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January 8, 2010

Marcia Eugenio
Director
U.S. Department of Labor
Office of Child Labor, Forced Labor and Human Trafficking (OCFT)
Bureau of International Labor Affairs
200 Constitution Avenue, NW., Room S-5317
Washington, DC 20210

RE: Docket No. DOL-2009-0002

Dear Director Eugenio,

This letter responds to the United States Department of Labor's *Notice of Initial Determination Updating the List of Products Requiring Federal Contractor Certification as to Forced/Indentured Child Labor Pursuant to Executive Order 13126.* In particular, these comments oppose the inclusion of shrimp from Thailand in the initial determination of products produced by forced or indentured child labor.

In order to export Thai shrimp to the United States, a Thai shrimp company must be a member of the Thai Frozen Foods Association (TFFA). TFFA and the Thai government engage in extensive inspection and enforcement measures to ensure that child labor is not used in the production of Thai shrimp. TFFA has been conducting inspections of its members since 2008 and we have found no evidence of any Thai shrimp company that uses forced or indentured child labor in the growing or processing of shrimp. The International Labour Organization (ILO) has reported that it believes child labor in Thailand is a problem less than one percent of the time. Therefore we strongly oppose the inclusion of Thai shrimp on this list. It would be patently unfair for the United States to include Thai shrimp as a product produced with child labor in the final rulemaking.

Membership in TFFA

TFFA is a non-profit organization created in 1968 under the Thai Trade Association Act. There are currently more than 213 members of TFFA whose primary business is processing and exporting frozen foods. TFFA represents approximately 70 percent of the Thailand shrimp industry. Any Thai shrimp company that wants to export to the United States or members of the European Union must be members of TFFA.

TFFA has worked aggressively to ensure appropriate protections for Thailand's workers. To become a member of TFFA a Thai shrimp company must first:

(1) Gain approval from the Department of Fishery Thailand (DOF), which includes inspection for sanitary conditions, production flow, structure of the factory and other manufacturing system requirements; and
(2) Pass TFFA inspections for general sanitation, child or forced labor, and salary and overtime pay to its workers.

TFFA members are subject to random factory inspections to ensure compliance with Thai sanitation and labor laws. U.S. Immigration and Custom Enforcement (ICE) officers will occasionally join TFFA inspectors during the random factory inspections. If TFFA finds any evidence that a member company is using child or forced labor, TFFA would suspend the membership of that company.

Seafood Trade with the United States

Thailand's shrimp production is projected to be between 400,000 and 450,000 metric tons this year, of which approximately 360,000 metric tons will be exported. In 2007, the value of frozen Thai shrimp exports was approximately 80 billion Thai baht, or almost $2.5 billion USD. Approximately 180,000 metric tons of Thai shrimp are sold to the United States. Thai shrimp exports to the United States market are critically important to the success of TFFA members and employment of hardworking employees in the seafood industry. We are very concerned that a unfair listing of Thai shrimp by the United States as a product produced by child or forced labor will damage the goodwill that American consumers and seafood processors currently have for Thai shrimp and cause a significant reduction in sales to the United States and other countries.

Strong Labor Laws Prevent Child Labor

TFFA has worked closely with the government of Thailand in the adoption of strong and appropriate labor protections. This includes protections for women and children in the seafood industry. In 1998, Thailand enacted a strong labor law, entitled the Labor Protection Act (LPA), which makes it illegal to employ children under the age of 15. The LPA prohibits children under the age of 16 to be employed in the seafood industry except under limited circumstances. The Thai Constitution, adopted in 2007, incorporates additional protections for women and children and guarantees 15 years of education for all Thai children.

Thailand has also ratified the leading international conventions to protect children from abuse. Thailand adopted the Convention on the Rights of the Child in 1992. Thailand also ratified the ILO Convention No. 182 on the Elimination of All Worst Forms of Child Labor in 2001. To implement this Convention, Thailand created a National Plan of Action which created a blueprint to coordinate the government efforts to eliminate child labor across its various government ministries. The ILO published a report in 2006, that stated that Thailand had successfully reduced incidences of child labor one percent in 2000 and continued the decline over the last decade.

The Thai government has implemented strong measures to prevent child labor before it begins. These preventative measures include a comprehensive education, public awareness and community organizing program. Thai law requires children to attend a compulsory 12 years of education in order to keep children in the classroom instead of the workplace. The Ministry of Labor added lessons to the public education program aimed at preventing child exploitation. The Ministry of Labor has conducted extensive public awareness campaign on

child labor in the media. The Thai government also fostered targeted community education and organization movements to prevent child labor in coordination with ILO.

TFFA provides its members with regular updates on Thai labor laws. To ensure compliance, TFFA also hosts seminars in various regions of Thailand on Thai labor laws that include speakers from the Thai government and TFFA committees.

Strong Enforcement Eliminates Child Labor

TFFA and the Thai government have created an enforcement regime to eliminate the use of child labor. As discussed above, TFFA requires high standards of each of its members. If TFFA uncovered any evidence of child or forced labor at a member company, the TFFA membership of that company would be suspended. No company with a suspended TFFA membership can export shrimp to the United States.

Since May 2008, TFFA has conducted regular, random inspections of its members. TFFA works alongside the Thai government, including the DOF, Department of Commerce, Department of Labor, and Ministry of Foreign Affairs to ensure each member is complying with all Thai labor laws. In August 2008, U.S. ICE agents accompanied TFFA on its regular inspection of member facilities which included 20 factories and 10 peeling sheds. The team did not find any evidence of child or forced labor and ICE officials appeared satisfied with the results. TFFA continues to regularly coordinate with ICE on labor issues. TFFA also requires its members to inspect their subsidiaries and suppliers to ensure that there is no use of child, illegal and indentured labor, and that daily wages comply with statutory minimum wages.

The Thai Ministry of Labor also conducts random and risk-based inspections of seafood producers and processors to ensure compliance with labor laws. In addition, TFFA members must also annually pass DOF and the Ministry of Industry audits. The Ministry of Labor and the Royal Thai Police are also responsible for investigating specific allegations of violations of labor laws. In June 2008, the Ministry of Labor conducted two weeks of joint inspections with U.S. ICE officials during which no evidence of child labor was uncovered.

In addition, Thai shrimp companies must comply with various inspections and international social audits required from the recipient importing country or business. These inspections and audits include an examination of compliance with Thai and international child labor laws. TFFA has worked closely with the Global Aquaculture Alliance (GAA) to implement Best Aquaculture Practices (BAP), which includes labor regulations, food safety, traceability and environmental standards. Thai shrimp companies must also comply with certain social audits which typically include labor laws as required by the recipient U.S. business, such as Costco.

In 2006, the Ministry of Labor conducted a inspection of Ranyapaew shrimp processing facility as part of its regular inspection regime. Ranyapaew was not a member of TFFA and therefore was not approved to export to the United States. The Ministry of Labor inspectors found evidence of child and illegal immigrant labor. TFFA supported the Ministry of Labor's decision to close the Ranyapaew facility and supports an aggressive prosecution of the owners of the facility. The Thai Labor Court has accessed heavy penalties on the owners of Ranyapaew. The case is currently under processing in the Thai Civil Court where additional penalties are expected to compensate former workers.

Unsubstantiated Claims of Child Labor

In 2008, a United States labor organization called the Solidarity Center published a report entitled the *True Cost of Shrimp* that made numerous unsubstantiated claims of child and indentured labor in Thailand and Bangladesh. TFFA, Global Aquaculture Alliance and the Aquaculture Certification Council (ACC) aggressively deny the unsupported allegations made in this report. We were disappointed that the Solidarity Center never contacted TFFA prior to publishing the report to verify its accuracy nor did the Solidarity Center provide us any evidence with which we could proactively stop any of the alleged labor violations. As discussed previously, TFFA represents 70 percent of the Thai shrimp industry and we have not seen any evidence of the allegations in the Solidarity Center report.

Conclusion

TFFA and the Thailand Ministry of Labor have implemented strong labor law protections and aggressive enforcement mechanisms to prevent child labor. TFFA's rigorous membership requirements and regular, random inspection regime ensure that there is no child labor used by any Thai shrimp processor that ships products to the United States. The leading international labor organization, ILO, has reported that it believes child labor in Thailand is a problem less than one percent of the time.

Trade relations with the United States are important for Thailand both economically and socially. The classification of the Thai shrimp industry as a product that uses child labor by President Barack Obama and his Administration would negatively impact the reputation and trade with the entire Thai shrimp industry with no evidence of a violation. Therefore, we ask you to remove Thai shrimp from this Executive Order list.

Please feel free to contact us if you have any questions.

Sincerely,

Panisuan Jamnarnwej, Ph.D.
President, Thai Frozen Food Association