

February 17, 2016

Karmenu Vella
EU Commissioner for fisheries, maritime affairs and environment
European Commission
1049 Brussels
Belgium

Dear Commissioner Vella:

As the European Commission assesses whether Thailand has taken sufficient measures in the international fight against illegal, unregulated and unreported fishing (IUU), we write to you to urge the Commission to maintain pressure on Thailand to build upon positive reforms that have recently been made to its fishing industry, ensure that they have longevity and address the structural problems that facilitate both IUU fishing and human rights abuses. The undersigned are part of a coalition of human rights, labour and environmental organizations that closely track human rights and labour conditions for fishers in the Thai seafood industry. We urge the European Union to extend the yellow card designation for at least another six-month period and ensure that Thailand implement a time-bound action plan that goes beyond legal reforms, focusing also on effective enforcement to ensure substantial, measurable progress toward legal, sustainable and ethical fisheries products and the protection of the rights of all workers in this industry.

The EU's yellow card designation has already brought about significant legal reforms and changes in the ways that the Thai government monitors and seeks to manage marine resources and control fishing operations. But it is unclear whether effective enforcement of these new regulations will be achieved once the EU lifts immediate pressure. Thailand is somewhat infamous for producing documents and plans that, for various reasons, have little real-world impact on the problems they seek to address. Since 1963, with the first National Economic and Social Development Plan, Thailand has acknowledged depletion of fish stocks as a serious issue in need of comprehensive action to curb overfishing, but such action was only introduced in 2015. Similarly, Thailand has had national action plans in place to combat human trafficking since at least 2004, but labor trafficking on fishing vessels has continued unabated. We strongly urge and encourage the Commission to insist on demonstrated results in curbing illegal fishing practices and, importantly, combating human trafficking, bonded and forced labour across the entire seafood industry, before determining Thailand has made sufficient progress.

We commend the EU's statement urging the Thai government to address human rights issues as well as IUU fishing practices in the wake of the most recent report from the Associated Press about forced labour among migrant workers toiling in factories in Thailand's seafood export industry. The linkages between illegal fishing and forced labour are increasingly apparent. As fish stocks continue to be overfished, fishing vessels travel further and stay out longer at sea, with an associated increase in cost. In order to remain profitable, workers at sea are required to work longer hours and fish in remote areas with fewer visits to shore, increasing their vulnerability to exploitation and abuse, including forced labour. Thailand should be pressured to investigate and prosecute unscrupulous fleet owners and captains who are willing to break laws to make unsustainable practices seem profitable. Evidence suggests, and the Thai government recognizes, that the Thai fishing fleet has massive overcapacity and the depletion of fish stocks in Thai territorial waters due to over-fishing has led to a corresponding, on-going decline in catch per unit effort over a considerable period of time, which, in turn, has made some vessels operating in the Thai fleet simply unprofitable without the use of cheap, precarious labour.

At the end of 2015, Thailand passed a new Royal Ordinance and adopted some monitoring, control and surveillance measures that, if properly and fully enforced, could help it gain control over rampant human

trafficking in the seafood sector. Increased labour inspections at sea under Royal Thai Navy coordination are an important addition to enforcement efforts, but we have yet to see whether the current arrangement will be an improvement over the previous system, which lacked interpreters to communicate with migrant workers and in some cases failed to provide an opportunity for fishers to speak with officials without being closely observed by the captain and other officers on board who could retaliate against them. Despite the existence of relatively detailed plans, the method of screening and identifying crew in need of assistance remains largely inadequate.

Despite claims that it is taking the human trafficking problem seriously, the Thai government has done little to hold government officials complicit in trafficking accountable for their crimes and demonstrate such action through well-publicized prosecutions, successful convictions and appropriate deterrent penalties. Police Gen. Paween Pongsirin, the lead investigator into government complicity in Rohingya boat people trafficked via trafficking camps on the Thai/Malaysia border, fled to Australia to seek asylum after receiving death threats and facing a transfer that would have placed him in Yala province, an area in which he contended the trafficking networks could easily harm him.¹ Rather than protect the investigator, senior Thai police are now considering charging him with criminal defamation.

Criminal defamation has often been used to silence those who speak out about human trafficking. Similarly, the Thai government did nothing to halt the Thai Navy from suing Alan Morison and Chutima Sidasathian, two journalists with Phuketwan who reported on the trafficking of Rohingya, for criminal defamation and violating the Computer Crimes Act simply because they reproduced portions of an article by Reuters alleging naval forces' involvement in trafficking. They were ultimately acquitted, although public prosecutors successfully applied for several extensions requesting more time for the Royal Thai Navy to appeal the acquittal, with no notice to the defendants. Government prosecutors also joined a Thai company to sue migrant worker rights defender Andy Hall for criminal defamation and violating the Computer Crimes Act in connection with his efforts to document labour abuses at pineapple and tuna processing facilities for the NGO Finnwatch. Witnesses in human trafficking prosecutions against government officials have also been harassed and threatened without the perpetrators facing serious consequences.²

In addition, Thailand has done very little to change legal structures that govern the rights of migrant workers that must be addressed to make anti-trafficking efforts viable and sustainable. Thailand's current push to register migrant fishers is similar to previous migrant registration efforts in that it provides temporary working documents but still falls short in fixing the complex, expensive registration system that makes workers vulnerable to abuse and exploitation by labour brokers. Migrant workers are still prohibited by law from forming and serving in the leadership of trade unions and fishers still lack mechanisms to enforce their rights at sea. To address these shortcomings, Thailand should ratify International Labour Organization (ILO) conventions 87 on freedom of association, 98 on the right to organise and collectively bargain, and 188 on rights of work in fishing

The European Union cannot be confident that Thailand has sufficiently addressed illegalities in its seafood sector, including forced labour and human trafficking, until the government of Thailand demonstrates sustained enforcement and meaningful results. Thailand should demonstrate the political will and enforcement capacity required to investigate and uncover egregious human rights violations in seafood production, prosecute perpetrators, ensure protection of human rights defenders and journalists from judicial and other harassment.

¹ Holmes, Oliver, "Thailand considers defamation case against human trafficking investigator," The Guardian Newspaper, December 11, 2015, <http://www.theguardian.com/world/2015/dec/11/thailand-considers-defamation-case-against-human-trafficking-investigator>, accessed 1/13/2016.

² Fortify Rights, "Thailand Threats Continue in Human Trafficking Case," December 24, 2015, <http://www.fortifyrights.org/publication-20151224.html>, accessed 1/13/2015.

Migrant workers must be prevented from further abuses by recognizing their right to freedom of association and improving the systems that govern how they find employment, maintain legal working status and access justice.

We encourage you to continue pushing for meaningful change by extending Thailand’s yellow card status. If six months from now, Thailand still fails to demonstrate improved enforcement of laws to protect human rights in its seafood sector, the Commission should consider issuing a red card and take appropriate further steps until Thailand can demonstrate results from actions taken against human traffickers and their enablers, who force men and boys from Myanmar, Cambodia, Thailand and Laos to endure a life of misery as victims of trafficking in the Thai seafood industry.

We thank you for your consideration. Please direct all replies to Abby McGill at the International Labor Rights Forum, abby@ilrf.org, +1 (202) 347-4100, ext. 113.

Sincerely,

1.



American Federation of Labor-Congress of Industrial Organizations (AFL-CIO)

2.



Anti-Slavery International

3.



Chab Dai Coalition

4.



Environmental Justice Foundation

5.



Fairfood International

6.



Finnwatch

7.  FishWise
8.  Food Chain Workers Alliance
9.  Fortify Rights
10.  Greenpeace
11.  Human Rights and Development Foundation
12.  HUMAN RIGHTS AT SEA
13.  Human Rights Watch
14.  Humanity United
15.  International Labor Rights Forum
16.  International Transport Workers Federation

17.  The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)
18.  Lawyers' Rights Watch Canada
19.  Legal Support for Children and Women (LSCW)
20.  Migrant CARE
21.  Migrant Workers Rights Network
22.  Oceana
23.  Serikat Buruh Migran Indonesia (SBMI)
24.  Trades Union Congress
25.  Transient Workers Count Too (TWC2)
26.  Uniting Church in Australia, Synod of Victoria and Tasmania
27.  Walk Free

CC:

- **Jesús Miguel Sanz**, EU Ambassador to Thailand
- **Thomas Bender**, Head of Unit, External Relations, Neighbourhood Policy, Enlargement, IPA, Employment, Social Affairs and Inclusion Directorate General, European Commission
- **Joao Aguiar Machado**, Directorate General for Maritime Affairs and Fisheries
- **Cesar Deben Alfonso**, Principal Adviser in the EU's Directorate-General for Maritime Affairs and Fisheries
- **Ernesto Penas Lado**, Director, Directorate A, Policy Development and Coordination
- **Andrés G. Inotai**, member of Karmenu Vella's team