

Tuesday, February 6, 2024

The Honorable Joseph R. Biden, Jr.  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

**Dear President Biden:**

We are writing to urge the prompt implementation of the National Security Memorandum on Combating Illegal, Unreported, and Unregulated Fishing and Associated Labor Abuses (NSM-11), which is critical for U.S. economic competitiveness, national security, fisheries sustainability, and the livelihoods and human rights of fishers around the world. Reporting in recent months documenting the continued entrance of seafood produced through illegal, unreported, and unregulated (IUU) fishing and labor abuses into the U.S. market has emphasized the urgency of U.S. Government action on these issues. Swift and robust implementation of the NSM-11 by U.S. agencies would significantly reduce the risk of seafood products entering the U.S. and advance workers' rights in the global seafood industry, in line with the priorities recently identified in the Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards Globally (hereinafter "Memorandum on Advancing Worker Empowerment").

IUU fishing, the use of forced labor on board fishing vessels and in processing facilities, and seafood fraud occur due to a lack of transparency and adequate regulation of key players along the global seafood supply chain, including regulation of U.S. companies, and disregard for fishers' internationally-recognized labor rights. The lack of corporate accountability or respect for workers' fundamental labor rights allows these illegal practices to remain profitable and largely invisible to governments, merchants, and consumers. What happens in the middle of the ocean is too often left unmonitored, as fishers remain isolated at sea for months without access to communication with people onshore, including their families, unions, or government agencies, and are therefore barred from exercising their freedom of association and reporting labor abuses or IUU fishing in real time. In addition, without adequate requirements for catch documentation and traceability, seafood products become difficult or nearly impossible to track as they make their way from vessels and processing facilities to shipping containers, across U.S. borders, onto trucks and into stores – and ultimately to U.S. consumers.

Further, the U.S.'s supply chain regulations lag behind those of other major market states and create conditions in which U.S. seafood importers are able to – and many do – purchase seafood at artificially low prices, which drives actors further down the supply chain to find ways to maximize profits while minimizing expenses. Profit-maximizing methods often come to the great detriment of fishers and seafood processors as corporations seek to cut labor costs. Absent strong measures and enforcement, the compounding effects of IUU fishing, climate change, and labor violations increasingly undermine marine ecosystems and the coastal

communities that depend on them for their food and livelihoods, and will significantly exacerbate the socio-political and environmental impacts of climate change.

In the face of these challenges, the U.S. Government has multiple existing tools to prevent seafood caught with forced labor and/or via IUU fishing from entering the U.S. market. Moreover, as the largest single-nation seafood importer in the world, the U.S. can have a significant impact on eliminating forced labor in global seafood supply chains by wholly enforcing existing regulations. However, these regulations are not currently being enforced to their full potential or in line with the necessary urgency expressed in NSM-11. While progress has been made in some areas, several key agencies – namely the Forced Labor Enforcement Division of U.S. Customs and Border Protection (CBP) and the National Oceanic and Atmospheric Administration (NOAA) – have been slow to comply with the directives outlined in NSM-11, including the implementation of Section 307 of the U.S. Tariff Act, the Uyghur Forced Labor Prevention Act (UFLPA), and the Seafood Import Monitoring Program (SIMP) as essential means to combat IUU fishing and associated labor abuses.

We call on the Administration to ensure that CBP and NOAA are fully implementing their obligations under the NSM-11, specifically to:

#### 1. Prioritize Forced Labor Enforcement Actions Against Seafood Importers

Section 2(c) of the 2022 NSM-11 calls on CBP to, among other things, “investigate fishing vessels and operators suspected to be harvesting seafood with forced labor and issue withhold release orders.” However, CBP did not issue any Withhold Release Orders (WROs) in any sector in 2023 and has yet to issue any [in 2024](#), despite recent public statements by CBP stating that the Division had received more than 60 allegations of goods produced with forced labor entering the U.S. in the past year. In comparison, between 2020 and 2022, CBP issued [26 WROs](#) – an average of more than eight WROs per year across various supply chains. Ending the scourge of forced labor in seafood and other sectors requires vigorous enforcement of Section 307, and we know from public statements from the Human Trafficking Legal Center, the International Corporate Accountability Roundtable, and Greenpeace that at least three Section 307 petitions received by CBP pertain to the seafood sector. Given this, and recent media reports revealing, yet again, the prevalence of forced labor in the seafood sector and the entrance of that seafood into U.S. markets, CBP must act on Section 307 petitions against actors in the seafood supply chain, as directed to do in NSM-11, to adequately prevent forced labor in U.S. seafood supply chains. Furthermore, CBP must use the full power of the law to address these issues in a more systematic way by issuing bans not only against individual vessels, but also against fleets, traders, and other actors throughout the supply chain.

In addition to Section 307, the [Uyghur Forced Labor Prevention Act \(UFLPA\)](#) prohibits the importation of goods produced in the Xinjiang Uyghur Autonomous Region of China or by entities listed on the UFLPA Entity List based on the presumption that they were produced using forced labor. [Evidence](#) gathered by The Outlaw Ocean Project

demonstrates that U.S. seafood supply chains likely contain seafood processed in facilities using Uyghur forced labor through the Chinese Government's Uyghur worker transfer program. The Outlaw Ocean Project reports that over 47,000 tons of seafood, including 17 percent of the U.S. squid supply, was imported to the U.S. from companies employing Uyghur workers. Section 3(e)(ix) of the Memorandum on Advancing Worker Empowerment directs the Forced Labor Enforcement Task Force (FLETF), including CBP, to robustly enforce the UFLPA. Therefore, in accordance with NSM-11 and the Memorandum on Advancing Worker Empowerment, CBP must prioritize seafood inspections, including of squid, and carry out enforcement actions and issue penalties, as appropriate, to prevent seafood harvested with forced labor from entering the U.S.

## 2. Implement the Seafood Import Monitoring Program to its Full Potential

By leveraging U.S. market power, including through the comprehensive application of SIMP and other tools, the U.S. can fulfill its obligation to reduce the flow of seafood products produced via IUU fishing and forced labor. NOAA is currently falling short of the Biden Administration's overarching directive in NSM-11 for agencies to enhance existing authorities to root out forced labor practices within seafood supply chains, in addition to the specific directive in section 5(e) to expand SIMP and improve its effectiveness in addressing IUU fishing and seafood fraud.

Ensuring this directive is implemented is especially important now, in light of NOAA's recent withdrawal of its 2022 proposed rule to expand SIMP and announced plans to undertake a "comprehensive review" of SIMP without a formal structure or timeline for rulemaking. As such, we call on the Administration to work with NOAA throughout this process to ensure: (1) meaningful participation of environmental and labor NGOs and seafood workers (Section 4(c)); (2) meaningful participation of all relevant agencies, in particular, the U.S. Department of Labor and the U.S. Department of Homeland Security; (3) inclusion of the detection of labor abuses as a central part of SIMP; (4) transparency with the public about the review process, including a timeline; (5) adequate plans and resourcing for enforcement and oversight of SIMP; and (6) expansion of SIMP to all species, especially those at higher risk of IUU fishing and/or human rights abuses, such as squid and pollock, within two years.

## 3. Update NOAA's Definition of IUU Fishing to be Consistent With the Food and Agriculture Organization of the United Nations (FAO) Definition and Include Labor Abuses

While NOAA has made progress in combating forced labor through its counter-IUU fishing work, such as by identifying two nations for producing seafood-related goods through forced labor in its *2023 Report to Congress on Improving International Fisheries Management*, NOAA's effectiveness is still significantly hampered by its limited definition of IUU fishing. Among other things, NOAA's current definition of IUU fishing under the High Seas Driftnet Fishing Moratorium Protection Act fails to recognize violations of fishers' human and labor rights as constituting illegal fishing, even though such violations are illegal under binding international treaties. In contrast, other U.S. laws, such as the

Maritime SAFE Act, already utilize the FAO's definition, which defines IUU fishing as including violations of national laws or international obligations and thereby encompasses human and labor rights abuses. Accordingly, to promote consistency with international standards and across U.S. law, NOAA must update its definition of IUU fishing to include human and labor rights abuses. This change will provide an important tool for the agency to effectively prevent, deter, and intercept seafood products tainted with human rights abuses from entering the U.S. market. By not updating its definition of IUU fishing, NOAA is disregarding the spirit of NSM-11, which clearly directs "executive departments and agencies to work toward ending forced labor and other crimes or abuses in IUU fishing" (Section 1). Congress has also been directing NOAA to do this since 2020, and they have ignored those directives.

In conclusion, as the largest single-nation importer of seafood, it is critical for the U.S. Government to continue to take strong action to combat IUU fishing, forced labor, and associated labor abuses in global seafood supply chains. We urge your office to ensure that all relevant agencies – in particular, CBP and NOAA – are giving this issue the resources and attention you directed in your Memorandum.

Greater U.S. action to address the environmental and social challenges posed by IUU fishing and forced labor will strengthen the durability and resilience of global fisheries and exemplify U.S. global leadership on labor and environmental rights. In turn, this will promote healthier marine ecosystems and sustainable fish stocks, help secure livelihoods and increase food security, reduce the risk of competition and conflict over fisheries, and promote labor rights around the world while increasing economic prosperity for American fishers by ensuring fair global competition. Therefore, we call on your administration to move forward the above proposed concrete actions to ensure that all agencies are fully implementing the NSM-11.

Finally, in addition to ensuring the full implementation of the NSM-11, we urge this administration to continue taking steps to hold U.S. companies accountable for embedding and executing counter-IUU fishing and forced labor practices and policies throughout their supply chains and business practices. Currently, even if all existing enforcement tools and provisions of the NSM-11 were implemented to their full potential, U.S. corporations could continue to operate with impunity due to the absence of mandatory human rights due diligence laws in the U.S. that would require companies to ensure compliance with international human rights and labor standards throughout their supply chains. Meanwhile, major loopholes in U.S. federal government procurement policies continue to allow U.S. government agencies to increase the profits of these companies by purchasing seafood products tainted with forced labor. To protect fishers in the U.S. and around the world, in addition to U.S. consumers, the U.S. Government should increase forced labor prosecutions against corporate actors, develop and strengthen legislation to hold U.S. companies accountable for IUU fishing and forced labor in their supply chains, and ensure that U.S. agencies, including CBP and NOAA, fully execute the directives outlined in the NSM-11.

Signed,

1. Azul
2. Center for Biological Diversity
3. Corporate Accountability Lab
4. Creation Justice Ministries
5. Earthjustice
6. Endangered Species Coalition
7. Environmental Justice Foundation
8. FishWise
9. Freedom United
10. Friends of the Earth
11. Global Labor Justice - International Labor Rights Forum (GLJ-ILRF)
12. Healthy Ocean Coalition
13. Humanity United Action
14. Labour Rights Foundation
15. Ocean Defense Initiative
16. Oceana
17. The Freedom Fund
18. The Human Trafficking Legal Center
19. The International Corporate Accountability Roundtable
20. Verité

