

LOUISIANA SHRIMP ASSOCIATION

May 9, 2007

Dear *[[Members of the LA Delegation]]*,

We write to you today about an ongoing issue of tremendous concern to Louisiana's shrimpers.

As you may know, an astounding half of all Thai shrimp exports come into the U.S. at unrealistically low prices. The continued use of child labor and widespread rights abuses—as documented in the *International Herald Tribune* (April 25, 2007, copy attached)—underscores the lengths at which the Thai shrimp industry is willing to go to dominate the world market and the manner in which they are able to sustain these below-market prices.

Thailand leads all U.S. shrimp imports to the tune of 193,764 metric tons in 2006—three times the next highest, China. Already those numbers are growing this year, from 8,778 metric tons in February 2006 to 11,598 metric tons in February 2007. When is it enough?

The quality of imported food is also at times suspect and, in some dire cases, carcinogenic. We applauded Wal-Mart's recent decision to pull Chinese catfish from their shelves nationwide after Alabama's Agricultural Commissioner announced that tests of Chinese catfish had traces of fluoroquinolones, an antibiotic. The ongoing pet food scare is a daily reminder of the dangers of this potentially deadly problem if left unchecked.

Of increasing concern, and evidence of a pattern of business and trade abuses, is Thailand's rapidly deteriorating protection of intellectual protections and the U.S. government's recent decision to put the country on its "watch list" joining other repeat offenders such as Russia, China and India. This issue was well documented in *The Wall Street Journal* (May 7, 2007, copy attached) just this week.

Thailand, in a politically precarious state stemming from the recent coup, is a nation with a long history of trying to wipe our Louisiana's generations-old shrimp industry. It allows labor and rights abuses that we would never tolerate in the U.S. and actively advocate against. And if that wasn't enough, now they want to all but steal our innovations.

The Louisiana Shrimp Association consists of a wide range of Americans who depend on a vibrant shrimp industry—from commercial fishermen to wholesale and retail seafood dealers to everyday individuals—who share a common concern about the ill effects of imported shrimp. We want to preserve the culture and heritage of the traditional Louisiana shrimper as well as all United States shrimpers.

We want fair trade with other nations and firmly believe that any American industry can compete with any nation on a fair and even playing ground. That's all that we ask for and hope that the Louisiana delegation will investigate Thailand's business and trade practices immediately.

We thank you for your time and attention in these matters.

Regards,

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INTERNATIONAL **Herald Tribune**

In Thai shrimp industry, child labor and rights abuses persist

By Ed Cropley

Reuters

Wednesday, April 25, 2007

SAMUT SAKHON, Thailand: It is 7:30 p.m., and an excited chatter fills the room as Nampeung, 11, and her friends get their work checked before clearing their desks and heading home.

But this is no scene from the end of a school day.

Nampeung is from Myanmar and an ethnic Mon girl who has been working in a seafood factory in central Thailand for nearly three years.

The desks are the metal tables where she spends six days a week shelling shrimp, and her work is measured by the kilogram.

Of the 200 people working in a barnlike factory during an unannounced visit by Reuters, nearly half appeared to be in their early teens or younger - clear evidence of child labor in an industry worth \$2 billion a year in exports.

Half of Thailand's exported shrimp goes to the United States, where it ends up on the shelves of retail giants like Wal-Mart Stores and Costco, according to Poj Aramwattananont, president of the Thai Frozen Foods Association. Japan and Europe each account for 20 percent.

Even though she can only dream of going to school, Nampeung is one of the lucky ones. She makes as much as 300 baht, or \$9, a day - more than the province's minimum wage - and sees nothing wrong with children her age working.

"The old people are so slow," she said with a broad smile, sitting demurely on the floor of the concrete hut next to the factory, which she shares with her mother, father and three siblings.

Other factories in the coastal province of Samut Sakhon, 50 kilometers, or 30 miles, west of Bangkok, where 40 percent of all shrimp are processed, do not have such a contented work force.

A police raid on a factory called Ranya Paew in September revealed conditions that were little short of medieval.

Around 800 men, women and children from Myanmar were imprisoned behind walls 5 meters, or 16 feet, high and topped with razor wire in a compound patrolled by armed guards.

The rescued workers told human rights monitors that they had to work 18 hours or more a day and were paid 400 baht a month, out of which they had to buy food - mainly rancid pork - from the factory's owner.

Those who asked for a break had a metal rod shoved up their nostrils. Three women who asked to leave were paraded in front of the other workers, stripped naked and had their heads shaved.

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The Labor Rights Promotion Network, a nongovernmental organization that estimates there are 200,000 Burmese migrant workers in Samut Sakhon - of whom only 70,000 are legally registered - says that the Ranya Paew case is the worst it has seen.

But this, the group says, is just the tip of a human trafficking iceberg of factories fed by people-smuggling rings and labor brokers that have the complicity, if not active involvement, of government officials and the provincial police.

"For many migrants, work in Samut Sakhon is the chance for a better life, but for too many it leads to abuse," said Sompong Srakaew, president of the nongovernment organization.

"Unscrupulous employers and brokers conspire to ensure migrant workers remain vulnerable to exploitation. This is only possible with the complicity of elements within the law enforcement authorities."

Wal-Mart and Costco said that none of their shrimp had ever come from Ranya Paew and that strict ethical guidelines for suppliers, as well as audits of processing units in Thailand, ensured that they complied with food standards and labor regulations.

One shipment from Ranya Paew a few years ago, however, did end up in the United States, according to a Western diplomat who has followed the case closely.

Poj, the president of the Thai Frozen Foods Association, denied that children or trafficked people worked in the industry, saying factories were monitored carefully.

"There are no more illegal workers in the Thai food industry, because the government registers all the workers properly," he said. "We never use child labor."

But even Thailand's biggest agro-industrial company, Charoen Pokphand Foods, which produces its own shrimp from pond to package, is not untouched by allegations of trafficked labor.

The company sells a range of shrimp products to the United States and Europe, including the "Thai Torpedo" and "Bangkok Firecracker."

According to the Labor Rights Promotion Network, when the police and immigration officials raided a Charoen Pokphand factory in Samut Sakhon on April 5 and fired shots into the air, more than 100 Burmese migrants in the compound tried to escape by swimming a canal.

Six workers who could not swim are thought to have drowned, the Labor Rights Promotion Network said, and the police rounded up and deported 90 others to Myanmar for being illegal migrants.

Narong Kruakrai, the general manager of the plant, described the raid as a "regular visit" by the immigration police and said the factory never hired illegal workers.

The labor rights group said the workers appeared to have been employed by a third-party broker.

With smaller shrimp companies, overseas buyers have an even harder time conducting their own background checks, as much of the processing is outsourced to small operators.

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As a result, foreign companies rely more on the Thai Labor Ministry, which is responsible for ensuring that factories do not use illegal or child workers. But the ministry is short on staff, the Western diplomat said.

"The Thai Ministry of Labor lacks the proper resources to conduct rigorous inspections of these factories," he said.

Despite the discovery of abuses at Ranya Paew, the police in Samut Sakhon have allowed the plant to remain open. In the meantime, about 200 Burmese men were deported as illegal immigrants, and more than 60 women and children are in a Bangkok center for victims of trafficking.

Drug Patent Piracy
By RONALD A. CASS
The Wall Street Journal
May 7, 2007

The U.S. Trade Representative recently named the usual suspects for its annual "Special 301" list of countries whose disregard for intellectual property rights merit special attention. In addition to perennials like China, Russia and India, Thailand -- the sole newcomer -- was elevated to the rank of top offenders on this year's Priority Watch list for combining piracy and transparency problems with an ill-conceived compulsory drug licensing scheme.

As usual, the list was greeted with criticism from the anti-IP crowd. HIV activists marched on the U.S. Embassy in Bangkok, others demanded retaliation against the U.S., and one Thai activist called for the U.S. to be put on a "watch list" of nations violating other people's sovereignty. More cynical commentators saw the report as a way for America aggressively to promote exports of its own movies, software and drugs.

Too bad the reality doesn't support the reaction.

The real story is that the USTR and U.S. government are doing too little -- not too much -- to safeguard IP rights, especially when it comes to pharmaceuticals. And despite all the shouting, that is more true today than a decade ago.

The Special 301 list routinely gets attention around the world. Presence on the list can lead to investigations by USTR, U.S. complaints before the World Trade Organization, and potentially to a loss of trade benefits. A recent U.S.-European Union trade complaint against China shows the tougher side of this process. But more often, listing leads only to more negotiation, and there's little evidence that the U.S. is making much headway in securing enough protection for IP rights -- especially for health-related products.

In the far from completed Doha Round of trade talks, pressure from activist organizations and developing nations (including ones, like India and Brazil, with established generic drug industries) moved trade negotiators to adopt language softening one of the provisions in the World Trade Organization framework that governs international trade in IP-related goods, called the Trade-Related Aspects of Intellectual Property Rights, or "TRIPs."

The 2001 Doha Declaration gave signatory nations leeway to decide what constitutes a national emergency that would justify compulsory licensing, especially noting the problems of the very poorest nations in fighting HIV/AIDS, malaria, and tuberculosis. It also stated that something should be done to allow very

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poor nations without manufacturing capacity a way to make use of compulsory licenses, which TRIPs requires to be used primarily to supply domestic needs. A follow-on decision in 2003 softened that requirement as well. The U.S. went along with these changes, and was the first formally to ratify them.

It's natural to want an interpretation of international agreements that shows sensitivity to the health concerns of poor nations and poor people. But softening IP protections for those who produce life-saving drugs doesn't just hurt drug companies -- it hurts the sick and poor, too.

IP protection benefits everyone, whether the innovations they spur are in health care or computing or something else. New drugs cost something like a billion dollars apiece to develop, and important new software products can cost many times that amount. The obvious incentive to innovate is the ability to profit from a new invention. That is what intellectual property rights -- patents, trademarks, copyrights, trade secrets -- protect.

Unfortunately, public debates on IP rights are skewed to pit passion against profit. Activists' voices are especially loud with respect to pharmaceuticals. Some have broad antipathy to IP rights and agendas of their own, but other activists simply seek to promote free or very low cost access to the most recent innovative drugs. They blindly assert that the drug companies won't stop inventing just because they will make less money. When Thailand, Brazil -- which just last week announced a compulsory license for one of Merck's drugs -- or almost any other nation threatens to impose a compulsory license, the defense inevitably is that the market in that country isn't big enough or rich enough to afford payments for drugs or for new drug innovation.

The countries currently imposing compulsory licenses, however, are relatively well-off nations with relatively large economies. Brazil placed 10th and Thailand 34th last year, out of 181 nations ranked by nominal GDP, according to the IMF. Both are well above average in per capita wealth, but want to reorient their spending priorities, using compulsory licenses for American-made and European-made drugs to reduce health-related spending. After the military coup in Thailand, for instance, its new government added more than \$1 billion to the military budget, cut public health funds, and claimed that compulsory licenses would save \$24 million from its health care costs -- about 2% of its increased military spending.

Compulsory licensing by Thailand alone or Brazil alone reduces support for innovation, but they presage a far greater threat: their efforts to free-ride on what others pay are bound to encourage more free riding because no one wants to be stuck with the extra cost that Thailand or Brazil isn't paying. The activists applaud this, ballyhooing recent moves by both nations and urging everyone to issue as many compulsory licenses as possible. But who then will pay the enormous cost of drug development?

Huge investments in combating diseases at the top of the most-wanted list, like HIV/AIDS, have produced an outpouring of new products -- 90 HIV/AIDS drugs have been developed and licensed in the past 20 years and another 80 or so are in development. Take away global markets for these drugs, however, and there won't be enough support to maintain current levels of investment.

The WTO rules make clear that compulsory licensing is to be used only in exceptional circumstances and even then requires payment of reasonable royalties that compensate for the economic loss of the IP rights owner. Yet compulsory licenses -- like any one-sided deal that doesn't require consent from the person whose property is taken -- almost always leave the rights holder with far less than a reasonable economic return. Those concerned with economic progress, with property rights, and with health should be especially wary when nations start to loosen restraints on compulsory licensing, especially for drugs, and particularly

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nations like Thailand that have been tolerant of other IP piracy.

That's exactly the context in which the U.S. should strongly back IP rights. USTR's addition of Thailand to the Special 301 Priority Watch list is a small step in that direction, but the U.S. Ambassador to Thailand softened the message, saying the country's downgraded 301 status was not "retaliation against Thailand for its decision to invoke compulsory licensing."

Rather than tiptoeing around the issue, the U.S. should make clear its dissatisfaction with nations that weaken IP rights. In the World Health Assembly talks in Geneva next week, the U.S. should show that it takes its Special 301 program seriously and make clear as well why that is so -- not only because U.S. interests are so often at stake in the fight over IP rights, but more broadly because strong intellectual property rights are the springboard for progress in the fight against disease. Let's hope Thailand's elevation signals that USTR will take its pronouncements as seriously as their opponents do.

Mr. Cass is chairman of the Center for the Rule of Law and dean emeritus of Boston University School of Law, and served as commissioner and vice-chairman of the U.S. International Trade Commission under Presidents Reagan and George H.W. Bush.