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September 17, 2020

Inv. No. 332-575
*Seafood Obtained via Illegal, Unreported, and Unregulated Fishing:
U.S. Imports and Economic Impact on U.S. Commercial Fisheries*

PUBLIC DOCUMENT

VIA ELECTRONIC FILING

The Honorable Lisa R. Barton
Secretary of the Commission
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

Re: *Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries (Inv. No. 332-575): Posthearing Brief*

Dear Secretary Barton:

On behalf of the Southern Shrimp Alliance, and pursuant to the *Federal Register* notices regarding the U.S. International Trade Commission's ("Commission") institution of the above-captioned investigation and scheduling a hearing,¹ as well as the Commission's notice of a new hearing date,² we hereby submit a posthearing brief concerning the extent to which seafood

¹ *Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries*, 85 Fed. Reg. 5,704 (U.S. International Trade Commission, Jan. 31, 2020) (Institution of Investigation and Scheduling of Hearing).

² *Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries*, 85 Fed. Reg. 33,709 (U.S. International Trade Commission, June 2, 2020) (Notice of New Dates for Public Hearing and Transmittal of the Commission's Report).

products obtained from illegal, unreported, and unregulated fishing are imported into the United States and the potential economic effects on U.S. fishermen of competition with such imports. This submission is timely pursuant to the Commission's re-scheduling notice.³

Please do not hesitate to contact the undersigned should you require clarification of any aspect of this submission.

Respectfully submitted,

/s/ Nathaniel Maandig Rickard
Nathaniel Maandig Rickard
Counsel to the Southern Shrimp Alliance

³ *See id.*

BEFORE THE UNITED STATES
INTERNATIONAL TRADE COMMISSION

Inv. No. 332-575

*Seafood Obtained via Illegal, Unreported, and Unregulated Fishing:
U.S. Imports and Economic Impact on U.S. Commercial Fisheries*

**POSTHEARING BRIEF ON BEHALF OF
THE SOUTHERN SHRIMP ALLIANCE**

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September 17, 2020

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**BEFORE THE UNITED STATES
INTERNATIONAL TRADE COMMISSION**

In the Matter of:)
)
)

*SEAFOOD OBTAINED VIA ILLEGAL,
UNREPORTED, AND UNREGULATED
FISHING: U.S. IMPORTS AND ECONOMIC
IMPACT ON U.S. COMMERCIAL FISHERIES*)
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Inv. No. 332-575)
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**POSTHEARING BRIEF ON BEHALF OF THE
SOUTHERN SHRIMP ALLIANCE**

I. INTRODUCTION

In its request to the U.S. International Trade Commission (“Commission” or “ITC”) for this investigation, the Committee on Ways and Means of the U.S. House of Representatives (“Committee”) defined illegal, unreported, and unregulated (“IUU”) seafood as encompassing both “products obtained in contravention of fisheries management regulations or in violation of labor laws.”¹ The Committee further explained that IUU seafood products are involved in trade not only in terms of goods “sent directly to end markets,” but also as “raw material inputs that are further processed into aquaculture feed or seafood products for human consumption.”²

¹ See Letter from Picard Kentz & Rowe LLP to the U.S. International Trade Commission, Inv. No. 332-575 (Aug. 21, 2020) (“SSA Prehearing Brief”), at Exh. 1 (Letter from Rep. Richard E. Neal, Chairman, Ways & Means Committee and Rep. Earl Blumenauer, Chairman, Trade Subcommittee, to the U.S. International Trade Commission (Dec. 19, 2019)).

² *Id.*

The Southern Shrimp Alliance’s Prehearing Brief focused on providing the Commission with evidence that shrimp harvested through IUU fishing had a significant presence in the U.S. market and, moreover, that farmed shrimp is a conduit for the consumption of massive quantities of IUU seafood in the United States because of the importance of IUU fishing in the production of aquaculture feed.³ The Prehearing Brief additionally sought to demonstrate that NOAA Fisheries’ implementation of the Seafood Import Monitoring Program (“SIMP”) could be correlated to significant changes in the supply of seafood to the United States and that the U.S. market for imported seafood is not self-regulating.⁴

Our Prehearing Brief did not address another issue squarely confronted within the parameters of this investigation that also has substantial adverse impacts on the U.S. commercial fishing industry. Specifically, the continued use of forced and child labor in the foreign production of seafood exported to the United States has compelled the U.S. commercial seafood industry, including shrimp fishermen, to compete with imports sold at prices reflecting costs that are artificially lowered because of grotesque human rights abuses. Moreover, the presence of this seafood in the U.S. market has made American consumers unwitting supporters of these practices. For this reason, the Southern Shrimp Alliance’s Posthearing Brief focuses on the corruption of seafood supply chains through forced labor and child labor.

Consistent with the substance of the hearing held on September 3, 2020, this Posthearing Brief seeks to identify resource tools available to market participants through which to identify sources of supply that pose a risk of IUU seafood as well as provide additional information regarding the continuing corruption of seafood supply chains by the use of forced labor. In

³ See *id.* at 3-29.

⁴ See *id.* at 29-72.

addition, section III of this Posthearing Brief presents answers to questions posed by Commission staff.

II. FORCED LABOR HAS CORRUPTED FOREIGN SEAFOOD SUPPLY CHAINS AT ALL LEVELS

In a jointly published Fact Sheet from the World Wildlife Fund, the International Labor Rights Forum, the Natural Resources Defense Council, Oceana, Greenpeace, Conservation International, Humanity United Action, and the Stephenson Ocean Security Project of the Center for Strategic and International Studies, these groups discussed the varied and extensive nature in which forced labor is part of the seafood supply chain:

Dwindling fish stocks force boats to fish further out at sea and for longer periods of time, as it becomes harder and harder to turn a profit. To compensate for the higher costs of distant-water fishing, vessel owners often turn to illegal trafficking networks to supply cheap labor at the expense of vulnerable populations, often migrant workers. Unfair and illegal labor practices, in turn, allow these operators to fish further from shore and more intensively, forcing workers to work as much as 22 hours per day and further jeopardizing overtaxed fish stocks. As vessels fish in more remote locations for longer periods of time they can take advantage of the low risk of being caught for labor abuses and illegal fishing activities . . . Fishermen have been trapped at sea for months and even years and have been abused on board these vessels, including physical abuse and murder. Human rights abuses also extend up the supply chain, where allegations have included workers locked into shrimp peeling plants and similar processing facilities.⁵

As contemplated in the request for this investigation, the use of forced and child labor in seafood supply chains is a significant part of IUU seafood production. Seafood importers have done little to seriously address the corruption of seafood supply chains through forced and child labor. Indeed, as demonstrated at the hearing, importers vociferously oppose any effort to

⁵ World Wildlife Fund, the International Labor Rights Forum, the Natural Resources Defense Council, Oceana, Greenpeace, Conservation International, Humanity United Action, and the Stephenson Ocean Security Project of the Center for Strategic and International Studies, *IUU Fishing and Human Rights: Problems and Solutions* (footnotes omitted), attached as **Exhibit 1**.

implement, and now further develop, traceability programs that would facilitate a comprehensive understanding of the supply chain for seafood products that present a risk of forced labor in one or more stages of their production.

Arguments against mandatory traceability requirements, such as those imposed under SIMP, are made despite repeated and consistent findings regarding the prevalence of forced and child labor in seafood supply chains. As discussed in greater detail below, multiple federal agencies have identified and described widespread instances of labor abuse in foreign seafood production. The actions taken, and reports released, by these federal agencies delineate where risks of IUU seafood produced through forced labor exist.

These actions and reports are not, on their own, comprehensive. Further investigation of particular sources of supply has uncovered additional slave labor risks in seafood supply chains. In this brief, we address and summarize publicly available information regarding the presence of forced or child labor in different parts of India's seafood industry.

A. Federal Government Agencies Have Confirmed the Prevalence of Forced and Child Labor in Foreign Seafood Supply Chains

United States law has long prohibited the importation of goods made by forced labor, convict labor, or indentured labor.⁶ However, despite the prevalence of forced labor in foreign seafood supply chains, prior to February 2019 there were no public reports of seafood being denied entry into the United States as the result of this law. The lack of any action was likely the result of a loophole in the statute – the so-called “consumptive demand” provision – that made the prohibition on merchandise produced from forced or indentured labor contingent upon a finding that the same good was produced domestically in sufficient quantities to meet U.S.

⁶ See 19 U.S.C. § 1307.

demand. Section 1307 of Title 19, enacted in 1930 and amended in 2000 to clarify that the term “forced labor” incorporated forced or indentured child labor, read as follows:

§ 1307. Convict-made goods; importation prohibited

All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/ and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision. The provisions of this section relating to goods, wares, articles, and merchandise mined, produced, or manufactured by forced labor or/and indentured labor, shall take effect on January 1, 1932; but in no case shall such provisions be applicable to goods, wares, articles, or merchandise so mined, produced, or manufactured which are not mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States.

“Forced labor”, as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily. For purposes of this section, the term “forced labor or/and indentured labor” includes forced or indentured child labor.⁷

In 2016, Section 910 of the Trade Facilitation and Trade Enforcement Act struck the entirety of the second sentence from the first paragraph of 19 U.S.C. § 1307,⁸ such that the statutory provision now reads:

§ 1307. Convict-made goods; importation prohibited

All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/ and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision.

⁷ June 17, 1930, ch. 497, title III, § 307, 46 Stat. 689; Pub. L. 106–200, title IV, § 411(a), May 18, 2000, 114 Stat. 298.

⁸ See Trade Facilitation and Trade Enforcement Act, Pub. L. 114-125, title IX, § 910, Feb. 24, 2016, 130 Stat. 239.

“Forced labor”, as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily. For purposes of this section, the term “forced labor or/and indentured labor” includes forced or indentured child labor.⁹

With the elimination of the “consumptive demand” loophole four years ago, U.S. Customs and Border Protection (“CBP”) has now issued three “Withhold Release Orders” (WROs) under the agency’s Section 1307 authority with respect to individual fishing vessels. On February 24, 2019, CBP issued a WRO with regard to the fishing vessel Tunago No. 61 (ultimately revoked on March 31, 2020).¹⁰ On May 11, 2020, CBP issued a WRO with regard to seafood harvested from the fishing vessel Yu Long No. 2 and on August 18, 2020, the agency issued a WRO with respect to seafood harvested from the fishing vessel Da Wang.¹¹

These actions, while a welcome step forward, do not appear to reflect the severity of forced and child labor abuse in foreign seafood supply chains. For example, in a recent report to Congress, NOAA Fisheries observed 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.¹²

NOAA Fisheries’ report to Congress recognized the immense vulnerability of workers on board fishing vessels, as well as those working in aquaculture farms:

According to the International Labor Organization (ILO), workers in fisheries and aquaculture operations are particularly vulnerable to labor-related misconduct due

⁹ 19 U.S.C. § 1307.

¹⁰ See U.S. Customs and Border Protection, *Withhold Release Orders and Findings* (Sept. 16, 2020), attached as **Exhibit 2**.

¹¹ *Id.*

¹² NOAA Fisheries, *Improving International Fisheries Management: 2019 Report to Congress* (Sept. 2019) at 77 (“NOAA Fisheries 2019 Report”), attached as **Exhibit 3**.

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.¹³

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.”¹⁴

Further, in a 2016 report addressing the national security risks posed by the proliferation of IUU fishing, the National Intelligence Council recognized the heightened 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.¹⁵

¹³ NOAA Fisheries 2019 Report at 77.

¹⁴ *Id.*

¹⁵ National Intelligence Council, *Global Implications of Illegal, Unreported, and Unregulated (IUU) Fishing* (Sept. 2016) at 16, attached as **Exhibit 4**.

Additionally, the U.S. Department of Labor’s Bureau of International Labor Affairs (ILAB) has long recognized the prevalence of labor abuse in seafood supply chains. 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 forced labor.”¹⁶ 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.¹⁷ 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.”¹⁸ These listings are summarized in the table below:

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

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

¹⁶ U.S. Department of Labor, *2018 List of Goods Produced by Child Labor or Forced Labor (Required by the Trafficking Victims Protection Reauthorization Act of 2005)* at p. 42, Box 11 (“*2018 List of Goods Report*”), attached as **Exhibit 5**.

¹⁷ *See id.* at 16 (behind “gold,” “bricks,” “sugarcane,” “cotton,” “coffee,” “tobacco,” and “cattle”).

¹⁸ *See id.* at 11-14.

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.”¹⁹ 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.²⁰

Nevertheless, while acknowledging that some progress has been made, ILAB correctly and appropriately acknowledges in the *2018 List of Goods Report* that “{w}orkers at sea are among the world’s most vulnerable.”²¹ 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.²² As this information has become available, ILAB’s listing of products offers outside observers, including the private sector, a resource through which to initially evaluate the risk of 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 the Labor Safe Screen, which helps client trace seafood supply chains

¹⁹ *Id.* at p. 42, Box 11.

²⁰ *Id.*

²¹ *Id.*

²² *See id.*

and focus on the riskiest fisheries, also use the TVPRA List as a key source of data.²³

Yet, despite ILAB's efforts, the agency's listing appears to not fully recognize all areas of the seafood supply chain where forced labor has endured as a problem, particularly with regard to distant water fishing fleets. In correspondence last year with ILAB, a variety of non-governmental organizations (NGOs) observed that “{w}hile several countries have been listed in your report for forced labor produced seafood, some of the worst offenders are conspicuously missing.”²⁴ Citing communications with agency officials, these NGOs 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.²⁵ ILAB is expected to issue an updated *List of Goods Produced by Child Labor or Forced Labor* at some point this month. The Southern Shrimp Alliance anticipates that this updated report is likely to address the lack of discussion of foreign distant water fishing fleets in the *2018 List of Goods Report*.

²³ *Id.* 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.” *See* <https://www.shrimpalliance.com/take-action/foreign-food-safety-resources/forced-labor/>.

²⁴ 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), attached as **Exhibit 6**.

²⁵ *See id.* at 8, n. iii.

In contrast to ILAB’s TVPRA list, the U.S. Department of State’s (“State Department”) most recent *Trafficking in Persons Report (June 2020)*,²⁶ extensively identifies forced labor in the distant water commercial fishing operations. 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.²⁷

Similarly, discussing the Republic of Korea, the *Trafficking in Persons Report (June 2020)* explains:

Boat owners, captains, and job brokers 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 face exploitation, including forced labor, often through debt-based coercion.²⁸

The *Trafficking in Persons Report (June 2020)*’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, “{i}nsufficient staffing and inspection protocols continued to impede efforts to combat forced labor on Taiwan-flagged and -owned fishing vessels in the highly vulnerable Distant Water Fleet (DWF).”²⁹ The State Department catalogued the ways in which fishermen in Taiwan’s DWF were enslaved and coerced to work:

²⁶ U.S. Department of State, *Trafficking in Persons Report (June 2020)*, attached as **Exhibit 7**.

²⁷ *Id.* at 156.

²⁸ *Id.* at 300.

²⁹ *Id.* at 473.

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 substandard safety equipment, 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, retention of identity documents, wage deductions, and non-contractual compulsory sharing of vessel operational costs to retain their labor. These abuses are particularly prevalent in Taiwan's DWF, comprising approximately 1,400 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. According to FA estimates, approximately 8,000 Filipinos and more than 20,000 Indonesians work onboard DWF vessels.³⁰

Following 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 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 DWF, including vessels stopping in special foreign docking zones.
- Enact and implement policies to expedite maritime forced labor investigations and reduce suspect flight.
- Conduct comprehensive, victim-centered interviews to screen foreign fishing crewmembers for forced labor indicators during portside and at-sea vessel inspections.
- Train maritime inspection authorities on victim identification, referral, and law enforcement notification procedures. . . .
- Allocate increased resources for and streamline the maritime inspection process by requiring DWF 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. . . .
- Strengthen efforts to

³⁰ *Id.* at 477.

publicize the foreign worker trafficking hotline number among migrant crewmembers of Taiwan-owned and -flagged fishing vessels.³¹

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 2020)* explains:

Since 2013, an average of one dead crewmember per month has been associated with Taiwan- and Chinese-flagged fishing vessels docked at the Montevideo port and in Uruguay's waters. Foreign workers aboard these vessels are subjected to abuses indicative of forced labor, including unpaid wages, confiscated identification, and physical abuse, and there are anecdotal reports of murder at sea.³²

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

Fishermen from Indonesia, the Philippines, Vietnam, Sri Lanka, North 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.³³

And with respect to Tanzania, the *Trafficking in Persons Report (June 2020)* 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.³⁴

³¹ *Id.* at 474.

³² *Id.* at 525.

³³ *Id.* at 452.

³⁴ *Id.* at 482.

With regard to Fiji, the *Trafficking in Persons Report (June 2020)* notes that vulnerable populations were subjected to forced labor on Fijian-flagged vessels, as well as Chinese- and Taiwanese-flagged fishing boats that transited through Fijian ports and Fijian waters:

Recruitment agencies operating in victims' home countries, vessel owners, and other crew subject migrant fisherman from Southeast Asian countries, especially Indonesia, in forced labor on Fijian flagged fishing vessels or foreign flagged fishing vessels (mainly China- and Taiwan-flagged) transiting Fijian ports and waters. Victims of forced labor experience threats of violence, passport confiscation, debt-based coercion, excessive working hours, and abusive living and working conditions.³⁵

Further, the *Trafficking in Persons Report (June 2020)* discusses 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, the Marshall Islands, New Zealand, Timor Leste, South Africa, the Federated States of Micronesia, and Palau.³⁶

In addition to identifying what fishing fleets were tied to forced labor and where these fleets operate, the *Trafficking in Persons Report (June 2020)* further provides information

³⁵ *Id.* at 209.

³⁶ *Id.* at 439 (“NGOs report traffickers exploit migrant workers aboard foreign-flagged fishing vessels in Seychelles’ territorial waters and ports to abuses indicative of forced labor, including nonpayment of wages and physical abuse.”); *id.* at 282 (“Traffickers exploit foreign nationals, including from South and East Asia, in forced labor in Jamaica and aboard foreign-flagged fishing vessels operating in Jamaican waters.”); *id.* at 340 (“Traffickers also exploit some of these foreign fishermen in conditions indicative of forced labor on ships in Marshallese waters.”); *id.* at 374 (“Foreign workers aboard foreign-flagged fishing vessels in New Zealand waters are at risk of forced labor.”); *id.* at 490 (“Traffickers exploit foreign fishing crews in forced labor on foreign-flagged vessels that transit Timor-Leste waters.”); *id.* at 456 (“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.”); *id.* at 351 (“Foreign migrants from Southeast Asian countries report working in conditions indicative of human trafficking on Asian fishing vessels in FSM or its territorial waters.”); and *id.* at 396 (“Foreign workers on fishing boats in Palauan waters also experience conditions indicative of human trafficking.”).

regarding the people victimized by forced labor aboard fishing vessels as drawn from vulnerable populations in Burma, Cambodia, and Indonesia. The most extensive discussion in the report as to the structure and circumstances of forced labor in commercial fishing overseas regards Indonesia. The State Department describes vulnerable Indonesians as heavily involved in fishing vessels flagged in a number of other countries as well as Indonesian waters fished by vessels using forced labor from other Asian countries:

Senior vessel crew on board Chinese, Korean, Vanuatuan, Taiwan, Thai, Malaysian, and Philippines-flagged and/or owned fishing vessels operating in Indonesian, Thai, Sri Lankan, Mauritian, and Indian waters subject Indonesian fishermen to forced labor. Dozens of recruitment agencies in Burma, Indonesia, and Thailand lure fishermen with promises of high wages, charge fees and curtailment deposits to assign them fake identity and labor permit documents, and then send them to fish long hours in waters on vessels operating under complex multinational flagging and ownership arrangements. Some fishermen are unaware their recruitment agencies continue to withhold or withdraw funds from their salary for years. Crew on board these vessels have reported experiencing low or unpaid salaries and such coercive tactics as contract discrepancies, document retention, restricted communication, poor living and working conditions, threats of physical violence, and severe physical and sexual abuse. Boat captains and crews prohibit fishermen from leaving their vessels and reporting these abuses through threats of exposing their fake identities to the authorities, threats of blacklisting them from future fishing employment, and, in previous years, by detaining them on land in makeshift prisons. Forced to sail longer distances to adjust to dwindling fish stocks, some crews remain at sea for months or even years without returning to shore, compounding their invisibility and preserving abusive senior crews' impunity. Most Indonesian fishermen work aboard vessels operating in Taiwan's highly vulnerable Distant Water Fleet; many are also fishing in Korea's distant water fleets. More than 7,000 Indonesian fishermen per year sign in and out of foreign vessels at the port in Cape Town, South Africa, reportedly facing dire working conditions, particularly on vessels owned by citizens of Taiwan, Korea, and Japan. Traffickers also subject fishermen from other parts of Asia to forced labor on board fishing vessels in Indonesian waters; according to one recent study, these vessels account for nearly half of all migrant fishermen trafficked from Cambodia, Thailand, and Vietnam. In Indonesian waters and elsewhere, some senior vessel crew force fishermen to engage in illegal fishing, poaching, smuggling, and illegal entry into national territories, making them vulnerable to criminalization. Companies operating under the auspices of the Japanese government's "Technical Intern Training

Program” have subjected Indonesian nationals to forced labor in food processing, manufacturing, construction, and fishing.³⁷

With respect to Burma, the agency describes vulnerable Burmese being forced to labor on Thai and Taiwanese fishing vessels as well as on fishing apparatuses in the country’s own waters:

NGOs continue to report instances of Burmese males transiting Thailand en route to Indonesia and Malaysia, where traffickers subject them to forced labor, primarily in fishing and other labor-intensive industries. Recruitment agencies in Burma and other Southeast Asian countries lure fishermen with promises of high wages, charge fees and curtailment deposits to assign them fake identity and labor permit documents, and then send them to fish long hours in remote waters on vessels operating under complex multinational flagging and ownership arrangements. Senior crew aboard vessels in the Thai and Taiwan fishing fleets subject some Burmese men to forced labor through debt-based coercion, passport confiscation, contract switching, wage garnishing and withholding, threats of physical or financial harm, or fraudulent recruitment; they also subject some to physical abuse and force them to remain aboard vessels in international waters for years at a time without coming ashore. Informal brokers also lure Burmese men onto offshore fishing and shrimping rafts in Burmese waters, where traffickers confine and physically abuse them to retain their labor for months at a time. There are some reports of boys subjected to forced labor in Burma’s fishing industry as well.³⁸

Finally, the State Department also described how vulnerable Cambodians are trapped into circumstances of forced labor in commercial fishing aboard Thai vessels:

Traffickers continue to recruit significant numbers of Cambodian men and boys in Thailand to work on fishing boats and exploit them in forced labor on Thai-owned and -operated vessels in international waters. Cambodian victims escaping from their traffickers have been identified in Malaysia, Indonesia, Mauritius, Fiji, Senegal, South Africa, and Papua New Guinea. Cambodian men working on Thai-owned and -operated fishing vessels report deceptive recruitment tactics, severe physical abuse, underpayment or nonpayment of wages, restricted access to medical care, and confinement at sea for years at a time without permission to come ashore.³⁹

³⁷ *Id.* at 261-262.

³⁸ *Id.* at 130.

³⁹ *Id.* at 140.

The reporting of the State Department, ILAB, NOAA Fisheries, and the National Intelligence Council, coupled with the recent Section 1307 actions taken by CBP regarding individual commercial fishing vessels, have raised awareness regarding the continuing prevalence of forced labor in seafood supply chains. Disappointingly, this information has been met by the seafood importing industry in the United States with nonchalance, followed by renewed opposition to any efforts to limit the market access to seafood produced through these intolerable and cruel conditions. The choices made by seafood importers to focus their resources on attacking regulation, rather than eradicating forced and child labor in seafood supply chains, threaten the integrity of the entirety of the U.S. seafood market.

B. Forced and Child Labor in India’s Seafood Industry

Along with the outbreak of disease in shrimp aquaculture, international scrutiny of labor practices in the Thai shrimp industry corresponded with a significant downturn in the Thai industry’s dominance over the U.S. shrimp market. As shown in the chart below, beginning in 2005, Thailand accounted for over thirty percent of the total volume of U.S. shrimp imports, peaking at thirty-six percent in 2010.⁴⁰ But in the time since, Thailand’s share of imported shrimp volume has declined precipitously, while Indian shrimp now predominates.



⁴⁰ Total shrimp import volumes obtained from the U.S. International Trade Commission’s *Dataweb* for the following six-digit Harmonized Tariff Schedule of the United States (HTSUS): 0306.13; 0306.16; 0306.17; 0306.23; 0306.26; 0306.27; 0306.35; 0306.36; 0306.95; 1605.20; 1605.21; and 1605.29.

The massive growth in India’s contributions to the U.S. shrimp market has not been accompanied by anything close to the level of scrutiny imposed on the Thai seafood industry. Yet, many of the same characteristics that were present in the Thai industry are replicated in the Indian seafood industry. For example, while forced and child labor was found to be a significant risk for the vulnerable immigrant population processing shrimp by hand in the pre-processing sector (often in “peeling sheds”) in Thailand, these same risks are presented with the vulnerable internal migrant population, mostly women, processing shrimp by hand in the pre-processing sector in India. In fact, just last week, India’s *Express New Service* reported that local police had raided a shrimp processing plant, discovering five “minor girls” working at the shrimp exporter’s facilities.⁴¹ A *Times of India* story earlier this week reported that the children were employed by Mindhola Foods.⁴² Mindhola Foods, with a registration number from the U.S. Food and Drug Administration of 18818584396, exports shrimp to the United States, shipping five containers filled with a total of 2,500 cartons of 6-by-4 pound pack block frozen shrimp since November of 2019.⁴³

While not known by the American general public, the risk of the contamination of seafood supply chains in India from forced and child labor is understood by U.S. seafood importers. This risk exists beyond the processing stage for shrimp exported to the United States. The production of shrimp feed used in Indian shrimp aquaculture similarly relies on the

⁴¹ See “5 Minor Girls from Ranchi Working at Surat Firm Rescued,” *Express News Service* (Sept. 6, 2020), attached as **Exhibit 8**.

⁴² See “20 Girls Rescued from Shrimp Units, Satyarthi Applauds Cops,” *The Times of India* (Sept. 13, 2020), attached as **Exhibit 9**.

⁴³ Information derived from summaries of bills of lading APLUAPU0130230, CMDUAMC0806406, CMDUAMC0788283, CMDUAMC0786292, and CMDUAMC0784864 available through the subscription service *Panjiva.com*.

availability of vulnerable migrant populations. In their report regarding the role played by IUU seafood in the production of aquaculture feed, the Changing Markets Foundation described conditions in Mangalore, Malpe, and Goa as follows:

The investigation team discovered that Indian FMFO factories frequently bring in workers from other states, and that hardly any attention is paid to their safety or workers' rights.

At Old Mangalore port, located at Bunder, the investigators witnessed a group of migrant women workers and children from Assam unloading fish at the dock and sleeping at the landing site. Conversing with them, investigators learned that most of the migrant workforce come in groups of 10-12, and are brought in by contractors. The workers had hardly any protective gear, such as rubber gloves, boots or coveralls. Similar conditions were witnessed at Malpe harbour, 60 km north of Mangalore port.

According to the representative of the fishermen's association in Mangalore, the harbours and the wider industry employ workers from outside the state (including Tamil Nadu, Odisha, Andhra Pradesh, Jharkhand, West Bengal and Assam). The same phenomenon was observed at fishmeal plants; in Ullal district, migrant workers from Bihar and Assam were seen handling various tasks without any basic protective gear, and investigators found dormitories within the premises of the UMP factory in Goa housing workforce from outside Goa. They were informed that companies avoid hiring local residents, primarily because they demand high wages and often unionise, and to ensure workers do not mingle with local residents and pass on any information about operations or working conditions at the facility.⁴⁴

Although women predominate amongst migrant workers in India's seafood processing sector, the migrant labor engaged in India's commercial fishing sector are principally comprised of men.⁴⁵ The use of migrant workers in India's commercial fishing industry has increased over

⁴⁴ SSA Prehearing Brief (Aug. 21, 2020) at Exhibit 18 (Changing Markets Foundation, *Fishing for Catastrophe: How Global Aquaculture Supply Chains Are Leading to the Destruction of Wild Fish Stocks and Depriving People of Food in India, Vietnam, and The Gambia* (Oct. 2019) at 27).

⁴⁵ See Benoy Peter and Vishnu Narendan, *Labour Migration to Kerala: Marine Fishing*, Sector Brief 1010, Center for Migration and Inclusive Development and the Thummarukudy Foundation (undated) ("Migrant fishers from all states were men and most of them were hired through their social network. . . There is a significant presence

time and has led observers to draw parallels between the Thai and Indian commercial fishing industries. For example, in 2016, Divya Karnad, a graduate student at Rutgers University who was then working with the Foundation for Ecological Research Advocacy and Learning in Pondicherry, India described the circumstances of migrant fishermen in Maharashtra as follows:

The fishermen from Andhra Pradesh say that they are bonded for at least one fishing season. In Maharashtra, the fishing season starts mid-August and continues till May or June of the next year. During this time, migrant laborers are stuck on the vessel. They can get off the vessel once in a while (as far as I know), but they can't go home during this period.

The conditions that the migrants report aboard fishing vessels in India are similar to the conditions in the Thai fishing vessels that use sea slaves. Long shifts that involve fishing, mending nets, repairing engines, drying fish are a feature of life on board these vessels. Constant wounds and infections are common.

Overcoming them without medical treatment is taken as a sign of machismo. The migrant fishermen, whom I interviewed in their villages in Andhra Pradesh, say that they cannot even bathe while they're on the fishing vessel. They often stay onboard for 20 days or so at a stretch, and may get off for a few hours after that. But they can't stay onshore because the locals oppose their staying in the village.

My male colleagues, who have been on fishing vessels, also report very poor hygiene standards onboard the fishing vessels. The vessels are not equipped with living quarters. Crew have to take turns sheltering in the small onboard cabin that houses the steering, or in the space below deck, which they sometimes share with the fish. Only seawater is available for bathing and laundry, and due to the constant chafing that accompanies using salt water soaked clothes, such luxuries are usually foregone on fishing trips.

The migrant folks also say that they have to live on whatever food they pack or provisions they buy on the first day of fishing. Basic supplies (rice, dal and other nonperishables) are purchased by the owner, everything else comes out of the migrants' pockets. However, these food staples are usually supplemented by a portion of the low value fish catch.⁴⁶

of single migrant women and girls in the fish processing industry.”), attached as **Exhibit 10**.

⁴⁶ Shreya Dasgupta, “Hard Labor in India’s Fisheries: An Interview with Researcher Divya Karnad,” *Mongabay Series* (May 19, 2016), attached as **Exhibit 11**.

While these migrant fishermen are largely invisible in Indian society, the country's measures in response to the COVID-19 pandemic have brought attention to their precarious circumstances. In April, the *Gaon Connection* reported that at least one hundred thousand fish workers, including migrant fishermen, were stranded on fishing boats off of the coast of Maharashtra.⁴⁷ The article explained that the conditions raised concerns within the Indian government:

The government is not unaware of the plight of stranded migrant fish workers. In its letter dated March 28, the Central Department of Fisheries noted "a large number of migrant workers from different states have been stranded on fishing vessels and fish-landing sites across the country... such migrant fish workers do not have any avenue to return to their villages, and thus are stranded in unfamiliar locations."

The department has directed the states to ensure "adequate food, water, shelter, essential sanitary supplies in the light of COVID19 and wages are continued to be made available". It has also told the state administrations to ensure a tally of migrant workers with their full names, residence details and a contact number are made available in order to communicate back to their families about their condition. The families of these migrant workers should be supported with ration and essential supplies in their respective states, the letter reads.⁴⁸

Another twenty-five thousand fishermen, again including migrant fishermen, were reported to be stranded off of the coast of Gujarat.⁴⁹ Thousands more migrant fishermen were also reported to be stranded off the coasts of Karnataka, Goa, and Tamil Nadu.⁵⁰ The dire circumstances in Gujarat and Maharashtra were reported later in the month to have contributed to the deaths of

⁴⁷ See Nidhi Jamwal, "Lockdown Enforced When They Were At Sea – So More Than a Lakh of Fishers Now Wait in Deep Waters," *Gaon Connection* (Apr. 2, 2020), attached as **Exhibit 12**.

⁴⁸ *Id.*

⁴⁹ See "25k Fishermen Stranded in Boats in Gujarat Coasts," *The Times of India* (Apr. 2, 2020), attached as **Exhibit 13**.

⁵⁰ See Vineetha Venugopal, "The Shore Scene: The Heavy Toll of COVID-19 on India's Fishers," *The Bastion: Development in Depth* (May 5, 2020), attached as **Exhibit 14**.

migrant fishermen aboard vessels.⁵¹ Organizations working with migrant fishermen in Gujarat described conditions as requiring immediate attention:

Since the lockdown has been in force, the conditions of the migrant workers on board the fishing boats have been lacking safety and hygiene. Confined to their boats, which are designed as places of work and not residence, the workers have been stranded in over-crowded and cramped harbours. There has been an absence in the state's extension of services which has led to tremendous hardships and ultimately the deaths of the workers. There have been reports of inadequate food supplies, poor hygiene and sanitation facilities, and the non-payment of wages on board the boats.⁵²

State governments reportedly began to rescue thousands of migrant fishermen from these vessels at the end of April.⁵³ Prior to this point, "many boat-owners stopped paying wages to their workers."⁵⁴ One of the rescued fishermen described conditions onboard his vessel, and the limited support received from the fishing boat's owner, as follows:

"We were not given the option of returning to land when the lockdown was announced," Somesh told **IndiaSpend**. So he and his co-workers had no choice but to remain on the 16-foot wide and 80-foot long fishing vessel, with a covered area the size of a small room and a lone toilet till the afternoon of April 28, 2020.

The vessel's owner, based in Veraval, delivered food (rice, pulses, vegetables, oil and spices) once a week, along with some 500 litres of water, which was not sufficient for their needs, Somesh said. "We got 70-80 litres of water every day between the 10 of us. Each of us had 8 litres a day, with which we needed to bathe, clean and drink," he said.

⁵¹ See AP Fishworkers Stranded in Veraval Harbour, Gujarat, "Migrant Fishworkers in Gujarat in Dire Straits; Reports of a Second Death On-Board a Fishing Vessel Since the Lockdown Began on the 24th of March," Press Note (Apr. 22, 2020) ("*Press Note*"), attached as **Exhibit 15** and Samyak Pandey, "Fishing Industry Suffers Another Blow as Workers Are Stranded on Boats, Debt Is Piling Up," *The Print* (India) (Apr. 23, 2020), attached as **Exhibit 16**.

⁵² *Press Note*.

⁵³ See Kunal Purohit, "COVID-19: Andhra Fishers Rescued from Gujarat the Human Face of a Sector in Turmoil," *IndiaSpend* (Apr. 29, 2020), attached as **Exhibit 17**.

⁵⁴ *Id.*

A person needs between 50 and 100 litres per day to meet their basic needs, a World Health Organization (WHO) estimate shows.⁵⁵

The plight of migrant fishermen – and other migrant workers in the seafood industry – in the face of India’s response to COVID-19 underscores the vulnerability of these workers and the significant risk of abuse, including through the use of forced and child labor. Migrant labor has become the backbone of India’s seafood industry:

Behind this sector’s growing economic clout is migrant labour, both intra-state and interstate, Marianne Manuel, assistant director at Dakshin, a non-profit focusing on advocacy on marine conservation, pointed out. “Mechanised fishing, almost exclusively, depends on migrant labour. In addition, even allied sectors like ice-factories, cold storage facilities, also extensively employ migrant labourers,” Manuel told **IndiaSpend**.⁵⁶

Despite this state of affairs, there is little to indicate that the U.S. seafood importing industry has adopted measures to ensure that their supply chains in India have not been corrupted by forced or child labor.

It is for precisely this reason that the Southern Shrimp Alliance advocates not only for stronger enforcement of SIMP, but also for a definition of IUU fishing that encompasses and incorporates forced and child labor. These practices are illegal, both under U.S. law and under the laws of the foreign countries in which the seafood is produced. The seafood importing industry, left to its own devices, has demonstrated little substantive interest in eradicating labor abuse in seafood supply chains overseas. Accordingly, the U.S. federal government must adopt measures that prevent American consumers from being unwitting accomplices in these terrible, intolerable practices.

⁵⁵ *Id.*

⁵⁶ *Id.*

III. ANSWERS TO QUESTIONS FROM THE COMMISSION'S STAFF

The Southern Shrimp Alliance is grateful for questions asked of the U.S. shrimp industry by Commission staff following the hearing.⁵⁷ The four specific questions posed by Commission staff are addressed below. To the extent that these answers are incomplete or additional information is identified that is germane to these inquiries, the Southern Shrimp Alliance intends to supplement these responses by the deadline for all other written submissions (October 9th).

A. U.S. Shrimp Prices

What source would you suggest we use to look at U.S. shrimp prices, or would SSA like to provide them? If you provide them, please indicate the degree of processing (e.g, whole, P&D) and the type of price (e.g., ex-vessel, wholesale, retail) they represent.

In the regular course of monitoring the market for shrimp in the United States, the Southern Shrimp Alliance compiles and maintains two separate databases of U.S. shrimp prices.

On a monthly basis, the Southern Shrimp Alliance compiles and distributes dockside (ex-vessel) prices reported by NOAA Fisheries for shrimp landed in the Gulf of Mexico. These prices are reported for three different regions of the Gulf of Mexico: the eastern (Florida west coast ports), northern (Alabama, Louisiana, and Mississippi) Gulf, and western (Texas) Gulf. Although NOAA Fisheries attempts to collect and report prices for seven different count sizes of headless shrimp (U15; 15/20; 21/25; 26/30; 31/35; 36/40; and 41/50), the Southern Shrimp Alliance maintains historical databases for just three of these count sizes: U15, 26/30, and 41/50. These historical databases encompass the price information reported by NOAA Fisheries from 2001 to the present. However, over the last few years, the agency has not been reporting ex-vessel prices for each of the three regions on a consistent basis and data from the eastern and

⁵⁷ See E-mail correspondence from R. Berry to N. Rickard, Inv. No. 332-575 (Sept. 14, 2020).

northern Gulf has frequently been missing. The most recent example of NOAA Fisheries monthly ex-vessel price reporting (July 2020) is attached as **Exhibit 18**. The most recent example of the Southern Shrimp Alliance's compilation of NOAA Fisheries' historical ex-vessel prices from 2001 through 2020 (for the month of July) is attached as **Exhibit 19**. These data are maintained by the Southern Shrimp Alliance electronically embedded in the Powerpoint document used to produce these compilation presentations separately for each month of the year. The Southern Shrimp Alliance would be able to submit these data in an electronic format as an Excel database to the Commission upon request.

Separately, the Southern Shrimp Alliance maintains internal databases of wholesale prices of shell-on, headless block frozen (1) wild-caught domestic white shrimp; (2) wild-caught domestic brown shrimp; (3) Asian farmed white shrimp; and (4) Latin American farmed white shrimp. For the purposes of internal monitoring of shrimp prices, the Southern Shrimp Alliance has compiled and maintains a database of Urner Barry-reported prices from January 1998 to the present for each of these four shrimp product forms in six different count sizes: 21/25; 26/30; 31/35; 36/40; 41/50; and 51/60. These prices are reported by Urner Barry and made available through Urner Barry's subscription service, accordingly the Southern Shrimp Alliance's internal database is not publicly distributed or disseminated. An example of the wholesale prices reported by Urner Barry for different product forms of shrimp, along with many other seafood products, is attached as **Exhibit 20** from a publicly-available sample sheet.⁵⁸

B. Imports of Wild-Caught Shrimp

The United States imports large quantities of warmwater shrimp from countries that also have substantial production of wild-capture warmwater shrimp. For example, approximately 42 percent of Indian shrimp is produced using wild-capture methods, which is only somewhat

⁵⁸ See <https://www.urnerbarry.com/ShopExamples/SFPC.pdf>.

higher than for other Asian countries. Many sources have stated that the vast majority of U.S. imports from these Asian countries are aquaculture-produced shrimp, not wild-capture shrimp. Do you agree with these sources that we should likely “weight downward” our estimates of the amount of U.S. imports of warmwater shrimp from wild-capture sources, or should we assume U.S. imports reflect the proportions described above (30-40 percent wild-capture)?

In our Prehearing Brief, the Southern Shrimp Alliance observed that although the Harmonized Tariff Schedule of the United States (“HTSUS” or “HTS”) distinguishes between coldwater and warmwater shrimp,⁵⁹ there is no separate statistical reporting of wild-caught shrimp from farm-raised shrimp.⁶⁰ The Southern Shrimp Alliance is unaware of any reliable methodology that could be replicated and verified for estimating the percentage of shrimp imports into the United States that are wild-caught as opposed to farm-raised. Although discussion of shrimp imports tends to focus primarily on farm-raised shrimp, the structure of federal regulation of shrimp imports indicates that wild-caught shrimp imports are significant.⁶¹

Importantly, because of the differing regulatory treatment of imported shrimp by multiple federal agencies, information as to whether shrimp entered into the United States is farm-raised or wild-caught is already provided by U.S. importers. This information is simply not publicly reported because of the statistical categories that currently exist in the HTSUS. This is not true for other seafood products, as the HTSUS distinguishes between wild-caught and aquacultured seafood for several different product categories. Specifically, the HTSUS has statistical

⁵⁹ Coldwater shrimp is entered into the United States under the six-digit HTSUS codes 0306.16 and 0306.35, while warmwater shrimp is entered under 0306.17 and 0306.36.

⁶⁰ See SSA Prehearing Brief at Exhibit 2 (“Transparency of wild shrimp exports to the United States . . . is very low, compounded by the failure of trade statistics in the USA to differentiate wild from farmed shrimp products in imports.” Ganapathiraju Pramod, Katrina Nakamura, Tony Pitcher, and Leslie Delagran, *Estimates of Illegal and Unreported Fish in Seafood Imports to the USA*, Marine Policy 48 (2014) at 111).

⁶¹ See *id.* at 4-17.

breakouts that distinguish between farm-raised and wild-caught seafood for nine different product categories: (1) farmed rainbow trout (0302.11.0010) versus other trout (0302.11.0090); (2) farmed Chinook (king) salmon (0302.13.0013) versus “not farmed” Chinook (king) salmon (0302.13.0014); (3) farmed Coho (silver) salmon (0302.13.0053) versus “not farmed” Coho (silver) salmon (0302.13.0054); (4) farmed Atlantic salmon (0302.14.0003) versus “not farmed” Atlantic salmon (0302.14.0004); (5) farmed Atlantic salmon fillets (0302.41.0010 and 0302.52.0010) versus “not farmed” Atlantic salmon fillets (0302.41.0020 and 0302.52.0015); (6) farmed live oysters (0307.11.0060) versus all other non-seed live oysters (0307.11.0080); (7) farmed frozen oysters (0307.12.0060) versus all other frozen oysters (0307.12.0080); (8) farmed non-live/non-frozen oysters (0307.19.0160) versus all other non-live/non-frozen oysters (0307.19.0180); and (9) farmed live mussels (0307.31.0010) versus all other live mussels (0307.31.0090).

In its report from this investigation, the Commission should discuss and address the lack of statistical breakouts under the HTSUS for those seafood species that, like shrimp, are produced significantly through wild-harvesting as well as aquaculture. As the Commission staff’s question here implies, the lack of publicly-available data regarding imports of wild-caught versus imports of farm-raised shrimp substantially complicates any attempt to analyze the potential contribution of IUU fishing to shrimp imported into the United States. Distinct statistical reporting for wild-caught shrimp would assist in monitoring, as well as in evaluating the risk of IUU fishing presented by particular sources of supply.⁶²

⁶² The Southern Shrimp Alliance intends to formally request new data categories for shrimp imports pursuant to 19 U.S.C. § 1484(f) with the Section 484(f) Committee in 2021. However, to the extent that the lack of a statistical breakout inhibits analysis of other seafood products, the Commission should opine as to whether additional new data categories should be implemented with respect to these seafood products broadly.

C. Sources of Fish Meal

Aquaculture shrimp are frequently produced using feed made in large part from fish meal. Fish meal, in turn, can be produced using 1) wild-catch fish inputs from whole fish caught for the purpose of producing fish meal or bycatch; 2) byproducts of fish processing activities designed for human consumption. Are you aware of any way to separately estimate the extent to which Asian and Latin American aquaculture shrimp producers source fish meal from these sources?

The Southern Shrimp Alliance is unfamiliar with sources of information that would provide reliable estimates as to the extent to which fish meal used to produce shrimp feed would be comprised of wild-catch fish inputs versus byproducts from fish processing in either Asia or Latin America. However, the Institute of Aquaculture, the University of Stirling, and the IFFO – The Marine Ingredients Organisation reported data regarding fishmeal production from whole fish and from byproduct on a regional basis in *Project to Model the Use of Fisheries By-Products in the Production of Marine Ingredients, With Special Reference to the Omega 3 Fatty Acids EPA and DHA*.⁶³ Table 2 (page 5) of that paper is reproduced below:

Table 2: FISHMEAL PRODUCTION (TONNES, 000)				
Region	From Whole Fish	From By-Product	Total	% from By-Product
Europe	320	381	701	54
Asia (exc. China)	580	454	1,034	44
China	281	152	433	35
M East	42	13	55	23
CIS	57	27	84	32
Africa	146	60	206	29
S. America	1,532	289	1,821	16
N. America	170	118	288	41
Oceania	2	14	16	85
Totals	3,131	1,508	4,639	33

⁶³ See The Institute of Aquaculture, the University of Stirling, and the IFFO – The Marine Ingredients Organisation, *Project to Model the Use of Fisheries By-Products in the Production of Marine Ingredients, With Special Reference to the Omega 3 Fatty Acids EPA and DHA* (July 2016), attached as **Exhibit 21**.

Accordingly, the authors of the report indicated that production of fish meal through byproduct was more significant in Asia (including China) than in South America. The report additionally asserts that there is more room for growth with respect to the use of byproducts to produce fishmeal in China and in the rest of Asia than in South America.⁶⁴

D. Fish In, Fish Out Metrics

Monterey Bay Aquarium Seafood Watch produces reports on aquaculture shrimp which contain “Fish In:Fish Out” metrics. These metrics suggest, for example, that it takes 1.11 kg of wild-caught fish to produce 1.0 kg of whiteleg shrimp in Vietnam, and 1.42 kg in Malaysia for every kg of shrimp. Do you agree with the methodology and outcomes of these analyses?

The methodology used to produce “Fish In:Fish Out” metrics in the reports published by the Monterey Bay Aquarium’s *Seafood Watch*⁶⁵ appears to be reasonable and the Southern Shrimp Alliance has no basis upon which to disagree with the methodology and outcomes of these analyses. The Southern Shrimp Alliance notes that, according to the World Wildlife Fund, the certification standards established by the Global Aquaculture Alliance’s Best Aquaculture Practices program call for Fish In:Fish Out ratios of no more than 1.2 for whiteleg (vannamei) shrimp and 1.7 for black tiger (monodon) shrimp, while the Aquaculture Stewardship Council’s standard is a ratio of no more than 1.35 for whiteleg (vannamei) shrimp and 1.9 for black tiger (monodon) shrimp.⁶⁶

⁶⁴ See *id.* at 7, Table 5.

⁶⁵ See <https://www.seafoodwatch.org/seafood-recommendations/groups/shrimp?q=Shrimp>.

⁶⁶ See World Wildlife Fund, *A Business Case for Improved Environmental Performance in Southeast Asian Shrimp Aquaculture* (undated) at 20, Table 7, attached as **Exhibit 22**.

IV. CONCLUSION

The Southern Shrimp Alliance is grateful for the opportunity to participate in this important investigation. The information contained within this Posthearing Brief is intended to provide additional detail regarding the prevalence of forced and child labor in foreign seafood supply chains. Through this material, the Southern Shrimp Alliance seeks to demonstrate that an effective traceability program and substantially augmented enforcement is necessary to prevent American consumers from unwittingly supporting slave labor practices.

Respectfully submitted,

/s/ Nathaniel Maandig Rickard
Nathaniel Maandig Rickard
Counsel to the Southern Shrimp Alliance
PICARD KENTZ & ROWE LLP

Dated: September 17, 2020

EXHIBIT LIST

Number	Title
1	World Wildlife Fund, the International Labor Rights Forum, the Natural Resources Defense Council, Oceana, Greenpeace, Conservation International, Humanity United Action, and the Stephenson Ocean Security Project of the Center for Strategic and International Studies, <i>IUU Fishing and Human Rights: Problems and Solutions</i>
2	U.S. Customs and Border Protection, <i>Withhold Release Orders and Findings</i> (Sept. 16, 2020)
3	NOAA Fisheries, <i>Improving International Fisheries Management: 2019 Report to Congress</i> (Sept. 2019)
4	National Intelligence Council, <i>Global Implications of Illegal, Unreported, and Unregulated (IUU) Fishing</i> (Sept. 2016)
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