subject of CBP’s Withhold Release Order issued last year.

³⁸ See *id.* at 3, 14.

³⁹ Available at: <https://ejfoundation.org/reports/blood-and-water-human-rights-abuse-in-the-global-seafood-industry>.

⁴⁰ See *id.* at 8 (“important issues related to labour conditions on board were subsequently found by South African authorities during the inspection. These included: harsh labour conditions reported by the crew, hazardous living conditions on board and the absence of work contracts for most of the crew.”).

⁴¹ Available at: <https://ejfoundation.org/index.php?p=reports/illegal-fishing-and-human-rights-abuses-in-the-taiwanese-fishing-fleet>.

⁴² *Id.* at 18.

⁴³ *Id.* at 21.

⁴⁴ Available at: <https://www.greenpeace.org/new-zealand/publication/misery-at-sea/>

Attached as **Appendix 6** is an article that appeared earlier this month in **Hankyoreh**, *Migrant Workers Aboard S. Korean Fishing Boats Regularly Abused and Exploited* (Jan. 8, 2020).⁴⁵ According to the article, the Human Rights Network for Fishing Boat Migrant Workers found, based on a survey of 81 migrant workers on South Korean fishing boats, rampant labor abuse.

Attached as **Appendix 7** is an article by James X. Morris published in **The Diplomat**, *The Dirty Secret of Taiwan's Fishing Industry* (May 18, 2018).⁴⁶ The article reports:

Most migrant fishermen in Taiwan are from Indonesia and the Philippines. For the fishermen, the journey begins at home, where a network of local brokers connected with Taiwan-based brokers have arranged quotas with Taiwanese fishing associations. The migrants pay fees to the brokering firms to start their jobs, and continue to pay fees to the brokers while they are employed. Upon arrival in Taiwan the brokerage firms typically collect personal identification documents including passports and Alien Residency Cards — identification cards issued by Taiwan's National Immigration Agency for foreigners living and working in Taiwan. Some migrant fishermen are allowed to make photocopies of their documents in case a problem occurs, but they keep a low profile to avoid problems with police over the lack of authentic documents. The Taiwanese brokers then assign fishermen to their ships.

Attached as **Appendix 8** is the written testimony of Ian Urbina, author of the book *The Outlaw Ocean*, presented to Subcommittee on Water, Oceans, and Wildlife of the House Natural Resources Committee on November 14, 2019.⁴⁷ In his testimony, Mr. Urbina touched upon his extensive reporting regarding slavery in distant water fishing fleets, including vessels flagged out of South Korea.⁴⁸ Mr. Urbina's fulsome discussion of the subject in *The Outlaw Ocean* was recently excerpted and published in the Guardian, attached here as **Appendix 9**.⁴⁹

Attached as **Appendix 10** is a 2016 report by the International Organization for Migration; Kementerian Kelautan Dan Perikanan; and Coventry University, *Report on Human Trafficking*,

⁴⁵ Available at: http://english.hani.co.kr/arti/english_edition/e_international/923664.html

⁴⁶ Available at: <https://thediplomat.com/2018/05/the-dirty-secret-of-taiwans-fishing-industry/>.

⁴⁷ Available at: <https://naturalresources.house.gov/imo/media/doc/Urbina%20Testimony%20Written%20WOW%20Ov%20Hrg%2011.14.19.pdf>.

⁴⁸ “A fleet of South Korean trawlers owned by the Sajo Oyang Corporation that I cover in the book was notorious not only for sexual assault, forced labor, squalid living conditions, but also for engaging in a type of illegal fishing called high grading, which entails gaming the catch quota system by tossing old catch overboard so as to save and register newer fresher catch.”

⁴⁹ See Ian Urbina, *Ship of Horrors: Life and Death on the Lawless High Seas*, The Guardian (Sept. 12, 2019) available at: <https://www.theguardian.com/world/2019/sep/12/ship-of-horrors-deep-sea-fishing-oyang-70-new-zealand>.

*Forced Labour and Fisheries Crime in the Indonesian Fishing Industry.*⁵⁰ This report provided specific information on Indonesians trafficked into distant water fishing fleets:

The majority of Indonesian fishermen victims of trafficking assisted by IOM Indonesia worked on Taiwanese fishing vessels. In general, there are two types of placement for Indonesian fishermen who work on a Taiwanese vessel. Firstly, there is official placement (Government to Government), where the fishermen are placed through BNP2TK on Taiwanese vessels that only operate only in[] Taiwanese waters. Due to the official nature of this placement, Indonesian fishermen usually obtain an alien resident certificate which guarantees their rights under Taiwanese Law. As such, they are less vulnerable to labour exploitation and abuse. Secondly, there is Letter-Guaranteed placement in which Indonesian fishermen are placed directly by the manning agencies without the involvement of both governments (Private to Private).

Most of the vessels that fall under this type of placement operate beyond Taiwanese waters (including Trinidad and Tobago, Ivory Coast, and South Africa). As a result of the absence of the government and the remote location of the fishing operation, Indonesian fishermen who work under this type of placement are more vulnerable and face a higher potential of being exploited and abused. Most of the Indonesian trafficked fishermen assisted by IOM Indonesia fall within this category. . . .

For example in 2011, The Indonesian Government assisted 27 Indonesian fishermen who were employed in South Korea as fishermen on the *Melilla 203* fishing vessel. Upon their arrival in South Korea, those 27 Indonesian fishermen were transferred to the *Melilla 203* which travelled to New Zealand waters. The working conditions on *Melilla 203* were very poor and the fisherman were forced to work excessive working hours and were treated as slave labour. In addition, some of the fishermen were also subjected to sexual and physical abuse on this Korean-flagged ship. This case became the centre of attention for both the Indonesian and New Zealand governments.

In July 2012, a further 203 Indonesian fishermen were rescued from trafficking activities in Trinidad and Tobago territorial waters. These fishers worked for the Kwo Jeng Trading Co. Ltd Company in Taiwan. These fishermen were promised work in Taiwan and lured with offers of a large salary. Instead, they were transported to Trinidad and Tobago and suffered physical and psychological abuse. They were subjected to excessive working hours, denied proper food and medical assistance request, and had restricted freedom of movement. Their identity documents were confiscated by the captain and they were bound with debt. Similar cases also occurred in 2013, where 119 Indonesian fishermen in African countries were also victims of Trafficking. In 2015 there were 26 Indonesian fishermen in

⁵⁰ Available at: <https://www.iom.int/sites/default/files/country/docs/indonesia/Human-Trafficking-Forced-Labour-and-Fisheries-Crime-in-the-Indonesian-Fishing-Industry-IOM.pdf>

Angola and 55 Indonesian fishermen in Peru who suffered from exploitative situations.

Indonesian fishermen working internationally have also found themselves involved with labour disputes, IUU fishing, and other crimes at sea (Graph 20). According to the Ministry of Foreign Affairs, for the period 2012-2015, the Indonesian government assisted 2,368 Indonesian fishermen abroad who had experienced IUU related crimes. The main cases experienced by Indonesian Fishermen were labour disputes (1148 cases), people smuggling (833 cases), Trafficking in Persons (287 cases), illegal fishing, (94 cases) and drugs abuse (6 cases).

Among the 2368 fishermen who had experienced IUU problems, 12.12% or 287 of the fishermen suffered from trafficking cases. Most of them were trafficked to East Asia and South East Asia (97 fishermen), South Africa (135 fishermen), the Middle East (25 fishermen), Oceania (26 fishermen), Central and Eastern Europe (3 fishermen) and South America (1 fisherman).

IOM Indonesia has assisted Indonesian fishermen abroad who have been victims of trafficking. The first case was referred from the Indonesian National Police to IOM in October 2005. A 27 year old fisherman was recruited by an individual broker to work in Malaysia as a construction worker. He was transported from Nangroe Aceh Darussalam via mixed transportation to Malaysia. Once he arrived he was sent to the vessel and employed as a fisherman. He worked for 3 months without receiving any salary and adequate food and water. He experienced physical and psychological abuse.

The second case was received by IOM in 2006, involving one fisherman from Sambas. He was trafficked to Malaysia by an agency, suffered from psychological abuse, faced excessive working hours and denied medical assistance and adequate food. He was rescued by Police and referred to IOM by the Indonesian Embassy. In 2007 IOM received a referral for 9 fishermen from West Kalimantan who were trafficked through a legal agent to Malaysia as fishermen.

The number of Indonesian fishermen has increased year by year, and in 2013, IOM Indonesia received referrals for 114 Indonesian fishermen who were trafficked abroad. . . .⁵¹

Attached as **Appendix 11** is a November 2019 report from The Stimson Center addressing distant water fishing fleets, *Shining a Light: The Need for Transparency Across Distant Water Fishing*.⁵² The report argues that a lack of public information regarding the operations of distant

⁵¹ *Id.* at 50-51, 56-58 (footnotes omitted).

⁵² Available at: <https://www.stimson.org/content/shining-light-need-transparency-across-distant-water-fishing>.

water fishing fleets allows illegal practices, such as the use of forced labor, to flourish in an industry of significant importance in international trade:

Commercial fishing is big business, with a complex global seafood supply chain and over 56 million people working on vessels to support it. In the past several decades distant water fishing (DWF) has expanded its size and reach across the ocean and around the world. Despite its importance to international trade and economics, the industry largely remains a mystery. It is shrouded in an opaque operating system that limits information about where vessels operate, who owns them, the amount of fish that is caught, how fish is shipped and transshipped to market, the human labor practices onboard, and the access arrangements to other nations' waters.⁵³

But there is clear and consistent information available regarding the prevalence of forced labor on these fishing vessels. For example, The Stimson Center's report observes with regard to Taiwan's distant water fishing fleet:

However, concerns about labor abuses aboard Taiwanese vessels remain significant, with migrants being lost at sea, fishermen enduring slave-like conditions aboard vessels, and vessels continuing to utilize flags-of-convenience despite effectively being operated by Taiwanese captains and businesses.⁵⁴

Attached as **Appendix 12** is a June 2019 report from the Business & Human Rights Resource Centre, *Out of Sight: Modern Slavery in Pacific Supply Chains of Canned Tuna*, documenting the continuing failure of fishing vessels involved in the supply chain for canned tuna to implement practices and programs that would eliminate forced labor from commercial fishing vessels.⁵⁵ Providing background on the vulnerability of tuna production to forced labor practices, the Business & Human Rights Resource Centre report observes:

The effect of diminishing returns has increased pressure on vessel owners and captains to chase profit and has contributed to the widespread use of forced, trafficked and slave labour in fishing. As a sector, fishing persists as a high-risk industry for modern slavery. Workers are often required to pay hefty recruitment fees, leading to debt bondage. Once on-board vessels, workers can be at sea for months, and face daily human rights concerns - grinding work with inadequate food, water, sleep and rest breaks; cramped, dirty and dangerous conditions with limited protective equipment or safety training; regular physical and verbal abuse and even death. Pay may be inadequate or deferred indefinitely.

⁵³ *Id.* at 2.

⁵⁴ *Id.* at 25 (footnotes omitted).

⁵⁵ Available at: https://www.business-humanrights.org/sites/default/files/Out%20of%20Sight%20Modern%20Slavery%20in%20Pacific%20Supply%20Chains%20of%20Canned%20Tuna_4.pdf.

James Clifford, Compliance Officer at the Ministry of Fisheries and Marine Resources, Solomon Islands, has inspected countless foreign vessels, mainly Taiwanese, engaged in tuna fishing in Solomon Islands waters. He describes the conditions on board many vessels as “beyond the human capability of working”.⁵⁶

Attached as **Appendix 13** is a March 2019 case study published by Human Rights at Sea, *Case Study, A Family Perspective in their Own Words: Salote Kaisuva, the Widow of Fijian Crewman Mesake, Who Worked on Taiwanese Longliners*, regarding the experience of one migrant worker aboard on a Taiwanese distant water fishing vessel.⁵⁷ In that report, the widow of a migrant worker notes that there is significant continuing risk of men in Fiji being recruited to work in vessels under forced labor conditions:

There are a lot of unemployed young people at Kalekana who are keen to work on fishing vessels despite the harsh conditions and low pay. My husband and sons worked on eight Taiwanese (Chinese Taipei) longliner vessels over the 30 years. One of them was the De Sheng Fa No. 2.⁵⁸

Attached as **Appendix 14** is a 2013 report issued by the International Labour Office (“ILO”), *Caught at Sea: Forced Labour and Trafficking in Fisheries*.⁵⁹ Although dated, the ILO’s report provides an overview of existing evidence, as of seven years ago, regarding significant forced labor practices in long-distance fishing fleets. Reviewing existing trends, the ILO reported:

[M]igrant workers from developing States are increasingly used to crew fishing vessels. Most fish stocks are found in coastal regions above the continental shelf. The gradual depletion of these fish stocks has meant that fishing operators, both small-scale and industrial, must go further out to sea to locate abundant fishing grounds (FAO, 2012a, p. 155). Long-distance fishing requires more sophisticated infrastructure and in coastal regions with declining fish stocks, fishers who were previously self-employed in small-scale fisheries are now being recruited as employed crew. Long-distance fishing operations also require more crew who are willing to stay at sea for prolonged periods. At the same time, employment in fishing has been decreasing in capital intensive economies, in particular in most European countries, North America, and Japan. Several factors may account for this, including the application of policies to reduce over-capacity and less reliance on human power owing to technological developments (FAO, 2012a, p. 42). On

⁵⁶ *Id.* at 9.

⁵⁷ Available at: https://www.humanrightsatsea.org/wp-content/uploads/2019/03/2019-Case-Study-Fijian-Fisherman-Mesake-Kaisuva_SP-LOCKED.pdf

⁵⁸ *Id.* at 4.

⁵⁹ Available at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_214472.pdf

the other hand, there has been an increase in fishers in a number of developing States, particularly in Asia, many employed as migrant workers.⁶⁰

Attached as **Appendix 15** are the published results of an academic study conducted by Christina Stringer and Glenn Simmons of the University Auckland and D. Hugh Whittaker of the University of Oxford, *New Zealand's Turbulent Waters: The Use of Forced Labour in the Fishing Industry*.⁶¹ The researchers described the methodology for their study as follows:

In 2011, there were 27 foreign charter vessels (FCVs) fishing in New Zealand's waters; 13 were South Korean flagged, manned by South Korean officers and migrant crew from low cost labour countries elsewhere in Asia. On average, there were 32 migrant crew and 6 South Korean officers on each vessel. Between 2011 and 2014, we conducted semi-structured interviews with 293 informants, the majority of whom were foreign crew, mostly from Indonesia, but also from Burma, China and the Philippines. We also interviewed fishing industry personnel in Indonesia and New Zealand, along with key individuals from government and non-governmental organizations. Those we interviewed included former observers who had worked for the New Zealand Ministry of Fisheries collecting data for the effective management of fisheries. The former observers provided important insights into labour conditions aboard the vessels. Taken together, the crew had worked on 19 different South Korean vessels fishing in New Zealand waters over a period from 1998 to 2013; many had also worked on vessels in other waters. In some instances, we interviewed the entire migrant crew on a particular vessel.⁶²

Through their interviews, the researchers documented widespread forced labor practices aboard the South Korean vessels:

Our findings show that forced labour has been widespread among a number of South Korean FCVs for many years and that intermediaries played a key role in the erosion of worker agency. The working conditions for crew were exploitative and inhumane. For decades, politicians and officials in New Zealand were misled about the extent to which migrant crew were being coerced and abused. Employers commonly gave false information on work visa applications, fabricated timesheets and forged other documents, such as bank transactions of payments to crew.⁶³

The foregoing is merely a small subset of the voluminous information published documenting the prevalence of forced labor in distant water fishing fleets. The circumstances described in these materials demonstrate that there is significant incidence of forced labor in the

⁶⁰ *Id.* at 5.

⁶¹ Available at: <https://onlinelibrary.wiley.com/doi/epdf/10.1111/glob.12077>.

⁶² *Id.* at 9-10 (footnote omitted).

⁶³ *Id.* at 20.

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operations of distant water fishing fleets operated by different countries. Accordingly, the good produced by these harvesting operations merit inclusion in ILAB's TVPRA List.

Thank you for any consideration you may provide to these comments and the supporting information included 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

Appendix List

	Description
1	Letter from AFL-CIO <i>et al.</i> to U.S. Department of Labor Bureau of International Labor Affairs (December 17, 2019)
2	Greenpeace & Serikat Buruh Migran Indonesia, <i>Seabound: The Journey to Modern Slavery on the High Seas</i> (December 2019)
3	Environmental Justice Foundation, <i>Blood and Water: Human Rights Abuse in the Global Seafood Industry</i> (June 2019)
4	Environmental Justice Foundation, <i>Illegal Fishing and Human Rights Abuses in the Taiwanese Fishing Fleet</i> (December 2018)
5	Greenpeace, <i>Misery at Sea: Human Suffering in Taiwan's Distant Water Fishing Fleet</i> (May 2018)
6	Lee Wan, <i>Migrant Workers Aboard S. Korean Fishing Boats Regularly Abused and Exploited</i> , Hankyoreh (Jan. 8, 2020)
7	James X. Morris, <i>The Dirty Secret of Taiwan's Fishing Industry</i> , The Diplomat (May 18, 2018)
8	Written Testimony of Ian Urbina Before the Subcommittee on Water, Oceans, and Wildlife of the House Natural Resources Committee (November 14, 2019)
9	Ian Urbina, <i>Ship of Horrors: Life and Death on the Lawless High Seas</i> , The Guardian (September 12, 2019)
10	International Organization for Migration; Kementerian Kelautan Dan Perikanan; and Coventry University, <i>Report on Human Trafficking, Forced Labour and Fisheries Crime in the Indonesian Fishing Industry</i> (January 2017)
11	The Stimson Center, <i>Shining a Light: The Need for Transparency Across Distant Water Fishing</i> (November 2019)
12	Business & Human Rights Resource Centre, <i>Out of Sight: Modern Slavery in Pacific Supply Chains of Canned Tuna</i> (June 2019)
13	Human Rights at Sea, <i>Case Study, A Family Perspective in their Own Words: Salote Kaisuva, the Widow of Fijian Crewman Mesake, Who Worked on Taiwanese Longliners</i> (March 2019)
14	International Labour Office, <i>Caught at Sea: Forced Labour and Trafficking in Fisheries</i> (May 2013)
15	Christina Stringer, D. Hugh Whittaker, and Glenn Simmons, <i>New Zealand's Turbulent Waters: The Use of Forced Labour in the Fishing Industry</i> , Global Networks 16, 1 (2016) 3-24