

## **Highlights of Progress on Labour Related Issues in Thailand's Fisheries Sector**

The Royal Thai Government recognizes the important role of migrant workers in supporting the Thai fishing and seafood processing industries. The measures designed to combat forced labour and other forms of exploitation in the fisheries sector have been seriously taken and can be highlighted in five main areas:

### **1. Legislative Framework**

- **The Royal Ordinance on Fisheries:** The Royal Ordinance which entered into force on 14 November 2015 stipulates punishment for vessel and factory owners who violate labour protection law as well as for employing migrant workers without valid work permits. The owner of any fishing vessel or seafood processing factory hiring illegal migrant workers is subject to a fine of up to 800,000 baht (or 21,600 euro) per each unlawful employed person.

- **The Ministerial Regulation on Labour Protection in Sea Fishery Work:** The Ministerial Regulation, which has taken effect since 30 December 2014, imposes prohibition of employment of those under 18 years of age on fishing boats and at seafood processing plants, compulsory rest hours and holidays, mandatory signed work contract, crew list, and requirements on training and welfare of workers in line with the ILO's Work in Fishing Convention No. 188.

- **The Labour Protection Act (Amendment No. 5) B.E. 2560 (2017):** The amendment, which came into force on 23 February 2017, aims to tackle child labour by imposing more severe penalties. The employer shall now face imprisonment of up to 2 years and/or a fine between 400,000-800,000 baht (or 10,800-21,600 euro) if hiring those under 18 years old to work in hazardous or prohibited jobs or prohibited locations. If the employer causes employees under 18 years old to suffer physical or mental harm or death, imprisonment of up to 4 years and/or a fine between 800,000-2,000,000 baht (or 21,600-54,000 euro) per employee shall be imposed.

- **Prevention and Suppression of Human Trafficking Act (Amendment No.3) B.E. 2560 (2017):** The amendment, became effective on January 28 2017, was a significant step to further strengthen the Thai anti-human trafficking legal framework in order to better protect the victims. It revises the definitions of "exploitation" to include practices similar to slavery and "forced labor or services" to include seizure of identification documents and debt bondage. It also increases protection for children under the age of 15 by providing that forcing or procuring these children to carry out extremely dangerous work or service that has an effect on their body or mind, growth, or personal development; or to work in a dangerous environment; or to carry out immoral acts; are offences under the Act.

- **NCPO Order imposing ban on labour transshipment at sea:** The Order of the National Council for Peace and Order (NCPO) No. 53/2559, which has taken effect since 9 September 2016, prohibits owners and captains of commercial fishing vessels of any transshipment of seamen at sea both inside and outside Thai waters. The violation of this ban shall result in a fine between 400,000-800,000 baht (or 10,800-21,600 euro) per one seaman.

- **The Royal Ordinance concerning Rules on Bringing Migrant Workers to work with Employers in Thailand B.E. 2559 (2016):** The Royal Ordinance has entered into force on 16

August 2016 with the aim to regulate recruitment agencies, reduce the cost and complexity of recruitment process as well as to eliminate labour brokers that lead to debt bondage and other forms of exploitation. Thirteen related secondary laws were issued and entered into force on 18 November 2016. As of 10 March 2017 (4 months after the Royal Ordinance was fully effective), **59 licenced recruitment agencies and 2,697 employers have requested to bring in 34,140 migrant workers to work in Thailand.** A total of 314.3 million baht (or 8.36 million euro) in security deposits has been collected from the licensed agencies and the employers.

- **Draft of Royal Ordinance on the Management of Foreign Workers Employment B.E. ....:** Complementary to the Royal Ordinance on Fisheries, this new draft Royal Ordinance aims to regulate the use of migrant workers in all aspects, putting together existing laws and regulations related to the work of the migrant workers in Thailand. The draft law imposes more obligations on employers to provide care and assistance to migrant workers with the increase of punishments and hefty fines for violations. It also updates some outdated provisions to better suit the current situation. On 7 March 2017, the Thai Cabinet has, in principle, approved the draft Royal Ordinance. It is currently under the review of the Office of the Council of State. Then, the revised version shall be approved again by the Cabinet before being publicized in the Royal Thai Government Gazette to enter into force.

## **2. Prevention**

- **Greater flexibility for migrant workers to change employers:** Since 1 November 2016, migrant workers, including those who work in fisheries sector, are allowed to change employers, fields and areas of work under 5 conditions: 1) being abused by employer 2) employer violated work contract 3) employer deceased 4) employer went bankrupt and 5) working conditions are believed to cause harm to life, body, mental or health of the employee. From 1 November 2016-28 February 2017, **42,903 migrant workers have already changed employers or fields of work** (2,795 from fisheries sector and 3,357 from seafood processing sector).

- **Issuance of seaman book for migrant workers:** Since 14 September 2016, Thai and migrant workers working on a fishing vessel are required to have seaman books. During the seaman book application process, the Department of Fisheries will check the authenticity and validity of the required documents for such applications. Migrants workers will also be photographed, fingerprinted and their biographical information will be recorded and kept on file. This will help protect them from falling victim to exploitation and abuse by the vessel owner. From 15 September 2016 to 14 March 2017, **51,378 migrant workers from 5,492 fishing vessels have applied for seaman books.**

- **Pre-screening interviews with migrant workers:** One-on-one interviews with migrant workers to identify any potential victims of human trafficking, forced labour and debt bondage were conducted during the seaman book issuance process. **Out of 43,087 migrant workers interviewed, 3,473 migrant workers were found to have their labour rights violated,** most of which were minimum wages violation, and the employers were brought in for inquiries and administrative orders.

- **Enhancing workers' awareness to recognize vessel markings:** On the 16 May 2016, the Department of Fisheries issued an announcement on the Guidelines and Procedures for Fishing Vessel Identification and Markings B.E. 2559 (2016) for better vessel monitoring procedure and for fishery workers to recognize their vessels easier. Pamphlets concerning vessel markings, in six languages (Thai, English, Lao, Myanmar, Cambodian, and Vietnamese), were distributed to workers in order to help them understand how to recognize the marking of their vessel based on the vessel's size, the designated fishing area and the type of fishing gear on board.

- **Enhancing workers' awareness on their rights:** Pamphlets that reiterate on "do's and don'ts" of the employers of commercial fishing boats in line with the provisions of the Ministerial Regulation on Labour Protection in Sea Fishery Work were distributed to fishing workers in three languages (Lao, Myanmar and Cambodian). Information on the pamphlets includes issues of minimum wages, legal age of the employees, contracts, holiday pay, sick leave, rest periods, health and hygiene etc. which are the basic rights of workers.

- **Increasing interpreters of neighbour countries languages and training of the interpreters:** The Ministry of Labour is recruiting 64 migrant workers to work as additional interpreters in order to help support labour inspection and individual interview at 22 Port in-Port out Control Centers (PIPOs) nationwide (**49 interpreters have already been hired**). A 2-batch training program, with 80 participants, was organized in February and March 2017 to enhance the interpreter's comprehension on labour protection and other relevant laws.

- **Reinforcing labour inspectors:** Labour Inspection at PIPOs and fishery processing establishments has been enhanced nationwide. The Ministry of Labour is increasing the number of labour inspectors to meet the ILO standard and ensure effectiveness of labour inspection. With the ILO's suggested ratio of 1 inspector per 15,000 workers, Thailand needs a total of 1,500 inspectors to cover 22 million workers in the country. Currently, there are 1,245 labour inspectors. The Ministry of Labour is in the process of appointing 260 additional labour inspectors from related agencies. In addition, on 28 March 2017, the Thai Cabinet has approved **the increase of 1,049 full-time labour inspectors over the period of 5 years**, 186 of which will be appointed within the 2017 fiscal year.

- **Intensifying labour inspection at port and at sea:** All commercial fishing vessels of 30 GT and above, operated in Thai water, are enforced to return to designated port every 30 days for inspection. Thailand Maritime Enforcement Coordination Center (MECC) conducts a daily inspection on vessels identified by the Fisheries Monitoring Center as at-risk group. Observers on board were also deployed to monitor activities of Thai fishing vessels outside Thai waters. In addition, to prevent transshipment of seamen, all Thai fishing vessels operating overseas were called back to have the Electronic Monitoring and Electronics Reporting System (EM & ERS) installed. ERS and EM would enable the Fisheries Monitoring Center (FMC) to better monitor and control overseas vessels through real time recording and reporting of fishing and transshipment activities including the movement of labours. Currently, there is no Thai-flagged fishing vessel operating outside Thai waters until the installation of additional monitoring equipment has been completed.

### **3. Enforcement and Prosecution**

- **Cases on human trafficking in fisheries sector:** From May 2015 to 10 March 2017, there were 82 cases on human trafficking in fisheries sector. Among these cases, 6 cases are under investigation, 15 cases are at the public prosecutors, 57 cases are in the court proceedings and 4 cases have been finalized.

- **Cases on inspection of seafood processing plants:** From four rounds of inspection during November 2015-November 2016, 668 factories were inspected. 60 cases were found to have committed offences under labour and fishery laws (18 cases have been finalized, 29 cases are under investigation, 5 cases at public prosecutors and 8 cases are at the court). 27 factories were temporary closed.

- **Cases on labour transshipment at sea:** Since the ban on at-sea transshipment entered into force on 9 September 2016 until the end of the year 2016, 5 fishing vessels were arrested on charges of alleged labour transshipment. Legal procedures against captains and owners of the vessels are underway (1 case has been finalized and fined, 2 cases are under investigation, and 2 cases are in the court proceedings).

### **4. Protection and victim remedies**

- **Helping the victims:** in 2015-2016, 305 human trafficking victims in fisheries sector were helped and 254 safely returned to home countries. In 2017, up until March, 60 victims were helped.

- **Non-deportation policy:** Undocumented workers rescued after raids or inspections of vessels and factories are treated as victims and will not be deported to their countries of origin. Instead, they are provided shelter, matched with new employers, and subsequently regularized. For case of human trafficking, the Ministry of Interior has recently issued two Ministerial Announcements dated 27 January 2017 **permitting migrant trafficking victims and witnesses to stay and work in Thailand for up to 2 years after their cases have reach the verdicts.** The work permit can be extended each time for one year. These Announcements are in addition to the Ministerial Announcement in 2016 which allows migrant trafficking victims and witnesses to stay and work in Thailand during the proceeding of their cases.

- **Shelters for victims of human trafficking:** Trafficking victims from fisheries sector can receive appropriate assistance and support from the Protection and Occupational Development Center which is one of 8 main government-run shelters for trafficking victims. Care and services available at the center include safety and security, accommodation, food, clothing, vocational training, recreational activities, legal aid, medical care, psychosocial assistance, language training and education. Victims residing in the shelters, who do not work, are provided with three meals a day along with aid money in the amount equal to minimum daily wage.

- **Migrant Workers Assistance Centers (MWAC):** On 26 July 2016, the Ministry of Labour has set up “Migrant Workers Service Center”, to work with civil society/NGOs to help workers who faced problems and coordinate the agencies concerned for the remedy process. Ten centers were established in 10 provinces with large population of migrant workers (Chiang Mai, Samut Sakhon, Surat Thani, Songkla, Samut Prakarn, Chonburi, Nakhon Ratchasima, Khonkaen, Tak, and

Ranong). From 1 August 2016-25 February 2017, **22,307 migrant workers have received consultation and assistance from these centers.**

#### **5. Management of Labour Migration**

- **Ratifications of ILO Conventions:** On 23 March 2016, Thailand ratified the ILO's Occupational Safety and Health Convention No. 187 and on 7 June 2016, the ILO's Maritime Labour Convention. Concerned agencies are considering the necessary revisions of relevant Thai laws, studying gap analysis as well as arranging tripartite conference, in order to ratify the ILO's Work in Fishing Convention No. 188, the Protocol to Convention 29 – Protocol to the Forced Labour Convention, the Freedom of Association and Protection of the Right to Organise Convention No. 87 as well as the Right to Organise and Collective Bargaining Convention No. 98 by 2017.

- **Regularization of migrant workers:** The regularization of undocumented migrant workers was carried out together with the process of nationality verification. The Registration of Undocumented Sea Fishery and Seafood Processing Migrant Workers at One Stop Service Centers (OSSC) from 2015-2016 resulted in **the registration of 52,083 sea fishery and 149,662 seafood processing migrant workers.** As of March 2017, **13,854 sea fishery and 54,575 seafood processing migrant workers have their nationalities verified.**

- **Bringing in sea fishery migrant workers through MoUs channel:** Currently, Thailand has signed MoUs on Labour Cooperation and the Agreement on the Employment of Workers with Cambodia, Laos, Myanmar, and Viet Nam (CLMV countries). The Ministry of Labour is working with the CLMV countries to bring more migrant workers to work in the fisheries sector through the MoUs. As of March 2017, there are **1,378 sea fishery migrant workers and 21,683 seafood processing migrant workers employed through MoUs between Thailand and its neighbour's countries.**

- **A draft Joint Declaration on Safe Migration:** During a High Level Dialogue Meeting held in Thailand on 28- 29 November 2016, Thailand and the CLMV (CLMVT) countries agreed to draft a Joint Declaration on Safe Migration aiming to enhance cooperation on the bilateral MoU concerning the employment of migrant workers within CLMVT countries under the framework of the promotion of safe migration. The draft will be presented for adoption during the next CLMVT Ministerial Conference in Viet Nam in August 2017.

- **Action Plan on Migrant Workers Management:** The Strategic Action Plan on Migrant Workers Management 2017-2021 was approved by the Thai Cabinet on 25 October 2016. The Action Plan aims to systematically and effectively improve migrant worker management in Thailand, regulate and promote safe migration, standardize the employment of migrant workers, provide as well as monitor and evaluate effective migrant workers management.

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