

# Thailand's progress in combatting IUU, forced labour & human trafficking

**EJF observations and recommendations volume 9, 2021**



## Executive summary

Since February 2016, EJF has carried out multiple in-depth observations of the Royal Thai Government's (RTG) initiatives aimed at tackling IUU fishing and human trafficking in the Thai fishing industry. EJF has observed all stages of the monitoring, control, and surveillance (MCS) systems in place with visits to all 30 'Port In Port Out' (PIPO) centres, all three Thai Maritime Enforcement Coordinating Centre (THAI-MECC) Area Commands, as well as witnessing multiple at-sea patrols conducted by the Royal Thai Navy (RTN), Marine Police, Department of Fisheries (DoF) and Department of Marine and Coastal Resources (DMCR).

As a result of these observations, EJF has written detailed briefings with recommendations that have been presented to Deputy Prime Ministers Prawit Wongsuwan and Chatchai Sarikulya, the RTN, CCCIF and subsequently now THAI-MECC, DoF and other relevant agencies. This is the ninth edition of the briefing, representing the culmination of EJF's work alongside the Thai authorities over the last six years.

It should be noted that EJF observed the majority of these MCS systems while on pre-arranged visits with either the RTN, DoF or Flying Inspection Teams (FITs). This means that any observed procedures may not always happen in our absence. Since November 2017, EJF has attempted to conduct supplementary unannounced visits to provide a more independent assessment. Although the COVID-19 pandemic has disrupted attempts to secure consistent intelligence from PIPO centre observations EJF has continued to gather data from local civil society organisations and other partners. Further details of EJF's methodology are provided in the appendix and are also available upon request. It should also be noted that photos included in this report are for illustration purposes only.

## Introduction

Over the past year, growing concerns have been raised over Thailand's commitment in its recent efforts in combatting illegal, unreported and unregulated (IUU) fishing, forced labour and human trafficking. The growing influence of the National Fisheries Association of Thailand (NFAT) through sizeable protests and political lobbying present a substantial threat to recent reforms made by the RTG whilst minimal inclusion of worker representatives, small-scale fishing associations and civil society organizations in legislative reforms is stalling Thailand's efforts in achieving a sustainable, legal and ethical fishing industry.<sup>i</sup>

Substantial gaps have been identified by NGOs and local civil society organisations (CSOs) that limit the effectiveness of current Monitoring, Control, Surveillance (MCS) and enforcement mechanisms in addressing IUU fishing as well of legislation in the identification, investigation and prosecution of cases of labour abuse or human trafficking. These gaps have been found both in existing domestic legislation such as the Labour Relations Act (LRA) as well as in accompanying legislation to coincide with international convention ratifications that were previously celebrated by the international community including the International Labour Organisation's (ILO) Work in Fishing Convention No. 188 (C188) and the Protocol of 2014 to the Forced Labor Convention (P29).

Both ratifications are yet to be proceeded by the implementation of substantive supporting regulations for relevant enforcement agencies to enable the effective identification of potential victims on-board fishing vessels. Amendments have also been made to critical labour legislation which would allow children as young as 16 years old to work on fishing vessels, despite such a change contravening existing Thai labour laws that protect minors and facing strong opposition from local CSOs.

It is through a combination of these factors as well as low forced labour and human trafficking case identification rates in recent years that have culminated in Thailand having its Generalized System of Preferences (GSP) from the United States being suspended in 2019 as well as receiving a downgrade from Tier 2 to Tier 2.5 Watchlist in the US State Department's Trafficking in Persons (TIP) report for 2021.<sup>ii/1</sup>

It is of vital importance at this stage that the RTG and government ministries acknowledge that there are important reforms that remain to be implemented to fully address IUU fishing and associated human rights abuses in the fishing industry. Paramount to these reforms is instilling a culture of transparency and inter-agency cooperation to facilitate communications and data exchange.

EJF has also observed that potential IUU fishing or labour violations continue to be misinterpreted as evidence of failure with officials given false incentives to disregard cases or to encourage plaintiffs to settle out of court. This is exemplified by recent low prosecution rates in both areas. Such actions risk jeopardising Thailand's genuine progress made since 2015 to combat these crimes whilst also fundamentally undermining the MCS and enforcement efforts of multiple government agencies.

The COVID-19 pandemic has had an inevitable and significant impact on Thailand's fishing industry both in terms of the ability

<sup>i</sup> In August 2020, six senior NFAT staff were invited to become advisors for the Parliamentary MPs' Committee on Agriculture and Cooperatives. No representatives from CSOs or small-scale fishing associations were invited for this role.

<sup>ii</sup> The United States suspended GSPs to Thailand in October 2019 due to failures in protecting workers' rights, freedom of association, collective bargaining, acceptable conditions of work, and combating forced labour

for fishing vessel operators to conduct fishing trips but also in ensuring MCS mechanisms are not overly affected. Thailand's lockdown periods, movement restrictions and physical distancing requirements have made it difficult to conduct port-side and at-sea fishing vessel inspections. Given these challenging circumstances it is now more important than ever for government agencies and PIPO officials to remain vigilant to potential indicators of fishing or labour infractions.

The economic stresses caused by the pandemic are far-reaching and will be long lasting for the fishing industry. PIPO inspections and other elements of MCS explored in this briefing must work as part of a holistic system to ensure that Thailand's marine resources are sustainably, legally and ethically caught. These mechanisms - if delivered effectively - can ensure that the food security, incomes and livelihoods of fishers and their families are safe from the economic uncertainty that lies ahead.



A DLPW official distributes COVID-19 leaflets to fishermen in their native language during a PIPO inspection.

## Main areas to address

This briefing outlines urgent, ongoing issues identified by EJF staff throughout 2020 and early 2021 and presents recommendations to address them, notably in the areas of:

- **Concerning legislative changes:** Recent legislative reforms proposed and currently drafted by RTG ministries significantly jeopardize Thailand's efforts to effectively monitor, identify and prosecute incidences of forced labour or human trafficking. These include provisions to allow 16-year-old apprentices on commercial fishing vessels despite no supporting regulations for authorities to follow in terms of monitoring compliance. Drafts of these amendments have been made without input from key stakeholders apart from the commercial fishing sector. EJF recommends that such amendments and draft are halted until such time that a fully transparent participatory approach is introduced.

- **COVID-19 impacts and increased risk of labour abuse and exploitation:** The ongoing COVID-19 pandemic has had widespread impacts on the fishing industry as well as the migrant workers who make up the bulk of the workforce. Movement restrictions, border closures, exploitation at the hands of vessel owners and reduced capacity to conduct labour inspections have increased the risks of migrant workers falling victim to labour abuse and exploitation.

- **Fishers lost at-sea:** In 2020, 68 fishers were lost at-sea whilst working on Thai fishing vessels. As of July 2021 there had already been 42 cases. EJF urges the RTG to implement standard operating procedures for search and rescue and subsequent investigation as soon as possible.

- **Training of trainers:** Without appropriate and consistent training and institutionalization of skills learnt through mechanisms such as IUU Hunter or FITs, THAI-MECC and other agencies risk comprising the dissemination of knowledge to future teams – thus threatening the sustainability of Thailand's monitoring, control and surveillance mechanisms.

• **Vessel monitoring system regression:** In September 2020 the DoF issued a new decree that revoked the requirement for fishing vessel operators to install more advanced Generation 2 VMS units on their vessels. EJF sees this revocation as a step backwards in terms of technological innovation as well as jeopardizing the safety of vessel crews.

• **False incentives:** Officials continue to associate the identification of IUU fishing infractions and potential victims of abuse or trafficking as a failure of the system. Inspection teams should be assured that, on the contrary, identifications and proper investigations of such cases are examples of the PIPO network performing successfully.

• **Inconsistent inspection procedures including provision of translators and implementation of a victim-centered approach during interviews<sup>iii</sup>:** Although all PIPO centres EJF has visited since 2017 have had at least one certified translator present, interviews continue to be carried out using inconsistent methods. In addition, PIPO centres continue not to utilise checklists (Sor Jor Ror 1/ ศจร.1) and other resources methodically.

The issues and recommendations identified by EJF since 2016 are grouped into the areas of 1. PIPO centres, 2. Concerning legislative changes, 3. Fishers lost at-sea 4. Maintaining monitoring, control and surveillance mechanisms during the pandemic, 5. Labour inspections, 6. Specialist enforcement teams (FITs), 7. At-sea inspections, 8. Poseidon, and 9. VMS & MTUs. These recommendations are based on Thailand's domestic fishing operations in Areas 3-10 based on the Fisheries Checkpoint Classification (see Appendix). New recommendations as of this revised edition of this briefing are highlighted in red.

EJF has produced a separate training guide titled 'Conducting Interviews with Migrant Workers' that is available on request (in both English and Thai). This guide draws on EJF's observations during PIPO inspections and investigations.

EJF has produced a separate set of recommendations (available upon request) to address catch checking procedures and traceability systems both for the domestic fleet and for landings by Thai distant water fishing vessels as well as foreign-flagged vessels. EJF staff are available to provide further detail as required by the RTG. It is important to note that these recommendations are not exhaustive.

## 1. PIPO centres

In 2019 EJF visited all 30 PIPO centres whilst in 2020 due to COVID-19 travel restrictions, EJF was only able to visit 16 centres. In 2021 EJF has visited 5 PIPO centres alongside THAI-MECC's FITs<sup>iv</sup>. A full list of the PIPO centres visited by EJF is available upon request.



Officials take migrant fishers' temperature before starting a vessel inspection in Songkhla.

<sup>iii</sup> A victim-centred approach is one that acknowledges that victims of trafficking or abuse are extremely vulnerable and likely to be fearful of speaking out for fear of retaliation. Inspecting officers should attempt to make victims feel as safe, secure, and comfortable as feasibly possible. For more information, please consult the EJF guidelines on conducting interviews with migrant workers.

<sup>iv</sup> The number of PIPO visits in 2021 is limited due to travel restrictions imposed in Thailand since the resurgence of COVID-19 in January 2021.

## 1.1 PIPO jurisdiction transfer and training of trainers

In October 2020, the DoF set about restructuring the PIPO network by transferring the centres' jurisdiction to a newly established division titled: "Fish and Fishing Vessels Inspection Division". This new division merges PIPO centres with the former "Fish Quarantine and Fishing Vessel Division" in charge of Port State Measures inspections for foreign-flagged vessels. This was done to increase the number of available staff able to support vessel inspections.

Whilst PIPO inspection rates have remained stable since the transition, the new merger may have significant implications on inspections in the long run. This is due to the consolidation of both PIPO and Fisheries Checkpoint chiefs who have differing levels of understanding about PIPO inspection regimes and may have little previous experience or knowledge of conducting labour inspections. This may result in vessel inspections not being prioritised or inspected correctly.

- Over the past five years a great deal of knowledge and expertise has been accrued across PIPO teams, at-sea patrol vessels and specialist enforcement teams such as Special Arrest Teams and IUU Hunter. Inevitably, this knowledge can become lost as individuals change positions and teams adjust.

**Recommendation:** Training regimes and curriculums for 'training of trainers' must be implemented for PIPO centres, at-sea inspections and specialist enforcement teams as soon as possible drawing in knowledge and expertise from a wide variety of actors and agencies.

## 1.2. Risk based inspections

Since September 2018 a risk-based approach known as the Common Risk Assessment (CRA) has been used at PIPO centres to prioritise which vessels are inspected. The CRA calculates 12 different vessel metrics to determine whether a vessel should be classified as high risk, 'watchlist', or normal. High risk vessels should in theory be inspected 100% of the time they leave or arrive into port, watchlist – 30%, and normal risk – 10% or proportionally depending on PIPO resources and number of days per fishing trip.

EJF has observed that normal risk vessel inspections at some PIPO centres are not conducted due to a lack of resources or distances associated with travelling to far-flung piers or vessels. This is most acute for PIPO centres across Thailand's southern provinces where the security situation may result in vessel inspections being missed.

A lack of frequent inspections for normal risk vessels means fewer labour checks and fewer chances for workers on these vessels to raise concerns. Less frequent inspections could also provide officials with a false understanding of working and living condition of workers on-board these vessels.

**Recommendation:** Working and living condition can change considerably over time meaning that it is critical that officials have up-to-date information on working and living condition on-board vessels.

**Recommendation:** DoF should roll out training sessions for the Head of Checkpoints to ensure that centres continue to adhere to the CRA. Best practice examples from selected 'SMART' PIPO centres (for example; Satun, Trat and Songkhla<sup>v</sup>) should be integrated into training. Former Heads of PIPO Centre should also be invited to share their experiences and transfer their knowledge in these sessions.

**Recommendation:** DoF and THAI-MECC should closely monitor PIPO centres and conduct a full assessment of any possible impacts of the merger after one year of implementation.

**Recommendation:** Although normal risk vessels are inspected on a less frequent basis, it is important that these inspections are carried out randomly to prevent vessel owners or operators from anticipating inspections and subsequently ensuring potential infractions remain hidden.

- At the time of writing, the CRA still lacked important labour indicators that would enable the CRA to holistically cover both fisheries and labour issues.

<sup>v</sup> SMART PIPO centres are those which have received an award from the DoF for exemplary performance over the year. Criteria for award consideration include personnel and performance management as well as operational and office management.

**Recommendation:** The DoF should work with the DLPW to expand the current labour indicators of the CRA in line with international labour standards. Key indicators to consider would include; failure to record working hours (especially important if vessels are operating with a smaller crew due to COVID-19 factors), high-intensity fishing gears in terms of workload, fishers lost at-sea history, document retention cases and other recorded labour disputes which would provide a broader understanding of labour conditions on-board fishing vessels.

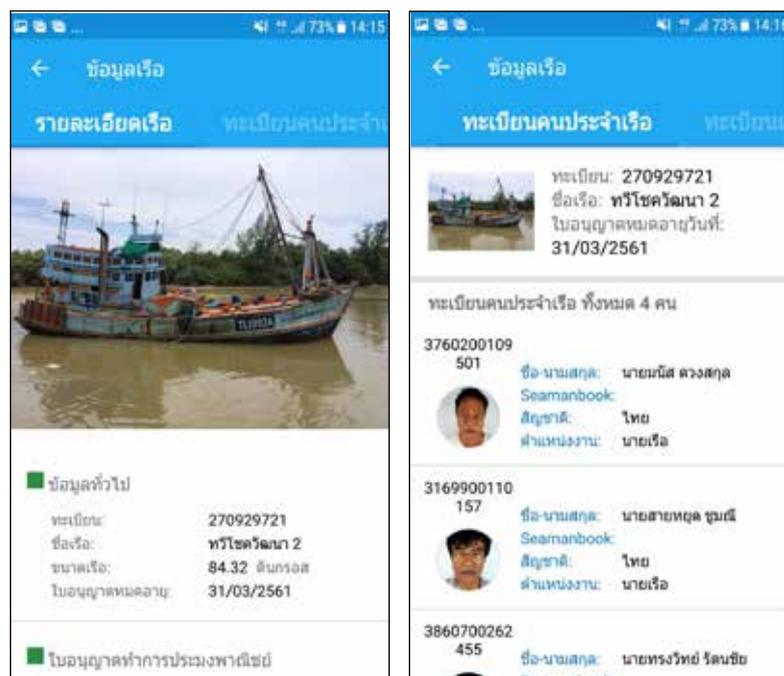
- Thailand has no searchable, regularly updated database of IUU fishing or human rights related fisheries cases. Such a database would be an important step forwards in terms of data transparency as well as a means of deterrence. It would also enable industry to buy seafood from legal and ethical suppliers.

**Recommendation:** PIPO centres and other agencies would benefit from having news stories and details of vessel arrests and prosecutions published online in a searchable, regularly updated database. Such a database would also enhance transparency in Thailand’s fishing industry – giving both seafood buyers, NGOs and indeed vessel owners a platform from which to analyse vessel activity and learn from previous transgressions.

### 1.3 A move towards digital systems:

An electronic version of the PIPO system was launched in November 2017 – ‘ePIPO’, drawing together all historically paper-based documentation and the ‘FishingInfoz’ database into a ‘single gateway’ system. This means that vessel compliance can be checked automatically when a vessel owner requests a PI or PO and includes all relevant vessel and crew information including a digital crew list – significantly reducing workloads for officials. Vessel owners can also submit PIPO requests completely electronically – saving vessel owners time. This represents a great improvement on the traditional paper-based versions and has proven to greatly enhance the inspection capacity of PIPO officials.

**Recommendation:** It is vital that the ePIPO system logs any changes made to vessel information, crew documentation, and crew lists in a permanent ledger that cannot be altered or manipulated. This should include which user made the change, when, where, and what information they altered. This will make sure that officials are held accountable for any changes made and prevent vital information from being permanently erased. *For an example of such a ledger system, the DoF’s ‘Thai Flag’ system already incorporates such a system.*



Screenshots from ePIPO’s mobile app show a vessel’s details and those of its crew.

## 1.4 Overstretched & Under-resourced:

The issues of overstretched and under-resourced PIPO centres have been identified by EJF and relevant government agencies as a key issue that hinders the network's efficiency. In October 2020, DoF attempted to address the issue by restructuring the PIPO network (see section 1.1.) to make it more resource efficient.

- Despite these reforms some PIPO centres continue to report being under-resourced with several PIPO officials at centres visited in 2020 and 2021 reporting that there were not enough work vehicles to allow them to conduct inspections. This has led to missed inspections or officials using their personal vehicles to travel between inspections.
- Out of 30 PIPO centres visited by EJF, 10 have an inspection point over 50km away from the centre (including the ones visited in 2021 e.g. Pattani and Narathiwat). Such distances may result in missed inspections or low inspection rates.

**Recommendation:** DoF should immediately ensure that all PIPO centres are provided with working and suitable vehicles to enable teams to carry out vessel inspections.

**Recommendation:** As part of the annual review of the PIPO restructuring transition, THAI-MECC and DoF should conduct a renewed assessment of FIP needs across the PIPO network to determine if new FIPs are required. EJF is ready to provide analysis and recommendations on which PIPO centres should be prioritised.

## 1.5 Procedures and checklists:

- All PIPO centres are now required to use a universal checklist (Sor Jor Ror 1/ ๓๓๓.1) for inspections which sets out clearly the roles and procedures for each member of the multidisciplinary team. However, on multiple occasions EJF has not observed this form being used by PIPO officials.

**Recommendation:** It is imperative that this universal checklist is stringently applied to all PIPO centres and that all members of the multidisciplinary team sign-off their corresponding sections. This will ensure all PIPO centres follow the same procedures, and that there is accountability for subsequent investigations.

**Recommendation:** This checklist should be digitised so that an electronic copy of every completed PIPO inspection can be incorporated into the ePIPO system and 'FishingInfo2' database. This will also enhance transparency and accountability throughout the inspection and investigation process.



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

- EJF has observed that most inspections will involve a pre-inspection briefing so that officials can discuss tactics and potential lines of enquiry. However, in some cases this takes place in close proximity to the vessel and especially the senior crew.

**Recommendation:** EJF commends the introduction of this practice. Such a briefing should take place both before and after every vessel inspection. These briefings should be conducted away from the vessel owner or captain to ensure that officials can discuss suspicions or concerns found during the inspection without feeling influenced or pressured.



During this post-inspection debrief in Pattani, the vessel owner (in the red circle) and vessel crew were in close proximity. This could adversely influence officials' abilities to freely report their concerns.

**Recommendation:** To enhance the investigative mindset of PIPO officials, EJF suggests that officials be asked to identify at least one issue with the vessel relevant to their jurisdiction. This could be a useful training exercise for officials as it improves their questioning abilities. Just before the end of the inspection, the team should hold a de-briefing session to discuss the potential suspicions they have identified and decide what action should be taken.

- At several inspections that EJF has observed no member of the inspection team boarding the vessel. This could allow potential infractions such as the use of illegal gears, tampering with the VMS, or hiding of stowaways and unregistered migrant workers on-board to continue unnoticed.

**Recommendation:** Boarding the vessel during a 'port in' or 'port out' inspection should be a universally adopted procedure and even for 'low risk' vessels should be seen as an important part of the inspection process. This is not only essential for checking for labour violations but also to check the Mobile Transceiver Unit (MTU) on-board the vessel has not been tampered with, and gears are in accordance with regulations.

- Random catch checking when a vessel ports in is one of the critical procedures required by the PIPO Standard Operating Procedure (SOP). DoF officials conduct this inspection to verify that the catch on-board corresponds with the amount recorded in the vessel logbook. EJF has observed random catch checking procedures conducted without such verification taking place.

**Recommendation:** DoF officials must always compare the weight catch in the hold against the vessel's logbook during random catch checking procedures.

- At the majority of PIPO inspections that EJF has observed, workers wear lifejackets. EJF acknowledges that this exercise may only be done for seemingly superficial reasons but it does serve several purposes including: 1) quickly showing inspectors that all crew have access to one, 2) that the crew know where they were located on-board the vessel, 3) showing that lifejackets are in a wearable state, and 4) that the crew know how to put them on.

**Recommendation:** This practice should be adopted during all PIPO inspections as it is a quick and effective method of ensuring that all crew on-board have access to life jackets. Please consult section 3 for additional recommendations on protocols for fishers lost at-sea.



These two photos show the degradation over time of lifejackets stored on-board fishing vessels. It is important that these are checked regularly to ensure that they are still fit for purpose.

- EJF continues to observe lifejackets and other safety equipment such as life preservers and fire extinguishers succumbing to wear and tear. In several cases the dilapidated state of such equipment might inhibit or endanger the lives of the vessel crew. EJF has also heard that officials may allow such vessels to leave port without having to replace damaged equipment.

**Recommendation:** Lifejackets and other safety equipment should be thoroughly checked during inspections to ensure that they are fit for purpose and do not have rips, missing features, or other problems. Vessels that have defective or lower-than-standard safety equipment must not be allowed to leave the port until the equipment has been replaced with a fully functional one.

**Recommendation:** The Marine Department should ensure that regular training sessions are implemented for PIPO officials to ensure vessels without suitable lifejackets are not allowed to leave port. Officials must be trained to never compromise on these standards.



A DoF official in Pattani closely checks the medicine box to check that medicines are provided in sufficient quantity and are within their expiration dates.

**Recommendation:** EJF recommends the following critical procedures are carried out regardless of vessel risk category. These procedures are in accordance with the ILO's C188 Convention<sup>2</sup>. Please note that these should take place alongside or in addition to the 15 existing PIPO inspection procedures:

Number	Procedure in order of importance
1	On-board inspection for stowaways/hidden crewmembers
2	On-board inspection for MTU check, food and water provisions
3	Interviews with proportion of the crew (typically 3-4 crew members)
4	Check that all crew have and know how to use life jackets/life preservers and that these are fit for purpose.
5	Check that fire extinguishers are located in areas that are easily accessible and that they are fit for purpose.
6	Check medicines, first aid box for appropriate quality and quantity for the length of the fishing trip.
7	Check all crew have and understand how to use bank accounts. Verify that these bank accounts have been used and updated in recent months.

Table 1

## 2. Concerning legislative changes

Despite several significant legislative changes over the years to reform its fishing industry including the new Fisheries Act (2015), ILO Convention ratifications and the subsequent Fishery Labour Protection Act (2019), legal reforms and legislative change remains slow and vulnerable to being diminished in its effectiveness. This is partially attributed to a lack of a participatory approach when it comes to drafting or debating proposed legislative changes. EJF has observed that the commercial fisheries operators and the main association – the National Fisheries Association of Thailand (NFAT) – continue to hold considerable influence over policymakers. Civil society organisations (CSOs) working to protect migrant worker rights, labour unions and representatives of migrant workers or artisanal fisheries associations are rarely if not at all consulted or invited to be involved. This results in many draft laws and regulations being written in favour of the commercial fishing sector.<sup>3/4</sup>

## 2.1 C188 implementation and the Ministerial Regulation Concerning Protection of Workers in Sea Fishery Work



A fishing vessel prepares to dock at a PIPO centre to be inspected

Thailand ratified ILO Convention No. 188 'Work in Fishing' (C188) in January 2019 and implemented it into domestic law in the form of the 'Fishery Labour Protection Act' in November 2019.<sup>5</sup> Throughout the ratification and implementation process NFAT strongly advocated for several clauses to be removed or relaxed. These included the re-introduction of the practice of at-sea crew transfers and at-sea trans-shipment of seafood catch between fishing vessels as well as the extension of allowable fishing days per trip.<sup>6</sup> Currently fishing trips are limited to 30 days but NFAT is lobbying for this to increase to 60 days. Such requests could increase the chances of labour exploitation as well as the necessity for vessels to engage in opaque transfer of catch and workers at sea.

NFAT has also lobbied the Ministry of Labour (MOL) to reform its Ministerial Regulation Concerning Protection of Workers in Sea Fishery Work to allow children or 'young workers' as young as 16 to work on-board fishing vessels as apprentices. At the time of writing, the current draft of the Regulation would allow each commercial vessel to be allowed one apprentice on-board at a time and they must be child of either the vessel owner or captain.<sup>7/8</sup> This is despite a lack of supporting regulations or guidelines which would stipulate how PIPO officials and other authorities will carry out checks on apprenticeship compliance.

This change has been requested by NFAT since 2019 despite abundant knowledge of how dangerous working conditions are on fishing vessels.<sup>9</sup> Fisheries work is classified as hazardous child labour in ILO Convention No. 182 on the Worst Forms of Child Labour<sup>10</sup> - ratified by Thailand in 2001 - and the 'worst form of work for children' by the Thai National Committee for the Eradication of the Worst Forms of Child Labour in 2012.<sup>11</sup>

Under Thailand's existing child labour laws, employers are banned from having children work between the hours of 10pm and 6am.<sup>12</sup> A sizeable proportion of Thailand's fishing activity takes place at night with most net dropping or hauling activities taking place during this time. This raises the risk of children apprentices engaging in unsafe labour practices.

**Recommendation:** EJF and local CSO partners believe that the ill-thought-out introduction of this apprenticeship scheme is a dangerous step backwards in Thailand's efforts to combat forced labour and human trafficking and should be halted immediately. Such an amendment could enable abuses to go unnoticed on-board fishing vessels whilst a continued lack of clear monitoring, complaint and grievance mechanisms coupled with an ill-defined structure or plan for the apprenticeships including specific working hours all raise serious concerns for the efficacy of such a scheme.

**Recommendation:** The Ministry of Labour (MOL) must establish a clear set of monitoring, complaint and grievance mechanisms for the apprenticeship scheme before the Regulation can proceed. All relevant stakeholders, especially CSOs, labour union representatives and international labour experts should be invited to participate and provide input for these mechanisms to ensure that they are fit for purpose.

The MOL's approach to introducing this amendment contradicts provisions included in C188 whereby prior to allowing young workers of at least 16 years of age to work on a fishing vessel, consultations must be held to account for all possible associated risks.<sup>13</sup> The MOL has not conducted such a risk assessment study and has only hosted one half-day consultation session with worker representative and CSOs. NFAT has, however, been extensively consulted throughout the process, raising concerns that the process will be disproportionately weighted in the association's favour.

**Recommendation:** EJF recommends that the MOL suspend this amendment until all concerned stakeholders, especially worker associations and CSOs have been thoroughly consulted. These consultations should be conducted conscientiously to ensure that the concerns over the existing draft ministerial regulations are fully addressed and discussed.

**Recommendation:** The MOL and other relevant agencies should promote an inclusive participatory approach for future legal reforms concerning labour issues in the fishing sector. Improved worker protections and prevention of forced labour and human trafficking abuses in the Thai fisheries sector can only be achieved through equal participation from all stakeholders in the legal reform process.

## 2.2 Future ratifications of conventions for freedom of association and collective bargaining rights:

In previous years the RTG and MOL have repeatedly stated that there were plans for the ratification of the ILO's 'Right to Organise and Collective Bargaining' Convention (C98) by first September 2018 and then the end of 2019. In both cases the 'Freedom of Association and Protection of the Right to Organise' Convention (C87) was not mentioned.<sup>14</sup> At the time of writing the RTG had still not ratified C98.

It remains critical that both C87 and C98 are ratified at the same time as they can only serve their true purpose if they are implemented together. These conventions continue to be vital in removing the structural vulnerability of migrant workers by granting them appropriate freedoms and empowering workers to challenge labour exploitation cases themselves.

To allow the ratification of these two conventions, the Labour Relation Act (LRA) must be amended. The LRA currently prohibits migrant workers from collectively bargaining and from forming labour unions as such actions are deemed as threats to national security. Business representatives including the Head of Thai Chamber of Commerce also oppose the idea – claiming that these rights, if granted to migrant workers, would bring chaos to business management.<sup>15</sup> This idea greatly threatens Thailand's progress in improving labour rights and worker protections. Currently, migrant workers are only allowed to be a part of an established workers union by the company/factory, severely restricting their autonomy.

At the time of writing and according to the MOL's provisional timeline, a new LRA draft is scheduled to be announced in September 2021. It is not yet known if this recommended amendment is included or not.

**Recommendation:** EJF urges the MOL to include amendments to the LRA to facilitate collective bargaining and freedom of association for migrant workers. These clauses are essential in facilitating the empowerment of migrant workers and would greatly improve the chances of exploited workers airing grievances or incidences of labour abuse.

**Recommendation:** The MOL must ensure that local CSOs and migrant worker groups/representatives are invited to participate in any future consultation process.

If these reforms were to be made it would address several of the concerns raised in the recent downgrade of Thailand from Tier 2 to Tier 2.5 Watchlist in the US State Department's Trafficking in Persons (TIP) report.<sup>16</sup> International trade negotiations and tariff systems including the upcoming Thailand-EU Free Trade Agreement negotiations and the currently suspended Generalized System of Preferences (GSP) from the United States<sup>vi</sup> presents additional opportunities for the RTG to demonstrate its commitment to upholding human rights and combatting forced labour and human trafficking.

vi The United States suspended the GSP to Thailand in October 2019 due to failures in protecting workers' rights, freedom of association, collective bargaining, acceptable conditions of work, and combating forced labour.

### 3. Fishers lost at-sea:



A worrying spike in the number of fishers lost at-sea warrants urgent revisions to investigation protocols.

In 2020, there were 68 fatal cases of fishers falling overboard from fishing vessels.<sup>17</sup> These cases make up 51% of a total of 204 accidents happening to fishers for the year.<sup>18</sup> This figure of 68 fishers is in comparison to 29 fishers lost at-sea in 2019. As of July 2021, there had already been 42 fishers lost at-sea since the start of the year.<sup>19</sup>

At the time of writing, a year has already passed since EJF and other local CSOs first raised this issue with the DoF and Thai-MECC and yet a universal SOP for the investigation of man overboard cases has not been introduced. EJF continues to hear reports from local CSOs of cases not being properly investigated by the authorities. Without such a universal investigation regime in place, it is difficult to determine if cases are accidental or occurred in more malicious circumstances. In some cases, fishers were also not compensated correctly or sufficiently through the Workmen's Compensation Fund.

EJF acknowledges that the DoF distributed new at-sea accident and 'man overboard' guidelines for vessel owners and other relevant agencies in January 2020.<sup>20</sup> EJF commends the DoF on this action however, critical gaps remain, as universal investigation protocols are still not being provided for relevant agencies.

- During field investigations in 2020 and 2021, EJF observed that although PIPO officials have started placing increased importance on documenting such incidents, current DoF guidelines still lack several key procedures to facilitate effective investigations.
- Without clear, universally applied procedures for investigating fishers lost at sea, it remains extremely difficult to determine the true cause of such incidents as well as any potential perpetrators. Unscrupulous vessel operators could exploit such lax or compromised enforcement practices avoid investigation or any legal ramifications.

**Recommendation:** THAI-MECC and DoF should introduce a universal investigation SOP as soon as possible. This SOP must be compatible with the DoF's recently introduced guidelines and include step-by-step procedures for members of the PIPO multidisciplinary team. EJF provides the following draft set of high-level procedures for consideration below. Any investigation should follow the guidelines set out in the IMO's Casualty Investigation Code.<sup>21</sup> These procedures be consulted on with the Royal Thai Navy and other relevant agencies, with operational detail added as required. They should then be finalised and shared with all PIPO centres and relevant agencies.

Protocols	Vessels under 10GT	Vessels between 10-30GT	Vessels over 30GT
	In event of man overboard or vessel sinking the following should take place...		
1	Vessel should radio an SOS to THAI-MECC and nearby vessels with last known coordinates	Vessel should activate AIS-SART and/or radio an SOS	Vessel should activate SOS mode on their VMS and/or activate their EPIRB/AIS-SART
2	Vessel begins searching for lost fisher using a sector search or if more than 40 minutes has passed an expanded box search.		
3	THAI-MECC dispatches a search and rescue mission and assists in contacting vessels in the vicinity.		
4	THAI-MECC should liaise with the FMC to use the VMS system to identify vessels that can respond fastest to the SOS call.		
5	Search should be called off after 48 hours and vessel returns to port.		
6	An marine safety investigation should be launched by THAI-MECC, the local PIPO centre, police and other relevant agencies.		
7	Vessel crew and vessel senior crew (incl. captain, foreman, engineer) are separated upon arrival pending interviews.		
8	Individual, private interviews are carried out by a representative of the DLPW, a certified translator and local police to establish if the crewmember fell overboard by accident. <sup>vii</sup>		
9	PIPO officials should liaise with THAI-MECC staff to determine vessel condition at the time of the incident, operational status, time and weather conditions.		
10	Postmortem and toxicology tests should be performed to determine cause of death.		

Table 2: EJF recommends these draft high-level procedures for consideration.

**Recommendation:** THAI-MECC and DoF should invite key NGO and CSO stakeholders to provide their inputs for the drafting of this universal investigation SOP as part of a participatory approach.

- EJF has observed inconsistencies in inter-agency cooperation related to fishers lost at-sea incidents. Such gaps are preventing the effective documentation and investigation of such cases.

**Recommendation:** A dedicated interagency committee or investigation body should be formed with representatives from T-MECC, the Royal Thai Police and relevant CSOs working in coastal provinces. The Thai authorities should refer to the European Maritime Safety Agency for information on establishing such investigative bodies.<sup>22</sup>

- In 2021, EJF observed that more PIPO centres had started conducting a brief security training for fishers during port-out inspections. EJF commends this effort and encourages further rollout of such training.

**Recommendation:** All fishers must receive basic safety training before they are allowed to start work on-board any fishing vessel. They must be able to use all on-board safety equipment including the first aid kit, life jackets, life preservers and fire extinguishers. This safety knowledge should be periodically verified during inspections.

**Recommendation:** EJF stresses the importance of ensuring all fishers wear life jackets while fishing. They should know where the vessel's lifejackets are at all times, be trained when and how to use them and have easy access to them even when not fishing in case of an emergency.

<sup>vii</sup> It is imperative that the same victim-centred approach is employed during these interviews as for regular vessel inspections.

Current communications requirements state that all commercial vessels regardless of size must carry a Citizens Band (CB) radio and GPS on-board. Vessels above 30GT are also fitted with VMS.



Lifejacks should be checked on a regular basis to make sure that they are fit for purpose.

**Recommendation:** All Thai fishing vessels should be fitted with some form of communication device to facilitate search and rescue operations as quickly as possible. Vessels under 10GT should be fitted with at least a Very High Frequency (VHF) radio<sup>23</sup> to contact their local PIPO centre or nearby vessels; Vessels between 10-30GT should be fitted with at least a CB radio and an AIS Search and Rescue Transponder (AIS-SART); Vessels over 30GT should be fitted with at least a CB radio and an Emergency position-indicating radio beacon (EPIRB), AIS-SART or a Generation 2 VMS unit which can broadcast SOS alerts to the Fisheries Monitoring Centre (see appendix for more information).

- The DoF's new at-sea accident and 'man overboard' guidelines for vessel owners dictate that interviews must be conducted when the vessel returns to shore. However, these guidelines focus only on collecting key details of the incident and rescue effort and do not examine underlying issues or causes of the incident.
- EJF is aware that DLPW officials are present during such interviews, however there are no universal protocols for their involvement nor are there official question guidelines that could help identify potential issues or underlying causes. Although EJF recognises some improvement in case documentation at some centres, sporadic and varying data collection quality remains an issue across the network.

**Recommendation:** The DLPW should introduce a standardised case reporting template as well as universal interview guidelines for accident and missing fisher cases with an emphasis on questions that could facilitate identification of underlying issues on-board vessels; i.e. living and working conditions or labour abuse.

**Recommendation:** Interviews with the captain and all crew members should always be conducted privately, according to a victim-centred approach and always involve a DLPW official and certified translator. If there is adequate suspicion, then the multidisciplinary team and police inquiry officers should become involved.

**Recommendation:** A full incident report should be completed that lays out the case details, analysis, actions to be taken and recommendations for mitigating similar incidents in the future. This should be based on the testimonials collected from the captain and crewmembers. For good practice examples of similar reports please consult the UK Marine Accident Investigation Branch's website<sup>24</sup>.

**Recommendation:** Correctly filled in reports with a suitable amount of detail and rigor should be shared with other PIPO centres to demonstrate good or best practice protocols.

- In 2020, EJF heard reports of three fishermen going missing from the same fishing vessel over the space of just three months with no substantive action taken against the vessel or against the vessel captain and owner. In addition, none of the company's sister vessels received further scrutiny nor had their risk level elevated.
- EJF acknowledges that the DoF has implemented a new inspection procedure for vessels involved in missing fisher cases with the vessel undergoing at least three consecutive PIPO inspections to ensure compliance. This mandate does not apply to sister vessels owned by the same individual or company.

**Recommendation:** Where the same vessel or group of vessels owned by the same family or company loses more than one fisherman at sea within five years, all vessels should be downgraded on the CRA to high-risk and the Royal Thai Police and DLPW should undertake a detailed investigation including forensic examination of the vessel alongside detailed private interviews with all crew members. Vessel licences should be suspended for at least three months to allow these investigations.

**Recommendation:** All sister vessels owned by the same company or individual should have their risk level elevated during such an investigation.

- EJF understands that the DoF currently uses an online spreadsheet to collate missing fisher cases with PIPO centres sending in monthly updates. However, relevant investigation information and documents are only available either at the respective PIPO centres or in the e-PIPO archive of that specific post-event port-in inspection. It is still difficult for officials from other centres and other agencies to access all missing fisher cases reports and related evidence outside their provincial jurisdiction.

**Recommendation:** Thailand should consider recording missing fisher cases in a centralised, online database similar to the IMO's existing SOLAS framework for accidents and casualty reporting for merchant shipping vessels utilizing similar techniques as described in the FAO's accident and fatality reporting system for fisheries in the Caribbean.<sup>25/26</sup> This database should be made accessible to all relevant agencies in the PIPO multidisciplinary team to facilitate inter-agency cooperation on investigation, accident prevention and monitoring.

**Recommendation:** Vessels with missing fisher cases must be identifiable on both the ePIPO system and Fishing Info 2 database so that all relevant agencies are notified of their history. Information should include details of the incident(s) and subsequent investigation conclusions.

- In the event of work-related cases, EJF has heard reports of fishers' next of kin not being contacted nor receiving compensation from the Workmen's Compensation Fund.

**Recommendation:** In the event of work-related cases, DLPW officials should ensure that the fishers' next of kin are notified and should follow up with vessel operators to ensure that compensation payments have been made within an appropriate amount of time.

**Recommendation:** The MoL should include a section for an emergency contact person of each fisher into the employment contract. This will become helpful for officials when they need to contact the next of kin to inform them of accidents, fatalities.

- In March 2021, EJF received a report from a local CSO of a fisher's next of kin not being able to file for compensation from the Workmen's Compensation Fund as the fisher's employer had neglected to enrol the fisher in the Fund.

**Recommendation:** PIPO officials should check that fishers are enrolled in the Workmen’s Compensation Fund to ensure that fishers can receive compensation in the event of an accident.

- EJF has observed that it is still a challenge for DLPW inspectors to help a fisher’s next of kin follow up on compensation claims. This is because such claims for work-related accidents in fishing fall under the authority of the Social Security office.



Fishers put on life jackets as their vessel prepares to dock for a PIPO inspection.

**Recommendation:** The DPLW and the Social Security office should establish a formal cooperation system where DPLW officials at PIPO centres can coordinate directly with the provincial Social Security office to help fisher’s next of kin receive compensation.

## 4. Maintaining Monitoring, Control, Surveillance and Enforcement effectiveness during the pandemic



DLPW official explains COVID-19 prevention measures to migrant fishers during a port-in inspection in Samut Songkram.

The COVID-19 pandemic has inevitably had a significant impact on the fishing industry as well as the ability for the Thai authorities to conduct their usual monitoring and enforcement duties as part of Thailand's efforts to combat IUU fishing and associated labour abuses.<sup>27</sup>

Reduced demand for seafood from restaurants has left many fishing vessels unable to sell their catches leading them to moor up instead of embarking on fishing trips. Many migrant workers previously employed on these vessels took the opportunity to leave Thailand to return to their home countries in 2020 and 2021.<sup>28</sup> This migration has exacerbated an already considerable labour shortage in the fishing industry with some estimates putting the number of workers needed between 40,000 to 50,000 workers as of 2020.<sup>29/30</sup>

Growing demand for migrant workers in the Thai fishing industry has increased the risk of illegal or unsafe migratory channels being used to smuggle workers across the border with numerous cases reported in 2020.<sup>31/32</sup> These workers – on arrival into Thailand – are often at greater risk of human rights abuse as they are completely unknown to the authorities, likely have debts to pay for their smuggling fees, and will be fearful of alerting the authorities to any subsequent abuses due to fear of retribution or punishment.

The suspension of fishing activities has resulted in some vessel owners reneging on paying crew their monthly wages or cutting workers' contracts to avoid having to pay additional wages. This may result in workers losing their legal status to remain in Thailand as well as healthcare and social security benefits.<sup>33</sup> In the worst cases this could lead to workers being held against their will with unscrupulous vessel owners detaining workers by holding onto their travel documents or wages. Such retention of wages and documents are already indicators of forced labour and human trafficking.

- Some vessels have remained operational throughout the pandemic but with a reduced crew.<sup>34</sup> Working hours and working conditions on-board Thai fishing boats are already long and strenuous, even with a full crew. If vessels are now operating with a reduced crew then this could put the crew at risk of becoming victims of forced labour and overworking hours.

**Recommendation:** Labour inspectors must ensure that they closely scrutinise working hours for vessels that continue to operate but with a reduced crew. Labour shortages could lead to employers subjecting fishers to overworking hours to compensate for missing manpower. Records of rest time should be thoroughly checked and cross-checked against worker interviews.

- To further compound the situation, the usual labour checks that take place as part of the PIPO process have become more difficult to conduct. Physical distancing requirements lead to many of these checks and crucial crew interviews being suspended during the first lockdown in Thailand in early 2020. Since then, many of these checks have been conducted but on a more sporadic basis or with additional precautions.
- A lack of close, regular contact with vessel crews will adversely affect the ability of PIPO and labour authorities to identify cases of labour exploitation or abuse. It also reduces the number of opportunities that exploited crews will have to raise the alarm or voice their concerns.

**Recommendation:** Best practices of PIPO labour inspections – online, offline and a combination of both should be regularly circulated across the network of PIPO labour inspectors so that other centres facing similar challenges can adopt these practices.

- The Ministry of Public Health (MOPH) announced that free COVID-19 tests and treatment would be made available to all individuals diagnosed in Thailand in early 2021.<sup>35</sup> However, EJF continues to hear reports from local CSO partners about migrant workers' inability to access healthcare information and services due to limited communications with relevant government agencies and language barriers.

**Recommendation:** The DLPW and PIPO centre officials should educate migrant fishers on their rights to COVID-19 treatment and vaccines provided by the government. This should be in addition to the information provided to them on preventing contraction of the virus.

**Recommendation:** The DLPW should consider establishing a COVID-19 hotline for migrant workers. The current government COVID-19 hotline is only provided in Thai language.

- Amid the COVID-19 pandemic, local governments have used vessel isolation to contain virus transmission amongst vessel crews and the public. The practice has to date proven ineffective for recovering patients due to inappropriate facilities on Thai fishing boats. During the 14-day quarantine on vessels, workers must make do without even basic supplies such as hygiene measures, medicine or access to regular clean water.

Poor living conditions, such as cramped and crowded quarters as well as limited ventilation has led to slow recovery and higher risk of further transmission. Local communities have also reported contracting cases from fishers, spreading fear and resentment of migrant fishers among coastal communities.<sup>36/37</sup>

**Recommendation:** Local governments should work with vessel owners to provide more facilities for land-based isolation, especially in provinces where the number of daily transmissions remain high.

**Recommendation:** Local governments should consider utilising landing areas as state quarantine facilities to minimise contact between crew members and local communities. Good practices, such as those deployed in Phuket should be shared between local administrations and relevant PIPO centres to ensure equal treatment of infected workers.

**Recommendation:** Regardless of quarantine measure, local governments must ensure that decent living conditions are maintained. This must include the provision of clean water, adequate food supplies, air ventilation, lighting, medicine and COVID test kits.

## 5. Labour Inspections:

Although there has been considerable progress in the structured approach towards inspections, labour checks continue to vary considerably between PIPO centres. This is exemplified by the fact that no cases of serious abuse or human trafficking had been reported or identified by inspections at any of the 30 PIPO centres EJF has visited since their initial creation in mid 2015. In total, 55,818 fishing vessels were inspected in 2020 with 19 vessels in violation of labour laws. This represents an identification rate of 0.03%.<sup>38</sup>

In 2020 the RTG reported only 14 potential cases of labour trafficking in its TIP Report submission (a significant decrease from 77 cases reported in 2019) with only two of these coming from the fishing sector.<sup>39</sup> This lack of case identification and prosecution comes despite findings from an ILO endline research report stating that almost 14% of 219 fishers interviewed in 2019 had experienced some form of forced labour.<sup>40</sup>

- EJF continues to hear reports that even minor labour violations identified during PIPO inspections are not being reported back to THAI-MECC in Bangkok or recorded in a centralised system making it all but impossible to monitor the labour situation.

**Recommendation:** THAI-MECC and DLPW must immediately coordinate actions to ensure that all labour violations identified during PIPO inspections are recorded in a centralised, electronic database accessible by all relevant agencies.

- It is currently voluntary for migrant workers to receive their contract in their native language. The ILO's 2020 endline research report found that only 51% of 112 fishers surveyed reported their contract being in their native language – a decline from 66% of respondents when a similar survey was conducted in 2017.<sup>41</sup> This loophole could be exploited by unscrupulous operators who wish to take advantage of vulnerable migrant workers who cannot speak or read Thai. The 'Announcement of the Department of Labour Protection and Welfare concerning the Establishment of Employment Contract for Employees in the Marine Fishery' (October 2017) sought to establish such mandatory language provision, however, this clause was later removed from the draft.

**Recommendation:** This clause should be reintroduced as soon as possible to prevent the potential exploitation of workers. **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.

- On 1st January 2020, the Employment Wage Committee published the 'Announcement on Minimum Wages No.10' in the Royal Gazette which detailed an increase in minimum wage rates across the country.<sup>42</sup> EJF has observed several inspections since then where employers still haven't updated the minimum wages in worker's contracts or haven't begun paying the additional wage rates to crews.

**Recommendation:** Department of Employment (DOE) officials should check employment contracts to make sure that written salaries correspond with the new minimum wage requirements of that province. DLPW should also carefully cross-check payment transfer records to ensure that additional wages are being paid.



An inspector uses 'Face Scan' to verify this crew member's identity.

**Recommendation:** Department of Employment (DOE) officials should check employment contracts to make sure that written salaries correspond with the new minimum wage requirements of that province. DLPW should also carefully cross-check payment transfer records to ensure that additional wages are being paid.

**Recommendation:** Even with the advent of ePIPO, officials should still carry out sporadic checks to ensure that crew information is up to date and correct. DLPW representatives should continue to cross-reference ePIPO results with paper-based versions to make sure that there are no errors in the system.

**It should be noted** that even if crew members are in possession of official identification documentation they **may** still be a victim of abuse or trafficking. In-depth interviews using certified translators should **always** be used alongside labour checks to identify cases of abuse or trafficking.

- On the 29th October 2021, eight undocumented migrant workers submitted a letter to the Ministry of Labour requesting clarification on a cabinet resolution dated 28th September 2021. The resolution granted undocumented migrant workers extension of stay in Thailand until 13th November 2021. However, this resolution was not published in the Government Gazette and therefore not legally binding. The eight migrants were arrested and taken into custody by police at Din Daeng Station, Bangkok.

At the time of writing, one person had been released, while seven remain in indefinite detention at Suanplu Immigration Detention Center. Further, on 8th December 2021, a labour rights defender who accompanied the workers in late October was summoned by the police on grounds of assisting illegal migration, in breach of the Immigration Act.

**Recommendation:** These arrests set a troubling precedent for future cases of undocumented or illegal workers in Thailand requesting assistance from the Thai authorities. Such draconian measures also erode the already fragile trust that migrant workers have with PIPO and DLPW officers, making it even less likely that trafficked or vulnerable workers will speak out if they know they risk arrest and detention. The Thai authorities must refrain from such actions in the future if they are to effectively facilitate identification of potential human trafficking victims.

**Recommendation:** The Royal Thai Government should officially grant extension of stay to undocumented workers during the ongoing pandemic. This measure could be enforced through registration by local authorities to monitor workers, especially those more at risk of COVID transmissions.

## 5.1 Electronic payment system:



A member of staff from a vessel hands out identity documents retained by the vessel owner to workers before a port-in inspection.

All workers onboard fishing vessels are required to be paid at least once per month and through electronic bank accounts as opposed to traditional cash payment methods. EJJ firmly recommends maintaining this system as it is a vast improvement on historically informal and unaccountable cash-based processes.

Nevertheless, EJJ has observed numerous vessel inspections since the system's introduction which have highlighted several critical issues that require urgent attention. These include:

- Workers and vessel owners complaining about a lack of ATMs within the vicinity of their port limiting their access to funds and warranting vessel captains or owners accessing workers' funds supposedly on their behalf.
- Vessel owners or captains have been documented holding workers' bank account books and ATM cards at their home or office – often having workers sign a 'surrender' form, and also writing down workers' PIN numbers. These measures could allow vessel operators complete control over workers' funds, defeating the purpose of the system;<sup>viii</sup>
- Bank account books not being regularly updated, often for several months. It is important that frequent records are kept so that authorities can accurately assess discrepancies in payments. Workers have reported never having seen their ATM cards and bank account books after the bank accounts have been opened. This is despite ATM cards being defined as 'personal property' rather than 'identity documents' or other important documents. These are possible indicators that workers lack financial access.



The vessel owner takes out workers' bank account books and ATM cards for an inspection

<sup>viii</sup> EJJ acknowledges that although the practice of holding bank account books on behalf of workers is technically legal under Article 131 of the Migrant Worker Management Act, such tactics could be used to limit workers' financial access and be possible indicators of document retention and labour exploitation.

**Recommendation:** The RTG, THAI-MECC and DLPW should expedite trials and eventual rollout of using readily accessible convenience stores counter services as complementary alternatives to ATMs.<sup>43</sup>

**Recommendation:** EJF urges the DLPW to amend the ‘Announcement of the Department of Labour Protection and Welfare concerning the Establishment of Employment Contracts for Employees in the Marine Fishery’ to **mandate** that workers’ bank account books and ATM cards **must** be kept on-board the vessel and **should not** be held at the house or office of the vessel owner, captain, or broker.

**Recommendation:** If workers have indeed surrendered their bank books and ATM cards to the vessel owner or operator, it is imperative that DLPW officials ask appropriate questions to determine whether workers know where their documents are kept and whether they have unrestricted access to these.

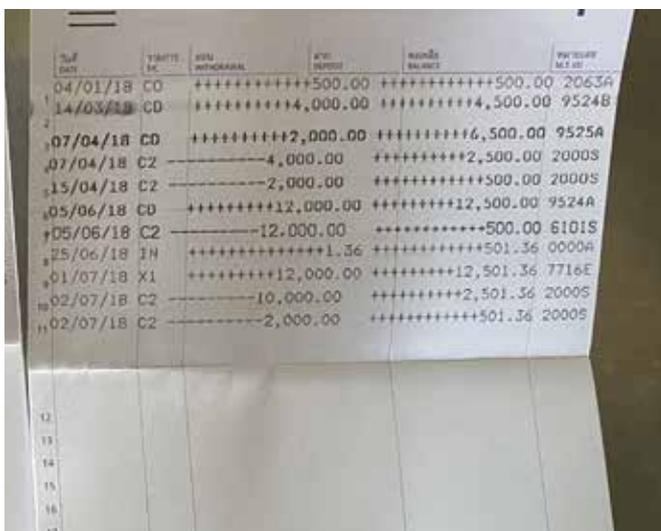
**Recommendation:** As a bare minimum, DLPW inspectors must verify that regular monthly payments are being made into workers’ bank books and/or there are valid payment receipts as proof of this. This proof of payment should be corroborated through crew interviews.

**Recommendation:** In certain provinces migrant fishers may not be able to travel to ATM machines due to provincial COVID-19 movement restrictions. Nonetheless, DLPW inspectors should continue to monitor payment records as usual and highlight the importance of workers being granted financial mobility.

- Between January 2019 and March 2021 EJF observed a total 19 cases of workers’ ATM pin numbers being written down on the ATM cards themselves or vessel operators having access to these PIN numbers. These cases were identified at over nine PIPO centres.

**Recommendation:** PIPO officials should ensure that workers have sole access to their PIN number and must brief vessel operators against such practices. PIN numbers should not be written on records kept by the vessel owner or captain.

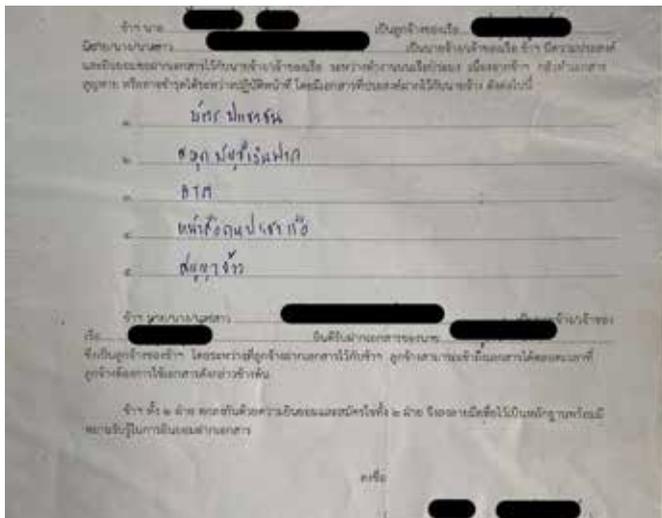
**Recommendation:** PIPO officials should coordinate with local CSOs to ensure that fishers recognise that ATM cards are their personal property. They should also advise workers that the practice of holding ATM cards and signing surrender forms are discouraged no matter how many times they may have come across this arrangement with the same workers.



DATE	TRANS	AMOUNT	ACCOUNT	AMOUNT	ACCOUNT
04/01/18	CO	+++++	500.00	+++++	500.00 2063A
14/03/18	CD	+++++	4,000.00	+++++	4,500.00 9524B
07/04/18	CD	+++++	2,000.00	+++++	6,500.00 9525A
07/04/18	C2	-----	4,000.00	+++++	2,500.00 2000S
15/04/18	C2	-----	2,000.00	+++++	500.00 2000S
05/06/18	CD	+++++	12,000.00	+++++	12,500.00 9524A
05/06/18	C2	-----	12,000.00	+++++	500.00 6101S
25/06/18	TH	+++++	1.36	+++++	501.36 0000A
01/07/18	X1	+++++	12,000.00	+++++	12,501.36 7716E
02/07/18	C2	-----	10,000.00	+++++	2,501.36 2000S
02/07/18	C2	-----	2,000.00	+++++	501.36 2000S



This photo (taken on 25th February 2020) shows a worker bank book with the last updates written on 2nd July 2018, only seven months after the account was opened. (left). A plastic box labelled ‘Worker’s identification documents’ was brought down from the vessel during the inspection (right).



A surrender form signed by a worker indicating permission for the employer/vessel owner to retain his ID card, bank account book, employment contract, and seaman book. (left)

ATM card for a worker with the name and ATM PIN number written on the card in blue ink (Taken on the 19th February 2021). This card was surrendered to the vessel owner and provided to DLPW officials during the inspection (right).

**Recommendation:** Examples of good or best practice of adoption and implementation of the electronic payment system should be shared and showcased amongst vessel owners in order to demonstrate that the system can work if appropriate training and guidance is provided.

**Recommendation:** Vessel owners who exhibit such best practices could be incentivized to train other vessel operators who require additional training. Such dissemination of information and techniques between vessel owners would be an effective means of transferring and improving understanding on how to fully utilise the payment system.

EJF has produced a detailed set of recommendations on improving the electronic banking system and this is available upon request.

## 5.2 Victim-centred approach:



A PIPO inspection in Pra Sae where the crew are provided with chairs so that they feel more comfortable during the inspection.

- Encouragingly, the majority of PIPO centres are adopting a victim-centred approach during inspections whereby they make crew feel as safe and comfortable as possible during the process. The pandemic has made conducting these inspections more challenging, especially regarding the application of a victim-centred approach.

**Recommendation:** The DLPW should provide training for labour inspectors to disseminate new techniques for applying a victim-centred approach when having to conduct labour interviews online. These techniques can include best practice examples from the PIPO centre network accrued over the past year.

**Recommendation:** In provinces where it is still possible to conduct in-person labour interviews, the DLPW should ensure that all inspectors are provided with appropriate personal protective equipment (PPE) so that they can fulfil their duties without the risk of spreading or contracting the virus.

**Recommendation:** All PIPO centres must adopt the same stringent victim-centred approach to ensure that crew feel safe and comfortable during vessel inspections. For example, in **Pra Sae** and **Songkhla** there are chairs for the crew to sit on.

**Recommendation:** DLPW officials and translators should wear civilian clothes so that they can be disassociated from law enforcement and increase the chances that workers will speak freely.

EJF has produced a separate training guide titled ‘Conducting Interviews with Migrant Workers’ (In both English and Thai) that provides further information and explanation of how to implement a victim-centred approach. This is available upon request.



PIPO officials wear civilian clothing that can appear less threatening and imposing during an inspection and interviews.

Anything that has the potential to make crew members feel more **vulnerable** or **intimidated** such as the overbearing presence of military officials, a large group of interviewers or listeners during interviews, or open photography of sensitive scars or injuries can **greatly decrease the chances** of workers trusting authority figures and sharing their abuse or trafficking experiences.

### 5.3. Interviews and translators:

- The interviews carried out during PIPO inspections are one of the most important aspects of an inspection. They provide probably the only time available for workers to voice concerns and speak to officials about potential labour exploitation or abuse. Therefore, it is vital that interview procedures are conducted thoroughly and to strict universal standards. It should be noted that interview procedures have improved greatly since February 2016, however, even as of 2021 and operations under COVID-19 conditions they are also the inspection component that requires the most attention.
- Although EJF has not witnessed group or collective questioning of crew since early 2017, it is worth reaffirming that such a practice is not recommended during PIPO inspections.

**Recommendation:** Asking questions to an entire assembled crew about their experiences onboard is very unlikely to uncover cases of abuse as crew members may be worried of being singled out as the informant and potential retribution from their employer. Interviewees must be separated from the rest of the inspection.

- All interviews observed since July 2017 have at least been conducted separately from the rest of the inspection, however their thoroughness and quality continue to vary in other areas.

**Recommendation:** DLPW officials and translators should endeavour to separate interviewees at least so they are out of sight and out of earshot of the rest of the crew and especially the vessel captain, foreman or 'chiev', and other senior crew. The chances of crew members speaking out about abuse or labour exploitation if the potential perpetrator is present are remote.



Interviews like this are unlikely to yield useful results because: 1) It takes place too close to the rest of the inspection, 2) The interview is not out of sight or earshot of the rest of the crew, and 3) There is only one interviewee making it very easy to identify the whistleblower.

**Recommendation:** Several PIPO centres already utilize the centre's pickup truck as an interview location while **Songkhla** PIPO has retrofitted a porter-cabin into an interview room. These spaces provide a private and comfortable location for interviews to take place and are available for all PIPO centres. **Prachuap Khiri Khan** PIPO centre has even fitted their pickup truck with additional privacy blinds on the inside that can be drawn down, increasing interview privacy. EJF recommends that this becomes standard procedure.



Songkhla benefits from having a 'chokepoint' all fishing vessels must pass through for PIPO inspections. This has allowed them to retrofit a porter-cabin into a permanent interview room. (left) An interview with three crew members takes place in the back of a PIPO centre's pickup truck. (right)

- EJF and other organisations such as the ILO advocate that a sample of crew is taken to interview rather than one individual. In the past, EJF has observed multiple PIPO inspections where only one individual was selected for an interview. This practice is **extremely unlikely** to make workers feel comfortable enough to speak about their experiences.

**Recommendation:** A single interviewee may be anxious about speaking out about potential infractions as s/he can easily be singled out by the captain and may face retribution. A proportional sample of (on average) three to four crew members should be taken so that there is less concern that they will be singled out as the informant.

**Recommendation:** Before any interviews take place, DLPW officials should explain to the crew sample fully the purpose of the interviews, what will happen to them if they do speak out about their experiences, and what action will be taken. This should reassure the crew sample and make it more likely that they will speak frankly during interviews. Crew interviews should then be conducted individually rather than in front of the rest of the sample.

**Recommendation:** Only DLPW officials should be present during interviews to minimise the chance that workers feel intimidated by the process. Inspection teams should acknowledge that workers – especially migrant workers – may fear authority figures. In the event that they have been trafficked or entered Thailand illegally, they may be fearful of punishment if this is discovered. DLPW officials should be aware of unrelated agencies or individuals and should be assertive in telling them to leave the interview area.



During this interview in Chumpon the individual (left) encroached on the conversation – potentially decreasing the chances of these interviewees from feeling comfortable enough to speak freely. To her credit, the translator did tell him to leave the area shortly after this photograph was taken. (left) Interviews are the best opportunity available to authorities for identifying cases of labour abuse and should be conducted according to strict universal procedures. (right)

**Recommendation:** DLPW officials and translators should be provided with appropriate training in the identification of victims, application of 'soft skills' and a victim centred approach to make crew members feel more comfortable and safe during interviews and inspections. For more information on this please consult EJF's 'Conducting Interviews with Migrant Workers' guide which is available in English and Thai.

**Recommendation:** DLPW officials should ensure that they ask non-leading interview questions and avoid asking closed 'yes or no' questions. This should help them gather more actionable fisher testimony.

- Translators have been present at all PIPO centres inspected since 2019 showing a marked improvement compared to translation provision as observed in previous years. However, in some cases smaller inspection teams still report lacking translator capacity for some migrant worker languages. This is especially concerning for high-risk vessels which are required to undergo fisher interviews at each inspection. Without available translators this could result in incomplete inspections for these vessels.

**Recommendation:** Each centre should have sufficient translator capacity to ensure that worker interviews can always be conducted properly. PIPO centres should request temporary support from their provincial DLPW office, local NGOs (eg: IOM or Stella Maris), or use video/voice call functions with translators at other PIPO centres.

**Recommendation:** If PIPO inspections cannot conduct interviews due to lack of translation services this should be flagged on the ePIPO system so that PIPO teams are reminded to conduct follow up interviews when translators are available but not more than 30 days after.

- At some PIPO centres DLPW officials have stated that because most of their vessels' fishing trips last only one day or night and/or because they know the fishing crews on-board intimately, labour checks can be quicker, sometimes without interviews taking place.

**Recommendation:** Although this is true to a certain extent, DLPW officials should understand that relationships amongst fishing boat crews and with their captain can change rapidly. Officials should remain vigilant, always conduct interviews, and utilise their close relationships with fishing boat crews so that potential victims feel more inclined to alert them about abuses.



This interview taking place in **Sichon** should be commended for 1) taking place out of sight and out of earshot of the rest of the vessel inspection, 2) using a comfortable & private setting to make the crew feel safe and secure, 3) only allowing the DLPW inspector and translator to be present, and 4) taking a proportional sample of the crew to be interviewed.

- Many PIPO centres stated that in the event of a potential issue being identified during interviews, follow-up with the vessel captain or owner would be immediate. DLPW officials would then carry out a follow-up survey or interview either within 15, 30 days, or on the 'port in' day for that vessel. In the event no progress had been made, a criminal case would be filed with local police.



A best practice example of an interview where: 1) a sample of the crew has been taken, 2) the interview takes place in a comfortable and private location and 3) interviews are conducted individually.

**Recommendation:** Immediate follow up could mean that workers are less likely to speak out as they may fear punishment from their employer after the inspection. This is especially the case for 'port outs' where workers may then face several weeks at-sea with little chance of rescue. DLPW officials should explain to the worker that if a potential infraction is identified an investigation will occur and the issue will be raised with the vessel owner after their subsequent 'port in'. This should minimise the chances that the vessel crew would face retribution for 'whistle blowing'. Every attempt should also be made to keep interview results anonymous and private. If the 'port out' identifies a serious issue or any evidence of the captain threatening or using violence, the vessel should not be allowed to exit the port and an investigation should be launched with protections provided for workers.

EJF recommends that these **critical** steps are followed by DLPW inspectors for every fisher interview:

Number	Procedure
1	Identify a random and proportional sample of the vessel crew to take aside for interviews. Ensure that senior crew including 'chiev' are not included in the sample.
2	Separate the sample from the rest of the vessel crew so that they are out of earshot and out of sight, i.e. use the PIPO pickup truck
3	Only allow the DLPW inspector and translator to be present
4	Explain to the crew sample the purpose of the interviews and the procedure in case a labour violation is identified
5	Conduct one-on-one interviews with each member of the sample
6	Apply a victim-centred approach during the interview and treat the interviewee with respect
7	Ask non-leading questions and avoid asking 'yes/no' questions
8	Remain vigilant for signs of changing living or working conditions even for vessels which only have short fishing trips or are frequently inspected

Table 3

## 6. Specialist enforcement teams:



The IUU Hunter team observes a PIPO inspection in Rayong port.

Several monitoring and enforcement taskforces have been established over the last three years in order to complement existing PIPO operations and provide assistance and training in how to improve procedures. These include Flying Inspection Teams (FITs) – formed in February 2018 under the jurisdiction of the CCCIF and subsequently continued under THAI-MECC and the IUU Hunter team – under the jurisdiction of the DoF and formed in March 2018 under the order of Deputy Prime Minister Chatchai Sarikulya. As of February 2020, the IUU Hunter programme has since been terminated.

For further information about these two specialist programmes please refer to the appendix.

**Recommendation:** EJF strongly believes that although Thailand has made significant progress to eradicate IUU fishing and associated labour abuses from its fishing industry, specialist teams such as IUU Hunter will always be an important and complementary asset for enforcement and implementation of fisheries and/or labour regulations. EJF urges the RTG to reintroduce IUU Hunter as soon as possible to ensure that strict inspection standards can be maintained.

**Recommendation:** EJF strongly encourages FITs to introduce unannounced inspections alongside its regular announced training components. This will give FIT teams a more accurate assessment of day-to-day operations of PIPO centres and will ensure that centres adhere to consistently high operational standards. EJF believes that unannounced inspections are critical to determining if improvements are truly being made or not.

**Recommendation:** It is important that for enforcement trips that there is consistent and thorough recording of identified infractions and subsequent investigations. This should include detailed analysis of how issues were identified, how they were resolved and any lessons learnt. Without such data collection, it could result in the team's collective knowledge dissipating.

**Recommendation:** To ensure the future survivability of FITs and similar enforcement mechanisms it is important that formalized training schemes are established so that future team leaders can rise through the ranks and become accustomed to adopting an investigative mindset during vessel inspections.



Officers from the FIT discuss the findings of a PIPO inspection in **Chantaburi**.

**Recommendation:** FITs can further ensure the survivability and longevity of the programme by incorporating local civil society organisations (CSOs) into the training components of each trip. Local CSOs would benefit through involvement in the enforcement and information exchange whilst FITs would benefit from having access to invaluable local context and expertise.

**Recommendation:** Local CSO collaborations with PIPO centres and involvement in port-side inspections could also enhance other aspects of centre operations in general. Local CSOs could provide translation services to PIPO centres which are understaffed. They could also begin to address inherent trust issues that PIPO centres might be facing and help inform fishers of their rights to prevent labour abuses from occurring.

## 7. At-sea inspections:

Since 2016 EJF has taken part in 16 at-sea patrols on-board vessels from the Royal Thai Navy, Department of Marine and Coastal Resources (DMCR), Marine Department and DoF – all agencies with patrol capabilities under the jurisdiction of THAI-MECC. These patrols have taken place in **Phuket, Songkhla, Sattahip, Samut Songkram, Phetchaburi**. This has allowed EJF to assess a wide variety of at-sea inspections and differing methodologies over the years, agencies, and regions. These recommendations are most applicable for at-sea operations during normal working conditions. EJF acknowledges the increased challenges and risks in implementing at-sea inspections due to the ever-evolving COVID-19 situation. It should be noted that for 2020 the Thai authorities conducted at-sea inspections of 842 fishing vessels and found only one case involving labour violations. This case was related to the employment of workers without seaman books.<sup>44</sup>

**Recommendation:** All agencies must ensure that patrol officials are provided with sufficient supplies of personal protective equipment (PPE) so that they can fulfil their duties whilst minimising transmission risk of the virus.

**Recommendation:** To maximize the effectiveness of patrols, THAI-MECC should analyse the planned routes of all agencies alongside previous known IUU fishing hotspots in order to avoid overlapping patrol routes.

- THAI-MECC enforcement vessels do not have reliable access to VMS data, Common Risk Assessment database or fishing vessel information before conducting an inspection meaning that they may not know the reasons for a vessel's risk classification during inspections. They are able to check some aspects through mobile phone networks, but this is unreliable at sea.



A fishing vessel is inspected by a DoF patrol vessel off the coast of Songkhla.

**Recommendation:** Before an inspection, the THAI-MECC regional office should be able to send the enforcement vessel information about the fishing vessel including ‘port out’ documents, crew lists, and VMS tracking information. This information should then be cross-referenced with the documentation held on-board the fishing vessel to minimise the risk of counterfeit documents, altered crew lists.

**Recommendation:** THAI-MECC patrol vessels should have access to the VMS system. This is a recommendation that has been echoed by Navy and DMCR officials on all at-sea inspections observed by EJF since February 2016. This could work as either a less data-intensive version of the full system or as an offline version where patrol vessels can download vessel tracks to devices before setting out to sea.

- Inspections need to be thorough and systematic. Sometimes the fish holds are not checked or only some of the holds are checked. Net mesh size and other specific details of fishing gears are also not checked systematically.

**Recommendation:** Inspecting officers must carry out consistent hold inspections to approximately match catch quantities against logbook data and the VMS track.

- On the patrol conducted by the DoF, officials inspected the gears of each fishing vessel to ensure that they were in accordance with the regulations. This is an important measure to ensure ongoing fisheries compliance.

**Recommendation:** Catch checking should be part of standard operating procedures for all at-sea inspection agencies. Gears should be checked against the fishing license and ship registration and specific details of gears such as mesh size or number of hooks should also be checked in accordance with the regulations.

- On the at-sea patrol conducted by the DMCR, officials inspected the species of fish that were caught and a sample of different species was also taken to be inspected back at the Marine Research Centre. DMCR officials explained that if 30% of catch composition is made up of reef fish species or those that live near the shore then the vessel would be suspected of illegal fishing and there would be an investigation.

**Recommendation:** Training on gear specifications and what species should be classified as ‘suspicious’ could be provided by relevant agencies at PIPO centres and THAI-MECC Area Command Centres.



DMCR officials inspect the catch for fish species that might indicate illegal fishing. A sample is also taken for further tests. (left)

A DoF official measures the mesh size of the net to ensure it is in accordance with the regulations. (right)

- Labour inspections are insufficient and are not conducted according to universal procedures. In addition, the level of scrutiny during at-sea inspections varies considerably compared to PIPO inspections.

**Recommendation:** Officers should conduct a full labour inspection to verify worker identity documents, crew lists, and payment documentation with crew present on the vessel. This process should also involve conducting brief interviews with crew (in their native language) to establish living and working conditions on-board.

- Labour inspections can also vary in their approach with some officials adopting an overbearing and intimidating position whilst others appearing more amicable and engaging towards workers.

**Recommendation:** Inspections should attempt to follow a victim-centred approach as much as possible or employ 'soft skills' to make crew members feel comfortable. For example during DMCR and DoF inspections, EJF has observed fishing vessel senior crew being taken on-board the patrol boat so that crew members felt more comfortable and could speak more freely.



Chonburi at-sea inspection: Two aspects of the same vessel inspection show two different approaches to engaging with fisher workers.

- Inspecting officers often experience translation issues communicating with predominantly foreign crews. Interviews are short and held in proximity with the vessel captain or foreman.

**Recommendation:** Inspections should involve independent translators and not a member of the Thai crew such as the vessel captain, or foreman. It is understood that multidisciplinary teams are used for some at-sea inspections but these are sporadic.

## 8. Poseidon:

Since 2018 EJF has undertaken several at-sea patrols on-board Poseidon, a covert patrol vessel coordinated by the Royal Thai Police (RTP) and DoF. Poseidon – launched in October 2017 – is different to conventional patrol vessels in that it is in fact an old fish carrier vessel converted into an undercover police patrol vessel. As of July 2021 EJF understands that Poseidon is no longer operating due to budgetary issues.



Poseidon pictured alongside five recently impounded Vietnamese fishing vessels in April 2018.

When Poseidon operates, it carries a crew comprising RTP and DoF officials, sophisticated radar technology, and a speedboat. Once within range, the speedboat is deployed and sent in for the final interception.

Poseidon's success is demonstrated by its remarkable capture rate. In 2018 alone it was responsible for impounding 89 vessels: 22 Thai boats and 67 foreign-flagged vessels.

**Recommendation:** The RTP and Marine Police should resolve current budgetary issues to allow Poseidon to resume its patrols. The vessel is an extremely cost effective and comparatively efficient tool in Thailand's fight against IUU fishing versus traditional at-sea patrol vessels.

**Recommendation:** Poseidon should carry at least one interpreter on-board who can speak commonly spoken languages amongst the foreign-flagged vessel crews. This would facilitate immediate communication and information gathering.

**Recommendation:** Poseidon should carry basic information collecting surveys on-board which can be distributed to foreign-flagged vessel crews. These surveys should also provide an explanation as to why the crew have been detained and how they will be processed and repatriated back to their home countries. EJF already utilises such a survey for engaging with Vietnamese fishers and this is available upon request.

**Recommendation:** DoF should expand its IUU fishing reporting system so that patrol vessels such as Poseidon can receive near real-time updates from fishing vessels that suspect IUU fishing is taking place.

**Recommendation:** Poseidon is not built for speed or agility and so relies on its speedboat for quick vessel interceptions when it is within range. Additional on-board fixed wing drone technology which could be launched from the front deck of the vessel would facilitate the identification of potential suspect vessels outside of visual range of Poseidon, thus enhancing its operational intelligence.

**Recommendation:** The RTP and DoF should expedite plans to acquire a second vessel that can either compliment Poseidon's efforts in the Gulf of Thailand or patrol the Andaman Sea instead.

**Recommendation:** Thailand should coordinate with neighbouring countries to disseminate knowledge of Poseidon and ensure that other countries combating IUU fishing can adopt this highly effective and cost-efficient enforcement mechanism.



A Vietnamese fishing vessel attempts to outrun Poseidon's speedboat after being caught fishing illegally within Thailand's EEZ.

## 9. VMS and MTUs:

EJF has provided recommendations on improvements to the Thai VMS system since February 2016 designed to facilitate the identification and analysis of suspicious vessel behaviour.

- Vessels under 30GT are exempt from having VMS installed. As of mid 2021 the total commercial fleet as defined by the RTG was 10,140 vessels measuring from 10GT and above. VMS is currently compulsory only for vessels over 30GT – 5,263 vessels – meaning that approximately 52% of the Thai commercial fleet is currently unmonitored. There have in the past been preliminary plans to extend VMS requirements to vessels over 20GT and eventually to vessels over 10GT.
- EJF understands VMS trials for several fishing vessels under 30 GT have begun as of July 2021. Initially the trial would have included at least 50 vessels however due to a resurgence of COVID-19 the trials were scaled down.

**Recommendation:** EJF commends such efforts to initiate such trials and encourages DoF to expand said trials as soon as the COVID-19 situation allows.

**Recommendation:** After these initial trials are completed, results should be closely assessed to determine how to expand trial efforts to a larger proportion of the commercial fleet as well as larger scope of high efficiency fishing gears. Monitoring trials should be prioritised on high-risk vessels or on high fishing intensity gears such as bottom trawlers or anchovy purse seine vessels.

- In September 2020, a DoF announcement<sup>45</sup> revoked the VMS Standard of September 2018 which had required the installation of Generation 2 (Gen 2) VMS MTUs in place of Generation 1 (Gen 1) units. EJF sees this declaration as a significant step backwards in terms of technological innovation as well as from a safety perspective. Gen 1 VMS units lack many of the new features of Gen 2 units including the ability to request immediate assistance from the authorities in case of emergencies.

**Recommendation:** The DoF should amend this announcement as soon as possible to ensure technological progress can continue. Gen 2 units have many safety and operational advantages over Gen 1 units and their installation should be encouraged as much as possible.

**Recommendation:** Both Gen 1 and Gen 2 units now have an independent power supply which is an incredibly important development to aid in uninterrupted monitoring. However, it is important that the VMS system and batteries are regularly inspected to ensure the installed parts are in line with regulations.

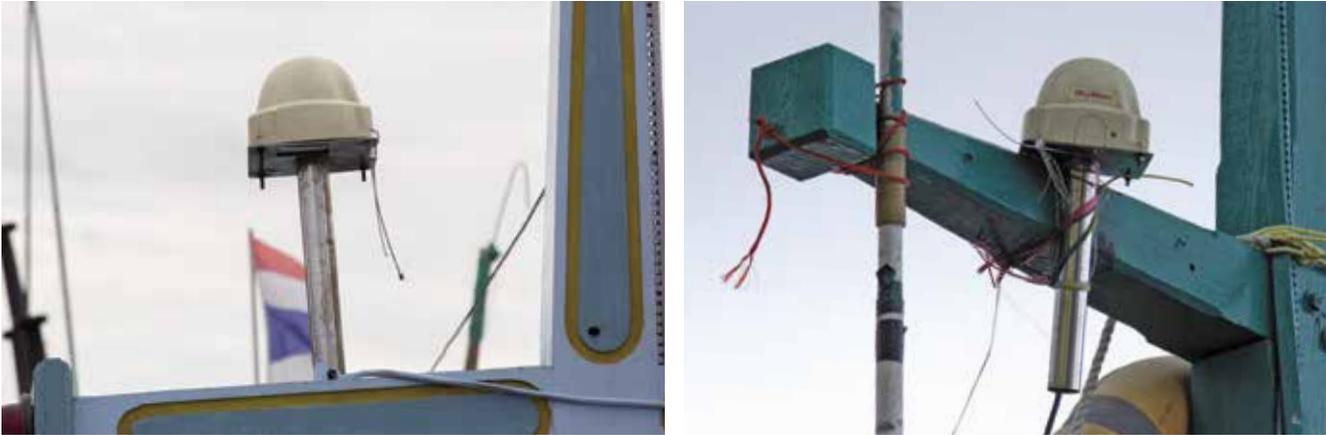
- EJF understands that less than 30% of the Thai commercial fishing fleet currently has Gen 2 units installed. These units are designed to reduce data costs as well as improve safety whilst at-sea by giving vessels the ability to alert the authorities in case of emergencies.

**Recommendation:** The DoF should expedite efforts to install Gen 2 units on vessels as soon as possible. DoF should prioritise vessels classified as high-risk and/or vessels with large numbers of crew.



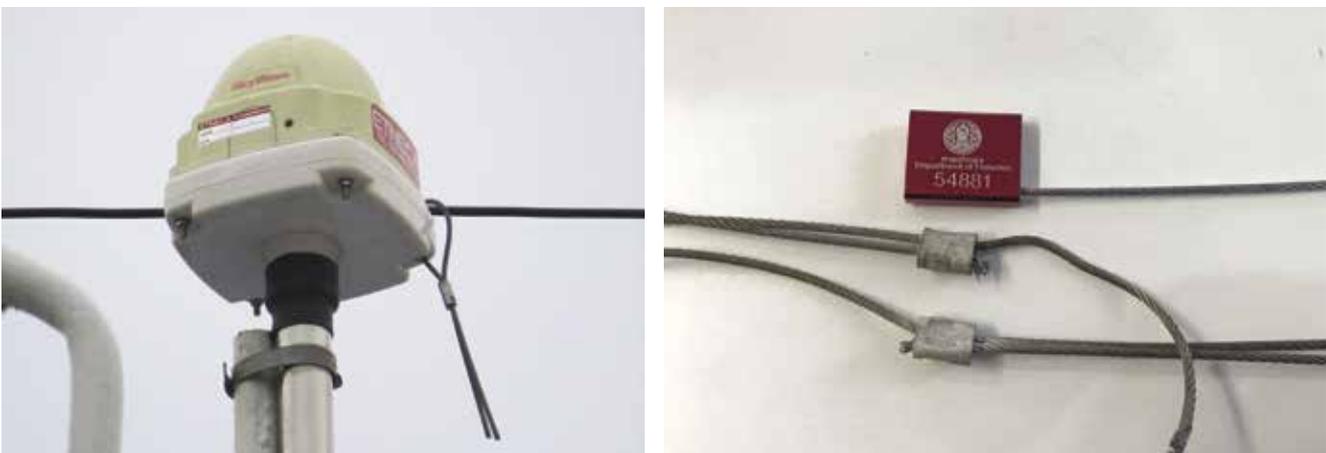
An example of a new Gen 2 unit incorporating new port, fishing, and SOS alert functions.

- Mobile transceiver units (MTUs) have been known to be easily removed from vessels. 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, reportedly all MTUs had been fitted with tamper-proof seal and locking devices. However, EJF has observed that although MTUs are secured with a locking device, some units could still be easily removable as they are only being secured to the vessel superstructure with rope or string.



Two examples of MTUs showing a well-fixed MTU with steel locking mechanism (left) and on the right, an MTU which is only loosely secured with string.

**Recommendation:** It is imperative that seals, locking devices, and indeed the MTU itself are checked regularly during both PIPO and at-sea inspections to make sure MTUs are not being tampered with and are not easily removable. As per DoF regulations, if such an infraction is identified during an inspection and especially a 'Port Out', the vessel should not be allowed to resume fishing until the issue has been rectified.



These photos show the steel locking mechanism attached to a VMS MTU (left) and a degraded lock (right).

- EJF has also observed that MTUs are succumbing to wear and tear which is resulting in the steel cable locking mechanisms breaking and rusting.

**Recommendation:** New high-quality weather-proofed locking mechanisms should be designed and fitted as soon as possible to prevent unscrupulous operators from exploiting the natural degradation of existing mechanisms.

- On-going communication and collaboration issues between critical agencies, the FMC, regional PIPO centres and THAI-MECC commands are proving a major hindrance in addressing IUU fishing. Incompatible vessel databases contain conflicting data or vessel of interest (VOI) information is not being passed on effectively - having a serious detrimental effect on enforcement efforts.

**Recommendation:** Agencies should have direct lines of communication so that VOI information can be relayed between them effectively. This interoperability should be applied to risk-based vessel monitoring and PIPO inspection regimes as discussed earlier in this briefing.

**Recommendation:** Vessel data should be seamlessly integrated into 'FishingInfo2' and this should be made accessible by all agencies. This should also be the sole database used by key agencies to limit compatibility issues. The database needs to be easily edited and updatable in real-time to allow the most effective use of data for VMS analysis as well as PIPO inspections.



Gen 2 units which incorporate SOS alert capabilities could help save lives if rolled out consistently across the current commercial fishing fleet.

## APPENDIX:

### Common Risk Assessment:

The Common Risk Assessment was first introduced in late 2018. It was designed to harmonize the existing risk calculation systems used by the Fisheries Monitoring Centre, THAI-MECC and those of individual PIPO centres. All three of these systems are now part of the CRA.

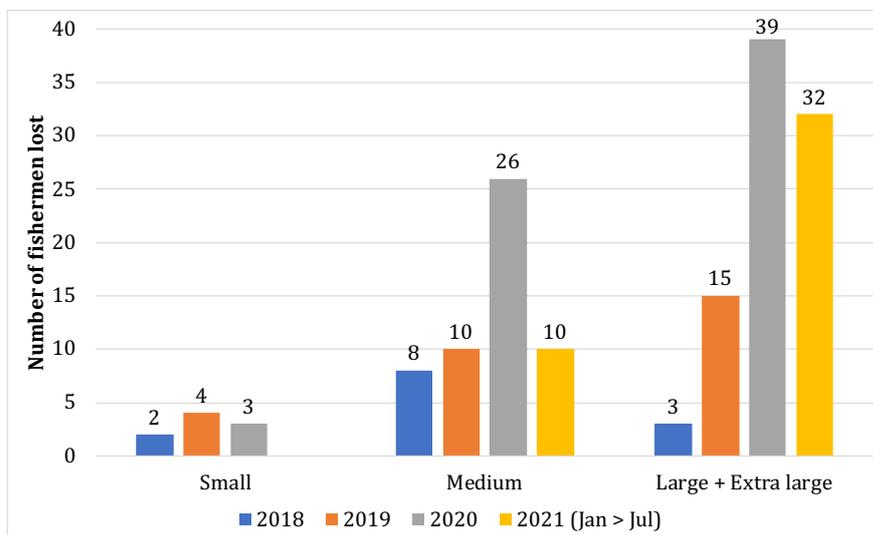
Under the CRA there are nine current vessel criteria that contribute to a total risk 'score' for each individual vessel. Three additional criteria are still under revision. These criteria are provided below:

Risk Number	Risk Description	Contributing Factors
R1	Violation of PIPO reporting requirements	<b>R1-1:</b> Ship has no tracking device; <b>R1-2:</b> Number of times the vessel has 'ported out' without being inspected
R2	Risk of committing labour violations	<b>R2-1:</b> Number of prosecutions; <b>R2-2:</b> Number of fishing days; <b>R2-3:</b> Number of rest hours for the crew; <b>R2-4:</b> Actual 'Port in' time is different from the declared 'port in' time
R3	Having the wrong number of crew on-board	<b>R3-1:</b> Number of crew is not consistent with DoF records
R4	Assuming a fake registration or registration tampering	<b>R4-1:</b> Vessel is on the watchlist, are in the medium or high risk vessel category, or are listed as damaged or sold abroad; <b>R4-2:</b> Vessel owner has previously sold other vessels in order to absorb/merge fishing licenses
R5	Fishing in coastal areas	<b>R5-1:</b> Vessel has a history of coming within reserved coastal areas; <b>R5-2:</b> Vessel owner or captain has a history of coming within reserved coastal areas; <b>R5-3:</b> Vessel has a history of missing VMS signals near coastal areas
R6	Anchovy purse seine vessel with risk of operating at night	<b>R6-1:</b> Vessel has a history of fishing at night; <b>R6-2:</b> Vessel owner or captain has a history of fishing at night; <b>R6-3:</b> The length of time used to fish; <b>R6-4:</b> Anchovy purse seine vessel owner owns light generating or squid light boats; <b>R6-5:</b> Distance from shore that vessels are fishing
R7	Falsifying logbook data	<b>R7-1:</b> Difference between logbook (LB) data and VMS; <b>R7-2:</b> Difference in weight of catch between landing declaration (LD) and LB; <b>R7-3:</b> Top three species differ between LD and LB; <b>R7-4:</b> Number of times that there have been unreported species between LD and LB; <b>R7-5:</b> Number of times vessel owner has misreported catch; <b>R7-6:</b> Number of times reason for 'port in' has suddenly changed to 'unloading of catch'; <b>R7-7:</b> Vessel that unloads its catch at multiple piers.
R8	Removing of VMS or turning off VMS	<b>R8-1:</b> Number of VMS faults; <b>R8-2:</b> Number of vessels a vessel owner has registered but have never once requested 'port out' clearance; <b>R8-3:</b> Number of times that a vessel has been called back due to VMS issues; <b>R8-4:</b> Number of cumulative VMS signal outages.
R9	Illegal or undocumented crew	<b>R9-1:</b> Vessel crew list has changed by more than 30% in the last three months.
R10	Using fishing gears not specified in their registration document	<i>The contributing factors for these three risk categories are still being finalised.</i>
R11	Captain or owner has previous offences or criminal records	
R12	Vessel has a recorded smuggling offence	

### Fishers lost at-sea between 2018 and 2021 (up to July 2021):

The below graph compares the number of fishers falling overboard from 2018 until July 2021 for Thai commercial fishing vessels based on size (Small = lower than 30 gross tonnes; Medium = 30-60 gross tonnes; Large + Extra Large = 60 gross tonnes upwards).

**Number of fishers lost at-sea from commercial fishing vessels by vessel size category (2018 - 2019)**

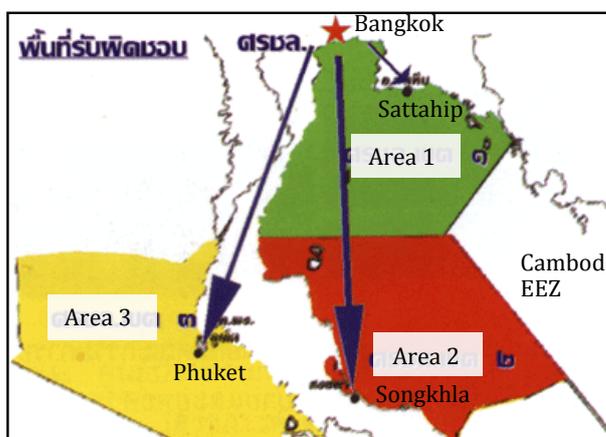


Number of fishermen falling overboard according to vessel size between 2018 and July 2021.

### Key departmental agencies:

- **THAI-MECC (Thai Maritime Enforcement Coordinating Center):** The principal agency responsible for enforcement and interceptions at sea – reporting directly to the Prime Minister’s Office. Other agencies involved include DoF, DMCR, Customs Department, Marine Department and Marine Police. It assumed all responsibilities and powers of the CCCIF in late 2019.

THAI-MECC is responsible not only for enforcing IUU prevention but also patrols the Thai EEZ for drug and contraband smugglers, illegal immigration, search and rescue, and national security protection.



It has its headquarters in Bangkok and three regional offices that cover:

- Upper Gulf of Thailand (Area 1)
- Lower Gulf of Thailand (Area 2)
- Andaman Sea (Area 3)

Map shows boundaries for Areas 1, 2, and 3 along with the locations of command centres.

Each THAI-MECC Area Command has various patrol vessels pooled from different agencies that can be called upon to conduct at-sea patrols and inspections where necessary.

THAI-MECC vessels also respond to urgent requests for inspections including cases of VMS issues, missing ‘port out’ documentation, crew discrepancies on the manifest, and reports from other ‘informant’ fishing vessels of potentially illegal activities.

### PIPO – Thai MECC Collaborative Chart

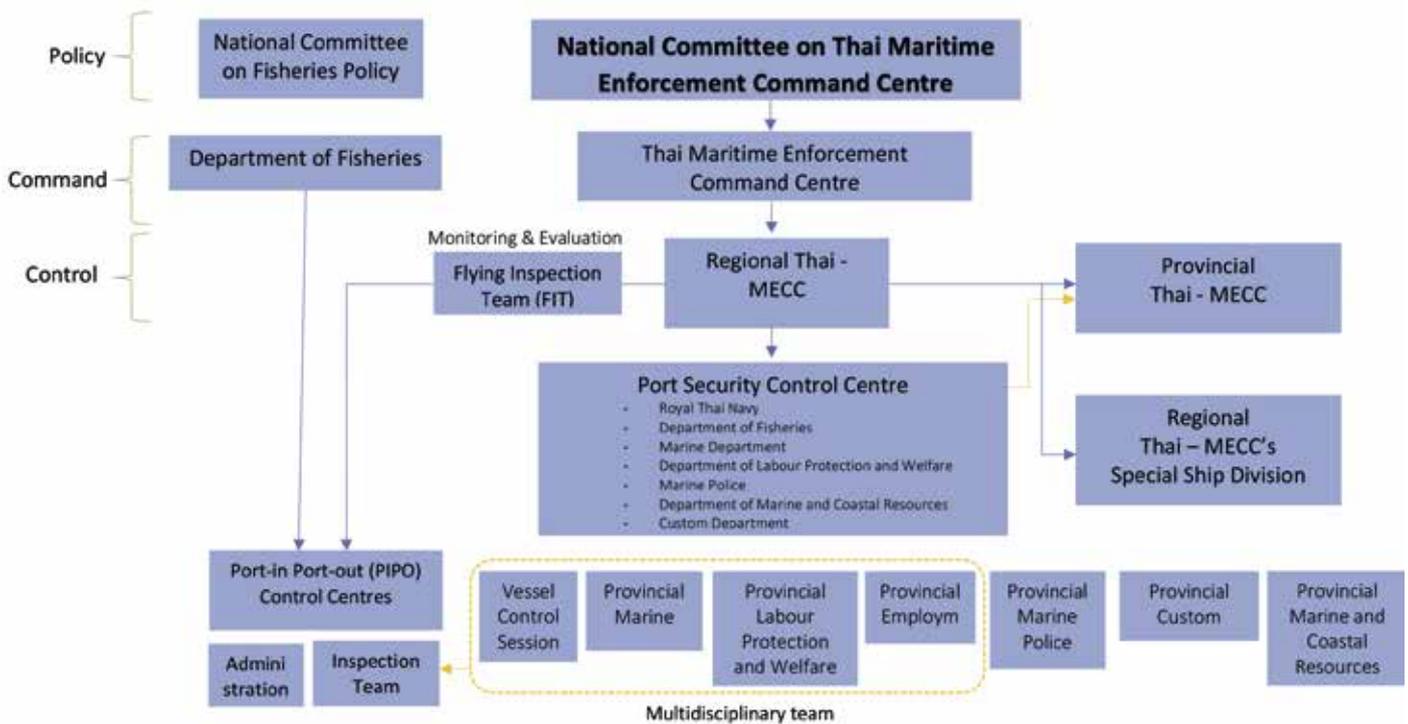
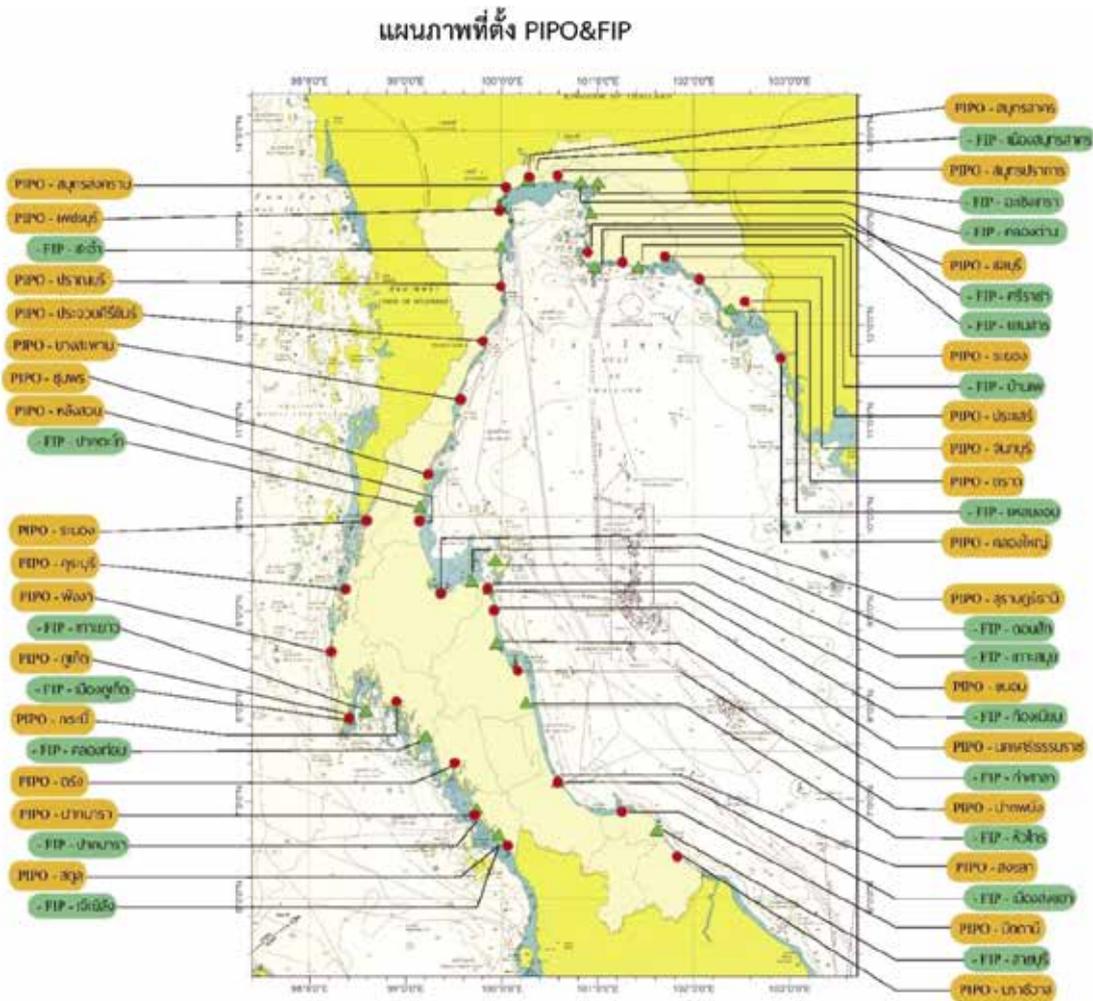


Table 4: Organisational chart for THAI-MECC, FITs and PIPO centres.

- **Department of Fisheries (DoF):** The DoF coordinates the Fisheries Monitoring Centre (FMC) in Bangkok alongside operations of all 30 PIPO centres across Thailand. DoF is also responsible for managing the ‘Fishing Info 2’ database.
- **Fisheries Monitoring Centre (FMC):** The FMC houses Thailand’s VMS and is responsible for monitoring the activity of almost 5,500 fishing vessels 24 hours a day. The FMC divides this task across four desks; Upper Gulf of Thailand, Lower Gulf of Thailand, Andaman Sea; and Distant water fleet. If a vessel is seen to be operating suspiciously, the vessel owner is notified and details are sent to THAI-MECC in the form of a daily report.
- **IUU Hunter:** In March 2018 IUU Hunter – under the jurisdiction of DoF and by order of Deputy Prime Minister Chatchai Sarikulya – was launched. It is comprised of four investigators and operates based on intelligence gathering and specific investigations of vessels of interest. The team carries out unannounced port visits to identify issues and potential vessel infractions whilst also working alongside PIPO centres to investigate subsequent cases. At the time of writing, IUU Hunter had been dissolved.
- **Flying Inspection Teams (FITs):** These specialist teams were initially formed under the CCCIF and subsequently now – THAI-MECC. FITs are comprised of Royal Thai Navy officers, DoF officials, experts in vessel inspections, labour investigations, and other relevant fields. FITs carry out two trip elements with the first being the training portion of the trip where FITs carry out port visits in order to provide training and support to officials. The second portion of the trip usually follows one or two weeks later and incorporates announced PIPO assessments in order to examine the overall performance and progress since the training trip. Each PIPO is scored and given an final report which identifies any gaps that should be addressed. EJF strongly recommends that FITs utilise unannounced inspections as these will provide a more accurate assessment.
- **Special Arrest Teams (SAT):** Royal Thai Police division responsible for investigating high-priority IUU and human rights related cases. SAT was formed in late 2018 and continues to carry out surgical field investigations across Thailand.
- **PIPO Centres:** There are a total of 30 PIPO centres (an increase from 28 in early 2016) across Thailand’s 22 coastal provinces. Every vessel wanting to leave or arrive into port must submit a request on the e-PIPO system a minimum of two hours before departure or one hour before arrival. This is usually carried out by the vessel owner sending all relevant information about the fishing vessel including the vessel’s documents, crew lists, and fishing information (for port ins) to their local PIPO centre. This information is accessible by the DoF’s VMS staff, THAI-MECC, and other PIPO offices.

In October 2020, PIPO centres were merged with fisheries inspection checkpoints and transferred to the jurisdiction of the new Fish and Fishing Vessel Division under the Department of Fisheries. PIPO centres have also been reallocated into the existing fisheries checkpoint area classifications. Note Areas 1 and 2 only cover freshwater checkpoints and are not included in the table.

Fisheries Checkpoint Area Classification No.	Provinces where PIPO centres are available
3	Chonburi
4	Trat, Rayong, Chantaburi
5	Samut Sakhon, Samut Songkram
6	Chumphon, Phetchaburi
7	Surat Thani, Nakhon Si Thammarat
8	Songkhla, Narathiwat, Pattani
9	Satun, Krabi, Trang
10	Ranong, Phang Nga, Phuket



This map shows the locations of each PIPO centre (red circles) and each FIP (green triangles) around Thailand's 22 coastal provinces.

**PIPO Centres Visited by EJF Staff:**

Since February 2016 EJF has conducted over 120 visits to PIPO centres across Thailand's 22 provinces. EJF has visited all 30 PIPO centres with many of these visited more than once, ensuring that any positive progress can be recorded on a recurring basis.

A full list of PIPO centres visited by EJF is available upon request.

## Abbreviations:

AIS-SART	AIS Search and Rescue Transponder	LB	Logbook
CB radio	Citizen Band radio	LD	Landing declaration
CCCIF	Command Centre for Combating Illegal Fishing	MCS	Monitoring, Control, Surveillance
CRA	Common Risk Assessment	MD	Marine Department
DoE	Department of Employment	MSDHS	Ministry of Social Development and Human Security
DoF	Department of Fisheries	MTU	Mobile Transceiver Unit
DLPW	Department of Labour Protection & Welfare	NGO	Non Government Organisation
DMCR	Department of Marine & Coastal Resources	PIPO	Port In Port Out
EPIRB	Emergency position-indicating radio beacon	RTG	Royal Thai Government
FIP	Forward Inspection Point	RTN	Royal Thai Navy
FIT	Flying Inspection Team	SAT	Special Arrest Teams
FMC	Fisheries Monitoring Centre	SOP	Standard operating procedures
GT	Gross Tonnage	THAI-MECC	Thai Maritime Enforcement Coordinating Centre
ILO	International Labour Organisation	VHF	Very High Frequency radio
IMO	International Maritime Organisation	VMS	Vessel Monitoring System
IUU	Illegal, unreported and unregulated (fishing)		

## Endnotes

- 1 <https://www.state.gov/reports/2021-trafficking-in-persons-report/>
- 2 [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C188](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C188)
- 3 [https://www4.fisheries.go.th/index.php/dof/activity\\_item/3502](https://www4.fisheries.go.th/index.php/dof/activity_item/3502)
- 4 Hat Yai Focus (7 September 2020) ขึ้นยื่น! รัฐบาลไม่ทอดทิ้งชาวประมง พร้อมรับฟังข้อเรียกร้องสมาคมฯ
- 5 ILO (30 January 2019) Thailand ratifies Work in Fishing Convention [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_666581/lang-en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_666581/lang-en/index.htm)
- 6 [https://www.matichon.co.th/region/news\\_1825669](https://www.matichon.co.th/region/news_1825669)
- 7 [https://www.matichon.co.th/politics/news\\_1797736](https://www.matichon.co.th/politics/news_1797736)
- 8 <https://www.thaipost.net/main/detail/75937>
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