



December 10, 2009

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 constitutes a public comment to the 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 relate to the inclusion of shrimp from Thailand in the initial determination of products produced by forced or indentured child labor. There is no reason to believe that Thailand is using forced or indentured child labor in the growing or processing of shrimp, therefore we strongly oppose the inclusion of Thai shrimp on this list.

**Background**

The National Fisheries Institute (NFI) is the leading seafood trade association representing nearly 75 percent of all seafood products sold in the U.S. NFI member companies represent every element of the seafood industry from the family fisherman at sea to national seafood restaurant chains. NFI promotes the U.S. Dietary Guidelines that suggest Americans include fish and shellfish in their diets twice per week for longer, healthier lives. NFI supports a continued and robust supply of seafood in the U.S. marketplace. NFI believes that seafood should be produced through sustainable management of our oceans and fisheries and being stewards of our environment by endorsing the United Nations' Principles for Responsible Fisheries. At all times, NFI encourages the adherence to internationally-accepted labor standards and opposes in the strongest terms the use of forced or indentured child labor in the production of seafood.

According to the U.S. Department of Commerce, Thailand has been the top exporter of shrimp to the United States over the last decade. In 2008, the United States imported 404 million pounds in shrimp from Thailand.<sup>1</sup> As a key trading partner that helps provide Americans with healthy protein from seafood, the U.S. government should be very cautious before making allegations

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<sup>1</sup> <http://www.ers.usda.gov/data/Aquaculture/ShrimpImportsVolume.htm>

that this friend of the United States is using forced or indentured child labor in the production of shrimp.

### **There is No Reason to Believe Child Labor is Used in the Production of Thai Shrimp**

There is no basis for shrimp from Thailand to be listed as a product produced by forced or indentured child labor in this Executive Order. Thailand has enacted strong labor laws, ratified international child labor agreements, and engaged in strong enforcement and prosecution of violations.

The International Labour Organization (ILO), a special agency of the United Nations which promotes social justice and internationally-recognized human and labor rights, has recognized that child labor in Thailand decreased significantly in the 1980s and 1990s and continued its decline over the last decade. In a 2006 report, the ILO stated:

Child labour had already begun to decline quite significantly when Thailand joined [the International Programme on the Elimination of Child Labour (IPEC)] in 1992, with the child labour participation rate down to around 5 per cent in 1989. . . . This was due to rapid economic and educational progress. This downward trend was maintained in the 1990s despite the economic crisis starting in 1997, so that the participation rates of children under 15 years of age fell to around 1 per cent by 2000.<sup>2</sup>

It is unclear how the United States government could condemn the entire Thai shrimp industry as using forced or indentured child labor based on what the leading international labor organization identifies as an issue less than 1 percent of the time. That would be analogous to saying that if the Department of Labor were to have a reason to believe that one percent of U.S. businesses or one percent of U.S. labor organizations were corrupt that all U.S. businesses or U.S. labor organizations should be officially classified as corrupt. The classification is unfair.

As a result of progressive changes in Thai law, international agreements and increased enforcement, NFI has no reason to believe that forced or indentured child labor in Thailand.

#### *Solidarity Center Report*

In January 2008, the Solidarity Center, a Washington, D.C.-based organization dedicated to assisting workers organize into international trade unions in coordination with the AFL-CIO, issued a report entitled the *True Cost of Shrimp*. This report made vague allegations about child labor conditions in shrimp processing facilities in Thailand and Bangladesh. As the leading seafood trade association representing seafood products in the United States, we contacted the Solidarity Center on two separate occasions to request additional information and evidence about specific violations of Thai and international labor laws. NFI and its members are uniquely positioned to bring about positive change where evidence of child labor can be identified. On

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<sup>2</sup> <http://www.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-i-b.pdf>

both occasions, the Solidarity Center refused to provide any evidence of specific violations or sites where there was evidence of child labor or other forms of mistreatment of workers.

### *Labor Law in Thailand*

Over the last three decades, Thailand has made the protection of children a priority in their labor laws. In 1987, Thailand created a Commission for Protection of Child Labor within their Ministry of Labor. In 1998, Thailand enacted the Labor Protection Act (LPA) which contains numerous protections for children. The LPA makes it illegal to employ children under the age of 15. The Act also prohibits children under the age of 16 to be employed in seafishing unless the child is older than 15 and is employed on the same boat as his or her parent or guardian. In addition, an employer must notify the government within 15 days of employing a child under the age of 18 and within 7 days of the final employment of such child. Thailand also enacted the Child Protection Act in 2003 which contains additional legal protections from child labor in forced labor conditions or completing hazardous and arduous work.

Thailand's focus on child labor also led the country to include specific protections for women and children's rights in their Constitution adopted in 2007. The Constitution incorporates the protections included in international conventions which Thailand has ratified. The Thai Constitution guarantees children access to 12 years of access to free education, however the Thai government put into effect a 15-year free education program in 2009 which goes above and beyond the 2007 constitutional mandate.

### *International Child Labor Agreements*

Thailand has ratified two international agreements focused on the prevention of child labor. In 1992, Thailand ratified the Convention on the Rights of the Child. In 2001, Thailand ratified the International Labour Organization (ILO) Convention No. 182 on the Elimination of All Worst Forms of Child Labor. In 2008, Thailand issued a National Plan of Action to implement ILO Convention No. 182 which has helped coordinate Thailand's efforts to eliminate child labor across its various government ministries. Thailand has also worked closely with the International Organization for Migration, U.S. Agency for International Development (USAID) and the United Nations on child labor issues.

### *Enforcement of Child Labor Laws*

Thailand has been engaged in an aggressive enforcement campaign to prevent and eliminate prohibited forms of child labor. Under Thai law, inspectors from the Ministry of Labor, Ministry of Public Health and law enforcement regularly inspect Thai business for compliance to labor laws. In addition, the Thai Frozen Foods Association conducts random inspections of seafood facilities in Thailand to monitor and evaluate compliance with labor laws including child labor protections.

In 2006, the Thai government conducted an inspection of Ranyapaew shrimp facility. This was a part of the regular enforcement inspections by the government. During this inspection, the Thai government identified evidence of child and illegal immigrant labor. The Thai government has

closed this facility and is continues to criminally prosecute the owners of the facility under Thai labor laws. In the same year, the Thai government appointed a National Committee for the Elimination of the Worst Forms of Child Labor. This Committee finalized a national plan in 2008 to eliminate the worst forms of child labor which created a coordinated strategy involving various ministries of the Thai government.

In June 2008, Thailand and the U.S. Department of Homeland Security (DHS) conducted a series of inspections of Thai shrimp facilities. DHS sent a team of Immigration and Customs Enforcement (ICE) agents to Thailand to conduct the inspections. The team inspected 12 shrimp facilities and 5 subsidiary facilities in Thailand. inspected Thai shrimp facilities and have not identified any evidence of child labor. In August 2008, ICE officials accompanied inspectors of the Thai Frozen Foods Association on random inspections of almost 50 seafood processing facilities. During these extensive visits, ICE agents said that if they identified any areas of concern, they would pursue more action. We understand that there has been no more activity and can only assume that ICE officials found no evidence of child or forced labor during their inspections.

As part of this enforcement strategy, the Thai government has engaged in a public awareness campaign which includes the use of the media, inclusion in public education curriculum, community organizing in villages, and adoption of ILO-sponsored "Good Practices." The Thai government has also implemented Child Labor Protection Networks which include nearly 16,000 individuals from the government, media, community organizations, employer and employee organizations, academics and local communities. This Network assists the government in community policing and reports any reports of child labor to the Ministry of Labor.

### **Conclusion**

Thailand is a important trading partner and a strong friend of the United States. Over the last 30 years, Thailand has made significant advances economically, politically and socially. One of the areas of focus of the Thai government has implemented progressive changes is in its labor laws. During this process, Thailand has focused on preventing and eliminating child labor. There is no evidence that the shrimp industry is using forced or indentured child labor. The ILO has stated that the rate of child labor was 1 percent in 2000 and continued to decrease over the last decade. NFI has no reason to believe that there is any issue with forced or indentured child labor. Therefore, we ask you to remove shrimp from Thailand from your list of countries determined to be using forced or indentured child labor.

Sincerely,



John Connelly  
President  
National Fisheries Institute

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