

April 14, 2026

The Honorable Jamieson Greer  
U.S. Trade Representative  
Washington, DC

Electronic Submission to USTR's electronic portal: <https://comments.ustr.gov/s/>  
Docket Number USTR–2026-0133

Dear Ambassador Greer,

Libera Foundation against Trafficking in Persons and Slavery in All its Forms (*Fundación Libera contra la Trata de Personas y la Esclavitud en Todas sus Formas*) is a Chilean based nonprofit NGO specializing in legal assistance and strategic litigation of trafficking and forced labor in supply chain cases, member of the Global Alliance against Trafficking of Women (GAATW), OECDWatch, Global Network against Forced Labor – NForce, the Coalition against Forced Labor in Trade – CAFLT, United Organizations against Trafficking and All Forms of Violence – OUTRAV, RedLactra Network, the Latin American Observatory on Trafficking and Smuggling of Persons and of the Chilean Civil Society Platform on Human Rights and Business. We are an official member of the National Antitrafficking Task Force.

We appreciate the opportunity to provide public comments on the initiation of Section 301 investigations related to forced labor import bans.

This submission addresses the presence of forced labor in Chilean-produced goods and whether Chile maintains or is in the process of establishing a forced labor import prohibition, and whether any such import prohibition is being effectively enforced; the extent to which the failure of Chile to establish and effectively enforce a forced labor import prohibition is unreasonable, discriminates against U.S. goods, or constitutes a persistent pattern of conduct that permits any form of forced or compulsory labor; the extent to which the failure of Chile to establish and effectively enforce a forced labor import prohibition has negatively affected U.S., global and Chilean commerce; and the actions that should be taken to address these issues, including the level and scope, if any, of duties on products of Chile and/or the level and scope, if any, of import restrictions on products of Chile.

## **1. Forced labor in the Chilean economy: the pervasive presence of the 11 ILO Indicators in Agriculture and the Salmon Industry.**

Since 2002 –and even before that date–, trade unions, specialized civil society organizations, and academics have alerted the Chilean State to credible reports of forced labor in key export sectors such as agriculture<sup>1</sup> and aquaculture.<sup>2</sup> Academic studies,<sup>3</sup> reports from international bodies<sup>4</sup> and special rapporteurs,<sup>5</sup> submissions before foreign courts and authorities, and the State's own reports<sup>6</sup> document the persistence of concrete indicators of forced labor — as defined by the ILO — in these productive sectors: abuse of vulnerability, deception, restriction of movement,

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<sup>1</sup> <https://www.ciperchile.cl/2021/09/28/fiscalia-investiga-denuncia-de-trabajo-forzado-masivo-de-inmigrantes-en-cosecha-de-arandanos-y-mandarinas/>

<sup>2</sup> <https://www.theguardian.com/global-development/2025/dec/02/chile-salmon-farms-fish-industry>

<sup>3</sup> <https://derechoshumanos.udp.cl/cms/wp-content/uploads/2024/11/INFORME-ANUAL-DDHH-UDP-2024-CAP-6.pdf>

<sup>4</sup> <https://bibliotecadigital.indh.cl/items/37b32e37-d88d-4a72-a3b5-f9213c74c36f/full>

<sup>5</sup> <https://www.ohchr.org/en/documents/thematic-reports/ahrc5033-trafficking-persons-agriculture-sector-human-rights-due>

<sup>6</sup> <https://www.suseso.gob.cl/607/w3-article-586071.html>

isolation, physical and sexual violence, withholding of documents and wages, debt bondage, excessive working hours, and abusive living and working conditions.

### **1.1 Forced labor in Chilean agriculture.**

Empirical research in Chile on the working conditions of agricultural workers has revealed persistently high levels of labor precariousness over time. What social sciences identify as labor precariousness can, from a legal perspective, align with the category of forced labor or trafficking for labor exploitation. While not all cases of labor precariousness qualify as forced labor, studies on the conditions of agricultural workers, particularly migrants, consistently show indicators of this offense. This suggests that forced labor has historically been recurrent in the agricultural sector, a situation exacerbated in recent decades by the implementation of the agro-export model in the context of globalized economies. This model has led to an increase in temporary employment, a process of feminization of wage labor, and the introduction of mechanisms such as labor flexibility, subcontracting, and labor intermediation. These factors have contributed to greater vulnerability, precariousness, and lack of protection for salaried workers, significantly affecting the living conditions of men and women in this economic sector.<sup>7</sup>

The condition of seasonal agricultural workers is structurally vulnerable. Research has highlighted that it fluctuates between regularity (in forms and cycles) and irregularity (due to the unstable duration of labor relationships), as well as between social inclusion and exclusion. The 2009 Human Development Report on Rural Chile by the United Nations Development Program (UNDP) indicated that seasonal employment is not a choice but rather the only available option. It is not based on skills but on availability, being classified as unskilled and lower-tier work. It is the option for those without options. Studies show that seasonal agricultural workers lack protection, have minimal or no access to social security and occupational health benefits, and earn low wages. Internal migration from the south of the country and migrants from neighboring nations willing to work for lower wages have, in recent years, led to a decline in wage parity.

### **Migrant workers and agriculture.**

Indeed, the massive influx of migrants, primarily from Peru, Bolivia, Venezuela and Haiti, has changed the pattern of agricultural employment, marked by what is described as the "precarization of migration." This phenomenon entails a degradation of working and living conditions, with migrants facing greater vulnerability compared to local workers. Employers have exploited legal loopholes to hire this labor force, a practice described as a re-commodification of the workforce, resembling forms of exploitation such as "wage slavery" or "second-class labor citizenship."

This situation has become normalized through a system of control based on fear of deportation and job loss, prompting migrants to adopt submissive and compliant attitudes. The link between employment and immigration status has been used by employers to deter migrants from reporting poor labor conditions.

From a historical perspective on agricultural wage labor studies in the country, research confirms the persistence and even worsening of the objective conditions under which agricultural labor is carried out. This context has been characterized by a decline in labor inspections, a reduction in the organizational and negotiating capacity of worker collectives, and the rise of contractors as a central mechanism consolidating not only labor precariousness but also the overall precarity of migrant lives.

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<sup>7</sup> <https://derechoshumanos.udp.cl/cms/wp-content/uploads/2024/11/INFORME-ANUAL-DDHH-UDP-2024-CAP-6.pdf>

## **Conditions suffered by forced labor victims in Chilean agricultural export production.**

Based on our cases and research, and a review of qualitative and quantitative data from primary and secondary sources, evidence has been identified for all ILO indicators of forced labor in the production of fruit –blueberries, mandarins and clementines– for export in Chile.

### **Abuse of Vulnerability**

The victims represented are predominantly Venezuelan, Haitian and Bolivian migrants, many of whom arrive in the country with irregular migration status, making their legal regularization contingent on maintaining employment. Their social and economic vulnerability, compounded in many cases by language barriers and unfamiliarity with Chilean law, renders them particularly susceptible to exploitation and prevents them from freely consenting to — or refusing — the conditions imposed upon them.

### **Deception**

Victims are systematically deceived at the point of hire and throughout their employment regarding their actual wages, the nature of the work, and the living conditions they will face.

### **Isolation**

Once engaged, workers find themselves isolated on remote agricultural properties, far from essential services, commercial establishments, medical facilities, and adequate transportation infrastructure. In this context of near-total dependency, employers exercise control over access to food, water, housing, and medical assistance, frequently withholding these as a means of coercion.

### **Restriction of Movement**

Freedom of movement is restricted, and workers who attempt to leave — even for urgent medical reasons — face physical reprimand or threats.

### **Unlawful contracts**

Employment contracts are structured around production targets that are effectively unattainable, functioning as a mechanism to suppress wages and bind workers to their posts.

### **Withholding of wages and illegitimate deductions**

Wages are systematically withheld or subjected to illegitimate deductions, including for absences related to immigration procedures, adverse weather conditions, and illness. Workers are made to sign wage agreements under false promises of future payment at subsequent work sites, promises that are never honored, resulting in a growing accumulation of unpaid earnings. Additional deductions are made under pretextual justifications, such as promised bonuses that never materialize.

### **Physical Violence and Other Abuses**

Victims are subjected to physical violence at the hands of contractors, including beatings and other forms of abuse.

### **Intimidation and Threats**

Workers endure persistent threats of dismissal or denunciation to immigration authorities should they raise complaints about their conditions.

## **Abusive Working and Living Conditions / Excessive Overtime**

The working hours imposed are excessive — typically ten to twelve hours a day, six days a week, with Sunday work also required of many — and overtime is not compensated. Workers are required to perform their duties in hazardous conditions without adequate safety equipment, despite employer awareness of the associated risks and the occurrence of workplace accidents. Living conditions in employer-provided accommodation are cramped and unsanitary, falling well below the standards established by local labor regulations. Victims are provided with insufficient food, and in some instances none at all. Access to water and electricity is arbitrarily cut off by employers as a further instrument of control.

### **1.2 Forced labor in Chilean salmon industry.**

The existence of forced labor indicators in the production of salmons has been registered by civil society, academics and environmental organizations in Chile since the installation of the industry in the south of the country; however, it has never been named as such.

There are many reasons behind this silence. Chile's legal framework does not criminalize forced labor as an autonomous crime from trafficking for forced labor, weakening the detection of labor exploitation of national victims. State agents do not recognize forced labor indicators due to the entrenched paradigm of trafficking as transnational in nature and committed exclusively by organized crime,<sup>8</sup> together with widespread discrimination against vulnerable population, that naturalizes abusive working conditions.<sup>9</sup>

The salmon sector has been object of consistent, permanent and in-depth socio, environmental and scientific research, registering the social and labor conditions of the salmon workers since the installation of the industry in the south of Chile. It has also been an arena of intense international advocacy and litigation by specialized socio-environmental and human rights organizations and indigenous communities, who have filed complaints before national and international courts<sup>10</sup> and non-judicial state instances such as the OECD's National Contact Points<sup>11</sup> for gross violations on human rights.

Exploitative practices, deficient working conditions and low wages have been documented in countless reports and studies from international organizations, international human rights organizations<sup>12</sup>, research centers and academic institutions, local NGOs, worker unions and even state authorities; and so, has been the reluctance of the salmon sector to improve conditions. Salmon companies have contributed to the worsening of salmon divers' labor conditions, by promoting and facilitating forced labor practices. The resistance to respect labor rights and decent work can be traced as early as 2012: “The reluctance to improve conditions, according to those interviewed, is related to an authoritarian management culture, little dialogue between

<sup>8</sup> Carole Chang, *Le Monde Diplomatique*, ; Rudnick, Carolina “, BIICL, Chile Case Study,

<sup>9</sup> See <https://derechoshumanos.udp.cl/cms/wp-content/uploads/2024/11/INFORME-ANUAL-DDHH-UDP-2024-CAP-6.pdf>

<sup>10</sup> Inter-American Commission on Human Rights (IACHR), 182<sup>nd</sup> Period of Sessions, Hearing on Situation of indigenous peoples and the right to the environment in the context of salmon farming in Chile, 15 December 2021, available in: <https://www.youtube.com/watch?v=wD5D7TgWLTQ&list=PL5QlapyOGhXu2-ddSeRIRiBMimP1xrleL&index=12>; The Rafto Foundation, The Institute for Human Rights and Business (IHRB), the Danish Institute for Human Rights, Report “Roundtable Human Rights in the Salmon farming”, 6 December 2019, Bergen, Norway, available in: <https://s3-eu-west-1.amazonaws.com/rafto-documents/Reports/Roundtable-nettversjon.pdf>;

<sup>11</sup> COMPLAINT to OECD NCP “FoE Netherlands vs. Nutreco Nutreco/Marine Harvest’s salmon farming in Chile”, 08.22.2002, <https://www.oecdwatch.org/complaint/foe-netherlands-vs-nutreco/>; COMPLAINT to OECD NCP “ForUM and Friends of the Earth Norway vs Cermaq ASA Cermaq ASA’s salmon farming in Canada and Chile”, 05.19.2009, <https://www.oecdwatch.org/complaint/forum-and-friends-of-the-earth-norway-vs-cermaq-asa/>.

<sup>12</sup> 2012: Bastias & Opsvik, Study “Mainstream/Cermaq’s progress in contributing to sustainable salmon aquaculture in Chile: A follow-up study based on the joint statement by Cermaq ASA, Norwegian Society for the Conservation of Nature/Friends of the Earth Norway and Forum for Environment and Development (ForUM)”, 11.11.2012;

management level and workers, and a lack of real interest in improving occupational health and safety conditions”.<sup>13</sup>

### **Conditions suffered by forced labor victims in Chilean salmon export production.**

Based on our research and a review of qualitative and quantitative data from primary and secondary sources, evidence has been identified for all ILO indicators of forced labor in the production of salmon for export in Chile.

#### **Involuntariness**

The involuntary nature of labor in Chile's salmon industry is most starkly evidenced by the deaths of salmon workers, which reflect conditions under which workers have no meaningful ability to refuse dangerous tasks or exit hazardous situations. This is compounded by instances of forced criminality, where workers are effectively coerced into participating in unlawful practices as a condition of their employment. During the period 2013-2026 we have verified 83 deaths of salmon workers.

#### **Menace of a Penalty**

Workers in the salmon sector face systematic threats linked to the exercise of their labor rights. Anti-union practices are pervasive, including the creation of parallel worker groups designed to undermine legitimate union organizing, as well as the use of subcontracting as a structural mechanism to suppress collective action and punish workers who attempt to assert their rights.

#### **Abuse of Vulnerability**

The salmon industry exploits multiple and overlapping conditions of vulnerability. The dominant position of industry players — characterized by labor dependency, employment monopoly, and high economic concentration — gives employers overwhelming bargaining power over workers, reinforced by subcontracting practices that function as a form of social dumping. This structural dominance is accompanied by a pattern of systematic non-compliance with norms, encompassing administrative violations, illegal overproduction, fraud, money laundering, environmental crimes, and potential financial speculation involving mortgaged concessions. Beyond structural conditions, the industry intensifies the educational, socioeconomic, and gender vulnerabilities of salmon divers, particularly basic divers, through the imposition of work in closed ports, reliance on temporary employment, and the inherent isolation and confinement of work at sea. Further abuses include exploitation in occupational testing, the absence of adequate training institutions, the use of abusive judicial agreements, and acts of potential corruption or complicity involving principal companies, contractors, insurance companies, and the systematic underreporting of incidents.

#### **Deception**

Workers are deceived at multiple points throughout their employment. Misrepresentation occurs regarding the actual conditions of work, changes to those conditions — including vessel assignments — and the final destination of deployment. Workers are also subjected to contract substitution, whereby additional work is imposed upon them without their consent and outside the scope of any agreement reached at the time of hire.

#### **Restriction of Movement**

The restriction of workers' movement is both structural and situational. Workers are isolated for prolonged periods without meaningful contact with the outside world and are entirely subject to

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<sup>13</sup> Bastías & Opsvik, ob cit., Executive Summary, p. iv. T

the decisions of the ship's captain, who exercises unchecked authority over their daily lives. The physical conditions of work at sea render workers practically unable to leave, making the restriction of movement not merely a policy but an inescapable physical reality.

### **Isolation**

Workers are isolated by the significant physical distance between salmon farming centers and the nearest ports, leaving them effectively cut off from support networks, services, and communities. Access to communication is either absent or severely restricted, preventing workers from maintaining contact with family members or seeking outside assistance in the event of abuse or emergency.

### **Intimidation and Threats**

A pervasive climate of intimidation shapes the working environment for salmon divers and other workers in the industry. The existence of blacklists deters workers from raising complaints, while fear of retaliation against family members and fear of job loss further suppress any exercise of rights. Gender discrimination and sexual harassment constitute additional instruments of control, and threats and reprisals against human rights defenders underscore the systematic nature of the intimidation to which workers and their advocates are subjected.

### **Abusive and Deadly Working Conditions**

Working conditions in the salmon industry are not merely abusive — in many cases they are deadly. Excessive daily working hours are combined with a chronic lack of minimum personnel, creating serious risks to the safety of divers. Prevention and supervision mechanisms are either absent or ineffective, and contingency plans are non-existent or fail in their implementation. When serious injuries occur, the timely transfer of affected workers to hyperbaric chambers is routinely denied. The industry's response to the Covid-19 pandemic further exemplified its disregard for worker safety. Systematic cost-cutting on safety requirements exposes divers to grave risks, including the absence of emergency air bottles, lack of compressor maintenance or manipulation of compressor certification, exposure to extreme weather conditions, and the provision of poor-quality diving equipment. Workers are routinely required to dive in violation of established depth and time limits, including through excessive dive durations, prohibited or extreme depths, successive or yo-yo diving, and practices with severe documented health consequences. The absence of logbooks and the falsification of diving records compound the impunity surrounding these conditions.

### **Physical and Sexual Violence**

Workers operate in violent environments marked by chronic stress and a near-total absence of psychological or institutional support. Physical and sexual violence occur within a context of impunity, reinforced by the power imbalances inherent in the subcontracting structure and the isolation in which workers perform their duties.

### **Retention of Wages**

Wage retention takes multiple forms in the salmon industry. Workers receive low salaries, and deductions are made for occupational testing. Work accidents and occupational diseases are systematically denied recognition as such, depriving workers of the compensation and benefits to which they are entitled. Collusion between salmon companies and mutual insurance societies restricts workers' access to social security, while wages are withheld outright and social security contributions are either unpaid or paid only at the minimum legal threshold.

### **Abusive Living Conditions**

The living conditions to which workers are subjected aboard vessels and at farming centers fall far below acceptable standards. Workers lack adequate access to water on boats, are provided with insufficient and poor-quality food, and are housed in overcrowded, disorganized, and unsanitary vessels and pontoons. The absence of hot water at farming centers further reflects the systematic disregard for the basic dignity and wellbeing of workers.

### **Excessive Hours**

Working time in the salmon industry is structured in ways that systematically deprive workers of adequate rest. Shift systems involving successive shifts, mandatory extra shifts, and double shifts are standard practice, while the absence of meaningful rest periods between work cycles compounds the physical toll on workers whose tasks are already inherently dangerous.

## **1.3 Structural risk factors driving forced labor in the Chilean economy.**

The risk of forced labor has been deepened by three characteristics of these economic sectors: the concentration of ownership along the supply chain, the subcontracting regime that operates in the supply of workers, and a reactive business will, mobilized primarily by the fear of sanctions.

### **Concentration of Ownership and Delisting from Stock Exchanges**

In agriculture, the market is controlled by a group of companies that concentrate ownership of farms, export and import businesses, increasing their power to impose conditions on the one hand, and concealing possible abuses on the other, as they control and own companies throughout the supply chain. The vertical concentration of ownership means there are no incentives for distributors, exporters, and importers to prevent, detect, and address abusive conditions at the producer level. Furthermore, we are witnessing a trend of Chilean-owned transnational companies withdrawing from stock exchanges, avoiding transparency obligations that would otherwise allow civil society to scrutinize their operations and trace their supply chains.

The salmon industry has also experienced a concentration of ownership among its leading production companies, increasing their market power to promote — or not — decent work throughout their supply chains. They maintain control and impose conditions on contractors and subcontractors that have a direct effect on the working conditions of the most vulnerable workers: the divers.

### **Outsourcing and Labor Subcontracting Regimes in High-Risk Sectors**

Both agriculture and the salmon industry rely on subcontracting schemes to supply workers. Subcontracting is one of the primary causes and drivers of forced labor in these supply chains. It functions as a firewall for the main companies, separating them from the labor obligations imposed by direct hiring and allowing them to shield themselves behind a claimed lack of direct knowledge of subcontracted workers when abuses are reported.

Agricultural producers not only fail to fulfill their duty to monitor and supervise subcontracted workers, but expressly promote and facilitate the hiring of irregular migrants from Bolivia, Peru, Colombia, Venezuela, and Haiti. They rely on unregistered contractors who, in turn, create complex networks of subcontractors that operate as shell companies and allow abuses to be concealed. Salmon companies subcontract most of the key activities carried out at their farming centers, particularly the hazardous work performed by divers. The mortality rate among divers is

extremely high and is a direct consequence of the lack of due diligence and adequate supervision by the main companies within their supply chains.

### **The Business sector only acts in the face of fear of sanctions.**

Companies in the developing world only act under the threat of sanctions, and the case of Chile demonstrates this: a recent study launched at the Board's Directory Summit Chile 2023, by VanTrust Capital and the Instituto de Directores de Chile, which surveyed the opinions of board directors from 369 companies on trends, challenges, and risks in their work, shows that the primary driver of change is the threat of facing sanctions (49%), followed by digital transformation (41%), consumer empowerment (40%), and new generations (36%) (*The Board Trendings Report 2023*).

### **1.4 International reporting.**

Our reports on forced labor in Chile were brought to the attention of the Interamerican Commission of Human Rights in the 178th period of sessions (public hearing “Situation of the Human Rights of Victims of Human Trafficking in the Region”); 180th period of sessions (Request No. 163515), 182nd period of sessions (Request No. 166676), 184th period of sessions (public hearing “Access to Justice and Gender Stereotypes in the Region (Ex Officio)”), and 187th period of sessions (public hearing “Access to justice for victims of trafficking in persons in the Americas”). In this last occasion, on July 12, 2023, together with the Latin-American Network of the Global Alliance against Trafficking in Women (RedLac-GAATW) we reported the lack of state due diligence in the prevention, persecution and sanction of trafficking and adequate protection to its victims.

In 2022 we participated in the call for inputs on the report “Trafficking in persons in the agriculture sector: human rights due diligence and sustainable development” of the Special Rapporteur on Trafficking in persons, especially women and children. Our submission, referenced in the report, described how the high levels of informality in agricultural work allowed unregistered and unlicensed recruitment intermediaries, including *enganchadores* (contractors) and *capataces* (supervisors), to operate with little oversight. The Special Rapporteur manifested her concern about the limited impact of public policy and training, particularly on rural areas and the fact that consistent patterns of abuse continue with impunity. The findings of our 2024 study<sup>14</sup>, and particularly the performance of the Justice system in terms of detection, prosecution and sanction of the crime of trafficking for forced labor corroborate these conclusions.

The Special Rapporteur highlighted the continuing prevalence of discriminatory attitudes in law enforcement bodies, including on grounds of race and ethnicity, migration status, gender and disability. As reported in our submission and referenced in the 2022 Special Rapporteur’s report, discrimination, stigma and harmful stereotypes limit the implementation and enforcement of labor laws and the identification of victims of trafficking or persons at risk of trafficking for forced labor, creating a climate of impunity for traffickers and leaving victims without assistance or protection.

The persistent prevalence of discriminatory attitudes within law enforcement agencies continues to this day. Widespread impunity risks exacerbating the situation, further amplifying its scope and severity. Signs of this can be identified in the fact that we have been historically classified as a country of transit and/or destination, but have become a [country of origin](#) in the last years.

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<sup>14</sup> <https://derechoshumanos.udp.cl/cms/wp-content/uploads/2024/11/INFORME-ANUAL-DDHH-UDP-2024-CAP-6.pdf>

In June 2024, the U.S. Department of Labor’s Bureau of International Labor Affairs (ILAB), acting upon evidence of forced labor submitted by our organization regarding agricultural and salmon products, accepted a formal submission under the Procedural Guidelines for the Development and Maintenance of the List of Goods Produced by Child Labor or Forced Labor, as mandated by the Trafficking Victims Protection Reauthorization Act (TVPRA). This submission is currently under review by the Office of Child Labor, Forced Labor, and Human Trafficking (OCFT).

## **2. Chile's Forced Labor Regulation: Status and Enforcement.**

### **2.1 Legislation.**

Chile has not criminalized forced labor. Despite the fact that Chile has ratified the ILO Conventions 105 and 29, including its 2014 Protocol, the Penal Code only contemplates forced labor as one of the ends of exploitation of the crime of trafficking in persons.

Chile's criminal definition of trafficking in persons (Article 411 *quater* of the Penal Code) follows the Palermo Protocol definition. However, it does not require transnationality in the act of transportation or the involvement of criminal groups. Consequently, it encompasses both international trafficking and internal trafficking.

Despite not having the crime of imposing forced labor, the Public Ministry, the Government and ILO have officially stated that trafficking in persons for the purpose of forced labor is the legal device with which forced labor is persecuted and sanctioned. However, the Palermo approach to organized crime has influenced how the crime is interpreted and how the country addresses human trafficking, framing the issue from a security and public order perspective and rendering invisible the exploitation occurring in formal economic settings.

This perspective has been maintained and reinforced over time. Starting in 2011, trafficking was addressed within the broader context of combating organized crime, culminating in the recent adoption of the National Policy Against Organized Crime, introduced by the former government on December 20, 2022.

This policy identifies human trafficking as one of the prioritized illicit markets. However, and even though the policy expressly quotes trafficking for forced labor in agriculture as an example of current trends, the framing of trafficking under the organized crime paradigm risks not identifying the crime that takes place in formal licit economic sectors that are labor-intensive, such as services, manufacture, and agriculture. The entrenched discrimination against migrants, in a context of high inequality and increasing corruption -local and in high-level authorities- has had the effect of rendering invisible the illicit and prohibited nature of agricultural workers' exploitative labor conditions tantamount to forced labor.

In addition, and as studies show, framing trafficking through a criminal lens, which focuses on individual traffickers rather than structural vulnerabilities, "falls into the trap of creating a 'tunnel vision approach to criminal justice,' ignoring systemic issues (including reflections on economic structures) and paving the way for policymakers to frame trafficking as 'a problem with national security implications,' representing trafficking solely as an international problem."

### **Structural obstacles for detection: criminalization of irregular migration and the ideal victim stereotype**

During the establishment of public policy against trafficking back in 2011, Chile experienced two concurrent phenomena: the consolidation of the country as a destination for regional migration, which increased the likelihood of mixed flows of smuggled and trafficked migrants; and the implementation of an immigration policy that severely restricted access to regular status. This, in turn, led to an increase in clandestine entry and heightened the vulnerability of the migrant population to trafficking, particularly among Venezuelan nationals. Research in Chile indicates that restrictive human mobility policies not only result in irregularity but also create fertile ground for the criminalization of certain migration flows and for the proliferation—and normalization—of the exploitation of migrant labor.

Furthermore, recent research in Chile has highlighted how victims of trafficking are judged against the stereotype of the "ideal victim," which determines whether they are deemed deserving of compassion or not. Irregular immigration status is one of the key areas of discrimination, attracting various prejudices generally tied to expectations about the behavior of individuals who lack the legal right to reside in the country. These biases not only hinder the recognition of victims but also raise the evidentiary standards required to prove exploitation.

The justice system often interprets and processes acts of trafficking as mere labor violations, requiring high thresholds of evidence, such as demonstrating extreme control over the victim's physical freedom, to recognize concrete violations of rights. This bias is further exacerbated when the victim is an irregular migrant, where there is an assumption of knowledge and consent regarding the conditions they endure.

## **2.2 Enforcement.**

Although the distinction between forced labor and trafficking for forced labor is more apparent than real—trafficking refers to the transport and trade of people for the purpose of future exploitation—without this necessarily having to materialize—while forced labor refers to exploitation that has actually been carried out, and practically all cases are detected at the exploitation stage—the fifteen years of validity of Law 20.507 that incorporated the crime of trafficking into national legislation, yield strikingly low statistics for detection, formalization and conviction, especially compared to the estimates of the Global Slavery Index, which places the number of people in a situation of modern slavery in Chile at 61,000.

### **Labor inspections and oversight**

Despite the abundant evidence of the presence of ILO indicators, and the key role of the Labor Inspectorate in the eradication of forced labor, detection of cases and victims by labor inspectors and their reporting to criminal authorities is almost non-existent.

The official statistics of the Labor Directorate regarding reports of trafficking for forced labor are extremely low, as the table shows.

**Table 1. Reports of trafficking/Smuggling of migrants in agricultural regions/localities**

Year	Number of reports to the Labor Inspectorate of Trafficking /Smuggling of Migrants	Number of reports to the Labor Inspectorate of Trafficking /Smuggling of Migrants indicated as agricultural economic activity

2016	0	0
2017	3	1
2018	5	1
2019	1	1
2020	0	0
2021	5	No information
2022	31	1
2023	63	4

During the period 2021–2023, the Directorate of Labor recorded 99 complaints related to migrant smuggling or human trafficking, categories that are not disaggregated despite constituting distinct criminal offenses. The absence of disaggregated statistics makes it impossible to determine the true scale of the crime and contributes to the invisibilization of trafficking for forced labor. By type of complainant, the vast majority of complaints were filed by workers (91 complaints), of which 41 were filed by female workers and 50 by male workers, all of legal age. Broken down by year, 5 complaints were received in 2021, 4 of which were filed by workers; in 2022, 31 complaints were received, 29 of which were filed by workers; and in 2023, 63 complaints were received, of which 58 were filed by workers. These figures demonstrate that the State leaves prevention in the hands of the victim, expecting them to self-identify and effectively placing the responsibility for their own identification upon them. According to information obtained through transparency requests, during the period 2021–2023, there were no requests from the Public Prosecutor's Office to activate inspection procedures aimed at detecting evidence of migrant smuggling and/or human trafficking by the Directorate of Labor or its regional inspectorates.

### **Criminal Justice**

According to recent research, only 10% of the total of reports of trafficking for forced labor are actually investigated by the Public Prosecutor's Office.<sup>15</sup>

Between 2011 and 2023, the Chilean Antitrafficking Task Force (*Mesa Intersectorial sobre Trata de Personas–MITP*) recorded 73 formally processed cases of human trafficking in Chile, while the Public Prosecutor's Office reported having detected 771 cases. The cases that do not reach formalization stage (pressing charges) tend to finish under administrative closures.

The Public Prosecutor's Office recorded 225 cases of labor trafficking between 2011 and 2023, with an upward trend observed and 40.4% of cases concentrated in the final three years of the period. The MITP, for its part, recorded 22 formally processed cases of labor trafficking between 2011 and 2023, of which 12 resulted in a conviction, 7 concluded under other case closure grounds, and 3 are classified as ongoing.

There is an absence of proactive investigations by prosecutors regarding forced labor. Besides expert prosecutors that usually work in Santiago, prosecutors that work in the regions do not have appropriate training and most of the time do not recognize the crime unless signs of abuse are evident and public. Usually, cases of these sort are known to the criminal system because the victims or close witnesses are able to report.

As can be seen, the criminal prosecution of labor trafficking offenses is very low, averaging two formally processed cases per year and recording a high number of early case closures. This calls into question whether serious, impartial, and effective investigations are being conducted, within

<sup>15</sup> [https://d7f6b04b-28a7-49a2-98a8-652bdadd260.filesusr.com/ugd/649703\\_fe8c50a13df04c00984ad566e86fb90b.pdf](https://d7f6b04b-28a7-49a2-98a8-652bdadd260.filesusr.com/ugd/649703_fe8c50a13df04c00984ad566e86fb90b.pdf)

the framework of due process guarantees, the meaningful availability of legal remedies for victims, and the guarantee of participation throughout the investigative process required by international standards.

### **2.3 Public Policy and Institutional.**

#### **Ministry of Labor – Ministerial Advisory Commission for the Elimination of Forced Labor (CAMTRAFOR)**

The inclusion of the eradication of forced labor as a strategic objective of the Ministry of Labor (MINTRAB) occurred in 2021, when Chile ratified the ILO's 2014 Protocol and established, through MINTRAB Decree 31 of 2021, the Ministerial Advisory Commission for the Elimination of Forced Labor (hereinafter, CAMTRAFOR). This advisory body serves as a public-private coordination platform responsible for developing a national action plan on the matter.

Since 2019 and continuing to the present, specialized civil society organizations have annually reported the persistent occurrence of indicative situations of forced labor in Chile's agricultural and salmon sector to the Ministry of Labor and the MITP.

CSO have also requested participation in CAMTRAFOR. However, authorities have not only failed to invite civil society but have actively discriminated against it by including business associations in the commission's sessions. In October 2025, the Government launched the National Policy and Plan of action against forced labor. This demonstrates the explicit exclusion of specialized civil society from discussions on governmental measures and decision-making processes. Such exclusion risks producing policies disconnected from the actual needs of the affected population, lacking representation, devoid of the contributions of specialized knowledge and the practical experiences of victims and their advocates, and ultimately lacking social legitimacy.

Furthermore, the text of the action plan remains incomplete and unfinished.

### **2.4 Labor Rights.**

The level of unionization in South America, and in Chile in particular, is extremely low. According to the statistics, only a 22,2% of workers in Chile are unionized<sup>16</sup>.

## **3. Assessing Unreasonableness, Discrimination, and Systemic Patterns in Chile's Enforcement Failures**

### **3.1 Thwarted efforts**

The situation described above, contrasts with a series of international commitments Chile has undertaken during the same period, positioning the country at the forefront of the fight against forced labor and contemporary forms of slavery.

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<sup>16</sup> Source: Dirección del Trabajo (Labour Directorate) [https://www.dt.gob.cl/portal/1629/articles-122769\\_archivo\\_01.pdf](https://www.dt.gob.cl/portal/1629/articles-122769_archivo_01.pdf); Diario Financiero <https://www.df.cl/economia-y-politica/laboral-personas/los-numeros-tras-la-sindicalizacion-en-chile-mas-organizaciones-de#:~:text=En%20el%20pa%C3%ADs%20existen%2012.355,a%20las%2004%3A00%20hrs.>

In 2018, Chile joined as the first Pioneer Country in Latin America of the ILO's Alliance 8.7, a global initiative to end forced labor, modern forms of slavery, trafficking in persons, and child labor. In 2021, it ratified ILO Convention No. 29 and its 2014 Protocol, incorporated the eradication of forced labor as a strategic objective of the Ministry of Labor, and established a ministerial advisory commission for the elimination of forced labor. In 2022, under the former government, the public policy efforts continued. A dedicated unit was created within the Undersecretariat of Labor to lead the work of the advisory commission, and at the international level, Chile assumed the presidency of Alliance 8.7.

However, in July 2023, while Chile held that presidency of Alliance 8.7, it was brought before the Inter-American Commission on Human Rights (IACHR) for failure to exercise due diligence in the prevention and punishment of trafficking and forced labor.

In May 2024, the UN Human Rights Committee, in its review of Chile, identified the handling of trafficking in persons as one of the country's principal areas of concern.

In the years that followed, the Undersecretariat of Labor systematically rejected civil society participation in the development of public policy.

### **3.2 Sector-specific labor legislation**

The authorities have also failed to act on demands to strengthen sector-specific labor legislation in the high-risk economic sectors of agriculture and aquaculture.

In regards to the salmon industry, the latest efforts to strengthen labor standards has been the enactment of the Diving Act, which left the definition of key aspects regarding labor rights and safety conditions for salmon divers to a Ministry of Labor regulation.

In regards to the agricultural sector, heavily dependent on migrant workforce as stated by the industry itself, the current Bills 15261-25 and 16072-06, which amend the Migration Act No. 21.325, intend to criminalize precisely the condition that is exploited when forced labor is imposed on migrant workers in agriculture — namely, their irregular migration status. Both bills lack any prevention nor any safeguards regarding the potential status of victim an irregular migrant could be enduring.

Due to the dynamics of the crime in Chile —that target predominantly irregular migrants in agriculture— and its widespread impunity, such legislation amounts to, in factual terms, an authorization of forced labor.

## **4. Trade Impact: How Chile's Enforcement Gap Affects U.S., global and national commerce**

The use of forced labor in the production of goods is an unfair practice within the framework of the global market, as it constitutes a form of social dumping and a potential violation of free competition. Social dumping occurs when companies exploit lower labor costs — frequently by violating labor laws or human rights — to gain an unfair market advantage. When workers are subjected to forced labor, they are generally paid below the legal wage, denied their rights, and compelled to work under abusive conditions. This artificially reduces business costs, undercutting competitors who do comply with legal labor standards. This is happening in the agricultural and salmon economic sectors.

It is crucial that Chilean incorporates the highest international standards in its domestic legislation and international trade in order to position itself as a fair and trustworthy partner and fully comply with its international duty to protect human rights of workers and their communities.

## **5. Recommended Remedies: Duties and Import Restrictions on Chilean Products**

In light of these facts, we respectfully recommend that the Section 301 Committee and current trade agreement negotiations consider the following actions:

1. **Criminalization of Forced Labor in Accordance with International Standards:** Chile should adopt clear and enforceable criminal provisions that define and penalize all forms of forced labor, ensure effective prosecution of perpetrators, and provide reparative measures for victims.
2. **Strengthening of sector-specific labor legislation in forced labor risk sectors.**
3. **Implementation of a National Forced Labor Import Ban:** Chile should enact domestic legislation analogous in effect to Section 307 of the U.S. Tariff Act of 1930 (19 U.S.C. § 1307), prohibiting the import and/or export of goods produced wholly or in part with forced labor.
4. **Removal of Restrictions on Freedom of Association and Collective Bargaining:** Chile must eliminate statutory and de facto barriers that impede workers from forming and joining unions of their choice and from engaging in genuine collective bargaining, in accordance with ILO Conventions Nos. 87 and 98.
5. **Strengthening of Labor Law Enforcement:** Any agreement should require Chile to enhance its labor inspection and enforcement mechanisms, establish sanctions for noncompliance, and provide accessible grievance mechanisms for affected workers.
6. **Inclusion of Transparent Monitoring and Binding Enforcement Mechanisms:** The labor chapter must incorporate robust monitoring, transparency, and state-to-state dispute settlement mechanisms to ensure compliance with labor obligations.
7. **Inclusion of Civil society expert organizations and victims in the design and implementation of public policy.**

## **Conclusions**

Trade measures as an instrument to advance human rights honor the very core of free and democratic societies: we are all equal under the law. Universal labor rights, recognized and enforced globally, have the power to build long-lasting peace and prosperity for all. Our economies are not only interconnected — they are interdependent: we mutually depend on one another to grow and thrive.

Chile's failure to impose and effectively enforce prohibitions on forced labor in its agricultural and salmon sector is not an abstract regulatory gap. It is an active, government-facilitated system that extracts value from vulnerable workers, distorts the cost of goods entering U.S. commerce, and creates strategic vulnerabilities in critical port infrastructure. Libera Foundation urges the Section 301 Committee to give full consideration to the evidence presented in this submission and to take decisive action to address these practices.

**Yours sincerely,**



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