



Report to the Chairman, Committee on
Natural Resources, House of
Representatives

June 2020

FORCED LABOR

Better Communication Could Improve Trade Enforcement Efforts Related to Seafood

GAO Highlights

Highlights of [GAO-20-441](#), a report to the Chairman of the Committee on Natural Resources

Why GAO Did This Study

The United States, which relies on imports for most of the seafood it consumes, imported about \$40 billion in fishery products in 2018. Seafood imports often involve complex supply chains, which may include forced labor. A 2017 United Nations report estimated that there are 24.9 million people in forced labor around the world, 12 percent of whom work in the agriculture and fishing sectors.

Section 307 of the Tariff Act of 1930, as amended in 2016, prohibits the importation of goods, including seafood, produced or manufactured, wholly or in part, in any foreign country by forced labor, among other things.

GAO was asked to review CBP's enforcement of section 307. This report examines (1) the process CBP uses to enforce section 307 for seafood imports and the results of its civil enforcement actions; and (2) the external sources of information CBP uses to help carry out enforcement of section 307 for seafood imports and stakeholder perspectives on CBP's communication of its information needs. GAO reviewed laws and CBP documents pertaining to section 307 enforcement and interviewed officials from CBP, other federal agencies, and 18 NGO stakeholders. GAO selected NGOs with various goals and missions related to seafood and forced labor.

What GAO Recommends

GAO recommends that CBP better communicate to stakeholders the types of information stakeholders could collect and submit to CBP to help the agency initiate and investigate forced labor cases related to seafood and, as appropriate, other goods. CBP agreed with GAO's recommendation.

View [GAO-20-441](#). For more information, contact Anne-Marie Fennell at (202) 512-3841 or fennella@gao.gov or Kimberly Gianopoulos at (202) 512-8612 or gianopoulosg@gao.gov.

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Better Communication Could Improve Trade Enforcement Efforts Related to Seafood

What GAO Found

The Department of Homeland Security's U.S. Customs and Border Protection (CBP) uses a four-phase process to enforce section 307 of the Tariff Act of 1930, which prohibits imports produced with forced labor, including seafood. CBP's Forced Labor Division, established in 2018, largely carries out this process. In phase 1, CBP assesses leads when deciding to initiate a case involving potential forced labor. In phase 2, CBP investigates cases using a variety of information to determine whether evidentiary standards have been met. In phase 3, CBP reviews information for legal sufficiency and, in phase 4, may take action at a port of entry to detain imports in violation by issuing a withhold release order. Between 2016 and March 2020, CBP issued one order for seafood, prohibiting tuna shipments from a specific fishing vessel from entering U.S. commerce.

Imported Goods Await Inspection by U.S. Customs and Border Protection at a Port of Entry



Source: GAO. | GAO-20-441

CBP uses information from external sources to help enforce section 307 for seafood imports but may miss opportunities to obtain key information from stakeholders. CBP officials said they use media reports and information from federal agencies and stakeholders to develop forced labor cases. For example, CBP initiated the case that resulted in the seafood order based partly on media reports and investigated it using vessel data from the Department of Commerce. CBP officials said that stakeholders such as nongovernmental organizations (NGOs) often have firsthand accounts of forced labor—valuable information for investigations. However, most stakeholders told GAO that they do not have a clear understanding of the information CBP needs to investigate seafood cases because CBP has not communicated such information. For example, CBP's website provides general information about what individuals can submit if forced labor is suspected but does not provide specific types of information that could be useful. With better communication to stakeholders about the types of information it needs to develop forced labor cases, CBP may be able to improve its enforcement efforts.

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Abbreviations

CBP	U.S. Customs and Border Protection
IUU	illegal, unreported, and unregulated
NGO	nongovernmental organization
NOAA	National Oceanic and Atmospheric Administration
SIMP	Seafood Import Monitoring Program
TFTEA	Trade Facilitation and Trade Enforcement Act of 2015
WRO	Withhold Release Order

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June 18, 2020

The Honorable Raúl M. Grijalva
Chairman
Committee on Natural Resources
House of Representatives

Dear Mr. Chairman:

The U.S. government and others have raised concerns about the use of forced labor in various points of the seafood supply chain, which includes commercial fishing vessels and seafood processing plants.¹ For example, in 2015, several media reports identified significant problems with forced labor used in shrimp peeling sheds in Thailand and aboard fishing vessels operating offshore from southeastern Asian countries. A 2017 United Nations International Labor Office report estimated that there are 24.9 million people in forced labor around the world, 12 percent of whom work in the agriculture and fishing sectors. Additionally, the U.S. Department of State's 2019 Trafficking in Persons report identified more than 40 countries with human trafficking associated with the seafood supply chain.²

The United States relies on imports for much of the seafood it consumes. For instance, in 2018, the United States imported about \$40 billion of fishery products, including fresh, frozen, and canned seafood as well as fish byproducts such as oil and fishmeal.³ According to the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA),

¹According to the United Nations' International Labor Organization, forced labor includes all work or service that is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily.

²The Trafficking Victims Protection Act of 2000 defines severe forms of trafficking in persons, in part, to include the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Pub. L. No. 106-386, § 103(8)(B), 114 Stat. 1466, 1469 (2000) (codified as amended at 22 U.S.C. § 7102(11)(B)).

³U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, *Fisheries of the United States 2018* (Silver Spring, MD: February 2020). Data for 2018 were the most recent available at the time of our review.

approximately 90 percent of the seafood eaten in the United States comes from abroad.⁴

In 2016, the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) was enacted.⁵ The act, among other things, amended section 307 of the Tariff Act of 1930. As amended, section 307 prohibits the importation of goods, wares, articles, and merchandise that has been mined, produced, or manufactured, wholly or in part, in any foreign country by forced labor.⁶ The Department of Homeland Security's U.S. Customs and Border Protection (CBP) is responsible for enforcement of section 307 and has the authority to detain shipments at a U.S. port of entry to determine compliance with U.S. law, including whether imports may be in violation of section 307.⁷ In enforcing potential section 307 violations, CBP may use information compiled by other federal agencies, including the Department of Labor, Department of State, and NOAA. CBP may also use information from stakeholders, such as nongovernmental organizations (NGOs) and the public.

You asked us to review CBP's enforcement of section 307 to combat forced labor for seafood imports. This report examines (1) the process CBP uses to enforce section 307 for seafood imports and the results of its civil enforcement actions, and (2) the external sources of information CBP uses to help carry out enforcement of section 307 specific to seafood imports and stakeholder perspectives on CBP's communication of its information needs.⁸

⁴U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, *U.S. Aquaculture*, accessed April 6, 2020, <https://www.fisheries.noaa.gov/national/aquaculture/us-aquaculture>.

⁵Pub. L. No. 114-125, 130 Stat. 122 (2016).

⁶Section 307 of the Tariff Act also addresses convict labor and/or indentured labor under penal sanctions. Section 910 of TFTEA amended section 307 of the Trade Act of 1930, codified as amended at 19 U.S.C. §1307, eliminating the consumptive demand exception to the prohibition on the importation of goods made with convict labor, forced labor, or indentured labor.

⁷A port of entry could be a land, sea, or air entry point into the United States, according to CBP documents.

⁸We have ongoing related reviews on (1) the Department of Homeland Security's resources for forced labor enforcement since the enactment of TFTEA and (2) CBP's and other stakeholders' efforts to address the prohibition of the import of goods produced with forced labor in section 307 of the Tariff Act of 1930.

To examine the process CBP uses to enforce section 307 for seafood imports, we reviewed laws, regulations, documents, and data pertaining to CBP's section 307 enforcement. We also interviewed CBP officials in the Office of Trade and Office of Field Operations who are involved in forced labor enforcement. In reviewing agency documents and interviewing CBP officials, we identified steps in CBP's process to enforce section 307.⁹

To describe the results of CBP's civil enforcement actions, we reviewed enforcement actions CBP took from February 2016—when TFTEA was enacted—through March 2020, the most recently available information at the time of our review. We reviewed the list of civil enforcement actions pertaining to all commodities that CBP published on its website.¹⁰ In addition, we collected and analyzed information specific to seafood from a spreadsheet that CBP uses to track cases, which contains information on all of its active, suspended, and inactive forced labor investigations pertaining to section 307.¹¹ CBP provided us with updated versions of this case-tracking spreadsheet in July 2019, November 2019, and March 2020.¹² We assessed the reliability of the data by discussing each seafood case with CBP officials to understand the data represented in the various fields, such as how the seafood case originated and the outcome of the case. Based on our interviews with CBP officials, we determined that the seafood case data were sufficiently reliable for the purposes of describing CBP's enforcement actions.

To describe the external sources of information CBP uses to help carry out enforcement of section 307 specific to seafood imports, we

⁹In addition to section 307 of the Tariff Act of 1930, Section 321 of the Countering America's Adversaries Through Sanctions Act, Pub. L. No. 115-44 (2017), created a rebuttable presumption that significant goods, wares, merchandise, and articles mined, produced, or manufactured wholly or in part by North Korean nationals or citizens are deemed to be prohibited from importation under the Tariff Act of 1930. CBP is responsible for enforcement of this provision, but this was outside the scope of our review.

¹⁰The scope of our review generally covers February 2016 through March 2020, but we updated information on civil enforcement actions with new developments as of May 2020.

¹¹Active cases are ongoing investigations the Forced Labor Division is pursuing; suspended cases are those the Forced Labor Division does not have enough resources or information to pursue currently; and inactive cases are those without sufficient evidence or without a clear violation or connection to the U.S. market, according to CBP officials.

¹²According to CBP officials, the Forced Labor Division started compiling and tracking data on its cases in a spreadsheet in 2018, when the Forced Labor Division was established.

interviewed CBP officials to learn about the types of information they obtain from external sources and how CBP uses that information. We also interviewed various federal agencies and stakeholders who collect information that could be relevant to CBP's enforcement of section 307. We identified these agencies by interviewing CBP officials about who they interact with for information on section 307 cases.

- **Federal agencies.** We interviewed officials from the Department of Justice, Department of Labor, Department of State, NOAA, U.S. Immigration and Customs Enforcement, and U.S. Agency for International Development to understand what information on forced labor these agencies collect and share with CBP. We also reviewed the Departments of State and Labor's reports on human trafficking and forced labor¹³ and documents from NOAA that CBP could use to help carry out enforcement of section 307.
- **Stakeholders.** We interviewed representatives from 18 NGOs, each of which has interests in various aspects of forced labor in the seafood industry. We selected NGOs using internet searches for groups that have an interest in seafood and forced labor and recommendations from federal agency officials and NGO representatives we interviewed. More specifically, we selected NGOs with various goals and missions, including (1) helping U.S. seafood importers remain compliant with section 307 or (2) assisting survivors of forced labor overseas. We asked representatives from each of the NGOs we interviewed a standard set of questions that addressed, among other things, information they share with CBP.

To examine stakeholder perspectives on CBP's communication of information needs to enforce section 307 for seafood, we reviewed CBP documents and interviewed CBP officials about how they communicate their information needs to stakeholders, specifically regarding the types of information they need to initiate and investigate forced labor cases. Additionally, we interviewed representatives of 18 NGOs about the extent to which they understood CBP's information needs for enforcement of section 307, the extent to which they shared information with CBP about potential forced labor they identified, and factors that may affect sharing information with CBP. Statements these stakeholders made are not generalizable to all stakeholders but provide perspectives on information

¹³U.S. Department of State, *Trafficking in Persons Report* (Washington, D.C.: June 2019); U.S. Department of Labor, *2018 List of Goods Produced by Child Labor or Forced Labor* (Washington, D.C.: September 2018).

related to enforcing section 307. We also compared the agency's existing communication efforts to federal standards for internal control, as appropriate.¹⁴ Appendix I provides more detailed information on our objectives, scope, and methodology.

We conducted this performance audit from February 2019 to June 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Illegal, Unreported, and Unregulated Fishing and Forced Labor

Prevalence of Forced Labor in Thailand

A 2020 report by the United Nation's International Labor Organization included research on hundreds of Thai workers employed on seafood vessels or in processing facilities. The report found that nearly 10 percent of interviewees shared circumstances of involuntary work and coercion that, taken together, constituted forced labor. The report concluded that if its selection of interviewees is representative of workers employed across the Thai seafood industry, it would indicate that tens of thousands of workers in Thai fishing and seafood processing are working in forced labor conditions.

Source: International Labor Organization, *Endline Research on Fishers and Seafood Workers in Thailand* (March 2020). | GAO-20-441

Fishing activities are vulnerable to a number of illicit practices, including illegal, unreported, and unregulated (IUU) fishing and forced labor. IUU fishing is a broad term that includes a variety of fishing activities with social, economic, and environmental impacts and concerns all aspects and stages of the capture and marketing of fish, according to the United Nations' Food and Agriculture Organization. Examples of IUU activities include fishing without a license or in excess of quota for certain species; failing to report catches or making false reports on catches; and conducting unauthorized transshipments, such as transfers of fish to cargo vessels at sea or port, according to NOAA.¹⁵ IUU fishing poses a threat to food security and socioeconomic stability in many parts of the world, according to NOAA documents, and many crew members on fishing vessels that engage in IUU fishing are from poor or underdeveloped areas. In addition, the Food and Agriculture Organization has noted that activities of those engaging in IUU fishing can constitute,

¹⁴GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).












¹⁵According to NOAA officials, unauthorized transshipments pose a problem since the origin of fish can be obscured, allowing illegal product to infiltrate legitimate seafood markets.

lead to, or be associated with organized crime or other crimes, such as human trafficking, that may include forced labor.¹⁶

The International Labor Organization—an agency within the United Nations that, among other things, sets labor standards—has identified common indicators of forced labor in any work sector, as shown in figure 1. The presence of a single indicator in a given situation may, in some cases, indicate the existence of forced labor; in other cases, several indicators taken together may point to forced labor, according to an International Labor Organization document.

¹⁶Food and Agriculture Organization of the United Nations, *Illegal, Unreported and Unregulated Fishing*, accessed March 16, 2020, <http://www.fao.org/iuu-fishing>.

Figure 1: Indicators of Forced Labor Established by the International Labor Organization

Indicators	Description of indicators
 Abuse of vulnerability	An employer taking advantage of a worker’s vulnerable position, such as a lack of knowledge of local laws and languages, being part of a minority population, or having few other employment options.
 Deception	A failure to deliver what has been promised to a worker; for example, false promises about wages or working conditions.
 Restriction of movement	Workers being denied free entry and exit of work premises beyond reasonable restrictions, such as those relating to safety and security at hazardous work sites.
 Isolation	Isolation of workers either geographically (e.g., a work site far from habitation with no means of transportation) or through denial of communication (e.g., confiscating cell phones).
 Physical and sexual violence	Violent acts against a worker which, in some cases, may be used to force a worker to undertake tasks not part of the initial agreement, such as domestic work in addition to normal duties.
 Intimidation and threats	Common threats used against workers can include denunciation to immigration authorities, loss of wages, or worse working conditions.
 Retention of identity documents	An employer retaining identity documents or other valuable personal possessions that workers cannot access on demand, and workers feel they cannot leave the job without risking loss of the items.
 Withholding of wages	Systematic and deliberate withholding of payment as a means to compel a worker to remain on a job.
 Debt bondage	Working for wages to pay off a debt incurred as a condition of employment, such as a recruitment fee or a wage advance. Employers can further exploit debt bondage by undervaluing work performed, inflating interest rates, or charging workers for food and lodging.
 Abusive working and living conditions	Degrading or hazardous working environments or substandard living conditions associated with employment.
 Excessive overtime	Work hours exceeding limits prescribed by national law or collective agreement, or denial of breaks or days off.

Source: International Labor Organization data. | GAO-20-441

Note: The International Labor Organization is an agency within the United Nations that sets labor standards, develops policies, and devises programs promoting decent work for all people across the world. These indicators are intended to help front-line law enforcement officials, nongovernmental organization workers, and others to identify persons who are possibly trapped in a forced labor

situation and may require urgent assistance, according to an International Labor Organization document. The organization has published work on indicators of forced labor as applied to fishing vessels and the trafficking of persons into forced labor in the deep-water fishing industry. See United Nations International Labor Organization, *Decent Work for Migrant Fishers* (Geneva: 2017).

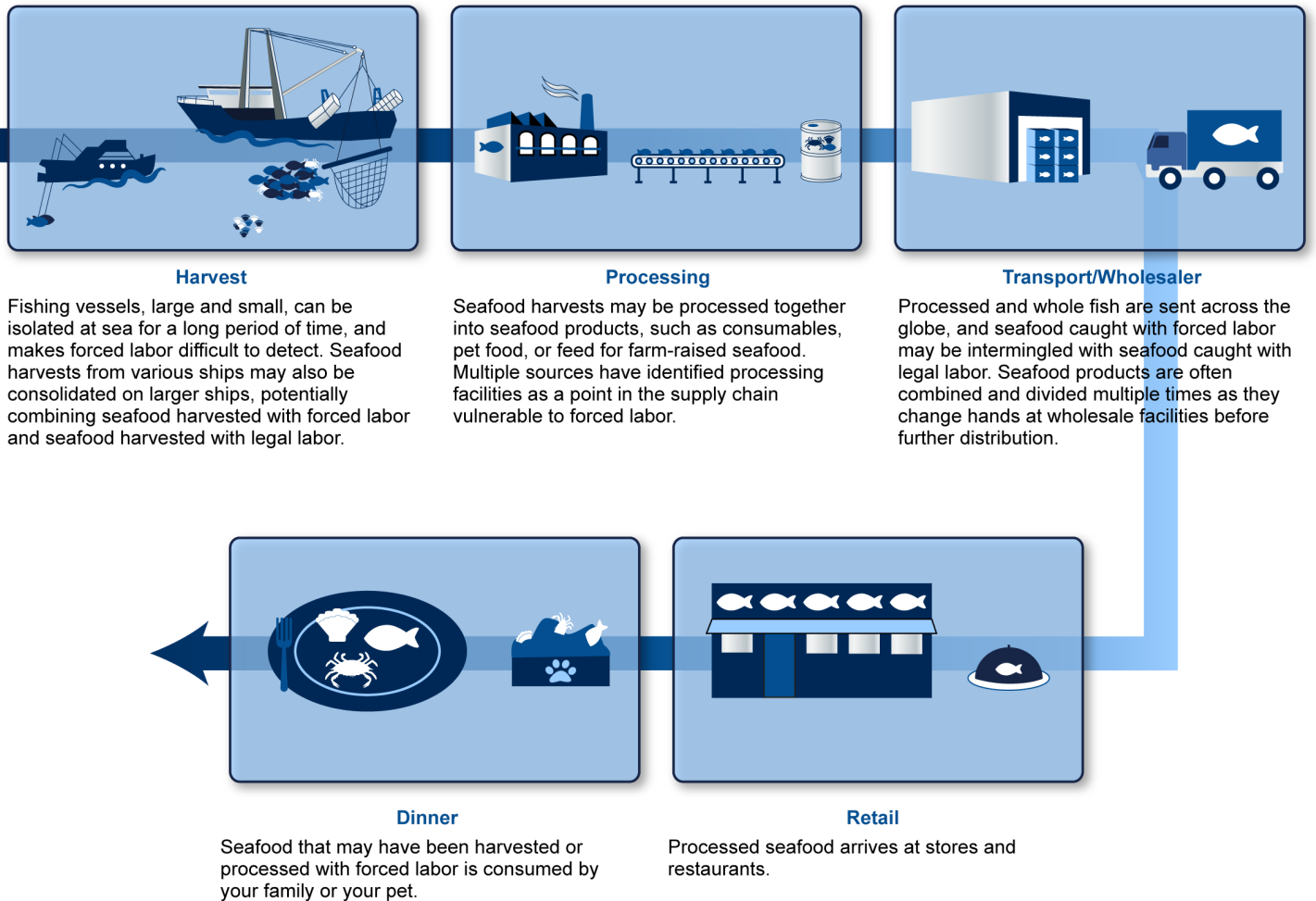
Forced labor can occur at various points along the seafood supply chain—which can be long and complex—with limited visibility at various points, making it difficult to detect (see fig. 2). For example, forced labor may occur if workers are held on fishing vessels for long durations without adequate breaks or the ability to return to land. It may also occur in later stages of seafood processing, such as during filleting and canning the fish for export and sale to consumer, according to an NGO report.¹⁷

Additionally, various NGO reports indicate that during the harvesting and processing stages, seafood caught with forced labor may be combined with legally caught seafood, making illegal shipments more difficult to identify. For example, companies may combine catches from several smaller boats onto a bigger vessel before transporting it to shore for processing. Moreover, some seafood supply chains have an additional layer of complexity because low-value fish may not be directly exported but, rather, used as feed for farm-raised seafood that could eventually be imported into the United States.¹⁸ Forced labor related to this type of situation can be difficult to detect because the source of feed for farm-raised fish is an early step in a supply chain that occurs well before the seafood is imported into the United States, according to CBP officials.

¹⁷Center for American Progress, *Seafood Slavery: Human Trafficking in the International Seafood Industry* (Washington, D.C.: December 2016).

¹⁸Often called “trash fish,” some fish caught that have low or no market value as human food are used in the production of fishmeal. Fishmeal is created by milling and drying fish (generally those that are small and less valuable than those sold for human consumption) or fish-processing wastes.

Figure 2: Potential for Forced Labor in a Seafood Supply Chain



Source: GAO. | GAO-20-441

Laws and Regulations Relevant to Detaining Seafood Imports Produced by Forced Labor and Illegal, Unreported, and Unregulated Fishing

Federal law prohibits the import of goods made with forced labor. In particular, section 307 of the Tariff Act of 1930 prohibits the importation of goods, wares, articles, and merchandise mined, produced, or manufactured, wholly or in part, in any foreign country by convict labor,

forced labor, or indentured labor under penal sanctions.¹⁹ TFTEA, enacted in February 2016, among other things, amended section 307 of the Tariff Act of 1930 by repealing an exception referred to as the consumptive demand clause.²⁰ The consumptive demand clause permitted the importation of certain forced labor-produced goods if they were not produced “in such quantities in the United States as to meet the consumptive demands of the United States.”

Federal regulations provide guidelines for implementing section 307. Specifically, according to a regulation regarding the findings of the commissioner of CBP as they pertain to section 307, “when information reasonably but not conclusively indicates that merchandise produced with forced labor in violation of section 307 is being, or is likely to be, imported, the Commissioner of CBP may issue a withhold release order (WRO).”²¹ Such an order pertains to certain goods being imported into the United States that CBP suspects are being produced with forced labor. After CBP issues a WRO for a particular good, CBP port directors are then to withhold the release of the good subject to the WRO. The regulations also state that “any person outside CBP who has reason to believe that merchandise within the purview of section 307” is being, or is likely to be, imported into the United States may communicate his belief to any port director or the Commissioner of CBP.²² The regulations state that “such communication shall contain, or be accompanied by (1) a full statement of the reasons for the belief; (2) a detailed description or sample of the merchandise; and (3) all pertinent facts obtainable as to the production of the merchandise abroad.”²³ When information is sufficient to support a

¹⁹The act was codified as amended at 19 U.S.C. § 1307. In addition, an amendment to the act in 2000 added language that clarified the terms forced labor and indentured labor, for the purposes of section 307, to include forced or indentured child labor.

²⁰Pub. L. No. 114-125, § 910 (2016).

²¹19 C.F.R. § 12.42(e).

²²19 C.F.R. § 12.42(b).

²³In 2017, CBP updated the regulations regarding section 307 to remove the language about the consumptive demand clause, consistent with amendments to section 307 enacted in TFTEA. In addition, CBP officials said the agency has been working with the Department of the Treasury and Office of Management and Budget on further updating its regulations, but as of this report, CBP has not finalized these updates.

Seafood Import Monitoring Program (SIMP) at a Glance

SIMP collects information on the import of 13 priority species of fish, including

- Abalone
- Atlantic Cod
- Blue Crab
- Dolphinfin (Mahi Mahi)
- Grouper
- King Crab (red)
- Pacific Cod
- Red Snapper
- Sea Cucumber
- Sharks
- Shrimp
- Swordfish
- Tuna (Albacore, Bigeye, Skipjack, Yellowfin, and Bluefin)

SIMP tracks information on

- the harvester,
- the chain of custody, and
- the importer.

This information is used by the National Oceanic and Atmospheric Administration to help prevent illegal, unreported, and unregulated or misrepresented seafood from entering U.S. commerce. The information is collected from importers at entry filing via the international trade data system used by multiple federal agencies to monitor trade.

Source: *Federal Register*, Code of Federal Regulations; National Oceanic and Atmospheric Administration data. | GAO-20-441

determination that merchandise was produced with forced labor in violation of section 307, the Commissioner will publish a formal finding.²⁴

Various other laws and regulations are also relevant to IUU fishing and the importation of illegally harvested seafood into the United States. For example, under the High Seas Driftnet Fishing Moratorium Act, among other things, the Secretary of Commerce is charged with identifying and certifying countries that have fishing vessels engaged in IUU.²⁵ According to NOAA officials, a negative certification may result in restrictions on the importation of some fish and fish products at a port of entry. NOAA also administers and enforces a number of statutes that include prohibitions on the importation of illegally harvested seafood, most notably the Magnuson-Stevens Fishery Conservation and Management Act²⁶ and the Lacey Act.²⁷

Under these authorities and others, NOAA enforces a number of trade monitoring programs. For example, NOAA administers the Seafood Import Monitoring Program (SIMP), which establishes permitting, data reporting, and recordkeeping procedures for the importation of 13 species of fish and fish products identified as being at particular risk of IUU fishing

²⁴19 C.F.R. § 12.42(f). This report focuses specifically on the WRO process and issuance of WROs related to seafood. CBP did not issue any findings related to seafood during the scope of our review, which included February 2016 through March 2020. CBP's last issued finding was in 1996 for malleable iron pipe fittings from China.

²⁵Pub. L. No. 104-43, Title VI, § 609, as added by Pub. L. No. 109-479, § 403(a), 120 Stat. 3644, 3626 (2007) (codified as amended at 16 U.S.C. § 1826j).

²⁶Fishery Conservation and Management Act of 1976 (commonly known as the Magnuson-Stevens Act), Pub. L. No. 94-265, 90 Stat. 331 (1976) (codified as amended at 16 U.S.C. § 1801 et seq.).

²⁷Lacey Act of 1900 (commonly known as the Lacey Act), (codified as amended at 16 U.S.C. §§ 3371–3378).

or seafood fraud.²⁸ NOAA also implements the Tuna Tracking and Verification Program, which monitors domestic cannery production and importation of all frozen and processed tuna products to ensure compliance with federal requirements regarding dolphin-safe certification.²⁹

Federal Agencies' and Stakeholder Involvement and Interest in Forced Labor and Seafood-Related Efforts

A number of federal agencies and stakeholders are involved in or have an interest in forced labor and seafood-related efforts. In particular, CBP is responsible for enforcing violations of section 307 as part of its overall efforts to deter and detect violations of U.S. customs and trade laws at the more than 300 ports of entry into the United States.³⁰ CBP's enforcement efforts include, but are not limited to, actions to identify, detain, seize or exclude illegitimate imports, including imports produced by forced labor, counterfeits, and goods evading customs duties. After passage of TFTEA in 2016, CBP initiated new efforts to emphasize and focus on enforcement of section 307. Specifically, CBP formally established its Forced Labor Division in March 2018, within its Office of Trade.³¹ Since its inception, the Forced Labor Division has grown in size, according to CBP officials, with about 12 staff onboard as of the end of 2019, mainly comprised of analysts and international trade specialists.

²⁸SIMP was established by regulation in 2016, with compliance for 11 species beginning January 1, 2018, and compliance for the other two species beginning December 31, 2018. See 81 Fed. Reg. 88,975 (Dec. 9, 2016).

²⁹The Tuna Tracking and Verification Program is implemented through regulations that, among other things, include specific documentation requirements for tracking and verifying dolphin safe tuna. See 50 C.F.R. pt. 216, subpt. H.

³⁰In addition, the Department of Homeland Security's Immigration and Customs Enforcement carries out a Forced Labor Program within its Homeland Security Investigations unit to identify and investigate importers and consignees that seek to import goods made with forced labor into the United States. Immigration and Customs Enforcement conducts criminal investigations to pursue violations related to forced labor under 18 U.S.C. § 1761 and 18 U.S.C. § 1589 and its broad authority to investigate customs fraud, according to agency officials. U.S. importers and consignees, which may involve criminal organizations, may be subject to criminal prosecution and the seizure and forfeiture of their merchandise if Immigration and Customs Enforcement finds that they have been involved in using forced labor to produce goods being imported into the United States, according to an agency document.

³¹Before CBP established the Forced Labor Division, it carried out forced labor enforcement through various divisions within its Office of Trade, which is responsible for other trade enforcement actions, according to CBP officials. TFTEA increased CBP's role and workload related to forced labor; prior to TFTEA, section 307 was enforced, but with limited focus due to several reasons, including the consumptive demand exception, according to CBP officials.

The Forced Labor Division does not have staff in other countries, but CBP can leverage foreign attachés from other CBP offices, to the extent they are available, to assist with enforcement of section 307, according to CBP officials.³² Staff in the Forced Labor Division also collaborate with others throughout CBP, including the Office of Field Operations, which, among other things, oversees operations at U.S. ports.

Other federal agencies, such as the Department of State and the Department of Labor, conduct activities and collect information related to forced labor.³³ According to CBP officials, CBP may use information from these federal agencies to help support its enforcement of section 307 for particular cases, including those involving seafood. Also, since the enactment of TFTEA in 2016, a number of working groups or task forces have been established, primarily involving U.S. federal agencies, to share information collected related to forced labor and imports, in general, as well as illegal activities involving fishing more specifically, in some cases (see app. II).³⁴

In addition, numerous stakeholders, such as NGOs, also have an interest in combating forced labor, including forced labor related to the seafood industry. Often stakeholders' interests in forced labor include other human rights issues or are broader than specific commodities such as seafood. Stakeholders may provide a variety of services to advocate for workers and identify potential forced labor. For example, some NGOs investigate potential human rights abuses of workers in the seafood industry while others focus on collecting data to help other interested stakeholders identify cases of forced labor. Other NGOs may work with importers who have interests in corporate social responsibility by helping them identify potential issues in their supply chain and comply with U.S. laws, including section 307.³⁵

³²CBP has attachés overseas in some countries in a trade advisory capacity who also facilitate CBP's international engagements, according to CBP officials.

³³The U.S. Coast Guard conducts IUU inspections and enforcement domestically and abroad that could lead to identifying potential or actual forced labor situations at sea, according to U.S. Coast Guard officials.

³⁴These may not all have a direct nexus to forced labor imports as defined in section 307.

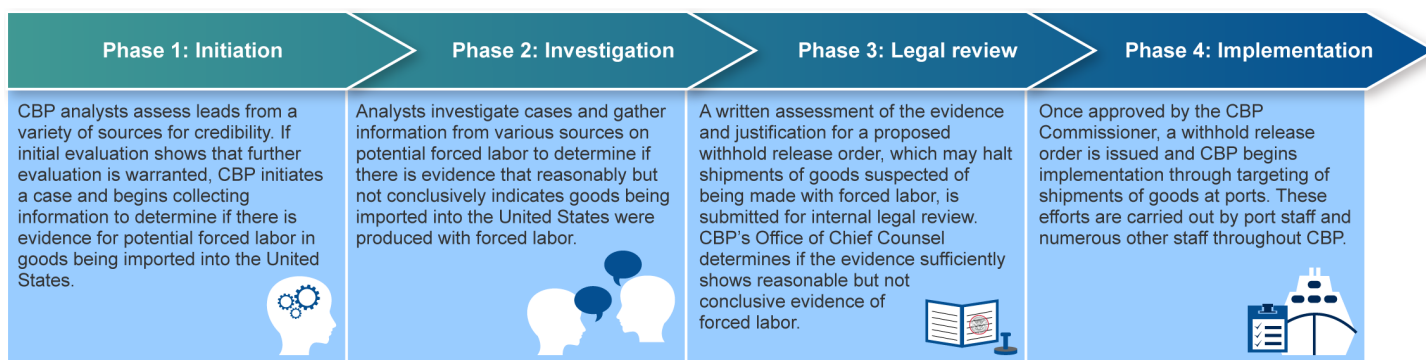
³⁵Corporate social responsibility often refers to business efforts to address the impact of business operations on such concerns as human rights, labor, and the environment. See GAO, *Globalization: Observations on Federal Activities Related to Global Corporate Social Responsibility and Human Rights*, [GAO-05-1049T](#) (Washington, D.C.: Sept. 28, 2005).

CBP's Process to Enforce Section 307 Has Resulted in One Seafood-Related Withhold Release Order as of March 2020

CBP Uses a Four-Phase Process to Enforce Violations of Seafood and Other Imports Produced with Forced Labor under Section 307

CBP enforces section 307 involving seafood imports generally following the same process it uses for any other goods suspected of being produced with forced labor imported into the United States, such as apparel, electronics, or consumer products. CBP carries out its process through its Forced Labor Division, in collaboration with other offices across CBP. According to CBP documents and officials, the process CBP uses to enforce section 307 generally includes four phases: (1) assessing leads to determine whether to initiate a case; (2) investigating cases; (3) reviewing information for legal sufficiency to propose a WRO; and (4) implementing the WRO and detaining shipments (see fig. 3). An importer has several options if CBP detains its shipment, including contesting the WRO or deciding not to enter the good into U.S. commerce.

Figure 3: U.S. Customs and Border Protection's Civil Enforcement Process of Section 307 of the Tariff Act of 1930



Source: GAO analysis based on U.S. Customs and Border Protection (CBP) information. | GAO-20-441

Note: Section 307 of the Tariff Act of 1930 prohibits the importation of goods, wares, articles, and merchandise mined, produced, or manufactured, wholly or in part, in any foreign country by forced labor, among other things. The process depicted is for a withhold release order, which pertains to certain goods imported into the United States that CBP suspects are being produced with forced labor and that CBP then detains if evidence warrants.

Phase 1: Initiation. CBP analysts within the Forced Labor Division assess leads for credibility when deciding whether to initiate cases involving potential forced labor at any point in the supply chain for a particular good. According to CBP officials, an analyst would examine, for example, whether an allegation made by an external party is credible, the goods in question are being imported into the United States, and sufficient information is available on potential forced labor to initiate and build a case. CBP officials told us that they do not have the resources to gather firsthand information on labor practices such as on fishing vessels or processing operations overseas, but that they can initiate cases based on information obtained from external sources. For example, CBP may receive information through its e-allegations system, which is CBP’s online mechanism for the public to report any suspected violations of trade laws or regulations related to the importation of goods into the United States.³⁶ In addition, CBP may receive an allegation directly from external entities, such as NGOs; letters from industry or other concerned parties; and information from other U.S. government agencies. Publicly available information, such as media reports or NGO publications, can also serve as leads for CBP to self-initiate a case.³⁷ If CBP’s initial evaluation shows further evaluation is warranted, CBP initiates a case and moves to the next phase.

Phase 2: Investigation. CBP analysts investigate cases by collecting information from various sources to help determine whether the evidence “reasonably but not conclusively” indicates that goods being imported into the United States were produced with forced labor, according to CBP officials. For example, analysts may ask other federal agencies for information, such as import data, or speak with NGOs that may have information about a particular good or supply chain overseas. CBP officials also said they may investigate the strength of the information collected as part of their case development. In doing so, they said the Forced Labor Division uses the International Labor Organization’s forced labor indicators, among other standards, to help evaluate the sufficiency of evidence for forced labor conditions. If there is insufficient evidence to continue

³⁶The types of violations the public can report through the e-allegations system include misclassification of merchandise, false country of origin markings, health and safety issues, intellectual property rights, and forced labor concerns.

³⁷In addition, the Forced Labor Division has partnered with the Office of Trade’s Regulatory Audit Office to have the Audit Office conduct forced labor surveys of importers to check for information on seafood supply chain, according to CBP officials. The Forced Labor Division could then use information from the surveys to self-initiate cases, according to CBP officials.

investigating a case, the Forced Labor Division may either close or suspend it pending further information, according to CBP officials. If there is sufficient evidence to propose a WRO, the case moves to the next phase.

Phase 3: Legal review. CBP's Forced Labor Division prepares a package, which includes an assessment of evidence and a justification for a proposed WRO for the goods suspected to be produced with forced labor, and submits it to CBP's Office of Chief Counsel for legal review. To propose a WRO, CBP officials said that the package must provide sufficient evidence to reasonably but not conclusively indicate a violation of section 307. This entails having sufficient supply chain information showing importation of a good harvested, produced, or otherwise manufactured with forced labor, according to CBP officials. During its legal review, the Office of Chief Counsel may request additional information or have discussions with the Forced Labor Division. If the Office of Chief Counsel determines there is insufficient evidence to proceed with a WRO, then the Forced Labor Division may choose to close the case or suspend it and consider whether to seek additional information for the case. If the Office of Chief Counsel determines there is sufficient evidence to proceed with a WRO, then the Forced Labor Division prepares a WRO package to be presented to the CBP Commissioner for review and approval.³⁸

Phase 4: Implementation. Once the CBP Commissioner issues a WRO, CBP is responsible for implementing the parameters of the WRO. According to CBP officials, numerous officials within CBP, including those at U.S. ports and the Centers of Excellence and Expertise, are responsible for implementation.³⁹ CBP officials located

³⁸The CBP Commissioner can also publish a finding. According to 19 C.F.R. § 12.42(f), if it is determined that the merchandise is subject to the provisions of section 307, the Commissioner of CBP, with the approval of the Secretary of the Treasury, will publish a finding to that effect in a weekly issue of the Customs Bulletin and in the *Federal Register*. According to CBP's fact sheet on forced labor procedures, findings require conclusive evidence, i.e., probable cause that the imported goods are made with forced labor. See U.S. Customs and Border Protection, *Fact Sheet: Forced Labor Procedures*, accessed April 29, 2020, <https://www.cbp.gov/trade/document/fact-sheets/fact-sheet-forced-labor-procedures>.

³⁹CBP has 10 Centers for Excellence and Expertise, and each covers a specific industry with staff located at various ports across the United States. Each center is responsible for performing trade functions related to its industry sector, such as the processing of entry summary and post-entry summary documentation and account management. The Agriculture and Prepared Products Center oversees this function for products from the seafood industry.

at U.S. ports screen import data to identify, hold, and detain shipments associated with a WRO.⁴⁰

When CBP detains a shipment subject to a WRO at a port of entry, the importer has the option to reexport the shipment to a different country.⁴¹ Alternatively, officials said the importer can contest the detention and provide additional information to show that the shipment did not contain forced labor elements.⁴² If CBP determines the importer has provided sufficient evidence, it allows the shipment to enter into U.S. commerce. Should the importer not provide additional information, the shipment can be excluded (not admitted into U.S. commerce) and/or seized and destroyed in certain circumstances, according to CBP officials. A WRO remains in place until the circumstances surrounding the original WRO change to indicate that forced labor is no longer part of the production or manufacturing process, and the CBP Commissioner revokes the order, according to CBP documents.⁴³ CBP officials said the agency can also issue civil penalties to importers for forced labor violations for importing goods in violation of section 307, where appropriate.

CBP Tracks Cases of Suspected Forced Labor Violations and Issued One Withhold Release Order for Seafood as of March 2020

CBP's Forced Labor Division tracks its cases of suspected forced labor violations, including seafood cases, in a case-tracking spreadsheet throughout the various phases of the enforcement process. The spreadsheet notes the status of each case as (1) open and active, (2)

⁴⁰The screening CBP conducts is based on targeting system parameters that flag suspected imports. Shipments that are flagged in the system are held at the port of entry until CBP officials can review the shipping documentation against the WRO and verify if the shipments meet the data elements of the WRO. If the shipment does not meet the data elements associated with the WRO, then CBP admits the shipment and releases it into U.S. commerce, according to CBP officials.

⁴¹See 19 C.F.R. § 12.44(a). CBP may hold or detain a shipment until an admissibility decision is made, according to CBP officials.

⁴²CBP can request additional information from an importer whose shipment was detained, according to CBP officials. Importers have up to 3 months to provide the relevant information to CBP following a detention. See 19 C.F.R. § 12.43.

⁴³CBP publishes information on the full or partial revocation of a WRO on its website. Conversely, if CBP obtains additional evidence of forced labor conditions and the standard of proof is met, CBP may replace the WRO with a finding, according to CBP officials.

suspended, or (3) closed/inactive.⁴⁴ At any given time, the Forced Labor Division may be working on a number of seafood cases that are in various phases of the enforcement process, according to CBP officials. Further, officials said the status of these cases changes as new information becomes available. Data CBP provided to us showed a small number of open and active cases as well as suspended cases that were related to seafood.⁴⁵ CBP officials stated that they suspended these seafood cases partly because they lacked personnel to obtain additional information to further investigate the cases. In other instances, they said they may suspend cases while waiting for additional information, which may take significant time to obtain.

From February 2016—when TFTEA was enacted—through March 2020, CBP issued 13 WROs for goods suspected of violating section 307, of which one involved seafood, according to CBP data (see table 1).⁴⁶ The seafood-related WRO was for all seafood imports caught by the fishing vessel Tunago No. 61, registered in Vanuatu, an island nation in Oceania. After issuing the WRO in February 2019, CBP detained multiple shipments of seafood, according to CBP data, but revoked the order at the end of March 2020.⁴⁷ CBP's other WROs cover a variety of goods such as cotton, toys, food, and agricultural products. Six of the 13 WROs included imports from China, while several WROs included goods from African countries. As of March 2020, CBP officials said they had not issued any civil penalties for forced labor violations involving seafood imports.

⁴⁴The Forced Labor Division defines the status of cases it tracks as follows: (1) open and active (case is active and personnel are gathering information toward a WRO); (2) suspended (case could result in a WRO but at the time there are insufficient resources to continue the case or the case requires additional information to be gathered at a later time); and (3) closed/inactive (insufficient evidence to pursue the case or cases without a clear violation or connection to the U.S. market).

⁴⁵During the course of our review, we received case information that reflected data in the system for July 2019, November 2019, and March 2020. The actual number of cases is law enforcement sensitive.

⁴⁶In addition, on May 11, 2020, CBP issued another WRO related to seafood, specifically involving all seafood harvested by the fishing vessel Yu Long No. 2. However, this WRO fell outside the scope of this report, which covers February 2016 through March 2020.

⁴⁷According to CBP officials, CBP revoked the WRO based on information it deemed sufficient from the importer that had requested the revocation. Specifically, according to CBP officials, the importer provided documentation to show measures in place that remediate the forced labor indicators identified by CBP concerning the fishing vessel Tunago No. 61.

Table 1: Withhold Release Orders Issued by U.S. Customs and Border Protection (CBP), by Year and by Goods, from February 2016 through March 2020

Year and month	Goods	Manufacturer	Country of origin
2016			
March ^a	Soda ash, calcium chloride, and caustic soda	Tangshan Sanyou Group and its subsidiaries	China
March ^b	Potassium, potassium hydroxide, potassium nitrate	Tangshan Sunfar Silicon Industries	China
May	Stevia and its derivatives	Inner Mongolia Hengzheng Group Baoanzhao Agricultural and Trade LLC	China
September	Peeled garlic	Hongchang Fruits & Vegetable Products Co., Ltd.	China
2018			
March	Toys	Huizhou Mink Industrial Co., Ltd.	China
May	Cotton	All Turkmenistan cotton or products produced in whole or in part with Turkmenistan cotton	Turkmenistan
2019			
February ^c	Seafood	Fishing vessel: Tunago No. 61	Other (vessel registry is Vanuatu)
September	Bone black (bone char)	Bonechar Carvao Ativado Do Brasil Ltda	Brazil
September	Garments	Hetian Taida Apparel Co., Ltd.	China
September	Gold	Artisanal small mines	Democratic Republic of Congo
September	Artisanal rough-cut diamonds	Marange diamond fields	Zimbabwe
September ^d	Disposable rubber gloves	WRP Asia Pacific Sdn. Bhd.	Malaysia
November	Tobacco	Tobacco produced in Malawi and products containing tobacco produced in Malawi	Malawi

Source: GAO analysis of CBP information. | GAO-20-441

Note: The shaded entry in the table represents the one withhold release order that pertains to seafood. Unless otherwise noted, the withhold release orders reflected were active as of May 2020.

^aThe withhold release order is partially active.

^bThe withhold release order was revoked on February 5, 2018, according to a CBP document.

^cThe withhold release order was revoked on March 31, 2020, according to a CBP document.

^dThe withhold release order was revoked on March 24, 2020, according to a CBP document.

CBP Uses Information from a Variety of External Sources to Enforce Section 307 for Seafood but May Be Missing Opportunities to Obtain Key Information from Stakeholders

CBP Uses Information from Media Reports, Other Federal Agencies, and Stakeholders to Initiate and Investigate Forced Labor Cases

CBP officials told us they obtain and use information from a variety of external sources, including media reports, other federal agencies, and stakeholders, that can help them initiate new forced labor-related cases or advance existing ones.

Media Reports

CBP officials said that media reports can be a catalyst for its Forced Labor Division to initiate or investigate a case. For example, CBP officials noted that forced labor in Thailand's shrimp industry had been in the news since 2015, and in response, CBP collected additional information from companies importing shrimp from Thailand. Additionally, the Forced Labor Division initiated the case that resulted in the seafood-related WRO based partially on news reporting, according to CBP officials. CBP officials also told us that they have formed working relationships with journalists that can be helpful in obtaining information to initiate or investigate cases.

Other Federal Agencies

CBP also uses information on an as-needed basis from a variety of federal agencies to initiate and investigate cases, according to CBP officials.

- **NOAA.** CBP can use certain data collected through NOAA's trade monitoring programs to help the agency support specific forced labor cases for seafood, according to CBP officials. For example, in the

case of the seafood-related WRO, CBP officials told us they used vessel names collected through NOAA's Tuna Tracking and Verification Program to link specific shipments of tuna to the vessel in question, which CBP officials said was essential information to confirm imports were being made to the United States.⁴⁸ This information was available because the seafood in question was one of the species of fish subject to NOAA trade monitoring programs that generate data CBP can access; however, not all species of fish are included in these programs.⁴⁹

Through its trade monitoring programs, NOAA collects harvest-related data, such as the name of the fishing vessel and the species of fish caught, but NOAA officials told us the agency does not collect data specific to labor conditions. NOAA officials and other stakeholders said that there have been discussions regarding potentially expanding the scope of data collected through NOAA's trade-monitoring programs, such as SIMP, to collect labor-related data. However, the officials noted some potential difficulties in doing so. For example, NOAA officials said that they would need to determine what specific information would be feasible to collect from importers and how it would collect, review, and validate such information. Some NOAA officials raised concern that collecting data on labor conditions may be outside NOAA's mission; as such, the agency may not have a clear use for the data once collected.

- **The Department of Labor.** CBP officials told us they may use reports published by the Department of Labor for context to inform section

⁴⁸The vessel name was an entry on NOAA's form 370, which is a Fisheries Certificate of Origin for all imports of frozen and/or processed tuna and tuna products. The information requested on this form is necessary to substantiate the origin and method of harvest of tuna for the Tuna Tracking and Verification Program, as required by 50 C.F.R. § 216.24(f).

⁴⁹Four NOAA trade monitoring programs collect data that are available to CBP, according to NOAA officials: (1) the Tuna Tracking and Verification Program, (2) the Highly Migratory Species program, (3) SIMP, and (4) the Antarctic Marine Living Resources program. These programs cover a combined 15 species or species groupings of seafood: (1) all types of abalone; (2) Antarctic and Patagonian toothfish; (3) Atlantic Cod; (4) blue crab; (5) dolphinfish (mahi mahi); (6) all types of grouper; (7) king crab (red); (8) all types of krill; (9) Pacific Cod; (10) red snapper; (11) all types of sea cucumber; (12) all types of sharks; (13) all types of shrimp; (14) swordfish; and (15) most types of tuna—including albacore, bigeye, skipjack, yellowfin, and bluefin, and all species of frozen or processed tuna.

307 investigations, including those involving seafood.⁵⁰ CBP officials also said they may reach out to the department on an as-needed basis to seek additional information. According to Department of Labor officials, the department also contacts other U.S. government agencies, including CBP, on an ad-hoc basis to share information.

- **The Department of State.** CBP officials said they may use reports published by the Department of State for contextual information in their enforcement of section 307, including investigation of cases involving seafood.⁵¹ CBP officials also said that the Department of State may include CBP in official communications from embassies discussing potential instances of forced labor. Department of State officials also said that they may reach out to CBP on a case-by-case basis regarding issues of potential forced labor detected in the course of their work overseas.

Stakeholders

CBP officials said they may use information from stakeholders to initiate or investigate cases. For example, CBP officials stated that they have reached out to NGOs to obtain clarification on sources used in NGOs' reports for specific cases. Stakeholders can also submit information or allegations proactively to the agency. CBP officials said that firsthand information collected in-country, including victim accounts, can be beneficial for initiating or investigating forced labor cases. We found many stakeholders collect such information. For example, a representative from one NGO told us that its organization conducts interviews with laborers from fishing vessels once the vessels dock to gather information on labor payment practices, which can serve as an indicator of potential forced labor.

However, CBP officials said they also face challenges using information provided by stakeholders because information is often insufficient to initiate or investigate a forced labor case. For example, CBP officials said that information they receive from NGOs might not provide sufficient detail on the supply chain that includes the alleged forced labor, including the manufacturer or vessel committing forced labor, or the connection to a

⁵⁰The Department of Labor publishes its *List of Goods Produced by Child Labor or Forced Labor* every 2 years, which is required by section 105(b)(2)(C) of the Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164 (2006), as subsequently amended, codified at 22 U.S.C. § 7112(b)(2)(C), as well as its *List of Products Produced by Forced or Indentured Child Labor*, which is required by Executive Order 13126.

⁵¹The *Trafficking in Persons Report* includes information on sectors where forced labor may be present in a particular country. U.S. Department of State, *Trafficking in Persons Report* (Washington, D.C.: June 2019).

U.S. importer. Additionally, these officials told us that information from stakeholders may conflate poor working conditions with forced labor.⁵²

CBP May Be Missing Opportunities to Obtain Key Information Stakeholders Collect Related to Seafood and Forced Labor

Firsthand Account of Abuse and Potential Forced Labor Involving Workers on Fishing Vessels

In its 2019 *Seabound* report, Greenpeace included testimonials of migrant fishers that detailed abuse and violent conditions on fishing vessels: “I witnessed horrible torture. We were working even on midnights. When the Fishing Master was angry, he hit my friend’s head near his left ear. After that he was forced to continue working until the work was finished and only then was he allowed to rest. In the morning when we woke up for breakfast, we found him dead in his room. The Captain wrapped up my dead friend’s body with a blanket and then stored him in the freezer.”

Source: Greenpeace, *Seabound: The Journey to Modern Slavery on the High Seas* (December 2019). | GAO-20-441

According to stakeholders we interviewed and our review of information on CBP’s website, CBP has not clearly communicated its information needs externally. Representatives from 14 of the 18 NGOs we interviewed indicated that they had some uncertainty about the types and level of information CBP needs to investigate forced labor cases in the seafood industry. For example, representatives from one NGO said it was not clear what constituted a credible allegation for CBP, or what information CBP needs to make a section 307 determination. Additionally, representatives from two NGOs managing a grant program⁵³ designed to support nonprofit organizations collecting firsthand evidence of forced labor said that they were unable to obtain specific guidance from CBP on the types of information the agency needs. As a result, these representatives said they could not communicate to potential grantees the specific kinds of information that would be most useful to submit to CBP. In asking CBP officials about this, CBP confirmed that the NGOs had reached out but they misunderstood the goals of the grant program at the time.

CBP could improve the quality of information it receives from stakeholders, including NGOs, by better communicating what information is most useful to initiate and investigate forced labor cases, including those involving seafood, according to stakeholders. Of the 14 stakeholders that told us there was uncertainty, 11 indicated that additional or clearer information about the agency’s information needs could result in more reporting of information to CBP. For example, representatives from one NGO said there was reluctance among stakeholders that may have limited resources to develop an allegation without knowing whether it is helpful, and that they would be more likely to do so with a better understanding of CBP’s needs. Similarly, representatives from another NGO said it is not worth dedicating the time and resources to develop an allegation without a clear sense of the types of information CBP is looking for to investigate its forced labor cases. Many of these stakeholders indicated that they are collecting firsthand

⁵²Poor working conditions are not included as part of forced labor as defined in section 307 and therefore cannot be used to support a WRO; however, International Labor Organization indicators of forced labor identify specific examples of poor working conditions that may signal forced labor is also present.

⁵³The grant program is privately funded.

information about potential forced labor in seafood supply chains in countries where labor violations are prevalent, which is information CBP officials told us could benefit forced labor investigations.

CBP officials said they have communicated in general about their information needs for forced labor cases, and that requisite information varies by case, including for seafood cases. The agency's website contains some information, including a reference to a regulation identifying information individuals are to submit to CBP when making a forced labor allegation.⁵⁴ However, CBP does not indicate what specific information to submit such as the timing or location of alleged forced labor activities. Similarly, CBP does not provide examples of the type of information—such as photos or testimonials from victims—that could be useful information for initiating or investigating cases.

In addition, CBP officials said that their e-allegations system provides a means for stakeholders to submit allegations of potential forced labor, among other things, to the agency. However, as of April 2020, the instructions for submitting an allegation do not include specifics on the types of information CBP needs to initiate or investigate cases, such as whether photographs or firsthand accounts of forced labor could be helpful. CBP officials agreed with the need to better communicate to stakeholders the types of information that are helpful for initiating or investigating forced labor cases.⁵⁵ They said that the Forced Labor

⁵⁴See 19 C.F.R. § 12.42 (b). According to the regulation, any person who has reason to believe that merchandise produced by forced labor is being, or is likely to be, imported into the United States may communicate his belief to any Port Director or the Commissioner of CBP. The regulations also state that "such communication shall contain, or be accompanied by (1) a full statement of the reasons for the belief; (2) a detailed description or sample of the merchandise; and (3) all pertinent facts obtainable as to the production of the merchandise abroad."

⁵⁵In addition, in March 2020, an Excellence in Government Leadership Team, which included government-wide participants, issued a series of recommendations to the Forced Labor Division to improve the quality of forced labor allegations submitted to CBP. These recommendations included suggested updates to CBP's website and e-allegations portal. Specifically, the group recommended that the agency update its website to provide clearer and more accessible information to stakeholders to improve the quality of information CBP reports. CBP officials also told us in March 2020 that a forced labor working group is working on similar recommendations. In April 2020, the forced labor working group, part of a partnership between the federal government and the private sector, recommended that CBP develop a guidance document that includes specific criteria to assist individuals and organizations in identifying meaningful information to include when reporting forced labor allegations.

Division had begun considering how it might do so but, to date, had yet to identify further details such as the approach it might take.

Federal standards for internal control establish that management should externally communicate the necessary quality information to achieve an agency's objectives.⁵⁶ For example, an agency should use appropriate methods to communicate quality information so that external parties can help the agency achieve its objectives. With better communication to stakeholders about the types of information it needs to initiate and investigate forced labor cases, CBP may be able to improve its enforcement efforts through enhanced information from stakeholders.

Conclusions

The exploitation of labor in the seafood supply chain is a global issue that, according to a recent United Nations report, affects millions of people working in the fishing sector. With the United States importing billions of dollars' worth of seafood in 2018 and reliant on those imports for much of the seafood it consumes, it is important that CBP take action to detect and prevent imports produced with forced labor from entering the country. Following the enactment of TFTEA in February 2016, CBP created the Forced Labor Division and placed an increased emphasis on detecting forced labor in imports, including seafood. CBP officials told us they do not have the resources to gather firsthand information on labor practices. To this end, CBP uses information from a variety of sources, including external stakeholders such as NGOs, to initiate and investigate cases. However, stakeholders are unclear about the types of information CBP needs to initiate and investigate cases because CBP has not clearly communicated this information. As a result, CBP may be missing opportunities to obtain key information that stakeholders collect specific to forced labor in the seafood industry—information that could enhance CBP's enforcement efforts.

Recommendation for Executive Action

The Acting Commissioner of CBP should better communicate to stakeholders the types of information stakeholders could collect and submit to CBP to help the agency initiate and investigate forced labor cases related to seafood and, as appropriate, other goods.
(Recommendation 1)

⁵⁶GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

Agency Comments and Our Evaluation

We provided a draft of this report to the Departments of Commerce, Homeland Security, Justice, Labor, State, and the U.S. Agency for International Development for review and comment. We received written comments from the Department of Homeland Security and the U.S. Agency for International Development, which are reproduced in appendixes III and IV, respectively. The Department of Homeland Security concurred with our recommendation and noted that CBP is committed to continued collaboration and communication with stakeholders about the types of information needed to develop forced labor cases and improve enforcement efforts of section 307 of the Tariff Act of 1930, as amended. CBP described the actions it plans to take to address the recommendation, including steps to improve collaboration and information sharing during meetings with working groups. In addition, the Departments of Commerce, Homeland Security, Justice, Labor, and State provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees; the Secretaries of Commerce, Homeland Security, Justice, Labor, and State; and the Administrator of the U.S. Agency for International Development. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact Anne-Marie Fennell at (202) 512-3841 or fennella@gao.gov or Kimberly Gianopoulos at (202) 512-8612 or gianopoulosk@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.

Sincerely yours,



Anne-Marie Fennell
Director, Natural Resources and Environment



Kimberly M. Gianopoulos
Director, International Affairs and Trade

Appendix I: Objectives, Scope, and Methodology

The objectives of this report are to examine (1) the process U.S. Customs and Border Protection (CBP) uses to enforce section 307 for seafood imports and the results of its civil enforcement actions and (2) the external sources of information CBP uses to help carry out enforcement of section 307 specific to seafood imports and stakeholder perspectives on CBP's communication of information needs.

To examine the process the Department of Homeland Security's CBP uses to enforce section 307 for seafood imports, we reviewed laws, regulations, and CBP documents and data pertaining to section 307 enforcement. These laws included section 307 of the Tariff Act of 1930 and the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA).¹ We interviewed CBP officials from the Office of Trade and Office of Field Operations, in both Washington, D.C., and the field,² who are involved in forced labor detection and enforcement about the steps in CBP's process to enforce section 307. In addition, we interviewed officials from U.S. Immigration and Customs Enforcement to learn about their involvement in addressing section 307.³ We examined CBP's efforts to enforce section 307 since TFTEA was enacted, in February 2016, through March 2020, the most currently available information at the time of our review. We examined CBP's enforcement of section 307 but did not include other forced labor laws in the scope of our review.⁴

To describe the results of CBP's civil enforcement actions, we looked at enforcement actions CBP took from February 2016—when TFTEA was enacted—through March 2020. We reviewed CBP's list of civil enforcement actions pertaining to all commodities it published on its

¹See 19 U.S.C. § 1307; Pub. L. No. 114-125, § 910 (2016).

²To learn about seafood imports and trade enforcement process, we visited a CBP port that ranks in the top 10 among ports receiving seafood imports by volume.

³Since the U.S. Immigration and Customs Enforcement enforces criminal violations, and officials from that agency told us that there have been no criminal cases related to forced labor and seafood imports, we decided to narrow our scope to focus only on enforcement of section 307, which is carried out by CBP. The U.S. Immigration and Customs Enforcement's role will be discussed in a separate GAO report.

⁴Section 321 of the Countering America's Adversaries Through Sanctions Act (CAATSA), Pub. L. No. 115-44 (2017), created a rebuttable presumption that significant goods, wares, merchandise, and articles mined, produced, or manufactured wholly or in part by North Korean nationals or citizens are deemed to be prohibited from importation under the Tariff Act of 1930. CBP is responsible for enforcement of that provision, but we did not look at CAATSA cases as part of our scope of work.

website.⁵ In addition, we collected and analyzed information specific to seafood from a spreadsheet that CBP uses to track cases, which contains information on all of its active, suspended, and inactive forced labor investigations pertaining to section 307.⁶ CBP provided us with updated versions of this case-tracking spreadsheet in July 2019, November 2019, and March 2020.⁷ To assess the reliability of the data, we interviewed CBP officials about the accuracy and completeness of the data and discussed each seafood case to understand the data represented in the various fields, such as how the seafood case originated and what the outcome of the case was. We also discussed in detail the information that led to the one seafood withhold release order (WRO) CBP issued in February 2019. Based on our interviews with CBP officials, we determined that the seafood case data were sufficiently reliable for the purposes of describing CBP's enforcement actions.

To describe the external sources of information CBP uses to help carry out enforcement of section 307 for seafood, we conducted interviews with CBP officials, including officials in the Office of Trade, which includes the Forced Labor Division, and the Office of Field Operations, to learn about the types of information they gather from external sources and how they might use that information. In addition, we interviewed various other federal agencies and stakeholders that collect information that could be relevant to CBP's enforcement of section 307. We identified these agencies by interviewing CBP officials about the external sources of information they use to help enforce section 307 cases.

- **Federal agencies.** We interviewed the following agencies:
 - Department of Commerce's National Oceanic and Atmospheric Administration (NOAA),
 - Department of Justice,
 - Department of Labor,

⁵While the scope of our review covers February 2016 through March 2020, we updated information on civil enforcement actions with any new developments as of May 2020.

⁶Active cases are ongoing investigations the Forced Labor Division is pursuing; suspended cases are those the Forced Labor Division does not have enough resources or information to pursue currently; and inactive cases are those without sufficient evidence or without a clear violation or connection to the U.S. market, according to CBP officials.

⁷According to CBP officials, the Forced Labor Division started compiling and tracking data on its cases in a spreadsheet in 2018 when the Forced Labor Division was established.

- Department of State,
- U.S. Immigration and Customs Enforcement, and
- U.S. Agency for International Development.⁸

We also interviewed officials from NOAA about the Seafood Import Monitoring Program and other trade-related programs that collect data aimed at preventing illegal, unreported, and unregulated seafood from entering the United States. In addition, we reviewed documents provided by NOAA that focused on trade programs that CBP could use as a source of information to help carry out enforcement of section 307. We interviewed officials from the Departments of State and Labor about each agency's reports on human trafficking and forced labor and obtained copies of and reviewed their reports.⁹

- **Stakeholders.** We interviewed current and former representatives from 18 nongovernmental organizations (NGOs) that have interests in forced labor in the seafood industry.¹⁰ Our original scope included 19 NGOs, but we eliminated one NGO from our scope since an official from this organization told us its responses would not vary from those we received from a larger parent NGO, and officials we interviewed did not have separate viewpoints on the extent to which they understood CBP's information needs. We identified NGOs using internet searches for groups focused on seafood and forced labor and the recommendations of officials from federal agencies and NGOs we interviewed. We also selected NGOs that represented a variety of goals and missions, including those focused on helping U.S. importers remain compliant with section 307 and those focused on assistance to survivors of forced labor overseas.¹¹ We asked representatives from each NGO a standard set of questions that addressed, among other things, information they may share with CBP. Statements these

⁸We also obtained some information from the U.S. Coast Guard.

⁹U.S. Department of State, *Trafficking in Persons Report* (Washington, D.C.: June 2019); U.S. Department of Labor, *2018 List of Goods Produced by Child Labor or Forced Labor* (Washington, D.C.: September 2018).

¹⁰In addition to NGOs that have an interest in seafood and forced labor, we also spoke to two subject matter experts who had significant experience working with forced labor issues in the seafood industry but who were not speaking on behalf of their employers.

¹¹A snowball selection process may use multiple methods to identify entities within a group and generally includes asking members of the population to recommend other members.

stakeholders made are not generalizable to all stakeholders but provide perspectives on information for enforcing section 307.

To describe stakeholder perspectives on CBP's communication of information needs, we interviewed stakeholders about their perspectives of CBP's information needs. Specifically, we asked about the extent to which they understood CBP's information needs for enforcement of section 307, the extent to which they have shared information with CBP about potential forced labor they have identified, and factors that may affect their sharing information with CBP. In some cases, NGO representatives we interviewed told us their organizations were unable to share information with CBP because of external factors, such as nondisclosure agreements or differing information collection objectives, but they noted that CBP actions could affect the likelihood of other stakeholders sharing information. Statements these stakeholders made are not generalizable to all stakeholders but provide perspectives on information sources. We also interviewed CBP officials about the extent to which information stakeholders provided was sufficient to use in initiating and investigating section 307 cases.

To evaluate CBP's communication of its information needs to initiate or investigate forced labor cases as part of its section 307 enforcement process, we interviewed CBP officials about how the agency communicates its information needs to initiate or investigate forced labor cases as part of its section 307 enforcement process. We also reviewed CBP documents and the agency's website to identify what information CBP provided to the public about its information needs. We compared the agency's existing communication efforts to federal standards for internal control, as appropriate.¹² We assessed the agency's procedures to determine whether CBP communicated information to external parties through appropriate methods. We also assessed the quality of available information to ensure it was appropriate, current, complete, and accessible, among other things.

We conducted this performance audit from February 2019 to June 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

¹²GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

**Appendix I: Objectives, Scope, and
Methodology**

the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Working Groups Focused on Forced Labor and Combating Illegal Activities in the Fishing Industry

Since the enactment of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), a number of working groups or task forces have been established, primarily involving U.S. federal agencies, to focus on forced labor and imports in general as well as combating illegal activities in the seafood supply chain more specifically in some cases.¹

- **Interagency Working Group on Forced Labor.** The Department of Homeland Security established this working group in 2017.² According to U.S. Customs and Border Protection (CBP) officials, the group's purpose is information sharing and collaboration on forced labor topics with interagency partners, which include officials from the Departments of Labor, State, and Justice and the National Oceanic and Atmospheric Administration (NOAA), among other federal agencies. CBP officials stated that the group generally meets monthly.
- **Task Force on Human Trafficking in Fishing in International Waters.** In 2017, the Senate Appropriations Committee directed the Department of Justice to lead a multi-agency task force to examine the issue of human trafficking in seafood supply chains and report to Congress on the status of such issues, along with any related funding, policy recommendations, and legal decisions.³ Department of Justice officials said they launched the task force in October 2018, and it includes officials from NOAA; the Departments of Homeland Security, Justice, State, Labor, and Treasury; and the Office of the United States Trade Representative. Department of Justice officials said they drafted a report that identified relevant legal and jurisdictional issues, with recommendations to help further efforts to limit human trafficking in fishing in international waters. As of March 2020, the draft was undergoing interagency review and no publication date had been specified, according to the officials.
- **Commercial Customs Operations Advisory Committee Forced Labor Working Group.** The Commercial Customs Operations Advisory Committee is a longstanding public-private partnership

¹These may not all have a direct nexus to forced labor imports as defined in section 307.

²According to CBP officials, the Department of Homeland Security initially chaired the working group but transferred responsibility to CBP. CBP's Forced Labor Division has chaired the group since May 2019.

³According to S. Rep. No. 115-139, which accompanied the fiscal year 2018 appropriations bill for the Departments of Commerce and Justice, Science, and Related Agencies, the task force was to convene experts from federal agencies that handle law enforcement, labor law, and international issues to develop a coordinated response regarding the proper application of U.S. law and resolution of any jurisdictional issues.

**Appendix II: Working Groups Focused on
Forced Labor and Combating Illegal Activities
in the Fishing Industry**

between the federal government and the private sector. It advises the Department of Homeland Security on matters involving commercial operations, including significant changes that are proposed to CBP regulations, policies, or practices.⁴ After the enactment of TFTEA, a working group within the committee's Intelligent Enforcement Subcommittee—the Forced Labor Working Group—began discussing a variety of issues related to the implementation of section 307, according to CBP officials. The officials said that in 2017 the Forced Labor Working Group sought information from several nongovernmental organizations knowledgeable about labor and human rights in sectors involving seafood and other goods to obtain their insights that could then be shared with CBP.⁵

⁴The Commercial Customs Operations Advisory Committee consists of two government co-chairs and 20 private-sector members. It advises the Secretaries of the Treasury and Homeland Security on the commercial operations of CBP and related Treasury and Department of Homeland Security functions. The committee has several subcommittees that examine issues such as intelligent enforcement and secure trade lanes and make recommendations, primarily to CBP.

⁵CBP officials and representatives of nongovernmental organizations told us that the forced labor working group was on hiatus but resumed in the fall of 2019.

Appendix III: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

May 29, 2020

Anne-Marie Fennell
Director, Natural Resources and Environment
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Kimberly M. Gianopoulos
Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Management Response to Draft Report GAO-20-441, "FORCED LABOR:
Better Communication Could Improve Trade Enforcement Efforts Related to
Seafood"

Dear Ms. Fennell and Ms. Gianopoulos:

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

The Department is pleased to note GAO's recognition of the complexity of the forced labor program and U.S. Customs and Border Protection (CBP) actions to detect and prevent imports produced with forced labor from entering the country. CBP is committed to continued collaboration and communication with stakeholders about the types of information needed to develop forced labor cases and improve enforcement efforts of section 307 of the Tariff Act of 1930, as amended, specific to the seafood industry and other goods, as appropriate.

The draft report contained one recommendation with which the Department concurs. Attached find our detailed response to the recommendation. DHS previously submitted technical comments under a separate cover for GAO's consideration.

**Appendix III: Comments from the Department
of Homeland Security**

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H
CRUMPACKER

Digitally signed by JIM H
CRUMPACKER
Date: 2020.05.29 15:38:18
-04'00'

JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Attachment

**Attachment: Management Response to Recommendation
Contained in GAO-20-441**

GAO recommended that the Acting Commissioner of CBP:

Recommendation 1: Better communicate to stakeholders the types of information stakeholders could collect and submit to CBP to help the agency initiate and investigate forced labor cases related to seafood, and as appropriate, other goods.

Response: Concur. CBP Office of Trade (OT) has, and will continue to, improve opportunities to share information in several areas on forced labor enforcement information needs to stakeholders. In April 2020, CBP OT took measures to improve Partner Government Agencies (PGA) collaboration and information sharing during the monthly CBP administrated DHS Forced Labor Interagency Working Group. These measures included the expansion of PGA stakeholder membership and agenda diversification to provide PGA collaboration on strategic forced labor issues or initiatives.

In addition, by July 31, 2020, OT's Forced Labor Division will develop procedures to include, or solicit, information regarding forced labor in U.S. bound supply chains from PGA and other non-governmental entities. These procedures will include establishing a PGA stakeholder contact list to that CBP will regularly use to communicate and collaborate with PGA and other entities on sector specific investigations.

Finally, CBP OT Trade Remedy Law Enforcement Directorate will continue to lead the Commercial Operations Advisory Committee (COAC) Intelligent Enforcement (IE) Sub-Committee Forced Labor Working Group. The IE Sub-Committee Forced Labor Working Group, which involves industry and government partners examining forced labor allegations with focus on the types of information that substantiate a comprehensive forced labor allegation, as well as mechanisms for reporting. Once complete, the output from these deliberations will be formalized in COAC recommendations for CBP's consideration.

Estimated Completion Date: September 30, 2020.

Appendix IV: Comments from the U.S. Agency for International Development



May 21, 2020

Tom Melito
Managing Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20226

Re: *FORCED LABOR: Better Communication Could Improve Trade Enforcement Efforts Related to Seafood* (GAO-20-441)

Dear Mr. Melito:

I am pleased to provide the formal response of the U.S. Agency for International Development (USAID) to the draft report produced by the U.S. Government Accountability Office (GAO) titled, *FORCED LABOR: Better Communication Could Improve Trade Enforcement Efforts Related to Seafood* (GAO-20-441).

While USAID has no formal comments on GAO-20-441, we agree on the seriousness of the issue of forced labor in the seafood industry, and on the contours of the response by the U.S. Government (USG) to the problem, as outlined in the report. USAID particularly agrees on the critical, front-line role that local non-governmental organizations and journalists play in monitoring the practices of the fisheries sector. Further, we recognize the importance of informing these actors about the viable avenues for them to report abuses related to forced labor. USAID's experience and comparative advantage in building the core capacities of civil society, media, and government actors is salient to deterring forced labor in the fisheries sector. In addition, USAID is an enthusiastic and active participant in formal and informal interagency discussions on forced labor in the fisheries sector, and we remain hopeful that the U.S. Government might bring a more comprehensive approach to this serious issue in the future.

I am transmitting this letter from USAID for inclusion in the GAO's final report. Thank you for the opportunity to review and respond to the draft report, and for the courtesies extended by your staff while conducting this engagement. We appreciate the opportunity to participate in the evaluation.

Sincerely,

Frederick M. Nutt

Frederick Nutt
Assistant Administrator
Bureau for Management

05/21/2020

Appendix V: GAO Contacts and Staff Acknowledgments

GAO Contacts

Anne-Marie Fennell, (202) 512-3841, fennella@gao.gov or Kimberly M. Gianopoulos, (202) 512-8612 or gianopoulosk@gao.gov

Staff Acknowledgments

In addition to the contacts named above, Alyssa M. Hundrup (Assistant Director), Christine Broderick (Assistant Director), Christina Werth (Assistant Director), Andrea Riba Miller (Analyst in Charge), and Emily Norman made key contributions to this report. Martin De Alteriis, Patricia Moye, Sheryl Stein, Sara Sullivan, and Nicole Willems also contributed to the report.

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Strategic Planning and External Liaison

James-Christian Blockwood, Managing Director, spel@gao.gov, (202) 512-4707, U.S. Government Accountability Office, 441 G Street NW, Room 7814, Washington, DC 20548



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