



International Organization for Migration (IOM)
Organisation internationale pour les migrations (OIM)
Organización Internacional para las Migraciones (OIM)

Trafficking of Fishermen in Thailand



January 14, 2011

This publication was made possible through support provided by the United States Department of State, Office to Monitor and Combat Trafficking in Persons, under the terms of Award No. S-GTIP-08-GR0023.

IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental body, IOM acts with its partners in the international community to: assist in meeting the operational challenges of migration; advance the understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.

The opinions expressed herein are those of the author(s) and do not necessarily reflect the views of IOM or the United States Department of State.

Publisher: International Organization for Migration (IOM)

IOM Thailand
18th Floor Rajanakarn Building
183 South Sathorn Road
Sathorn District, Bangkok
10120 Thailand
Telephone: +66.2 343 93 00
Fax: +66.2 343 93 99
Email: IOMBangkok@iom.int

Copyright © 2011 International Organization for Migration (IOM)

Cover Photo © courtesy of Philip Robertson (Note: Inclusion of this photograph is for illustrative purposes and should not be construed to mean that the fishing boat pictured is using trafficked labour.)

Table of Contents

LIST OF ACRONYMS AND GLOSSARY.....	5
INTRODUCTION.....	7
PART I: MODUS OPERANDI OF THE FISHING INDUSTRY AND TRAFFICKING ISSUES ...	9
A. Operations of Thai fishing fleets and incidence of human trafficking.....	9
B. Legislative and regulatory framework for the fishing sector.....	9
i. Regulation of the fishing industry	9
C. LABOUR PROTECTION.....	11
D. ANTI-TRAFFICKING LEGISLATION AND THE FIGHT AGAINST TRAFFICKERS.....	12
E. AGENCY ROLES AND COORDINATION	13
i. Maritime institutions.....	13
ii. Immigration, police, labour and anti-trafficking units	15
iii. Thai fishing boat owners associations, NGOs and fishermen advocates	17
PART II: FISHERMEN RECRUITMENT AND LABOUR CONDITIONS.....	18
A. Legislative framework for the recruitment of foreign labour and the registration process.....	18
B. Overview of current recruitment practices	19
C. Labour contracts and identification documents for fishermen and accompanying persons.....	20
i. Labour contracts.....	20
ii. Documents for fishermen and accompanying persons	21
D. Human trafficking.....	24
E. Assessment of living and working conditions on fishing boats	27
i. Work day.....	27
PART III: INFORMATION AND ASSESSMENT OF ASSISTANCE AND SUPPORT SERVICES FOR MALE VICTIMS OF TRAFFICKING IN THE FISHING INDUSTRY	30
A. Anti-trafficking legislation and victim protection and support.....	30
B. Current practices and issues	30
CONCLUSIONS.....	32
RECOMMENDATIONS FOR DISCUSSION.....	34
A. Data collection and exchange	34
B. Recruitment of migrant and Thai fishermen.....	34
C. Maritime legal and regulatory reform	35
D. Prevention	36
i. Information campaign and materials	36
ii. Inspections	37
E. Prosecution	38
i. At sea:.....	38
ii. On land:.....	39

F. Protection	40
G. Capacity development	40
i. Training	40
ii. Translation and interpretation.....	41
iii. National partnerships and international cooperation	41
BIBLIOGRAPHY (PARTIAL)	43
APPENDIX A: METHODOLOGY.....	47
a) Key informant interviews: migrant worker advocates, fishing industry representatives, Government authorities, migrant representatives, other knowledgeable persons.	47
b) Focus group discussions, arranged by local NGOs/migrant worker groups....	50
c) One-on-one interviews with trafficking victims	50
APPENDIX B: LIST OF NGOS	52
APPENDIX C: INTERNATIONAL STANDARDS RELEVANT TO THE FISHING SECTOR	53
APPENDIX D: PROVINCIAL IDENTITY CARD SYSTEMS AND EXAMPLES OF CURRENT PRACTICES	55
APPENDIX E: STORIES OF VICTIMS OF TRAFFICKING.....	60
APPENDIX F: INTERVIEW QUESTIONS	62
a) Focus group questions.....	62
b) Individual interviews.....	62
Recruitment of migrants.....	62
Conditions of work on fishing boats.....	63
Fishermen’s return to land and need for services.....	65
Social networks	66
c) Questions to Government, NGO and other service providers.....	66
Services for migrants/victims of trafficking	66
APPENDIX G: MEETING TO DISCUSS THE REPORT WITH THE THAI GOVERNMENT AND RESULTING COMMENTS FROM GOVERNMENT AGENCIES	67
APPENDIX H: MINISTRY OF INTERIOR REGULATIONS ON THE GRANTING OF PERMISSION TO ALLOW SOME GROUPS OF ALIENS/MIGRANTS TO REMAIN IN THAILAND AS A SPECIAL CASE FOR THOSE WHO ARE VICTIMS OF HUMAN TRAFFICKING	89

This page intentionally left blank

LIST OF ACRONYMS AND GLOSSARY

Ka Hua – the cost charged by traffickers and paid by fishing boat representatives for trafficked fishermen.

Ka Yep Rua – cash advance (deducted from future earnings) given to fishermen before boarding the ship and heading out to sea; often used to pay costs associated with going to sea and for leaving money with spouse and children on shore.

Reua Mae – “mother ship” - literally a large supply ship that brings fishing equipment, food, ice and other supplies, as well as new fishermen to smaller fishing boats, and takes off marine catch. A larger fishing fleet owner may own a *reua mae*, while smaller operators rent space or request deliveries on a cost-for-service basis. A *reua mae* is more likely to make longer trips, especially to overseas fishing grounds.

Reau Phi – “ghost boat”, an unregistered commercial fishing boat, operating without a Thai license, and often operating in overseas fishing concessions without permission.

Reau Tour – a smaller version of the *reua mae*, supplying ships in the Gulf of Thailand and overseas waters in the near vicinity.

Tao Gae – fishing boat owner or fleet owner.

Acronyms

ATIP	Anti-trafficking in Persons Act of 2008
ATP	Anti-trafficking Police
BATWC	Bureau of Anti-trafficking in Women and Children
DLPW	Department of Labour Protection and Welfare, MOL
DOE	Department of Employment, MOL
DOF	Department of Fisheries
DSI	Department of Special Investigations
FAO	Food and Agricultural Organization of the United Nations
FAR	Foundation for AIDS Rights
IOM	International Organization for Migration
ITF	International Transport Workers Federation
LPA	Labour Protection Act of 1998
LPN	Labour Rights Promotion Network
MECC	Maritime Enforcement Cooperation Centre
MOAC	Ministry of Agriculture and Cooperatives
MOL	Ministry of Labour
MSDHS	Ministry of Social Development and Human Security
NGO	Non-governmental Organization
RTF	Raks Thai Foundation
RTMP	Royal Thai Marine Police

RTN	Royal Thai Navy
RTP	Royal Thai Police
SUB	Seafarers Union of Burma
TFA	Thai Fisheries Association
TOFA	Thai Overseas Fisheries Association
UN	United Nations
UNIAP	United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region
WVFT	World Vision Foundation of Thailand

INTRODUCTION

The trafficking of men to Thai fishing boats started in earnest after the ravages of Typhoon Gay in 1989, which resulted in the sinking of over 200 fishing boats and caused at least 458 deaths (an additional 600 persons are missing and presumed dead), mostly among Thai fishing crews from the poor Northeast region of Thailand.¹ Prior to the storm, fishing was primarily concentrated in the nearby Gulf of Thailand and Andaman Ocean (which were still relatively rich in marine resources) and considered as lucrative, seasonal work. Almost overnight, fearful Thai crews abandoned the sector, leaving remaining boat owners in desperate need of labour. Burmese, Cambodian and a few Lao migrant workers began to be recruited to replace the rapidly dwindling Thai crews, and informal migrant and Thai labour brokers sprung up to facilitate this process.

Twenty years later, Thai fishing vessels ply the territorial waters of dozens of nations, especially Burma (Myanmar), Cambodia, India, Indonesia, Malaysia, and Vietnam, and travel as far as Somalia and other parts of the coast of East Africa. Yet, for an increasingly sophisticated industry, Thailand's recruitment for workers in the fishing sector remains largely based on informal recruiting processes which often lead to abuse and foster human trafficking. Many fishermen are sold to fishing boat owners (at a certain price per head, the *ka hua* -- see glossary). A trafficked fisherman must thereafter work to pay off the *ka hua* before being paid any wages. Depending on the amount of the *ka hua*, a trafficked fisherman could be working from one month to as long as six to eight months before earning any wages for himself. In some cases, depending on the predilection of the boat captain and/or owner, trafficked fishermen are kept working on boats for years without pay.

Working conditions on fishing boats are extremely arduous. Fishermen are expected to work 18 to 20 hours of back-breaking manual labour per day, seven days per week. Sleeping and eating is possible only when the nets are down and recently caught fish have been sorted. Fishermen live in terribly cramped quarters, face shortages of fresh water and must work even when fatigued or ill, thereby risking injury to themselves or others. Fishermen who do not perform according to the expectations of the boat captain may face severe beatings or other forms of physical maltreatment, denial of medical care and, in the worst cases, maiming or killing.

Only a small percentage of foreign workers on fishing boats have proper documentation and work permits. On land, there is widespread use of informal "identification cards" which offer some protection from arrest by local police but have no legal basis in either Thai immigration or labour legislation. At sea, on boats leaving Thai waters, boat captains often hold fraudulent Thai Seafarer (Fisherman) books issued with the photo (but not the

¹ Wikipedia, [http://en.wikipedia.org/wiki/Typhoon_Gay_\(1989\)](http://en.wikipedia.org/wiki/Typhoon_Gay_(1989)), accessed on November 13, 2009.

real name or bio-data) of each fisherman and usually do not release these to the crew while in foreign ports, thereby further diminishing any legal protection afforded by the document.

While anti-trafficking legislation has been improved and Ministry of Social Development and Human Security (MSDHS) facilities established in Thailand to provide support to male victims of trafficking, including fishermen, the current framework requires men who have been trafficked to stay in shelters and does not permit them to work. The condition prohibiting work serves as a disincentive for male victims of trafficking to wilfully be identified as such. Since victims are not allowed to work to earn money, the system does not respond directly to the needs of male victims and results in many fleeing shelters, making it difficult to promote collaboration with law enforcement authorities to reduce human trafficking.

The objective of this report is to provide a better understanding of the recruitment, living and working conditions of fishermen and the extent of exploitation and abuse in the Thai fishing sector. The report reviews the legislative and regulatory framework governing the fishing sector and the recruitment of fishermen and its implementation, highlighting certain gaps which enable traffickers to operate in the sector and lead to abusive labour conditions. The report also examines protection and support services accessible by victims of trafficking.

Philip Robertson, an international consultant with expertise on human trafficking in the Greater Mekong Sub-region, was contracted by the International Organization for Migration (IOM) to complete this report. The methodology consisted of interviews supplemented by a comprehensive desk study of existing reports and materials (in Thai and English languages) on human trafficking and the fishing industry from a variety of sources including from academia, United Nations (UN) agencies, IOM, and non-governmental organizations (NGOs). Interviews were conducted with migrant fishermen and their families (individually and in focus groups), with migrant worker associations/trade unions, NGO representatives, Thai Government officials, fishing boat captains and employer representatives. (See Appendix A for more details on the interviews/methods employed.)

PART I: MODUS OPERANDI OF THE FISHING INDUSTRY AND TRAFFICKING ISSUES

A. Operations of Thai fishing fleets and incidence of human trafficking

Thai fishing fleets can be categorized according to the fishing grounds in which they operate: Thai territorial waters or elsewhere.

Thai fishing boats that operate in the Gulf of Thailand are generally preferred by migrant fishermen because they are out at sea for shorter periods of time (from a few days to two or three months, at most), meaning the pay is more regular and the risk of being cheated is lower. While there are instances of trafficking on these boats, the frequent trips back to shore make it more difficult and labour intensive to control trafficked fishermen.

Virtually all interlocutors interviewed, including migrants, NGOs, Thai Government officials and boat captains, said **fishing boats going to foreign waters**, such as Malaysia and Indonesia, were associated with a higher incidence of trafficking. This is because these boats are fishing offshore for longer periods of time; therefore, it is not possible for fishermen to leave, even if working conditions are unacceptable. There is also a higher risk of the worker losing large sums of money as pay is received less frequently and the worker may be cheated out of large sums of unpaid wages.² Eaklak Loomchomkhae, Director of the Mirror Foundation, reported their research found that among 67 Thai men trafficked to work on fishing boats, nearly 100% were placed on boats going overseas. Similarly, cases of trafficked Myanmar and Cambodian nationals more frequently involve overseas boats – the Seafarers Union of Burma (SUB) found that Tual, in the Kai Islands, now houses several hundred Myanmar nationals who have jumped ship in recent years and are now stateless and stranded.³ Similarly, the bulk of trafficking cases involving Cambodians are linked to overseas ships, according to interviews with fishermen.

B. Legislative and regulatory framework in the fishing sector

i. Regulation of the fishing industry

The core legislation on the fisheries sector is the Fisheries Act, B.E. 2490 (1947). The Act sets out requirements for the registration and licensing of fishing equipment and the issuance of permits for persons engaged in commercial fishing; it also provides authority to regulate types of fishing

² For example, the researcher interviewed six Burmese fishermen who spent almost four years working on fishing boats owned by the same Thai owner. They were promised pay of “not less 4000 baht per month” for 30 months of work, but when they returned to Thailand, the boat owner only paid them 2000 baht each and threatened to call the police if they complained. Focus group with Burmese fishermen, LPN office, Mahachai, Samut Sakhon, June 14, 2009.

³ Meeting with Aung Thu Ya, President, SUB, May 6, 2009.

techniques that can be used. There is widespread agreement among stakeholders that the Act is outdated and should be revised.

The Food and Agriculture Organization (FAO) of the United Nations comments *“Though accommodating in structure with respect to regulations, the Act has been conceived at a time when Thailand’s fisheries were almost entirely artisanal in nature, mostly inland, and with only a small part being inshore marine. There is a general consensus that a new Act is needed...”*⁴

Section 56 of the Act provides government officials with the right to board and inspect fishing vessels⁵ for certain purposes, but these do not include issues related to fishermen/personnel. A review of the Act and associated regulations reveals the focus is almost solely on regulating types of fishing equipment that can be employed and prohibitions on fishing for certain aquatic species in specific areas. Legal protections for coastal fisheries prevent trawlers from coming within three kilometres of the shore, thereby keeping larger fishing boats, which may be using trafficked labour, from working in coastal areas where workers could more easily escape by jumping ship and swimming ashore. Sections 57 and 58 authorize officials to seize fishing vessels, equipment and catch in cases where the Act has been violated.

The Act Governing the Right to Fish in Thai Fishery Waters, B.E. 2482 (1939), regulates fishing activities in Thai territorial waters. Interestingly, Section 7 of this Act prohibits fishing in Thai waters of *“Thai vessels, the crew [sic] of which include aliens, no matter in what capacity they may be.”* The Act defines “alien” as *“an alien under the law concerning the registration of aliens”* but does not clearly specify the name of said registration law. A ‘grandfather clause’ exemption contained in the Act has been made irrelevant by the passage of time, but that exemption also indicated that even in cases where exempted aliens were employed, the total percentage of “aliens” among the crew could not exceed 25%.

Section 8 of the Act requires the permit to fish in Thai waters be present at all times during fishing operations. Section 9 provides authority for Government officials to board and inspect fishing vessels, and impound fishing implements and catch in cases of violations. Under Section 10, officials are also authorized to seize a fishing vessel suspected of violating the Act and tow it into port to undertake legal proceedings; courts can also order forfeiture of the vessel.

⁴ FAO, [Thai Fishery Laws](#), by Coastal Habitats and Resources Management Project (CHARM), November 2005.

⁵ Section 56 of the Fishing Act of 1947 states *“The competent official shall have the power to enter at any time any fisheries or board any fishing vessel of any person for the purpose of inspecting the fishing, fishing appliance, aquatic animals, accounts and document of the licensee. The licensee must give facilities and explanations to the competent official.”*

There are many Myanmar and Cambodian fishing crews on vessels owned by Thai nationals that are fishing in Thai territorial waters in the Gulf of Thailand and the Andaman Sea. The vast majority are undocumented and not registered under existing migrant worker registration schemes operated by the Ministry of Labour (MOL).⁶ According to the Act Governing the Right to Fish in Thai Fishery Waters, all these boats are subject to boarding, search and seizure. However, penalties for violations are relatively low and include a fine of 2000 baht or imprisonment for one year, or both. It is unclear how this legislation interacts with the existing labour laws and regulations for migrant workers.

Appendix C presents an overview of international standards applicable to the fishing sector that can provide useful for guidance on the development of a national framework.

C. Labour protection

The Labour Protection Act of 1998 (LPA) sets out minimum standards for wages and working conditions, yet the MOL's Ministerial Regulation 10 of the LPA stipulates wages and working conditions will be based on the terms of agreement between the employer and employee. The researcher was unable to identify a single fisherman who had ever received a written contract from his employer.

The practical impact of Ministerial Regulation 10 is to place the fishing industry outside the coverage of more than 90% of the provisions of the LPA. The only sections of the LPA explicitly applying to marine fishing relate to matters such as prohibitions on requiring "guarantee money" (i.e. money guarantees against possible damages by the employee) and administrative items such as the power of labour inspectors to inspect and issue orders and the right of employees to file complaints with the MOL, Department of Labour Protection and Welfare (DLPW) for unpaid wages. A further exemption is made from any application of the LPA or Ministerial Regulation 10 for marine fishing boats with less than 20 employees and boats that "*perform their operation regularly outside the Kingdom of Thailand continuously for at least one year or more.*" Therefore, it excludes an important part of the fleet comprised of small- and medium-sized Thai fishing boats, or of vessels operating in non-territorial waters.

Additional provisions in Ministerial Regulation 10 prohibit employment of children under 15 on fishing boats⁷; require maintenance of crew lists and

⁶ Interviews with NGO workers from World Vision Foundation of Thailand (Ranong), Stella Maris Center (Songkhla), Raks Thai Foundation (Pattani), and Center for AIDS Rights (Rayong), and discussion with MOL official in Pattani. Also, see *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand*, Human Rights Watch, <http://www.hrw.org/en/reports/2010/02/23/tiger-crocodile-0>, February 23, 2010.

⁷ Children aged between 15 and 16 years of age can work on a marine fishing vessel if their mother or father works on the same vessel, or if the mother, father, or guardian gives written permission for the child to work.

records of payment of wages and holiday pay, with signed acknowledgement of receiving pay; oblige that wages and holiday pay be given at least once per month⁸; require that fishermen receive 30 paid days of holiday leave and 30 days of paid sick leave per annum; and necessitate employers to pay 50% of wages when fishermen are in a foreign country but are not working. Based on interviews with migrant fishermen, it does not appear that fishing boat owners are complying with the above-mentioned provisions of Ministerial Regulation 10, except for prohibiting the employment of children under 15.

Ministerial Regulation 10 obliges employers to pay repatriation expenses for fishermen returning to their domicile in cases when workers “are in danger or ill due to their performance of their work”, face early termination of contracts by the employer, or when there are problems with the fishing vessel.⁹ Fishermen interviewed stated clearly their boat captains would not send them back to shore in case of injury or illness,¹⁰ but some did confirm they were sent back by boat in instances of boat problems, end of contracts, or end of fishing concession agreements.

D. Anti-trafficking legislation and the fight against traffickers’ activities

Trafficking in persons (TIP) in Thailand is covered by the Anti-trafficking in Persons (ATIP) Act B.E. 2551 (2008), which severely penalizes trafficking of both men and women for all purposes, including those such as forced labour on fishing boats. There are several important sections of the ATIP Act dealing with organized criminal activities, offenses occurring outside of Thailand, penalties, victim assistance, witness protection and the right of victims to work while involved (as a witness or otherwise) in the criminal investigation or prosecution of traffickers.

Regarding organized criminal activities, Section 5 of the ATIP Act defines an organized criminal group as a group of three or more persons involved in duping and coercing victims.¹¹ This would include duping or coercing persons onto fishing boats.

Section 10 establishes harsher penalties (up to 50% more jail time) for involvement in trafficking as a member of an “organized criminal group”

⁸ A loophole exists in the requirement regarding the payment schedules. The Regulation allows schedules to be decided as “agreed upon by the employer and employee in the best interest of the employee.” Presumably, most boat owners will refer to this provision in explaining why crews on overseas boats are not paid wages monthly, but must wait for the pay until the end of the period of time set in their verbal agreement.

⁹ Natee International Law Office Ltd., Labour Protection Act B.E. 2541 (A.D. 1998) with Notifications, Ministerial Regulations, and Royal Decree, Bangkok, 2000.

¹⁰ The only exception found was the practice of Thai boats legally fishing in Burmese waters under a fishing concession license; see the section on the special aspects of the “Ranong model.”

¹¹ Section 5 defines an ‘organized criminal group’ as “three or more persons, notwithstanding being formed permanently or existing for a period of time, and no need to have formally defined roles.” *for its members, continuity of its membership or a developed structure, acting in concert with the aim of committing one or more offences punishable by a maximum imprisonment of four years upwards or committing any offence stipulated in this Act, with the aim to unlawfully obtain, directly or indirectly, property or any other benefit.*”

than if the crime was committed by an individual. For example, a four year sentence would be extended to six years if the perpetrators were found to be part of an “organized criminal group.” Section 10 also provides that even heavier penalties (double the normal sentence) must be levied against those trafficking persons out of Thailand; with adequate law enforcement, this provision could serve as a significant deterrence to the trafficking of workers to boats going overseas.¹²

E. Agency roles and coordination

The role of government entities in the fishing sector is not well coordinated, reducing the effectiveness of the already under-resourced civil service agencies tasked with oversight. The legal framework defining the roles and rules applying to public agents is outdated given the recent changes and growth of the sector, and many gaps currently exist. While a number of agencies have the right to board and inspect fishing vessels, the majority, do not exercise this authority. By the accounts of NGOs and a number of provincial and national civil servants involved in the sector, the inspection of a fishing boat is not common practice. While systems for the registration and regulation of boats, equipment and fishermen exist on paper, they are often not implemented and generally lack any meaningful impact on preventing labour exploitation and trafficking in the fishing industry.

i. Maritime institutions

The Department of Fisheries (DOF) under the Ministry of Agriculture and Cooperatives (MOAC) is responsible for licensing types of fishing gear and equipment, delimiting how the gear is used and setting methods for and areas where types of equipment can be used. However, DOF places a primary focus on expanding fisheries production. The DOF does have boats to conduct inspections, but none of the fishermen interviewed had ever seen a DOF boat conduct an inspection; NGOs and other Government officials reported DOF boats rarely conduct inspections at sea. Further, NGOs report the DOF re-registration process involves a fair amount of paper work and while applications are filed at the provincial DOF offices, hardly any inspections take place and the registration information remains largely unchanged from year to year.

The Marine Department, operating under the Ministry of Transportation, registers all vessels and operators and issues the Seafarer (Fisherman) documents for fishermen on Thai boats; these are being improperly used as travel permits for fishermen entering the territorial waters of other countries. The Marine Department states while safety of seafarers is their responsibility,

¹² Section 10, subsection 3, states that “If an offence under paragraph one is committed in order that the trafficked person taken into or sent out of the Kingdom to be under the power of the other person unlawfully, the offender shall be liable to twice of the punishment prescribed for such offence.”

trafficking in persons does not fall under their core mandate and the Seafarer (Fisherman) documents only serve to register the length of time a worker is aboard a fishing boat; they are not to be used as travel documents. The Inspection Division of the Marine Department has the authority to board and inspect fishing boats – and has delegated that authority to other agencies as well – but sources in the Marine Police and NGOs said the Marine Department conducts few inspections and officials at the Marine Department conceded they mainly focus their attention on reviewing documentation. All boats departing Thai ports for overseas waters must inform the Marine Department in advance. Officials at the Department noted that sometimes the lists of seafarers provided by boat owners are incorrect but added it is difficult to follow-up and check on this issue in a timely manner.¹³

Officials at the Department noted that sometimes the lists of seafarers provided by boat owners are incorrect but added it is difficult to follow-up and check on this issue in a timely manner.¹⁴

The Marine Department at the provincial level also admitted that a significant problem exists in that many fishing boat owners do not register their boats as required by law. An official in Pattani estimated that between 50 and 70% of boat owners in the province do not register their boats. Marine Police sources estimated that there are approximately 50,000 fishing boats of all classes and sizes, yet only 20,000 are registered.¹⁵

Anti-trafficking Police (ATP) officials spoke of instances when fishermen clearly identified the name and number of the fishing boat on which they were working, yet when the ATP searched for the name of the ship in Marine Department records, it could not be found. While some cases may be attributed to incomplete recollection by the fishermen, another possible explanation is that boat owners are illegally using the same boat registration information multiple times. The Marine Department registration system is weak as it does not ensure all boats are registered as required by law, resulting in an industry that can, at best, be loosely regulated and controlled. The Mirror Foundation conducted intensive research on the structure of the fishing industry and found virtually all numbers for fishing boats were estimated and that regulation of such boats was lacking – highlighting that boat owners are comfortable with the existing, lenient system and prefer to avoid the introduction of new laws and regulations.¹⁶

¹³ The fact that fraudulent Seafarer (Fisherman) documents are commonplace on Thai fishing boats travelling to international waters means that almost all of these crew lists are fraudulent because the Seafarer documents usually list fake bio-data of a Thai when the person to whom the document is issued is an undocumented Burmese or Cambodian fisherman.

¹⁴ The fact that fraudulent Seafarer (Fisherman) documents are commonplace on Thai fishing boats travelling to international waters means that almost all of these crew lists are fraudulent because the Seafarer documents usually list fake bio-data of a Thai when the person to whom the document is issued is an undocumented Burmese or Cambodian fisherman.

¹⁵ Interview with Pol. Lt. Col. Chalernpol Maliwan and Pol. Lt. Col. Phitak Rerngphitak, Royal Thai Marine Police Headquarters, November 24, 2009.

¹⁶ Meeting with Eaklak Loomchomkhae, the Mirror Foundation, May 26, 2009.

The Royal Thai Marine Police (RTMP) is the leading law enforcement agency at sea, with authority to board and search vessels in coastal waters (defined as being up to 12 kilometres from shore), and should, ideally, have the most prominent role in suppressing human trafficking on fishing boats. However, the RTMP are severely under-resourced, with wholly inadequate budgets for maintenance and running costs of operating their patrol boats. Discussions with Songkhla Marine Police, which according to NGOs is one of the most active squadrons in suppressing trafficking of fishermen, revealed they only have enough fuel to run each of their boats for seven to eight hours per month.¹⁷ Starting in the first quarter of 2009, the RTMP in Songkhla and Pak Nam (Samut Prakan) conducted pre-departure inspections of some boats and interviews with fishing crews, in cooperation with the Thai Fisheries Association (TFA). So far, in both Songkhla and Pak Nam, the RTMP report finding no cases of human trafficking through these voluntary inspection processes, but the fact that crew interviews are taking place at the TFA raises concerns as to whether fishermen are being pre-selected for the interviews.

Furthermore, the RTMP does not have the legal authority to formally investigate and refer cases for prosecution - this authority lies with the local (*Phu Torn*) police. However, it seems that even in provinces where reportedly high levels of trafficking exist, few prosecutions have gone forward, despite strong evidence and willing witnesses.

Beyond the 12 kilometre mark for coastal waters, law enforcement is the responsibility of the Royal Thai Navy (RTN), but the inspection of fishing boats is not a priority for the RTN. A national Maritime Enforcement Cooperation Centre (MECC) operates under the command of the RTN and includes all key agencies working on maritime issues. Sources at the RTMP indicated the MECC is primarily an information-sharing body and that the RTMP could not compel the MECC, or the agencies within it, to undertake joint actions against human trafficking.¹⁸

ii. Immigration, police, labour and anti-trafficking units

The Immigration Department is responsible for checking fishermen leaving and arriving in the country, but neither the researcher nor NGOs working with seafarers have ever found an entry stamp in a Seafarer (Fisherman)

¹⁷ The Songkhla Marine Police have several different size boats in their squadron, but only two of them – the 80-foot boat and the 50-foot boat – can work well off-shore, with the ability to travel at up to 20 knots per hour. The 80-foot boat burns approximately 300 liters of gasoline per hour and the RTMP has monthly budget to purchase 2500 liters of gasoline for this boat – meaning it can operate for about 8 hours and 20 minutes per month. The 50-foot boat burns 200 liters of fuel per hour and there is a monthly budget to purchase 1500 liters per month – for the equivalent of 7.5 hours running time. Two smaller 40-foot boats primarily operate in the Lake of Songkhla and can only reach speeds of 8-9 knots per hour – and the RTMP has enough fuel to run these boats for 10 hours per month.

¹⁸ Interview with Pol. Lt. Col. Chalernpol Maliwan and Pol. Lt. Col. Phitak Remngphitak, Royal Thai Marine Police Headquarters, November 24, 2009.

document.¹⁹ Yet, these are the only documents available to undocumented migrant workers on fishing boats leaving Thailand.

There are two possible explanations: either fishing captains are not producing these books for inspection or immigration inspections are not taking place on the fishing boats.

If the former is true, then undocumented migrant workers in the fishing sector are travelling through Thailand and on to other countries without travel documents. However, if the latter is the case, and it is found that immigration authorities are not inspecting boats leaving the country, then the border control system along the coastlines should also be reviewed as a matter of national security. Information received from ship captains and fishermen alike reveals that immigration officers rarely perform actual checks on fishing boats and instead rely on reviewing crew lists submitted by boat owners.²⁰

One NGO extensively involved in combating trafficking in the fishing industry noted the Marine Department and the Immigration Department both claim to lack the personnel and resources to more closely inspect departing fishing boats.

Police units from the Department of Special Investigation (DSI) and the ATP have also been involved in specific cases of trafficking reported by sources such as NGOs. The ATP are leading the investigations and arrests of Thai gangs preying on unaware Thai men at trafficking “hot-spot” locations in Bangkok, while the DSI has been involved in numerous raids in provincial ports.

Issues concerning labour protection and conditions are under the jurisdiction of the MOL, Department of Labour Protection and Welfare (DLPW). The protection of labour rights of fishermen under the LPA of 1998 faces significant difficulties in implementation. As noted, Ministerial Regulation 10 excludes the application of the LPA to fishermen who are working on a fishing vessel with less than 20 crew members, or those on a vessel that is out of Thai territorial waters for more than one year. By doing so, the law does not afford protection to crews on many small- to medium-sized fishing boats in Thai territorial waters and many of the larger overseas vessels commonly

¹⁹ An Immigration official in Songkhla confirmed that if a fraudulent Seafarer (Fisherman) document is presented to an Immigration officer, s/he would be required by law to arrest the person presenting the document. Marine Department officials recalled that some migrant seafarers returning from overseas by air and using a fraudulent Seafarer (Fisherman) document to travel were allegedly arrested at the Bangkok Airport by Immigration, but could not recall any instance of Immigration arresting fishermen returning by boat.

²⁰ Given that the fraudulent Seafarer (Fisherman) documents contain false bio-data (including name, date of birth, place of birth, and signature of the fisherman) that indicates the migrant fishermen is a Thai national, it is likely that the crew lists being submitted for checking by Immigration officers are also false. This raises the question of whether fishing boat owners are committing an offence by submitting false information to civil servants.

outside the country for periods of one to five years. All fishermen interviewed stated they have never seen a MOL inspector on board a fishing vessel. The RTMP officers with years of experience also said they have never seen the DLPW conduct an investigation on the working conditions on a fishing boat, nor has the DLPW requested cooperation to mount an investigation.

The Department of Employment (DOE) is in charge of registering, regulating and monitoring the situation of migrant workers employed in Thailand. The DOE appears to play no significant role in protecting migrant fishermen from human trafficking, and none of the fishermen interviewed indicated ever seeing a DOE official conduct an inspection of a fishing boat.

The Ministry of Social Development and Human Security (MSDHS) (specifically, Bureau of Anti-trafficking in Women and Children [BATWC]) is responsible for coordination of anti-trafficking efforts and assistance to victims of human trafficking. MSDHS also coordinates the work of the inter-agency Committees and Sub-committees established under the ATIP Act.

iii. Thai fishing boat owners associations, NGOs and fishermen advocates

Other stakeholders include representatives of the private sector and civil society. There are two main associations of Thai fishing boat owners, the TFA and the Thai Overseas Fisheries Association (TOFA). Both have provincial chapters, reflecting the geographic distribution of their members. The leaders of both Associations have publicly stressed that not all fishing boat owners are members of their Associations; they can only speak for the actions of their members.

In general, there are relatively few NGOs and advocates for migrant fishermen, and the existing organizations have limited resources and multiple demands on their time. A number of the organizations, such as Raks Thai Foundation (RTF), Stella Maris, World Vision Foundation of Thailand (WVFT), the Labour Rights Promotion Network (LPN) and the Foundation for AIDS Rights (FAR), dedicate significant time to migrant health and HIV/AIDS issues. Where they operate, these NGOs often provide translation and interpretation services for Thai Government offices dealing with migrant fishermen. The NGOs are frequently the first line of contact for migrant fishermen and are case-work oriented: investigating instances of abuse and making referrals for action and assistance, as needed (see Appendix B for a list of the main NGOs).

PART II: FISHERMEN RECRUITMENT AND LABOUR CONDITIONS

A. Legislative framework for the recruitment of foreign labour and the registration process

With the advent of the nationality verification process and the end of periodic amnesty/regularization and registration exercises by the Thai Government, new recruitment processes are required through the three, bilateral memoranda of understanding (MOUs) signed between Thailand and its neighbours.²¹ However, to date, these MOUs have had limited success in facilitating labour migration to Thailand due, in part, to long waiting periods for applications/recruitment, higher processing fees and failure of labour-sending governments to effectively publicize the existence of these MOUs. The number of Cambodian and Lao workers recruited through the respective MOUs is still relatively low - tens of thousands of workers have been recruited while hundreds of thousands are demanded. Further, the recruitment processes outlined in the MOU between Thailand and Burma are in the very early stages of implementation.

For the fishing sector, this system of recruitment is particularly problematic given the total lack of employment contracts for fishermen. Without specific contracts or other documentation from employers, implementing the MOU - which entails a fairly complex process of paperwork and requires the provision of basic information about a migrant's place and conditions of work - would likely be difficult with regard to processing fishermen's applications. The lack of concrete domestic legislation pertaining specifically to fishermen under the LPA 1998 means that, even though the MOUs do proclaim to offer some degree of protection through the application of labour law, where fishermen are concerned, this is a fairly hollow assertion. In addition, the lengthy delay between the time of application and the actual arrival of migrant labourers would cause great difficulties for boat owners and captains, who often recruit fishermen until the last minutes before setting out to sea. Moreover, the relatively low levels of registration of fishermen in the past, under the prior and more flexible year-to-year registration schemes, reflects the mobility of non-trafficked fishermen, who change boats frequently according to circumstances such as better pay, less abusive captains/crew leaders, higher catch/better financial incentives, etc. The long periods of time fishermen spend away from shore and the mobile nature of their work also makes it difficult for information on registration process changes to reach them - a fact the DOE's Labour Market Research Division identified in its report issued on March 2, 2010.²² Finally, it is worth considering that

²¹ The Memorandum of Understanding (MOU) between the Government of the Kingdom of Thailand and the Government of the Union of Myanmar on Cooperation in Employment of Workers (signed June 21, 2003); MOU between the Government of the Kingdom of Thailand and the Government of the Kingdom of Cambodia on Cooperation in the Employment of Workers (signed May 31, 2003); and MOU between the Royal Thai Government and the Government of Lao PDR on Employment Cooperation (October 18, 2002)

²² IOM, *Migration Information Note Issue #5*, April 2010, Bangkok.

relatively few newly arriving Burmese and Cambodian migrant workers voluntarily seek commercial fishing jobs – which are considered strenuous and dangerous. Without significant improvements in wages and working conditions, migrants will continue to assess work in the fishing sector as hazardous and best avoided, if at all possible.

B. Overview of current recruitment practices

Recruitment of fishermen is characterized by sub-contracting, an absence of written contracts and lack of transparency in wages and conditions of work.

The recruitment of fishermen is handled by a variety of brokers who use different methods, charging various prices and handling diverse elements of the migration process. The Labour Rights Promotion Network (LPN) identified at least ten different types of migrant brokers operating in Samut Sakhon province, serving in various capacities to connect and deliver migrants to interested employers.²³ However, because of the low desirability of fishing work and the difficulty in finding voluntary recruits, many of the brokers involved in recruiting fishermen are also involved in human trafficking.

Brokers will often promise other types of work to migrants, such as work in factories, as well as a high salary to entice migrants to agree to recruitment. The cost of travel to the destination area (including the broker's fee) is negotiated, but in most cases, migrants do not have money to pay travel costs in advance. As such, the broker usually informs migrant workers that travel costs will be deducted on a monthly basis from the wages received in the destination area. In some instances, a single broker arranges travel from the point of origin to the destination area, while multiple brokers are involved at other times, each serving as a link in a chain of actors delivering the migrant from the border to the destination area. Upon arrival to the destination area, migrant workers – unable to speak Thai, unsure of their surroundings and fearful of arrest by Thai authorities or violence by the broker – are virtually helpless, and must accept whatever assignment is offered. A number of interviewed fishermen noted they were unaware they would be working on fishing boats until the broker delivered them to the pier. Sompong Sakaew of LPN in Mahachai, Samut Sakhon, said he finds there is a direct connection between this kind of “travel now, pay later” system and the trafficking of men onto fishing boats. The high demand for labour on fishing boats means brokers are able to sell migrants to captains or other boat representatives for between 10,000 to 30,000 baht per person.

²³ Sakaew, Sompong and Patima Tangprapakoon, Brokers and Labor Migration from Myanmar: A Case Study from Samut Sakorn; Asian Research Center for Migration, Chulalongkorn University Social Research Institute and Labour Rights Promotion Network, Bangkok, Thailand, August 2009.

LPN's research in Samut Sakhon focused on Burmese migrants, but LPN says they see the same recruitment patterns in Pak Nam district of Samut Prakan province, where most recruited fishermen are Cambodian.²⁴ All seventeen cases of Cambodian trafficking victims from Malaysia handled by IOM revealed similar simple, yet effective, duplicity in recruitment. Cambodian men and youth from rural areas were approached by brokers who promised to place them in jobs in construction, on vegetable farms or in various types of factories in Thailand; the men were then delivered to traffickers in port areas (most frequently Pak Nam district in Samut Prakan) who sold them to fishing boat captains.

C. Labour contracts and identification documents for fishermen and accompanying persons

i. Labour contracts

Given the size and prominence of the Thai fishing industry in global fisheries, it is surprising that virtually none of the fishermen working on the boats have written employment contracts. Even though some countries, such as Cambodia, employ standard contracts (between fisherman and boat owners) for fishermen working in Thailand, the research findings suggest written contracts are not used by Thai fishing boat owners and all employment is on the basis of verbal agreements between boat owners or boat captains and the fishermen.²⁵ In the absence of a written contract, fishermen are effectively excluded from social welfare provisions, such as the social security scheme.

Most verbal agreements oblige a fishermen to stay on the boat for 18, 24 or 30 months, with payment made in a lump sum at the end of the agreed timeframe. Pay is either calculated at a standard rate per month (usually between 4000 to 5000 baht) or as a percentage of the value of the total catch after the boat's costs have been deducted. Fishermen out at sea for longer periods of time take cash advances from boat captains for living expenses; these advances are deducted from the total sum to be paid at the end of the agreed period. Wage calculations are made by captains, who are the final arbiters as they determine and maintain records of deductions, penalties, payments and percentages of catch. Fishermen are generally not permitted to examine the captain's book.

Fishing boat owners frequently (but not always) devolve hiring authority to their captains, who will work with the *ye chu* or deck supervisor of the crew, to recruit workers. Such sub-contracting in hiring arrangements, especially in the absence of written contracts, makes it difficult to hold either the owner or the captain responsible for illicit hiring/trafficking practices. As seen since in the Prapas Navee case, presented to the National Human Rights

²⁴ Conversion with Sompong Sakaew, Director, LPN, December 2, 2009.

²⁵ Discussions with LPN and FAR, December 2008 and January 2009.

Commission of Thailand, both parties often deny responsibility and contest the other party is at fault.²⁶

For boats going out to sea for a greater number of months to foreign fishing concessions (such as Malaysia and Indonesia), advances are paid to the fishermen, known as the *ka yep rua* (literally “the payment for stepping on the boat”). The *ka yep rua* is deducted from their earnings while on the boat and serves as a portion of the funds provided by the owner (known as the *tao gae*) to mobilize the fishing boat. The *ka yep rua* funds are managed by the captain and the amount paid by each fisherman is at the captain’s discretion; the amount normally depends on various factors including the skill/knowledge of the crew, experience, history of working with the captain and the boat, etc.

In cases where a boat does not have enough crew, the *ka yep rua* funds may be used to pay brokers to deliver trafficked men to the boat. Trafficking victims commonly report being told they have been paid for, and they have to work to pay off their purchase price debt – just as other crew members with *ka yep rua* advances must do. In some cases, the trafficked fisherman can begin to earn money after the purchase price is paid back, but other captains continue to hold trafficked fishermen without pay.

On the other hand, some fishermen agree to join the crew and take the *ka yep rua* but then run away when the boat is preparing to leave port – effectively stealing the advance against future wages.²⁷ Boat owners and captains say this is a major recurring problem.

ii. Documents for fishermen and accompanying persons

The vast majority of migrant fishermen on Thai fishing boats are undocumented, having entered Thailand in violation of immigration laws and never registered under the MOL’s periodic migrant registration schemes. According to DOE officials in Bangkok and port areas in the provinces, very few fishermen register as migrant workers and apply for work permits despite consistent efforts by DOE to encourage fishing boat owners to register their workers and the extension of registration deadlines to accommodate them.²⁸ According to the migrant workers, they miss the registration deadlines because they work offshore. Boat owners are also reluctant to pay the 3800 baht registration fee because fishermen change employers frequently and owners would prefer not to commit money for a crew member who might leave.

²⁶ Discussions with LPN, January 2009, and National Human Rights Commission Officer, August 2008.

²⁷ By requiring a written contract, provisions could be written stipulating the amount of the *ka yep rua* advance provided to the fisherman. If the fisherman then tries to run away with the advance, the boat owner would have documentation to serve as evidence in his efforts to seek recovery of that advance.

²⁸ In the final registration and issuance of work permit process between July 1 and August 29, 2009, fishermen accounted for only 10% of the total number of migrants going through the process. IOM, *Migration Information Note issue #3*, November 2009, Bangkok.

Marine Department officials informed that a documented fisherman on a Thai boat can apply for a Seafarer (Fisherman) document. Undocumented migrant workers – like the majority of Myanmar and Cambodian nationals on Thai fishing vessels – are not eligible to receive this document. According to Marine Department officials, the purpose of the document is to register and track the history of the worker on the fishing boat, not to serve as a travel document. Officials added that Thailand has not signed agreements with other countries on the use of these Seafarer (Fisherman) books as travel documents. The officials concluded that it is the prerogative of countries like Malaysia and Indonesia as to accept the Seafarer (Fisherman) documents or not.²⁹

It is clear that Indonesia accepts Seafarer (Fisherman) documents as *de facto* passports and Indonesian immigration officials do not seem to know or care that most of the Thai Seafarer (Fisherman) documents presented are fraudulent.³⁰ Fishermen said that if any fisherman did not have a Seafarer (Fisherman) document, the boat would face problems, including possible arrest/seizure by Indonesian officials. For this reason, it is imperative for Thai boat owners to secure these documents in order to send their vessels to fish foreign concessions.

The demand for these documents has given rise to a significant illicit trade in fake Seafarers (Fishermen) documents. Bio-data included is often false with regard to the fisherman's name, nationality, date of birth, place of birth, and signature. The signature of the officials issuing the document is false, as is the government stamp over the official signature. Frequently, the information is written by hand instead of typed. In all documents seen, the bio-data states the holder is a Thai national, and gives a Thai name, etc. Only the photograph of the Myanmar or Cambodian fisherman holding the document is genuine.³¹

All fishermen interviewed said they are not permitted to keep their documents while in Indonesia. The documents were kept by the captain and several reported being threatened that if they ran away from the boat, they would not be able to return to Thailand without any documentation.

Officials showed the researcher a real Seafarer (Fisherman) book to prove that it was unlikely that a fake document could be mistaken for a real one, and

²⁹ Meeting with Pichai Saengfai and colleagues, Seafarers Bureau, Marine Department, November 23, 2009.

³⁰ All the fraudulent Thai Seafarer (Fisherman) documents seen by the researcher had Indonesian immigration stamps in them. Interviewed fishermen said that when they came to the fishing boats, Indonesian officials usually only looked at the documents and talked to captain (who holds all the Seafarer documents) but they did not talk to the fishermen.

³¹ Numerous fishermen told the interviewer about having their photo taken as part of the mobilization process for a fishing boat going overseas. One fisherman interviewed in Mahachai said he changed boats while in Indonesia waters and his new captain took his photo and then the boat went to sea for 45 days. When he returned to port in Tual (in the Kei Islands), he said the new Seafarer (Fisherman) document was waiting to be picked up by his captain.

added that DSI officers have visited the Marine Department to seek information about procedures for production of these documents.³²

Some officials of the TFA recognize fake Seafarer (Fisherman) documents as a potential weak point in their efforts, but better and more secure alternatives have yet to be seriously considered. Praporn Ekoru, President of the Songkhla TFA chapter, maintained that migrant workers were changing photos on legitimate Seafarer (Fisherman) books issued to Thais – but this is not consistent with the Marine Department’s own explanation of how fake books differ from real books. Praporn added that “*if this [prohibition on using fake books] is strictly enforced, this is a big problem for us.*”

The Muang district Pattani *Phu Torn* police officer handling the anti-trafficking portfolio was surprised when a fraudulent Seafarer (Fisherman) document was shown to him. According to him, Thai citizens were coming several times per month to the station to report significant numbers of Seafarer (Fisherman) documents as lost or stolen. He added that each incident usually involved twenty or thirty documents; the police received the information and completed required reports. He speculated that perhaps those reporting the lost documents were using the police reports to seek replacements.³³

Apisit Techanitisawas, President of TOFA, noted at a national seminar that Thai fishing boats in Indonesia were crewed only by Thais and Indonesians.³⁴ Continued acceptance of the use of fake Seafarer (Fisherman) books condones both criminal behaviour (falsifying government documents) and arrangements that allow the continuation of trafficking of migrant workers to overseas Thai fishing boats.

Instead of registering under the DOE-managed registration process, many fishermen and their families use informal, substitute provincial systems that provide partial protection (usually in port areas) from arrest by the local *Phu Torn* police. In Rayong, Pattani and Ranong, provincial Governors launched systems to attempt to identify the numbers of migrant workers in the provinces, establishing systems of control which now issue local ID cards with unclear legal basis, consequently reinforcing the fishing boat operator’s control over fishermen and their families.

³² When shown several examples of fake Seafarer (Fisherman) documents, officials at the Marine Department pointed out the document numbers do not match current running numbers but appear to be old document numbers from approximately five years ago; the paper of the document does not have a watermark and threads (which light up when put under a dark light) in the lamination are missing; and bio-data is handwritten rather than typed. The researcher was able to obtain numerous copies of fake Seafarer (Fisherman) documents because fishermen are sometimes given their documents by the captain/boat owner when they return to Thailand – which is a reflection on captain’s and fisherman’s understanding that these documents are to enter other country’s waters and have no useful purpose in protecting migrant fishermen in Thailand.

³³ Meeting with Lt. Col. Antei Koarei, Royal Thai Police, Muang district, Pattani province, July 15, 2009.

³⁴ Researcher’s notes from presentations at the National Seminar on Guidelines to Solve Labor Trafficking in Fishing Sector, organized by the Mirror Foundation, Asia Hotel, March 25, 2009.

These provincial ID card systems, which operate outside the TFA, do not provide protection from police beyond the local area, or from other police or security agencies, such as the Immigration Department. For more details on the provincial ID system and its variation in different provinces see Appendix D.

In order to improve the current situation and prevent the illicit trade of Seafarer (Fisherman) books which renders migrant workers vulnerable and unprotected, the Government of Thailand should consider undertaking significant reforms in labour recruitment. It would seem efficient to include, among these efforts, the legalization of the status of migrant fishermen, and the issuance of legitimate Seafarer (Fisherman) books. ILO Convention 185, "Seafarer's Identity Documents (Revised)" and its "Annex III: Requirements and recommended procedures and practices concerning the issuance of seafarers' identify documents" can provide useful guidance in this regard.

D. Human trafficking

A common narrative emerged from the researcher's interviews with numerous trafficking victims, and from IOM's interviews with fishermen trafficked to Malaysia, as described in the following paragraph:

A labour broker approaches young men in their home community and promises work in construction, a factory (textile/garment, food/fish processing), or agriculture that will pay between 3000 to 8000 baht per month. Intending migrants do not have the money to pay the costs of travel to Thailand but agree to pay the broker back when they reach Thailand. The broker takes them to the border, where they cross at Poi Pet, Malai (Banteay Meanchey), or other points on the border. In some cases the broker leads the migrants into Thailand; in others, the broker turns the migrants over to another broker on the Thai side of the border. The migrants are then taken to Pak Nam district in Samut Prakan (and in a few cases, to Mahachai district in Samut Sakhon) and handed over to brokers in these areas, who then sell them to boat owners or boat captains. Most of the migrants do not know where they are or what is happening to them until they arrive and are delivered to the trafficking gang in the port area.

According to researchers from LPN, the Mirror Foundation and others, many of the brokers/traffickers in Thai port areas are persons with previous experience in the fishing industry, either as captains, other officers or long-time fishermen. Because boat owners often de-centralize hiring decisions to the captains, the relationships between captains and brokers in the port areas is critical. Research and assistance to migrants by Stella Maris in Songkhla found a symbiotic relationship between fishing captains and karaoke bar owners, with karaoke bars sometimes holding fishermen while on shore (and

allowing them to run up significant bills payable to the karaoke), or playing a role in coercing and forcing men (often fishermen from other boats) onto fishing boats. For more examples see Appendix E.

Major routes for trafficking in the fishing sector

NGOs, migrant workers associations and fishermen pointed to several major routes for trafficking in the fishing sector.

For Myanmar nationals, the primary route is from Kawthaung to Ranong, and then onto fishing boats in Mahachai, Songkhla, Pattani, Surat Thani, or Trang. A secondary route is from Myawaddy to Mae Sot, and then down to Samut Sakhon, Samut Prakan or Chonburi - with some transfers of trafficked fishermen going on to Songkhla. A tertiary route, across Three Pagodas Pass to Sanghkhlaburi, and then on to Samut Sakhon, is expanding.

For Cambodian nationals, the major trafficking route is from Poi Pet across to Aranyaprathet, and then on to either Pak Nam district in Samut Prakan, or Rayong or Chonburi provinces. Other crossing points for Cambodians are Battambang/Ban Laem-Chantaburi and Koh Kong-Trad - again with the unwary being trafficked to Samut Prakan or Rayong/Chonburi. Because of weather patterns, fishing boats cannot operate out of Pattani all year, and many shift to eastern seaboard ports like Klong Son (Trad province) and Rayong - creating networks and connections that result in transfer of Cambodian trafficking victims from those ports to boats in Pattani heading into international waters off of Malaysia and Indonesia.

A common practice reported by Thai, Cambodia and Myanmar fishermen is to hold trafficked fishermen on boats indefinitely, transferring the crew members between fishing boats (usually boats from the same fleet or same owner). When one boat must return to shore, the fishermen are forced to board another boat remaining at sea and to continue working.³⁵ This is particularly common in the case of trafficked Thai fishermen, given concerns by boat owners and captains that if the fishermen return to shore, they will contact the police and report the traffickers.

Both Myanmar and Cambodian fishermen reported seeing fellow fishermen attacked and, in some cases, killed by captains in instances when they were too weak or sick to work.

Migrants alleged that in Songkhla and Samut Sakhon there are brokers who paid for jailed migrant workers to be released into their custody; the brokers

³⁵ These arrangements were confirmed by fishermen interviewed by the researcher, and in interviews with officials from the RTMP and the Mirror Foundation. Unfortunately, these arrangements have been occurring for a long period of time. Myint Wai and Burmese researchers working under the auspices of the Thai Action Coalition for Democracy in Burma (TACDB) documented this practice, which they termed "sea prison", in 1997-98. Myint Wai, *A Memoir of Burmese Workers: From Slave Labour to Illegal Migrant Workers*, TACDB, 2004.

then trafficked the workers to overseas fishing boats. Victims were usually male migrants who had recently arrived in Thailand, with no relatives or close friends willing or able to pay for their release from jail. Facing continued detention, and knowing the ongoing dangers and financial losses, detained migrants may feel they have no choice but to trust the broker to get them out of jail and help them find a job.³⁶

Four Myanmar brokers involved in trafficking Burmese workers in Samaesan district

In Samaesan district, migrant associations and Thai NGOs working with fishermen who have escaped from boats plying the Gulf of Thailand/Thai territorial waters investigated the mode of operation of four Myanmar broker gangs involved in trafficking male migrant workers from Myanmar.

According to their report, Myanmar workers cross from Myawaddy into Mae Sot and travel by foot to Kampaeng Phet. They then travel in broker-operated pick-up truck to Nakorn Sawan, where they are divided according to their final destination and whether they have already paid for the cost of the trip or are involved in a “travel first, pay later” arrangement. On an average of twice per month, a truck with approximately 20 male migrant workers is sent from Nakorn Sawan to Samae Dam.

Upon arrival at Samae Dam, the men are taken to a warehouse where brokers and their gangs are waiting. Surrounded by armed men, unaware of where they are and often unable to speak Thai, there is no opportunity for these men to escape.

Four major brokers exist in the area, who purchase each migrant for approximately 11,000 baht and keep the men locked in rented rooms. The migrants are then sold for approximately 25,000 baht per person to fishing boats located on four privately owned piers in the area. The boats fish in the Gulf of Thailand, going out for periods of time from three days to two weeks. When boats return to the piers, the labour broker and gang meets the boat and transfers the trafficked fishermen back to a locked room where they are kept until the boat is ready to go back out to sea. Fishermen who try to escape are pursued, beaten and, in some cases, killed by gang members. The brokers allegedly maintain close relationships with local authorities who have captured and returned escapees to the brokers in the past.³⁷ Recent actions by the ATP, working with LPN, Mirror Foundation and SUB, have resulted in arrests of some of the traffickers operating in the area.³⁸

³⁶ Interview with Burmese and Cambodian fishermen, RTF office, Pattani, July 11, 2009.

³⁷ Interview with senior member (name withheld) of the Migrant Karen Labour Union, September 24, 2009, Bangkok, and subsequent discussions with LPN staff and DSI police officers.

³⁸ Matichon Online, “DSI-Region 2 Police-Marine Police Help 18 Trafficking Victims, Bribe Offer of 100,000 Brings Another Charge”, October 12, 2009.

Trafficking of Thai nationals to fishing boats involves similar practices, as documented by the Mirror Foundation's report focusing on trafficking by intermediaries who deceive job-seekers at major Bangkok transport hubs, such as Mor Chit bus station, Hualamphong train station, Sanam Luang, Sanam Romninat and Wongwian Yai. The migrants are delivered to gangs operating in Mahachai who lock them up and arrange for their sale to fishing boats. In Mahachai, gangs also operate who seek to persuade job-seekers to travel with them; gangs deliver these migrants to trafficking dens (where they are locked-up) in exchange for funds. One variation involves the use of karaoke bars in Mahachai and Songkhla, where an unsuspecting migrant is taken out to enjoy food, drink and/or sexual services at a karaoke bar whose owner is collaborating with trafficking gangs or fishing boat captains. In Songkhla, karaoke bar customers are drugged and/or detained directly, and sold to fishing boats, while in Mahachai migrants are presented with highly inflated bills which must be paid by going to work on a fishing boat.

With the notable exception of assistance provided by the Marine Police in Songkhla, all trafficked fishermen interviewed noted they escaped on their own, without assistance. These self-rescues involved either jumping overboard and swimming away (either near shore, or further out and with the hope of being picked up by another ship); running away in Malaysia or Indonesia when the boat came to port; or, in one case, overpowering and killing the captain and commandeering the boat to come into port.

E. Assessment of living and working conditions on fishing boats

Living quarters on fishing boats are extremely cramped, divided into squares for the crew, providing enough room to sleep but little space for much else. Captains and boat owners view the quarters as sufficient because: *"they think that the living quarters are for the crew to take turns to rest while waiting for fishing sessions"*³⁹, reflecting the reality that crews only rest a few hours per day. No toilets exist on small- or medium-sized fishing boats, and the need to conserve fresh water and food on long trips means both hygiene and nutrition are poor.

i. Work day

A major reason for the continuing labour shortages in the fishing sector is the extremely hard and dangerous work involved. Fishermen reported working between 18 to 20 hours a day, with meal times and sleep only occurring when nets were in the water and the recently caught fish sorted. The cycle of work consists of: bringing in the nets, removing fish from the nets, putting the nets

³⁹ Chantanvanich, Supang et al., Mitigating Exploitative Situations of Migrant Workers in Thailand, Asian Research Center for Migration and Institute for Asian Studies, Chulalongkorn University, Bangkok, November 2007, p. 26.

back in the water, sorting and storing the fish. Fishermen are only permitted a small window of time to rest and eat: after all fish are sorted and stored and before the net must be placed back in the water. If many fish are caught, or repairs must be made to equipment, there is no chance to rest.

Several fishermen reported a trip to Indonesia during which they did not sleep for a period of three days due to constant work. Case studies from the 17 Cambodian fishermen identified as victims of trafficking and assisted by IOM to return from Malaysia confirmed only being allowed only two to four hours per day for sleeping and eating.⁴⁰

Sheer exhaustion and dangerous working conditions on boats with heavy equipment and nets mean many fishermen are injured while on board. According to the fishermen, when they fall sick or are injured, little or no medicine is available (beyond basic items like paracetamol) and the boat will not pause from fishing to seek medical treatment for them. Most captains will not allow fishermen to take breaks, and those who are unable to work are often abused verbally and physically by the captain.

The Department of Fisheries acknowledged this problem in their Marine Fisheries Management Master Plan, noting that *“The chronic shortage of fishing hands has plagued the Thai commercial fisheries for quite some time...actual pay has in recent years been less competitive...The facts [sic] that fishing hands work in a less secure conditions [sic] (being far away from home, higher risks with comparatively less pay) have turned away from the sector most Thai workforce. At present, commercial fishing vessels are largely manned by foreign crews.”*⁴¹

During the course of the research, an important exception to the abusive, and sometimes deadly, labour management practices was identified on Thai fishing boats operating in Myanmar territorial waters under the terms of a fishing concession from the Government of Myanmar to the Government of Thailand. In Myanmar, the SPDC Navy requires that all crew on fishing boats (with the exception of the captain and his top officers) be Myanmar nationals with a Myanmar identification card. To ensure this, the Myanmar Navy inspects Thai fishing boats in Kawthaung before allowing them to fish in Myanmar territorial waters. An inspection of the workers is carried out and a crew list compiled.

Upon leaving Myanmar territorial waters, the boat is required to return to Kawthaung for inspection. If any injuries or disappearances of crew members are identified at this inspection, the captain is liable to significant fines.

⁴⁰ IOM, “17 Men Brief”, unpublished document summarizing interviews with 17 returning Cambodian fishermen trafficked to Thai fishing boats.

⁴¹ Royal Thai Government, Department of Fisheries, Ministry of Agriculture and Cooperatives, *The Master Plan – Marine Fisheries Management of Thailand*, November 2008, p. 8

A missing crew member, for example, is a 70,000 baht fine, payable to the Myanmar authorities, ostensibly to help the family of the deceased man. Fishing captains based in Ranong say the boat owners force the captain to pay any such fines out his own pocket. By placing such a premium on the each of the crew members, the Government of Myanmar has made the fishermen too expensive to wantonly injure or kill, thereby serving to protect them from abuse.

PART III: INFORMATION AND ASSESSMENT OF ASSISTANCE AND SUPPORT SERVICES FOR MALE VICTIMS OF TRAFFICKING IN THE FISHING INDUSTRY

A. Anti-trafficking legislation and victim protection and support

Assistance to victims of trafficking is comprehensively outlined in Section 33 which lists types of assistance the MSDHS and other agencies should provide to victims of human trafficking,⁴² while Section 35 details procedures to support victims in pursuing their right to sue for financial damages from their traffickers.

The right of migrants who are trafficking victims to work while pursuing a criminal case against their trafficker is prescribed in Section 37. However, for a number of reasons, this right is not realized. A core problem as stated by MSDHS officials, NGOs, and fishermen, is the judicial process to prosecute traffickers is too lengthy and drawn out, sometimes taking several years to complete if legal appeals are considered. For migrant workers, even one year without work is too long as they need to send money to their families in their home country.

Finally, witness protection is outlined in Section 36, which requires witness protection be extended for victims pursuing criminal cases against their traffickers.

B. Current practices and issues

The current system is not effective in assisting fishermen who escape trafficking situations while overseas on a Thai boat. Hundreds of Myanmar and Cambodian fishermen have escaped boats in Sarawak, Malaysia, and on the Kei Islands in Indonesia (part of the south-east Maluku Islands, bordering the Banda Sea) only to find themselves stranded without any documents or a way to return home. Systems to identify victims of trafficking are either weak or non-existent in these destination areas, and no agreements exist for safe and timely repatriation of trafficking victims from Malaysia and Indonesia back to victims' home countries or Thailand. A few dozen victims found in Malaysia received assistance from IOM or UNIAP, but these are believed to represent only a very small number of the actual caseload.

For those who have been returned to Cambodia or Myanmar, there are few reintegration or other support services. Livelihood support to enable returned fishermen to earn sufficient income to support their families without re-migrating is needed, but low levels of knowledge and skills among those returning present significant challenges to effective reintegration activities.

⁴² Section 33 sets that the MSDHS "...shall consider to provide assistance as appropriate to a trafficked person on food, shelter, medical treatment, physical and mental rehabilitation, education, training, legal aid, the return to the country of origin or domicile, the legal proceedings to claim compensation..."

In an effort to improve the assistance to male victims of trafficking, the MSDHS is operating four shelters in Thailand to provide protection and other services for adult men. These shelters are located in: Chiang Rai, Pathum Thani, Ranong, and Songkhla provinces. Services provided at these shelters include housing (secure rooms, bedding, personal toiletries); three meals per day; medical care for immediate injuries and longer term conditions, as well as transportation to and from the health facility and education about health; mental counselling services for the victim and his family; and mental and physical rehabilitation.

For Thai nationals who have been trafficked, MSDHS will also pay the cost of their transportation home. Trafficked migrant workers are eventually returned to their country of origin in accordance with the steps laid out in the standard MSDHS family tracing and repatriation procedures.

Both the Songkhla and Pathum Thani shelters are regularly accepting victims of trafficking but still do not operate near full capacity. The Ranong shelter admitted its first person during early June 2009 – about seven months after the shelter opened – and although the fisherman sent was severely injured by an on-board accident, he was not officially identified as a victim of trafficking. However, since then, over 24 trafficking cases have been referred to the Ranong shelter, particularly from other areas such as Songkhla, where the number of cases exceeded the space available at the shelter.⁴³

The major problem at the Songkhla and Pathum Thani shelters seems to be the inability of victims of trafficking to work while court cases against the traffickers are proceeding. The directors of both shelters stated that many of the fishermen who have come into their care feel strongly compelled to return to work as soon as they are physically and mentally fit to do so. The reason being that fishermen want to earn money to send home to their family members in Cambodia and Myanmar for their economic survival.

Section 37 of the ATIP Act states that:

“For the purpose of taking proceedings against the offender under this Act, or providing medical treatment, rehabilitation for the trafficked person, or claiming for compensation of the trafficked person, the competent official may assist the trafficked person to get a permission to stay in the Kingdom temporarily and be temporarily allowed to work accordance with the law. In so doing, the humanitarian reason shall be taken into account.”

On May 4, 2010, the Thai Cabinet granted permission for migrant workers who become trafficking victims to be granted temporary stay and the right to work while receiving assistance to overcome their ordeal, and to assist with

⁴³ Communications with Wandee Krichanan, Advocacy Officer, World Vision Foundation of Thailand, November 22, 27, 28, 2009.

efforts to prosecute their traffickers. While the specific regulations for permitting trafficking victims to work still must be determined between the MOL, MSHDS and Ministry of Interior, this is an important step forward. The drafting of the regulations should be done in a participatory manner, with the Government shelter directors and representatives of NGOs working with trafficking victims given the opportunity to provide input.⁴⁴

The current situation presents the possibility that fishermen who are rescued from trafficking may have the opportunity to work while staying at the MSDHS shelters. Previously, fishermen remaining in shelters after having recovered physically, returned to the illicit migrant labour market. In doing so, these men gave up their legal right to remain in Thailand and undermined efforts to prosecute traffickers in the court of law.

This issue was prominently raised by the Director of the Pathum Thani shelter, Suwan Prompol, at meeting 3/2552 of the Sub-committee to Prevent and Suppress Trafficking on Fishing Boats, held on September 28, 2009. According to Director Suwan, numerous employers in the Pathum Thani area have inquired about whether former trafficking victims at the shelter are eligible to work. Songkhla shelter Director, Arthit Rakthong, also confirmed that fishermen who are victims of trafficking remain at the shelter only until they feel that they are able to return to work, regardless of any involvement they may have in the trafficking investigation or legal proceedings. Well-meaning vocational projects at the shelters, where former victims produce goods for sale and earn profits (after re-payment of the cost of raw materials), are stop-gap efforts that unfortunately do not generate enough income for fishermen to substitute these activities for the wage employment available outside the shelter.⁴⁵

CONCLUSIONS

Tackling the issue of human trafficking in the fishing sector in Thailand will not be easy. Labour recruitment practices which have been established over more than twenty years will be hard to change, but the long-term sustainability and the profitability of the fishing sector depends on successful reforms. The international community is increasingly focused on the widespread practice of trafficking Burmese and Cambodian, and some Thai, men onto Thai fishing boats. These practices will increasingly impact the perception of Thai seafood exports to North American and European markets. Laws already exist to prevent the sale and trade of goods procured or produced with forced labour; it is only a matter of time before the focus of those laws begins to consider the Thai fishing sector. Thailand needs to be pro-active in reforming relevant labour migration legislation and practices; if

⁴⁴ IOM, *Migrant Information Note – Issue #6*, July 2010, Bangkok.

⁴⁵ Minutes of Meeting Report No. 3/2552 of the Subcommittee to Consider Trends and Procedures to Protect Against and Suppress Human Trafficking for Labour in Fishing, September 28, 2009, 14:00 hours, at Sathorn Meeting Room, 7th Floor, Immigration Department, Bangkok.

such critical action is undertaken, the Government of Thailand can count on support from international agencies and NGOs in these efforts to combat human trafficking.

RECOMMENDATIONS FOR DISCUSSION

A. Data collection and exchange

- The Government of Thailand may consider establishing a coordination mechanism for all agencies to collect and share information in an intensive effort to assess and document the number, location and operations of fishing boats in the fishing industry, and complement this information by collecting data on captains and fishermen working in various ports. No comprehensive statistics or information exist about one of the most important sectors of the Thai economy, and different agencies have varying data based on assumptions, making it extremely difficult to regulate the sector and formulate forward-looking policies.
- A database containing information on all fishermen on commercial maritime fishing vessels may be developed. The information collected may include origin, emergency contact information, past seafaring experience and employment history, etc.

B. Recruitment of migrant and Thai fishermen

- Current labour recruitment processes result in many cases of deception and human trafficking while failing to address the chronic labour shortages plaguing the fishing sector. In addition, non-payment of wages and a lack of written and legally enforceable contracts increase the undesirability of work in the sector and make legitimate recruitment of voluntary workers more difficult. The Government may consider designing a comprehensive and new mechanism for recruitment of migrant fishermen, satisfying the needs of all key stakeholders in the fishing industry while ending severe labour exploitation and human trafficking of migrant men on fishing boats.
- The broad outline of this new mechanism could contain the following key elements:
 - A Government organized and operated “hiring hall” set-up to provide placements on fishing boats.
 - A year-round, open-ended registration process for all migrant workers from the GMS who desire to be fishermen. Migrant workers completing the application process would receive a special fisherman’s labour ID card (with duration of three or more years) and be considered to be legally present in Thailand.⁴⁶

⁴⁶ The card would permit work at sea but not work on shore, and permit workers to change fishing employers at will. The registration would be free of charge to the worker, with any costs shared by the Government and the TFA and TOFA, and managed by the DOE. Conditions on issuing the registration

- Compulsory usage of written contracts for fishermen. Such contracts could be issued by the DLPW, working as part of the above-mentioned “hiring hall” and specify that wages, working hours and conditions of work shall be in accordance with all the provisions of the LPA of 1998.
 - The Marine Department could consider fishermen who complete the special fishermen registration process as eligible to receive a legitimate Seafarer (Fisherman) identity document. The period of allowed employment should be tracked with the five year duration of the Seafarer (Fisherman) book.
 - New fishermen receiving the special fisherman labour card could receive an orientation course which would focus on basic labour rights (including the provisions of the standard DLPW contract for fishermen, if developed) and encompass basic fishing skills assessment and training on those skills. Such training would need to be conducted in migrants’ own languages or with translation and could be performed jointly by the Marine Department and the DLPW.
- A stronger stand is suggested on sanctions against and enforcement of legislation on those involved in trafficking of fishermen.
- In accordance with the Recruitment and Job-Seeker Protection Act of B.E. 2528 [amended B.E. 2544]⁴⁷, Thai and migrant brokers found violating the requirement to have a license from the Employment Registrar before engaging in local job recruitment could be more systematically investigated and prosecuted by the DOE.
 - Fishing boats failing to comply with the new system could face concerted Government action in the form of a severe and concerted crack down aimed at eliminating use of fraudulent Seafarer (Fisherman) documents.
 - Stronger sanctions could be applied to captains and boat owners who violate the requirement of providing a written contract, or use a contract not authorized by the DLPW.
 - DLPW could increase the training of officers on enforcement and establish a specialized focal point to handle violations of fishermen contracts, and increase prosecutions of owners of boats violating fishermen contract regulations.

C. Maritime legal and regulatory reform

card (such as health checks for suitability to work on fishing boats) would be decided by the DOE in consultation with stakeholders.

⁴⁷ Royal Thai Government, Department of Employment, The Recruitment and Job-Seeker Protection Act, B.E. 2528 (Amended B.E. 2544), accessed at www.doe.go.th/law_en.aspx

- The Thai Government could consider promulgating specific regulations (and ensuring adequate enforcement of the regulations) that require that in the case of any commercial fishing boat leaving a Thai port to go into international waters, the boat owner must provide an accurate, written crew list to the RTMP, the Immigration Department, the Marine Department and the DLPW. Moreover, these regulations would benefit from including the requirement that an advance notice should be provided at least 72 hours before the time/ date of departure of the vessel, and full legal authority to conduct unscheduled inspections could be granted to all four above-mentioned departments.
- The MOL may consider revising Ministerial Regulation 10 to the LPA 1998 to extend the coverage of major articles/provisions of the law to the fishing sector, including wages, hours of work, overtime and holiday pay, sick leave and administrative requirements of employers, including having written work rules regulating conditions of work not covered by written contract. To do so, would require eliminating Ministerial Regulation 10's exemptions for marine fishing vessels with less than 20 employees, and exclusion of boats that are outside of Thai waters continuously for more than one year.
- The Government could consider explicitly adopting the guiding principle that Thai labour law should apply to marine fishing vessels going overseas if the vessel in question is Thai-flagged or Thai-owned.
- The Government could consider to reform the Fisheries Act, B.E. 2490 (1949) to update it based on the significantly changed situation of the Thai commercial fishing sector, and ensure that effective regulation of this sector is prioritized. In addition, the government may wish to consider ensuring technical assistance is provided by relevant UN and other agencies if such a legal reform effort is undertaken.

D. Prevention

i. Information campaign and materials

- The DOE and the MSDHS could work with international and civil society partners to devise an effective anti-trafficking campaign in labour source provinces in key Thai provinces in the Northeast and North, and (with cooperation with neighbouring governments) in source areas in Cambodia and Myanmar, educating individuals about safe migration and explaining the deception of men which often happens at transit points in Bangkok into the fishing industry. Where possible, voluntary support of former victims to tell their stories about being trafficked to work in the fishing industry could be sought and supported.

- The profile and outreach activities of the DOE offices at Mor Chit bus terminal and Hualamphong train station targeting Thai rural to urban migrants seeking work could be significantly raised, with increased signage/advertising, better outreach tactics and, importantly, officials assigned to staff early morning hours (when the majority of buses and trains arrive).
- Safe migration materials focusing on trafficking and the fishing industry could be developed and circulated extensively in Myanmar and Cambodia source areas. In particular, contact information for NGOs and migrant worker associations operating in fishing port areas could be publicized. Prevention would need to focus on border areas near Kawthaung/Ranong, Three Pagodas Pass/Sangkhlaburi, Poi Pet/Aranyaprathet, Koh Kong/Trad and the Ban Laem, Chantaburi/Battambang crossing. These border-based prevention activities could be undertaken with international organizations and civil society working on cross-border issues.

ii. Inspections

- A more effective prevention mechanism could require the Marine Department to mandate its Inspection Department to set up, as a priority, a strict, continuous and effective inspection regime to check both crew lists and boat registrations of fishing boats departing for overseas fishing grounds, and to stop boats from departing if the actual persons on the boat are determined not the same as in the crew list. If this approach is taken, inspections would need to be more based on interviews/discussions, as office-bound reviews of submitted documents (crew lists) appear to have limited efficacy. A regimen of continuous inspections and spot-checks would alert fishing boats they must comply, and these inspections and spot-checks could include questioning to ascertain if any of the fishermen are trafficking victims who wish to leave the boat. If lists of crew members are found to be inaccurate and/or fraudulent Seafarer (Fisherman) documents are found, legal action would need to be taken against those who procured the documents (the fishing boat captain and owner) but should not be taken against migrant fishermen who are usually not permitted to hold their own Seafarer (Fisherman) documents and know nothing of the document procurement process.
- The MSDHS could collaborate with other Government agencies and NGOs to support and expand existing **fishermen support centres** (run by NGOs, migrant associations, and/or government agencies) and establish a national **hotline** to support out-reach to migrant fishermen who have faced human trafficking, physical abuse and exploitative labour on fishing boats, or witnessed attacks against other fishermen. Government agencies

could use effective, pre-tested messages in migrant languages to encourage migrant fishermen and their families to file complaints, and report abuse and exploitation – and then ensure those messages (in migrant languages) get out into Myanmar and Cambodian migrant communities through information pamphlets and posters, renting of billboards in migrant community areas, use of community radio and other creative outreach strategies.

E. Prosecution

i. At sea:

- More regular and unannounced inspections of fishing boats could be undertaken by RTMP, Immigration Department, DLPW/MOL inspectors, and other concerned agencies, and resources and personnel made available to do this work. Marine checkpoints for departing vessels could be established and supplemented with patrols to find and inspect boats seeking to evade these checkpoints.
- Special attention would need to be paid to the fishing re-supply ships known as mother ships (*reua mare*) or tour ships (*reau tour*) that deliver replacement crews, supplies, and equipment to fishing boats, and take off the marine catch. This would be the most opportune point to remove or add trafficked crew members; therefore, this process should be carefully monitored and all relevant crew interviewed before these re-supply ships leave port.
- The RTMP would need more resources to play an effective role in combating human trafficking onto fishing boats. Unfortunately, operating budgets for the RTMP, especially for fuel and boat maintenance, have been continuously reduced. The Thai Government could establish suppression of trafficking in the fishing fleets as one of the core duties of the RTMP and authorize a special budget to support anti-trafficking activities by the RTMP in the fishing sector, especially by giving the RTMP increased supplies of fuel and other personnel and materials to allow increased patrolling. The RTMP could also receive training on coordination with other key agencies, such as the MSDHS, on anti-trafficking efforts in the commercial fishing sector.
- Increase investigation of the so-called “ghost boats” (*reau phi*) that avoid registration with the government or use an original registration of one boat and then illegally duplicate that registration for use by multiple boats, could be performed by the Marine Department working in close coordination with the RTMP.

- The role of the RTN would need to be clarified, as it has the necessary personnel, budget and maritime power to ensure an effective inspection regime of fishing vessels beyond the 12 kilometre limit, but according to other agencies, the RTN does not consider anti-trafficking to be within its key responsibilities.
- Since the RTN is the leader of the multi-agency national Maritime Coordinating Centre, it could take the lead on the development of an action plan with the RTMP for coordinated efforts to counter trafficking and interdict fishing boats suspected of using trafficked labour and then dedicate necessary financial and personnel resources to implement the plan.

ii. On land:

- The response of the specialist ATP, supported by other police units, in cracking down on trafficking gangs targeting up-country Thais coming into Bangkok seeking work, could be expanded with appropriate funding and personnel. Such work could target “hot spots” such as Mor Chit bus terminal, Hualamphong station, Sanam Luang, etc. and be intensive enough to discourage any potential traffickers. The ATP would need to continue to coordinate closely with the network of NGOs to develop information on trafficking gangs.
 - The Railway Police could be tasked to include anti-trafficking work in their core mandate and be more pro-active in patrolling trains and train stations to investigate and eliminate the activities of trafficking gangs in those areas. It could also be considered to expand Railway Police responsibilities to the compound areas surrounding train stations (like at Hualamphong, where taxi queues have seen instances of traffickers operating) since traffickers are also targeting these areas.
- Concerted crack-down on foreign and Thai migrant brokers/gangs by DSI and ATP could be envisaged. As criminal networks targeting migrant workers for trafficking on to fishing boats are larger and more entrenched, joining forces would increase efficiency of such actions.
 - Bangkok-based RTP (*Phu Torn*) Commanders could issue instructions to *Phu Torn* police to cooperate closely with DSI and ATP in anti-trafficking efforts targeting the fishing sector. *Phu Torn* district and provincial commanders could also be instructed to regularly report information about human trafficking in the fishing sector to their superiors.

- A no-tolerance policy could be implemented with Bangkok-based RTP (*Phu Torn*) Commanders, making it clear that any local *Phu Torn* police found either to be directly involved in human trafficking or complicit in aiding and abetting the practice would be fully prosecuted under the Anti-Trafficking in Persons Act of 2008, especially Article 13 of the Act which doubles penalties for government officials involved in trafficking.
- The DSI, ATP, and the Marine Police could launch a comprehensive investigation and crack-down to eliminate the widespread production of fraudulent Thai Seafarer (Fisherman) identity documents, with a focus on arresting and prosecuting to the fullest extent of the law the document procurers (such as captains/boat owners), middle-men/brokers receiving orders for the documents, and all persons involved in the production of these fake documents. Individual fishermen should not be prosecuted for holding fraudulent documents; they should be enlisted as witnesses in the effort to investigate and uncover the origin of the documents.
 - DSI or other appropriate Bangkok-based police officers could seek out and investigate reports filed with local police of allegedly “stolen” or “missing” Seafarer (Fisherman) documents in major fishing port areas such as Pattani, Songkhla, Ranong, and Samut Sakhon.
- Abusive captains should be held more systematically accountable for their actions, and held criminally responsible for their attacks against fishermen.

F. Protection

The Ministry of Interior (Immigration Department) may consider issuing a regulation to permit permanent section 17(a) Immigration Act exemption to all foreign persons who are screened and found to be trafficking victims. This would allow victims to perform temporary employment while receiving rehabilitative services from the MSDHS and/or assisting in legal cases to prosecute their traffickers.

- In order to prevent re-trafficking and provide alternatives to irregular migration to Thailand, reintegration support could be provided to victims who wish to return to their home countries. This could include support for vocational trainings and income generating activities.

G. Capacity development

i. Training

- There is a need to increase the understanding of local stakeholders (especially local police) on ATIP law and emphasize that counter-trafficking is recognized by the Thai Government as a national priority. Therefore, the Government and its international partners could undertake programmes to develop the capacity of local police at the provincial and district levels to understand human trafficking and relevant national legislation and to identify victims of trafficking through targeted trainings. In addition, a clear signal from the central Government and top-level police commanders should be sent to local authorities to emphasize that human trafficking is a national law enforcement priority, and to set up a system to monitor progress against trafficking at the local level.
- Training on the importance of effective coordination and work between government and NGOs, civil society organizations, and migrant workers associations could also be considered.

ii. Translation and interpretation

- Translators (Thai-Myanmar and Thai-Khmer) are frequently needed to properly handle cases of fishermen who are victims of trafficking, but most agencies of the Government of Thailand do not have such translators on staff. Consequently, agencies in provinces such as Samut Sakorn, Ranong, Pattani, and Rayong rely on migrant worker volunteers who are collaborating with NGOs. However, because the role of these NGO translators in the investigation is not clear, they report that they sometimes face obstacles, harassment and intimidation in the course of their work. MSDHS, as the lead anti-trafficking agency, may want to develop a system at the provincial level to issue translator/interpreter identification cards to these volunteer translators/interpreters. MSDHS may consult with NGOs who are regularly making volunteer translators available for these cases when defining the type, form and format of such a card.

iii. National partnerships and international cooperation

Partnership with non-government actors:

- The Government of Thailand may want to develop partnerships with NGOs working on fishing sector issues to increase outreach to the communities of migrant fishermen and their families. NGOs can bring different problem-solving perspectives, technical support and external resources to common efforts. The particular expertise and experience of NGOs working in the fishing sector may bring added value in discussions to determine anti-trafficking policies and activities. Considerations may be given to include NGOs in policy and programmatic discussions lead by the Government.

Cooperation at the regional level:

- The problems faced by fishermen are regional in nature and are not only the responsibility of the countries recruiting fishermen, but also of countries of origin of the labour force. Therefore, the recruitment and trafficking of fishermen may be an issue worth pursuing at the ASEAN level. The possibility of initiating a policy dialogue between member states with a view to foster international cooperation as well as the creation of a forum for practitioners (coast guard, labour inspectors operating in the fishing sector) for the exchange of good practices could be explored.
- ASEAN member states could envisage negotiating and concluding bilateral and/or multilateral agreements that would ensure immediate identification of trafficked fishermen, humanitarian treatment which accords them status as a victim of trafficking, timely repatriation and reintegration. UN and inter-government agencies and NGOs could provide their support and expertise in the formulation of plans facilitating implementation of these bilateral/multilateral agreements, including for financing the return of the victims.
- The Thai Government could consider the possibility of developing regional instruments taking into consideration benchmarks provided by ILO Convention 185, Seafarers' Identity Documents (already ratified by Indonesia) and the ILO Convention 188, Working in Fishing.
- The Thai Government could ratify ILO Conventions No. 185 and 188.

BIBLIOGRAPHY (PARTIAL)

Agence France Presse (AFP), "Traditional fishing lifestyle in south Thailand under threat", July 3, 2008

Brennan, Melissa; *Out Of Sight, Out Of Mind: Human Trafficking & Exploitation of Migrant Fishing Boat Workers In Thailand*, Solidarity Centre, Washington, D.C.

Browne, David; "Murder at Sea", *Transport International*, International Transport Workers Federation (ITF), Issue 35, April-June 2009.

Chantanvanich, Supang et al., Mitigating Exploitative Situations of Migrant Workers in Thailand, Asian Research Centre for Migration and Institute for Asian Studies, Chulalongkorn University, Bangkok, November 2007.

Ellgee, Alex; "Burmese Trafficking Victims Freed in Raid", *The Irrawaddy*, October 13, 2009.

Fry, Erica; "Locked Outside the System", *Bangkok Post*, January 11, 2009.

Help for Cambodian Communities (HCC), "First Quarterly Report, November 2008 - January 2009, HCC Temporary Shelter and Male Assessment Centre in Koh Kong", made to Oxfam Quebec.

International Labour Organization (ILO), Convention 185: Seafarers Identity Documents (Revised), Geneva, Switzerland, 2003.

International Labour Organization (ILO), Convention 188: Work in Fishing, Geneva, Switzerland, 2007.

International Organization for Migration (IOM), "17 Men Brief", unpublished document summarizing interviews with 17 returning Cambodian fishermen trafficked on to Thai fishing boat, 2008.

International Organization for Migration (IOM), "Held hostage on the high seas: The trafficking of 17 Cambodian men into the fishing industry", Phnom Penh, Cambodia, January 2009.

International Transport Workers Federation (ITF), *Out of Sight, Out of Mind: Seafarers, Fishers, and Human Rights*, London, England, June 2006.

International Transport Workers Federation (ITF), "Illegal, Unreported and Unregulated (IUU) Fishing", London, England

Karen Human Rights Group (KHRG), Abuse, Poverty and Migration: Investigating Migrants' Motivations to Leave Home in Burma, Mae Sot, Thailand, June 2009.

LICADHO, "Support to Trafficked Fishermen: Final Report, September 2009", Cooperation Agreement Between the United Nations Development Programme (UNDP) and the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), 15 July 2008-14 July 2009, Phnom Penh, Cambodia.

LICADHO, "Assisting Trafficked Cambodian Fishermen: The Case of Oem Borey", Phnom Penh, Cambodia, August 2008

LICADHO, "Case Report: Call for assistance by father of Cambodian trafficking victim Kampong Cham province", Phnom Penh, Cambodia, 22 December 2008.

Myint Wai, A Memoir of Burmese Workers: From Slave Labour to Illegal Migrant Workers, Bangkok, Thailand, June 2004.

Natee International Law Office Ltd., Labour Protection Act B.E. 2541 (A.D. 1998) with Notifications, Ministerial Regulations, and Royal Decree, Bangkok, 2000.

Royal Thai Government, Anti-Trafficking in Persons Act, B.E. 2551 (2008).

Royal Thai Government, Department of Employment, The Recruitment and Job-Seeker Protection Act, B.E. 2528 (Amended B.E. 2544), accessed at www.doe.go.th/law_en.aspx

Royal Thai Government, Fisheries Act, B.E. 2490 (1947)

Royal Thai Government, Act Governing the Right to Fish in Thai Fishery Waters, B.E. 2482 (1939)

Royal Thai Government, Alien Labour Act, B.E. 2551 (2008).

Royal Thai Government, Minutes of Meeting Report No. 3/2552 of the Subcommittee to Consider Trends and Procedures to Protect Against and Suppress Human Trafficking for Labour in Fishing, September 28, 2009, 14:00 hours, at Sathorn Meeting Room, 7th Floor, Immigration Department, Bangkok.

Royal Thai Government, Department of Fisheries, Ministry of Agriculture and Cooperatives, *The Master Plan – Marine Fisheries Management of Thailand*, November 2008.

Royal Thai Government, Office to Protect Against and Solve the Problem of Trafficking and Women and Children, Department of Social Protection, Ministry of Social Development and Human Security, *Sarop Gan Dammern Ngan Satankoomkrong Pattana Acheep (Chai) Jungwat Pathum Thani* (Summary of the Work of Shelter for Protection and Vocational Development (Men), Pathum Thani province), 29 January 2009.

Royal Thai Government, Songkhla Provincial Protection and Occupation Development Centre for Men, *Sataban Kum Krong Lae Pattana Acheep (Chai) Jungwat Songkhla*, 2009.

Rukumnuaykit, Pungpond; *A Synthesis Report on Labour Migration Policies, Management, and Immigration Pressure in Thailand*, International Labour Organization, ILO/Japan Project on Managing Cross-Border Movement of Labour in Southeast Asia, ILO Regional Office for Asia and the Pacific, Bangkok, 2009.

Sakaew, Sompong and Patima Tangprapakoon, *Brokers and Labour Migration from Myanmar: A Case Study from Samut Sakorn*; Asian Research Centre for Migration, Chulalongkorn University Social Research Institute, and Labour Rights Promotion Network, Bangkok, Thailand, August 2009.

Save the Children Myanmar, *Migration in Myanmar: A Survey in Three States, 2005-2006*, confidential, copy with author.

Schuetzler, Darren, "Survivors of Thai Fishing Fleet Sue Over Conditions", Reuters, May 28, 2007.

Tenaganita, "Enslaved in Global Catch: Fact-Finding Mission on Trafficked Fishermen in Sarawak, Malaysia", Kuala Lumpur, Malaysia, 2007.

The Mirror Foundation, Proceedings of *Naew Tang Gar Kai Banha Gan Ka Manut Ranggan Pak Bramong*, 25 March 2009, 8:30 to 16:00, Hong King Petch, Asia Hotel, Bangkok

The Mirror Foundation, "Pon Gan Seuksa Banha Gan Lok Luang Ranggan Pak Bramong Nok Nan Nam (The Results of the Study of Deceiving Labour into Offshore Fishing)", Bangkok, Thailand, 2009.

United Nations Inter-Agency Project (UNIAP), "From Facilitation To Trafficking: Brokers And Agents In Samut Sakhon, Thailand", SIREN Field Report, Bangkok, Thailand, June 26, 2007.

United Nations Inter-Agency Project (UNIAP) with LICADHO and LSCW,
“Exploitation of Cambodian Men at Sea”, Bangkok, Thailand, September 28,
2007.

United Nations Inter-Agency Project (UNIAP), “Exploitation Of Cambodian
Men At Sea: Facts About The Trafficking of Cambodian Men Onto Thai
Fishing Boats”, Bangkok, Thailand, April 22, 2009.

APPENDIX A: METHODOLOGY

The methodology consisted of an initial comprehensive desk study of existing reports and materials (in Thai and English languages) involving human trafficking and the fishing industry from a variety of academic, UN, IOM, and NGO sources. Secondly, the consultant conducted personal interviews with migrant fishermen and their families (individually and in focus groups), usually with migrants selected by local NGOs assisting the researcher. Thirdly, the consultant arranged key informant interviews with migrant worker associations/trade unions, NGO representatives, Government officials, fishing captains and employer representatives. To guide these interviews, the researcher, in collaboration with IOM, developed a comprehensive set of questions used in these interviews (see questions in Appendix F.) Interviews conducted in person were supplemented by phone interviews with key interlocutors with significant knowledge about aspects of the fishing industry and human trafficking. Field trips were organized in collaboration with local NGOs to Trad (November 2008, January 2009), Rayong (January 2009), Samut Sakhon (December 2008, twice in May 2009, and June 2009), Koh Kong, Cambodia (March 2009), Ranong (June 2009), Songkhla (July 2009), Pattani (July 2009), and Samut Prakan (September 2009). Cases of trafficked fishermen who had escaped and returned to their home areas were also discovered in the course of separate projects conducted by the consultant in Ubon Ratchatani/ Chong Mek in February 2009. At the invitation of the MSDHS, the researcher also took part in the meeting of the national Sub-committee to Consider Trends and Procedures to Protect Against and Suppress Human Trafficking for Labour in Fishing on June 8, 2009, in Bangkok and the Mirror Foundation's Seminar on Guidelines to Solve Labour Trafficking in Fishing Sector, held on March 25, 2009, at the Asia Hotel in Bangkok.

a) Key informant interviews: migrant worker advocates, fishing industry representatives, Government authorities, migrant representatives, other knowledgeable persons.

- Anand Deesra, Head, MSDHS and Team, Songkhla
- Andy Bruce, Chief of Regional Mission, IOM, Bangkok
- Lt. Col. Antei Koarei, Royal Thai Police, Muang district, Pattani province
- Pol. Maj. General Anurud Kritsanakaruket, Commander of the Ranong Provincial Police, and 20 senior officers, including Marine Police, Special Branch Police, Immigration, and other security officials, at Ranong Provincial Police headquarters
- Arthit Rakthong, Director, and staff, Songkhla Provincial Centre for Protection and Occupational Development for Men, MSDHS, Songkhla.
- Arun Matlek, Head, DOE, Pattani

- Aung Thu Ya, President of SUB and SUB board, Bangkok, Thailand
- Brahm Press, Raks Thai Foundation (RTF)
- Brasert Jantbrakob, Head, Office of Labour Protection and Welfare Department, Pattani.
- Bruno Maltoni, Project Coordinator, IOM Cambodia
- Pol. Lt. Col. Chalernpol Maliwan and Pol. Lt. Col. Phitak Rerngphitak, Royal Thai Marine Police Headquarters
- Chomrudee Nataseree, Anti-Trafficking Officer, MSDHS Songkhla
- Eaklak Loomchomkhae, Chief, Mirror Foundation, Office of the Mirror Foundation, Bangkok
- Elaine Pearson, Deputy Director, Asia Division, Human Rights Watch (formerly ILO)
- Ko Ko Aung, Field Coordinator, SUB, Mahachai
- Lawrence Petroni, First Secretary, Economics Section, U.S. Embassy, Bangkok
- Lisa Rende-Taylor, Technical Officer, UNIAP, Bangkok
- Ly Sotheary, Executive Director, HCC, Phnom Penh and Koh Kong, Cambodia
- Jarunee Jarusruangchai, Anti-Human Trafficking & Advocacy Program Officer, WVTF, Bangkok
- Khamhaeng Omyen, Director, MSDHS Provincial Office, Pattani
- Pol. Maj. Gen. Kokrat Wongvorachart, Deputy Commissioner, Police Region 9, Songkhla, and police officers
- Kultawat Worasart, Chief, Fish Marketing Organization, Songkhla Office
- Manfred Hornung, Legal Officer, LICADHO, Phnom Penh
- Matt Friedman, Program Manager, UNIAP, Bangkok
- Maung Maung, General Secretary, Federation of Trade Unions - Burma (FTUB), Bangkok
- Myint Wai, Coordinator, TACDB
- Pol. Lt. Col. Narin Pukbunmee, Chief, Marine Police, and other police officers, Pattani.
- Pol. Lt. Col. Nattarit Pinpak, Chief Inspector, Ranong Immigration
- Natthawut Loyluean, Field Officer, Trat Klonyai Office, RTF
- Nattaya Petcharat, Southern Field Coordinator, RTF and team
- Pol. Col. Pacharapong Panichprasert, Commander, Muang District Songkhla Police, and other police officers
- Patima Tungpuchakul, Field Coordinator, LPN -- Mahachai
- Paul Buckley, UNIAP
- Pennapa Kongdee, Pattani Office Coordinator, Raks Thai Foundation
- Petra Aldrich, Anti-Human Trafficking and Advocacy Programme Officer, WVFT, Bangkok
- Phairoj Chotikasatien, Head of Section on Consideration of Working of Alien Workers, Department of Employment Songkhla Office, Songkhla
- Pichai Saengfai and colleagues, Seafarers Bureau, Marine Department
- Piyakrai Seelakort, Case Manager, LPN - Mahachai

- Pornchai Yooprayong, Deputy Permanent Secretary, MOL, in Bangkok, accompanied by senior MOL staff.
- Praporn Ekoru, President, Fisheries Association of Songkhla, and Member of Parliament (Democrat Party); Secretary, Parliamentary Committee on the Police
- Rudy Porter, Country Director for Thailand, American Centre for International Labour Solidarity, Bangkok
- Dr. Saisuree Chutikul
- Seri Thongmak, Coordinator, Pattanarak Foundation
- Sittichai Karnajanarath, Field Coordinator, Stella Maris Seafarers Centre, Songkhla
- Sompong Srakaew, Director, LPN – Mahachai
- Suchart Janthalukkna, Director, Stella Maris Seafarers Centre, Songkhla
- Sunee Srisangatrakullert, International Affairs Officer, National Operation Centre on the Prevention and Suppression of Human Trafficking, MSDHS
- Sunee Chaiyarose, Former National Human Rights Commissioner
- Supatra Nacapew and Suttichai “Nai”, Foundation for AIDS Rights, Rayong
- Tin Tun Aung, Refugees Secretary, FTUB
- Uayporn Satitpanyapan, Migrants Program Coordinator, American Centre for International Labour Solidarity, Bangkok
- Wandee Krichanan, Advocacy Officer, WVFT
- Weera Pokapunt, Expert on Sea Fisheries, Department of Fisheries
- Wichian Kaewsrijan, Deputy Head, Men’s Shelter, Ranong province, MSDHS
- Pol. Maj. Wisoot Sangmanee, Investigations Section, Immigration Department, Pattani.

Names requested to be withheld:

- Senior officer, Department of Fisheries, Pattani
- Former senior elected officer, Thai Fisheries Association, Pattani
- Migrant Karen Labour Union (MKLU)
- Fishing boat captains (3), Ranong, Thailand
- Family members of migrant fishermen in Rayong (Ban Phe, Muang district) and Ranong

Also interviewed:

- Royal Thai Marine Police, Songkhla
- Ministry of Social Development and Human Security – Ranong and Samut Sakhon

b) Focus group discussions, arranged by local NGOs/migrant worker groups

January 15-16, 2009 – Meetings with Foundation for AIDS Rights (FAR), Cambodian migrants, and former fishermen, Muang and Tha Pae districts, Rayong.

January 21, 2009 – Interview with former fisherman and trafficking victim, Mahachai, Samut Sakorn.

June 8, 2009 – Participation in meeting of Sub-committee on Trafficking and the Fishing Sector, Sixty Years Building, Ministry of Social Development and Human Security, Bangkok.

June 14, 2009 – Focus group with six Burmese fishermen (identities kept confidential) at LPN office, Mahachai, Samut Sakorn, with Ko Ko Aung as interpreter.

July 7, 2009 -- Focus group with six Burmese fishermen (identities kept confidential) at Stella Maris Seafarers Centre, Muang district, Songkhla province, with Stella Maris translators.

July 7, 2009 – Interview with RL, former trafficking victims from Cambodia, at Stella Maris drop-in centre, Fish Marketing Organization, Songkhla.

July 8, 2009 – Focus group with nine Burmese fishermen (identities kept confidential) at Stella Maris Seafarers Centre, Muang district, Songkhla province, with Stella Maris translators.

July 11, 2009 – Focus group with six Burmese and five Cambodia fishermen (identities kept confidential) at RTF – Pattani office, Muang district, Pattani province, with RTF translators (Burmese-English, and Cambodian-English)

July 12, 2009 – Focus group with eight Burmese and four Cambodian fishermen, (identities kept confidential) at RTF – Pattani office, Muang district, Pattani province, with RTF translators (Burmese-English, and Cambodian-English)

July 17, 2009 – Focus group with seven Burmese fishermen (identifies kept confidential) at WVFT – Ranong office, Muang district, Ranong province, with WVFT translators and WVFT staff.

c) One-on-one interviews with trafficking victims

“The researcher conducted eight individual interviews with trafficked fishermen. These interviews were conducted in Muang district, Pattani

province; Muang district, Songkhla province; Muang district, Samut Sakorn province; Khlong Yai district, Trad province; Muang district, Rayong province; and Muang district, Ranong province. All interviewees requested that their names, specific locations, and other identifying personal details be kept confidential”.

APPENDIX B: LIST OF NGOs

Key NGO advocates for fishermen include:

- Labour Rights Promotion Network (LPN) in Samut Sakhon and Samut Prakan.
- World Vision Foundation of Thailand (WVFT) in Ranong.
- Stella Maris Seafarer Centre in Songkhla .
- Foundation for AIDS Rights (FAR) in Rayong and Chonburi
- Raks Thai Foundation (RTF), in most port areas in the country (including Samut Sakhon, Pattani, Trang, Trad, and elsewhere).
- The Mirror Foundation works with a number of Thai NGO partners in assisting cases of trafficked fishermen.
- Migrant associations/trade unions include the Migrant Karen Labour Union (MKLU), Seafarers Union of Burma (SUB), and Federation of Trade Unions – Burma (FTUB).
- In Trad province, Legal Support for Women and Children (LSCW) has operated a cross-border program from Koh Kong.
- In Koh Kong, Help for Cambodian Communities (HCC) – previously known as Healthcare Centre for Children – operates a reception and transit centre for returning fishermen, and frequently engages in health referrals for fisherman requiring services.

APPENDIX C: INTERNATIONAL STANDARDS RELEVANT TO THE FISHING SECTOR

The FAO Code of Conduct for Responsible Fisheries, in Article 8.1.5, asserts that all states “...should ensure that health and safety standards are adopted for everyone employed in fishing operations. Such standards should be not less than the minimum requirements of relevant international agreements on conditions of work and service.” Flag states are further called upon in Article 8.2.5 to “...ensure compliance with appropriate safety requirements for fishing vessels and fishers in accordance with international conventions, internationally agreed codes of practice and voluntary guidelines.” The Code further states, in Article 8.1.8, that states should “...maintain records of fishers which should...contain information on their service and qualifications.”

ILO Convention No. 185, Seafarers’ Identity Documents (Revised) and the Convention’s Annex III on Requirements sets out recommended procedures and practices concerning the issuance of seafarers’ identify documents. Given the very real problems identified with the fraudulent Seafarer (Fisherman) documents that are widely prevalent in Thai fishing boats plying international waters, the Thai Government should study this Convention closely and consider ratifying it to ensure that identity documents are produced in line with prevailing international standards.

ILO Convention No. 188, Work in Fishing, establishes international standards for work in the fishing sector for the first time. If key provisions of this Convention were adopted by the Government of Thailand, many of the issues related to trafficking in persons in the Thai fishing sector could be addressed. Unfortunately, to date, the Convention has yet to be ratified by any ILO member state. The Convention will not come into force until it has been ratified by at least 10 member states (8 of which are coastal states).

Article 7 requires establishment of “mechanisms for coordination among relevant authorities for the fishing sector at the national and local levels,” which is still lacking. Article 8 sets out joint responsibility of the fishing boat owner and captain for the welfare of fishermen. Article 9 sets the minimum age for work on a fishing boat at 16 years of age, though in cases where activities are “likely to jeopardize the health, safety or morals” of the youth, the minimum age is set at no less than 18 years. Articles 10 and 11 require pre-departure medical exams for fishermen. Thai fishing boat owners will likely dispute the application of Article 14, which sets minimum hours of rest at 10 hours (at least two to three times as much as fishermen on Thai vessels current receive) in any 24 hour period. From the perspective of regulation, Article 15 (requirement to carry and transmit an accurate crew list) and Article 16 (requiring there be a fisherman’s work agreement in line with the provisions of the Convention) are very important. Article 18 requires the agreement be consistently available to a fisherman, while Article 20 obliges the agreement be signed by the fisherman and that the vessel owner ensure

“decent work and living conditions on board the vessel” are provided in line with the Convention.

Most importantly for Thailand, Article 22 of the Convention necessitates operation of a “public service providing recruitment and placement for fishers” and that any private recruitment services be done within a “standardized system of licensing or certification or other form of regulation.” The Government should not allow recruitment and placement fees as part of this process.

Finally, Article 23 requires adoption of laws for regular or monthly payment of wages. Article 29 sets out requirements for boats to “carry appropriate medical equipment and medical supplies” and states “fishers have the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injury or illness.” Article 31 and 32 set out responsibility for preventing accidents and providing training in safety for fishermen in use of equipment, while Article 38 requires “measures to provide fishers with protection, in accordance with national laws, regulations or practice, for work-related sickness, injury or death.”⁴⁸

⁴⁸ ILO, Convention 188: Work in Fishing, Geneva, Switzerland, 2007.

APPENDIX D: PROVINCIAL IDENTITY CARD SYSTEMS AND EXAMPLES OF CURRENT PRACTICES

In Ban Phe district, Rayong, the local card is known as the *badt rai duan* [monthly card]. Fishermen and their families pay between 200 to 300 baht per person per month. NGO workers in the area told Human Rights Watch that representatives of the fishing boat or fishing pier collect monthly fees from fishermen and their shore-based family members and money is sent to the TFA. Migrant workers and NGO representatives told the researcher they believe financial arrangements are made between the TFA and local police to not arrest migrants carrying up-to-date monthly cards, but admit they do not have concrete evidence this corruption occurs.⁴⁹ Migrants report that if police come from other areas, such as the Muang district of Rayong, the monthly card will not protect them from arrest.⁵⁰ Copies of the monthly card seen by the researcher in Rayong in January 2009 list the migrant worker's name and nationality, the name of fishing boat to whom s/he is attached, the workers' photo, the name and phone number of the sponsor/boat owner, and a stamp of the Rayong branch of the TFA. The back of the card has a monthly date stamp (reflecting whether the card is current or not) and the words "fishing activities" on it.



A copy of monthly card for a fisherman in Rayong

In Pattani, the TFA is producing the ID cards. The card is known locally as the *badt samakhom* (association card) and it ostensibly protects workers from arrest in areas of the Pattani fishing port by the Muang district police. The card costs 500 baht for three months. Originally intended for use by fishermen, the distribution of the card has now expanded to migrant workers in land-based professions such as construction. The provincial DOE chief insists the TFA

⁴⁹ Discussions with local NGO representatives, January 15-16, 2009, Muang and Ban Phe districts, Rayong province.

⁵⁰ Interview with Yos Rangseay, migrant worker from Cambodia, Ban Phe district, Rayong province, January 16, 2009.

card does not have legal status⁵¹ but that he is largely powerless to prevent its distribution as it is a private arrangement between the migrant workers and the TFA Pattani chapter. Virtually every migrant worker met in Pattani seaport had one of these cards.



Copies of ID cards for fishermen in Pattani

Ranong province has a local migrant worker ID card known as *badt kwaen kor* (card hanging around the neck) issued by a previous Governor. However, according to media reports, this card has now been revoked in favour of the national migrant worker ID card. When it was in use, the *badt kwaen kor* was similar to the cards in Pattani and Rayong, usually (but not always) offering protection from arrest by local police in certain areas of Ranong. The degree of

⁵¹ Interview with Arun Matlaem, Provincial Director, DOE, January 15, 2009, Muang district, Pattani province.

the card's coverage and protection was subject to the discretion of local police and army officers intercepting migrants.⁵²

A different system exists for undocumented migrant fishermen in Ranong. The Immigration Bureau in Ranong issues a temporary landing form⁵³ that permits a fisherman to remain for thirty days after the boat is inspected by Immigration. To stay longer, they must submit a request and receive approval from the Immigration Bureau. Immigration officers grant the original permission based on a crew list form⁵⁴ completed and submitted by the captain. Fishermen say that extensions are routinely granted in one week allotments while they are ashore, and these extensions are placed in a notebook (designated as a substitute for the TM 1 form, with one year validity) created to accompany the approved the TM 4 crew list. Each extension costs between 300 to 500 baht, and must be sought as soon as the fisherman returns to port.

⁵² Su Su described the police arrest of her husband and sister on November 20, 2007, as they traveled from their workplace at Ranong National Park to see Su Su's sick father in Ranong Hospital. She said that *"usually the police don't accept this [as ID] and always ask for bribes. He [the policeman] said [to my husband] 'your card is already out of date and you are not allowed to come here... This temporary card does not allow you to go out at night.'"* Su Su had to enlist the help of a Thai to travel to the local police post where her relatives were held, and negotiate the price of release from 6000 baht down to 3000 baht. Interview with Su Su, migrant worker from Burma, Ranong province.

⁵³ The researcher has a copy of the form, which has no designated form number, making it difficult to ascertain its status.

⁵⁴ Immigration form TM 4/1.

ด้านตรวจคนเข้าเมืองระนอง
บัญชีคนประจำพาหนะ
CREW LIST

A № 0087

ชื่อเรือ (SHIP NAME) [REDACTED]
ชื่อคนเข้าเมือง (NAME) [REDACTED]
สัญชาติ (NATIONALITY) ไทย (THAI)
เลขประจำตัว (ID NO.) [REDACTED]
วันที่ออกเดินทาง (DATE OF DEPARTURE) 12 มิ.ย. 2562

1. ชื่อเรือ (SHIP NAME)	2. ชื่อคนเข้าเมือง (NAME)	3. สัญชาติ (NATIONALITY)	4. เลขประจำตัว (ID NO.)	5. ตำแหน่ง (POSITION)	6. วันที่ออกเดินทาง (DATE OF DEPARTURE)	7. วันที่เข้าเมือง (DATE OF ARRIVAL)	8. สถานที่เข้าเมือง (PLACE OF ARRIVAL)	9. ชื่อคนตรวจคนเข้าเมือง (NAME OF IMMIGRATION OFFICER)	10. หมายเหตุ (REMARKS)
1	สมชาย ใจดี	ไทย	1111111111	กัปตัน	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
2	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
3	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
4	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
5	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
6	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
7	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
8	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
9	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
10	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
11	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
12	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
13	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
14	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
15	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
16	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
17	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
18	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
19	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	
20	สมชาย ใจดี	ไทย	1111111111	ช่างยนต์	12 มิ.ย. 2562	12 มิ.ย. 2562	ระนอง	[REDACTED]	

ชื่อคนตรวจคนเข้าเมือง (NAME OF IMMIGRATION OFFICER) [REDACTED]
ตำแหน่ง (POSITION) [REDACTED]
วันที่ออกเดินทาง (DATE OF DEPARTURE) 12 มิ.ย. 2562
วันที่เข้าเมือง (DATE OF ARRIVAL) 12 มิ.ย. 2562
สถานที่เข้าเมือง (PLACE OF ARRIVAL) ระนอง (RANONG)

Copy of the temporary landing form issued by the Immigration Bureau in Ranong

คำสั่งพนักงานเจ้าหน้าที่ตรวจคนเข้าเมือง
Immigration Official's Order

ตรวจแล้วมีคนโดยสาร.....คน อนุญาตให้ขึ้นบกได้.....คน ให้กักตัวไว้บนเรือ.....คน
มีคนประจำพาหนะ.....คน อนุญาตให้ขึ้นบกได้.....คน ให้กักตัวไว้บนเรือ.....คน

After checking there are.....passengers, permitted to land.....persons, ordered to be
confined on the ship.....persons, crew members.....persons, permitted to land.....persons,
and ordered to be confined on the ship.....persons.

ผู้ควบคุมพาหนะและคนประจำพาหนะ อนุญาตให้อยู่ในราชอาณาจักรได้ภายในเงื่อนไขต่อไปนี้:-
Master and crew members of the conveyance are permitted to stay in the Kingdom under the following provisions.

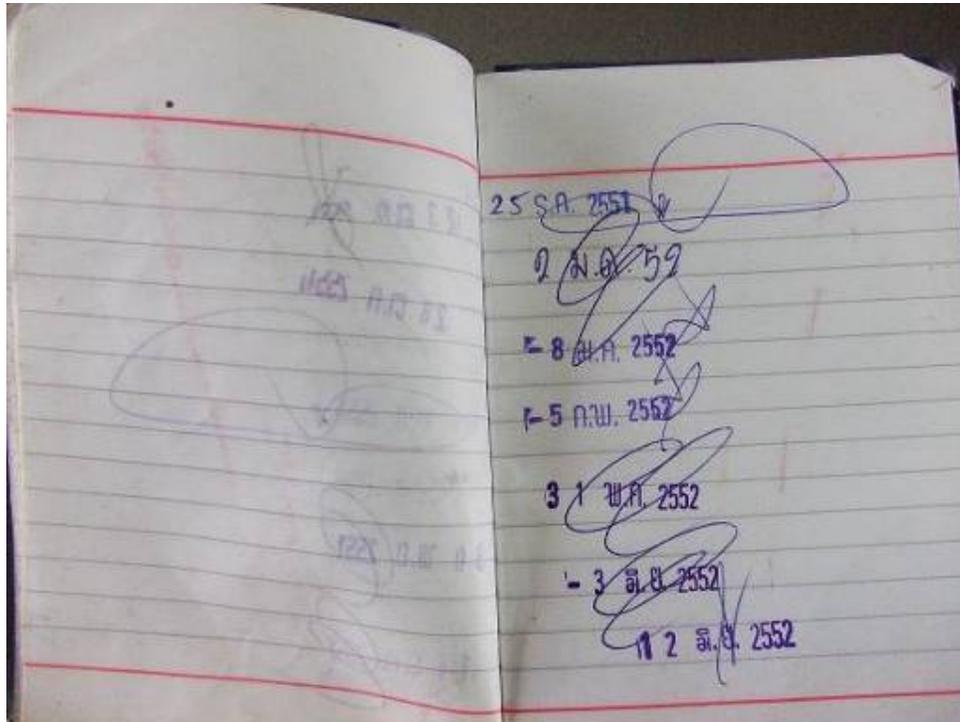
๑. ตลอดเวลาที่เรือยังคงอยู่ในราชอาณาจักร แต่ต้องไม่เกินกำหนด ๓๐ วัน นับแต่วันที่เรือเข้าและได้
รับการตรวจจากพนักงานเจ้าหน้าที่แล้ว และยังเป็นผู้มีหน้าที่ประจำอยู่กับเรือลำนี้

1. While the ship is in the Kingdom, but not more than 30 days since the arrival of the ship, the crew have
already been inspected by the official, and are still employed on the ship.

๒. หากมีความจำเป็นจะต้องอยู่ต่อไปอีกเกินกว่า ๓๐ วัน ตามข้อ ๑. ต้องยื่นคำร้องขออนุญาตต่อ
พนักงานเจ้าหน้าที่ตรวจคนเข้าเมือง

2. If it is necessary to stay further for more than 30 days according to 1. It is necessary to apply for permission to the
immigration official.

Copy of an approval letter for extension, issued by the Immigration Bureau in Ranong. A migrant must pay a fee each time an extension is requested.



A notebook containing relevant information about migrants, photos and immigration stamps. Sometimes, this is considered more official than other card systems.

APPENDIX E: STORIES OF VICTIMS OF TRAFFICKING

RL, a migrant worker from Cambodia, was seeking to go to Songkhla to join his relatives but was cheated by a Cambodian broker named Ra who arranged to sell him to a fishing boat in Mahachai. However, he was able to escape. While trying to find his way to Songkhla, he was tricked onto another fishing boat in Bapanang district in Nakorn Sri Thammarat, which then went to Indonesia. He worked 21 hours a day, with only three hours to eat and sleep, and was severely beaten four times over the course of two months by the Myanmar crew chief for making mistakes, not working hard enough and for urinating while working. He received no treatment for his wounds which were still visible when he was interviewed. RL tried to escape onto a *reua tour* but was caught and beaten for the attempt. When the boat was to go into port, RL was forced onto another boat to continue fishing. RL was never paid for his work and was only able to escape because a “relative” working on a *reua tour* boat recognized him and arranged to pay the captain of the boat 13,000 baht for his release.⁵⁵

A focus group of Myanmar and Cambodian fishermen in Pattani revealed that boat owners/captains are paying 20,000 baht per head for a trafficked fisherman, who then is put on board an overseas boat for three years. One fisherman working on a *reua tour* spoke about transfers of fishermen from boat to boat while at sea to prevent their return to shore, fishermen leaping overboard near islands to escape and cooperation between captains to capture and return them to their boats, as well as cheating fishermen out of wages when returning to shore in Thailand. Another fisherman trafficked onto a boat was told by the captain “*I killed the guy that you are replacing, if you try to flee I will take care of you too...your broker took your advance, so you are not allowed to go anywhere and will be here for many years.*” He only was able to escape when the boat was seized by the Malaysian Marine Police for illegal fishing, and the authorities held him for five months before sending him back to Thailand. Myanmar fishermen said they crossed from Kaw Thaung into Ranong, and were trafficked onto fishing boats in Pattani by their brokers.⁵⁶

Two Myanmar fishermen said that they were trafficked as far back as 1989 at the industrial pier in Pattani (resulting in a year’s work without wages), and 1999 in Songkhla, where one of them was held in a trafficker’s house for three days before being sent to the boat. The span of years indicates just how long fishing boat owners have been using trafficked labour. A Cambodian fisherman told the classic case of being promised work in Thailand at a rate of 800/baht per day on a fishing boat operating in Thai territorial waters, but then being sold for 8000 baht to a *reua tour* boat leaving Pak Nam and forced onto a fishing boat bound for Malaysian waters. During his six months on board, he witnessed the captain shoot and kill three fishermen and finally

⁵⁵ Interview with RL, migrant worker from Cambodia, Songkhla fishing port, Songkhla, July 7, 2009.

⁵⁶ Interview with Burmese and Cambodian fishermen, RTF office, Pattani, July 11, 2009.

escaped when the boat went ashore in Malaysia. Another Cambodian fisherman related he was sold for 10,000 baht in Pak Nam and put on a *reau tour*, which delivered him to a fishing boat in Malaysian waters – he was kept at sea for 22 months, enduring beatings by the captain using a stingray tail, and finally was allowed to leave when the boat returned to shore. He estimated that he slept an average of 2.5 hours a day and worked every day that he was at sea and was beaten every time he fell asleep – accounting for scars all over his back and legs.⁵⁷

Such cases of human trafficking exist in every port the researcher visited. The cases were not hard to find. NGO officers literally made one or two calls to assemble a group of fishermen replete with accounts of human trafficking as recent as last week and as long ago as twenty years in the past.

⁵⁷ Interview with Burmese and Cambodian fishermen, RTF office, Pattani, July 12, 2009.

APPENDIX F: INTERVIEW QUESTIONS

a) Focus group questions

- Where areas do you come from? (Go around the room, district – province)
- For how many of you is this the first time that you came to Thailand? (Show of hands)
- Based on your experience, what is the common way to cross the border? Did you do this yourself, or did you have a guide or broker?
- Were you told what sort of work you would do in Thailand?
- Did anyone tell you would be working on a fishing boat?
- How much it would cost to come to Thailand?
- Did you pay any money in advance before you came to Thailand?
- If you did not pay any money in advance before you came to Thailand, what was the arrangement that you understood for paying back the cost of your travel and arrangements to come to Thailand?
- At what point did you first realize that you were being trafficked? What was the factor or event that made you realize this?
- Can you please explain how (and by whom) you were placed or put on a fishing boat to work?
- Did you have a written contract?
- Did you have a seaman book, or other form of ID related to your work on the boat?
- Can you please describe a normal work day for you, from the time that you wake up until you go to sleep at night?
 - What work did you do on a daily basis?
 - What were your hours?
 - Did you receive rest, meal breaks?
- Were you ever threatened with violence, or subjected to violence, by the captain or other senior members of the crew? If so, please describe.
- Were you allowed to go ashore (esp. for long range fishing boats) and if so, under what conditions?
- How did you leave that situation on the boat?
- After your situation on the boat and return to land, what sort of services do you feel would be most helpful for you?

b) Individual interviews

Recruitment of migrants

- Where do you come from? (Village, sub-district, district, province, country)

- Is this the first time that you came to Thailand? If not, what did you do before – was it related to fishing or other work?
- How did you cross the border?
- Who brought you to Thailand to cross the border?
- Were you told what sort of work you would do in Thailand – if so, please explain what type of work you would be doing; how much you were promised you would be paid; and any other things you were told about the conditions of work that you would be facing?
- At any time was it discussed that you might work on a fishing boat?
- Did you pay any money in advance before you came to Thailand?
- If you did not pay any money in advance before you came to Thailand, what was the arrangement that you understood for paying back the cost of your travel and arrangements to come to Thailand?
- Were you told how much it would cost to come to Thailand?
- Please explain
 - (1) the process to leave your home to go to the border [broker, persons accompanying, route taken, type of transport, and any issues and problems encountered]
 - (2) the process to cross the border [broker, persons accompanying, route taken, type of transport, and any issues and problems encountered]
 - (3) the process to go to the border to the fishing port area [broker, persons accompanying, route taken, type of transport, and any issues and problems encountered].
- Can you please explain how (and by whom) you were placed or put on a fishing boat to work? Did your recruitment involve a broker (or brokers) in Thailand in the port area where you were placed on the boat?
- At any time during the process of being transported in Thailand, coming to the boat, or other times -- did you see or encounter uniformed Thai police? If so, what were they doing? Did you see or encounter under-cover (plain clothes) Thai police? If so, what were they doing?
- At any time during the recruitment process, before you got to the boat, were you threatened with violence, or was violence committed against you? If so, what happened?
- If you were held against your will at the port area, can you please describe where you were held? [House, apartment, distinguishing landmarks, type of businesses in the area, temples or mosques, etc.] How was control kept over you?
- Did you try to escape? What were you told would happen to you if you tried to escape?

Conditions of work on fishing boats

- What port area did the boat depart from?

- What type of fishing boat were you working on? Do you remember the name of the boat?
- Did you have to pay off a debt for your recruitment/trafficking on to the fishing boat? If so, how much was that debt? How long did you have to work to pay off this debt to the employer/lender? Did any other factors contribute to your debt?
- Did you have a written contract? If so, what can you tell me about it? What was its duration, terms, etc. Did you sign that contract voluntarily or involuntarily? Were you ever given a copy of that contract?
- Did you have a seaman book, or other form of ID related to your work on the boat? If so, how did you get it and what did it say? What was it used for and when? Did you hold onto throughout the journey or did someone else? Do you still have your seaman book?
 - While at sea, did the boat have any contact with government authorities? If so, what entities, and where?
- Did you have any contact with the owner (*tao gaae*, not the Captain) of the boat?
- How many people were on the boat? What were their nationalities? What were their ages (roughly)?
- Where did the fishing boat go to make its catch, and how long were you out on the ocean (on average) each time that you went out?
- Can you please describe a normal work day for you, from the time that you wake up until you go to sleep at night?
 - What work did you do on a daily basis?
 - What were your hours?
 - Did you receive rest, meal breaks?
- Were you paid for your work? How much? By whom? At what point? By what method?
 - If you weren't paid, what did you do? If you knew there was someone who could help you deal with this problem, would you seek help from them?
- Did you receive advances on payment at any time? If so how much and when? What did you do with the advanced payments?
 - Were deductions made from your pay for any expenses (food, lodging, etc.)?
- What was the record for maintaining accounts, esp. regarding advances to fishermen, etc. How did you keep track of your earnings, debts, repayment, etc.?
- What happened if you were feeling sick? Were you required to work? Did you receive medical treatment? Were you allowed to stop work because you were sick?
- Were you ever threatened with violence, or subjected to violence, by the captain or other senior members of the crew? If so, please describe.

- Did any physical abuse occur on the boat? Did anyone get hurt or get sick while at sea? If so, what happened?
- What was your relationship like with the captain of the boat? What did you think of him? What nationality was he and what language(s) did he speak? Did anyone ever complain to the captain about working conditions? Why or why not?
- Was there any conflict between the crew and the captain (or other people in positions of power on the boat)? If so, what happened?
- Were you allowed to go ashore (esp. for long range fishing boats) and if so, under what conditions?
- If someone on the boat wanted to get off during the trip, what happened or what do you think would have happened?
- Did you receive any training to prepare you for the work you did on the boat?
- Can you please tell me more about the interactions with the supply ships that came out to your fishing boat? Also, were you given the chance to go ashore, and if so where, and what were the procedures to prevent you from running away.
- There have been reports that sometimes women are brought on to the fishing boat for prostitution? Did this ever happen on your fishing boat?
- For the money that you earn, did you send it back to your relatives in Cambodia or Burma? If so, how did you send it – through what group or institution? How did your relatives receive the money? How much did you send back (if many times, what is the average amount) and how much did you have to pay for the fee to send the money back?

Fishermen's return to land and need for services

- Where and when did you get off the boat?
- If abuse or other problems occurred in connection with the excursion, did you report the problems to anyone?
 - Did you feel like you could have gone to the police? Why or why not?
 - Would you been interested in pursuing legal action – like some kind of court case? Why or why not?
- After coming off of the boats, are there certain services you would have found helpful?
 - a. Housing?
 - b. Medical?
 - c. Food?
 - d. Counselling/Mental Health?
 - e. Transportation?/Return to home?
 - f. Employment?

g. Legal assistance?

Social networks

- Do you have other relatives who have been in Thailand previously or helped guide you when you came to Thailand? Have these relatives helped you in other ways since you got here – and if so, how?
- If you came to Thailand with other men, after you were put on the fishing boat -- did you stay together on the same boat, or were you separated? If you changed boats, did the others who came to Thailand with you also shift to the new boat?

c) Questions to Government, NGO and other service providers

Services for migrants/victims of trafficking

- What sort of health, education, skills or other services are available for migrant workers?
- Who is responsible for screening male migrants to determine whether they are TIP victims? How does the screening process work? What are the guidelines (if any) for this process?
- What special provisions are made (if any) for boys under the age of 18?
- Where is the screening done?
- What provision is made for interpretation/translation for migrants who cannot speak the language of the receiving country?
- For the adult male migrants who are identified as trafficking victims, where are they sent? For boy migrants identified as trafficking victims, where are they sent?
- Please list all the services that the adult male TIP victims are provided with.
- Please list all the services that boy TIP victims are provided with.
- Which of these services are provided directly by the Government, and which are provided by non-Government groups, or international organizations?
- Are adult male or boy migrants who are TIP victims required to take part in criminal prosecutions of their trafficker(s) as a condition for receiving any sort of support or assistance from the Government? If so, what are these conditions?
- Where does the budget come from for these services?
- Are adult male TIP victims, or boy TIP victims, required to return to their country? If so, how, when and under what conditions and processes?
- What services are provided to adult male and boy victims of TIP after they have returned to their country? Who are these services being provided by?

- Is there a procedure or process that has been established in your work unit for identifying victims of trafficking?
- Have you received any training from any organization on procedures and methods to identify victims of human trafficking?
- Have you received any training on the new anti-human trafficking law in Thailand or Cambodia?
- Do you know officials from neighbouring Governments, either at the national, provincial or local level? For what reasons and purposes do you have these contacts? Are those contacts related in any way to anti-human trafficking efforts? Have you ever done joint activities or projects with officials from neighbouring Governments? How would you characterize your interaction with Government officials from neighbouring countries?

APPENDIX G: MEETINGS TO DISCUSS THE REPORT WITH THE THAI GOVERNMENT AND RESULTING COMMENTS FROM GOVERNMENT AGENCIES

A draft version of the report was presented by the author, Philip Robertson to a meeting of the Sub-Committee to Consider Direction and Strategies for the Prevention and Suppression of Trafficking in the Fishing Industry on 9 November 2010. The Sub-Committee was established on 9 March 2009 by the National Committee on the Prevention and Suppression of Trafficking in Persons and signed into force by the Prime Minister of Thailand, the Chairman of the National Committee.

Chaired by Police Major General Chatchawal Suksojmit (Assistant Commissioner-General of the Royal Thai Police), the Sub-Committee has the following roles and responsibilities: 1) to consider the directions and strategies to prevent and suppress trafficking in the fishing industry; 2) to seek cooperation among the relevant stakeholders in order to prevent and suppress trafficking in the fishing industry; 3) to report the results to the National Committee on the Prevention and Suppression of Trafficking in Persons; 4) to establish a task force to implement specific activities assigned by the Sub-Committee; and 5) to take appropriate measures related to the prevention and suppression of trafficking in the fishing industry.

Following discussions during the meeting, the participants agreed to submit the report to the Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee, chaired by Deputy Prime Minister Sanan Kachornprasart. The Committee has the following roles and responsibilities: 1) to prepare and monitor the performance of the implementation and plans of the government agencies involved in the fight against trafficking; 2) to prepare and monitor the implementation of plans and guidelines regarding the capacity building of personnel; 3) to formulate and monitor campaigns to inform and educate the public in the area of trafficking; 4) to monitor and report to the Anti-Trafficking in Persons Committee on the performance of the government's anti-trafficking activities; 5) to follow-up and report on performance under international obligations and on cooperation and coordination with foreign entities; 7) to prepare and monitor the implementation of plans under the Anti-Trafficking in Persons Act with a view to achieving the highest efficiency in law enforcement, in line with the law on anti-money laundering, the law on counter corruption and any other related laws including international obligations.

The report was formally presented to the Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee on 18 March 2011, at a meeting at Government House chaired by Deputy Prime Minister Sanan Kachornprasart, and joined by Minister for Social Development and Human Security Issara Somchai.

Comments on the draft report that were received from participants in the two meetings are included below:

a) Comments by the Ministry of Foreign Affairs (MFA)

- Since the primary researcher of the report on “Trafficking of Fishermen in Thailand” did not interview or ask for information from the Ministry of Foreign Affairs or other concerned Embassies or Consulates, the Department of Consular Affairs would therefore like to present the following comments to complete the report.
- Content about Thai Government’s assistance to trafficked fishermen, both Thai and non-Thai, outside Thai territorial waters, should be added to the report. This content should also detail the limitations for assistance provided to non-Thai trafficked fishermen, such as lack of coordination in victim identification and return process (i.e. between Thailand and Indonesia).
- Assistance to Thai fishermen who have faced difficulties in other countries is considered one of the main mandates of the Ministry. Since 2009, the Ministry has assisted a total of 115 fishermen in returning to Thailand.
- The Ministry implements its activities with respect to the laws and sovereignty of the concerned countries, but, also does its best to assist Thai fishermen in other countries according to Thailand’s laws and regulations.
- To assist non-Thai fishermen who are aboard Thai ships, the Embassy/Consulate will consider providing humanitarian assistance where possible, and will coordinate with the Embassy/Consulate of that particular country for further assistance.
- The Ministry has also established the task force for assistance to fishermen, consisting of representatives from concerned agencies such as the Directorates of Joint Operations for Royal Thai Navy, Department of Fisheries, Marine Police and from various Departments of the Ministry itself (i.e. Department of Treaties and Legal Affairs, Department of Consular Affairs). The task force’s responsibilities include: 1) examining facts and providing comments and suggestions related to assistance to the boat and fishermen facing difficulties in other countries upon request; 2) developing the Standard Operating Procedures (SOPs) on the protection of fishermen for the Embassies/Consulates to use as a guiding principle.

b) Comments by the Ministry of Social Development and Human Security (MSDHS)

The MSDHS provided information on the Ministry’s activities and progress on various issues discussed in the report.

- Regarding the campaign to raise awareness that targeted migrants in vulnerable provinces about safe migration, deception of workers, assistance channels, public relations materials, hotline establishment, etc.

Progress:

- As June 5th of each year has been identified as the national anti-trafficking day following the cabinet resolution on 15 July 2008, the MSDHS has continually been conducting various anti-trafficking campaigns and activities since 2008. In 2010, the Ministry conducted road shows on anti-trafficking in Bangkok (at Hualampong railway station) and in two other vulnerable areas (Pattaya and Samut Sakorn) to raise awareness and encourage public involvement in the monitoring, prevention and suppression of human trafficking. Four road shows events took place during the year with attendance reaching 30,000 people. The Ministry has also allocated budget outlays to all provincial Operational Centres on Prevention and Suppression of Human Trafficking in 75 provinces for fiscal year 2011 to conduct similar campaigns.
- On 20 September 2010, the Ministry issued the Ministerial Statement on Anti-Trafficking Works. On that day the Prime Minister of Thailand confirmed the government's mandates to prevent and suppress human trafficking, and he assigned the MSDHS to conduct the road shows in the vulnerable border areas. The Ministry then organized the road shows on 22 - 23 January 2011 in Ranong and on 6 February 2011 in Tak province respectively. The activities in those two events include: 1) the declaration on Thailand's anti-trafficking mandates by the Minister of Social Development and Human Security; 2) the organization of workshops; 3) the organization of exhibitions to disseminate anti-trafficking materials; and 4) the organization of concerts to raise awareness about human trafficking to the public, performed by singers and actors from Thailand and Myanmar. More than 4,000 people from both provinces attended the events.
- The Ministry conducted four trainings targeting the leaders from public sector to encourage the involvement of the public, network leaders, and children in the programmes to prevent human trafficking and to help monitor trafficking problems in their community. The trainings took place during March - April 2011, in Chonburi, Udorn Thani, Chiang Rai and Songkhla.

- The Ministry established the “Prachabordi Centre”. Victims of trafficking and vulnerable persons can access government assistance by contacting the Centre’s 24-hour hotline on 1300. Between October 2010 and February 2011, 1,353 victims of trafficking and vulnerable groups received assistance through this hotline channel.
- Regarding the permission for victims of trafficking to reside and work temporarily in Thailand, following Article 37 of the Thailand’s Anti-Trafficking in Persons Act 2008:

Following the cabinet resolution on 4 May 2010 to allow the foreign victims of trafficking to temporarily live and work in Thailand, for the advantages in prosecuting the traffickers, receiving medical treatment and rehabilitation and claiming victims’ rights, the cabinet assigned the Ministry of Interior, MSDHS, and the Ministry of Labour to consider and identify the related criteria and conditions for this temporary permission.

Progress:

- On 4 July 2010, the Ministry of Interior established the task force to develop the draft of Ministerial Order to allow the foreign victims of trafficking to temporarily reside in Thailand. The task force consisted of representatives from the Ministry of Interior, MSDHS, Ministry of Labour, National Security Council and Immigration Bureau. The task force developed the draft Order and proposed the Minister of Interior to sign it on 28 February 2011. The Order will be announced later in the Government Gazette and has the following principles:
 - ii. The foreigners under this ministerial order have to be identified as victims of trafficking and shall be willing to receive assistance from the Department of Social Development and Welfare;
 - iii. The Department of Social Development and Welfare must issue a proposal to the Permanent Secretary of Ministry of Interior for approval of a temporary stay of not more than six months. Foreign victims of trafficking must also report themselves to the registration officers. Foreign victims of trafficking can apply for an extension of temporary stay if they do not receive assistance and protection during the temporary stay period;
 - iv. The approved period of temporary work must not exceed the approved period of stay in Thailand;
 - v. Trafficking victims can only stay in an approved area with some exceptions. They can work in other neighboring areas or follow their employers to work in the case of working as domestic workers. Under the Anti-Trafficking in Persons Act, victims

serving as witnesses can also leave the approved area to provide testimony.

- vi. The Permanent Secretary of the Ministry of Interior can revoke the permission for temporary stay in cases where the trafficking victim's behaviour is in conflict with the public order and morals or if the trafficking victim commits or may commit any actions that are harmful to the public order and safety and national security;
 - vii. The Department of Social Development and Welfare has to inform the registration officers regarding any progress made.
- On 24 February 2011, the MSDHS proposed that the Ministry of Labour considers the approval of victims of trafficking to work temporarily in Thailand. The proposal states that approval should be based on the needs of the firms or the employers who would like to hire foreign trafficking victims. Temporary work shall be based on the Anti-Trafficking in Persons Act, which prioritizes prosecution of the traffickers, medical treatment, rehabilitation and respecting victims' rights. Therefore, the employers have to consider the victims' safety and also cooperate with government officials in the prosecution of traffickers. The MSDHS also requested that the Ministry of Labour develops a list of quality firms that meet the standards of the Ministry of Labour. The MSDHS has proposed a total of 27 categories of occupations, approved earlier by the Ministry of Labour, which could employ foreign victims of trafficking. The MSDHS also proposed additional industries that hire migrant workers: fishing and related fishing processing industries, domestic works, and beauty salon works, etc.
 - Regarding the training for concerned government officers at the community level on the knowledge about human trafficking and victim identification

Progress:

Since the enforcement of Thailand's Anti-Trafficking in Persons Act in 2008, the MSDHS has continually conducted trainings on various issues of human trafficking and the Anti-Trafficking in Persons Act:

- The training targets officers within concerned government agencies at the national and provincial levels, NGOs and international organizations. Trainings for local police officers in all 75 provinces have been considered as the most important mechanism in implementing the Anti-Trafficking in Persons Act. A total of 10 badges of police officers (following the structure of the Royal Thai Police), consisting of 5,048 officers, were trained;

- The Ministry supported the provincial Operational Centres on Prevention and Suppression of Human Trafficking in 75 provinces to conduct trainings that target the multidisciplinary teams to combat trafficking as well as youth leaders. Approximately 10,000 participants attended trainings in 2009 and 2010. In 2011, about 6,750 participants, including vulnerable persons, are expected receive training;
- The Ministry allocated budgets for its offices in 76 provinces to raise awareness of youth, students and women on how to prevent themselves from being trafficked and other information on safe living, working and migration. The Ministry targeted the number of trainings to 10 per year; with about 100 participants per training session and a maximum budget of TBH 10,000. The total estimated budget is TBH 8,900,000;
- The Ministry also conducted two trainings for competent officials under the Anti-Trafficking in Persons Act. In 2011, a total of 135 participants attended the trainings.
- Regarding the translation services and interpreters (especially for Thai - Burmese and Thai - Cambodian) and the improvement of translation services at the national level

Progress:

The Committee for Coordinating and Directing the Implementation on Prevention and Suppression of Human Trafficking, chaired by Deputy Prime Minister Sanan Kachornprasart established a sub-committee. This sub-committee was tasked with organizing a system for translation services by volunteer translators for the protection of victims of trafficking. The sub-committee is chaired by the Director-General of the Department of Social Development and Welfare and has the following mandates: 1) to establish a system for translation services that support the work of various agencies in protecting victims of trafficking; 2) to develop standardized curriculum for translator training and; 3) to develop a database for translators. The first sub-committee meeting was held on 14 March 2011.

- Regarding interagency cooperation in victim identification, assistance, repatriation and reintegration
 - As part of a multidisciplinary team, the MSDHS cooperated with other agencies, and especially with the Immigration Bureau, in the process of victim identification by sending social workers to screen

the potential victims of trafficking at the Immigration Detention Center (Suan Plu, Bangkok) and 14 IDCs in other provinces;

- The Ministry provided protection and assistance to both foreign and Thai victims of trafficking by accommodating them in nine shelters. From October 2010 to February 2011, 188 foreign and 47 Thai victims of trafficking resided in shelters. The Ministry provided all-inclusive services for returned Thai victims of trafficking and developed a case management manual for Thai victims of trafficking returning from other countries;
- The Ministry cooperated with the governments of countries of origin and destination of victims of trafficking to protect and assist the victims. A feature of this cooperation was the signing of Memorandum of Understanding (MOU) with countries at the bilateral and multilateral levels. The Ministry is in the process of developing MOUs with Malaysia, the United Arab Emirates, South Africa and Japan;
- The Ministry cooperated with other countries, and especially Australia, regarding human trafficking prevention and providing assistance to Thai victims of trafficking. The Ministry sent Thai social workers to Australia to provide counseling and rehabilitation services to victims who cooperated in the prosecution process with the Australian Federal Police (AFP). The AFP expressed its appreciation to MSDHS social workers for their support and assistance in their prevention efforts, and the Ministry is now in the process of developing an MOU with the AFP;
- The Ministry has continually exerted its efforts to expedite the process of return for foreign victims of trafficking in Thailand to their countries of origin. Initiatives by the Ministry include information exchanges with countries of origin for nationality confirmation and family assessment, the use of interpreters during the interview process and explaining the rights of victims of trafficking in every process. The Ministry also organized the quarterly case management meetings with social workers in Thailand and the countries of origin to address difficulties or problems experienced by victims of trafficking.
- In order to protect persons who are trafficked from becoming beggars, the MSDHS has developed the MOU to categorize and identify beggars in Bangkok in cooperation with the Royal Thai Police, Bangkok Metropolitan Administration, Friends International Thailand and the Mirror Foundation. The purpose of this activity is

to prevent the exploitation of children, women, elderly people, the disabled, etc., and to provide them with welfare protection.

c) Comments by the Marine Police

- The Marine Police is the legal authority responsible for inspecting fishing boats and apprehending offenders. The jurisdiction of the Marine Police is in the territorial sea to the 12 nautical mile mark for coastal waters. The Marine Police does not currently have the resources and funding to cover cost of repairs to the boats used for inspections. According to a discussion that the research had with the Marine Police in Songkhla, the Department had enough petrol to run a boat for 7 – 8 hours each month on average during the first quarter of year B.E.2552 (2010).
- The Marine Police in Songkhla and Samut Prakarn, together with Thai Fisheries Association (TFA), inspect the fishing boats and interview the crews before departure. No trafficking cases were reported during the inspections of boats and the interview processes; however, the interview of the crews took place at TFA. There were some concerns that the interview process may not be transparent.
- RTMP does not (in principle) have a legal authority to investigate trafficking cases or raise issues. The legal authority in charge of the trafficking cases is the provincial police. In the report, the author claimed that there were many trafficking cases found in several provinces. No progress had been made in investigations even though witnesses and other evidence were presented.
- Peace-keeping outside of Thai territorial waters is the responsibility of the Royal Thai Navy (RTN); however, the inspection of boats is another matter. There are many units in the Department of Marine and Coastal Resources Thailand Maritime Enforcement Coordinating Centre (DMCRTHMEC) who are responsible for incidents occurring at sea. DMCRTHMEC is working under the RTN. DMCRTHMEC's role entails coordinating and exchanging information with other concerned authorities. Marine Police does not have the power to order concerned authorities under the RTN to take action on trafficking issues.

d) Comments by the Immigration Bureau

Section A: Operations of Thai fishing fleets and incidence of human trafficking

- Regarding Immigration, Police, Labour and Anti-trafficking units:

- Change the name of the agency, from “*The Immigration*” and “*Police*” to “*The Immigration Bureau*” and “*Royal Thai Police*”
- Change the clause “*The Immigration Department is responsible for checking fishermen leaving and arriving in the country*” to “*The Immigration Bureau is responsible for checking the individuals in the vessels departing and arriving in the country*”.
- Change the clause, “*There are two possible explanations: either fishing captains are not producing these books for inspection or immigration inspections are not taking place on the fishing boats.*” to “*The possible explanation for this case is that the fishing vessels do not provide the forms (Tor Mor 2/1, 4/1 and 36) as detailed in the ministerial regulation on inspection by immigration officers.*”
- Paragraph 3, “*If the former is true, then undocumented migrant workers in the fishing sector are travelling through Thailand and on to other countries without travel documents. However, if the latter is the case, and it is found that immigration authorities are not inspecting boats leaving the country, then the border control system along the coastlines should also be reviewed as a matter of national security*”. The clause should be changed to say, “*For the former case, following the Immigration Act (1979), the individuals on fishing vessels, either Thai or migrant, who are departing or entering Thailand, have to possess the travel document (Seamans Discharge Book) or any document to be used as a travel document. The owner or captain of the fishing vessels have to present the immigration forms as specified in the Ministerial Regulations (Tor Mor 2/1, 4/1, and 36) and/or have to pass the inspection of immigration officers so that they can receive the departure or arrival stamp. In the latter case, if the owner or captain of the vessel provides the list of individuals and vessels entering or departing from Thailand, following the Immigration Act (1979), the immigration officer will proceed following immigration procedure, as a matter of national security*”.
- Page 48, “*Pol. Lt. Col. Nattarit Pinpak, Chief Inspector, Ranong Immigration*”, correct the position (in Thai version only).
- Page 49, “*Pol. Maj. Witoon Sangmanee*” , correct the name to “*Wisoot*”.
- Additional information from Ranong Immigration:
 - The report’s footnote refers to the document claiming the extended period of residence for migrant fishermen in Thailand, as issued by Ranong Immigration. This document was issued by the Governor of Ranong on 14 November 2005. Ranong province borders Myanmar and is separated by Kraburi River and the Andaman Sea. People from both countries regularly cross the border by boat. The

captain and the individuals in such boats entering Thailand have no passport or travel document, and they enter and depart Thailand with the same boats. To regulate the boats and individuals using these boats, Article 13 (1) of the Immigration Act of 1979 states that Ranong immigration officials must issue documents to control the captain or individuals of the boats, based on form Tor Mor 1, following the Ministerial Regulation 3.2 (2). This document is no longer in use, having been replaced by a boarding pass.

- Ranong Immigration has been appointing officers to inspect the individuals and boats, in accordance with the Immigration Act of 1979. Documents used for inspection include: Tor Mor 2/1 regarding the boats, Tor Mor 3/1 regarding the passengers, Tor Mor 4/1 regarding the individuals in the boats, Tor Mor 36 regarding fingerprints, departure and arrival ports of the captain and the individuals in the boats. These are the general regulations for inspecting vessels (i.e. goods ships, passenger boats and fishing boats).

e) Comments by the Ministry of Labour (MOL)

i. Department of Employment (DOE): Comments and Clarification

- Page 17, paragraph 3: Department of Employment

“None of the fishermen interviewed indicated ever seeing a DOE official conduct an inspection of a fishing boat.”

The DOE would like to clarify that due to the small number of labour inspectors, and the lack of resources for labour inspection in the fishing boats, the Ministry of Labour, through the Act on the Work of Migrant Labourers (2008), appointed the officers of Royal Thai Navy to inspect the work of alien labourers on the fishing boats. The Prime Minister also ordered to establish the Centre to suppress illegal migrants and prosecute traffickers. The committee consists of the Commander of the Royal Thai Navy and other organizations. Many agencies work jointly on this issue. The mandates of the center include:

- The protection of labourers in the fishing industry, following the Labour Protection Act (1998);
- The Ministerial Regulations No. 75/2551 on the appointment of officers to work on the Act on the Work of Migrant Labourers (2008). The commissioned officers, from the Supreme Command Headquarters, Royal Thai Army, and Royal Thai Navy are appointed to be the labour inspectors.

- Following the Prime Minister’s Order No. 282/2533, a center was established to suppress illegal migrant workers and prosecute traffickers. The center also provides funding to deport migrants from Thailand.

- Page 18, paragraph 1: Department of Employment

“However, to date, these MOUs have had limited success in facilitating labour migration to Thailand due, in part, to long waiting periods for applications/recruitment, higher processing fees and failure of labour- sending governments to effectively publicize the existence of these MOUs. The number of Cambodian and Lao labours recruited through the respective MOUs is still relatively low”

Information from the Department of Employment regarding number of migrant labourers recruited under the MOU and received work permits in Thailand:

Lao (December 2005 - February 2011)	26,342 persons
Cambodian (October 2006 - February 2011)	61,753 persons
Burmese (May 2010 - February 2011)	1,803 persons
Total	63,771 persons
(There is no information on the recruitment under the MOU for the fishing industry.)	

- Page 18, paragraph 1: Department of Employment

“However, to date, these MOUs have had limited success in facilitating labour migration to Thailand due, in part, to long waiting periods for applications/recruitment, higher processing fees and failure of labour- sending governments to effectively publicize the existence of these MOUs. The number of Cambodian and Lao labours recruited through the respective MOUs is still relatively low...”

The DOE would like to clarify that:

- The recruitment process under the MOU does not necessarily take a long time. It depends on the process of recruitment agencies in the countries of origin, which are the employers’ agents.
- The processing fee is not high. Thailand only charges the processing fee. The excessive expenses are charged by the recruitment agencies in the countries of origin.

Recruitment under the MOU

Labourers from Lao PDR and Cambodia are recruited via the recruitment agencies of those countries. The process takes about one month and the cost is between 18,000 – 25,000 B. per labourer. (This process also depends on numbers of labourers and conditions of the agreement.)

(Paragraph 2)

“For the fishing sector, this system of recruitment is particularly problematic given the total lack of employment contracts for fishermen. Without specific contracts or other documentation from employers, implementing the MOU – which entails a fairly complex process of paperwork and requires the provision of basic information about a migrant’s place and conditions of work – would likely be difficult with regard to processing fishermen’s applications.”

The DOE would like to clarify that

- The recruitment system following the MOU is not problematic.

Recruitment fees under the MOU in Thailand:

Visa fee	2,000 B.
Work permit fee	900 – 1,800 B. / year
Medical check	600 B.
Health insurance / social security	1,300 B.
Maximum total fee	5,700 B.

Some recruitment agencies might already include some of these expenses in the total amount that they receive from the employers.

Documents to be used for the request of recruiting migrant labourers to work in Thailand

1. Request form for the recruitment of migrant labourers to work in Thailand
2. Copy of the approved quota to recruit migrant labourers
3. Remind letter
4. The letter of establishment of recruitment agency
5. Labour contract

- Page 34, paragraph 3: Department of Employment

“Current labour recruitment processes result in many cases of deception and human trafficking while failing to address the chronic labour shortages plaguing the fishing sector. In addition, non-payment of wages and a lack of written and legally enforceable contracts increase the undesirability of work in workers more difficult.”

The DOE would like to clarify that the Ministry of Labour has the policy to address these problems by conducting meetings among concerned agencies, including the National Security Council, Thai Fishing Association and the Department of Employment to study all relevant laws that concern migrant labourers and to find a solution for the recruitment of labourers to fishing boats. Per the suggestion of the Thai Fishing Association, DOE will review recruitment procedures in provinces with a high demand of labourers. Another suggestion under review would entail establishing a specific recruitment centre for fishermen.

- Page 55, paragraph 1: Department of Employment

“The Provincial DOE Chief”

Position to be corrected (only for Thai version)

- Page 56, footnote: Department of Employment

“Interview with Arun Matlaem, Provincial Director, DOE”

Position to be corrected to “Pattani Provincial DOE Chief”

ii. Department of Labour Protection and Welfare: Comments and Clarification

- The Ministry of Labour’s Regulations No. 10 (1998), derived from the Labour Protection Act (1998), addresses the protection of labourers in fishing boats, excluding:
 - Work on fishing boats with less than 20 labourers, with the exception of the provision for payment for which the order applies for the fishing boats which have more than one fisherman.
 - The fishing boats that have been working outside Thailand for more than one year consecutively.

Clarification:

The Department of Labour Protection and Welfare is now in the process of revising the Ministry’s Regulation No. 10 in the following areas:

- 1) To extend labour protection to fishing boats with more than one labourer;
- 2) To provide labour protection in the fishing boats working both inside and outside Thailand;
- 3) To forbid the children aged below 18 years to work in the fishing boats.

- *There has never been the labour inspection conducted in the fishing boats.*

Clarification:

The Department of Labour Protection and Welfare admits that it lacks the capacity to inspect the fishing boats at sea. The Department does not employ a sufficient number of labour inspectors, lacks the skill and familiarity with weather and other natural conditions, lacks the boats and has a limited budget. The Department therefore addressed the problem by:

- 1) Appointing labour inspectors from the commissioned officers of the Royal Thai Navy
- 2) Conducting the seminar on networking in the fishing industry to the officials of the Royal Thai Navy in 2004 – 2005 so that they could work as labour inspectors.
- 3) On 7 December 2010, the Department ordered its sub-offices in 23 provinces and three offices in Bangkok to inspect the fishing-related factories and areas. The Department also requested that the owners and employers of the fishing boats follow the regulations of the Labour Protection Act and Ministerial Regulation No. 10 and to not commit any acts that may be considered trafficking in persons based on the Anti-Trafficking in Persons Act (2008).

- Page 11, see section C. Labour Protection

The whole paragraph 2 needs to be revised to the following:

“In practice, the Ministerial Regulations No. 10 under the Labour Protection Act of 1998 is applied in the fishing industry for the request and receipt of work assurance, sexual exploitation, unfair working agreement, work safety, funding for employees, labour inspection, letter delivery, etc. The exceptions under the Ministerial Regulations include fishing boats with less than 20 labourers, and the boats that are working outside Thailand for more than one year consecutively, regardless of the boat size.

In the last paragraph, the age of the children needs to be revised following the law, from *“prohibiting the employment of children **under 15**”* to *“prohibiting the employment of children **under 16**”*

- Page 16, E. Agency Roles and Coordination

In paragraph 2, line 4, *“a vessel that is beyond Thai territorial waters for more than one year”* needs to be changed to *“the fishing boats that have been working outside Thailand for consecutively more than 1 year”*.

In paragraph 2, line 5, the phrasing, *“By doing so, the law does not afford protection to crews on many small- to medium-sized fishing boats in Thai territorial waters and many of the larger overseas vessels commonly outside the country for periods of one to five years.”* needs to be removed because the vessel type is not clearly defined (i.e. marines, tourist boats, fishing boats, etc.). Ministry Order No. 10 lists the exceptions without regard for boat size.

- Page 18, A. Legislative framework for the recruitment of foreign labour and the registration process

The phrasing, *“The lack of concrete domestic legislation pertaining specifically to fishermen under the LPA 1998...”* should be replaced with *“The labourers in fishing boats are protected under the Ministerial Regulations No. 10 (1998), which was developed following the Labour Protection Act of 1998. However, there are some labourers in the fishing industry who are not covered by the ministerial regulations”*.

- Page 20, C. Labour contracts and identification documents for fishermen and accompanying persons, 1. Labour Contract

Paragraph 1, line 4, the phrasing, *“written contracts are not used by Thai fishing boat owners”* should be removed. The Civil and Commercial Code does not specify a format for the labour contract. The Labour Protection Act states that the labour contract can be either written or verbal.

- Page 34, Recommendations for Discussion, A. Data Collection and Exchange

In paragraph 1, line 6, the phrasing *“based on assumptions”* should be changed to *“due to each agency’s method of data collection, which must consider their mandates and responsibilities.”*

In paragraph 2, line 1, typo in the word *“commercial maritime fishing vessels”* (in Thai language only.) Line 2, the word *“seafaring”* should be changed to *“working on the fishing boats”*, as these two words are different in meaning.

- B. Recruitment of migrant and Thai fishermen

Paragraph 1, lines 2 - 3, following the clause *“while failing to address the chronic labour shortages plaguing the fishing sector.”*, the following clause should be added: *“because of the dirty, difficult, and dangerous nature of this work, the risk of natural disaster, the extended duration of labour on the sea, and the lack of familiarity with weather and sea conditions.”*

The clause *“In addition, non-payment of wages and a lack of written and legally enforceable contracts increase the undesirability of work in the sector and make legitimate recruitment of voluntary workers more difficult.”* should also be cut

because the labourers can claim this right with the labour inspectors or the labour court, regardless of the existence of written labour contracts.

- Page 35

Line 6, change the word “B.E. 2542” to “B.E. 2541” (in Thai version).

Line 24, change the clause “Stronger sanctions should be applied to captains and boat owners who violate the requirement of providing a written contract, or use a contract not authorized by the Department of Labour Protection and Welfare” to “The protection of labourers in fishing boats that are authorized by the Department of Labour Protection and Welfare”, because the Civil and Commercial Code, does not mention that the labour contract has to be in written form. In the Labour Protection Act, it is mentioned that the labour contract can be either written or verbal.

- Page 35

Line 2, change the clause “to handle violations of fishermen contracts” to “for labour rights”

Line 3, change the clause “which violate the regulations in the labour contract for fishermen” to “which violate the law regarding labour protection”.

In the C. Maritime legal and regulatory reform, paragraph 1, line 5, has a typo on the word “at least 72 hours” (in Thai version only).

- D. Prevention, see section i. Information campaign and materials

Paragraph 1, line 1, the word “the DOE” should be changed to “Ministry of Labour”

- Page 38

Lines 2 and 4, typo on the words “and” and “poster” (Thai version only).

- E. Prosecution, see section i. At sea:

Paragraph 1, line 1, add the words “Department of Fishery, Royal Thai Navy” after the word “Immigration Department”, because the Department of Fishery has authorization to inspect the boats, and the Royal Thai Navy has the capacity of inspection.

Paragraph 2, line 4, the clause “that deliver replacement crews, supplies, and equipment to fishing boats, and take off the marine catch.” should be followed by

the word *"by the Harbour Department"* as the Harbour Department is responsible for inspecting the boats and the fishermen.

- Page 42, see section F. Protection

The word *"protection"* should be changed to *"assistance and Rehabilitation"*, as the content is about assistance and rehabilitation to victims of trafficking.

Observed Points:

The researcher would like the Thai Government to ratify International Labour Convention Nos. 185 and 188. The raised points and recommendations of the report are compliant with the points listed in Convention No. 188, such as the working agreement, labour renewal period,, payment of wages, working hours, etc.

The Department of Labour Protection and Welfare has no information about Convention No. 185 but observed, from page 39, paragraph 2 line 2, that the researcher mentioned Indonesia, which has already ratified Convention No. 185. Thailand has yet to ratify either of these conventions, because many agencies maintain responsibility over the fishing industry.

f) Comments by the Department of Fisheries

Part 1: Strategic plan of fishing industry and human trafficking

- Referring to the Fisheries Act, B.E. 2490 (1947); the law is intended to keep fishing trawl boats from coming within three kilometers of the shore to preserve aquatic animals. Because fishing was mainly a sustenance activity at the time this law came into effect, the various issues and matters related to fishing boats and fishermen, including the hiring of labour on fishing boats, were not specified. At the same time, there were various laws that were specific and could not be allowed to overlap, such as the Thai Boat Act of B.E. 2481, the Operation of Boats in Thai Territorial Waters B.E. 2456, the Labour Protection Act of B.E. 2541. At this time, we are drafting the new Fishing Act of B.E. __.
- The Fisheries Act of B.E. 2490 sets the management and administration of marine resources as its primary objective. Large fishing boats, especially those vessels with trawl nets and drag nets, are forbidden to come within three kilometers of the coast because marine species lay their eggs and juvenile marine animals live in great numbers in this zone This provision is inaccurately depicted in the report. See details in report page 9.

- Larger vessels may hold trafficked labourers; however, such larger vessels are required to stay farther from shore, which it is harder for trafficked fishermen to escape. See details in report page 10.
- Referring to the Fisheries Act, BE 2482 (1939); Fishing rights in Thai Fisheries and the report on page 10, paragraph 3, the contents refer to the Fisheries Act, BE 2482, Section 7 (2). See details in report page 10.
- In order to harmonize the Fisheries Act, BE 2482 (1939) with the current situation, Action 5 was issued, allowing foreigners to work as a crew in compliance with the law of migrant workers. A crew who is in compliance with the details under paragraph 1 (eligible to work as a crew) shall not be applied to the details in section 7(2). The purpose of this section is to define the word “crew” under paragraph 1 as the labourers and not the boat captains. The Law is intentionally non-specific to allow flexible application. In the future, if any corrections or amendments are required to be made to the name of the law, such changes will not affect the meaning or validity of the law, which is flexible enough to be applied to a range of different contexts.

Part 2: Recruitment of the fishing labourers and the working conditions

- This report presents a negative overview of the fishing industry in Thailand based only on interviews with fishermen. The author of the report summarizes this information from the interviews and claims it presents a complete overview of the fishing industry.
- This report does not differentiate between the fishing industry operating in Thai territorial waters and outside Thai waters. The report gives the fishing industry in Thailand a bad image. Most problems mentioned in this report occur in international –specifically Malaysian and Indonesian – waters and on international fishing boats. The problems reported do not occur on Thai-owned boats operating in Thai waters. Both Malaysia and Indonesia do not allow foreign boats to fish in their waters. Thai fishing boats do not fish in their waters. All boats in their waters are their own. The matter referred to this in the report is incorrect. If a foreign vessel wanted to fish in their waters they would need to form a joint venture with nationals of that country. These fishing boats would have to be sold to nationals of that country and registered as fishing boats of that country.
- This report describes the physical condition of the fishing boats and the working conditions on the boat but only for fishing trawlers. Trawlers only make up 20% of the Thai fishing fleet.

- This report claims there that are no written employment contracts for workers; however, there are at least three companies do issue contracts. Please see the attached.

Employment Contract (1) Provided by the Department of Fisheries

This agreement is made on At

This employment contract is made between

Mr./ Mrs./ Miss..... (Hereinafter referred to as the "Employee")

Age:year olds

Address

And Mr./ Mrs./ Miss. (Hereinafter referred to as the "Employer").

Both parties agree on the following terms of conditions:

1. The Employee agrees to work as a fisherman on the fishing boat within Indonesian territorial water. Duration of the contract is approximately four years starting from the signing date of the contract until the return of the fishing boat to Thailand for maintenance.
2. The Employee shall be paid monthly, depending on their job duties and capacities upon approval of the boat captain. The salary shall not be less than THB per month.
3. Employees can receive payment by one of three methods:
 - 3.1 The Employer transfers the payment to the Employee's saving account;
 - 3.2 The Employer sends a postal Money Order to the Employee's family in his or her home country;
 - 3.3 In case the Employer prefers a monthly payment and a boat captain agrees, the Employer shall pay the payment on every 25th of the month.
4. The Employee has the right to claim expenses from the boat captain, if such expenses occurred while he or she is in Indonesia for a vacation; however, it is subject to the decision made by the boat captain.
5. The Employee shall agree under the contract to deduct the expenses associated with the working permit process from his or her salary.
6. The Employee shall agree that he or she will – at all times industriously and faithfully, and to the best of his skill, experiences and ability - perform all of the duties and responsibilities required as a fisherman during the contract period. The Employer shall pay his actual wages based on days the Employee worked, deducting fees for salary transfer and withdrawal, and expenses incurred when issuing the employee's work permit. The salary shall be paid within 40 days after the fishing boat returns to Thailand.
7. The Employee agrees to the following terms:
 - 7.1 To work for four [4] years as a fisherman on a fishing boat within Indonesian territorial water and perform all of the duties required;
 - 7.2 Not to return home, except when he or she is seriously ill, before the scheduled return date to Thailand for maintenance;
 - 7.3 Not to drink any alcohol and not to gamble while on board
 - 7.4 Not to quarrel on board
 - 7.5 Not to cause any disturbing actions on board which may prohibit the operation of the fishing boat;
 - 7.6 Not to cause any actions that may damage the properties on the fishing boat.
 - 7.7 To provide maintenance assistance for all properties and equipments on board
8. In case the Employee fails to implement any of the duties and responsibilities agreed under this contract, he or she shall not be entitled to claim any wages including bonuses.
9. Both the Employer and the Employee agree to the terms of the contract stated herein and sign their name with the witnesses below.

Signature (Employee)

Signature (Employer)

Signature (Witness 1)

Signature(Witness 2)

Employment Contract (2) Provided by Department of Fisheries

Employment Contract

To.....Date.....

We are pleased to confirm that we agree to hire you in the position of.....

Terms and conditions are as follows:

1. Your employment shall commence on (date).....
with a base salary of.....THB per month; on the condition that the employee has to work on board for at least 36 months.
2. The company is pleased to pay THB.....in advance. The company will transfer this sum of money to the employee's family bank account on the third month of employment, which begins on the departure date from the Mahachai Port. The company is not responsible for any expenses during the first two months offshore.
3. The probationary period of employment is three months. Your work will be evaluated by the boat captain. If you successfully pass the probationary period, you will receive a permanent contract and/or your salary will be raised based on the performance evaluation.
4. It is agreed by and between the Parties as follows:
 - 4.1 You will obey and follow the instructions of the boat captain with honesty and diligence.
 - 4.2 You will follow fishing procedures with a concern for good maintenance of the quality and freshness of fish.
 - 4.3 You will follow the navigation procedures with respect for everyone's safety and maintain the fishing tools in good condition.
 - 4.4 You will respect the laws and the traditions of Iran. You will not dress inappropriately when returning onshore, for example you will not wear robe pantaloons.
 - 4.5 When arriving onshore, you will return to the boat on the same day by 17:00hrs. You will not remain onshore for any reason.
 - 4.6 You will not gamble or drink alcohol while offshore or onshore.
 - 4.7 You will not be involved in buying / selling or taking drugs
 - 4.8 You will not possess weapons of any kind.
 - 4.9 You will not create or become involved in quarrels of any kind. If incidents cannot be avoided and injuries have occurred, we will not be responsible for medicine or treatment required.
 - 4.10 Prostitution is prohibited, including pornographic CDs, VCDs, or VDOs.
 - 4.11 You will not steal other people's belongings.
 - 4.12 You will follow all existing rules and rules that may be implemented in the future.
5. If you fail to follow any rules mentioned in this contract, you will be punished upon the consideration of the boat captain in the following steps:
 - 5.1 Verbal Warning
 - 5.2 Written Warning
 - 5.3 Termination of Employment

To avoid setting a bad example to other employees, you must agree on the above rules and conditions. To accept the terms and conditions of employment, please sign below.

Name.....General Manager

Accepted by (Name of Employee).....Date.....

APPENDIX H: MINISTRY OF INTERIOR REGULATIONS ON THE GRANTING OF PERMISSION TO ALLOW SOME GROUPS OF ALIENS/MIGRANTS TO REMAIN IN THAILAND AS A SPECIAL CASE FOR THOSE WHO ARE VICTIMS OF HUMAN TRAFFICKING

(Unofficial Translation)

With reference to Section 17 of the Immigration Act 1979, the Minister of Interior, with Cabinet approval on 4 May 2010, announces the following regulation:

1. Migrants who are allowed to stay in Thailand under this ministerial regulation are migrants who are identified by investigation officials as victims of trafficking, according to the Anti-Trafficking in Persons Act 2008. These victims must agree to receive assistance and welfare protection provided by the Department of Social Development and Welfare (DSDW) for the following actions:
 - (1) The prosecution of their traffickers, under the Anti-Trafficking in Persons Act, 2008.
 - (2) Medical treatment, physical and psychological recovery, or claiming any rights to which they are entitled as victims of trafficking.
2. The DSDW shall submit the information about the migrant in Point 1, together with their estimated appropriate period of stay (which should not be more than 6 months) to the Permanent Secretary of the Ministry of Interior for approval. This will be used by the migrant when reporting to the district or local registrar, who will issue a registration and identity card based on Thailand's Civil Registration, as determined by the Director of Civil Registration. The period of permission can be extended until the assistance and welfare protection finish.

If the migrant wants to work, and if the DSDW agrees, the migrant must report to the competent officials, under to the Working of Aliens Act, in order to get a work permit as determined by the Director-General of the Department of Employment. The period allowed in the work permit shall not be longer than the period of stay allowed by the Ministry of Interior.

3. The movement of migrants, for the purpose of working anywhere outside the province where they are registered, can occur if the DSDW gets approval from the Permanent Secretary of the Ministry of Interior or from other authorized officials in the area of Bangkok, or from the

Governor or other authorized officials in other provinces. Movement is only permitted to a province bordering the province of registration, and only under the care of DSDW officials.

The movement of migrants for the purposes listed under Point 1 (1) or (2), or for any humanitarian reasons or public activities, can be done under the care of DSDW officials.

4. Section 54 of the Immigration Act shall not be enforced with migrants covered by Point 1, who are already registered and have an identity card and are allowed to stay temporarily in Thailand prior to the repatriation to their country of origin, as long as they are still under DSDW assistance and protection.
5. The Permanent Secretary of the Ministry of Interior or other designated officials are authorized to revoke the permission of temporary stay of any migrant, under this Ministry's regulations, in the event that the migrant commits any actions that are in conflict with public order and morals, or if the migrant commits or may commit any actions that are considered harmful to public order and safety, and to the country's security.
6. Permission for temporary stay under this Ministry's regulations shall not be effective in cases of the following:
 - (1) The migrant is no longer assisted by DSDW under Section 33 of the Anti-Trafficking in Persons Act 2008.
 - (2) The migrant is imprisoned following a court verdict, except for crimes of negligence or petty offences.
 - (3) The migrant leaves the allowed area without the permissions listed in Point 3, except;
 - a) Migrants who are allowed to work as domestic workers, can move from the allowed area/province to work with their employer, or the husband or wife of the employer. In this case, the employer, or husband or wife of the employer, will have to travel together with the migrant and the identity card must be presented to the competent officials when requested.
 - b) A migrant moves from the allowed area/province following the laws, rules and regulations, to be a witness in court, to obey a police summons, or to get medical or psycho-social treatment. Such movement/travel will have to be done under the care of DSDW officials.

(4) The permission for temporary stay of the migrant is revoked, as outlined in Point 5.

7. When the period of permission for temporary stay finishes as stated in Point 6, or when the assistance and welfare protection finishes, DSDW shall inform the Central Civil Registration Office, Department of Provincial Administration, to delete details of the migrant from the registration database, and to take the migrant's identity card.

The regulations are effective from the date of announcement.

Announced on 28 February 2011
By the Minister of Interior