



Alexa Cole
Director of International Affairs and Seafood Inspection
NOAA Fisheries
alexa.cole@noaa.gov

Mi Ae Kim
NOAA Fisheries
mi.ae.kim@noaa.gov

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Resources Relevant to New Maritime SAFE Act Requirements

Dear Alexa and Mi Ae –

Illegal, unreported, and unregulated (IUU) fishing depletes valuable ocean resources and perpetuates serious human rights and labor abuses. The Natural Resources Defense Council appreciates the National Oceanic Atmospheric Administration’s (NOAA) continued efforts combatting these complex problems, including its work implementing the Maritime Security and Fisheries Enforcement Act (Maritime SAFE). We wanted to share several resources which may be of assistance as NOAA and counterparts at the State Department prepare the report on human trafficking in the seafood supply chain required by Maritime SAFE, and we summarize these resources briefly below. Should you have any questions or wish to discuss any of these matters in greater detail, we would be pleased to arrange a time.

1. Key Requirements of the Maritime SAFE Act

Section 3563 of Maritime SAFE requires the State Department and NOAA to prepare a report “that describes the existence of human trafficking, including forced labor, in the supply chains of seafood products imported into the United States.”¹ The report shall include:

- (1) a list of the countries at risk for human trafficking in their seafood industries;
- (2) a description of the quantity and economic value of seafood products imported into the United States from the listed countries;

¹ Maritime SAFE, Section 3563(a); <https://docs.house.gov/billsthisweek/20191209/CRPT-116hrpt333.pdf>

- (3) a description and assessment of the methods in those countries used to trace and account for the manner in which seafood is caught;
- (4) a description of domestic and international enforcement mechanisms to deter illegal practices in the listed countries; and
- (5) recommendations “for administrative action to enhance and improve actions against human trafficking, including forced labor” in the seafood supply chain.²

This report must be provided to various Senate and House Committees one year after the enactment of Maritime SAFE.³

2. Considerations Related to Identifying At-Risk Countries

Seafood supply chains are long and complex, and abuses occur at all points of the chain. In order to fulfill Maritime SAFE’s goals of enhancing transparency and traceability, as well as curbing trade in seafood harvested with forced labor or other illegal means, the report must take a comprehensive approach and identify countries if risks exist at any point in their seafood supply chains.

Human trafficking and forced labor have been documented at every point of the seafood supply chain. Intermediaries – often known as “brokers” – recruit workers for fishing boats, processing facilities, and other jobs in the fishing industry.⁴ Many workers are recruited from developing nations like Cambodia, Indonesia, the Philippines, and Myanmar, lured by the promise of well-paying jobs. Sadly, the jobs may not be as lucrative as promised, or worse, and workers can be forced to pay excessive recruitment fees or be forced into heavy debt to the broker, keeping them trapped in their jobs, a system known as “debt bondage.”⁵ Once onboard fishing vessels, workers are vulnerable to a range of abuses, which have included having their pay withheld, being denied access to medical and legal services, physical and psychological abuse, and even murder.⁶ Vessels can sail under “flags of convenience,” from countries with lax regulatory regimes, like Panama, Papua New Guinea, and Vanuatu – enabling vessels to evade fishing and trade restrictions, as well as perpetuate labor abuses onboard.⁷ Seafood is often transferred from the

² *Id.* Section 3563(b).

³ *Id.* Section 3563(a).

⁴ Environmental Justice Foundation, *Blood and Water* (June 2019) at 17, <https://ejfoundation.org/resources/downloads/Blood-water-06-2019-final.pdf>

⁵ Center for American Progress, *Human Trafficking in the International Fishing Industry* (Dec. 15, 2016); <https://www.americanprogress.org/issues/green/reports/2016/12/15/295088/seafood-slavery/>; *Blood and Water* at 17; Human Rights Institute, Georgetown Law, *The Price of Paradise: Vulnerabilities to Forced Labor in the Hawaiian Longline Fishing Industry* (April 2019) at 18; <https://www.law.georgetown.edu/human-rights-institute/wp-content/uploads/sites/7/2019/05/Georgetown-THE-PRICE-OF-PARADISE-5-4-19-WEB.pdf>

⁶ *Id.*

⁷ Robin McDowell, *et. al.*, *AP tracks slave boats to Papua New Guinea*, Associated Press (July 27, 2015), <https://www.ap.org/explore/seafood-from-slaves/ap-tracks-slave-boats-to-papua-new-guinea.html>; International Labour Organization, *Global Supply Chains: Insights into the Thai Seafood Sector* (Apr. 2016) at 9.

harvesting vessel to a refrigerated cargo vessel – a practice known as transshipment – allowing fishing vessels to remain at sea for months, or even years, at a time.⁸ Transshipment can exacerbate worker abuses – stuck on boats for months, or even years at a time, workers cannot leave a hostile work environment, and cannot seek social services or legal recourse.⁹ Seafood processing may take place in countries other than those where fish are caught or where a vessel’s owners are headquartered, and workers in processing plants are also subject to various human rights and labor abuses.¹⁰ Seafood may transit through an intermediate port, en route to its final destination, which may provide another important intervention point to scrutinize whether seafood was produced with forced labor.¹¹

Maritime SAFE does not specify at which point in the supply chain a country must be flagged for risk of perpetuating human trafficking, forced labor, and other such abuses. But presenting a full and accurate landscape of the risks in seafood supply chains requires identifying countries implicated at all points in the supply chain, including countries with recruitment agencies or brokers engaging in coercive and fraudulent practices, where the owners of vessels engaging in illegal fishing or transshipment vessels reside, countries where these vessels operate, and countries that allow vessels to operate under their flags and evade international and domestic regulations.

In compiling the list of nations with forced labor in their seafood supply chains, we encourage NOAA and the State Department to consult a range of sources including: U.S. government reports such as NOAA’s report to Congress on IUU fishing, the State Department’s Trafficking in Persons report, and the Department of Labor’s List of Goods Made With Child and Forced Labor; reports by intergovernmental agencies like the International Labor Organization and regional fishery management organizations; and publications by investigative reporters and nonprofit organizations.

We also encourage the United States to be attentive to the following indicators of illegal fishing and/or forced labor risks:

- Recent enforcement actions or citations, such as: Customs and Border Protection withhold release orders against a fishing vessel, states listed in the State Department’s

http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_474896.pdf; *Blood and Water* at 25; Greenpeace, *Fishy Business* (Feb. 28, 2020) at 16; <https://storage.googleapis.com/planet4-international-stateless/2020/02/be13d21a-fishy-business-greenpeace-transshipment-report-2020.pdf>

⁸ Center for American Progress, *Human Trafficking in the International Fishing Industry*.

⁹ *Fishy Business* at 19.

¹⁰ Center for American Progress, *Human Trafficking in the International Fishing Industry*.

¹¹ A recent NRDC report, *Unintentional Partner*, illustrates how poor scrutiny of in-shipment transits facilitates illegal trade in commodities like shark fins. See, <https://www.nrdc.org/resources/unintentional-partner-how-united-states-helps-illegal-shark-fin-market>. Poor inspection of products in transit may also enable other forms of illegal trade, such as goods made with forced labor.

Trafficking in Persons Report or on the Department of Labor’s List of Goods, states with a yellow or red card from the European Commission for IUU Fishing;

- Laws limiting fishermen’s access to legal and social services, including: port states that do not permit fishermen to legally enter the country when a vessel is docked at port, states that exempt migrant fishermen from national labor and employment laws;
- Operating conditions increasing worker vulnerability to forced labor and human rights abuses on board, including: vessels using at-sea transshipment, vessels where workers are not able to land onshore and access grievance mechanisms at least every 90 days, vessels staffed by 25 percent or more migrant fishermen;
- Nations meeting other risk indicators, such as: flag states scoring 2.5 or higher for prevalence of IUU fishing on the IUU Fishing Index¹², flag states on the International Trade Federation’s list of countries enabling “flags of convenience”¹³, flag states listed in the International Trade Union Confederation’s Global Rights Index (ratings 2-5)¹⁴.

3. Countries at Risk for Forced Labor and Human Trafficking in their Seafood Supply Chains

One of the core requirements of Maritime SAFE is creating a list of countries at risk for human trafficking and forced labor in their seafood supply chains. We highlight below nations with recent documented instances of forced labor and human rights abuses in their seafood supply chains. This may not be an exhaustive list of all the nations presently grappling with forced labor and human rights abuses in their seafood industries, given the challenges in uncovering these abuses.

Bangladesh

Traffickers recruit Bangladeshi adults and children to work in the fishing industry, at times trapping them in forced labor conditions through debt bondage.¹⁵ Rohingya ethnic minorities are especially vulnerable – they can incur debt in order to work with Bangladeshi fishermen, and have been trapped in forced labor conditions because of inability to satisfy these debts.¹⁶

Child labor is also a concern – children have been documented working for long hours in poor conditions in shrimp processing facilities, with no access to educational opportunities, and no medical assistance.¹⁷

¹² <http://iuufishingindex.net/about>

¹³ <https://www.itfglobal.org/en/sector/seafarers/flags-of-convenience>

¹⁴ https://www.ituc-csi.org/IMG/pdf/ituc_globalrightsindex_2020_en.pdf

¹⁵ U.S. Department of State, *2019 Trafficking in Persons Report*, <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/bangladesh/>

¹⁶ U.S. Department of State, *2019 Trafficking in Persons Report*

¹⁷ *Global Supply Chains* at 7, 23.

There have also been cases of child labor in the dry-fish industry of Bangladesh where they face various dangerous working conditions, such as exposure to harmful chemicals applied to the fish, skin diseases from standing long hours in salty water, risk of falling from tall pillars that must be climbed to hang the fish, and exhaustion from long work hours without breaks.¹⁸ Children can be as young as eight to nine years old.¹⁹

The State Department's Trafficking in Persons report flags continued risks of adults and children being subjected to forced labor in the shrimp and fish processing industries.²⁰ The Department of Labor includes shrimp and dried fish from Bangladesh on its list of goods made with forced and child labor.²¹

Burma

Workers from Burma are frequently recruited to crew Indonesian and Thai fishing vessels.²² Workers reported being beaten, having their pay withheld, being forced to work long hours and/or stay at sea for years at a time; some workers have been killed for slowing down while working, or while trying to jump ship.²³

The State Department's Trafficking in Persons report flags continued trafficking and forced labor of Burmese workers in domestic and foreign fishing roles – workers are subject to debt-based coercion, having their passports confiscated, wage garnishing and withholding of wages, physical abuse and being confined to vessels.²⁴ The report also identifies instances of boys being subject to forced labor in the fishing industry.²⁵ The Department of Labor lists shrimp sourced from the country as made with forced labor.²⁶

¹⁸ Jensen, K. B. (2013). Child slavery and the fish processing industry in Bangladesh. *Focus on Geography*, 56(2), 54.

¹⁹ *Id.*

²⁰ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 98; <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>

²¹ U.S. Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 20; https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2019/2020_TVPRAList_Online_Final.pdf

²² Margie Mason, *Fishing slaves no more, but freedom brings new struggles*, Associated Press (July 12, 2017) (“Mason, *Fishing Slaves no more*”); <https://www.ap.org/explore/seafood-from-slaves/fishing-slaves-no-more-but-freedom-brings-new-struggles.html>

²³ *Id.*; Margie Mason, *Myanmar fisherman goes home after 22 years as a slave*, Associated Press (July 1, 2015); <https://www.ap.org/explore/seafood-from-slaves/myanmar-fisherman-goes-home-after-22-years-as-a-slave.html>

²⁴ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 130.

²⁵ *Id.*

²⁶ U.S. Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 20.

Cambodia

The Associated Press has reported on Cambodian workers recruited to work on Thai vessels, and who experienced forced labor conditions while on board – workers were forced to remain on boats for longer than contractually obligated, made to work excessively long hours, and were physically assaulted as they worked.²⁷

There have also been documented abuses of Cambodian workers on fishing vessels in South African waters. In 2014, the NEXUS Institute and International Organization for migration published a report detailing various abuses, including: unethical recruitment practices by the Giant Ocean International Fishery Company, workers being forced to work long hours, physical assault on vessels, substandard living conditions, having wages withheld, and receiving little to no medical treatment for injuries caused by a lack of proper working gear.²⁸

Children have also been documented working in the fishing industry in Cambodia, on fishing boats or harvesting crabs or snails, or in seafood processing.²⁹

The State Department identified Cambodian adults and children being trafficked into work on fishing vessels and being subject to forced labor conditions on board, including on Japanese and Thai fishing vessels.³⁰ The Department of Labor has listed Cambodia-sourced shrimp and fish as being made with child labor.³¹

China

The NEXUS and IOM report identified instances of human trafficking and other labor abuses of Cambodian workers on Chinese-flagged vessels.³² Other sources have identified Indonesian workers suffering overwork, withholding of wages, debt bondage, physical and sexual violence, sometimes even resulting in death, on Chinese vessels.³³

²⁷ Mason, *Fishing Slaves no more*.

²⁸ Surtees, R. (2014). In African waters. The trafficking of Cambodian fishers in South Africa; *International Organization for Migration (IOM) and Nexus Institute*. https://publications.iom.int/system/files/pdf/nexus_africanwaters_web.pdf

²⁹ Ratana, L., Cruz, A., (November 2007). Understanding Children's Work in Cambodia. World Bank. <http://documents1.worldbank.org/curated/en/725591468006040644/pdf/440840WP0BOX321n0Cambodia111PUBLIC1.pdf>

³⁰ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 20.

³¹ U.S. Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 20.

³² Surtees, R. (2014). In African waters. The trafficking of Cambodian fishers in South Africa. *International Organization for Migration (IOM) and Nexus Institute*; https://publications.iom.int/system/files/pdf/nexus_africanwaters_web.pdf

³³ Basten Gokkon, *Arrests in Indonesian probe into latest case of labor abuses on Chinese fishing boats* (July 28, 2020); <https://news.mongabay.com/2020/07/arrests-in-indonesian-probe-into-latest-case-of-labor-abuses-on-chinese-fishing-boats/>; Basten Gokkon, *Deadly conditions for Indonesian migrant crews tied to illegal fishing*

Labor abuses are also perpetuated by the practices used to transport and process fish. As illustrated in a recent Greenpeace report, transshipment can exacerbate human rights abuses onboard a ship by allowing vessels to remain at sea for months or years at a time.³⁴ According to the report, the majority of transshipment vessels are owned by companies from eight fishing powers, including China.³⁵ In addition, a recent Center for Advanced Defense Studies report identifies China as one of the most common port states visited by vessels relying on forced labor.³⁶

The State Department's Trafficking in Persons report identified trafficking and forced labor conditions for workers on Chinese-flagged vessels.³⁷ The Department of Labor lists fish harvested by the Chinese distant water fleet on its list of goods made with forced labor.³⁸

Taiwan has one of the world's largest distant-water fleets, and there are high levels of human trafficking of workers in the fleet.³⁹ The Environmental Justice Foundation has reported on numerous abuses on Taiwanese-flagged vessels, including: human trafficking, hazardous living conditions, the absence of work contracts, physical abuse, bonded labor, and disparate treatment of non-Taiwanese workers.⁴⁰ Greenpeace has also reported on similar labor and human rights violations in Taiwan's fleet, including: excessive overtime, debt bondage, retention of identity documents, and the exploitation of non-Taiwanese fishermen.⁴¹

According to the State Department's Trafficking in Persons Report, there is a persistent risk of forced labor in Taiwan-flagged and Taiwan-owned vessels.⁴² Labor and human rights abuses included: non- or under-payment of wages, long working hours, physical abuse, lack of food or

(January 6, 2020), <https://news.mongabay.com/2020/01/deadly-conditions-for-indonesian-migrant-crews-tied-to-illegal-fishing/>

³⁴ *Fishy Business* at 18.

³⁵ *Fishy Business* at 16.

³⁶ Center for Advanced Defense Studies, *Safe Harbor: Port Prevalence in Cases of Forced Labor in Fishing* (2020) at 10;

<https://static1.squarespace.com/static/566ef8b4d8af107232d5358a/t/5f29bd7ad1596d7b0f5b4e1b/1596571013240/Safe+Harbor.pdf>

³⁷ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 156.

³⁸ U.S. Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 21.

³⁹ Environmental Justice Foundation, *Human Trafficking in Taiwan's Fisheries Sector* (March 2018); <https://ejfoundation.org/resources/downloads/EJF-Briefing-Taiwan-2018.pdf>

⁴⁰ *Blood and Water* at 8, 21; Environmental Justice Foundation, *Illegal fishing and human rights abuses in the Taiwanese fishing fleet* (July 2020), <https://ejfoundation.org/resources/downloads/Taiwan-briefing-IUU-HR-2020-July.pdf>

⁴¹ Greenpeace, *Choppy Waters: Forced Labor and Illegal Fishing in Taiwan's Distant Water Fisheries* (Mar. 2020) at 8; <https://www.greenpeace.org/usa/wp-content/uploads/2020/03/b87c6229-2020-choppy-waters-en.pdf>; see also, Greenpeace, *Seabound: The Journey to Modern Slavery on the High Seas* (Dec. 2019), <https://storage.googleapis.com/planet4-southeastasia-stateless/2019/12/b68e7b93-greenpeace-seabound-book-c.pdf>; Greenpeace, *Misery at Sea* (May 2018), <https://www.greenpeace.org/new-zealand/publication/misery-at-sea/>

⁴² U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 473.

medical care, denial of sleep, substandard safety equipment, poor living conditions, and retention of identity documents.⁴³ The Department of Labor also identifies fish harvested by the Taiwanese distant water fishing fleet on its list of goods produced with forced labor.⁴⁴

In addition to these instances of forced labor violations, Taiwan also enables violations in other ways. It owns a significant share of the global fishing fleet's transshipment vessels.⁴⁵ And, according to a recent Center for Advanced Defense Studies report, Taiwan is one of the most common port states visited by vessels relying on forced labor.⁴⁶

Fiji

The State Department's Trafficking in Persons report identified trafficking and forced labor on Fijian-flagged fishing vessels and other vessels transiting through Fijian ports and waters.⁴⁷ According to the Center for Advanced Defense Studies, which has built a database on instances of forced labor in the global fishing industry, Fiji is one of the most common transit points for recruited fishermen.⁴⁸

Ghana

In 2015, an investigation by the Guardian revealed that Ghanaian workers had been recruited to work on Irish fishing vessels, and that they were confined to their vessels, paid less than half the Irish minimum wage, and forced to work long hours without rest days.⁴⁹

The Environmental Justice Foundation has documented numerous abuses in the Ghanaian fishing fleet, including physical abuse, squalid living conditions, denial of medical care, and an absence of written contracts and a guaranteed wage.⁵⁰ According to EJF, the majority of vessels in the Ghanaian fleet are owned by Chinese corporations.⁵¹

⁴³ *Id.* at 477.

⁴⁴ U.S. Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 24.

⁴⁵ *Fishy Business* at 16.

⁴⁶ Center for Advanced Defense Studies, *Safe Harbor: Port Prevalence in Cases of Forced Labor in Fishing* (2020) at 10;

<https://static1.squarespace.com/static/566ef8b4d8af107232d5358a/t/5f29bd7ad1596d7b0f5b4e1b/1596571013240/Safe+Harbor.pdf>

⁴⁷ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 209.

⁴⁸ Center for Advanced Defense Studies, *Who Can Combat Forced Labor at Sea?*, <https://c4ads.org/blogposts/forced-labor-at-sea>

⁴⁹ Felicity Lawrence, *Revealed: Trafficked migrant workers abused in Irish fishing industry* (Nov. 2, 2015); <https://www.theguardian.com/global-development/2015/nov/02/revealed-trafficked-migrant-workers-abused-in-irish-fishing-industry>

⁵⁰ The Environmental Justice Foundation, *Fear, Hunger and Violence: Human Rights in Ghana's industrial trawl fleet* (2020) at 8-9; https://ejfoundation.org/resources/downloads/EJF_Ghana-human-rights-in-fisheries_2020_final.pdf

⁵¹ *Id.* at 6.

The International Labor Organization has found instances of Ghanaian children being trafficked from their home villages and sold into work as fishers.⁵² Verité has also found instances of children being trafficked to work as fishers in the Lake Volta and Lake Victoria regions. The State Department's Trafficking in Persons report flagged that these problems have continued.⁵³ The Department of Labor lists Ghanaian fish on its list of goods made with forced and child labor.⁵⁴

Greece

As noted above, transshipment can exacerbate human rights abuses by allowing boats to remain at sea for months or years at a time – a significant number of the world's transshipment vessels are owned by Greek interests.⁵⁵

Indonesia

In 2015, the Associated Press reported on hundreds of fishers from Myanmar, Cambodia, Laos, and Thailand trapped on the Indonesian island of Benjina, where they were forced to remain there and work for Thai-Indonesian fishing operations.⁵⁶ They endured horrible working conditions on the island, and investigation found more than sixty workers died on the island.⁵⁷

A report prepared by the International Organization for Migration and Indonesian Ministry of Marine Affairs and Fisheries found the Benjina incident emblematic of ongoing issues in the Indonesian fishery industry, including, the deceptive recruitment and exploitation of fishers from around Southeast Asia, fishers being forced to work excessive hours, and the murder of non-compliant fishers.⁵⁸ A recent Greenpeace report highlights the fact that Indonesia is the main

⁵² International Labour Office. (2013). *Caught at sea: forced labour and trafficking in fisheries*. International Labour Office. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_214472.pdf

⁵³ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 224.

⁵⁴ U.S. Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 21. ⁵⁵ *Fishy Business* at 16.

⁵⁶ Robin McDowell, *et. al.*, *Slaves may have caught the fish you bought*, Associated Press (Mar. 25, 2015), <https://www.ap.org/explore/seafood-from-slaves/ap-investigation-slaves-may-have-caught-the-fish-you-bought.html>; Robin McDowell and Margie Mason, *Over 300 slaves rescued from Indonesian island after AP investigation into forced labor*, Associated Press (April 4, 2015), <https://www.ap.org/explore/seafood-from-slaves/over-300-slaves-rescued-from-indonesia-island-after-ap-investigation.html>; Robin McDowell, *et. al.*, *AP tracks slave boats to Papua New Guinea*, Associated Press (July 27, 2015), <https://www.ap.org/explore/seafood-from-slaves/ap-tracks-slave-boats-to-papua-new-guinea.html>.

⁵⁷ *Id.*

⁵⁸ International Organization for Migration, *et. al.*, *Report on Human Trafficking, Forced Labour and Fisheries Crime in the Indonesian Fishing Industry* (2016); <https://www.iom.int/sites/default/files/country/docs/indonesia/Human-Trafficking-Forced-Labour-and-Fisheries-Crime-in-the-Indonesian-Fishing-Industry-IOM.pdf>

destination of almost half of the migrant fishers trafficked from Thailand, Cambodia, and Vietnam.⁵⁹ The same report also notes Indonesian fishermen being subjected to labor abuses on Chinese vessels, including: exploitative recruitment practices, debt bondage, physical abuse, and being forced to work excessive hours.⁶⁰

In addition to adults being trafficked and subject to forced labor conditions, there have also been significant instances of child labor in the Indonesian fishing sector, working on fishing platforms in hazardous conditions.⁶¹ Children on these fishing platforms are forced to work long hours, subject to unsanitary conditions, and physical and sexual abuse.⁶²

The State Department's Trafficking in Persons report highlights the continuation of exploitative recruitment practices to secure Indonesian and other nationals to work on Indonesian vessels or vessels fishing in Indonesian waters.⁶³ Crew are promised high wages, but then charged high recruitment fees, or recruitment agencies take a cut of workers' wages.⁶⁴ Workers also experience various labor and human rights abuses on vessels, including working long hours, physical and sexual abuse, remaining at sea for months or years at a time.⁶⁵ The Department of Labor lists fish produced in Indonesia on its list of goods made with child and forced labor.⁶⁶

Ireland

In 2015, an investigation by the Guardian revealed workers from Ghana, the Philippines, Egypt, and India had been recruited to work on Irish fishing vessels as cheap labor.⁶⁷ Workers complained of being confined to boats and having their passports confiscated by their captains, being forced to work for long hours, suffering verbal and physical abuse, paid far less than the Irish minimum wage or having their wages withheld.⁶⁸ Some workers also claim to have been deceived and trafficked onto fishing vessels.⁶⁹

The State Department's Trafficking in Persons report flagged continued trafficking risks for workers in the fishing sector.⁷⁰

⁵⁹ *Seabound* at 15.

⁶⁰ *Id.* at 24-33

⁶¹ *Global Supply Chains* at 7.

⁶² *Id.*

⁶³ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 261.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ U.S. Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 22.

⁶⁷ Felicity Lawrence, *Revealed: Trafficked migrant workers abused in Irish fishing industry* (Nov. 2, 2015); <https://www.theguardian.com/global-development/2015/nov/02/revealed-trafficked-migrant-workers-abused-in-irish-fishing-industry>; see also, *Global Supply Chains* at 6; *Blood and Water*.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 272.

Japan

As noted in a recent Greenpeace report, transshipment increases the risk of human rights and labor abuses on fishing vessels, by allowing them to remain at sea for long periods of time – many of the world’s transshipment vessels are owned by Japanese companies.⁷¹

The State Department’s Trafficking in Persons report also flagged risks of labor abuses in Japan’s guest worker program, which helps workers secure jobs in the fishing industry (as well as many other industries).⁷² Workers have reported restricted freedom of movement, having passports confiscated, physical violence, poor living conditions, wage garnishing, and other conditions indicating a risk of forced labor.⁷³

Kenya

The Department of Labor lists fish produced in Kenya on its list of goods produced with child labor.⁷⁴

Kiribati

Various sources have reported on labor abuses on U.S. longliner vessels fishing for swordfish and tuna around Hawaii – a significant number of the workers subject to these conditions were from Kiribati.⁷⁵

The Department of Labor has found that the Kiribati fishing and shellfish harvesting sector relies on child labor.⁷⁶

The Netherlands

Companies based in the Netherlands own a significant number of the world’s transshipment vessels, which facilitate forced labor and other labor abuses by allowing ships to remain at sea for long periods of time.⁷⁷

⁷¹ *Fishy Business* at 16.

⁷² U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 286.

⁷³ *Id.*

⁷⁴ U.S. Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 22. https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2019/2020_TVPR_List_Online_Final.pdf

⁷⁵ *Blood and Water* at 12; *The Price of Paradise* at 18.

⁷⁶ U.S. Department of Labor, *Child Labor and Forced Labor Reports: Kiribati*, <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/kiribati>

⁷⁷ *Fishy Business* at 16.

New Zealand

The International Labor Organization has found forced labor occurring on New Zealand fishing boats.⁷⁸ The 2020 Trafficking in Persons report notes that workers aboard foreign-flagged vessels in New Zealand waters continue to be at risk of forced labor.⁷⁹

Nicaragua

The Department of Labor lists Nicaraguan shellfish on its list of goods made with child labor.⁸⁰

Norway

According to a recent Greenpeace report, the majority of transshipment vessels are owned by companies from eight fishing powers, including Norway.⁸¹ As noted in that report, and in other sources, transshipment can exacerbate human rights abuses onboard a ship by allowing vessels to remain at sea for months or years at a time.⁸²

Paraguay

The Department of Labor lists fish from Paraguay on its list of goods made with child labor.⁸³

Peru

The Department of Labor identifies fish produced in Peru on its list of goods made with child labor.⁸⁴

Philippines

Workers from the Philippines frequently crew distant water fleets working in Asian waters.⁸⁵ In a recent Greenpeace report on the Taiwanese distant water fleet, researchers found that Indonesian and Filipino workers experienced a host of forced labor and other violations, including – incurring debt from working with recruitment agencies, withholding of wages, being forced to work long hours, physical and sexual abuse, and being denied medical care.⁸⁶

⁷⁸ *Global Supply Chains*; see also, Stringer, Christina, D. Hugh Whittaker, and Glenn Simmons. “New Zealand's Turbulent Waters: the Use of Forced Labour in the Fishing Industry.” *Global Networks* 16, no. 1 (2015): 3–24. <https://doi.org/10.1111/glob.12077>.

⁷⁹ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 374.

⁸⁰ U.S. Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 23.

⁸¹ *Fishy Business* at 16.

⁸² *Id.* at 18.

⁸³ U.S. Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 23.

⁸⁴ *Id.*

⁸⁵ *Seabound* at 4.

⁸⁶ *Id.* at 25-28, 38.

A report by Verité found a number of labor rights concerns in the domestic Philippine tuna industry, including: lacking contracts, wages being garnished to satisfy loans made by employers, induced indebtedness, underpayment of wages, and significant risk of child labor in the processing sector.⁸⁷

The State Department's Trafficking in Persons report found a continued risk of labor trafficking in the fishing sector.⁸⁸ The Department of Labor identifies fish produced in the Philippines on its list of goods made with child labor.⁸⁹

Russian Federation

The International Labor Organization and Global Slavery Index have found evidence of human trafficking and forced labor on vessels owned by the Russian Federation.⁹⁰

According to a recent Greenpeace report, the majority of transshipment vessels are owned by companies from eight fishing powers, including Russia.⁹¹ As noted in that report, and in other sources, transshipment can exacerbate human rights abuses onboard a ship by allowing vessels to remain at sea for months or years at a time.⁹²

South Korea

A recent Environmental Justice Foundation report flagged numerous instances of human rights abuses on South Korean fishing vessels.⁹³ The International Labor Organization has reported on human trafficking and forced labor on fishing vessels owned by South Korea.⁹⁴

Many of the world's transshipment vessels are owned by South Korean interests, and as previously noted, the practice can enable human rights and labor abuses.⁹⁵

The State Department's Trafficking in Persons report highlights continued instances of labor abuses in the fishing sector, including: physically or intellectually disabled individuals being

⁸⁷ Verite, *Research on Indicators of Forced Labor in the Supply Chain of Tuna in the Philippines* (2012) at 7-9, https://www.verite.org/wp-content/uploads/2016/11/Research-on-Indicators-of-Forced-Labor-in-the-Philippines-Tuna-Sector_9.16.pdf.

⁸⁸ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 408-09.

⁸⁹ U.S. Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 23.

⁹⁰ *Global Supply Chains* at 6; [Global Slavery Index, *Russia*](https://www.globallslaveryindex.org/2018/findings/country-studies/russia/), <https://www.globallslaveryindex.org/2018/findings/country-studies/russia/>

⁹¹ *Fishy Business* at 16.

⁹² *Id.* at 18.

⁹³ *Blood and Water* at 19.

⁹⁴ *Global Supply Chains* at 6.

⁹⁵ *Fishy Business* at 16.

forced to work on fishing vessels, forced labor and debt-based coercion in the small fishing vessel fleet, and South Korea being used as a transit point for Southeast Asian fishermen subject to forced labor on fishing vessels bound for Fiji or other points in the Pacific.⁹⁶

Thailand

In 2015, Thailand gained notoriety after numerous reports of illegal fishing and human rights abuses in its fishing fleet and shrimp processing industry.⁹⁷ These reports caused the European Commission to issue a “yellow card” on the country’s seafood exports, inducing Thailand to develop measures to curb illegal fishing, and labor and human rights violations.⁹⁸

Since 2015, Thailand has made various regulatory reforms to address illegal fishing and human rights abuses, including ratifying international labor conventions, modernizing its fisheries laws, introducing various transparency initiatives, and improving its at-sea and in-port vessel inspection system.⁹⁹ The European Commission lifted its “yellow card” because of these reforms.¹⁰⁰

However, problems still remain in Thailand’s fishing sector. According to NGO reports surveying the landscape after the Thai government implemented reforms, there are inconsistencies in the in-port vessel inspection system and screening of workers when they enter Thailand, that could allow human trafficking and forced labor to continue undetected; and workers continued to report working long hours, being underpaid for their labor, being trapped in

⁹⁶ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 300.

⁹⁷ Environmental Justice Foundation, *Thailand’s Road to Reform: Securing a sustainable, legal and ethical fishery* (Oct. 2019) at 5, <https://ejfoundation.org/resources/downloads/ThailandRoadToReform.pdf>; Environmental Justice Foundation, *The Hidden Cost: Human Rights Abuses in Thailand’s Shrimp Industry*, https://ejfoundation.org/resources/downloads/shrimp_report_v44_lower_resolution.pdf; Council on Foreign Relations, *Modern Slavery: An exploration of its root causes and the human toll*, <https://www.cfr.org/interactive/modern-slavery#!/section3/item-19>; Margie Mason, *Fishing slaves no more, but freedom brings new struggles*, Associated Press (July 12, 2017); <https://www.ap.org/explore/seafood-from-slaves/fishing-slaves-no-more-but-freedom-brings-new-struggles.html>; *Global Supply Chains* at 6, 17; Esther Htusan and Margie Mason, *More than 2,000 enslaved fishermen rescued in 6 months*, Associated Press (Sept. 17, 2015); <https://www.ap.org/explore/seafood-from-slaves/more-than-2,000-enslaved-fishermen-rescued-in-6-months.html>; Margie Mason, et. al., *Global supermarkets selling shrimp peeled by slaves*, Associated Press (Dec. 14, 2015); <https://www.ap.org/explore/seafood-from-slaves/global-supermarkets-selling-shrimp-peeled-by-slaves.html>; Martha Mendoza, *Nestle confirms labor abuse among its Thai seafood suppliers*, Associated Press (Nov. 23, 2015); <https://www.ap.org/explore/seafood-from-slaves/nestle-confirms-labor-abuse-among-its-thai-seafood-suppliers.html>; Vulcan Productions, *Ghost Fleet* (2019), <https://www.vulcanproductions.com/ghostfleet/thefilm>

⁹⁸ *Thailand’s Road to Reform* at 5; see also, Environmental Justice Foundation, et. al., *Improving Performance in the Fight Against Illegal, Unreported, and Unregulated (IUU) Fishing* (April 2016); https://ejfoundation.org/resources/downloads/IUU_Carding_Brief.pdf

⁹⁹ *Thailand’s Road to Reform* at 5.

¹⁰⁰ *Id.*

their jobs due to a debt bondage arrangement, being confined against their will, and other abuses.¹⁰¹

The State Department's Trafficking in Persons report notes similar issues, including continued trafficking and forced labor violations in the seafood sector, and ineffective implementation of the inspection systems intended to curb labor violations.¹⁰² The Department of Labor identifies fish and shrimp produced in Thailand on its list of goods made with forced and child labor.¹⁰³

Turkey

The International Labor Organization has identified fishing vessels relying on forced labor working in Turkey's waters.¹⁰⁴

Uganda

The Department of Labor identifies fish produced in Uganda as being made with child labor.¹⁰⁵

United Arab Emirates

The Environmental Justice Foundation has reported on labor abuses in the fishing sector in the United Arab Emirates (UAE) – in a number of fishing villages in the northern part of the UAE, workers (primarily migrants from India) are not paid a salary, but instead given a proportion of their catch; workers have also reported having their identification documents confiscated by their employers to prevent them from leaving.¹⁰⁶

United Kingdom

The Environmental Justice Foundation and other organizations have reported on labor abuses on vessels working in waters off Northern Ireland and Scotland.¹⁰⁷ Such abuses occur in part because workers on fishing vessels can enter on transit visas, making it more likely that they sign onto substandard contracts, be paid less than the minimum wage, work unlimited hours, and are forced to stay on their fishing vessels while in port.¹⁰⁸ The State Department's Trafficking in

¹⁰¹ *Thailand's Road to Reform* at 23; [see also](https://www.hrw.org/sites/default/files/report_pdf/thailand0118_report_web.pdf), Human Rights Watch, *Hidden Chains: Rights Abuses and Forced Labor in Thailand's Fishing Industry* (2018);

https://www.hrw.org/sites/default/files/report_pdf/thailand0118_report_web.pdf

¹⁰² U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 486-87.

¹⁰³ U.S. Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 24.

¹⁰⁴ *Global Supply Chains* at 6.

¹⁰⁵ U.S. Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 24.

¹⁰⁶ *Blood and Water* at 12.

¹⁰⁷ *Id.* at 10; Jason Holland, *Suspected slavery victims rescued from UK fishing boats*, SeafoodSource (Dec. 15, 2017); <https://www.seafoodsource.com/news/supply-trade/suspected-slavery-victims-rescued-from-uk-fishing-boats>

¹⁰⁸ *Blood and Water* at 10.

Persons report flagged that there remain instances of workers being trafficked in the fishing sector in the United Kingdom.¹⁰⁹

United States

Labor abuses have also occurred on US-flagged and US-owned vessels, particularly Hawaiian longline vessels.

Around 700 foreign fishers work on Hawaii-based longline vessels, catching millions of pounds of valuable fish (frequently tuna and swordfish) per year.¹¹⁰ Brokers recruit crew members from developing countries, including Indonesia, Kiribati, the Philippines, and Vietnam.¹¹¹ Because of U.S. immigration laws, foreign fishers are barred from entering the United States and forced to remain on ships when in port.¹¹² While confined on vessels, it can be challenging to seek medical care or social services, and difficult to report abuses on board.¹¹³ Workers have reported being trafficked onto vessels, having their wages withheld until their contracts end, having their passports confiscated by ship captains, being forced to work in unsanitary and dangerous conditions, being physically abused while on board.¹¹⁴ Workers are paid well below Hawaiian state minimum wages – some workers earn less than \$5,000 over the course of a year, compared to the average annual wage of \$28,000 for American deckhands.¹¹⁵ After AP News’s reports on labor abuses in the Hawaiian fleet, the Hawaiian Longline Association organized a task force to address these abuses, which then developed measures such as a code of conduct and model contract intended to address labor concerns.¹¹⁶

Despite these additional safeguards, fishermen continue to experience poor labor conditions. In a recent report by Georgetown Law, researchers found that some fishers paid recruitment fees, or posted valuable possessions as collateral, in order to secure jobs in the Hawaiian longliner fleet.¹¹⁷ And despite such conduct being reported to the Hawaiian Longliner Association, members of the fleet continued to use that recruiter’s services.¹¹⁸ In addition, while fishers

¹⁰⁹ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 514.

¹¹⁰ *Price of Paradise* at 1.

¹¹¹ Martha Mendoza and Margie Mason, *Hawaiian seafood caught by foreign crews confined on boats*, Associated Press (Sep. 8, 2016); <https://www.ap.org/explore/seafood-from-slaves/hawaiian-seafood-caught-foreign-crews-confined-boats.html>; *Blood and Water* at 12; *Price of Paradise* at 18.

¹¹² Margie Mason and Martha Mendoza, *Hawaii may be breaking law by allowing foreign men to fish*, Associated Press (Feb. 11, 2017); <https://www.ap.org/explore/seafood-from-slaves/hawaii-may-be-breaking-law-by-allowing-foreign-men-to-fish.html>; *Price of Paradise* at 7-8.

¹¹³ Mason, *Hawaii may be breaking law by allowing foreign men to fish*.

¹¹⁴ *Id.*

¹¹⁵ Mendoza, *Hawaiian seafood caught by foreign crews confined on boats*; Mason, *Hawaii may be breaking law by allowing foreign men to fish*.

¹¹⁶ *Price of Paradise* at 10.

¹¹⁷ *Id.* at 18.

¹¹⁸ *Id.*

received contracts, many employers failed to follow the terms of those contracts.¹¹⁹ Employers continued to provide poor working conditions onboard – failing to provide fishers with adequate food, water, medical care, clothes, toiletries, and safety gear.¹²⁰ Fishers reported working long hours, without enough time to sleep; facing unsanitary and unsafe working conditions; lack of access to medical care; and being forced to perform tasks that are against the law and/or outside the scope of their contracts.¹²¹ Because fishers are confined to their boats, they have also reported difficulties in raising grievances with responsible authorities.¹²²

Similar problems afflict vessels landing on the West Coast of the United States. In one notorious case, two Indonesia fishers – Abdul Fatah and Sorihin – fled the *Sea Queen II* when it was docked in San Francisco, and later sued their former employer under the Trafficking Victims Protection Reauthorization Act and Alien Tort Statute, alleging abuses such as the confiscation of their passports, forced indebtedness, confinement on their vessel, the absence of proper protective equipment, unsanitary living conditions, physical assault, and the denial of medical care.¹²³ In subsequent interviews, Sorihin urged American seafood consumers: “Ask where did this fish come from? Is it the kind of fish that you got from someone in slavery?”¹²⁴

Vanuatu

Vanuatu is one of the leading states allowing vessels owned by other nations to register under its flag – enabling vessels to operate under a “flag of convenience,” which can facilitate evasion of fisheries and labor regulations, contribute to forced labor and human rights abuses, and make it difficult for law enforcement to hold perpetrators of such crimes accountable.¹²⁵ Vanuatu-flagged vessels have been linked to notorious instances of physical and other abuses at sea, including abuses on the vessels *Tunago 61*¹²⁶ and *Da Wang*¹²⁷. The abuses on these vessels led Customs and Border Protection to issue Tariff Act withhold release orders, blocking seafood caught by these vessels from entering the U.S.¹²⁸

¹¹⁹ *Id.* at 11.

¹²⁰ *Id.*

¹²¹ *Id.* at 30-38.

¹²² *Id.* at 23-25.

¹²³ Mendoza, *Hawaiian seafood caught by foreign crews confined on boats*; *Complaint, Sorihin v. Nguyen*, District Court for the Northern District of California, Case No. 16-5422 (Sep. 22, 2016); available at <https://legalaidatwork.org/wp-content/uploads/2018/01/Sorihin.COMPLAINT.pdf>

¹²⁴ Mendoza, *Hawaiian seafood caught by foreign crews confined on boats*.

¹²⁵ *Fishy Business* at 16; *Blood and Water* at 25.

¹²⁶ *Misery at Sea* at 40.

¹²⁷ *Seabound*.

¹²⁸ See <https://www.cbp.gov/trade/programs-administration/forced-labor/withhold-release-orders-and-findings>

The State Department's Trafficking in Persons report notes continuing risks of forced labor on Vanuatu-flagged vessels, including deceptive recruitment practices, excessive overtime, withholding of wages, and physical and sexual violence.¹²⁹

Vietnam

The Environmental Justice Foundation has reported on various labor violations in Vietnam's fishing fleet. A recent survey uncovered that of the 41 vessels studied, 17 percent had at least one child on board.¹³⁰ The children interviewed reported irregularly attending school and having to sacrifice their education to earn money for their family.¹³¹ Vietnamese fishers also reported working long hours, and at times, not earning any wages after the expenses of a fishing trip (fuel, food, water, and other expenses) were deducted from their pay.¹³² The latest Trafficking in Persons report noted continued trafficking and forced labor in Vietnam's fishing sector.¹³³

Yemen

The Department of Labor identifies fish produced in Yemen on its list of goods made with child labor.¹³⁴

4. Recommendations for Administrative Action to Combat Human Trafficking in the Seafood Supply Chain

Maritime SAFE also calls for NOAA and the State Department to provide recommendations about administrative actions to combat human trafficking in the seafood supply chain.¹³⁵ We believe the following measures will prevent imports of seafood produced with forced labor and help assure U.S. consumers that their seafood is ethically produced.

Strengthening and Expanding the Seafood Import Monitoring Program

Transparency and traceability in seafood supply chains are essential means of identifying illegally-fished products and associated violations such as forced labor and human rights abuses.¹³⁶ The Seafood Import Monitoring Program (SIMP) provides Customs and Border

¹²⁹ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 530.

¹³⁰ Environmental Justice Foundation, *Caught in the Net: Illegal Fishing and Child Labor in Vietnam's Fishing Fleet* (November 2019) at 21, <https://ejfoundation.org/resources/downloads/ReportVietnamFishing.pdf>

¹³¹ *Id.*

¹³² *Id.* at 24-25; see also, *Blood and Water* at 14.

¹³³ U.S. Department of State, *Trafficking in Persons Report* (June 2020) at 534.

¹³⁴ Department of Labor, *2020 List of Goods Produced By Child Labor or Forced Labor* (Sep. 2020) at 24.

¹³⁵ Maritime SAFE, Section 3563(b).

¹³⁶ See, e.g., Environmental Justice Foundation, *Out of the Shadows: Improving Transparency in Global Fisheries to Stop Illegal, Unreported, and Unregulated Fishing* (2018), <https://ejfoundation.org/resources/downloads/Transparency-report-final.pdf>

Protection (CBP) and NOAA with important information about how seafood has been harvested, promoting supply chain transparency and assisting with identifying and blocking suspicious shipments. Information collected through SIMP can also enable enforcement actions against importers and other actors perpetrating illegal seafood shipments or facilitating the use of forced labor in production of such seafood. To comprehensively block IUU seafood or seafood harvested with forced labor from U.S. markets, SIMP must be more robustly implemented in several ways.

The program does not consistently require importers to submit certain data elements that would provide crucial information for detecting illegally harvested shipments. SIMP only requires importers to submit the “unique vessel identifier” (UVI) of a vessel “if available” and data systems are not optimized to collect this data.¹³⁷ UVIs are essential information in tracking how seafood was harvested and seafood shipments – the UVI remains the same throughout a ship’s lifetime, regardless of whether a vessel’s flag or ownership switches, and because the number is welded onto the ship’s hull or engine, it cannot be readily changed. Similarly, SIMP data systems are not optimized to consistently collect “evidence of fishing authorization” and CBP guidance describes this data element as “optional” for importers. Further, while SIMP requires reporting on catch location, the location descriptions are extremely broad. At a minimum, the importers should be required to report the location of catch within one degree of latitude and longitude. The accuracy of such data would be vastly improved by requiring disclosure of AIS data on vessel position. Finally, while SIMP requires importers to retain records on transshipment, it does not require reporting on transshipment or the full chain of custody of a product at the time of import. These elements must be required to better illuminate the seafood supply chain.

SIMP does not require importers to report on the labor conditions present on a harvesting vessel and collecting such information would lay the foundation for penalizing problem actors and could promote better conditions onboard vessels. SIMP could require importers to submit information on: prior labor and human rights violations on a vessel and any remedial measures taken; worker terms of employment and working conditions (e.g., whether workers have a contract and crew handbook, copy of contract and handbook, minimum worker age, information on trip duration and whether crew were transferred to other vessels at sea, whether workers have a grievance mechanism available and details of such mechanism); information on how workers were recruited to work on a vessel. Requiring importers to submit these additional data elements would enhance agencies’ abilities to track IUU fishing as well as patterns of labor abuse and block seafood caught with forced labor.

SIMP covers only thirteen species groups, amounting to approximately 40 percent of U.S. seafood imports by volume. This allows importers to mislabel cargo, evading SIMP’s reporting

¹³⁷ 50 C.F.R. § 300.324(b)(1).

requirements. Extending coverage of SIMP to all species would provide useful data about all species and facilitate tracking of suspicious shipments.

Data submitted into the SIMP is largely screened manually by NOAA and CBP analysts seeking evidence of suspicious shipments. Despite these analysts' expertise, this work is highly labor-intensive and could be more effectively conducted if artificial intelligence processes were used to help screen for suspicious shipments.

Robust Implementation of the Port State Measures Agreement

Ports are key intervention points for intercepting suspicious shipments and strong port controls are crucial for blocking shipments and tracking perpetrators of illegal fishing and forced labor violations.

Pursuant to a recent Executive Order, NOAA has initiated a rulemaking implementing the U.N. Food and Agriculture Organization Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (Port State Measures Agreement or PSMA), a statute that, among other things, allows the U.S. to deny entry to vessels engaged in IUU fishing and seek civil and criminal penalties.¹³⁸ In implementing the Port State Measures Agreement and to ensure enforcement of forced labor violations, NOAA should interpret “illegal, unreported, and unregulated fishing” so that it includes violations of International Labor Organization (ILO) Conventions, including the conventions covered by the ILO Declaration on Fundamental Principles and Rights at Work, and the ILO Work in Fishing Convention.¹³⁹ NOAA should extend this interpretation to all statutes it enforces – not just the Port State Measures Agreement, but also the High Seas Driftnet Fishing Moratorium Protection Act, and Magnuson-Stevens Act. Further, inspections conducted pursuant to the PSMA should be conducted in accordance with the ILO Work in Fishing Convention.

As part of the Port State Measures rulemaking, NOAA could also require landing vessels to provide information about labor conditions on board the vessel. The information required should be consistent with information on labor conditions collected under SIMP (see above). While not sufficient to eliminate forced labor from vessels landing in the United States, these measures could help lay the floor for standard conditions in the global fishing fleet.

¹³⁸ <https://www.whitehouse.gov/presidential-actions/executive-order-promoting-american-seafood-competitiveness-economic-growth/>; *see also*, 16 U.S.C. §§ 7401-7409.

¹³⁹ International Labor Organization, Declaration on Fundamental Principles and Rights at Work (1998), <https://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm> ; International Labor Organization, Work in Fishing Convention (2007), [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C188](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C188;);

Fully Deploying U.S. Authority to Stop Illicit Shipments and Penalize Bad Actors

Several statutes provide the U.S. authority to block the shipment of goods produced with forced labor and penalize the actors responsible for such imports, yet to date, authorities like the Tariff Act, Lacey Act, and Magnuson-Stevens Act have been underutilized. The High Seas Driftnet Fishing Moratorium Protection Act provides a process for listing nations engaging in IUU fishing and sanctioning non-complying nations and should be used to the fullest extent possible to identify nations relying on forced labor in their seafood supply chains.

Agencies must use all these authorities to foster accountability for illegal fishing and associated labor violations. And NOAA has a vital role to play – while NOAA has agreed “that forced labor and unfair labor practices are important issues in several fisheries and in the fish processing sector,” the agency has emphasized that it lacks the expertise and authority to investigate potential human right violations in the seafood sector.¹⁴⁰ Given that the problems of IUU fishing and forced labor abuses are inextricably intertwined, our groups believe that NOAA can and must take a more proactive role in leveraging its authorities to stop these mutually reinforcing crimes.

The Tariff Act prohibits the import of goods produced by forced or indentured labor.¹⁴¹ Customs and Border Protection (CBP) is responsible for enforcing the Tariff Act. After investigation revealing evidence that “reasonably but not conclusively indicates” goods were produced with forced labor, CBP can issue a “withhold release order” (WRO) preventing the import of the goods at issue.¹⁴² CBP can also issue civil penalties against importers.¹⁴³ WROs will remain in place until circumstances indicate that forced labor is no longer part of the production process.¹⁴⁴ To date, it appears that CBP has only issued three WRO blocking seafood imports produced with forced labor – one of which has already been revoked.¹⁴⁵ CBP has not issued any civil penalties against importers.¹⁴⁶

CBP could more fully deploy its authority to block seafood shipments produced with forced labor. Expanding the scope of information collected by NOAA’s seafood import reporting programs – to include more seafood species, and explicitly collect data on labor conditions – would assist CBP, which relied on one such program, the Tuna Tracking and Verification

¹⁴⁰ SIMP Final Rule. Response to comment 11. <https://www.federalregister.gov/documents/2016/12/09/2016-29324/magnuson-stevens-fishery-conservation-and-management-act-seafood-import-monitoring-program>

¹⁴¹ 19 U.S.C. § 1307; 19 C.F.R. § 12.42.

¹⁴² 19 C.F.R. § 12.42(e); *see also*, Government Accountability Office, *Forced Labor: Better Communication Could Improve Trade Enforcement Efforts Related to Seafood* (June 2020) at 16; <https://www.gao.gov/assets/710/707686.pdf>

¹⁴³ GAO, *Forced Labor* at 17.

¹⁴⁴ GAO, *Forced Labor* at 17.

¹⁴⁵ GAO, *Forced Labor* at 18; Customs and Border Protection, *Withhold Release Orders and Findings*, <https://www.cbp.gov/trade/programs-administration/forced-labor/withhold-release-orders-and-findings>

¹⁴⁶ GAO, *Forced Labor* at 18.

Program, to issue a WRO.¹⁴⁷ Working closely with CBP through the IUU Task Force and the Commercial Targeting and Analysis Center, NOAA could proactively leverage SIMP and other relevant data to support CBP investigations. Additionally, as noted in a recent Government Accountability Act report on Tariff Act enforcement, CBP clarifying the information that would be helpful in an investigation would assist NGOs and other stakeholders in flagging violations for CBP.¹⁴⁸ Finally, for countries that pose particular risks – such as those listed in the Department of Labor’s List of Goods Produced by Child Labor or Forced Labor – CBP could require importers to provide evidence demonstrating that imported seafood was not produced with forced labor.

The Lacey Act prohibits the import, sale, and purchase of fish “possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law.”¹⁴⁹ Those violating the Lacey Act may be liable for civil or criminal penalties, and the goods violating the Act forfeited.¹⁵⁰ The import of seafood produced with forced labor could provide the basis for a Lacey Act prosecution – as noted above, the Tariff Act prohibits importing goods made with forced labor; and other laws, like the Trafficking Victims Protection Act, provide for civil and criminal penalties against those who financially benefit from slavery or human trafficking.¹⁵¹

Foreign laws requiring minimum labor standards could also provide the basis for Lacey Act prosecutions. For example, Thailand has a regulation – Ministerial Regulation No. 10 – which governs all Thai fishing vessels, and requires, among other measures, a minimum daily wage, workers to be 18 years or older, and minimum rest requirements.¹⁵² Belize has instituted a moratorium on transshipment at sea, for vessels flying under its flag, as a means of protecting fishers from exploitation.¹⁵³ There are likely other foreign laws that could provide the basis for legal action under the Lacey Act.

The Lacey Act has been used only sparingly to penalize importers or harvesters of illegal seafood.¹⁵⁴ The Act does not seem to have been used to penalize importers or harvesters who rely on forced labor to source seafood, yet should be. Given the plethora of domestic and foreign laws that prohibit the import of goods made with forced labor, prohibit financial gain from

¹⁴⁷ GAO, *Forced Labor* at 21.

¹⁴⁸ GAO, *Forced Labor* at 22-25.

¹⁴⁹ 16 U.S.C. § 3372(a)(2)(A).

¹⁵⁰ 16 U.S.C. §§ 3373, 3374.

¹⁵¹ 19 U.S.C. § 1307; 18 U.S.C. § 1593A.

¹⁵² International Labour Organization, *Fishers First: Good Practices to End Labour Exploitation at Sea* (2016) at 28; https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_515365.pdf

¹⁵³ *Id.* at 38.

¹⁵⁴ In reports highlighting significant achievements from the past five years (2014 to 2018), the Department of Justice noted only three instances of the Lacey Act being used to penalize seafood harvesters or importers. See U.S. Department of Justice, Environment and Natural Resources Division, *Annual Accomplishments Reports*, <https://www.justice.gov/enrd/selected-documents> (reporting successful Lacey Act prosecutions for illegal catch of striped bass, overharvesting and false documentation of oyster harvest, and illegal harvesting of Gulf reef fish.)

forced labor, and set labor standards at sea, the Lacey Act could be more vigorously utilized to penalize those responsible for importing seafood produced with forced labor. As with the Tariff Act, expanding the set of information collected under SIMP and other seafood import reporting programs would assist with Lacey Act prosecutions.

The Magnuson-Stevens Act, like the Lacey Act, has a provision that makes it unlawful to import, transport, sell, receive, or purchase “any fish taken, possessed, transported, or sold in violation of any foreign law or regulation or any treaty or in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party.”¹⁵⁵ This broad provision could also be used to penalize those involved with the illicit seafood trade, including those involved with importing seafood produced with forced labor.

The High Seas Driftnet Fishing Moratorium Protection Act is a powerful tool to identify nations enabling IUU fishing and sanction nations that fail to prevent continued IUU fishing. In implementing this Act, NOAA should expand its definition of IUU fishing to include forced labor violations, so that nations with forced labor in their seafood supply chains are listed in this report and sanctioned if they ultimately fail to take remedial measures.

Improving Interagency Coordination and Enhancing Agency Capacity

Various agencies are responsible for screening imported goods and illuminating unethical practices in supply chains. Ensuring that responsible agencies such as Customs and Border Protection, NOAA, the State Department, and Department of Labor fully coordinate and share pertinent information is crucial for identifying and prosecuting problem actors. Through the IUU Task Force, these agencies should develop systems and processes for routine communication and information sharing. Further, these agencies should work closely to advocate for the technical and computing solutions that are needed to fully support interagency investigations.

Given that the majority of U.S. seafood is imported through California, Florida, New Jersey, and New York, bolstering agency capacity and coordination at ports in those states would enable more robust scrutiny of the seafood supply chain.¹⁵⁶

Further, state agencies are key partners in screening imported seafood and investigating violations of U.S. laws. It is important to ensure state agencies have access to federal information systems, the authority to conduct necessary investigations, and that federal funding (through mechanisms like the Cooperative Enforcement Program) provides sufficient resources to allow states to effectively execute their law enforcement obligations. NOAA should ensure that states participating in the CEP prioritize anti-IUU work and investigations.

¹⁵⁵ 16 U.S.C. § 1857(1)(Q).

¹⁵⁶ U.S. Census Seafood Import Database.

In addition to coordinating with U.S. federal and state agencies, it is important to continue coordination with intergovernmental bodies such as the regional fishery management organizations in combatting IUU and associated ills. For example, the Western and Central Pacific Fisheries Commission – of which the United States is a member – recently passed a resolution on labor standards for crew on fishing vessels, encouraging members to implement measures to ensure fair working conditions on member-state vessels, as well as to assist developing world member states in promoting fair labor conditions.¹⁵⁷ The United States could also support pending measures protecting workers, such as the recent measure proposed by Indonesia on minimum labor standards for crew on fishing vessels.¹⁵⁸

5. Conclusion

We appreciate your work to shed light on human trafficking and forced labor risks in the seafood sector and your leadership in convening the IUU Task Force. We urge NOAA and sister agencies to more fully use their authority to stop both IUU fishing and labor abuses in the seafood industry. Should you wish to discuss any of these matters in greater detail, please feel free to contact us with the information below.

Sincerely,

Irene Gutierrez, Senior Attorney, Natural Resources Defense Council
igutierrez@nrdc.org

¹⁵⁷ Western and Central Pacific Fisheries Commission, Resolution 2018-01, *Resolution on Labour Standards for Crew on Fishing Vessels* (Dec. 2018),

<https://www.wcpfc.int/system/files/booklets/31/CMM%20and%20Resolutions.pdf>; *see also*,
<https://www.wcpfc.int/about-wcpfc>

¹⁵⁸ *See* <https://www.wcpfc.int/node/49177>