



March 9, 2012

**VIA ELECTRONIC MAIL – *mccarter.tina@dol.gov***

Ms. Tina McCarter  
Bureau of International Affairs  
United States Department of Labor  
200 Constitution Avenue, N.W.  
Room S-5317  
Washington, D.C. 20210

**Re: Comments on the Department of Labor 2011 TVPRA list (77 Federal Register 9267-9268 (Feb. 16, 2012)).**

Dear Ms. McCarter:

The National Fisheries Institute (“NFI”) is pleased to submit these comments in response to the Department’s Notice requesting comments on several documents concerning international child and forced labor. According to the Notice published February 16, 2012, the Department seeks comment and information regarding the Department’s 2010 TDA Report, the 2011 TVPRA list, and the current Executive Order 13126 List.

NFI is the leading advocate for the nation’s commercial seafood industry, and includes fishermen, vessel owners, wholesalers, seafood processors and importers, and restaurants. On behalf of its members, NFI focuses on sustainable fishing and aquaculture, free trade, and ensuring that consumers have the facts on the health benefits of fish and shellfish. NFI and its members value and promote sound public policy based on scientific research.

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The Department’s Notice seeks comment and information on the 2010 TDA Report, the 2011 TVPRA list, and the current E.O. 13126 List. The Department specifically asks for information to update the findings contained in these documents.

NFI shares the important goals of the TVPRA and related legislation, and supports the Department’s constructive efforts to eliminate child and forced labor. Fundamentally, it is critical for the Department to base its assessments and determinations in all three of these assessments on reliable reports of ongoing or very recent child or forced labor abuses – activities that can be substantiated to have recently taken place in a given country and industry. Though

NFI appreciates the Department's commitment to considering only information five years old or younger, that rule should be significantly tightened.<sup>1</sup>

NFI proposes that this rule be modified to take into account information that is no more than two years old. Such a modification would ensure that the Department relies on actionable, substantiated information that both assists the Department in directing scarce resources to actual, recent abuses and ensures that the Administration does not send other nations – including our allies – on a fruitless search for information about incidents that have either long since been resolved or were never substantiated in the first place.

An example of how this becomes a problem is the Administration's reporting of alleged abuses in Thailand's farmed shrimp industry. In the 2010 TVPRA list, the Department singled out this industry for its "exemplary efforts," stating that the Royal Thai Government

has reaffirmed its commitment to ensuring that children are not working in the shrimp processing industry and that workers in that industry are not exploited or abused. The Department of Labor Protection and Welfare has begun prioritizing inspections in small factories and workplaces with concentrations of migrant and adolescent laborers, where such abuses are most likely to be found.

The GOT, in collaboration with the Thai Frozen Foods Association (TFFA), has carried out a number of seminars and trainings for shrimp and seafood processing factories to raise awareness of child labor and forced labor issues. The TFFA has also conducted its own training for members. The TFFA provides scholarships for transitional school programs to migrant children removed from child labor or at risk of child labor in shrimp processing. In addition, the TFFA has consulted with the U.S. Government and international and civil society organizations to explore the possibility of implementing a robust independent monitoring systems [sic] in the shrimp supply chain.<sup>2</sup>

The 2010 TDA Report's authors appear to have missed this progress almost entirely. Relying on the Department of State's 2010 Trafficking in Persons Report and a 2008 report by the AFL-CIO's Solidarity Center, the TDA Report alleges that workers in the shrimp processing industry are "engaged in the worst forms of child labor" and comprehensively subjected to unfair working conditions.<sup>3</sup>

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<sup>1</sup> See 77 Fed. Reg. at 9268.

<sup>2</sup> List of Goods Produced by Child Labor or Forced Labor, at 28-29 (Dec. 2010).

<sup>3</sup> The Department of Labor's 2010 Findings on the Worst Forms of Child Labor, at 730, 735 (Sept. 30, 2011).

But the TIP Report's conclusions in this respect were themselves based on the Solidarity Center report, which concerned a Ranya Paew plant that Royal Thai authorities raided and shut down in September 2006. This incident was then cited as part of allegedly broad-based forced labor practices throughout Asia, in a 2009 International Labor Organization report which also appears in the TDA Report footnotes. The ILO report simply referred to the Solidarity Center report, without more, as evidence of severe labor abuses "in different areas of Asian production, covering industries which have escaped earlier attention."<sup>4</sup> A reference to this incident then surfaced in the 2010 TIP Report (on p. 321) in support of the Department's discussion of Thailand's human trafficking problems.

By the time of issuance of the 2010 TIP Report, the Ranya Paew abuses had been ended for nearly four years, but the Department of State still relied on this incident – and nothing else – to conclude that the Thai seafood processing industry's 2010 record on these issues was "problematic." And the 2010 TDA Report in turn relied on the Department of State's conclusions to assess the state of affairs in this industry – relying, in other words, on alleged abuses that were more than six and one-half years old when the TDA Report was submitted – even as that Report ignored the progress acknowledged and indeed highlighted by the Department of Labor in its own 2010 TVPRA list.

This practice of "citing a cite" from reports, some of which are more than six years old, creates a never ending daisy chain that can never be fully plucked by the country in which alleged abuse occurs. This is patently unfair.

NFI does not for a moment minimize the horrendous nature of abusive labor practices that can and do occur around the world. NFI stands ready to assist the Department in building on the improvements in this area and would welcome the opportunity to collaborate with the Administration on these challenges. In fact, immediately after the allegations of Ranya Paew, NFI sought to work directly with the Solidarity Center to address specific issues of concern. As demonstrated in the attached letters, however, the Solidarity Center rejected offers to work collaboratively on this issue. NFI remains puzzled as to why any group would reject the chance to work with organizations representing some of the largest companies involved in Thai seafood exports and imports.

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<sup>4</sup> "The True Cost of Shrimp," Solidarity Center (Jan. 2008); "The Cost of Coercion," International Labor Organization, at 19 (2009).

Be that as it may, for the TVPRA list and TDA Report to remain useful for foreign countries – and for domestic and foreign NGOs to be able to effectively work with the Administration in making improvements – the Department should institute several reforms:

- The Department should shorten from five to two years the age of information relied upon in assessing allegations of labor abuses in a given country and industry;
- The Department should include in its editorial process a “use by” date requirement that applies to information contained in previous reports, so as to ensure that the evidence for abuses in one report does not, by itself, justify the same judgment in subsequent years.
- Some effort should be made to quantify, as opposed to merely describing, the extent of abuses across countries and industries, so that the number of workers being abused and the severity of substantiated abuse they are suffering can be more accurately compiled and compared across countries.

These changes would aid the Department, foreign governments, and NGOs alike, as the Administration tries to determine where limited U.S. Government resources can best be deployed to reduce and eliminate abusive practices and unfair working conditions. Without these protections, the Department forces countries to chase ghosts – attempting to address a problem identified in a report, based on a previous report’s citation that is itself based on an incident long since resolved. As the Department compiles upcoming reports, NFI urges serious consideration of these reforms.

Sincerely,



John P. Connelly  
President

Attachments



May 9, 2008

Timothy Ryan  
Regional Program Director-Asia/Europe  
Solidarity Center/Washington  
888 16th Street, N.W.  
Suite 400  
Washington, D.C. 20006

Dear Mr. Ryan:

We are writing to request a meeting with you regarding the recent reports of human rights abuses at Thai and Bangladesh shrimp processing plants. National Fisheries Institute (NFI) members have a deep interest in working conditions at plants from which they purchase products. As importantly, NFI's members are uniquely positioned to bring about positive change, where situations of mistreatment have been identified.

NFI is the nation's leading seafood trade association. Our members operate vessels at sea, processing plants shaping products that we recognize, and restaurants and shops that sell seafood to American families. Notably, we also represent both domestic and imported seafood interests. This diversity places NFI's members at the interface between growers and processors of shrimp and the American marketplace.

We would appreciate meeting with you to learn more details about the specific instances of worker abuses the report contains. NFI is anxious to solve specific and identifiable problems in the shrimp or broader seafood industry. Those solutions are best started by digging into the specifics of allegations. Absent that kind of specificity, it is difficult to pinpoint where laws are not being enforced. It also tars the plants with excellent operations and reputations with the same brush as those committing odious abuses. We look forward to working with you to identify any plants in any country that mistreat workers.

We hope to meet with you soon. In the meantime, I can be reached at 1-703-752-8881 and [jconnelly@nfi.org](mailto:jconnelly@nfi.org).

Sincerely,

John Connelly  
President



American Center for International Labor Solidarity  
888 16th Street, NW, Suite 400 • Washington, DC 20006  
Phone 202-974-8383 • Fax 202-974-8384  
www.solidaritycenter.org

May 15, 2008

Mr. John Connelly, President  
National Fisheries Institute  
7918 Jones Branch Drive  
Suite 700  
McLean, VA 22102

Ref.: ED/009/08

Dear Mr. Connelly,

We have received your letter of May 9 requesting a meeting with us regarding our recent report, "The True Cost of Shrimp." Although we consider your offer a positive step toward improving working conditions and worker rights in the Thai and Bangladesh shrimp processing industries, our primary concern is the security and well being of the workers involved in our report.

Therefore, we cannot release information that could be used by U.S. retailers or importers to abandon particular plants. Our experience over the years on these issues has taught us that such action rarely leads to positive change for workers.

If industry representatives wish to meet with the Solidarity Center, our partners, and trade unionists to discuss the broad problems in this industry, we will be happy to participate in such a meeting on the condition that all parties would agree to a framework that would lead to genuine and effective attempts to correct abuses and to protect workers, worker rights advocates, and NGOs from retaliation.

Thank you for your interest in the Solidarity Center and global worker rights.

Ellie Larson  
Executive Director

EXECUTIVE DIRECTOR: Ellie Larson

BOARD OF TRUSTEES: John J. Sweeney, Richard L. Trumka, Linda Chavez-Thompson, Margaret Blackshere, R. Thomas Buffenbarger, Larry Cohen, Leo W. Gerard, Harry G. Kamberis, William Lucy, Susan J. Schurman, Barbara Shailor, Joslyn N. Williams



May 20, 2008

Elli Larson  
Executive Director  
Solidarity Center/Washington  
888 16th Street, N.W.  
Suite 400  
Washington, D.C. 20006

Dear Ms. Larson:

Thank you for your response to our letter concerning "The True Cost of Shrimp" report. We would be pleased to begin a dialog with you but are confused by your insistence on keeping important details about your report secret.

The Solidarity Center's report alleges that specific abuses are ongoing and systemic. As my original letter suggested, National Fisheries Institute members are in a unique position to drive change in any plants mistreating workers. They also have every interest in ensuring a continued supply of seafood products and would be very wary about completely eliminating a business partner which needed improvements (versus one that was totally abusive to workers). So, we do not understand your concern that an importer or processor would force a plant to shut down because of illegal employment practices. In fact, if a plant is exploiting workers we think that you would agree that there should be consequences. Do we not share the same belief that if workers, most notably children, are in danger then immediate corrective action should be taken?

There is a basic level of fairness we seek. The Center's report makes claims that there are pervasive problems in the Thai and Bangladesh shrimp processing sectors. Without being specific about what companies may be mistreating workers, the Center has damned all shrimp processing companies in Bangladesh and Thailand. Certainly that could not have been your intent. In order to avoid this unintended consequence and to provide a measure of fairness to those companies which do things well, we encourage you, again, to share with us the specific companies you believe to be breaking the law.

The seafood community continues to be appalled by any accusations of child or worker abuse and looks forward to working with you to root out any problems in Thai or Bangladesh plants.

Sincerely,

A handwritten signature in black ink, appearing to read "John Connelly", is positioned below the word "Sincerely,".

John Connelly  
President



American Center for International Labor Solidarity

888 16th Street, NW, Suite 400 • Washington, DC 20006

Phone 202-974-8383 • Fax 202-974-8384

www.solidaritycenter.org

May 30, 2008

Mr. John Connelly, President  
National Fisheries Institute  
7918 Jones Branch Drive, Suite 700  
McLean, VA 22102

Ref.: ED012/08

Dear Mr. Connelly,

Thank you for your letter of May 20. We very much appreciate your willingness to work with the Solidarity Center, our partners, and trade unionists to eliminate worker rights abuses in Thai and Bangladesh shrimp processing plants.

As I expressed in my previous letter, any meeting between industry and worker rights representatives would require an understanding between the parties that we would not release information that could be used to blacklist workers or shut down plants. As you are no doubt aware, the vast majority of shrimp processing workers in Thailand are Burmese migrants who have no choice but to take a low-wage, dangerous job in order to escape political repression or extreme poverty in their own country. With even the best intentions, disciplinary action could have unforeseen consequences for these workers, placing them in jeopardy of deportation or worse.

While we recognize that a small number of facilities provide decent work and treat both migrant and local workers with the respect and dignity they deserve, our experience over the years has shown that industries that rely predominantly on a migrant workforce do so for a very specific reason: to reduce labor costs through substandard conditions and pay. As we said in our first letter, the goal of our report is not to single out or promote any single facility; it is to raise awareness that a serious problem exists in the industry.

We look forward to taking the next steps with industry representatives toward correcting worker and human rights abuses in the global shrimp supply chain.

Sincerely,

Ellie Larson  
Executive Director

EXECUTIVE DIRECTOR: Ellie Larson

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