

# THAILAND'S ROAD TO REFORM

## Securing a sustainable, legal and ethical fishery



A report produced by the Environmental Justice Foundation

Protecting People and Planet





Protecting People and Planet

**The Environmental Justice Foundation** is a UK-based environmental and human rights charity registered in England and Wales (1088128).

**EJF**

1 Amwell Street  
London, EC1R 1UL  
United Kingdom

[www.ejfoundation.org](http://www.ejfoundation.org)

Comments on the report, requests for further copies or specific queries about EJF should be directed to:

[info@ejfoundation.org](mailto:info@ejfoundation.org)

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## OUR MISSION

*To Protect People and Planet*

**EJF believes environmental security is a human right.**

**EJF strives to:**

- Protect the natural environment and the people and wildlife that depend upon it by linking environmental security, human rights and social need
- Create and implement solutions where they are needed most – training local people and communities who are directly affected to investigate, expose and combat environmental degradation and associated human rights abuses
- Provide training in the latest video technologies, research and advocacy skills to document both the problems and solutions, working through the media to create public and political platforms for constructive change
- Raise international awareness of the issues our partners are working locally to resolve

### **Our Oceans Campaign**

EJF's Oceans Campaign aims to protect the marine environment, its biodiversity and the livelihoods dependent upon it. We are working to eradicate illegal, unreported and unregulated fishing and to create full transparency and traceability within seafood supply chains and markets. We conduct detailed investigations into illegal, unsustainable unethical practices and actively promote improvements to policy-making, corporate governance and management of fisheries along with consumer activism and market-driven solutions.

EJF is working to secure sustainable, legal and ethical seafood.

Our ambition is to secure truly sustainable, well-managed fisheries and with this the conservation of marine biodiversity and ecosystems and the protection of human rights.

EJF believes that there must be greater equity in global fisheries to ensure developing countries and vulnerable communities are given fair access and support to sustainably manage their natural marine resources and the right to work in the seafood industry without suffering labour and human rights abuses.

We believe in working collaboratively with all stakeholders to achieve these goals.

For further information visit  
[www.ejfoundation.org](http://www.ejfoundation.org)

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## Abbreviations

AIS	Automatic identification system	IEZ	Inshore exclusion zone
ASEAN	Association of Southeast Asian Nations	IUU	Illegal, unreported and unregulated fishing
ATM	Automated telling machine	JTIP	Office to Monitor and Combat Trafficking in Persons
C188	ILO Work in Fishing Convention	LRA	Labour Relations Act
C87	ILO Freedom of Association Convention	MCS	Monitoring, control and surveillance (mechanisms)
C98	ILO Collective Bargaining Convention	MoL	Ministry of Labour
CCCIF	Command Centre for Combating Illegal Fishing	MPA	Marine protected area
CPUE	Catch per unit effort (measured in kg/hr)	NFAT	National Fisheries Association of Thailand
DLPW	Department of Labour Protection & Welfare	NGO	Non-governmental organisation
DoF	Department of Fisheries	NOAA	National Oceanic and Atmospheric Administration
EC	European Commission	P29	Protocol of 2014 to the Forced Labour Convention, 1930
EEZ	Exclusive economic zone	PIPO	‘Port in port out’ centre
FAO	United Nations Food and Agriculture Organisation	PSMA	Port State Measures Agreement
FMC	Fisheries Monitoring Centre	RTG	Royal Thai Government
FoC	Flag of convenience	SIMP	Seafood Import Monitoring Program
GPRS	General packet radio services	Thai-MECC	Thai Monitoring, enforcement and control centre
GSP	Generalised scheme of preferences	UVI	Unique vessel identifier
GT	Gross tonnes	VMS	Vessel monitoring system

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## Executive summary

Thailand's seafood industry was in recent years blighted by uncontrolled growth across its fishing sector resulting in rampant illegal, unreported and unregulated (IUU) fishing as well as violent associated human rights abuses including physical and verbal abuse and even murder. In 2014 these crimes were subject to a heightened level of international scrutiny. The decision by the European Commission (EC) in April 2015 to issue a 'yellow card' against Thailand's seafood exports to the European Union was one of several wakeup calls from the international community for the Thai government and fishing industry to introduce long overdue reforms. Significant progress has since been made to regain trust and shed a notorious image of a sector steeped in flagrant regulatory and labour abuses, however, much more remains to be done to ensure Thailand's fishing industry can become a truly sustainable, legal and ethical sector.

The Environmental Justice Foundation (EJF) is a UK-based non-profit organization working internationally to protect the environment and defend human rights. Over the past decade EJF has worked to help Thailand achieve this goal through extensive investigations into IUU fishing and associated human trafficking, forced labour and other labour abuses across the sector, high-level political advocacy and collaborations with decision makers to strengthen solutions in fisheries and labour management, alongside engagement with marginalised and vulnerable communities involved in artisanal fishing across the country.

This report analyses the dramatic transformation that the Thai seafood sector has undergone during the past four years. It explores where reforms have been strongest and where they still require urgent attention. It also highlights the need for continued strengthening of fisheries reforms in order to prevent Thailand from faltering back to its dark past. This is of paramount importance especially as Thailand's fishing sector advances through a significant period of transition, namely; the removal of the yellow card warning against Thailand's seafood exports in January 2019, a newly elected government expected to take office in summer 2019, and a gradual governance shift from military to civilian control across monitoring, control, and surveillance mechanisms for fisheries management and enforcement.

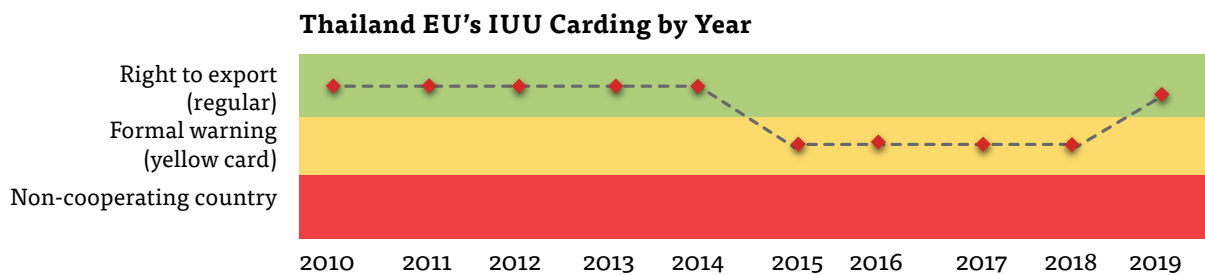
These transitions provide Thailand with a tremendous opportunity to elevate the seafood sector into a regional and global leader of sustainable, legal and ethical fishing practices. The reforms of the last four years are not merely a means to an end but also deeply significant for a global paradigm shift in fisheries management. Calls for more accountable and easily verified catch, greater transparency of supply chains, and strong meaningful labour standards are only going to grow stronger. Failure to continue to strengthen and build upon further reforms could allow parts of the seafood industry to repeat their past illegal and unethical behaviour, likely result in the disintegration of Thai marine ecosystems and recurrences of brutal and inhumane abuses across the sector, leading to the reintroduction of restrictions on market access for Thai businesses.



A reefer prepares to unload its frozen tuna cargo at one of Bangkok's ports. © EJF

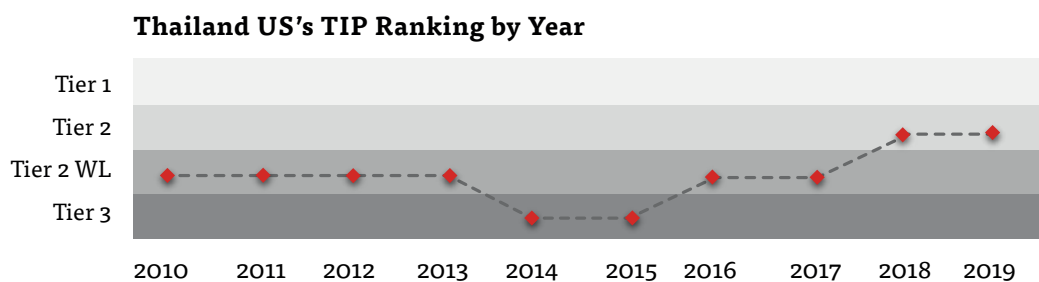
## Introduction

Thailand's seafood industry was worth over \$6.9 billion in 2018.<sup>1</sup> It is also home to some of the globe's largest seafood conglomerates including Thai Union, Charoen Phokphand and Sea Value making Thailand responsible for processing 25% of the world's tuna for 2018.<sup>2</sup> Thailand also has one of the largest commercial fishing fleets in the world with over 10,000 commercial vessels as of summer 2019.<sup>3</sup> Commercial vessels are defined in Thailand as fishing vessels above 10 gross tonnes (GT) whereas artisanal/small-scale vessels are classified as fishing vessels below 10 gross tonnes. Only commercial vessels over 30GT are currently monitored via VMS.



In the wake of numerous reports, expose, and investigations by non-governmental organisations (NGOs) including EJF and media outlets such as the Guardian and Associated Press, intense international pressure became focused on Thailand's fisheries sector.<sup>4/5</sup> This culminated in the decision by the European Commission (EC) in April 2015 to brand Thailand as a non-cooperating country in the fight against IUU fishing thus issuing a formal 'yellow card' against the country's seafood exports.

After almost four years under this process, the EC decided to remove the 'yellow card' warning on 8th January 2019. This decision was made based on the scope of reforms designed to eliminate IUU fishing operations and prevent incidences of forced labour and human trafficking on-board fishing vessels. Notable reforms included the ratification of key international agreements, modernisation of domestic fisheries laws, introduction of transparency initiatives, and an overhaul of portside and at-sea inspections of fishing vessels.



International scrutiny of Thailand's human rights record also brought censure from the US State Department Office to Monitor and Combat Trafficking in Persons (JTIP Office) in the form of a downgrade to 'Tier 3' on the annual Trafficking in Persons report for 2014. Thailand remained at this lowest ranking level for 2015 before gradual improvements in anti-trafficking efforts and identification capabilities led to Thailand progressing to 'Tier 2 watchlist' for 2016 and 2017. Thailand was eventually upgraded to 'Tier 2' status in 2018 and remains at this level for 2019.<sup>6</sup>

As Thailand prepares to elect a new government in summer 2019 it is vital that the leading parties acknowledge and understand the multi-faceted impacts that recent reforms have had on the industry and its numerous stakeholders. These include thousands of artisanal fishers who have benefited from stricter protections of their fishing grounds and greater economic and food security; migrant workers who are now registered and able to access their funds through electronic banking systems which improve accountability and security; and commercial fishers who have benefited from a fairer and less conflicting relationship with their fellow fishing operators as well as a more sustainable and durable fishing sector.



## Slavery, murder, and trafficking on Thai fishing boats

Until recently Thailand's fishing industry was the scene of very widespread slavery, brutal physical abuse, human trafficking, and even murder of vulnerable migrant workers. Failure to act against these criminal operators led to global notoriety for Thailand's seafood sector, as one of the most abusive and destructive economic sectors in the world. These abuses were combined with uncontrolled overfishing as well as IUU fishing which threatened to strip Thailand's waters of its fish stocks and precious marine biodiversity.

EJF's reports across the industry since 2013 have documented how illegal fishing practices created major economic incentives for human trafficking, the violence and human rights abuses of fishermen on-board boats and more broadly within the sector. EJF's investigations uncovered how unscrupulous vessel owners have preyed on vulnerable migrant workers from neighbouring countries, often threatening them with violence, debt bondage, and threats against their families whilst forcing them to work, commonly in atrocious living and working conditions.<sup>7/8</sup>

***"Whenever I came back to port they told me I owed them 20,000 or 30,000 baht (\$600 - 900 equivalent). I couldn't ask why, they would beat me – any one of them would've killed me, so I didn't ask. I've seen beatings and killings before so I didn't dare ask."***

Mao Thant Kyaw, escaped victim of trafficking.

In addition to the numerous reports of forced labour and human trafficking on-board fishing vessels, Living and working conditions were often poor with inadequate supplies of food, water, and medical supplies. In 2016, for example, several workers on board distant-water fishing vessels succumbed to beriberi disease and water borne diseases due to vitamin deficiencies and lack of access to appropriate medicines.<sup>9</sup>

A complete failure to deliver any kind of effective fisheries management regime and governance combined with downward economic pressures driven by rampant unsustainable and often illegal fishing in a wholly opaque system helped to facilitate abuses. Woeful conditions on-board boats and atrocious labour abuses were also almost completely undetectable by the authorities. A complete lack of vessel controls and port-side inspections coupled with opaque recruitment and worker registration procedures became connected with a need for foreign migrant workers to fill the void left by a Thai economy with near full employment and a resistance for Thai workers to seek employment in its notoriously harsh seafood sector. These factors facilitated a system reliant on human trafficking and forced labour of migrant workers on-board fishing boats. Practices such as the at-sea rotation of workers were common due to the undocumented nature of the workforce, allowing employers to keep trafficked workers at-sea for months or even years - in effect imprisoning them on-board their fishing vessel.<sup>10/11</sup>



A PIPO inspection takes place in Nakhon Si Thammarat, Thailand. © EJF

## A complete absence of control or regulation in Thai fishing



Dwindling catches in Thailand's fisheries lead to a cruel, self-reinforcing cycle of profit hunting amidst cutting costs. © EJF

EJF's report 'Pirates and Slaves' established how many of these horrific labour abuses were closely linked with uncontrolled growth of the Thai fishing industry from the 1950s onwards.<sup>12</sup> Thai commercial fishing vessel numbers rose from just 99 powered trawlers in 1961<sup>13</sup> to an estimated 57,000 in 2011.<sup>14</sup> Such estimates were far above sustainable fishing levels whilst also being too inaccurate to inform any governmental fisheries policy or enforcement mechanism. This was in addition to almost non-existent and hopelessly out-dated fisheries legislation and enforcement regulations, allowing fishing operators to fish with impunity in sensitive areas, during closed seasons, with damaging gear and during prohibited times without any fear of being noticed or inspected by the authorities. These serious deficiencies in even basic fisheries management led to a rapid depletion of fish stocks not only in Thailand's domestic waters but also of those across Southeast Asia.

Thai fishing vessels rapidly became a pirate fishing scourge across the region with frequent vessel intrusions into Cambodia, Malaysia, Myanmar, and Indonesia.<sup>15/16/17</sup> Fishing vessels would stay at sea for months or even years at a time - relying on a network of supply ships and refrigerated cargo vessels to restock them with fresh food, water, fuel, and crews whilst also transporting their catches back to port.

## Rogue fishing fleets in Indonesia

As fish stocks around Thailand were progressively depleted, fishing fleets were forced to travel further and further from land, eventually basing themselves in isolated spots in foreign countries thousands of kilometres from home. One of these regions was a remote chain of islands in the far east of Indonesia. As of 2014, hundreds of Thai vessels were based at these remote islands including around Ambon and Benjina. These fishing vessels were often heavily armed,<sup>18</sup> unregistered and completely unknown to the authorities, and crewed by trafficked workers who were often forced to work for little to no money.

The seafood that they caught was transported back to Thailand and international markets through a network of large refrigerated cargo vessels - the movements of which were revealed through several media reports in early 2015.<sup>19</sup> A complete lack of traceability documentation, observers, or vessel inspections meant that this illegally caught fish could remain undetected throughout the process and could enter international supply chains with ease.



'Sea Network' - one of several Thai-flagged refrigerated cargo vessels that was involved in the transport of seafood from fishing vessels based in the Arafura Sea. © EJF



A complete absence of monitoring, control, and surveillance (MCS) mechanisms across both the domestic and distant-water Thai fishing fleets also meant that it was practically impossible to determine where catch was coming from and where product was destined. Vessel movements were also an unknown entity, allowing commercial vessels to fish within marine protected areas (MPAs) and the inshore exclusion zone (IEZ) – a three nautical mile zone extending outwards from the shore reserved for artisanal fishers – without fear of ramifications. This led to frequent conflicts with small-scale fishermen.

***“We used energy drink bottles to warn commercial vessels to back off. We attacked and kept on throwing, and throwing. Glasses were shattered everywhere. We believed that’s the best we could do to protect our village...”***

Artisanal fisher from the western coast of the Gulf of Thailand.<sup>i</sup>

Even if fishing vessels were caught for IUU fishing crimes, punitive and criminal sanctions were so low as to offer little to no deterrent against committing future crimes. Trawler operators were known to pay arbitrarily small fines before their vessel would be released, allowing them to return to the same illegal fishing activities almost immediately.<sup>20</sup>

***“There are laws but they aren’t enforced. You get fined 5,000 baht (\$150) for fishing within three kilometres of the coast, but this is like a grain of sand for the larger fishers; they might as well just pay up before they head out for the night.”***

Sirasa Kantaratanakul, Thai campaigner.<sup>21</sup>



A range of fishing vessels in Rayong port show the size disparities between small-scale boats and their larger commercial counterparts. © EJF

<sup>i</sup> EJF interviewed artisanal fishers from the following coastal provinces: Krabi, Nakhon Si Thammarat, Phang Nga, Phattalung, Pattani, Phuket, Prachuab Khiri Khan, Ranong, Satun, Surat Thani, and Trat.

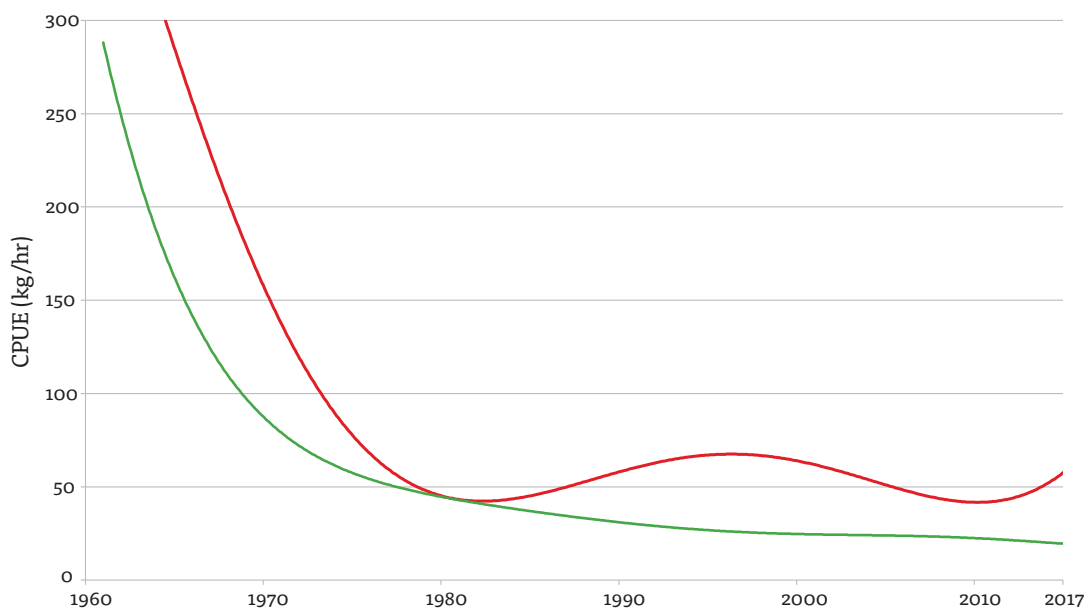


Fishers were also prone to using several destructive fishing gears including push nets, foldable fish or shrimp traps (commonly known as ไล่โลง), and set bag nets (commonly known as โพงพาง) – now banned under the Fisheries Act of 2015. These gears had devastating impacts on fish stocks and marine ecosystems, turning vast swathes of Thailand's coastal seabeds into barren wastelands.<sup>22</sup> Severe stock depletions lead to commercial vessels increasingly targeting 'trash fish' (ปลาเป็ด)<sup>ii</sup> - largely comprised of juveniles of commercially important species – resulting in a self-reinforcing cycle which accelerated the exhaustion of Thailand's marine resources.<sup>23</sup> Catching juveniles is an especially damaging practice as it means that fish and other seafood are harvested before they have had the opportunity to reproduce and replenish the stock.<sup>24</sup>



Coral reefs across Southeast Asia have been devastated by destructive fishing methods such as bottom trawling, push nets, electro and dynamite fishing. © EJF

CPUE from 1961 - 2017



Catch per unit effort (kilograms caught per hour) for the Gulf of Thailand (green) and Andaman Sea (red).

ii Oxfam and Sal Forest define trash fish as being fish (including crustaceans) of commercial species that are unsaleable because they are damaged or degraded by poor post-capture handling; The mashed-up detritus of fish, crustaceans and other marine biota that coats the back of the cod-end of the net after a prolonged trawl.

Such a deficient fisheries management system coupled with ineffective sanctions and punishments, resulted in severe fish stock depletions in both the Gulf of Thailand and Andaman Sea. Catch per unit effort (CPUE) – a measure of how healthy fish stocks are – in the Gulf of Thailand fell by 92% between 1961 and 2015 whilst in the Andaman Sea CPUE fell by 75% between 1966 and 2015.<sup>25</sup> Catch per unit effort is often used to measure the abundance of a particular target species or fishery. It is measured in kilograms of fish caught per hour. These figures amplified an already overwhelming wealth of evidence to require urgent action to reform the industry - both in terms of legality and sustainability, and also the ethical treatment of its workforce.

## Resistance to change from the National Fisheries Association of Thailand

It is apparent that several of the recent reforms have not been well received by fishing vessel owners; with the National Fisheries Association of Thailand (NFAT) forcefully opposing several key elements aimed at rectifying the situation.<sup>26</sup> NFAT is an alliance of nationwide fisheries organisations – primarily representing the interests of commercial fishing operators. There are 22 provincial fisheries associations for each of Thailand's coastal provinces as well as a number of specific fishing gear organisations.<sup>27</sup>



NFAT has orchestrated several highly visible campaigns at fishing ports across the country. This banner was on display in Samut Sakhon - one of the busiest ports in Thailand. © EJF

At times, NFAT's protests have included open hostility and protests directed against the European Union and the yellow card,<sup>28</sup> the ratification of core ILO conventions (which would help bring Thai labour laws into line with international minimum standards),<sup>29</sup> and adoption of electronic payment methods for fishers.<sup>30</sup> NFAT has also controversially campaigned to allow for greater leniency in allowing 16 year olds to work on-board fishing vessels whilst also calling for reductions in social security protection requirements for migrant worker fishers.<sup>31</sup> More recently they have called for the International Labour Organisation's (ILO) 'Work in Fishing' Convention (C188)<sup>iii</sup> to no longer apply to vessels that fish for longer than three days and should only apply to vessels over 24m in length. If NFAT were to successfully remove this stipulation on time spent at sea it would drastically reduce the coverage rate to just 570 vessels (over 24m) out of a total 10,400 commercial fishing vessels. This would account for just 5% of the Thai commercial fleet and render Thailand's ratification of C188 virtually meaningless.

NFAT's negative and hostile attitude were also exemplified by attempts to disrupt several public hearings held in 2018. These hearings were designed to increase participation in the drafting process for the subsequent ratification of several ILO Conventions including the Forced Labour Protocol (P29) which Thailand eventually ratified in June 2018. NFAT's disruptions instead inhibited constructive stakeholder discussions about the development of future Thai forced labour laws. Such actions negate the important benefits of promoting public participation in government policy in order to achieve a common goal and could jeopardise the overall effectiveness and benefits of the ILO's Conventions and Protocols. Ultimately NFAT's controversial demands and protests could result in the erosion of workers' rights and increase the prevalence of hazardous living and working conditions in one of the most dangerous work environments in the world.<sup>32</sup>

<sup>iii</sup> Convention No.188 (C188) establishes minimum labour standards to improve the safety, health and medical care for workers on fishing vessels and ensures they have the protection of a written work agreement and the same social security protections as other workers.



## Rebuilding Thailand's fisheries management system

Intense international scrutiny alongside official warnings both in the form of the TIP report Tier 3 downgrade and yellow card warning from the European Commission made it increasingly evident that serious reforms were needed if the industry was to remain competitive. Seafood exports in 2015 to the European Union were valued at \$653.6 million whilst those to the United States were \$1.14 billion, thus representing a serious financial threat to Thailand's seafood industry.<sup>33</sup>

Arguably the most basic, fundamental measure needed for any robust fisheries management policy is the formulation of appropriate legislation. The Thai Fisheries Act, 2015 (B.E. 2558) provided this backbone and was one of the first announced reforms by the National Council for Peace and Order (NCPO).<sup>34</sup> The Act introduced robust financial sanctions for engaging in illegal fishing, new restrictions on destructive gear types, and basic protections for artisanal fisher rights through the introduction and enforcement of the IEZ.<sup>35/36</sup>

***“Before the regulations, industrial trawlers were fishing within 1000 metres from shore. Within a few years, short-bodied mackerels and crabs had drastically decreased. We went from a situation where we had so much catch we gave it away for free to a situation where we had almost nothing at all.”***

Artisanal fisher from the western coast of the Gulf of Thailand.



A PIPO official inspects the satellite-based vessel monitoring system (VMS). The regular inspection of VMS units is necessary to ensure that they have not been tampered with or removed. © EJF

To facilitate greater surveillance capabilities of Thailand's commercial fishing fleet, vessel monitoring systems (VMS) were introduced to all commercial vessels over 30 gross tonnes (GT). It should be noted however that Thai fishing vessels over 10GT are classified as commercial meaning that VMS currently only covers 53% of the entire commercial fleet.<sup>37</sup> Nevertheless the introduction of such satellite tracking technologies have allowed the Thai Department of Fisheries (DoF) to collect precise fishing locations, durations, and times - helping to minimise the risks of vessels engaging in IUU fishing. VMS and other systems such as Automatic Identification System (AIS) can also help detect unauthorised fishing activity within MPAs or the IEZ, unauthorised transshipments of catch, crew transfers, or other illegal activities.<sup>38</sup>

***“VMS recordings help prevent commercial vessels from entering the IEZ . Fewer commercial vessel intrusions have finally given juvenile fish the chance they need to mature.”***

Artisanal fisher from the northern coast of the Andaman Sea.

In order to better understand and quantify the Thai commercial fishing fleet it was essential to introduce the mandatory installation of unique vessel identifiers (UVIs) on all fishing vessels over 10 gross tonnes; painting of registration numbers and callsigns on the sides of ships; and reassessment and digitisation of the Thai fishing vessel license list.

The installation of UVIs by the Thai Marine Department on all commercial fishing vessels alongside the publication of a digital, online database of licensed Thai fishing vessels has enhanced the authorities' abilities to verify vessel identity and ownership - a crucial aspect of vessel controls. This public database (containing approximately 10,400 vessels at the time of writing) provides real-time access to vessel metrics for relevant agencies across Thailand and the globe, greatly enhanced transparency in an historically opaque industry.<sup>39</sup>

A critical gap that has historically inhibited imposing fishing limits was lack of controls on vessel movements and fishing trips. The solution to this was to establish a network of 30 'Port in Port out' (PIPO) centres across the country which can liaise vessel information with at-sea patrols conducted by the Royal Thai Navy, DoF, Marine Department, and other relevant agencies. Any vessel which wants to either leave or return to port must request authorisation and - depending on their previous compliance level - receive an on-board inspection by a multidisciplinary team. Increasingly this process has become digitised, allowing for greater accountability and data verification.

Additional measures to boost traceability of catch and bring vessel inspections in line with international standards have included the ratification of the FAO's Port State Measures Agreement (PSMA) in May 2016, digital 'Thai Flag' catch certification software which has increased accuracy and transparency in seafood supply chains, allowing authorities and other relevant stakeholders real-time access to this data.<sup>40/41</sup>



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



## Innovative tactics in at-sea enforcement



Five Vietnamese trawlers are moored up next to Poseidon for processing. © EJF

At-sea patrols can be thwarted by the fact that Navy or police patrol craft are easily recognisable, often providing ample warning to illegal operators of an approaching threat. This has in the past allowed groups of IUU vessels to scatter when a patrol vessel is spotted.

In October 2017, a new patrol innovation, in the form of a retrofitted old fish carrier vessel was introduced. The vessel – named ‘Poseidon’ – is an unremarkable looking vessel, still peppered with rusted exterior sections, dents, and chipped paintwork. However, this worn exterior makes Poseidon a uniquely effective tool in the ongoing battle against IUU fishing. Its unassuming profile on the horizon does not raise the alarm as a regular law enforcement vessel might do, meaning that illegal fishing vessels will approach without suspicion.

In order to increase its effectiveness as an enforcement mechanism, Poseidon will often drift with the currents on the fringes of Thailand’s exclusive economic zone (EEZ) – thereby maximising time at sea as well as reducing fuel costs. It can stay at sea for several weeks at a time, either intercepting vessels that it finds or relying on intelligence sent to it from Bangkok’s central monitoring centre.

EJF has accompanied Poseidon on several patrols in the Gulf of Thailand since April 2018. These trips have resulted in the apprehension of 12 Vietnamese fishing vessels caught illegally fishing within Thailand’s waters. Poseidon’s success is demonstrated by its remarkable capture rate. In 2018 it was alone responsible for impounding 91 vessels with 23 of these Thai and 68 of them flagged to other countries.<sup>42</sup> Thailand’s innovations in enforcement should provide ample encouragement to coastal States around the world to adopt similar methods in combating IUU fishing whilst also minimising the financial burden of enforcement.

***“Poseidon is different to any other patrol boats. Navy, Fisheries, Marine Police – they can’t do what we do because fishing boats can see them coming and run way. With Poseidon, they don’t know it’s a patrol boat until it’s too late.”***

Poseidon captain.

## Economic impacts of reforms

*“Being in the ‘yellow card’ category has had a damaging impact on the fishery industry in terms of both sales and reputation. The current government has done an impressive job in improving Thailand’s status. What we have to do next is make sure we maintain this standard.”*

Kriengkai Thiennukul, vice chairman of the Federation of Thai Industries, speaking in January 2019.<sup>43</sup>

Thailand’s seafood industry has long been known to be a vital contributor to overall exports, supplying almost 20 percent of the country’s food product exports in 2018.<sup>44</sup> In 2018 total exports numbered 1.56 million tonnes of seafood worth over \$6.9 billion.<sup>45</sup>

**Table 1: Selected statistics for important seafood exports in 2018**<sup>46/47</sup>

Product type	Volume (tonnes)	Export value (billion USD)	% of fisheries exports
Canned tuna	512, 609.55	2.26	35
Shrimp and prawns (processed, cooked, dried or canned)	170, 868	1.57	28
Processed squids/cuttlefish	41, 548.35	0.33	5
Total % of fisheries export	-	-	68

**Table 2: Top 10 markets for Thailand’s seafood exports in 2018 by value and percentage**<sup>48/49/50</sup>

Country	Export Value (million USD)	% of total export value of 6.95 billion USD
Japan	1,385	20%
USA	1,375	20%
ASEAN (9)	605	9%
The EU (28)	546	8%
Middle East (15)	490	7%
Africa (47)	447	6.4%
China	430	6%
Australia	408	5.9%
Canada	264	3.8%
South Korea	195	2.8%

Since 2013 Thailand’s seafood industry has faced several challenges including unfavourable economic conditions in export market countries, disease outbreaks amongst farmed shrimp species, and trade barriers imposed by export partners, for example, the EU’s withdrawal of the Generalised Scheme of Tariff Preferences (GSPs) in 2014 for canned tuna and processed shrimps.<sup>51</sup> The GSPs had previously provided Thailand with low or tariff-free trade opportunities on these key exported seafood products.

Reports of illegal fishing crimes, forced labour and abuses added to these obstacles, with some major international buyers even suspending their purchases of Thai seafood.<sup>52</sup> The subsequent yellow carding decision by the EC compounded this, resulting in total export values experiencing a 21% decrease in 2015 – making it the worst year for trade in fishery products in half a decade.<sup>53/54</sup> By 2017 these combined factors culminated in the EU moving from being Thailand’s third most important market for seafood exports – a position it had held since 2001 – to fourth behind its exports to other ASEAN countries.<sup>55</sup>



Although export values have recovered to some extent since, Thailand's seafood exports to the EU are yet to return to their previous levels.<sup>56</sup> Even so the EU market continues to be an economically attractive option for Thai seafood providers with EU seafood products including processed tuna and frozen shrimps selling approximately 33% higher than in markets such as China, the Middle East and ASEAN.<sup>57</sup> To lose market access or have exports shift away from European countries would restrict Thai seafood suppliers to selling their products in less lucrative markets.

***“If the European Union does not reduce its regulations of Thailand's fisheries, the National Fisheries Association of Thailand, along with other members and fishermen will have to find ways to fight the EU and will not allow the EU to conduct any business activities in Thailand's seas including exploration or drilling for petroleum resources.”***

Mongkol Sukcharoenkana, Chairman of NFAT speaking in September 2017.<sup>58</sup>

Many critics of recent fisheries reforms – including NFAT – often associate the measures with only being in compliance with the European Commission's IUU Regulation. However, such a view neglects the growing international recognition of IUU fishing as a major threat against the ecological and economic sustainability of global fisheries.<sup>59</sup>

Many leading countries, seafood suppliers and retailers involved in seafood trade have, in recent years, become more engaged, active and vigilant around their seafood sourcing policies in order to prevent illegally caught fisheries products from entering their supply chains or jurisdictions. For example, the U.S. Government's National Oceanic and Atmospheric Administration (NOAA) has recently introduced the Seafood Import Monitoring Program (SIMP). The program is designed to work alongside the EC's IUU Regulation as a complementary legislative instrument and covers both tuna and shrimp – Thailand's two main exported species to the US (\$1,159 million export value in 2018) – are among the species included in the program.<sup>60/61</sup>

Australia too has recently introduced a Modern Slavery Act which will call on Australian businesses and corporations to report annually on the risks of modern slavery in their supply chains.<sup>62</sup> Thai seafood exports to Australia were recently valued at almost \$408 million representing a significant market for Thai seafood suppliers.<sup>63</sup> The Australian Seafood Importers Association of Australia has recently helped advocate for many of the positive changes taken by the Royal Thai Government (RTG) and seafood companies to eliminate abuses from the industry.<sup>64</sup> Thailand's recent reforms represent essential platforms on which to build future trade prospects in an international marketplace which is increasingly focused on verifying the origin, traceability and sustainability of product.



Port workers help sort the fish landed by a nearby fishing boat. © EJF

A business trend analysis published in 2019 by the Kasikorn Research Centre – affiliated with Kasikorn Bank - predicted that Thai seafood exports will improve for 2019, driven in part by increased buyer confidence in Thailand's seafood industry. The analysis (published after the January yellow card removal) also predicts that the news of the card lifting will give the industry a 2% boost valued at between U.S. \$400-410 million for 2019 alone.<sup>65</sup>

***“ Being no longer in the ‘yellow card’ category...means that Thailand now has greater potential to expand its exports to the EU market... [and] creates a good image for Thailand’s fishery industry and indirectly improves the prospects of developing a Thai-EU free trade agreement.”***

Auramon Supthaweethum, Director-General of the Department of Trade Negotiations, Commerce Ministry, speaking in January 2019.<sup>66</sup>

The importance of continued commitment to solving IUU fishing is acknowledged by industry exporters who had experienced direct impacts to their business back in 2015. Key business networks including the Thai Chamber of Commerce and Thai Fishery Producers Coalition founded by eight fisheries associations, have all recognised the reforms as a turning point for Thailand's agricultural and fisheries sector that will help secure renewed trust from many import countries.<sup>67/68/69</sup>

Uncertainty about the durability of recent reforms could result in these predicted economic improvements faltering and the fragile trust regained over the last three years dissolving once again. Dismantling such reforms would also be to squander the advantage that Thailand has gained in terms of fisheries transparency improvements including extensive fleet controls, PIPO vessel inspections, and the installation of VMS. These are all instruments that work to strengthen Thailand's pursuit as a leader in ethical, legal and sustainable fisheries.

## Impact on fish stocks and small-scale fisheries

Small-scale fishing vessels are the most numerous category of vessel in Thailand's fishing fleet with almost 22,000 vessels under 10GT as of early 2019 (making up 67% of the total fleet).<sup>70</sup> Even so, these vessels only catch 15% of the total wild-caught seafood landed in Thailand, meaning that traditionally they have largely been disregarded in terms of formulating fisheries policy.<sup>71/72/73</sup> The sad irony of this is that small-scale fishers are often the most sensitive sector to changes in their natural environment and way of life, whether through natural seasonal variations or changes in fishing practices and fluctuations in fish stocks. This means that any changes in fisheries policy are likely to have the largest impact on the societal group that is consulted the least.

***“The situation became violent because there was no government agency to help resolve the conflict. Whenever there were commercial fishing boat intrusions, we had to take matters into our own hands. It was very violent, but we had to survive and protect our way of life. We tried negotiating with them but that did not work out. So we had to resort to violence...”***

Artisanal fisher from the western coast of the Gulf of Thailand.



Artisanal fishers in Surat Thani unload fishing nets from their fishing boat. © EJF



Such acute perception to change means that small-scale fishers are extremely adaptable in response to natural variability. However, the highly-efficient commercial fishing sector often leaves little in the way of compromise for these communities.<sup>74/75</sup> In addition, their frequent marginalisation and lack of inclusion in decision making means that their requests for equal fishing rights and protections often falls on deaf ears.

Such conflicts lead to a deterioration in the relationship between industrial and artisanal fishers and a ferocious race to the bottom over ever dwindling fish stocks. Reports of violence, weapons, hostility were common.

***“ We had to turn to violence sometimes. The law did not clearly recognise our conflict back then... The negotiations rarely worked out. We had to fight back against the commercial boats with weapons because the laws were weak. They were not afraid and would not back away from our coastal zone.”***

Artisanal fisher from the southern coast of the Andaman Sea.

Over 90% of the 68 small-scale fishers EJJ has spoken to since the start of 2019 stated that historical clashes mainly originated from encounters between artisanal and commercial fishing vessels using destructive and highly efficient gears

within the reserved IEZ. These practices wreaked devastation on economically important species and especially juvenile fish that had not yet reached maturity or had the opportunity to reproduce.<sup>76/77</sup> Such unregulated and indiscriminate fishing caused severe damage to ecosystems, disrupting coral reefs and seagrass meadows which are often used as breeding grounds and as nurseries by young fish.<sup>78</sup>

***“ Now I can see that the seagrass beds are looking much healthier. They are vital for the survival of juvenile fishes and now we see more fish growing up to survive and replenish the sea.”***

Artisanal fisherwoman from the northern coast of the Andaman Sea.

Several artisanal fishers spoke about how these frustrations almost resulted in them giving up livelihoods that had been passed down through the generations.

***“Everyone was fishing like everything was up for grabs and that it was a free for all. They took everything away ... Artisanal fishing boats that use very specific fishing gears for just one particular species almost couldn't survive. It was shocking.”***

Artisanal fisher from the southern coast of the Andaman Sea.



A small-scale fisherman checks his net whilst fishing at dawn in Satun, Southern Thailand. © EJJ

***“The majority of artisanal fishers in my village either have considered selling or have sold their boats. Many of them had to go work in construction or become crewmembers on commercial fishing boats. Things were really bad.”***

Artisanal fisherwoman from the western coast of the Gulf of Thailand.

Recent reforms including more rigorous penalties for IUU fishing, increased prevalence of at-sea patrols, more thorough and frequent inspections of commercial fishing gears, and the installation of satellite monitoring systems have all helped to minimise intrusions by commercial vessels into restricted areas. Over 75% of fishers that EJF spoke to said that these reforms had contributed to the recovery of fish stocks in their provinces, especially the prevalence of juvenile economically important species.

***“I feel that after the regulations came into force important species are becoming more abundant again. Several species of shrimps, shellfish, crabs, and fish have improved a lot. This makes me happy. I am also happy that this will get passed on to our children in the future.”***

Artisanal fisher from the southern Andaman Sea coast.

Fish stocks have been reported as recovering in 11 different provinces; from Satun and Pattani in the south to Prachuap Khiri Khan and Trang in the north. Fishers and port workers have stated that fish are more numerous, are increasing in size, and are more varied than in previous years. This could signal a tentative improvement in fish stocks, however much more thorough and scientific studies will be required before confident conclusions can be drawn.

***“Thailand's industrial fisheries have long been built on a flawed foundation, with limited will for sustainable management in mind, especially when ecosystem collapses were imminent. Over the last three years, reforms have begun to change this with substantial recovery of marine fish stocks, especially in marine protected areas.”***

Sirachai Arunrugstichai, Thai marine biologist.

Artisanal fishing communities have also spoken about a renewed hope for the survival of their livelihoods in the future. Enforcement of the IEZ and restrictions on destructive fishing gears have empowered small-scale fishers and played a vital role in enabling fishers to negotiate fairly to preserve their fishing rights alongside their commercial counterparts.



Many small-scale fishers operate as a husband and wife crew, helping to support their families through the provision of food and income. © EJF





Artisanal fishers hold out hope that their way of life will remain intact through the coming periods of transition. © EJF

***“The regulations became more serious and this has resulted in many local communities feeling less anxious. They feel like they are not alone in this fight. Government agencies are now offering a helping hand.”***

Artisanal fisher from the western coast of the Gulf of Thailand.

It is essential that Thailand's current and future governments conduct fisheries policy reforms and legislative debate through consultation between all fishers regardless of vessel size or fishery.

***“I feel relieved and much more comfortable. These days we can leave our nets out there and we know for sure that they won't be damaged. We also get more catch.”***

Artisanal fisher from the southern Andaman Sea coast.

Small-scale fishers in Satun and Songkhla have stated to EJF that if the reforms were to be diluted or removed entirely it could signal a return to the often hostile and chaotic fishing practices of the past. Some fishers stated that they would race to buy more nets, and capitalise as much as possible on the 'tragedy of the commons' situation before there was nothing left.

***“If the government started taking these regulations away, we will increase fishing efforts. We will buy more fishing nets, from ten, we would buy twenty. We will go out further and fish for longer, instead of just an hour trip we will make it five hours. This is the only way we can survive if things go back to the way they were.”***

Artisanal fisher from the southern Andaman Sea coast.

Such a race to the bottom would be a disaster for fisheries management, rapidly depleting Thailand's fish stocks across both the Gulf of Thailand and Andaman Sea. It would also jeopardize the livelihoods and food security of over 27,930 small-scale fishers and their families across Thailand.<sup>79</sup> This return to 'business as usual' would also compound growing fears of climate-related changes to local marine environments which these fishers have relied on for generations.

***“It's getting harder for us to predict the winds and tides. Our profession is vulnerable to changes in climate. We usually get less catch during the monsoon season because of the bad weather. Back then the storms would only last for a few days but now it can last up to a month or longer. This makes life harder for us, but we are trying our best to adapt and survive ...”***

Artisanal fisher from the southern Andaman Sea coast.

In order to preserve the positive progress that has been cautiously made to improve fish stocks and protect Thailand's traditional fishing communities, it is imperative that measures such as strict enforcement of the IEZ, diligent VMS monitoring, and thorough vessel inspections are entrenched into any future government policy.

***"I think we are moving in the right direction because now we have regulations that are working. If we continue along this path we will be able to conserve our marine resources for future generations. Our children will continue to have fresh fish to consume."***

Artisanal fisher from the southern Andaman Sea coast.

## Value of preserving fish stocks for Thailand's tourism industry

Thailand has long been renowned for its marine tourism across its plethora of islands and coastal areas as well as world class scuba diving sites in both the Gulf of Thailand and Andaman Sea. Thailand's tourism industry in total has been valued between \$32 billion and \$82 billion representing between 9 and 17.7% of total GDP.<sup>80/81</sup> The diving industry in Thailand alone is worth over \$161 million, making it as valuable as Thailand's seafood exports to the European Union in 2018.<sup>82</sup>

Thailand's marine protected areas – 28 in total – are vulnerable to illegal fishing practices.<sup>83</sup> Sustained illegal activities in these conservation areas risk the accidental or intentional capture of endangered or charismatic species such as sharks, turtles and other animals – species often highly prized by tourists, tour groups and dive centres. The degradation of precious marine ecosystems through illegal fishing practices such as dredging, bottom trawling too close to the shore, and illegal dynamite fishing can also deplete coral reef residing fish species and turn precious coral formations to dust, thus threatening the future viability of Thailand's critical marine tourism sector.<sup>84</sup>

It is imperative that appropriate measures are in place to identify, deter, and penalise the incidental catches of charismatic marine species. In May 2018 for example, two pair trawlers - Saeng Samut 2 and Saeng Samut 3 - in Phuket were captured on camera by a local tourist dive boat having illegally caught a pregnant whale shark - a species listed on the IUCN's red list of threatened species as endangered.<sup>85/86</sup> On the discovery of the whale shark, the vessel captains were fined a record three million baht and their fishing licenses were revoked. Such punishments are necessary to act as an effective deterrent against such wildlife crimes in the future and must be preserved.



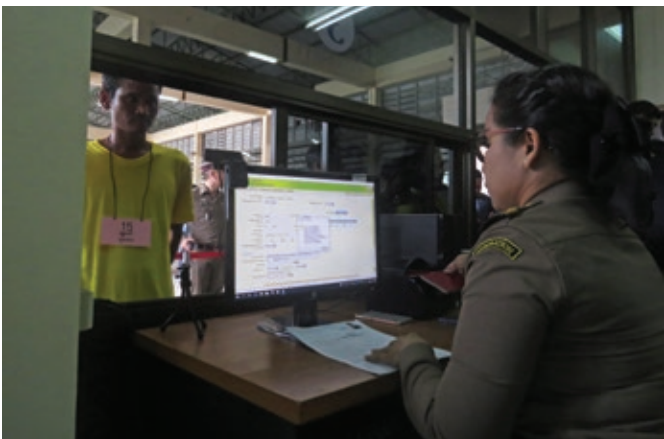
A pregnant whale shark was caught by two pair trawlers in May 2018. On this occasion the DoF imposed a fine of three million baht on the owner and revoked the fishing licenses for both vessels.



## Labour reforms

EJF has long argued that the close intersection between IUU fishing and serious labour violations in Thailand's fishing industry requires a multi-stakeholder and interoperable approach that can solve capacity gaps across a wide spectrum of areas.<sup>87</sup> Several of the transparency and enforcement tools such as installation of VMS and portside inspections discussed in this report already restrict the ability for unscrupulous vessel operators to crew their vessels with unregistered workers, and transfer crews freely between boats whilst at sea. Such tactics have historically been used to ensure enslaved migrants never made landfall, so that there is almost no chance of escape, or detection by the authorities.

Several critical measures implemented over the years to begin addressing deficiencies in labour standards across the sector have included the introduction of labour checks and interviews during vessel inspections, rollout of digital and worker verification inspection tools at PIPO centres, and ratification of international agreements.<sup>88/89</sup>



Recently arrived fishers are screened at the 'Post-Arrival and Reintegration Centre for Migrant Workers' in Ranong. © EJF

Since April 2015 the RTG has attempted to improve the registration process for workers seeking employment on board Thai fishing vessels.<sup>90</sup> Worker details are now contained within a crew list which itself is increasingly digitised. New document requirements now include seabooks with built in biometric data points including finger-prints which allow for quick and verifiable worker identification at ports, inspections, and during at-sea patrols.<sup>91</sup>

Since the initial installation of Thailand's PIPO centres in April 2015, EJF has seen gradual improvements in the inspection procedures employed at their regular vessel inspections.<sup>92</sup> For example, at their inception, inspections did not employ a victim centred approach.<sup>iv</sup>

PIPO inspections have until recently relied heavily on paper-based crew lists and vessel documents increasing the chances of human errors which could result in undeclared fishers working on-board vessels.<sup>93</sup> Increased digitisation of key data points through an electronic PIPO system now helps to streamline inspection proceedings but also improves data accuracy and dependability.

Across many of Thailand's economic sectors migrant workers make up a considerable proportion of the workforce with five million non-Thai residents and 3.9 million of these workers from Cambodia, Laos, Myanmar, and Vietnam alone.<sup>94</sup> There are approximately 67,000 workers on board Thai fishing vessels with migrant workers accounting for the majority - 64%.<sup>95</sup> Burmese workers make up approximately 60% of this number whilst Cambodian workers account for 35%, and those from Laos - 4%.<sup>96</sup> In addition there are approximately 222,000 migrant workers in the seafood processing sector as of December 2017.<sup>97</sup>

Language barriers have previously inhibited the ability of authorities to identify potential victims of abuse, and of workers to air their grievances or alert the authorities. Since 2015, several hundred new translators have been recruited by the Department of Labour Protection and Welfare (DLPW) to address these communication deficiencies.<sup>98</sup> This is a marked improvement on the largely informal and simplistic worker interviews of the past. However, EJF has observed in isolated cases some PIPOs being without a translator for several months due to contractual issues and delays, resulting in workers being unable to communicate potential grievances or concerns to authorities. Gaps such as this could allow trafficked or forced labour victims to remain undetected by the authorities.



Digital biometric recognition systems like this facial recognition system for PIPO inspections can assist in safeguarding fishers. © EJF

Since February 2015 several industrial representative groups including NFAT have reported there being a labour shortage of between 20,000 to 53,000 workers across Thailand's commercial fishing sector.<sup>99/100</sup>

iv Such an approach is one that acknowledges that potential victims of trafficking or abuse are extremely vulnerable and likely to be fearful of speaking out for fear of retaliation. It therefore encourages inspection officers to attempt to make crew-members feel as safe, secure, and comfortable as feasibly possible.

This is in contrast to recent seabook registration figures that state that vessel operators have requested less than 30,000 workers as opposed to some of the more outlandish estimates given by NFAT over the last two years.<sup>101</sup> Towards the end of 2018 there were preliminary discussions between the Thai and Myanmar governments to reinstate a State-to-State Memorandum of Understanding (MoU) to restart the flow of workers.<sup>102</sup> However at the time of writing talks have since stalled due to cost complications associated with the MoU process.<sup>103/104</sup>

***“Boat operators have complained about the lack of labour, but they never improved their employment quality. If the law that protects workers is changed, workers will tell each other through word of mouth not to come.”***

Patima Tungpuchayakul, co-founder of the Labour Rights Promotion Network.<sup>105</sup>

One solution that EJF has long recommended to incentivise neighbouring countries such as Myanmar to resume the flow of workers to Thailand has been the improvement and standardisation of labour conditions on board Thai fishing boats. This could be achieved through the ratification of critical ILO Conventions as well as effective enforcement at ports and on-board vessels. Thailand's ratification of the 2014 Protocol to the Forced Labour Convention (P29) in June 2018<sup>106</sup> and Convention No. 188 'Work in Fishing' (C188) in January 2019<sup>107</sup> are steps towards this goal, however two Conventions remain which would grant the freedom of association - Convention No. 87 (C87) - and right to collective bargaining - Convention No. 98 (C98) - to migrant workers.<sup>108/109</sup>

Migrant workers will continue to be left vulnerable and at risk of exploitation as long as these Conventions remain unsigned and Thai domestic laws actively prevent them from forming labour unions or holding leadership roles in such bodies. Articles 88 and 101 of the Thai Labour Relations Act B.E. 2518 (1975) (LRA) legally prevent migrant workers from forming labour unions, rendering them unable to promote and safeguard their rights or address labour issues.<sup>110</sup>



A PIPO inspection takes place in Rayong with assistance from IUU Hunter – a specialist DoF team that works alongside standard PIPO centres. © EJF

## Further improvements are needed

Many of these gaps are related to labour issues and especially the underlying contributing factors and causes of human trafficking, forced labour, other forms of abuse and consistently low victim identification rates. Institutional inconsistencies across monitoring and enforcement mechanisms such as PIPO and at-sea inspections risk allowing victims of human trafficking to remain undetected. Current legislative mechanisms are restricted by weak victim identification and enforcement, or are inhibited by a lack of inter-agency collaboration and communication.

Low prosecution rates - as a consequence of restricted legislative measures - prevent victims from receiving justice or appropriate compensation. Low conviction rates are also likely to dissuade victims from raising labour disputes or seeking charges in the first place as their case is unlikely to result in sentencing. These issues have become apparent through EJF's ongoing detailed observations of enforcement mechanisms as well as EJF's in-depth analysis of legislative measures introduced over the years.

In addition, workers continue to report issues related to contracts, retained workers, and access to identity and payment documents such as their bank books and ATM cards. A recent ILO baseline study conducted in 2018 involving interviews with 434 workers found that 34% of workers reported being paid less than the minimum wage of 9,000 baht per month, 24% of fishers saw their pay withheld (sometimes for 12 or more months) and 34% reported not having access to their identity documents. These issues are all potential indicators of forced labour.<sup>111</sup> However, even when these indicators are identified during inspections it is unlikely that inspectors will sufficiently investigate such cases any further. This may be due to insufficient time or resources or lack of adequate training in order to identify additional indicators as evidence of a forced labour or human trafficking case.

Over the last three years, EJF has issued a total 45 recommendations to the RTG that cover all relevant government agencies including DoF, Ministry of Labour, CCCIF, Marine Department and others.<sup>112</sup> Analysis of current levels of progress towards enacting these recommendations shows that 15 recommendations (33%) have been fully implemented, 23 are partially implemented, and seven are not yet implemented. Since late 2018, notable additions to the fully implemented category include the publication of the commercial fishing vessel license list, along with the ratification of both P29 and C188.



Of the partially implemented recommendations, critical areas that require attention include:

- Inconsistencies across the PIPO network threaten to allow cases of human trafficking or forced labour to continue undetected by the authorities. EJF has observed inspections at 28 out of a total 30 PIPO centres finding that procedures can vary considerably across the network. Interviews may not be conducted sufficiently far from the main inspection, inspection teams might not board the vessel during inspections to check for stowaways or unregistered workers, and interviewers may not select a sample of workers to speak to (taking a sample can reduce the likelihood of vessel owners identifying whistleblowers). Inconsistencies such as these mean that PIPO inspections may not be conducted according to rigorous universal standards and could inhibit victim identification. For example, in 2018 the DLPW carried out almost 75,000 inspections of fishing vessels recording just over 500 workplace violations and 5,300 specific worker violations. This represents an identification rate of almost eight percent across the total number of inspections. The vast majority (78%) of these worker labour violations for 2018 were either related to payment document issues or rest time provision issues.<sup>113</sup>
- Labour screening when workers first arrive into Thailand represents a crucial opportunity for trained labour inspectors to identify potential cases of human trafficking and for workers to raise the alarm if they feel threatened. EJF has observed several examples of workers not being adequately screened on arrival, often being interviewed in the presence of their colleagues, employer, broker, several uniformed police and unrelated officials.<sup>114</sup> Such an interview environment is likely to intimidate workers and will not yield useful results or uncover cases of abuse. Without adequate

and well-designed labour inspections at border crossings, there is a high probability that victims of human trafficking will slip through screening procedures undetected.

- All workers on-board fishing vessels are now required to be paid using electronic bank accounts. Such systems can greatly enhance transparency and accountability in an industry notorious for its ambiguous payment structures, illegal salary deductions, and withholding of wages. However, inadequate distribution of ATMs in provincial ports as well as continued low awareness amongst workers of how to use the system are reducing the overall effectiveness of the technology. In addition, EJF continues to observe vessel owners being in possession of workers' bank books and ATM cards, even in some cases keeping these on-land while the vessel is at-sea.
- Excessive fishing effort through fleet overcapacity and unregulated fishing remain the main underlying drivers of marine ecosystem and biodiversity degradation. The number of licensed Thai commercial fishing vessels has reduced by 20% since May 2016. However this number could rapidly increase if licensing restrictions are relaxed, previously detained or barred vessels are allowed to re-register into the legal fleet, current decommissioning programmes are diluted, or if surplus workers are recruited to crew additional boats.<sup>115</sup> Such an increase could easily result in the destabilisation of fish stocks. It is essential that any future decommissioning programme is implemented according to a systematic and well-designed process that has adequate funding and support to ensure sustainability.

The seven yet to be implemented measures are explored in greater detail in the recommendations section of this report.



Wild-caught seafood is sorted and weighed before being transported to market. © EJF

## Conclusions and weathering the transition

Thailand's fishing industry has until recently been the scene of atrocious human rights abuses, rampant overfishing and IUU fishing not only in Thai waters but across much of Southeast Asia. This dark past has resulted in numerous cases of workers being beaten, verbally abused, and even murdered whilst at-sea, all whilst being completely undetectable to the Thai authorities.

Recent reforms have been introduced and several institutions for enforcement have begun to address the situation. Signs from artisanal fishers in several provinces are signalling that seafood species are returning to their local shores and are growing in size. Such testimonies provide promising signs that recent reforms have addressed some of the issues that historically plagued the industry.

As Thailand moves through a period of multiple significant transitions, it is essential that the steady pace of reform is preserved. These transitions include the removal of the EC's yellow card in January 2019, elections and a new government in summer 2019, and a gradual transfer of enforcement powers from the Navy's military coordinated Command Centre for Combating IUU Fishing (CCCIF) to a civilian agency - the Thai Maritime Enforcement Command Center (Thai-MECC). These sweeping transitions elicit great uncertainty amongst relevant stakeholders as to whether or not all that has been achieved over the past four years will remain or whether the measures of the previous government will be swept away.

Newly introduced laws are at risk of being unravelled whilst previously convicted fishers caught illegally fishing could be granted amnesty under some party promises.<sup>116</sup> Commercial fishing associations have also called on the newly elected RTG to begin rolling back recently implemented reforms, especially those related to transparency and vessel accountability.<sup>117</sup> Such actions would undo much of the progress made to reverse the damage of previous decades of neglect.

***"Would you obey a law if, one day, you knew you would be pardoned anyway?"***

Sirasa Kantaratanakul, Thai campaigner speaking in 2013 regarding the absence of suitable punitive sanctions against IUU fishing.<sup>118</sup>

EJF acknowledges that there continue to be serious gaps in Thailand's MCS mechanisms, especially with regard to inconsistent labour inspections and regulations. However, there are cost effective and realistic solutions available. In addition, it is important that the RTG builds and improves upon what has been put in place through engaged and democratic consultations involving all relevant stakeholders. Alongside government agencies, these should include: seafood companies and conglomerates, commercial and artisanal fishers, civil society organisations and academics. It is imperative that the RTG remembers how exclusionary fisheries policies and lack of controls on commercial fleets enabled the disastrous circumstances of Thailand's past fishing industry to take place in the first place.

***"I feel like there's hope because our coastal resources have begun to recover. It makes me feel hopeful to know that our children will get to carry on our legacy."***

Artisanal fisher from the western coast of the Gulf of Thailand.



A fisherman casts his net off the shores of Satun, Southern Thailand. © EJF



## Recommendations

In light of the positive measures that have already been enacted over the last four years, EJJ strongly urges the RTG to ensure that recent reforms are not repealed but instead entrenched and built upon to support a nation-wide culture of compliance and best practice. The newly elected government should also seek to swiftly implement the following remaining steps. These would resolve several critical concerns and strengthen transparency and enforcement capabilities for Thai authorities as well as those across the ASEAN region.

EJJ recommends that the RTG attempt to interweave and ingrain transparency initiatives into as many aspects of fisheries legislation, enforcement regulation and monitoring procedures as possible. These should follow EJJ's 10 principles of transparency which are discussed in greater detail in the 'Out of the Shadows' report.<sup>119</sup>

- **Pledge support for EJJ's 10 principles of transparency aimed at coastal and flag states.**

These cost-effective and realistically implementable principles are designed to enhance transparency in fisheries both for coastal and flag states. Thailand has already introduced several of these principles and should seek to incorporate the remaining principles as soon as possible.<sup>120</sup>

- **Support a ban on Flags of Convenience (FoC) or Flags of Non Compliance (FoNC).**

A public declaration in support of a ban of FoCs or FoNCs would demonstrate the RTG's ongoing commitment to prevent Thai distant-water vessels from reflagging to countries with lax regulations as was the case with Thai fishing vessels operating in Somalian waters.<sup>121</sup>

- **Quantify the displacement of Thai-owned vessels across the region and implement checks on such vessels and their beneficial owners.**

The ban of FoCs and FoNCs by Thai registered or beneficially owned vessels would also aid efforts to quantify the number of such vessels across the Southeast Asian region. The Thai Marine Department should coordinate efforts with ASEAN partners to identify vessel locations, supply chains, and their Thai owners, thus strengthening transparency in regional fisheries management. The public disclosure of sale or de-flagging of Thai owned vessels to other countries would also aid domestic and regional authorities' collaborative investigations of potential wrongdoings.

- **Follow through with plans for a substantial and well-designed vessel decommissioning programme.**

Preliminary steps have already been taken to earmark two groups of vessels for buy-back and eventual decommissioning. It is encouraging to see that targeted

vessels are being prioritised according to their age, gear type, size, risk of committing IUU fishing and other important factors. A portion of funds must be allocated for fishers who wish to change profession and livelihood, thereby providing incentives and support that will allow the system to be self-sustaining.

- **Prevent previously impounded vessels or those barred from fishing in 2015 from re-registering into the legal fleet.**

Many of these vessels were sanctioned for illegal fishing whilst others were 'ghost vessels' with the same registration documents as legitimate vessels in order to remain undetected by the authorities. If these vessels were to return to fishing it would rapidly destabilise Thailand's severely depleted fish populations that are only now in the earliest stages of recovery.

- **Declare support at the UNFAO and via Regional Fisheries Management Organisations (RFMOs) for a Global Record of Fishing vessels.**

Thailand's chairmanship of ASEAN in 2019 is an important opportunity to urge other Southeast Asian States to adopt a regional and transboundary approach towards combatting IUU fishing. Public support for a Global Record of Fishing vessels would be a crucial step towards building such an approach.

- **Mandate the provision of employment contracts in the native language of each worker.**

It is a worker's right to be able to fully understand the conditions of signing an employment contract with their employer. Mandatory dual-language contracts are a basic and virtually cost-free method for employers 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.

- **Initiate comprehensive and credible measures to address corruption, bribery and official complicity in human trafficking and forced labour crimes.**

The lack of timely, well-publicised convictions of officials involved in corruption is substantially undermining the effectiveness of the RTG's anti-trafficking and forced labour efforts. The widespread impunity of IUU and trafficking perpetrators directly entrenches the system of exploitation and causes lasting harm to Thailand's international reputation as well as the sustainability of its fishing sector and seafood industry. Starting with the PIPO system, existing regulations need to be coherently applied, enforced, and nonconformities or non-compliance sanctioned immediately. Corruption within statutory agencies needs to be addressed with measures capable of rooting out corrupt practices and serving as an effective deterrent.

- **Reform the Labour Relations Act, B.E. 2518 (1975) (LRA).**

Articles 88 and 101 of the LRA legally prevent migrant workers from forming labour unions, rendering them unable to promote and safeguard their rights or address labour issues. The RTG had previously stated that LRA reforms would be completed in 2017 yet these restrictions remain in place. LRA reforms are an important prerequisite to ratification of C87 and C98.

- **Facilitate and strengthen freedom of association in Thailand for all workers, specifically including all migrant workers through the ratification of Conventions C87 Freedom of Association and C98 Collective Bargaining.**

These two Conventions are essential in removing the structural vulnerability of migrant workers by granting them freedom of association and the right to collective bargaining, and by empowering migrants to challenge abusive conditions themselves. Only in combination can these conventions serve to secure this crucial impact.

- **Expand VMS coverage to commercial fishing vessels from 20 to 30 gross tonnes (GT) and eventually from 10 to 20 GT.**

At present, approximately 53% of the Thai commercial fleet is monitored by VMS. The DoF should begin installing VMS devices on vessels smaller than 30GT using a prioritised and staged system. This should target the most destructive gears and most high-risk vessels first.

New VMS transponders are becoming increasingly accessible, providing cheap and comparatively reliable systems to rival traditional satellite-based VMS.

- **Enhance and strengthen the electronic payment system for fishers.**

Ensure that the electronic payment system for workers on board fishing vessels remains the sole method of payment as opposed to reverting to a cash-based or partially cash-based system. The newly elected government can further improve the system through robust surveying of ATMs, installation of additional ATMs or additional flexible payment and finance access systems where required. Expanding training sessions for vessel operators and workers alike will help secure take-up of this more efficient system.

- **Increase capacity training and education for port officials, PIPO inspectors, vessel operators and employers in key areas.**

Labour inspectors at ports and PIPO centres should be provided with enhanced training on what constitutes forced labour and human trafficking, how to identify it and how to remediate and prevent it from occurring. This is vital for the smooth implementation of the Forced Labour Protocol (P29) into Thai domestic law. Employers and vessel operators should be provided with tools, resources and training on workers' rights, using the electronic payment system.



A worker loads a crane basket with trashfish in Ranong port. © EJP



## Glossary

### **Artisanal fishing**

Fishing practices that are small-scale, utilise low levels of technology and capital and provide fish for direct consumptions within households or communities. Artisanal fishing tends to be carried out by individuals or fishing households under a set of traditions that are passed down for generations.

### **Automatic Identification System (AIS)**

AIS is an automatic vessel tracking system that utilises an on-board satellite transponder to send and receive positional data. This data is primarily used for preventing at-sea collisions between vessels but has more recently become a useful fisheries monitoring tool.

### **Catch Per Unit Effort (CPUE)**

CPUE is an indicator of stock abundance for a target species population in a particular area. It is measured in kilograms of product caught per hour and is often used to measure the overall health of a fishery. Declines in CPUE for example could indicate that the stock can no longer support current levels of fishing effort.

### **Command Center for Combating Illegal Fishing (CCCIF)**

The CCCIF was established during the National Council for Peace and Order (NCPO)'s time in office in May 2015 as a part of the RTG's efforts to combat IUU fishing. The centre was responsible for implementing all aspects of monitoring, control and surveillance mechanisms in close collaboration with other relevant agencies such as the DoF. The CCCIF will eventually transfer its authority to the Thai Maritime Enforcement Coordinating Center (Thai-MECC).

### **Commercial or industrial fisheries**

Fishing practices that are undertaken to capture fish and other seafood for commercial profits. Commercial fisheries are prone to environmental risks and have been argued to be one of the leading causes of the disruption to the balance of marine ecosystems and the depletion of global fish stocks through unsustainable fishing methods.

### **Destructive fishing gears**

These gears – by their high fishing efficiency design - can damage marine ecosystems, often beyond repair, are often extremely unselective in what they catch, and can endanger survival of vulnerable marine species. Common destructive gears in Thai fisheries have included push nets, bottom trawl nets, dredging nets, electro-fishing and dynamite fishing.

### **Exclusive Economic Zone (EEZ)**

Under the United Nations Convention on the Law of the Sea (UNCLOS) all coastal states have the right to exploit and utilise maritime resources within this zone up to 200 nautical miles (370km) from shore.

### **Fishing day quotas**

Days and fishing intensity allocations are provided for each type of fishing vessel to regulate and control fishing effort. In Thailand, fishing day quotas are distributed by the Department of Fisheries with each type of fishing vessel receiving a different limit based on a calculation of the fishing intensity of each gear type.

### **Fisheries management**

The management of fishery resources in the most economical and sustainable manner without depleting marine or destabilizing the marine ecosystem. Fishing activities are managed by the DoF through a variety of monitoring, control and surveillance (MCS) mechanisms.

### **Fisheries Monitoring Centre (FMC)**

The Thai Department of Fisheries opened its Fisheries Monitoring Centre (FMC) in 2017 to coordinate all MCS mechanisms. All vessel monitoring data received from Thai fishing vessels over 30GT is processed through this centre. The FMC works closely with PIPO centres and at-sea patrol vessels to coordinate enforcement actions.

### **Flags of convenience (FOC)**

FoCs are flags of states that set themselves up to be convenient to ship owners. Their registries can provide a competitive advantage above well-managed registries by allowing registration at minimum cost, allowing ownership to be obscured through the use of local shell companies and imposing little or no flag state controls. The use of FoCs can also facilitate the less stringent recruitment of workers or working conditions on fishing vessels.

### **ILO Protocol of 2014 to the Forced Labour Convention, 1930 (P29)**

Thailand ratified the recently revised ILO Protocol of 2014 to the Forced Labour Convention(1930) in June 2018. The protocol requires the ratifying state to provide protections and compensation to forced labour victims and to penalise the perpetrators appropriately. Currently, 36 states have ratified this protocol including Thailand.

### **ILO Freedom of Association and Protection of the Right to Organise Convention (C87) & ILO Right to Organise and Collective Bargaining Convention (C98)**

C87 and C98 are two of the eight core ILO conventions. C87 outlines the rights of workers and employers to join organisations or unions of their own choosing as well as requires ratifying states to ensure that “workers and employers may exercise freely the right to organise”. C98 outlines statutes to collective bargaining as well as protect and support the rights of union members to organise independently, without interference from employers. The joint ratification of both conventions would help empower Thai and migrant workers to be able to represent their own interests in labour disputes.

### **Work in Fishing Convention (C188)**

This convention urges the establishment of decent working conditions for workers on-board fishing vessels. These include a set of requirements that covers health & safety, social security, working hours, rest periods, provision of accommodations, food, water, medicines on-board. Thailand ratified C188 on 30 January 2019.

### **Generalised Scheme of Tariff Preferences (GSPs)**

GSP is a preferential tariff system which facilitates reductions in tariff duties for specific products coming from particular vulnerable developing countries. This helps developing countries to alleviate poverty and create jobs based on international values and principles, including labour and human rights.

### **Inshore Exclusive Zone (IEZ)**

A zone demarcated by the government, usually reserved for artisanal/small-scale fishing vessels. In Thailand, the IEZ is currently set at 3 nautical miles (5.5 km.) from shore according to Article 34 of the Fisheries Act 2015.

### **Illegal, unreported, and unregulated fishing (IUU)**

Illegal, Unreported and Unregulated (IUU) fishing is fishing that is conducted outside of legal conservation and management measures. It includes fishing without a license, under-reporting catch, catching prohibited species, operating with illegal fishing gears, or fishing in marine protected areas or areas reserved for artisanal fishers. IUU fishing practices and activities are often occurred in states or countries with weak governance and fisheries management.

### **European Commission's IUU Regulation**

The IUU Regulation to prevent, deter, and eliminate illegal, unreported and unregulated fishing (IUU) came into force in 2010. It is designed to prevent illegally caught seafood from entering European markets. If the European Commission deems that states are not doing enough to combat IUU fishing, a formal warning against their seafood exports to European markets can be issued (yellow card). If sufficient reforms are not made to rectify the situation the EC can then take the decision to bar seafood imports completely through the issuing of a 'red card'. Thailand was given a yellow card by the EC in April 2015 and it remained in place until January 2019.

### **Marine Protected Areas (MPAs)**

MPAs are government designated protected areas of seas, oceans and estuaries. They restrict human activity for conservation purposes, typically to protect natural or cultural resources. They can be chosen based on presence of vulnerable or charismatic species (sharks, dolphins, coral reefs, dugongs), importance as a breeding ground or nursery for economically important seafood species, or more generally for their unique flora and fauna. In Thailand, there are 28 MPAs.

### **Monitoring, Control and Surveillance (MCS) systems**

A set of institutions and mechanisms used to implement good fisheries management in the areas of monitoring (measurement of fishing effort and resource yields), control (regulations to police sustainable fisheries), and surveillance (observation of fishing effort to ensure compliance). An absence of MCS systems may hinder effective fisheries management.

### **Port State Measures Agreement (PSMA)**

The PSMA is an internationally binding agreement under the Food & Agriculture Organisation of the United Nations designed to eliminate IUU fishing by preventing IUU vessels from using ports and landing their catches. In this way, the PSMA reduces the incentive of such vessels to continue to operate while it also blocks fishery products derived from IUU fishing from reaching national and international markets.

### **Port-in Port-out (PIPO) Centre**

There are 30 PIPO centres located across Thailand's 22 coastal provinces. They were initially introduced in May 2015 and are designed to monitor and investigate fishing vessel movements in and out of port. Every Thai commercial fishing vessel is required to submit documents to their local PIPO centre in advance of their fishing trip. The PIPO centre will then determine - using a risk based approach - whether or not to inspect the vessel.

### **Thai Maritime Enforcement Command Center (Thai-MECC)**

Thai-MECC coordinates all aspects of Thailand's maritime interests including fisheries and national security. It is run by the Royal Thai Navy, Department of Fisheries and Royal Thai Police in cooperation with other maritime enforcement agencies. Thai-MECC will eventually assume the role of the CCCIF.

### **The Seafood Import Monitoring Program (SIMP)**

The SIMP is a risk-based traceability programme introduced by the USA's National Oceanic and Atmospheric Administration (NOAA) at the start of 2018. The program is designed to combat IUU fishing by requiring importing countries to provide chain of custody records for 13 priority species that are vulnerable to IUU fishing activities and seafood fraud.

### **Trans-shipment**

The transfer of seafood consignments from one fishing vessel to another. The fish is generally transferred to a refrigerated cargo ship, or 'reefer', which is then tasked with taking fisheries products to their destination port. At-sea trans-shipments can allow for fishing vessels to stay at-sea for months or even years at a time, obscuring supply chains and making it difficult for fisheries authorities to verify vessel identity, catch, and traceability.

### **Trash fish (ปลาเบ็ด)**

Trash fish can be defined as seafood (including crustaceans) of commercial species that are unsaleable because they are damaged or degraded by poor post-capture handling or as the mashed-up detritus of fish, crustaceans and other marine biota that coats the back of the cod- end of the net after a prolonged trawl. Vessels targeting trash fish can devastate marine ecosystems as they often catch juveniles of economically important species thus inhibiting the ability to reproduce and replenish the stocks.

### **Unique vessel identifier (UVI)**

This is a unique number given to a vessel for the entirety of its life (similar to a car numberplate) and allows the authorities to keep track of its identity and flags regardless of any changes in names or flags.

### **Vessel monitoring systems (VMS)**

VMS provides near real time monitoring of fishing vessels using satellite positioning devices installed on fishing vessels. Currently, all Thai vessels over 30GT are required to have VMS installed.



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***“We are moving in the right direction. Things are finally starting to look better again after all these years. Fish stocks have increased and our rights and livelihoods are now protected. To take this away would be like going back to square one.”***

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Artisanal fisher from the western coast of the Gulf of Thailand.

**EJF**, 1 Amwell Street, London, EC1R 1UL, United Kingdom  
Tel: +44 (0) 207 239 3310 | Email: [info@ejfoundation.org](mailto:info@ejfoundation.org)  
[www.ejfoundation.org](http://www.ejfoundation.org) | Registered charity, No. 1088128



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