



An EJF policy briefing prepared for the Royal Thai Government

Bangkok, September 2018

Since the start of 2018 the Royal Thai Government (RTG) has continued to make considerable progress in addressing and eliminating illegal, unreported and unregulated (IUU) fishing and associated human rights abuses, such as trafficked, forced, bonded and slave labour. Notable reforms and policy changes include the ratification of the ILO's 2014 Protocol to the Forced Labour Convention (P29), the implementation of a universal risk-based approach towards vessel inspections, use of innovative patrolling methods such as undercover patrol vessels and unmanned aerial vehicles, as well as the rollout of digital inspection tools for 'Port in Port out' (PIPO) centres.

EJF's collaboration with the RTG have also expanded, with EJF staff actively engaging with numerous government agencies and special inspection teams across the country. This close interaction has allowed EJF to build comprehensive recommendations and solutions aimed at eliminating IUU fishing and associated labour abuses from Thailand's seafood sector.

EJF is encouraged by reforms made to date, however it is evident that there are still several substantive steps that remain to be taken to ensure true success in combatting these pervasive issues. Reforms must also be entrenched as permanence is a critical attribute that will give confidence to global industry, consumers and others concerned with the Thai seafood sector.

EJF, along with a large number of local and international organisations are of the strong view that some industry representatives and specifically the National Fisheries Association of Thailand (NFAT) threaten to undermine current government promises and much of the positive progress made to date. These unreasonable and damaging pressures must be resisted. We fear that not only will the actions of these groups damage Thailand's reputation, but that they will ultimately create further commercial, economic and political obstacles to achieving the legal, sustainable and ethical seafood industry in Thailand that has been the focus of so much hard work and achievement over the past few years. Failure in this regard could prove devastating.

One of the most crucial policies that is currently coming under significant criticism from the NFAT is the ratification of the ILO's C188 'Work in Fishing' Convention. This has jeopardised the important progress towards ratification made in early 2018. EJF strongly urges the RTG to persevere with its ambition of ratifying C188 by the end of 2018.

EJF also continues to call on the RTG to ratify two other key ILO Conventions – C87 '*Freedom of Association and Protection of the Right to Organise*' and C98 '*Right to Organise and Collective Bargaining*' – in order to provide all workers with the ability to represent their interests and prevent exploitation at the hands of unscrupulous vessel owners or brokers.

Thailand is preparing to become the Chair of ASEAN in 2019, presenting a key opportunity for Thailand to demonstrate leadership of not only of regional but global importance. EJF recommends that Thailand use this chairmanship position to highlight the need for regional cooperation in the fight against IUU fishing and associated labour abuses and explore specific and easily implemented mechanisms that can be introduced as part of an ASEAN-wide agenda.

Thailand's recent experiences in combatting IUU fishing and associated human rights abuses provide a strong base on which to build such an approach. Thailand also shares maritime boundaries with several globally significant fishing nations making it well placed to lead in forming an ASEAN IUU Taskforce.

EJF has produced a separate set of recommendations on specific mechanisms that would facilitate the goal of an "IUU-free ASEAN". These are based on several core transparency measures that EJF believes would collectively shed light on vessel identities, activities and ownership, and help reduce and eradicate IUU fishing.

Fishing vessel over-capacity remains one of the key challenges facing the RTG in ensuring fishing effort remains at sustainable levels for the foreseeable future. EJF commends recent progress in identifying potential fishing vessels for decommissioning. However, these efforts must be sustainable, well-designed, and provided with adequate funds that can cover not only the immediate decommissioning process, but also the long-term retraining of fishermen into new professions. The RTG, DoF, and Marine Department must also ensure that strict fishing vessel license capping/sealing is used to prevent fishing capacity from increasing in the future.

Below, EJF provides seven recommendations designed to close remaining gaps and secure a degree of permanence that is essential for ensuring success is sustained into the future. These would demonstrate not only the RTG's continued appetite for strong social progress, but also the establishment of Thailand as a regional and international leader in ethical seafood production.

1. Ratification of ILO Convention 188 'Work in Fishing' by the end of 2018

EJF commends Thailand's ratification of the ILO's 2014 Protocol to the Forced Labour Convention (P29) in June 2018. This is an important step forward in the fight against labour abuse in the fishing industry. However, RTG and Ministry of Labour have also committed to the near-term ratification of the *Work in Fishing Convention (C188)*. EJF now strongly urges the RTG to fulfil this commitment by the end of 2018.

There has been notable progress towards ratification with numerous public hearings and an initial tripartite meeting taking place. However, it is evident that the process is now coming under considerable pressure from external actors – namely from NFAT – who claim that the granting of basic rights to migrant workers would adversely impact their operations.

Ratification of C188 is one of the most tangible measures available to reduce the likelihood of workers falling victim to human trafficking, forced labour, or exploitative working conditions. It is the strong belief of EJF and many other civil society organisations here in Thailand that the Ministry of Labour must not allow this pressure to delay efforts and the Ministry should resume its pursuit of a swift and robust ratification of implementation of C188.

The ratification of C188 would allow the RTG to send a credible and powerful message to the international community that Thailand is committed to eliminating exploitative labour abuses from the industry. Adopting C188 would also give seafood buyers and retailers around the world greater confidence that Thai seafood is ethically sourced.

2. Ratification of ILO Conventions C87, and C98 and amendments to national labour legislation – in particular the Labour Relations Act (LRA) by June 2019

The ratification of both C87 '*Freedom of Association and Protection of the Right to Organise*' and C98 '*Right to Organise and Collective Bargaining*' – is essential to remove the structural vulnerability of migrant workers currently employed in Thailand. Freedom of association and right to collective bargaining would empower migrants to challenge cases of labour exploitation themselves.

EJF is encouraged by the MoL's ongoing discussions on C98 but feels strongly that these two Conventions can only serve their purpose if implemented together. This is also dependent on amendments to sections 88 and 101 of the LRA which limit freedom of association and right to collective bargaining to Thai nationals only.

This undertaking should be carried out in close coordination with Thai and migrant worker organisations to ensure the reforms are appropriate and the process inclusive. All reforms should be streamlined to safeguard the rights of migrant workers whilst incorporating a victim-centred approach. Such a progressive improvement in migrant worker rights protection by the RTG would not only provide migrant workers with the same freedoms enjoyed by domestic workers, but would also showcase Thailand as an international leader in terms of rights preservation.

3. Utilise the Chairmanship of ASEAN in 2019 to push for greater regional collaboration and data sharing in the fight against IUU fishing and associated human rights abuses

Thailand's chairmanship of ASEAN in 2019 will allow Thailand to direct the overall focus for ASEAN over the course of the year.

Due to the significance of the fishing industry in ASEAN, Thailand's recent experience and the prevalence of IUU across the region, the 2019 chairmanship presents a strong, timely base on which to build an agenda focused on ridding the ASEAN region of IUU fishing and associated human rights abuses.

Such an agenda would allow Thailand to showcase the positive progress made in fisheries and labour reform over the past three years whilst also demonstrating credible leadership in building a regional approach towards an "IUU-free ASEAN". EJF recommends that this agenda be focused on several core transparency measures that – if implemented collectively – would shed light on vessel identities, activities, and ownership. Many of these measures such as the dissemination and publication of vessel and ownership information are easily implemented and virtually cost free whereas their impact would already greatly enhance the capabilities of regional enforcement agencies.

Other measures, such as the establishment of a mandatory vessel registration system incorporating unique vessel identification numbers (UVIs) required to fish in ASEAN waters, would make it easier for authorities to monitor and scrutinize and sanction illegal operations.

Thailand should also advocate for the creation of a ‘black list’ of identified IUU vessels and their captains to prevent such vessels from docking into their ports. The further ratification of the PSMA by other major fishing nations within ASEAN and implementation of its inspection regimes would restrict these illegal operations across the region even further.

Preliminary concept papers on an ASEAN IUU Taskforce lay out plans for a regionally shared Vessel Monitoring System (VMS). Thailand should lead by example with the near-term publication of its own VMS data alongside other ASEAN countries such as Indonesia. Enhanced transparency and accountability of fishing operations across the Southeast Asian region are essential in the fight against IUU fishing.

EJF has produced a separate set of recommendations on these mechanisms that is available upon request.

4. Implementation of a well-designed, prioritised method for vessel decommissioning

Preliminary plans published on 4th August for a decommissioning programme have identified 680 fishing vessels that are earmarked to be bought back by the Ministry of Agriculture. EJF commends the commitment of the RTG to enact such a programme to help reduce fishing fleet over-capacity. If implemented correctly, a well-designed buy-back system could effectively reduce excessive fishing effort and ensure that this remains sustainable into the future.

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

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

Part of the initial costs for vessel decommissioning could be alleviated by engaging in the retrieval and recycling of discarded or unused fishing gears. Approximately 85% of Thailand’s commercial fishing fleet (approximately 10,650 vessels as of mid 2018) uses some form of netting as their primary fishing gear. EJF believes that there is huge potential in Thailand for the RTG and the DoF to engage in a fishing net recycling scheme to facilitate efforts to decrease overcapacity in the fishing fleet as well as reduce environmental pollution in Thailand’s waters and coastal regions. EJF stands ready to initiate this project and recommends that a localized trial is carried out first in order to gauge levels of participation, potential net volumes that can be accumulated, and an approximate idea of cost.

EJF has produced a separate comprehensive set of recommendations on adopting a sustainable and well-designed fleet management strategy. These are available upon request.

5. Addressing inconsistencies across the PIPO network through training, universal procedures, and unannounced audits

Since March 2018, EJF has continued to work closely alongside the CCCIF, Royal Thai Navy, and DoF to continue observing and analysing PIPO operations across the country.

Although there has been a marked improvement in the way PIPO officials carry out inspections, it is also still apparent that there are lingering issues that are preventing PIPO centres from identifying vessel infractions. Inconsistencies such as the failure to separate interviewees from the rest of the crew; only interviewing one individual crew member and not utilising official DLPW screening tools have the potential to allow cases of IUU fishing, labour abuse or human trafficking to go undetected by the authorities.

Interviews are one of the most important ways of extracting information about living and working conditions on-board vessels. It is therefore imperative that the inconsistencies described above are addressed as quickly as possible by the Department of Labour Protection and Welfare (DLPW). EJF has also observed inspectors using leading questions during interviews, resulting in biased and potentially inaccurate answers.

PIPO checks for newly introduced regulations such as the electronic payment system for fishers and rest period logs for workers also vary across the network. EJF has observed some PIPO centres not checking these measures at all and others only checking the mere presence of fishers’ ATM cards and bank books but not that they are actually being regularly used.

EJF continues to believe that the PIPO network can become a truly powerful enforcement mechanism if robust and thorough inspections can be applied universally. Current inconsistencies however are currently constraining this, undermining the network as a whole.

6. Employ the use of satellite imaging technologies to detect IUU hotspots

The Thai commercial fleet as defined by the RTG is comprised of approximately 10,650 vessels measuring 10 Gross Tonnes (GT) and above (as of mid 2018). VMS is currently compulsory only for vessels over 30GT – approximately 5,500 vessels. This means that approximately 48% of the Thai commercial fleet (around 5,100 vessels) is currently unmonitored. There are currently no plans to extend VMS requirements to smaller vessels.

Although EJF strongly recommends that VMS registration for vessels over 10GT remains a priority for the RTG and the DoF's Fisheries Monitoring Centre, there are interim solutions that could facilitate the detection of non-broadcasting fishing vessels across a wide geographical area. Technologies such as infrared and photographic satellite imagery can be used alongside existing VMS and AIS systems to detect potential illegal fishing activity as well as undeclared or illegal at-sea trans-shipments between non-broadcasting vessels and vessels that are fitted with monitoring devices. These technologies can help inform enforcement agencies such as the RTN and Marine Police as to how to prioritise their at-sea patrols.

EJF proposes implementing a dedicated joint project with the Department of Fisheries and Kongsberg Satellite Services (KSAT) – a third party satellite provider who can facilitate the detection of rogue fishing vessels through the use of infrared and photographic imagery. EJF, DoF, and KSAT have already executed a successful preliminary test in the Gulf of Thailand in mid 2018 to assess future feasibility for such a project. Further use of such innovative technologies will not only complement the monitoring capabilities of the FMC but also enhance Thailand's overall enforcement capacity.

7. Analyse gaps in the electronic banking system to address provincial inconsistencies

EJF continues to strongly support the Ministry of Labour in its resolve to implement electronic payment systems for fishers working on-board fishing vessels. Since its full implementation on 18th May, EJF has observed the system in use in several different provinces. Although the system promises to enhance transparency and accountability for workers in an industry notorious for its ambiguous payment structures, illegal salary deductions, and withholding of wages, the system has been plagued by several issues that limit its overall effectiveness.

As previously identified by the Sub-Committee on Solving IUU Fishing, EJF, and other agencies, the provision of ATMs at ports across Thailand continues to be sporadic. Several ports do not currently have an ATM in their vicinity. This could prevent workers from accessing their funds or withdrawing their salary. Mobile ATM vans could be an interim and flexible solution to the current shortage of permanent ATMs. These vans could also adapt to seasonal changes in vessel traffic at certain ports, especially as during the monsoon months many vessels from the west coast of the Gulf of Thailand shift their base of operations to escape the rains.

Another area of concern that continues to hamper effective electronic payments is low levels of worker awareness of how to use their newly issued ATM cards and bank books. EJF strongly recommends that the DLPW and PIPO centres work closely with the ILO to distribute leaflets in multiple relevant languages explaining the new banking system as quickly as possible in order to disseminate this vital information.

EJF continues to see inconsistent checks for fishers' bank books and ATM cards at both PIPO centres and during at-sea inspections. It is imperative that enforcement agencies adopt universal procedures for checking these documents as well as verifying that they are in regular use. For example, EJF has observed workers being in possession of their bank books, however on closer inspection has seen that they contain no records of any deposits being made into the account. In addition, EJF has observed on several occasions an entire vessel crew's bank books and ATM cards being kept on land by the vessel owner or broker. Certain individuals have even reportedly been in possession of workers' PIN numbers - effectively giving them complete control of workers' accounts.

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