

28 October 2020

Valdis Dombrovskis
Executive Vice-President
European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels
Belgium

CC:

Ewa Synowiec, Director for Africa, Caribbean and Pacific, Asia (II), Trade and Sustainable Development, Green Deal, DG Trade, European Commission

Peter Berz, Head of Unit, South and South East Asia, Australia, New Zealand, DG Trade, European Commission

Madelaine Tuininga, Head of Unit, Trade and Sustainable Development, DG Trade, European Commission

Gunnar Wiegand, Managing Director on Asia and Pacific at the European External Action Service (EEAS)

Paola Pampaloni, Director/Deputy Managing Director on Asia and Pacific, EEAS

David Daly, Head of Unit, South-East Asia, EEAS

Pirkka Tapiola, Ambassador of the EU to Thailand

Lluís Prats, Head of Unit, Director-General for Employment, Social Affairs and Inclusion, European Commission

Bernd Lange, Chair of the Committee on International Trade (INTA), European Parliament

Heidi Hautala, Member of the European Parliament and Chair of Working Group on Business and Human Rights, European Parliament

Anna Cavazzini, Member of the European Parliament and General Secretary of the Working Group on Business and Human Rights, European Parliament

David Johns, Head of Unit, Trade, Development and Security, European Council Trade Policy Committee

Dear Mr. Dombrovskis,

We, the undersigned companies and organisations, are aware that the European Union may resume trade negotiations with Thailand. We urge the EU to require Thailand to commit to a set of robust human rights conditions prior to restarting negotiations. The EU has pledged to place respect for human rights at the core of its trade policy. It is crucial to ensure that the benefits of global trade do not come at the expense of workers or without guarantees that their fundamental rights are respected.

Thailand is an important trading partner for the EU and for the companies that are signatories to this letter. Companies are concerned about sourcing from countries with weak labour laws and a history of severe labour rights abuses including forced labour – as this raises the risk of human rights violations in supply chains. Any trade agreement with Thailand should address such weaknesses in order to complement companies' human rights due diligence efforts.

In recent years, Thailand has taken steps to protect human rights in the context of business operations. For example, in 2018, Thailand ratified the ILO Protocol of 2014 to the Forced Labour Convention, 1930 and became the first country in Asia to ratify the ILO Convention on Work in Fishing No. 188. In 2019, Thailand became the first country in Asia to adopt a National Action Plan on Business and Human Rights. EU engagement has been very effective in prompting legal and regulatory reform; in particular, the "yellow card" warning brought about significant reforms to combat illegal, unreported and unregulated fishing in Thailand.¹

Nevertheless, much remains to be done to ensure that internationally recognised human rights, including rights to freedom of association and collective bargaining, and the right to freedom of expression, are fully protected in Thailand in practice. Thailand has committed several times to ratify ILO Core Conventions 87 (Freedom of Association and Protection of the Right to Organise) and 98 (Right to Organise and Collective Bargaining), and to bring domestic law in compliance with

¹ See "Thailand's fisheries reform: Progress and way forward in the fight against IUU fishing and forced labor," Royal Thai Government, March 2016, <https://thaiembdc.org/2016/03/07/thailands-fisheries-reform/>

CC:

H.E. Prayut Chan-o-cha, Prime Minister of Thailand, Government of Thailand

H.E. Jurin Laksanawisit, Deputy Prime Minister, and Minister of Commerce, Government of Thailand

H.E. Don Pramudwinai, Minister of Foreign Affairs, Government of Thailand

H.E. Suchart Chomklin, Minister of Labour, Government of Thailand

Mr. Apinya Sujarittanan, Director General, Department of Labour Protection and Welfare (DLPW), Ministry of Labour, Government of Thailand

Mr. Auramon Supthawetthum, Director-General of the Department of Trade Negotiations, Government of Thailand

Ms. Chihoko Asada-Miyakawa, Regional Director, ILO Regional Office for Asia and the Pacific

Signatories:

amfori

ALDI Nord

ALDI SOUTH Group

Co-op

Euro Coop - European Community of Consumer Co-operatives

Global Tuna Alliance

John Lewis Partnership

Lidl Great Britain

Nestlé

Princes Limited

Sainsbury's

Seafood Ethics Action (SEA) Alliance

SOK

Tesco PLC

World Wise Foods

them. However, despite these commitments, Thailand remains one of the three countries in Southeast Asia that have not ratified either of these conventions.²

Thai law explicitly bans non-Thai citizens from the right to form trade unions and prohibits all state enterprise employees from striking, among many other shortcomings. The discrimination in the law is particularly problematic in migrant-dominated labour sectors, such as seafood processing and fishing, as the industries are effectively barred from unionising. It also shows that political will to truly protect worker rights is lacking. Furthermore, workers and other civil society advocates, have been charged with criminal and civil offences, typically defamation, to intimidate and silence those who report or publicise labour abuses.

Throughout the past 20 years, the ILO Committee on Freedom of Association (CFA) has investigated a large number of cases and complaints involving Thailand and has repeatedly made recommendations for labour law reform.³ Draft legislation has been developed to replace or reform two key labour laws, however it does not adequately implement the recommendations from the CFA or representative trade unions in the country. Thus, the Thai government has been on notice for more than two decades to ratify ILO conventions and undertake needed labour law reform.

These issues present serious risks for current and potential buyers of goods and products from Thailand who want to fulfil their responsibility to respect human rights. As corporations are increasingly expected to carry out human rights due diligence in global supply chains, particularly by EU member states and at the EU level, national legal frameworks that violate ILO core labour standards and other basic human rights are problematic. Weak and discriminatory labour laws mean that companies will need to invest greater time and resources into mitigating risk and remedying abuse.

² For ratification by country, see

<https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11001:0::NO::>

³ For all complaints on Thailand, see

<https://www.ilo.org/dyn/normlex/en/f?p=1000:20030::FIND:NO::>

Signatories:

Akava - Confederation of Unions for Professional and Managerial Staff in Finland

Anti-Slavery International

Asian Forum for Human Rights and Development (FORUM-ASIA)

Be Slavery Free

Business & Human Rights Resource Centre (BHRRCC)

Central Organisation of Finnish Trade Unions (SAK)

Ethical Trading Initiative (ETI)

Finnish Confederation of Professionals (STTK)

Finnish Industrial Union

Finnwatch, Finland

FishWise

Foundation for Education and Development (FED), Thailand

Freedom Fund

Freedom United

Global Labor Justice – International Labor Rights Forum (GLJ-ILRF)

Human Rights and Development Foundation (HRDF), Thailand

Human Rights Watch

Humanity United Action

Lawyers' Rights Watch Canada

MAP Foundation, Thailand

Migrant Working Group (MWG), Thailand

Migrant Worker Rights Network (MWRN), Thailand

Oxfam

Pro Ethical Trade Finland

Serve the People Association (SPA), Taiwan

State Enterprise Workers' Relations Confederation (SERC), Thailand

Thai Labour Solidarity Committee (TLSC)

Trade Union Pro, Finland

Trade Union for the Public and Welfare Sectors JHL, Finland

Verité

The Covid-19 pandemic has further highlighted the importance of making supply chains more transparent and sustainable. Changes in global demand resulting from the pandemic have put new pressures on suppliers and have impacted working conditions. In this context, workers' organisations are key stakeholders for companies carrying out due diligence efforts with their suppliers in Thailand and elsewhere. It is therefore crucial that workers' rights to freedom of association and collective bargaining are fully respected to ensure clear and legitimate channels for communication between employees and employers during these challenging times.

Given Thailand's track record, the EU must require, as part of the pre-negotiating phase, a clearly defined, enforceable and time-bound roadmap for Thailand to undertake the following legal reforms before trade negotiations are restarted.

1. Ratify ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise and Convention No. 98 on the Right to Organise and Collective Bargaining and bring domestic labour laws in compliance with these conventions.
2. Reform the Labour Relations Act and the State Enterprise Labour Relations Act to allow all workers, without distinction, the right to organise, to collectively bargain, and to strike, with legal protection.
3. Decriminalise defamation under both the Penal Code and Computer Crimes Act and enact anti-Strategic Litigation Against Public Participation (SLAPP) legislation to ensure that workers and human rights defenders are not subjected to criminal or civil liability for exercising rights to freedom of expression and speaking out about labour rights abuse.
4. Ensure that trade unions and worker organisations have a significant and meaningful role in monitoring the implementation of new laws.

Sincerely,

The following signatories:

 <p>amfori Trade with purpose</p>	 <p>ALDI</p>	 <p>ALDI</p>
 <p>coop</p>	 <p>eurocoop European Community of Consumer Cooperatives</p>	 <p>GLOBAL TUNA ALLIANCE</p>
 <p>JOHN LEWIS PARTNERSHIP JOHN LEWIS & PARTNERS WAITROSE & PARTNERS</p>	 <p>LIDL</p>	 <p>Nestlé</p>
 <p>PRINCES GROUP</p>	 <p>Sainsbury's</p>	 <p>SEAFOOD ETHICS ACTION ALLIANCE</p>
 <p>Tesco</p>	 <p>TESCO</p>	 <p>WORLD WISE FOODS</p>

 <p>Akava</p>	 <p>anti-slavery</p>	 <p>FORUM-ASIA</p>
 <p>BE SLAVERY FREE</p>	 <p>Business & Human Rights Resource Centre</p>	 <p>SAK</p>
 <p>Ethical Trading Initiative</p> <p>For workers' rights. For better business.</p>	 <p>STTK</p>	 <p>Industrial union</p>
 <p>Finnwatch</p>	 <p>FISH WISE</p>	 <p>FED Foundation for Education and Development</p>
 <p>THE FREEDOM FUND</p>	 <p>FREEDOMUNITED LET'S END MODERN SLAVERY TOGETHER</p>	 <p>GLOBAL LABOR JUSTICE ILRF INTERNATIONAL LABOR RIGHTS FORUM</p>

 <p>Human Rights and Development Foundation มูลนิธิเพื่อสิทธิมนุษยชนและการพัฒนา (นสพ.)</p>	 <p>HUMAN RIGHTS WATCH</p>	 <p>HUMANITY UNITED ACTION</p>
 <p>Lawyers' Rights Watch Canada</p>	 <p>มูลนิธิเพื่อสภาพและการเรียนรู้ของแรงงานข้ามชาติ MAP FOUNDATION</p>	 <p>MIGRANT WORKING GROUP</p>
 <p>เครือข่ายสิทธิแรงงานข้ามชาติ MIGRANT WORKER RIGHTS NETWORK</p>	 <p>OXFAM</p>	 <p>EETTI</p>
 <p>群众</p>	 <p>สำนักงานแรงงานรัฐวิสาหกิจสัมพันธ์ ILO OFFICE OF LABOR RELATIONS COOPERATION</p>	 <p>อนุสัญญาว่าด้วยความสัมพันธ์ระหว่างแรงงานข้ามชาติ SOLIDARITY</p>
 <p>pro</p>	 <p>JHL</p>	 <p>VERITÉ Fair Labor. Worldwide.</p>

This initiative was led by the [Seafood Working Group \(SWG\)](#) in collaboration with [Finnwatch](#). The SWG is a global coalition of labor, human rights and environmental organizations coordinating to end forced labor in the seafood industry, convened by [Global Labor Justice – International Labor Rights Forum \(GLJ-ILRF\)](#).