

Highlights of Progress on Labour related issues in Fisheries Sector

The 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 of Fisheries** entered into force on 14 November, 2015. It 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 making use of **illegal migrant workers** is subject to a fine of up to 800,000 baht (or 21,000 euros) per each unlawful employed person.

- **The Ministerial Regulation on Labor Protection in Sea Fishery Work**, which has taken effect since 30 December 2014. It 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 Work in Fishing Convention (No. 188).

- **The Royal Ordinance on Bringing Migrant Workers to work with Employers in Thailand B.E. 2559 (2016)** has been put into force on 16 August 2016. It helps regulate recruitment agencies and reduce the cost and complexity of recruitment, especially in fisheries and seafood industries, with an aim to eliminate labour brokers that lead to **debt bondage** and other forms of exploitation. Collection of any fees from migrant workers is prohibited with no exception. Criminal charges will be pressed against those violating the Royal Ordinance and the penalties comprise imprisonment up to 10 years and/or fine up to 200,000 Baht (or 6,000 euros).

2. Enforcement and Prosecution

Fishing vessels operating outside Thai waters

- From May 2015 to 15 November 2016, 61 fishing vessels operating outside Thai waters were found to have infringed on related laws, making a total of 75 cases (**1 at inquiry officials, 72 at public prosecutors and 2 at court**). The most common infringements were the absence of seaman books and valid work permits for the crew. Administrative sanctions were applied in 14 cases, including detention of vessels, imposition of 2-year fishing ban and deregistration of the vessels.

Fishing vessels operating inside Thai waters

- 1,801 fishing vessels were inspected at sea and 897 fishing vessels were physically inspected at port from May 2015 to 15 November 2016. There are a total of 405 infringement cases under labour and fishery laws (**240 at inquiry officials, 24 at public prosecutors, 29 at court and 112 concluded**). Administrative measures under the Royal Ordinance on Fisheries were used in 141 cases, including detention of vessels.

Seafood processing establishments

- From three rounds of inspection during November 2015 – September 2016, 270 factories were inspected, 143 factories were found to be in compliance with the laws. 127 factories were found to have committed offences under labour and fishery laws, making a total

of 48 cases (**23 at inquiry officials, 7 at public prosecutors, 5 at court and 13 concluded**). 22 factories have been suspended by administrative sanctions. The fourth round of inspection has taken place since October 2016 with an aim to inspect additional 120 factories.

Cases on human trafficking in fisheries sectors

- During January 2015 - 15 November 2016, there were 75 cases on human trafficking in fisheries sector with **355 victims and 166 defendants**. Among these cases, 10 cases are under investigation, 47 cases are at the public prosecution stage and 18 cases are in the court proceedings.

- As one of the measures to improve enforcement, Thailand is amending the Anti-Trafficking in Persons Act to improve the definitions of forced labour and debt bondage to be within the scope of trafficking in persons.

3. Protection of Migrant Workers

The Thai government has implemented various preventive schemes to protect migrant workers in fisheries sector from falling prey to exploitation. These include the followings;

- **Regularization of over 180,000 undocumented migrant workers:**

- 1) Registration of Undocumented Sea Fishery Migrant Workers from 2 November 2015 - 31 July 2016, which resulted in 14,630 employers bringing 45,441 sea fishery migrant workers to register.

- 2) Registration of Undocumented Seafood Processing Migrant Workers from 25 November 2015 - 22 August 2016, which resulted in 14,720 employers bringing 143,528 seafood processing migrant workers and 4,937 dependents to register.

These migrant workers are in the process of nationality verification and entitled to work in Thailand for a total of 8 years (renewable every two years).

- **Enhancing workers' job mobility:** The Ministry of Labour has revised rules to provide migrant workers with greater flexibility to change employers. Since 2 November 2015, two groups of workers, in fishing vessels and in seafood processing factories, are permitted to change their employers within the same group. As of 14 September 2016, more than **21,000 migrant workers** have already changed employer or fields of work within the fisheries sector (11,873 from fishing vessels and 9,511 from seafood processing factories). Migrant workers are allowed to change employers and fields of work outside the fisheries sector under 5 conditions: 1) being abused by employer 2) employer violated work contract 3) employer deceased 4) employer went bankrupt and 5) working ambience causes harm to life, body, mental or health of the employee.

- **Issuance of seaman book for migrant workers:** On 14 September 2016, the Office of the Prime Minister of Thailand issued an "Announcement on the Issuance of a Seaman Book B.E. 2559 (2016)" for Thai and migrant workers employed on a fishing vessel. For the first time, sea fishery migrant workers will be issued an identity paper similar to that of their Thai peers in order to protect them from falling victim to exploitation and abuse by the vessel owner. As of 15 November 2016, **45,710 migrant workers** from 4,522 fishing vessels have applied for seaman book. After 120-day application period, the vessel owner will be fined at the minimum of 400,000 baht (or 10,400 euros) for every crew member working without the seaman book, and the fishing license will be cancelled and the captain certificate revoked.

- **Ban on labour transshipment at sea:** On 9 September 2016, Thailand issued a new National Council for Peace and Order (NCPO) Order No. 53/2559 to impose a ban on at-sea

transshipment of seamen, in addition to the ban on at-sea transshipment of aquatic animals outside of Thai waters. All commercial fishing vessels of 30 GT and above are enforced to return to designated port every 30 days. Inspections at port and at sea are intensified especially in the high-risk areas. Those found violating this ban shall face a minimum fine of 400,000 baht (or 10,400 euros) per one seaman. Observers on board would also be deployed to work on Thai fishing vessels both within and outside Thai waters. Thus far, 50 observers have been trained and 2 have been dispatched to station on board carrier vessel transporting fish in the high seas. Since the ban entered into force, Thailand Maritime Enforcement Coordination Center (MECC) conducts a daily inspection on vessels identified by the Fisheries Monitoring Center as a risk group. In November 2016, a vessel was found to have different numbers between the actual crew aboard and the numbers reported to PIPO. The MECC, therefore, accompanied the vessel to shore and the vessel's captain was charged by the police.

- **Enhancing workers' awareness to recognize vessels marking:** On 16 May 2016 Department of Fisheries has enforced the Announcement on the Criteria of Issuing Fishing Vessels Marking B.E. 2559 (2016) and currently on the process of publishing 6-language information leaflet (Thai, English, Laos, Myanmar, Cambodian, Vietnam) for migrant workers to create awareness and help them to understand the important to recognize their vessels marking.

- **Reinforcing labour inspectors:** Labour Inspection at PIPO Center and fishery processing plants has been enhanced nationwide. The Ministry of Labour is increasing the number of labour inspectors to meet the ILO standard and ensure effectiveness of our 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 recruiting 255 additional labour inspectors from multi-disciplinary agencies. With the total of 1,500 labour inspectors, the Ministry of Labour can bolster thorough inspection both at ports and seafood processing factories. A database system for inspecting crew on fishing vessels to support the labour inspection at PIPO Centers as well as on fishing vessels has been developed. A randomized 1-on-1 interview with migrant workers and fingerprinting of labours will also be conducted in tandem with the issuance of seaman book at PIPO Centers to help screen victim of forced labour and trafficking. As of September 2016, over **200,000 migrant workers** were inspected at port, at sea and seafood factories.

- **Increasing interpreters of neighbour countries languages:**

The Ministry of Labour is recruiting migrant workers to work as additional interpreters in order to help support labour inspection and individual interview at PIPO Centers. These interpreters will be appointed at each PIPO Center nationwide to facilitate government officials to communicate with migrant workers. Ministry of Labour is also holding 2 batches of training program on the "Interpreter Capacity Building", funded by CCCIF. This program is set to enhance the interpreter's comprehension on labour protection and other relevant laws.

4. Protection of Victims

- **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.

- **Effective victim identification:** In 2015, the Ministry of Social Development and Human Security (MSDHS), with the participation from government and civil society stakeholders, came up with a newly revised victim identification form to ensure that victims

will be properly identified. The revised victim identification form is now being used nationwide to record thorough information during their interview with the victims, especially the indicator of possible trafficking.

- **Migrant Workers Assistance Centers:** On 26 July 2016, the cabinet has approved the proposal of Ministry of Labour to set up “Migrant Workers Service Center”, with the objective to work with civil society/NGOs to help worker who faced problems and coordinate the agencies concerned for the remedy process. 10 pilot centers, funded by Migrant Worker Repatriation Fund, will be established in 10 provinces with massive population of migrant workers (Chiang Mai, Samut Sakhon, Surat Thani, Songkla, Samut Prakarn, Chonburi, Nakhon Ratchasima, Khonkaen, Tak, and Ranong). As of 30 September 2016, 4,813 migrant workers have received the service from these centers.

- **Fishermen's Life Enhancement Center:** An MoU has been signed among Ministry of Labour, Fish Marketing Organization, International Planned Parenthood Federation, Stella Maris Seafarers Center Songkla and CP Group to establish “Fishermen's Life Enhancement Center” at the Songkla harbor, which helps upgrade the quality of life for fishery migrant workers, their family and children, as well as providing knowledge on anti-human-trafficking information, and labour rights to the potential vulnerable group. The operational timeframe for the Center is set for 5 years (2016-2020). After that, a committee will review and assess the performance of project on an annual basis. The project targets to cover more than 25,000 at-risk people.

- **Pathumthani Welfare Protection of Human Trafficking Center:** Trafficking victims from fishery sector can receive appropriate assistance and support from Pathumthani Welfare Protection of Victims Trafficking Center. The center 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.

5. Strengthening Labour Migration and Standards

- **Bringing in sea fishery migrant workers through MoUs channel:** Currently, Thailand has already signed MoUs on Labour Cooperation and the Agreement on the Employment of Workers with Myanmar, Laos, Cambodia and Vietnam (CLMV countries). The Ministry of Labour is working with all neighbour countries in developing action plans to bring migrant workers to work in the fisheries sector through the MoUs. A High Level Dialogue Meeting between Thailand and the CLMV countries to move forward with the action plan is scheduled to be held on 28 - 29 November 2016.

- **Strategic Action Plan on Migrant Workers Management 2017-2022:** The strategic plan, formulated by the Ministry of Labour, aims to reduce dependency on migrant workers, supervise control of entry and return process of migrant workers, standardize the employment of migrant workers, provide as well as monitor and evaluate effective migrant workers management. In the fisheries sector, there will be a management plan for an appropriate ratio between the number of workers, the authorized fishing vessels and the fishing gears on board of each vessel. Currently, there are 11,000 commercial fishing vessels with a valid fishing license in Thailand.

- **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 (MLC). The ratifications reconfirm Thailand's commitment to improve working and living conditions for workers and seafarers in compliance with international labour

standards. Moreover, 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.

- **Forging international partnership:** The Ministry of Labour, together with the ILO and the EU delegation to Thailand are implementing a project to combat unacceptable forms of work in Thai fishing and seafood industry. Concerned agencies are also working with the Environmental Justice Foundation (EJF) to provide intelligence on human trafficking and training on vessel monitoring system for Thai officers. The Department of Fisheries in collaboration with Nestle and Thai Union Group are implementing a Demonstration Boat project, a model fishing boat with decent working conditions in line with the ILO Convention No. 188.

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