

Joint Civil Society Statement Concerning Thailand's Fishing Sector at a Critical Crossroads



Prime Minister Srettha Thavisin
Office of the Prime Minister
Royal Thai Government
Thailand

15th October 2023

Your Excellency Prime Minister Srettha Thavisin,

We the undersigned organisations, working to secure a legal, ethical and sustainable fishing industry for Thailand, write to express our deep concern regarding alarming proposals that would roll back critical reforms in the Thai fisheries sector and request your intervention in these matters.

These proposals signify a crucial juncture for Thailand's fisheries, especially given the substantive progress, time and resources that have been dedicated to reforming the industry over the last eight years. Thailand has also been recently celebrated for its international commitments and public pledges to eradicate illegal, unreported, and unregulated (IUU) fishing from Thai fishing supply chains, which are in direct conflict with this new trajectory.

The Royal Thai Government's progress to date in achieving a sustainable, legal, and ethical Thai fishing sector is commendable. However, rolling back reforms now would pose risks to Thailand and its fishing industry, especially when the global community is moving toward greater transparency and accountability in the seafood industry.

Before 2015, the Thai fishing industry operated with outdated, weak and insufficient regulations, leading to severe environmental degradation and systematic human and labour rights abuses. Fish populations collapsed dramatically, with the measure of how much fish are caught per hour (catch per unit effort, or CPUE) falling by 88% between 1966 and 2017, as a direct result of IUU fishing practices. This put Thailand's marine ecosystems at risk of collapse while threatening the livelihoods of hundreds of thousands of small-scale and commercial fishers. In addition, Thai fishing vessels gained international notoriety for being the scenes of appalling crimes, including brutal physical abuse, forced labour, and even murders of vulnerable migrant workers. ^{1/2/3}

Exposés by non-governmental organisations, the New York Times⁴, Associated Press⁵, the Guardian⁶, and others resulted in widespread international condemnation of the abuses resulting in massive damage to Thailand's international reputation, and the reputation of its seafood.

A complete lack of transparency and weak penalties for unscrupulous vessel operators fuelled these horrific crimes, spurring subsequent action by both the US Department of State (through a downgrade on the annual Trafficking in Persons (TIP) report to Tier 3 in 2014) and the European Commission (through the issuance of a yellow card warning in 2015). This resulted not only in damage to Thailand's international reputation beyond the above-mentioned news articles that were read worldwide, but also to the economy. The impacts of Thailand's seafood being perceived as high risk on the international market still resonate to this day: Thailand fell from third in the world for seafood exports with a value of approximately US\$ 8 billion in 2012 to just thirteenth with a value of US\$ 5.4 billion in 2021.⁷ The fisheries industry contributed 0.72% to Thailand's Gross Domestic Product (GDP) in 2020.⁸

To rebuild the sector and restore confidence, the Royal Thai Government dedicated significant effort, resources and new technologies to implementing crucial reforms. These included a Royal Ordinance on Fisheries, B.E. 2558 (2015) as well as subsequent amendments, publishing of commercial licence lists in a publicly accessible database, digitising vessel crew lists and implementing monitoring control and surveillance mechanisms to enhance transparency and accountability across the fishing industry. These effective reforms strengthening regulations of Thailand's fisheries were critical in persuading the EU to remove the yellow card and upgrading Thailand's status in the TIP report in subsequent years.

After seven years, we are only just starting to see tentative signs of recovery for fish populations. Between 2017 and 2021, the CPUE in the Andaman Sea has increased from 11 kg/hr to 20 kg/hr and in the Gulf of Thailand from 33 kg/hr to 45 kg/hr. Nonetheless, these are still mere fractions of what they were in the 1980s. Given the delicate nature of the recovery, we believe it is vital to sustain the progress achieved through the reforms of the past seven years. Any deviation from the current course could impede further recovery and potentially lead to even renewed collapses of fish populations, hinder Thailand's ability to adapt to climate change impacts, and adversely affect Thailand's international standing in the seafood market. It could also exacerbate the vulnerability of migrant workers who form the majority of the workforce on Thai fishing vessels, eroding recent gains made to regularise fishers into the workforce and elevate living and working conditions onboard vessels. It is worth noting that Thailand's treatment of migrant workers, and their labour and human rights, will likely be an important topic in the upcoming EU-Thailand negotiations on a free trade agreement.

It is for these reasons that we are concerned about the incoming administration's outlook on fisheries policies, namely the focus on repealing essential regulatory changes. Advocates for the removal of existing regulations have often argued that trade to the European Union (EU) only represents 5.6% of Thailand's total seafood exports. While true, the catch documentation standards and requirements for traceable, legally, sustainably and ethically caught seafood under the EU IUU Regulation — that Thailand has only just navigated successfully — are not an isolated case. Instead, the rapidly shifting paradigm in fisheries transparency and seafood traceability requirements emerging from a host of countries could put Thailand's existing seafood export credentials at risk, jeopardising more than half of Thailand's seafood trade. This is even before import regulations focused on barring market access for products associated with forced labour, such as the US Customs and Border Protection Agency's Withhold Release Orders, are taken into account. In total, the volume of seafood trade across countries with strengthened transparency and traceability requirements covers approximately 59.9% of Thailand's seafood trade, including the United States (22.4%), Japan (18.7%), the EU (5.6%), Australia (5.0%), Canada (3.7%), South Korea 3.5%, and New Zealand (0.7%).⁹

To roll back on Thailand's previous commitments to seafood traceability would have a devastating impact on the industry, isolating the country and setting Thailand's fishing industry back decades, at a time when the rest of the world is looking to the future. The policy revocations suggested by the commercial sector are not only short-sighted in terms of the environmental impacts that they would have on fisheries resources but would also have a major human toll. The regulatory rollbacks would only serve to benefit a small proportion (20%) of the total fishing industry by number of vessels while placing artisanal fishers and coastal communities at a significant disadvantage, threatening livelihoods and food security for thousands.

Thailand ratified International Labour Organisation (ILO) Convention No. 188 (C188, the Work in Fishing Convention) in 2019, and the proposed reforms advocated by the National Fishing Association of Thailand (NFAT) would almost certainly undermine existing policies and legal frameworks in place that adhere to C188 standards. With reduced oversight, migrant fishers will be in a more precarious position that significantly increases their vulnerability to longer hours, lower wages, and substandard living conditions.

The proposed rollbacks also entail serious financial consequences for Thailand. Besides putting more than half of Thailand's seafood trade at risk, as discussed above, the rollbacks would likely jeopardise another key economic sector: the tourism industry. Preserving Thailand's marine ecosystems is critical to maintaining Thailand's tourism industry, which was valued at 2.8 trillion baht (US\$82 billion) in 2017, representing almost 18% of Thailand's GDP.¹⁰ Thailand's marine tourism industry, which includes scuba diving, is worth over US\$161 million (5.52 billion baht), making it as valuable as Thailand's seafood exports

to the European Union in 2018.¹¹ As the global dive industry recovers from the effects of COVID-19, any future government should view marine conservation and habitat protection as both an environmental and economic benefit. Coupled with economic recovery from the COVID-19 pandemic, this is not the time to cause further disruption by harming Thailand's international standing in the global seafood marketplace.

We would like to explain the dangers of the particularly problematic proposals being urged by the NFAT and vessel owners. The Royal Thai Government should refuse such proposals and continue with the ongoing reform process:

- Removing restrictions on (1) at-sea trans-shipment of seafood catch and (2) at-sea crew transfers while fishing vessels are at sea: Recent studies have found that at-sea transshipment significantly increases the risk of IUU fishing and labour rights abuses at sea.¹² Notably, this practice was commonly used in the past in Thai fishing fleets to rotate undocumented migrant workers amongst fishing vessels to prevent them from escaping, effectively imprisoning them onboard as slaves and creating "sea prisons" that were correctly and harshly criticised by the international community and consumers of seafood worldwide.¹³ Given the risks associated with the practice, the Department of Fisheries correctly banned such at-sea trans-shipments of catch and crew in 2015.

Re-introducing at-sea trans-shipment would significantly erode transparency in Thailand's fishing industry. It would reduce the ability of enforcement and monitoring agencies to monitor fisheries compliance and scrutinise living and working conditions on crew members on board fishing vessels, and would increase the chances of workers being exploited and rotated amongst vessels without detection.

The reinstatement of such a practice would also be in violation of numerous major international seafood companies' Codes of Conduct or traceability regulations and could result in decisions to forego purchasing Thai caught seafood.

- Permitting child labour: In March 2022, the Ministry of Labour introduced a new Ministerial Regulation for Sea Fishery Work (B.E.2565) ("Regulation"), permitting apprenticeships for children¹⁴ aged 16 to 18 on fishing vessels under certain limitations. Thai NGOs raised immediate concerns about this new provision, calling for its immediate removal due to continued reports of poor living and working conditions onboard Thai vessels, as well as high rates of fishers lost at sea (109 in 2021 and 122 in 2022 according to figures from the Royal Thai Police's Anti Human Trafficking Centre).

The Regulation also conflicts with existing stances by Thailand on child protections, and violates ILO Convention No. 182 (C182 on the Worst Forms of Child Labour) ratified by Thailand, and could put the country's hard-won reputation as an international seafood market leader at risk. Most international seafood industry Codes of Conduct do not allow under 18-year-old workers in their supply chains. Seafood buyers in important seafood markets such as the European Union and the United States may not be willing to accept the risk of purchasing seafood products from Thailand if they are potentially tainted by use of unethical child labour. We believe the Regulation requires urgent revisions before it is deemed fit for purpose, especially as it pertains to monitoring systems as well as the exact working requirements of young workers onboard vessels.

- Weakening punitive measures designed to deter IUU fishing: Fisheries crime threatens food security and undermines the legality, ethics and sustainability of the seafood sector by eroding the rule of law and accountability. Without appropriate sanctions to deter IUU fishing and associated labour abuses, Thailand could see fisheries compliance levels fall, eroding consumer and international seafood buyer confidence in Thai seafood products.

- Extending the permitted number of fishing days per trip: Current proposals suggest extending the legal number of fishing days per trip from 30 days to 45 days, or even 60 days. Such an extension could increase fishing efforts beyond sustainable levels whilst also increasing the chances of crew exploitation and at-sea transfers of catch and crew occurring as vessels can fish further and for longer from shore.

- Extending the time period in which vessel operators can revise vessel crew lists after they have left port: This could allow for additional workers to board vessels after official portside inspections have finished, facilitating human trafficking and labour exploitation, along with the use of unregistered workers, with little chance of oversight by relevant authorities.

- Abolishing the electronic payment system for fishers: Electronic payment systems have been shown to substantially enhance transparency and accountability in an industry notorious for confusing payment structures, illicit salary deductions, and wage withholding. In the absence of secure, verifiable payment systems, fishers can be subjected to unlawful wage deductions and debt bondage.

Despite there being a number of challenges facing the electronic payment system's overall effectiveness, it remains the most effective method to-date for ensuring that workers are paid and that they are paid the proper amount. Even a slight relaxation of policy to enable a portion of a worker's income to be paid in cash will likely multiply the risk of deception, the withholding of wages, and debt bondage — all indicators of forced labour — among fishers.

- Return to day-rate fisher salaries: Repealing the current monthly salary payments and returning to day-rate cash payment risks increasing the chances of wage retention or deductions, mismatched salary payments and a complete lack of financial transparency. Employers should continue to be required to provide fishers a monthly salary that is at least equal to the legal daily minimum wage times 30 days. It must be paid through electronic bank channels so that the process is transparent.
- Removing the requirement that vessel operators fill in fishing coordinates in vessel logbooks: Accurate fishing location coordinates are essential to verify that seafood is caught in legal fishing grounds. This change could erode transparency and enable IUU fishing in protected areas, especially given that many commercial fishing vessels still lack satellite based vessel monitoring systems (VMS) and/or turn off their automatic identification system (AIS).
- Allowing for the renewal of fishing licenses for 'locked' commercial fishing vessels: This group of vessels (numbering approximately 949 vessels) was barred from fishing in 2015 and includes any fishing or fishing support vessels found to have invalid vessel registration or fishing licence documents at the time. Allowing these vessels to re-register and resume fishing would result in overcapacity in the fishing fleet and unsustainable overfishing at a time when Thailand's fish stocks are already severely depleted and only in the earliest stages of recovery.

We, the undersigned, respectfully call on you to take immediate steps to ensure that the aforementioned proposals are rejected. Secondly, we also call for all existing IUU directives and transparency mechanisms currently contained in both law and regulations to be preserved and strengthened, rather than diminished or dissolved. Thirdly, protection for the rights of migrant worker crews should be expanded, not reduced, and reform made to the Labour Relations Act of 1975 to permit foreign migrants to organise, officially register, and lead labour unions of their own making.

We emphasise that the new Thai government should follow a clear precautionary approach that follows scientific principles, rather than prioritising short-term industry gains over long-term stability, sustainability, and respect for human and labour rights. Importantly, any revisions to law and regulations must be

participatory, with substantive inclusion of all relevant stakeholders, including the commercial fishing sector, seafood producers, artisanal fishing associations, trade unions, civil society organisations, migrant workers and crews, and academic institutions. An open process is essential to promoting and fostering healthy dialogues and multi-stakeholder engagement.

We trust that your leadership will prioritise the preservation of this hard-earned progress and pave the way for a brighter, more sustainable future for Thailand's fishing industry and all those who depend on it. We would like to request an open dialogue with you, or your representatives, to discuss this letter and these issues, and request that your office responds to Representative of the Environmental Justice Foundation Southeast Asia Office on +66-92-968-3057, info@ejfoundation.org, at your earliest possible convenience.

Endorsing organisations:

1. Artisanal Fisheries Group of Ban Laem Makham
2. Artisanal Fisheries Group of Ban Nam Rap
3. Baba Cheikh ONG ADRES Association Mauritanienne de développement de recherche et de suivi
4. Ban Ton Sai's Marine and Coastal Resources Conservation Group (Suso)
5. Be Slavery Free
6. Blue Ventures
7. Building and Wood Worker's International (BWI)
8. Center for Alliance of Labor and Human Rights (CENTRAL)
9. Center for Migrants Advocacy (CMA)
10. Coalition for Fisheries Transparency
11. Conservation International
12. Consumers' Association of Penang
13. Corporate Accountability Lab
14. Destructive Fishing Watch Indonesia
15. Ecological Alert and Recovery - Thailand
16. EcoNusa
17. Ekologi Maritim Indonesia (EKOMARIN)
18. Environment & Animal Society of Taiwan (EAST)
19. Environmental Justice Foundation (EJF)
20. Environnement, Développement et Énergies Renouvelables
21. Fisheries Action Coalition Team (FACT)

22. Fisheries Community Enterprise Group of Ban Laem Sai
23. Fisheries Group of Ban Hat Yao Chao Mai
24. Fishers' Rights Network (FRN)
25. FishWise
26. Fortify Rights
27. Freedom Fund
28. Global Labor Justice-International Labor Rights Forum (GLJ-ILRF)
29. Green World Foundation
30. Greenpeace
31. Human Dignity Group
32. Human Rights and Development Foundation (HRDF)
33. Human Rights Watch
34. Human Rights Working Group (HRWG)
35. Humanity Research Consultancy
36. Humanity United Action
37. Independent Federation of Myanmar Seafarers (IFOMS)
38. Indonesia Ocean Justice Initiative
39. International Federation for Human Rights (FIDH)
40. International Justice Mission
41. International Seafarers Action Center (ISAC) Philippines Foundation Inc.
42. Jangkar Karat
43. Joint Developing Community Enterprise Group of Thung Krabue
44. Koh Libong Artisanal Fisheries Group
45. Koh Sukon's Marine and Coastal Resources Conservation Group
46. Korea Federation for Environmental Movements
47. Labour Protection Network (LPN)
48. Love Wildlife Foundation
49. Manushya Foundation
50. MAP Foundation
51. Migrant Care
52. Migrant Working Group (MWG)
53. Myanmar Migrant Network Bangkok (MMNB)
54. Nam Phong River Restoration and Conservation Network
55. NatureMind-ED
56. Nexus3 Foundation

57. Oceana
58. Oxfam International-Asia
59. Pejuang Suara Pelaut (PSP) Indonesia
60. Pelaut Indonesia Sejahtera
61. Persatuan Pendidikan dan Kebajikan Jaringan Nelayan Pantai Malaysia (JARING) - Malaysian Inshore Fishermen Association for Education and Welfare
62. PROUD Association
63. Rak Thai Foundation
64. Rayong Surface Water Monitoring Group
65. ReReef
66. Sahabat Alam Malaysia (Friends of the Earth)
67. Sal Forest
68. Seafood Processing Group of Ban Chang Lang
69. Seafood Processing Group of Ban Ta Se
70. Serikat Buruh Migran Indonesia (SBMI)
71. Serikat Pekerja Perikanan Indonesia (SPPI)
72. Small-scale Fisherfolk Club of Trang
73. Small-Scale Fisherfolk Group of Pak Khlong
74. Solidarity Center
75. SOS Earth
76. Southern Artisanal Fisher Association
77. State Enterprises Workers' Relations Confederation (SERC)
78. Stop Fish Bombing Malaysia
79. The People's Coalition for Fisheries Justice (Koalisi Rakyat untuk Keadilan Perikanan/KIARA)
80. Uniting Church in Australia, Synod of Victoria and Tasmania
81. Verité
82. Verité Southeast Asia
83. WildAid
84. Women4Oceans

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- ¹² EJF (2023) The Weakest Link: How at-sea trans-shipment fuels illegal fishing and human rights abuses in global fisheries, <https://ejfoundation.org/reports/the-weakest-link-how-at-sea-trans-shipment-fuels-illegal-fishing-and-human-rights-abuses-in-global-fisheries>
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