
Implementation Status of EJF Recommendations to the Royal Thai Government

| Spring 2019 |



A fishing vessel inspection takes place off the coast of Sattahip. © EJF

Over the last three years the Royal Thai Government (RTG) has embarked on an ambitious and sustained programme of reforms directed at addressing issues related to Illegal, Unreported and Unregulated (IUU) fishing and the associated trafficked, forced, bonded and slave labour.

Over this period, **Environmental Justice Foundation (EJF)** has engaged in several far-ranging collaborative efforts with the RTG to solve identified capacity gaps in monitoring, control, and surveillance (MCS) mechanisms. EJF has worked closely with government agencies including the Department of Fisheries (DoF), the Command Centre for Combatting Illegal Fishing (CCCIF), the Marine Department, the Ministry of Labour, the Department of Labour Protection and Welfare (DLPW), and the Department of Employment (DoE). This close interaction has provided EJF with unique insights into the issues faced by these agencies and allowed EJF to formulate in-depth and specific recommendations to target identified gaps and shortcomings. These recommendations were first presented to the RTG and their respective government agencies in September 2015.

Although it is encouraging to see the reforms made to date, there are acknowledged continuing gaps and shortcomings that are inhibiting Thailand's fishing industry from developing into a truly ethical and sustainable sector. This briefing seeks to illustrate the adoption rates and current implementation status of EJF's recommendations made since September 2015. It is important to note that due to the rapidly evolving situation in Thailand, the statuses of these recommendations - classified at the time of writing this briefing - may have changed. EJF provides full and in-depth briefings on specific areas of focus based on the last two years of collaboration with RTG agencies. These briefings and recommendations are available upon request.



Fishing trawlers tranship at sea with a carrier vessel in Kantang, Thailand. © EJF

Recommendations presented to the Deputy Prime Minister's Office

Recommendation	Implementation Status
First proposed September 2015	
<ul style="list-style-type: none"> • Agree to ratify and implement the Port State Measures Agreement (PSMA). The PSMA strengthens and harmonizes regional Port State legislation. It provides frameworks for improving dockside inspections, blocking entry to vessels known to be involved in IUU, and encourages information sharing between governments of vessels with IUU product discovered upon inspection. 	
<ul style="list-style-type: none"> • Declare support at the United Nations Food and Agriculture Organisation (FAO) and via Regional Fisheries Management Organisations (RFMOs) for a Global Record of Fishing vessels. This would greatly enhance transparency in Thailand's fisheries allowing the authorities to track and monitor fishing activities across the region, and allow them to encourage legitimate, legal operations whilst dis-incentivising IUU vessels. The development of a Global Record is already supported within the UNFAO and through funding from the European Commission and GovernmentS of Iceland, Spain, and Sweden. 	
<ul style="list-style-type: none"> • Support a ban of Flags of Convenience (FoC) or Flags of Non Compliance (FoNC). FoCs/FoNCs allow vessel owners to avoid proper scrutiny and undermine efforts towards effective fisheries management. This can be prevented by ensuring Thai fishing vessel owners do not fly FoCs/FoNCs and by blocking entry and landing of fish from FoC vessels. 	
<ul style="list-style-type: none"> • Ensure the adoption of cost effective, and easy to manage digital systems for managing workers, fishing vessels, and traceability systems. Digital systems can enhance transparency and accountability in fisheries whilst also allowing inspection authorities to quickly gain access to reliable and accurate data remotely. Although digital systems have been introduced for PIPO inspections (ePIPO), and for tracking seafood shipments (Thai Flag), their implementation is limited. 	
<ul style="list-style-type: none"> • Increase speed and quality of investigations and judicial process to bring IUU and labour exploitation perpetrators to justice. Judicial bottlenecks and inefficient investigations can delay prosecutions, thus not providing a sufficient deterrent against IUU or labour related crimes. The provision of special judges to expedite IUU fishing crimes since April 2017 has begun to address this. However, the same attention should be paid to addressing related human rights cases too. It is important that relevant monitoring and enforcement agencies such as DoF and DLPW are actively involved to facilitate follow up investigations. 	

Recommendation	Implementation Status
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First proposed April 2016

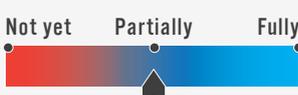
- Introduce a total ban on transshipment at sea in the Gulf of Thailand and the Andaman Sea.** Transshipment at sea can facilitate the mixing of IUU fish with legally caught fish, critically undermining catch traceability and more broadly fisheries management and enforcement efforts. Many flag and coastal States have already taken steps to ban transshipment at sea. The RTG has in the past implemented a temporary ban on transshipment at sea. EJF recommends that this is reinstated as soon as possible. Transshipments taking place outside the EEZ should require mandatory prior approval and should be supervised by a DoF observer.


- Develop a regional approach towards securing sustainable and ethical fisheries management.** Regional cooperation in the fight against IUU fishing is crucial due to the transboundary nature of illegal fishing. Thailand will assume the chair of ASEAN in 2019 providing a crucial opportunity to engage in in-depth technical and political collaboration with neighbouring ASEAN countries and other major Asian fishing nations.


- Ratify International Labour Organisation (ILO) Convention C188.** The implementation of ILO Convention C188 'Work in Fishing' will be a key measure against IUU fishing and associated human rights abuses. It will provide workers on board fishing vessels with adequate protections such as working contracts, agreed working hours and rest periods, and health and safety provisions. In November 2018 the National Legislative Assembly (NLA) endorsed the RTG's decision to ratify C188 and implement the Convention into domestic legislation through the 'Royal Ordinance on Fisheries Labour'. This makes it likely that Thailand will fully ratify C188 in early 2019.


- Facilitate and strengthen freedom of association in Thailand for all workers,** specifically including all migrant workers through the ratification of Conventions C87 'Freedom of Association' and C98 'Collective Bargaining'. The ratification of these two Conventions is essential in preserving workers' rights and providing the same labour securities to migrant workers as domestic fishers. Although the Ministry of Labour has publically stated that it would consider the ratification of C98 as of September 2018, a similar position is needed on C87.


- Strengthen operational protocols and inter-agency collaboration.** IUU fishing crimes can often intersect with other illegal activities such as human trafficking or forced labour. It is therefore important that the DoF liaises closely with the DLPW and DoE to effectively prosecute offenders.



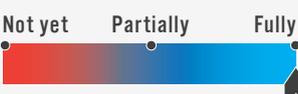
First proposed October 2016

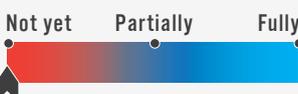
- Introduce legislative measures that enable the prosecution of Thai nationals and Thai beneficial owners involved in IUU or human trafficking abroad.** IUU fishing is a transboundary crime. Media reports^{1/2} and EJF investigations have revealed that Thai vessel operators are re-flagging to other countries potentially to evade stricter enforcement measures at home.



First proposed August 2017

- Ratify the ILO 2014 Protocol to the Forced Labour Convention (P29).** Thailand's ratification in June 2018 is a positive step forward in ensuring Thai labour laws are in line with international standards. EJF urges the RTG to implement the Convention's definition of forced labour into domestic legislation as quickly as possible.


- Initiate comprehensive and credible measures to address corruption, bribery and official complicity in human trafficking crimes.** Since 2015 there have been several reports and allegations of official corruption and involvement in human rights abuses, along with reports of inspection officials extorting individuals wishing to engage in fishing.^{3/4/5}



1 Bangkok Post (6 October 2015) Thai fishing trawlers unloading fish in Cambodia <https://www.bangkokpost.com/news/general/720088/thai-fishing-trawlers-unloading-catch-in-cambodia>
2 Patathayo, S. (8 January 2018) Somali-registered 'Thai' fishing boat caught with double the permissible catch <http://www.nationmultimedia.com/detail/national/30338304>
3 Deutsche Welle (5 July 2017) Migrant workers 'extorted' as they avoid Thai crackdown Migrant workers 'extorted' as they avoid Thai crackdown <http://www.dw.com/en/migrant-workers-extorted-as-they-avoid-thai-crackdown/a-39554679>
4 Human Rights Watch (7 July 2017) Thailand: Migrant Worker Law Triggers Regional Exodus <https://www.hrw.org/news/2017/07/07/thailand-migrant-worker-law-triggers-regional-exodus>
5 ILO & IOM (15 December 2017) Risks and rewards: Outcomes of labour migration in South-East Asia http://www.ilo.org/asia/publications/WCMS_613815/lang--en/index.htm

Full ratification of ILO Conventions would demonstrate leadership in protecting workers' rights

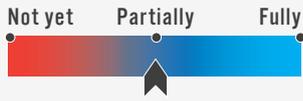
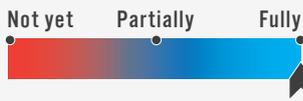
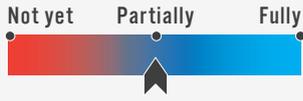
Although EJF commends the RTG for ratifying the 2014 *Protocol to the Forced Labour Convention (P29)* in June 2018 and the initial NLA approval for ratification of C188 in November 2018, migrant workers in Thailand will continue to be vulnerable and subject to exploitation, abuse and forced labour if they do not receive adequate protections or employment rights. Restrictive regulations such as Sections 88 and 101 of the Labour Relations Act, B.E. 2518 (1975) still do not provide the protections that workers require, and actively exclude migrant workers from forming labour unions or serving in leadership positions in unions, thereby rendering them unable to coordinate actions or address abuses themselves.

EJF therefore deems it necessary that by the middle of 2019, the two remaining Conventions – C87 '*Freedom of Association and Protection of the Right to Organise*' and C98 '*Right to Organise and Collective Bargaining*' – should both be fully ratified and implemented. These two Conventions are essential in removing the structural vulnerability of migrant workers by granting them freedom of association and the right to collective bargaining, and by empowering migrants to challenge cases of labour exploitation themselves. These two Conventions can only serve their intended purpose if implemented together. Full ratification of these four Conventions by the RTG would demonstrate strong social progress, but also the establishment of Thailand as a regional and international leader in ethical seafood production.



An inspector uses ePIPO's face scanning function to verify this crew member's identity. Electronic systems such as ePIPO mean that vessel compliance can be checked automatically. The system includes a digital crew list, scans of identification documents, and vessel history. © EJF

Command Centre for Combatting IUU Fishing

Recommendation	Implementation Status
First proposed April 2016	
<ul style="list-style-type: none"> • Address staffing issues at under-staffed and/or over-stretched PIPO centres. PIPO centres have – as a default - 18 staff regardless of the number of registered vessels or vessel traffic. This can result in PIPO centres at Thailand’s busiest ports such as Samut Sakhon, Pattani, or Chonburi, having to rush through inspections or miss them entirely. 	
<ul style="list-style-type: none"> • Address inconsistencies in PIPO inspections across the PIPO network and during at-sea inspections. The network of 32 ‘Port in port out’ (PIPO) centres across Thailand has the potential to become a truly powerful enforcement mechanism if robust and thorough inspections can be employed consistently. Inconsistencies such as a lack of translation services, not using a universal checklist for inspections, and differing staff responsibilities across centres have the potential to undermine the positive efforts of the majority of PIPO centres. 	
<ul style="list-style-type: none"> • Adopt a universal checklist at all PIPO centres to ensure that vessel inspection teams can systematically check all aspects of a vessel consistently. A universal inspection checklist for PIPO centres has been designed and created but its implementation varies across the PIPO network. Such a document can only perform its intended purpose if it is used consistently and diligently by PIPO staff. 	
<ul style="list-style-type: none"> • Ensure fishing vessels are classified using high quality risk-based analysis and that inspections are conducted according to available resources. As of the time of writing, PIPO centres now employ a sophisticated risk-based approach towards inspections which should in theory allow officials to prioritise conducting full and in-depth inspections of high-risk vessels. This system is a definite improvement to the conflicting risk calculation systems used by PIPO centres and the Fisheries Monitoring Centre in the past, using a universal calculation of various vessel criteria to determine risk level. It is imperative that the DoF and CCCIF monitor the system closely to make sure that inaccuracies and anomalies can be addressed as quickly as possible. 	
<ul style="list-style-type: none"> • Use certified translators for crew interviews. When EJF first observed crew interviews during PIPO inspections the vast majority of them were conducted either with Thai speaking crew or through using senior crew members to translate for migrant workers. Since then, the provision of translators has improved greatly. However, provision gaps still remain in isolated cases. 	
First proposed October 2016	
<ul style="list-style-type: none"> • Ensure that worker interviews are carried out with a proportional sample of the vessel crew and make sure that these interviews take place away from the main inspection. The vast majority of interviews at PIPO centres now take place in a private, comfortable location away from the main vessel inspection. However, even as of late 2018 EJF has observed interviews taking place in close proximity with ongoing PIPO inspections which are highly unlikely to yield useful results. 	

Uncovering and verifying vessel identities and their owners can stop IUU fishing

Incorporating transparency initiatives into fishing operations can complement and enhance existing monitoring, control, and surveillance (MCS) mechanisms. Encouraging the transparent dissemination of vessel and ownership information for example can help shed light on potential IUU operators. These vessels often rely on lack of information or miscommunication to evade sanctions, authorities, and vessel inspections. Information exchange represents a low-cost and effective means by which IUU operators can be easily identified, IUU facilitators and supporters can be exposed, and illegally caught seafood can be sectioned and prevented from entering supply chains. Public license lists and ‘blacklists’ of sanctioned or known IUU vessels and their operators would both greatly reduce the ability of such IUU operators to fish in Thai and regional waters.

Beneficial ownership is another issue that can facilitate illegal fishing, helping to conceal the identity of the true owner behind shell companies whilst they continue to reap rewards from IUU fishing. EJF continues to urge Thailand to tackle non-transparent ownership of Thai fishing vessels across the Southeast Asian region but also further afield. Thailand should, for example, push for regional regulations that would require companies to provide beneficial ownership information when they apply for a fishing license, fishing authorisation, or for a country’s flag.

Mandatory vessel registration requirements such as adoption of Unique Vessel Identifiers (UVIs) and especially International Maritime Organisation (IMO) numbers for fishing vessels can also aid efforts to verify vessel identities and true ownership. Thailand already has experience in development of such a UVI requirement and should urge neighbouring ASEAN States to adopt similarly robust systems to help fight IUU fishing across the region.

Many of EJF’s overall recommendations provided to the RTG in eliminating IUU fishing and associated human rights abuses have revolved around the adoption of such transparency initiatives. These tools can also be applied at the regional and international scale, taking into account the transboundary nature of the problem.



A seabook interview takes place in Songkhla demonstrating that inconsistencies in interview procedures remain. This interview took place 1) in front of an ongoing PIPO inspection, 2) with multiple officials present and listening in, 3) with the vessel owner present (yellow shirt, far right), and 4) with the vessel captain present (chequered shirt, right). © EJF

Recommendation	Implementation Status
First proposed September 2015	
<ul style="list-style-type: none"> • Formulate new fisheries legislation to address regulatory gaps and implement new penalties for IUU fishing. Fisheries legislation that provides adequate sanctions and appropriate deterrents against illegal fishing are essential in ensuring successful fisheries management and sustained compliance. 	
<ul style="list-style-type: none"> • Establish a robust Monitoring, Control and Surveillance (MCS) system with mandatory VMS. The DoF's VMS system monitors approximately 5,500 fishing vessels above 30 Gross Tonnes (GT). VMS is an essential tool in ensuring vessels are operating in compliance with fisheries regulations. 	
<ul style="list-style-type: none"> • Conduct an immediate assessment of the Thai fishing fleet to determine exact numbers, fishing gears, license status. In 2015 there was no accurate database of active Thai fishing vessels. Government statistics put the figure at 18,089 registered vessels whilst other Government sources declared that there were closer to 57,000 vessels.^{6/7} There has since been a sustained effort by the DoF and Marine Department to survey all active vessels and void inactive licenses. The total fishing fleet (both artisanal and commercial vessels) now comprises just under 38,500 vessels as of mid 2018. 	
<ul style="list-style-type: none"> • Initiate an urgent programme of vessel decommissioning to ensure sustainable fishing effort. Excessive fishing effort through fleet overcapacity and unregulated fishing remain the main underlying drivers of marine ecosystem and biodiversity degradation. Preliminary plans for a decommissioning programme are welcomed by EJF. It is essential that any future programme is implemented according to a systematic and well-designed process. Detailed EJF recommendations on how best to implement a vessel decommissioning programme are available upon request. 	
First proposed April 2016	
<ul style="list-style-type: none"> • Implement comprehensive technical improvements to the VMS system to facilitate observation and analysis of fishing vessels. EJF has worked closely with the CCCIF to provide detailed technical recommendations to facilitate the FMC operations. These include the introduction of automated vessel alerts, more accurate vessel risk categorisation, and increased data transmission frequency from vessels. 	
<ul style="list-style-type: none"> • Expand VMS coverage to commercial fishing vessels from 20 to 30 gross tonnes (GT) and eventually from 10 to 20 GT. As of mid 2018 the total commercial fishing fleet comprised of 10,645 vessels measuring 10GT and above. VMS is currently compulsory only for vessels over 30GT - 5,500 vessels. This means that approximately 48% of the Thai commercial fleet is currently unmonitored. EJF believes that the RTG and DoF should look to expand VMS coverage to smaller vessels as soon as possible. 	
<ul style="list-style-type: none"> • Ensure that VMS Mobile Transceiver Units (MTUs) are tamper-proof and locked to vessels. EJF has heard first-hand testimony from fishermen that MTUs were previously easily removed. This could allow IUU operators to transfer their MTUs to other vessels and then continue fishing without being monitored by the Thai authorities. As of April 2017 the Marine Department reported that all MTUs had been secured with locking devices. 	

6 Department of Fisheries, Thailand (2012) Number of fishing boat registered by type of fishing method, 2008-2012 http://www.fisheries.go.th/strategy-stat/_webold/index.php?option=com_content&view=article&id=67

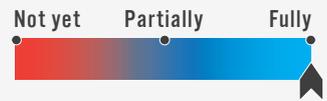
7 Ministry of Agriculture and Cooperatives, Thailand (2014) แผนแม่บทการดำเนินการแก้ไขปัญหาแรงงานในภาคประมง

Recommendation

Implementation Status

First proposed October 2016

- **Full publication of the Thai commercial fishing vessel license list.** Public disclosure of the Thai fishing vessel license list facilitates monitoring and scrutiny of high-risk vessels or illegal operations. Thailand's publication of both a whitelist of authorised fishing vessels as well as a watchlist of barred vessels in September 2018 is a crucial step forward in enhancing transparency in the Thai fishing industry.

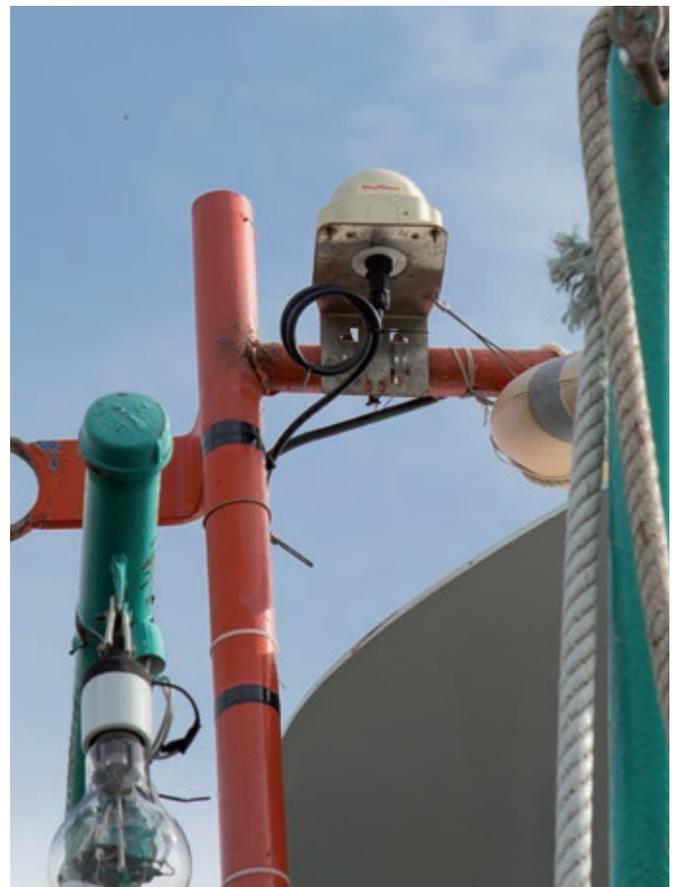


First proposed August 2017

- **Ensure that Maximum Sustainable Yield (MSY) and Total Allowable Catch (TAC) calculations are scientifically accurate and independently verified.** Accurate MSY and TAC levels are crucial in preventing overfishing and fish stock depletion. The DoF has gradually improved the accuracy of these calculations in recent years and should now focus on enhancing current MSY assessments through improving the quantity and variety of data sources. EJF recommends that for data-deficient stocks a strong precautionary principle is employed to make rapid biodiversity recovery more likely.



- **Address land-based trade of seafood across the Thai-Cambodia border and implement traceability mechanisms to monitor the trade.** Media reports and EJF investigations in 2016 and 2017 revealed an extensive cross-border trade of seafood across the Thailand-Cambodia border in Hat Lek. Thai and former Thai-owned vessels were found to be landing their catch in Koh Kong port. It was then transported across the border via truck for processing and further trade. EJF has since worked closely with the DoF and Royal Thai Police to identify the supply chains utilising this cross-border trade and to formulate new traceability documents that can record the final destinations for their seafood.



Two examples of MTU showing the new steel cable locking mechanism. © EJF

Importance of a well-designed, targeted vessel decommissioning programme

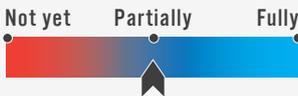
EJF commends recent plans by the Ministry of Agriculture to decommission 680 fishing vessels. If implemented correctly, a well-designed decommissioning and buy-back scheme could effectively reduce excessive fishing effort and ensure that this remains sustainable into the future.

EJF recommends that any decommissioning programme must prioritise vessels according to a strictly controlled and well-managed system that incorporates several factors. These should include: the likelihood of vessels escaping and potentially engaging in IUU fishing, the environmental impact of each vessel's fishing gear, the age of the vessel and whether or not vessels are fitted with VMS.

Decommissioning can only be successful if there is a capped or sealed fishing licensing system to prevent vessel owners from remaining in the industry by scrapping their vessel and then buying an existing license and attaching it to a new boat. Sustained monitoring efforts by the Marine Department and enforcement agencies of the buy-back scheme will be essential in preventing potential circumvention of the regulation. Former fishing vessels must be checked randomly and periodically to ensure continued compliance. Adequate funds to provide training and alternative livelihood support for former fishermen should also be allocated to ensure that this scheme can prove sustainable.



In the past, many trafficked workers would end up on Thai fishing vessels catching trash fish, which would then enter Thailand's export-orientated shrimp supply chain.
© EJF

Recommendation	Implementation Status
First proposed September 2015	
<ul style="list-style-type: none"> • Initiate high-level, centrally coordinated investigations – leading to prosecutions of Thai nationals – for human rights abuses in the seafood sector. The Ministry of Labour should utilise ‘whistleblowers’, engage with local NGOs, and conduct its own investigations of suspected illegal activities to bring about the prosecution of human traffickers and those utilising forced labour. Successful prosecutions and convictions provide the strongest deterrent to engaging in such activities in the future. 	
<ul style="list-style-type: none"> • Provide adequate support for victims of human trafficking/forced labour/slavery in shelters, repatriations, other support services. The Ministry of Labour should coordinate closely with the Ministry of Social Development and Human Security (MSDHS) and associated Anti Human Trafficking Department (AHTD) to ensure victims of labour exploitation are provided with appropriate support services; especially compensation payments and repatriation arrangements. 	
<ul style="list-style-type: none"> • Formalise worker identification procedures and ensure that all workers on fishing vessels have appropriate documentation and are legally allowed to work in Thailand. All workers on board fishing vessels are now be in possession of some form of identification document. These documents and workers’ identities can increasingly be verified using electronic or biometric systems. However, such systems are not used consistently and are used at only a small fraction of total vessel inspections. 	
First proposed October 2016	
<ul style="list-style-type: none"> • Implement Labour Relations Act reforms as a prerequisite to ratification of ILO C87 and C98. An initial public hearing took place in March 2018 to discuss how steps could be taken to rectify the LRA in preparation for ratification of these two Conventions. At the time, the Thai Ministry of Foreign Affairs also stated that Thailand would ratify C98 by September 2018.⁸ However, a more recent report from the DLPW has indicated that this is likely to be delayed until at least the end of 2019.⁹ EJF continues to urge the RTG to accelerate the pace of reform necessary for ratification not only of C98 but also C87 – it is critical that these Conventions are ratified together. The RTG should seek to ratify both these Conventions by the middle of 2019. 	
First proposed August 2017	
<ul style="list-style-type: none"> • Address migrant worker restrictions and especially those included in the ‘Migrant Working Management Act BE. 2560 (2017)’. Many of the harshest penalties that were included in the Act have been removed as of the time of writing. These include restrictions on migrant worker movements outside of their registered province and restrictions on their ability to change employers. Detailed EJF recommendations on reforming the Act further are available upon request. 	
<ul style="list-style-type: none"> • Address concerns regarding the re-registration of migrant workers through the extension of deadlines and simplification of the registration process. By the 30th June 2018 deadline imposed by the Royal Thai Government Cabinet earlier in the year, over 90% of known migrant workers were registered with the Ministry of Labour. This leaves approximately 130,000 workers who are unaccounted for. It remains unclear as to what will happen to these workers and EJF strongly urges the Ministry of Labour to work with local NGOs and employers to facilitate the registration or repatriation of these workers to ensure that they do not become victims of trafficking or forced labour. 	

8 MFA (2018) Thailand joins hands with NGOs establishing labour network in sea fisheries sector <http://www.mfa.go.th/main/en/news3/6886/87205-Thailand-Joins-Hands-with-NGOs-Establishing-Labour.html>

9 DLPW (2018) Ratify C98 by the end of year 2561 (2018) <http://nakhonratchasima.labour.go.th/2018/index.php/2015-12-03-04-55-08/133-ilo-98-62>

Victim centred approach towards inspections

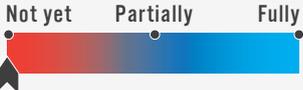
It is important to acknowledge that victims of trafficking or abuse are extremely vulnerable and likely to be afraid of speaking out for fear of retaliation. Inspecting officers should attempt to make victims feel as safe, secure, and comfortable as feasibly possible. This is especially important during interviews – providing workers an opportunity to raise concerns or alert authorities about potential labour abuses. It should be noted that even if crew members are in possession of official identity documentation they may still be a victim of abuse or trafficking. In-depth interviews should always be used to determine if any issues are present.

It is crucial that interviews are carried out using a certified translator, a proportional sample of the vessel crew is interviewed, interviews are carried out separate from the rest of the inspection (ideally out-of-sight and earshot), and the interview is carried out in a comfortable setting.

For more information on interview procedures and questions, please consult the EJF guidelines on conducting interviews with migrant workers which are available upon request.



Workers' identity documents are inspected during a PIPO inspection. © EJF

Recommendation	Implementation Status
First proposed April 2016	
<ul style="list-style-type: none"> • Apply a victim centred approach during vessel inspections both at port and at-sea, during interviews, and other interactions with workers. In the past EJF has witnessed migrant workers being forced to kneel during inspections, interviews being conducted by senior members of the fishing vessel crew, and imposing behaviour exhibited by inspecting officials. Although this has improved considerably in recent months EJF continues to observe in isolated cases workers being exposed to potentially intimidating or insecure inspection or interview environments. A victim centred approach is essential to make workers feel safe and comfortable enough to speak out about their experiences. Workers may be afraid of law enforcement agencies and may feel uncomfortable divulging sensitive information about their situation, especially if they are worried about potential financial penalties, incarceration, or deportation. 	
<ul style="list-style-type: none"> • Employment contracts should be provided in the native language of the relevant worker. A worker's employment contract is a legally binding agreement that both parties should fully understand before they sign, yet in Thailand it is still not mandatory to have dual-language contracts. This means that Burmese, Khmer, and other migrant workers may still be signing employment contracts that they cannot read or understand. 	
First proposed April 2017	
<ul style="list-style-type: none"> • Carry out worker interviews in a secluded, private location; take a sample from the group of workers to prevent the identification of 'whistle blowers'; and prevent unrelated individuals from listening in. EJF observations of PIPO inspections have shown that DLPW officials have – in isolated incidences – either identified a sole interviewee, carried out interviews in hearing distance of the vessel inspection, and/or have allowed unrelated individuals such as port workers, other fishers, or enforcement agency staff to listen in. Such practices greatly reduce the chances that workers will feel comfortable enough to speak about any potential abuses. 	
<ul style="list-style-type: none"> • Update Ministry of Labour questionnaires so that they can operate as appropriate screening tools during vessel inspections. It is vital that DLPW inspectors have the right inspection questionnaires in order to identify potential cases of human trafficking or forced labour as effectively as possible. Previous iterations of DLPW inspection forms have been missing abuse indicator questions or do not offer enough guidance to inexperienced inspectors. 	
First proposed November 2017	
<ul style="list-style-type: none"> • Ensure that the electronic banking system remains the sole method for paying fisher workers and ensure there are sufficient ATMs in port areas for migrant workers to use. Electronic payment systems can greatly enhance transparency and accountability in an industry notorious for its ambiguous payment structures, illegal salary deductions, and withholding of wages. However, inadequate distribution of ATMs in provincial ports as well as continued low awareness amongst workers of how to use the system are reducing the overall effectiveness of the technology. In addition, EJF continues to observe vessel owners being in possession of workers' bank books and ATM cards, even in some cases keeping these on-land while the vessel is at-sea. 	

Electronic banking accessibility

EJF commends the introduction of the electronic payment system for fishers. In previous years the reliance on cash-based payments have made workers vulnerable to illegal salary deductions, and debt bondage. There are however, several areas of concern that should be addressed in order to make the banking system as accessible and efficient as possible.

EJF and other organisations have identified several ports in recent months that do not currently have an ATM in their vicinity. This could prevent workers from accessing their funds or withdrawing their salary. In addition, the most recent ATM survey conducted by the DLPW is incomplete and contains several inaccuracies regarding the location and number of ATMs in certain ports. For example, the survey counts ATMs by province rather than specific pier or port. The survey also does not account for whether ATMs provide language functionality for migrant workers who cannot speak Thai.

The DLPW should conduct a new ATM survey as soon as possible which takes into account additional parameters to determine the true number of ATMs in Thai fishing ports. The DLPW should account for the specific GPS locations of ATMs, their distance from the main piers or ports, the estimated number of migrant workers residing in the area, and the language functionality of ATMs. The DLPW should also work closely with the major banks and local PIPO centres to ensure that ATMs are updated to include migrant worker native languages.



Two ATMs provide contrasting levels of accessibility. One, only providing Thai language and another providing a total of eight languages including Burmese, Khmer, and Lao. Both ATMs were in close proximity to PIPO centres. © EJF

Recommendation	Implementation Status
First proposed September 2015	
<ul style="list-style-type: none"> • Ensure the mandatory adoption of Unique Vessel Identifiers on all Thai commercial domestic fishing vessels (over 10GT) and International Maritime Organisation (IMO) numbers on all distant water vessels. Every fishing vessel is now stamped with its Marine Department allocated ‘Ship Registration number’. This number is already linked in with the DoF’s FishingInfo2 and VMS databases. 	
<ul style="list-style-type: none"> • Ensure that new UVIs are affixed in two universal locations on all commercial fishing vessels. The UVI is stamped onto every fishing vessel in two locations; at the front of the vessel and also in the wheelhouse. 	
<ul style="list-style-type: none"> • Address compatibility issues between Marine Department and DoF vessel databases and operating procedures in general. Recent digitisation of Thai fishing vessel information has facilitated vessel identification, verification, and speed of inspection. However, inconsistencies and compatibility issues continue to disrupt data flows between monitoring and enforcement agencies such as the Marine Department and DoF. Inconsistent data or duplicate databases risk inadvertently obscuring vital vessel information. 	
First proposed April 2017	
<ul style="list-style-type: none"> • Digitise crew manifests into ‘FishingInfo2’ so that relevant agencies are provided with up-to-date data and information on crew changes. A critical part of a PIPO inspection is the crew inspection. It is crucial that the crew list for a vessel ‘port out’ matches that of its subsequent ‘port in’. Until recently this process was paper-based which was not only time consuming but also prone to human error. This was especially the case for larger fishing vessels which can have upwards of 40 crewmembers. Digitization of crew lists now means that such mistakes are less likely. 	
First proposed August 2017	
<ul style="list-style-type: none"> • Quantify the displacement of Thai-owned vessels across the region and implement checks on such vessels and their beneficial owners. The Marine Department should make available data on the sale or de-flagging of Thai owned vessels to other countries to boost transparency and allow both domestic and outside authorities to investigate potential infractions. 	

Displacement of Thai fishing vessels and overland trade of seafood

Media reports and EJF investigations have documented the migration of Thai and previously Thai owned fishing vessels from Trat and Chantaburi provinces to the Cambodian town of Koh Kong. Reports from 2015 and 2017 state that over 200 vessels have made the move^{10/11} from various ports in Thailand to across the border. Catches landed at Koh Kong port are comprised mainly of trash fish. A fleet of Thai-registered trucks then transport the fish across the border crossing at Hat Lek back into Thailand.



Fishing vessels docked at the port in Koh Kong, two flying the Cambodia flag but the middle vessel without clear identification markings. © EJF

Similar unverified overland border trades have been reported at the southern border crossings with Malaysia and along the Thai-Myanmar border as well. As part of the RTG's goal to establish Thailand as 'IUU-free' it will be crucial to monitor all incoming seafood products, including imports. Although the Thai Customs Department, DoF, and Royal Thai Police have established traceability systems at the Hat Lek border crossing, it is vital that similar precautions are taken at other border crossings. This will prevent potentially untraceable or IUU products from entering Thai supply chains.

¹⁰ Bangkok Post (3 March 2017) New laws hurt Trat fishing <https://www.pressreader.com/thailand/bangkok-post/20170324/28152225913537>

¹¹ Bangkok Post (6 October 2015) Thai fishing trawlers unloading catch in Cambodia <https://www.bangkokpost.com/news/general/720088/thai-fishing-trawlers-unloading-catch-in-cambodia>

Conclusion

It is encouraging to see that the majority of EJF's 45 recommendations made since September 2015 are currently either fully or partially implemented. Since the initial publication of this report in early 2018, several critical policies - principally the ratification of P29, online publication of the Thai whitelist of fishing vessels, and NLA approval of C188 ratification - have been enacted that reduce the number of yet to be implemented recommendations from 11 to seven. This demonstrates the steady progress that has been made by the RTG and individual government agencies during this time. EJF commends these efforts, especially the implementation of innovative enforcement capabilities, the advent of port-side inspection regimes, and the ratification of several key international agreements.

	Not yet implemented	Partially implemented	Fully implemented
Royal Thai Government	4	7	2
CCCIF	-	4	2
MoA/Dept of Fisheries	1	3	6
Ministry of Labour	-	5	1
DLPW	1	3	1
Marine Department	1	1	3
Total	7	23	15

Table: Overview of the full 45 recommendations that EJF has provided to the Royal Thai Government since September 2015 as well as their implementation status at the time of writing this briefing.



A PIPO inspection takes place in Prachuap Khiri Khan in November 2018. © EJF



A PIPO official inspects the anti-tampering device fitted to the vessel's VMS unit – an integral part to any PIPO inspection. © EJF

Out of the seven yet to be implemented recommendations there are four recommendations that are easily achievable and would not present a financial burden for the Royal Thai Government. The full implementation of these four recommendations would swiftly resolve several key concerns:

- **Support a ban of Flags of Convenience (FoC) or Flags of Non Compliance (FoNC):** A public declaration in support of a ban of FoCs or FoNCs would demonstrate the RTG's ongoing commitment to prevent Thai distant-water vessels from reflagging to countries with lax regulations as was the case with Thai fishing vessels operating in Somalian waters.¹²
- **Quantify the displacement of Thai-owned vessels across the region and implement checks on such vessels and their beneficial owners:** The ban of FoCs and FoNCs by Thai registered or beneficially owned vessels would also aid efforts to quantify the number of such vessels across the South-east Asian region. The Thai Marine Department should coordinate efforts with ASEAN partners to identify vessel locations, supply chains, and their Thai owners, thus strengthening transparency in regional fisheries management. The public disclosure of sale or de-flagging of Thai owned vessels to other countries would also aid domestic and regional authorities conduct collaborative investigations of potential wrongdoings.
- **Declare support at the UNFAO and via Regional Fisheries Management Organisations (RFMOs) for a Global Record of Fishing vessels:** Thailand's chairmanship of ASEAN in 2019 is an important opportunity to urge other Southeast Asian States to adopt a regional and transboundary approach towards combatting IUU fishing. Public support for a Global Record of Fishing vessels would be a crucial step towards building such an approach.
- **Employment contracts should be provided in the native language of the relevant worker:** It is a worker's right to be able to fully understand the conditions of signing an employment contract with their employer. Mandatory dual-language contracts are a basic and cost-free method by which migrant workers who cannot read or understand Thai can quickly determine if their employment contract is suitable or if there are discrepancies. This would help reduce the chances of workers being exploited, and help avoid contractual disputes in the future.

¹² Patathayo, S. (8 January 2018) Somali-registered 'Thai' fishing boat caught with double the permissible catch <http://www.nationmultimedia.com/detail/national/30338304>

The three remaining recommendations that EJF proposes would require greater attention and resource capacity in order to succeed. It should be noted that many of these recommendations are already under consideration by the RTG and various Government agencies.

- **Initiate comprehensive and credible measures to address corruption, bribery and official complicity in human trafficking crimes:** The lack of timely, well-publicised convictions of officials involved in corruption is substantially undermining the effectiveness of the RTG's anti-trafficking efforts. The widespread impunity of IUU and trafficking perpetrators directly entrenches the system of exploitation and causes lasting harm to Thailand's international reputation as well as the sustainability of its fishing sector and seafood industry. Starting with the PIPO system, existing regulations need to be coherently applied, enforced, and nonconformities or non-compliance sanctioned immediately. Corruption within statutory agencies needs to be addressed with measures capable of rooting out corrupt practices and of serving as effective deterrent.
- **Facilitate and strengthen freedom of association in Thailand for all workers, specifically including all migrant workers through the ratification of Conventions C87 Freedom of Association and C98 Collective Bargaining:** EJF is encouraged by the RTG's public commitment and initial discussions in pursuing C87 and C98. However, EJF remains concerned that there is no fixed timeframe as there is for the ratification of C188. These two Conventions will be essential in removing the structural vulnerability of migrant workers by granting them freedom of association and the right to collective bargaining, and by empowering migrants to challenge abusive conditions themselves. Only in combination can these conventions serve to secure this crucial impact. EJF recommends that the RTG brings about the necessary domestic legislative reforms to the Labour Relations Act, B.E. 2518 (1975) as quickly as possible to move towards swift ratification of these two Conventions.
- **Expand VMS coverage to commercial fishing vessels from 20 to 30 gross tonnes (GT) and eventually from 10 to 20 GT:** New MTUs are becoming increasingly accessible, providing cheap and comparatively reliable systems to rival traditional satellite-based VMS. For example, innovations such as the incorporation of GPRS elements into MTUs would reduce data transmission costs for fishermen, increasing the likelihood of adopting the technology. Low-energy consumption units which are solar powered or battery powered would help vessel operators save on fuel costs and could allow even the smallest vessels to be monitored without the need for a bulky on board batteries.

If Thailand can bring about these remaining reforms it would ensure that the positive progress made to date can be sustained into the future. It would also establish the country as a regional and international leader in ethical seafood production, paving the way for future regional collaboration in combatting IUU fishing and associated human rights abuses. This is especially pertinent for Thailand as the country prepares to become the Chair of ASEAN in 2019. Adopting these reforms would also give seafood buyers and retailers around the world greater confidence that Thai seafood is sustainably and ethically sourced.

EJF remains committed to working closely with the Royal Thai Government and respective government agencies to bring about these remaining reforms as quickly as possible.



A purse seine fishing vessel arrives into Rayong port for its 'port in' inspection. © EJF

Abbreviations:

AHTD	Anti Human Trafficking Department	ILO	International Labour Organisation
ASEAN	Association of Southeast Asian Nations	IMO	International Maritime Organisation
C188	ILO 'Work in Fishing' Convention	IUU	Illegal, unreported and unregulated fishing
C87	Freedom of Association and Protection of the Right to Organise' ILO Convention 87	MCS	Monitoring Control and Surveillance measures
C98	Right to Organise and Collective Bargaining' ILO Convention 98	MoL	Ministry of Labour
CCCIF	Command Centre for Combatting Illegal Fishing	MSDHS	Ministry of Social Development and Human Security
DLPW	Department of Labour Protection and Welfare	MSY	Maximum Sustainable Yield
DoE	Department of Employment	MTU	Mobile Transceiver Unit
EEZ	Exclusive Economic Zone	P29	ILO 2014 Protocol to the Forced Labour Convention
EJF	Environmental Justice Foundation	PIPO	Port in Port out' centre
FAO	United Nations Food and Agriculture Organisation	PSMA	Port State Measures Agreement
FMC	Fisheries Monitoring Centre	RFMO	Regional Fisheries Management Organisation
FoC	Flag of convenience	RTG	Royal Thai Government
FoNC	Flag of non-compliance	TAC	Total Allowable Catch
GT	Gross tonnage	UVI	Unique Vessel Identifier
		VMS	Vessel Monitoring System

