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Assessing Government and Business Responses to the Thai Seafood Crisis

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Photographs used in this report are illustrative. Those depicted should not be construed as victims or perpetrators of trafficking.

CPF	Charoen Pokphand Foods
DoF	Department of Fisheries
EAFM	Ecosystems Approach to Fisheries Management
EEZ	Exclusive Economic Zone
FIP	Fishery Improvement Project
FMP	Fisheries Management Plan
GT	Gross Tonnes (vessel weights)
IEZ	Inshore Exclusion Zone
IUU	Illegal, Unreported and Unregulated (fishing)
MCPD	Marine Catch Purchasing Document
MCS	Monitoring, Control and Surveillance
MCTD	Marine Catch Transshipment Document
MoL	Ministry of Labour
MSDHS	Ministry of Social Development and Human Services
NESDP	National Economic and Social Development Plan
NPCI	National Plan of Control and Inspection
NPOA-IUU	Thailand National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
PIPO	Port in/Port out
TFFA	Thai Frozen Foods Association
TFMA	Thai Feed Mill Association
TFMP	Thai Fishmeal Producers
Thai-MECC	Thai Maritime Enforcement Coordination Center
TIP	Trafficking in Persons
TOFA	Thai Overseas Fishing Association
TSA	Thai Shrimp Association
VMS	Vessel Monitoring System

With dramatically increased scrutiny on the Thai fishing industry in recent years, the Thai government and private sector have launched wide-ranging initiatives in an attempt to reform historically unregulated practices and prevent the exploitation of the industry's workforce. While they have taken a number of encouraging steps, there remain significant gaps, particularly with regard to the government's system of inspections. This report provides an independent, field-based assessment of the reforms in the Thai fishing industry, and offers practical recommendations for improvement.

Fundamental to the abuses exposed in Thailand's seafood industry is a failure of regulation, both in design and enforcement. Recent changes have sought to address a poorly managed labour market with high numbers of informally employed migrant workers, an absence of controls at Thailand's ports, a failure to monitor vessels at sea, impunity for illegal practices, and an opaque chain of custody from vessels to factories that has made tracing fisheries products nearly impossible.

To address these challenges, the Thai government has introduced sweeping legislative and regulatory reforms that, on paper, are some of the most comprehensive measures the industry has ever seen. But implementation has been inconsistent, both in ports and at sea. Inspection systems are underfunded, plagued by corruption, and constrained by inadequate vessel monitoring capabilities. More importantly, inspectors have failed to identify victims of forced labour, as they lack the resources and incentives to check crews and interview workers.

Complementing the government response, the private sector has also been active – most notably through the establishment of the Shrimp Sustainable Supply Chain Task Force. The Task Force has set goals to establish credible tracing and auditing systems, develop a model code of conduct, and drive regional fishery improvements. It has achieved significant progress in some areas, but there are questions about its longevity, its voluntary compliance structure, and the degree to which it is meaningfully involving NGOs and worker representatives.

While the recent flurry of government and private sector initiatives is welcome and encouraging, it is vital that reform efforts are realistic, properly funded and monitored, and embedded for the long term in industry practice. Given the scale of the challenge and the ongoing gaps in regulation and traceability, both government and business should refrain from issuing premature claims that Thailand's forced labour problem has been solved. Only with a sustained effort from all those involved will the livelihood and dignity of workers and the sustainability of Thailand's fisheries be protected.



To the Thai Government

1.

Standardise inspections in ports and at sea to ensure confidence in the national verification process, including by:

- Reviewing PIPO operations across all relevant provinces and preparing an action plan based on findings;
- Ensuring that regional PIPO offices assume complete control over the entire process and prevent industry-led workarounds;
- Reconsidering the 100% and 10% targets for PIPO and at-sea inspections, respectively, so as to establish a more practical and cost-efficient approach.

2.

Increase the ability of inspections to identify labour abuses by boosting funding, improving interview practices, and shifting incentive structures for officials. In particular:

- Interviews of migrant workers must be conducted in private, according to standardised guidelines, and in workers' own languages – with a sufficient number of translators to make this possible;
- Ensure officials recognise – and are incentivised to recognise – that the identification of potential victims and accurate reporting of case details indicates a successful system, not a failure;
- Ensure that at-sea inspections integrate rigorous labour inspections and always include boarding of vessels.

3.

Strengthen Vessel Monitoring Systems (VMS) and the ability to regulate transshipment by:

- Reviewing transshipment monitoring systems and enforcing accurate record-keeping through the Marine Catch Transshipment Document (MCTD) and other supporting mechanisms;
- Expanding VMS capacity in regional centres, allowing inspectors to compare data against information provided by vessels returning to port;
- Working with external experts to provide technical assistance to relevant inspectors and officials.

4.

Prioritise the development of an ethical, long-term solution to the challenges of labour shortages in the seafood industry, in consultation with workers' representatives, the private sector, and fishing associations.

✓ To Thai and international seafood companies

- 1. Acknowledge that serious human rights abuses continue to occur in the Thai fishing industry,** are highly likely to be found in industry supply chains, and will require long-term commitment and investment to address.
- 2. Leverage the collective voice of industry - national and international - to ensure new Thai government-led systems are resourced, implemented, and effective.**
- 3. Prioritise an expansion of the Shrimp Sustainable Supply Chain Task Force that includes direct workers' representation** to ensure their experiences and demands are considered.
- 4. Ensure the Task Force Code of Conduct is universally adopted upstream of Task Force suppliers and reflects best practice, including by:**
 - Going beyond the minimum standards of Thai labour law and reflecting international labour standards, ILO core labour conventions, and ILO C188;
 - Having clear, mandatory requirements for all suppliers, and a well-established procedure for those who fail to act in accordance with their commitments;
 - Requiring Task Force members to only conduct business with suppliers that are also adhering to the Code, in order to prevent raw material from unaudited suppliers entering the supply chain.



International focus on the Thai seafood industry has rapidly increased in recent years. The last two years in particular have seen a series of high profile reports that have damaged the industry's reputation and put pressure on the Thai government. In June 2014, a six-month investigation by the *Guardian* newspaper culminated in an exposé linking one of Thailand's largest companies and a number of leading American and European retailers to fish caught by slaves, which was used to feed the farmed shrimp they sold in the US and EU.¹ Around the same time, the influential Trafficking in Persons (TIP) report, published annually by the US Department of State, downgraded Thailand to its lowest ranking (Tier 3) for failing to adequately address human trafficking.²

Major investigations by the *Associated Press* and *New York Times* expanded on the *Guardian's* work, linking more companies, and even the global pet food industry, to forced migrant labour in Thai seafood. In April 2015, the European Commission decided to issue Thailand with a "yellow card" as a possible "non-cooperating third country in fighting illegal, unreported and unregulated fishing."³

The investigations and yellow card led the Thai government to launch a wide array of legislative reforms and policy initiatives, which are, on paper, some of the most comprehensive measures the industry has ever seen. Within days of the Commission's announcement, a new Fisheries Act – the first major update to legislation governing the country's fisheries since 1947 – was promulgated and the government issued Directive 10/2558, which mandated action to address illegal fishing and labour abuses under the coordination of the Royal Thai Navy, reporting directly to the Prime Minister.⁴ Numerous other reform announcements followed.

The *Guardian* investigation also spurred important developments in the private sector, the most significant of which was the establishment of the Shrimp Sustainable Supply Chain Task Force (Task Force) in July 2014, led by Charoen Pokphand Foods (CPF), which was implicated in the *Guardian* report. Since its inception, Task Force membership has grown to include the major Thai seafood companies, as well as US and European retailers representing more than \$16 billion in Thai seafood purchases.⁵ The Task Force now represents the most influential and diverse coalition of stakeholders operating in Thailand on this issue and has launched its own set of initiatives to reform the industry.

As the Thai government and private sector have ramped up their engagement to combat forced labour, so too have civil society and the philanthropic community. The number of organisations and agencies interested and involved in the Thai seafood industry has grown exponentially since 2014, both domestically and abroad.

With numerous players now engaged, but few hard facts about how the situation is changing on the ground, there is a need to examine the extent to which recent reforms are addressing the industry's core challenges. The increased attention on Thai seafood has not yet brought greater clarity on what has been accomplished so far and what remains to be done.

This report provides an independent, field-based assessment of recent government and private sector reforms, and offers practical recommendations for improvement where appropriate. The report draws on a combination of desk and field research conducted in late 2015 and early 2016, including a review of policy documents, interviews with key stakeholders in government, business and civil society, and on-site observations in eight Thai ports across five provinces.

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The increased attention on Thai seafood has not yet brought greater clarity on what has been accomplished so far and what remains to be done.



The failure of regulation, both in design and enforcement, is fundamental to the prevalence and severity of the issues exposed in Thailand's seafood industry. While the Thai government and private sector have recently begun work to address many regulatory failings, decades of neglect have left abusive practice deeply entrenched, presenting a significant, long-term challenge to all stakeholders. It is therefore important to understand the key regulatory shortcomings and challenges that have contributed to the current situation, which the majority of recent actions are attempting to address. Many of these areas overlap and are interrelated; however, the five main aspects addressed in this report are:

- regulation of the labour market
- port in/port out controls
- at-sea inspections
- penalties for illegal practice
- traceability

Labour market regulation

The Thai fishing and seafood processing industry is characterised by chronic labour shortages and high degrees of informality, which are key drivers of trafficking and abusive practice. Thailand's prosperity relative to its neighbours and labour-hungry, low-skill sectors makes it an attractive prospect for economic migrants looking for work – in particular for individuals from nearby Myanmar, Laos, and Cambodia – who make up 90% of the labour force in fishing and seafood processing. Further, the government's long-running failure to address the informality and regular violations of Thai labour law, as well as poor health and safety standards, particularly at less visible stages of the supply chain, have resulted in the widespread usage of illicit cash advances and informal recruitment practices, which increase the vulnerability of workers to debt-bondage, excessive fees, and control over wages and violence.⁶

Port-in/port-out controls

Until very recently, fishing vessels, their catch, and their crew entering or leaving Thai ports were subject to minimal checks and controls, and often none at all. The lack of port controls, combined with inconsistent government figures for vessel numbers, facilitated a wide range of damaging industry practices including a failure to accurately report catches, the continued operation of unlicensed or unregistered vessels and the proliferation of vessels employing different, higher impact gears than their licenses allow.⁷ The lack of port in/port out checks has also had significant negative consequences for the welfare of those working in the industry.

At-sea inspections

While a lack of checks in port has enabled abusive practices on one level, a further failure of controls at sea has facilitated the widespread practice of transshipment of catch, crew and supplies, which also enabled vessels to remain productive while evading checks and regulations by staying at sea. A relatively common practice across global fisheries, transshipment at sea allows vessels to transfer their catch to another vessel bound for port while taking on new crew and supplies, enabling catching vessels to continue fishing and minimising the need to expend fuel in returning to port.

In well-managed fisheries, transshipments must be authorised, are tracked using Vessel Monitoring Systems (VMS) and often require an observer.^{8/9} However, until very recently, Thailand did not require vessels to be fitted with VMS or for observers to be present during transshipments at sea, allowing unchecked transshipments to become a widespread cost-saving strategy within the industry. Further, in the past, at-sea inspections have also been hampered by a lack of available vessels and budgetary constraints, particularly on fuel.^{10/11}

The lack of government monitoring – besides making traceability nearly impossible – has enabled abusive vessels to circumvent fishing and labour regulations by laundering illegally caught fish through legal vessels and to escape inspection by remaining at sea.^{12/13}

Penalties for illegal practice

If a lack of effective checks and inspections in port and at sea enabled abusive practice to continue unchecked, Thailand's weak system of penalties and enforcement failed to provide an adequate deterrent, even for those caught breaking the law. Until June 2015 Thailand's fisheries legislation – and the penalties for violations – dated from 1947, meaning fines for illegal fishing could be as low as THB 50 (USD \$1.40). The new Fisheries Act B.E. 2558 and Royal Ordinance on Fisheries B.E. 2558 provide significantly increased penalties, including a fine of between THB 400,000 and 800,000 (USD \$11,400 to \$22,780) per seaman for those employing undocumented workers.¹⁴ Similarly, the Anti-Human Trafficking Act 2015 imposes stronger prison sentences for serious offences.¹⁵ However, Thailand's poor record for successfully prosecuting offenders – particularly high-profile figures and officials involved in human trafficking – is an ongoing source of concern.

Traceability

All these factors contribute to the fundamental challenges companies face to ensure traceability, fisheries management, and assurance that their products are not involved in abuses of human rights or the environment. The prevalence of transshipments at sea means that illegal vessels that rarely return to port are able to contribute to the supply of raw material entering the market. Due to a lack of checks in port and high numbers of private landing sites, many of which sell directly to local fishmeal plants, much of Thailand's fish is processed before it is recorded. The only documentation available comes from purchasing documents; however these documents are generated by businesses and vessel operators that are incentivised to underreport their volumes or conceal the original catching vessel's identity, thus making this documentation extremely vulnerable to fraud and misreporting. With catches often amalgamated from many vessels to produce fishmeal, it is almost impossible to determine which vessels originally caught the raw material and there is a high probability that at least some of it will be tainted with slave labour.

All of the challenges discussed above have been recognised by the Thai government and private sector, and considerable work has begun to address them. However, these practices are deeply entrenched in the business model of the Thai seafood industry and present significant, long-term regulatory and policy challenges. The remainder of this report will examine the effectiveness of these measures.



Faced with increased international pressure over the last two years, the Thai government has undertaken wide-reaching reform of the legal and policy frameworks related to Illegal Unreported and Unregulated (IUU) fishing and exploitation in the fishing sector. While the new policies and changed rhetoric are significant, many challenges to implementation remain.

The December 2014 Ministerial Regulation to Protect Workers in Marine Fishing introduced new requirements and prohibitions, addressing gaps in a previous Ministry of Labour regulation.¹⁶

Provisions within the 2014 Regulation include:

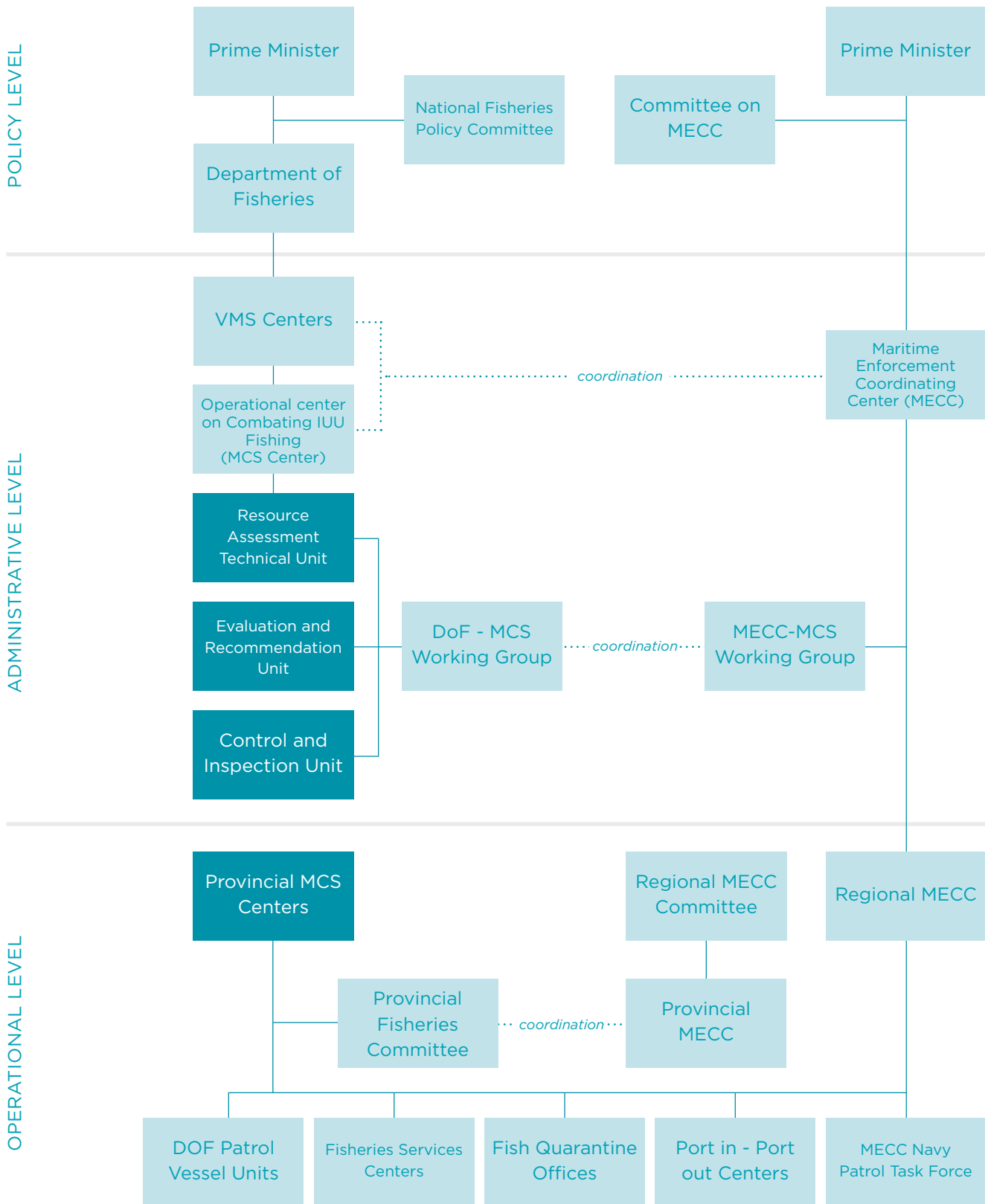
- Mandated minimum hours of rest in 24 hour (10 hours) and in 7 day (77 hours) periods;
- Prohibition of under-15-year-olds working aboard fishing vessels;¹⁷
- Requirements for fishing crew to be brought for inspection every 12-month period;
- Multi-lingual written contracts signed by the employer and employee;
- Requirements for freshwater provision, sanitation, and medical standards.

In early 2015, Prime Minister Prayut Chan-o-Cha established himself as the chair of both the National Fisheries Policy Committee and the Committee on Maritime Enforcement Coordinating Center (MECC), a high-level policy committee to address illegal fishing and human trafficking in the fishing industry (see Figure 1).¹⁸ While the high level oversight demonstrates the high priority of these issues to the government, their complexity puts considerable distance between front-line agencies at the operational level and senior officials at the policy level.

In April 2015, a second amendment to the Thai Anti-Trafficking in Persons Act (initially approved in 2008) introduced provisions to protect informants as well as powers to suspend, close, and adjudicate increased criminal penalties to businesses involved with human trafficking.¹⁹ An ad hoc legal committee worked in consultation with the Ministry of Labour to standardise definitions of key legal terms – such as “forced labour” – across government agencies, and authorities were granted powers to pursue and seize assets owned by beneficiaries of trafficking crimes.²⁰

In response to international pressure, 2015 also saw the overhaul of key legislation and regulations governing Thailand’s fishing industry. In particular, the Fisheries Act B.E. 2558 (2015) and Royal Ordinance on Fisheries B.E. 2558 (2015) are the first new fisheries laws since 1947, and far more accurately reflect the challenges facing the industry today. Much of the detail remains to be published in subordinate Ministerial Regulations; however, the new legislation sets out an encouraging framework for improvements in the sector including requirements to provide proper working conditions for crew, tighten controls on distant water fishing, and install VMS on vessels of 30GT and over.

Figure 1: Department of Fisheries (2015), 'Thailand National Plan of Control and Inspection'



The Royal Ordinance on Fisheries also mandates that the Department of Fisheries (DoF) develop a Fisheries Management Plan (FMP). Concurrent with the FMP, the DoF has also published a National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (NPOA-IUU), which “represents Thailand’s official policy response and commitment” to tackling IUU fishing, as well as a National Plan of Control and Inspection (NPCI), which is designed to ensure the effectiveness of the aforementioned policy initiatives. Central to this work is the PIPO process, further strengthened by detailed plans for secondary inspections at sea. These processes are designed to ensure compliance with the government’s sweeping reforms in a previously unregulated industry.

It is important to recognise the significant and encouraging steps these policies represent, not least in the markedly different language and decidedly more self-critical perspective adopted throughout. For example, the NPCI cites “a culture of weak fisheries law enforcement” and “corruption by officials” as key challenges to Thai fisheries management.²¹ Thailand’s new Fisheries Management Plan (FMP) is also considerably more detailed than previous frameworks and is explicitly guided by international best practice and “applies the Ecosystem Approach to Fisheries Management (EAFM) that aims to balance ecological well-being (fish resources and the environment) with human well-being (social and economic benefits).”²² If fully implemented and properly enforced, Thailand’s planned reforms to address both human trafficking and IUU fishing will be commensurate with – and in some areas such as the PIPO process, stronger than – existing programmes in many industrialised countries.

Challenges and concerns

While the steps taken by the government are encouraging, many challenges and concerns remain. The previous lack of resources dedicated to these longstanding issues, a history of industry self-regulation with little government oversight, the complex nature of the fishing industry, and the culture of denial by the government all bring serious questions regarding the potential success of these policies.

Ongoing political instability has diverted resources and attention and has impeded the type of sustained, focused approach required to address such deep and longstanding issues. The nature of the fishing industry, including the remoteness of some ports and long periods spent at sea, combined with the influence of corrupt government and business figures, has made it difficult to ensure compliance with national policies at a local level. The national government’s inability or unwillingness to rigorously impose national policies has effectively led to industry self-regulation, which some industry figures have taken advantage of to circumvent the law and maintain a damaging or occasionally abusive status quo.²³ In addition, there has been a longstanding culture of denial by government and industry figures, often in the face of overwhelming evidence of abuse.

One key concern is the ability of various government agencies and ministries – each responsible for different aspects of regulation on labour and environmental issues in the fishing industry – to coordinate and cooperate effectively. The DoF’s Fisheries Management Plan cites “inadequate coordination among agencies involved in MCS in Thailand” as a key cause of IUU fishing in Thailand.²⁴ The TIP report also touches on these issues, noting that “challenges with collaboration between police and prosecutors, and frequent personnel changes among law enforcement, prosecutors, and multidisciplinary team members limited the success of prosecution efforts.”²⁵



Thailand's poor record for fully implementing such plans necessitates both healthy scepticism and maintained pressure in order to ensure that commitments are followed through.

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In order to mitigate some of these issues, a number of database projects have been initiated, which the 2015 TIP report recognised “could improve interagency information sharing.”²⁶ The two primary new databases are (1) an interagency human trafficking database system – which “serves as a centralized platform for all related government agencies... to share information on all human trafficking cases, monitor progress, and take appropriate action across the anti-trafficking continuum in law enforcement and victim protection” – and (2) the Fishing Info System – which “serves as a basic integrated database of fishing vessel, fishing license, and crew onboard.”²⁷

However, these technical solutions must not be viewed as silver bullet solutions that turn inspections into data gathering exercises, to the detriment of essential, more labour intensive inspections and crew interviews. According to one experienced human rights campaigner in Thailand, “the history of anti-trafficking initiatives in Thailand is littered with unusable or disused databases.” Funding must be maintained and the projects should be regularly reviewed to ensure they are being utilised properly.

Thailand's poor record for fully implementing such plans necessitates both healthy scepticism and maintained pressure in order to ensure that commitments are followed through. A senior United Nations official interviewed for this report said “That's always the issue here: on paper, everything looks pretty impressive...[but] it either gets twisted or just not implemented.” While these action plans and public commitments represent positive developments in Thailand's approach to dealing with these issues, they should not be viewed as an end in themselves. As the research findings of this

and other reports demonstrate, well-considered and detailed plans can often be found wanting when put into practice, such as inconsistencies identified in the PIPO process.²⁸

Labour market reform

Current efforts to reform the fishing and seafood processing industry are happening in the context of systemic labour shortages and long-standing informality in the sector, both issues the government has begun to address but on which further progress is needed.

In 2014, the Ministry of Labour and Department of Corrections proposed a scheme to crew fishing vessels with early-release inmates from Thai prisons,²⁹ which was quickly dropped in early 2015 following criticism from domestic and international civil society organisations and the press.^{30/31} Reports of worker shortages aboard vessels continued in 2015, as did requests from vessel operators for renewed registration drives.³² Some shortages were linked to migrant workers exiting the industry following widespread fishing stoppages in July 2015 as the new Fisheries Act came into force. Additionally, since November 2015, workers in the fishing and seafood processing sectors have been granted the right to change employers without limits to the number of employers or provinces – a right which 2,753 workers have reportedly exercised since. Responding to the concerns of several civil society and international organisations, this employer flexibility has been introduced by the government in order to reduce both worker shortages and the “ability of employers to use their control over a migrant’s ability to work legally in Thailand to make unjust demands.”³³

Currently, the Recruitment and Job-Seekers Protection Act B.E. 2528 (1985) fails to regulate the recruitment practices of brokers, sub-contracting and manning agencies supplying migrant workers to Thai businesses. Consequently a large number of informal brokers operate in a grey labour market that vessel operators have come to rely on in order to source fishing crew. Following the recommendations of a Department of Employment committee in January 2016, the government reports



that it is drafting a Royal Ordinance to enhance controls over brokers and manning agencies supplying migrant labour. Originally expected to be submitted for consideration by April 2016, it aims to protect workers from exploitation by requiring such brokers and manning agencies to apply for licenses as service providers and to comply with labour protection laws.

Faced with the scale and long-running nature of the problem, the government must prioritise the development of practical solutions that both ensure worker safety and provide sufficient labour to the industry, thereby limiting the need to rely on informal broker channels. While the government should work closely with industry and workers’ representatives to identify key issues and potential solutions, the government must take much greater responsibility in regulating and providing safe and secure recruitment processes. Considering the significant risks and historical abuse by recruitment agencies and brokers, strict standards and rigorous monitoring are essential.

In Ports

Port in/Port out (PIPO) inspections underpin a significant portion of the government's reform programme to date. Under the DoF's Fisheries Management Plan, PIPO is cited as the primary "mode of implementation and enforcement" for many important actions, including capacity reduction, strengthening the logbook system, and VMS requirements.³³ In particular, PIPO is designed to ensure compliance through inspections and to create a deterrent, with powers to detain vessels and halt fishing. According to the government, "with the strict control of PIPO procedure, the vessels with incorrect documentation for the crews will be forbid[den] to leave the port...This means that not only illegal vessels but also fishing vessels with incorrect documentation and suspicious activities are prevented from committing any wrongdoing with their business in Thailand from now on."³⁵

Initially trialed in April 2015, the programme has now been rolled out across all 22 coastal provinces. Under current guidelines set out by the National Plan of Control and Inspection (NPCI), all vessels of 30 GT or above are required to inform the PIPO centre at the port when departing or returning. PIPO officials will then inspect documentation, equipment and fishing gears, crew details, cold storage, and logbooks. Currently, all information is recorded using paper-based forms; however, the government has outlined plans to equip all inspectors with electronic devices by the third quarter of 2016.³⁶ The details of all inspections – including fishing vessels, fishing crews, fishing operators, licenses, and infringements – are subsequently entered into the Fishing Info System database. While the majority of global fisheries management is conducted using paper-based systems, it should be recognised that these systems are extremely vulnerable to fraud, particularly in fisheries with a history of poor management and high prevalence of abusive practice, such as Thailand. Electronic traceability systems, including VMS, automatic catch recording, and direct data input at the point of inspection have the potential to significantly reduce fraud and improve MCS. It is important to be realistic; however, it should be the stated aim of all governments and fisheries

The majority of the PIPO inspections observed failed to cover all 16 of the inspection criteria specified by the NPCI.

management organisations to move towards electronic traceability systems within a reasonable timeframe.

The scope of PIPO inspections is broad, with multi-disciplinary inspection teams (including officials from the Department of Fisheries, Marine Department, and Ministry of Labour) checking 16 different elements:

1. Vessel registration;
2. Fishing vessel registration;
3. Fishing gear license;
4. Fishing logbook;
5. Captain's certificate;
6. Engineer's certificate;
7. Radio permit;
8. Certificate for use of radio equipment;
9. Identification card of skipper;
10. Identification card of captain;
11. Identification card of engineer;
12. Employee's registration status;
13. Work permits for migrant workers;
14. Employment contracts;
15. Safety equipment;
16. Vessel Monitoring System (VMS).

The current target for PIPO inspections established by the NPCI is 100%,³⁷ noting that failure at this "critical point" could "result in a risk of offence in other fisheries control activities."³⁸ However, there are serious questions over the viability of such targets, which will be discussed further. Nonetheless, according to the government as of January 2016, 5,609 (85%) of the reported total 7,188 fishing vessels over 30GT, which make 80% of Thailand's commercial fleet, had reported through PIPO, capturing a significant share of the registered

commercial fleet. The government reports that PIPO inspections covered 90% of fishers, or 474,334 men.^{39/40}

If fully implemented, the PIPO process represents a significant step in improving Thailand's MCS. However, where loosely applied, the system may also provide noncompliant operators with a false layer of legitimacy, and even facilitate illegal activity. Research for this report revealed considerable inconsistencies in the inspection process across the five provinces where it was conducted. Fundamentally, the variety of interpretations regarding both the required frequency of inspections as well as inspection criteria suggests a failure of communication and training. For example, some PIPO centres, such as Nakhon Si Thammarat and Phuket, claimed to be inspecting 100% of all vessels in and out of the ports under their jurisdiction, which included a number of small, private landing sites in Nakhon. Conversely, Samut Sakhon and Songkhla, two of the busiest ports, claimed to be inspecting 10% of vessels.

The government's regime for inspecting foreign-flagged vessels entering its ports is separate from inspections of Thai-flagged vessels and is governed by Thailand's commitments under the FAO Port State Measures Agreement, which the government says has been applied since 1 September 2015.⁴¹ This requires Port States to obtain advanced notice of a vessel's intention to enter port, a copy of their authorisation to fish, and details of their fishing trip and catch on board.⁴² Port State inspections of foreign-flagged vessels are necessarily different to inspections of domestic vessels. According to the FAO, a port State should collect at least the following information:

- the flag State of the vessel and identification details;
- name, nationality, and qualifications of the master and the fishing master;
- fishing gear;
- catch on board, including origin, species, form, and quantity;
- where appropriate, other information required by a Regional Fisheries Management Organisation (RFMO) or international agreement;
- total landed and transshipped catch.

While these inspections are carried out by PIPO authorities and include many of the same elements listed under the 16 elements above, including checks of crew against the crew list, there appears to be some confusion over the frequency of these inspections, with the NCPI initially stating that "as a major port State, Thailand has duty to inspect all foreign and national fishing vessels calling at its ports" before later establishing 10% inspection targets for foreign vessels entering or departing Thai ports.⁴⁴ Foreign-flagged vessels are not inspected at sea.

Observed inspections in practice

The majority of the PIPO inspections observed failed to cover all 16 of the inspection criteria specified by the NCPI. In many ways, a poor PIPO system both facilitates and potentially indicates the presence of serious issues regarding seafarer welfare, as well as corruption or undue influence by an individual or individuals in a particular area.⁴⁵ For example, initial findings suggest that the significant levels of control enjoyed by the local Fishing Association in Samae San – in particular its president, who is also a former Sub-District Chief – are having a detrimental effect on the strength of the PIPO process in the area. According to one campaigner who has worked there, "as people are coming down to inspect the boats, people in the port are radioing out to the people at sea saying 'the inspectors are here, don't come to port.'"

37 The percentage breakdown by nationality of the 474,334 fishers inspected through the PIPO system is: Cambodian (48%); Burmese (32%); Thai (19%); Laos (0.2%) and others (0.06%). PIPO inspections identified no instances of trafficking, forced labour or child labour but 114 violations (involving 10 employers and 104 workers) of the Alien Working Act, B.E. 2551 (2008)

45 Similar findings were observed by the Environmental Justice Foundation in the port of Kantang, where vessels belonging to the influential former mayor and Fishing Association chief were allowed to pass through the PIPO process, despite the presence of individuals later identified as trafficking victims aboard.



Significant variance among PIPO sites

A number of inspections appeared unpracticed, disorganised, and even somewhat 'staged'.

In Songkhla, for example, officials examined various documents on the hood of a pickup truck at the port and the inspection appeared to lack the systematic organisation required to ensure inconsistencies were discovered. In fact, the crew manifest appeared to show five crew, though only three were present. When questioned, officials claimed there should only be three. However, on further investigation, it was discovered that the other two crew members had been left on another vessel at sea due to their vessel returning to port for repairs. These facts should represent a high-risk situation, as well as a violation that could potentially stop the vessel departing; however, the vessel was observed departing shortly after the inspection and a brief test of the new propeller.

In Samae San, the PIPO office is located in the building belonging to the local Fishing Association, who submit documentation on behalf of their members for a 'service' fee of THB 200. In one instance, major issues with the crew list were identified, including crew who were present but not on the list as well as the absence of listed crewmembers. When questions were raised over these discrepancies, the captain - who, clearly inebriated, had remained on board - asked the chief inspector why the inspection was so difficult today and was told simply to look behind him, indicating the Western observer. These vessels were eventually permitted to leave without, in the researcher's opinion, a satisfactory resolution to the discrepancies.

This is one of the key challenges presented by Thailand's complex system of patronage, in which local officials and well-connected business owners exercise considerable influence in these areas, including determining the outcome of elections for key local offices. In its 2008 Master Plan, the DoF explicitly recognises this situation as a key barrier to reform: "Group pressures, particularly those with local political support, frequently demand administrative changes in certain fisheries management measures to serve the interest of their groups. Some of these changes went directly against the proven fisheries management principles and on a destructive path to the fish stocks and to the fishermen themselves."⁴⁶

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In the Sichon and Khanom districts of Nakhon Si Thammarat inspections were considerably more rigorous. A full team of inspectors from all necessary departments was present and the inspections proceeded smoothly and efficiently. Crew appeared accustomed to the level of inspection, suggesting a much higher degree of consistency. Further, Nakhon Si Thammarat was the only province observed that took photographs of the crew in the presence of DoF officials on departure and arrival. When the chief of the PIPO centre was informed that his province were the only ones taking pictures of crew, he reacted with surprise, and stated that he understood this to be a requirement, though it is not mandated by the NCPI.

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PIPO failing to provide labour protections

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While properly executed document checks, including vessel registration and gear licensing, have the potential to address issues related to IUU fishing, it is also clear that the current PIPO process is unfit for purpose regarding inspection of working conditions or the identification of those in need of assistance. Consistent across all of the provinces researched was the lack of any adequate system for identifying potential victims of abuse and exploitation. None of the inspection teams included translators and checks on migrant crew consisted solely of cursory document inspection, cross-checked against the crew list; though in some cases, such as Samae San, even this was not done thoroughly.

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There appears to be a widespread assumption that migrant workers in possession of basic documentation – namely the migrant workers' 'pink card' – are unlikely to be victims of abuse and therefore don't require further investigation; however, recent cases in Phuket demonstrate that migrant ID cards are not necessarily a barrier to exploitation or abuse.⁴⁷ Further, a high degree of expertise is required to identify potentially fraudulent documents, which did not appear to be present amongst all of the teams observed.

A major factor in these findings were time constraints, as inspectors were simply not afforded enough time to speak with crewmembers. Neither did any of the inspection teams board any of the vessels, making evasion of the checks a matter of staying on board the vessel. A lack of rigour at the inspection stage has the potential to undermine the effectiveness of the entire programme, with each in-port or at-sea inspection relying on the information generated by those previous. For example, at-sea inspections will rely on port clearance and crew lists checked during the port out inspection before the vessel departed. Inadequate inspections can lead to a failure of even the most fundamental objectives of the process. One NGO reported assisting an undocumented Cambodian fisher who claimed he was told to hide in the engine room during PIPO



Identifying Fraud

In Samut Sakhon an official from the Immigration Department identified a forged work permit with a signature that he did not recognise as belonging to the official responsible. On further investigation, the bearer of the forged document stated he had paid a Burmese broker THB 8,000 for it, a process that should have cost THB 500. The forged extension – also evident through its poor handwriting and forged receipt – was dated June 2014, meaning the fisher had been using it for 18 months before it was identified in December 2015. The vessel was detained, though the researcher was unable to observe the conclusion of the case. This case demonstrates the importance of specialised officials during the inspection process.

inspections to avoid detection. Without more thorough checks, including boarding the vessels, this type of evasion will continue to undermine the PIPO process.

There also did not appear to be any systemised referral system for reporting cases, though no cases were identified during the research. However, according to the government, in 2015 the Ministry of Social Development and Human Security (MSDHS) developed a newly revised victim identification form, which the government states “front-line officers are now required to use this new form in all interviews and record information about the interviewees in greater detail. In particular, he or she is required to take note of trafficking in persons indicators.” However, this form did not appear to be in use at any of the sites observed and no interviews were witnessed.

These findings also raise questions regarding the government’s failure to identify any cases of trafficking or forced labour, despite a significant number of inspections. Given the prevalence of trafficking identified by numerous external sources and the scale of inspections undertaken, it is concerning that no cases were identified and may indicate shortcomings in victim-identification training and a disincentive for officials to designate cases as trafficking or forced labour. According to one prominent human rights campaigner, “the incentive structure within much of the Thai civil service seems to be, particularly in the police, that if you find trafficking victims in your area, that could bring you trouble with your boss. So therefore, better not to find them.”

PIPO and VMS

At the time of research, the VMS facilities available to officers at all PIPO centres visited were not capable of tracking a vessel’s activities over time and only able to pinpoint a vessel’s location at the time the check was carried out. While this does serve the useful purpose of checking the functionality of each vessel’s VMS system, it does not allow access to the vital information that would allow officials in port to identify ‘suspicious’ behavior or compare logbook and other fishing information submitted

against a timeline of the vessel's VMS data. Having access to this information would allow officials to verify the vessel's fishing grounds, time at sea and any potential transshipments, therefore minimising the potential for fraudulent reporting. For example, if this information were available to inspectors in Songkhla – where one operator claimed many illegal vessels continued to operate far out to sea and transship their catch with legal boats – potentially illegal activity would be easily identified. This capacity does exist at the centralised VMS centre, but is not available on the smartphone app being used by inspectors in port. It is anticipated that this capability will be rolled out to regional PIPO centres, though at the time of research it was unavailable.

Recommendations

It is important to recognise that different provinces and ports have different characteristics that may require area-specific variation in PIPO operations, for example geographical differences such as rivers or the existence of many private ports versus one, primary landing site; however, the fundamentals of inspections must be standardised to ensure confidence in the verification process nationally. The government should undertake a review of PIPO operations across different provinces and ensure consistency in the training and information provided to frontline staff.

The current PIPO process is inadequate with regard to identifying and assisting potential victims of abuse, as well as potentially poor labour conditions aboard fishing vessels. The government should work to integrate rigorous labour inspections into the PIPO process, including the opportunity to conduct private interviews with crew in their own language. PIPO inspections should also be broadened to include boarding and inspecting the vessel to ensure crew are not avoiding verification and that conditions aboard the vessel are safe and legally appropriate. However, under the current 100% inspection targets, this does not appear possible. While it is encouraging that the government has set ambitious targets, these targets must be realistic and allow for rigorous inspections to be carried out. In many areas, particularly those with high traffic, current targets do not allow sufficient time for

comprehensive inspections. It should therefore be recognised that fewer, more effective inspections may be preferable to higher numbers of insufficient ones. Inspectors must be given adequate time and training to conduct thorough inspections, including the opportunity to interview crew in their own language and in private.

The government must adhere to the six monthly internal review and audit report established by the NCPI to ensure rigorous inspections can be carried out, as well as recognising that the diversity of fishing regions may mean different resource requirements across different areas. The entire process must be closely monitored, regularly reviewed, and adapted according to the situation on the ground.

The influence of powerful regional figures is a long-running and difficult issue to address, particularly in coastal areas with an economic reliance on fishing. However, the new reforms represent a clear opportunity to build a system largely outside of this influence. Regional PIPO offices must assume complete control over the entire process, and arrangements that could potentially undermine the reliability of PIPO checks, such as that identified in Samae San (see page 18), must be ended.

The incentive structure for victim identification should also be reviewed to ensure that the presence of trafficking or forced labour victims is not understood to be a failure. Officials should be trained to identify victims and incentivised to report case numbers and details accurately.

Finally, the ability to track vessel activity over time with VMS is an essential tool for monitoring compliance. Priority should be given to expanding this capacity to inspectors in regional centres, allowing them to compare key fishing data against logbook and other information provided by vessels returning to port.

At Sea

The development and implementation of a systematic plan for multi-disciplinary at-sea inspections of Thai fishing vessels – including the commitment of significant resources – is integral to much of the Thai government’s work to counter IUU fishing and forced labour in the seafood sector. At-sea inspections represent a key checkpoint to ensure compliance with wider reforms and activities, including vessel and gear registrations, crew documentation and PIPO. For example, an unregistered vessel that has avoided PIPO inspections will not have proper documentation and should therefore fail the at-sea inspection. Combined with the enforcement powers of multi-disciplinary teams, at-sea inspections can also provide a strong deterrent for illegal operators.

At-sea inspections have been identified by the Thai government as key to delivering the nine Objectives laid out in its Response to the 2015 Trafficking in Persons Report, including a commitment to “intensifying our efforts in inspections and prosecutions to eradicate human trafficking both inland and at sea by using a pro-active, intelligence-led law enforcement approach.”⁴⁸ At-sea inspections are also particularly important in the Thai fishing industry, given the prevalence of transshipments at sea as discussed earlier, a practice that allows some vessels to remain at sea for many years.

At-sea inspections are overseen by the CCCIF, which is responsible for coordinating the multi-agency teams. The NPCI sets a target of 10% for inspections of all vessels at sea.^{49/50} Inspection coverage is divided into three areas comprising the entirety of Thailand’s EEZ – two in the Gulf of Thailand and one in the Andaman Sea. Inspections check at least 16 specific points:

1. Vessel registration;
2. Fishing gear license;
3. Fishing logbook;
4. Captain’s Certificate;
5. Captain’s Identification Card;
6. Engineer’s Certificate;
7. Radio permit;
8. Certificate for use of radio equipment;
9. Safety equipment;
10. VMS;

11. Transshipment authorisation (where appropriate);
12. Crew check against crew list;
13. Work permits for migrant workers;
14. Port clearance inspection (Port Out);
15. Fishing ground inspection;
16. Prohibited species.⁵¹

Overall challenges to implementation

Upon review, however, the expectations of at-sea inspections are not matched by the resources allocated to implementation – allocated budget, patrol vessels and inspectors available. Like the 100% PIPO target discussed above, the 10% inspection target is unworkable if inspectors are to be afforded the time to carry out full inspections – including interviews with crew – and follow up with any infringements or victims in need of assistance. It should be recognised that fewer, more rigorous inspections, with full follow up and processing where violations or victims discovered, is much more effective than rushed, target-driven inspections.⁵²

There also appears to a significant budgetary shortfall for implementation of the Fisheries Management Plan, with cabinet approving approximately half of total THB 2.4 billion (USD \$68.3 million) required by the budget.⁵³ Considering past challenges created by budgetary constraints, particularly in relation to the ability of patrol boats to carry out inspections at sea, it is vitally important that budgets are consistent, realistic, and sustainable.

Nonetheless, from the promulgation of the Royal Ordinance in mid-November to January 2016, CCCIF reports having overseen at-sea inspections of 507 vessels fishing within Thailand’s territorial waters, more than twice the initial target of 220 fishing vessels.⁵⁴ However, it is unclear what fines or other punitive actions have been taken.⁵⁵

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49 According to the DoF, this is a total of 42,512 vessels, with a target of 4,251 vessel inspections.

52 According to the DoF’s National Plan of Action on IUU (NPOA-IUU), the CCCIF coordinates 104 patrol vessels (of which 65% are DoF and 35% Royal Thai Navy assets). Assuming that all 104 vessels are operating all of the time, the current targets require an average of 40 inspections by each vessel, per year. Clearly, this is unlikely, as well as not being adequately represented in the budget. Using the 38 vessels budgeted for in the DoF’s FMP, the 10% target would require 111 inspections per patrol vessel.



Intelligence-led inspections

One key element of the Thai government's focus on an "intelligence-led response" has been the requirement for all vessels over 30 GT to install VMS and the establishment of a VMS control centre operating 24 hours a day.⁵⁶ According to the NCPI, if VMS monitoring identifies "a fishing vessel acting suspiciously" it will inform the 12 Marine Fishery Management Units and 6 Marine Fishery Management Centres, which can inspect the vessel at sea.⁵⁷ The Royal Ordinance on Fisheries B.E. 2558 (2015) initiates new regulations requiring all suspicious activity to be "promptly investigated" and cases pursued, and increases the fines on vessel owners who employ undocumented workers from THB 100,000 (USD \$2,848) per infringement – regardless of the number of workers involved – to THB 800,000 (USD \$22,780) per worker.⁵⁸

The government notes that efforts to improve enforcement outcomes have resulted in a de-emphasis on random inspections, which it says "expended many resources... with very little results," in favour of intelligence-led enforcement through partnerships with stakeholders in areas of high trafficking risk.⁵⁹ In the fishing sector, this primarily takes the form of local and civil society partnerships under the voluntary "coast watching

program (Pramog Arsa)," which monitor and report illegal activity to the authorities.⁶⁰ According to the government, the combination of VMS and community monitoring will allow them "to constantly monitor all fishing vessels in real time and take appropriate action as needed. It also allows us to monitor and arrest any vessel which might have trafficking victims or child labor on board."⁶¹

Due to their importance in underpinning so much of Thailand's efforts to address IUU fishing and human trafficking in the industry – particularly its vital role in providing compliance assurances for the PIPO process – it is crucial that at-sea inspections are rigorous and consistent. The implementation of a second-tier of inspection, the resources available, and the number of inspections reportedly carried out are all encouraging developments. The government's adoption of an intelligence-led approach and commitment to work closely with civil society and community groups represent significant steps forward and should be commended.

At-sea inspections in practice

Like PIPO inspections, this research found the practice and reliability of at-sea inspections to be inconsistently applied. While there were some good practices observed, interviews with vessel owners and Fishing Association representatives across five provinces showed there can be significant gaps between plans and implementation, particularly across different regions.

Multiple vessel owners testified to a lack of rigour in the at-sea inspections, which, if true, represents a clear failure of implementation and raises serious issues. While government figures demonstrate inspections well above the targeted 10%, it is vitally important that all inspections cover at least the key 16 points detailed by the NPCI. Incomplete checks – such as careless inspection of easily-forged documents like the Port Out clearance form – provide significant opportunity for circumvention and abuse. Further, the failure to observe working conditions and interview crew aboard the vessel significantly undermines the government’s ability to identify and assist victims of forced labour.

Interviews conducted with vessel owners in Phuket demonstrate the deterrent effect of at-sea inspections and potential fines. All vessel owners interviewed reported having been inspected multiple times at sea and explicitly connected their unwillingness to commit violations to the risk of being inspected.

Many were unhappy with not being allowed to change crew between different vessels while at sea, a regulation that is being considered nationally, though not enacted into law, but which is apparently strictly enforced in the Phuket area. According to operators, this means that a vessel with an injured or sick crewmember must return to port, instead of putting the crewmember on another vessel already on its way back, which can incur significant extra costs. One operator – who claimed his vessels had been inspected three times in a ten day period – stated that “the risk of being inspected is too high” to justify attempting to circumvent the regulation, with a potential fine of THB 400,000 per person found to be on a different vessel.

Another issue identified through interviews was the frequency with which some vessels in certain areas are being inspected, while more isolated vessels may be allowed to escape scrutiny. Interviews with vessel owners in Phuket, who claim they were frequently checked, and with a representative of another Fishing Association, suggest that only vessels operating within one or two days off-shore (such as purse seiners) were being inspected, while vessels that travelled further and spent longer at sea (such as trawlers) were evading inspection. Finally, a vessel owner in Songkhla expressed her concern that many illegal and unregistered trawlers remained at sea on the edge of Thailand’s EEZ, where they could avoid inspection and transship their catches to legal trawlers authorised to land in port.

These claims, if true, cast significant doubt on the credibility of the government’s stated inspection figures. Of particular concern is that the highest risk vessels – those spending long periods at sea and potentially illegal trawlers – are managing to avoid inspection, while much lower risk vessels are being inspected multiple times.



One vessel owner in Nakhon Si Thammarat explained that his vessels had been ‘inspected’ many times; however, this consisted of the inspection vessel moving close enough to the fishing vessel to view the Port Out clearance form, which was “held up” by a crew member. The operator claimed none of his vessels had ever been boarded nor been subjected to more in-depth inspections, such as those laid out in the NPCI.

Similarly, a vessel owner in Samae San stated that inspection vessels usually shone their searchlights over the fishing vessel to check for the green sticker that allows them to purchase fuel at sea, which theoretically cannot be obtained without a valid vessel registration. However, considering the prevalence of fraud and sophisticated forgery operations in Thailand, possession of this sticker does not provide any kind of guarantee, particularly regarding crew treatment and working conditions.

VMS in practice

All of the interview findings also bring into question the effectiveness of the government’s intelligence-led approach, particularly the employment of VMS to identify “suspicious” vessels. VMS is internationally recognised as an effective tool for combatting IUU fishing and improving MCS, where properly utilised. Though Thailand has established a VMS monitoring centre, these developments are clearly in their early stages. The partnership between the Satellite Applications Catapult, Pew Charitable Trust, and the Thai government to develop a trial of VMS technology and build Thailand’s VMS capacity⁶² represents a promising initiative.

While development is underway, what constitutes suspicious activity is currently poorly defined. Perhaps more concerning is that the testimony of vessel owners suggests a degree of arbitrariness to inspection decisions, as well as a lack of consistency and rigour – just as for PIPO and at-sea inspections.

Whilst this research did not include an observation of inspections at sea, reports that inspections have primarily targeted the ‘low-hanging fruit’ of vessels operating relatively close to shore, while higher-risk vessels spending longer at sea have avoided inspection, justifies a need for further investigation and assessment.

Recommendations

It is important to recognise that the at-sea inspections under the current reforms are a relatively new procedure, and therefore must be allowed to change and develop through learning. That said, it is crucial that all inspections include at least the minimum criteria established by the NCPI. As with the PIPO process, the current regime for at-sea inspections is inadequate with regard to identifying and assisting potential victims of abuse and exploitation. The government should work to integrate rigorous labour inspections into the at-sea inspection process, including the opportunity to conduct private interviews with crew in their own language. At-sea inspection must always include boarding and inspecting the vessels, in order to provide sufficient secondary checks to ensure crew are not avoiding verification and that conditions aboard the vessel are safe and legally appropriate.

It should also be noted that Thailand's EEZ covers a significant area, meaning resource investment and operational costs are high. The government should ensure that its 10% inspection include a breakdown of vessels by gear type, and ensure the number of inspections are proportionate to the total number vessels employing each gear. Inspection reports should include the numbers of each type of vessel inspected to ensure inspections accurately reflect variety of vessels in the Thai fleet. Further, there should be a regular review of the viability and effectiveness of the 10% target.

Central to this work is the government's commitment to an intelligence-led approach through the employment of VMS and local partnerships. The government should continue to work with organisations such as Catapult and other VMS experts to better understand and clearly define suspicious activities requiring further investigation.



Thailand's failure to ensure proper monitoring of the fishing industry to prevent abuse – through policy, enforcement, and industry practice – must also be understood in the context of a failure on the part of the Thai seafood industry's customers, which include some of the largest companies and biggest brands in the world. Despite high profile and credible reports of widespread abuse in these companies' supply chains as far back as 2008, international buyers of Thai seafood have largely failed to take meaningful action to ensure suppliers abide by their own corporate social responsibility and ethical buying commitments. This is demonstrated by the fact that many of the same companies implicated in 2008 have continued to be connected to these issues as recently as December 2015.⁶³ In an environment of limited pressure from international buyers and no significant impact on Thailand's exports, there has been little appetite for burdensome reforms in an industry whose competitiveness has, in some ways, come to rely on these practices.

However, the situation appears to be changing. The continuing emergence of serious environmental and human rights issues in the Thai seafood industry has helped to demonstrate to international buyers the importance of an intimate understanding of their supply chains, in combination with rigorous, forensic audits. Insight into the less formal tiers of the supply chain – primary shrimp processing facilities, fishing vessels, and fishmeal factories – has damaged the reputations of large companies and has put pressure on both the private sector and the government to act.

Shrimp Sustainable Supply Chain Task Force

Important developments in the private sector engagement began in earnest in 2014, the most significant of which was the establishment of the Shrimp Sustainable Supply Chain Task Force (Task Force) in July 2014, led by Charoen Pokphand Foods (CPF) and US retailer Costco, which was implicated in the *Guardian* report.

Since its inception, Task Force membership has grown to include over 80% of feed manufacturers, US and European companies representing more than USD \$10 billion and \$6 billion respectively in Thai seafood purchases, as well as a number of NGOs working with technical expertise on these issues; however, it has come under some criticism for the lack Thai civil society and worker representation.^{64/65/66} Industry bodies and representatives, such as the British Retail Consortium (BRC), Ethical Trading Initiative (ETI) and National Fisheries Institute (NFI), have also publically recognised the severity of the problems of forced labour, provided guidance to members and supported reforms.^{67/68/69}

According to the Task Force, its work is focused on three key objectives:

1. Implement track and trace systems with international verification from vessel to feed mill;
2. Drive Thai Codes of Conduct with international recognition;
3. Assist in driving Fishery Improvement Projects (FIPs) for the Gulf of Thailand and the Andaman Sea.⁷⁰

It should be noted that the work of the Task Force is currently focused exclusively on the shrimp supply chain, though the possibility of expanding the scope beyond shrimp was discussed at the first Steering Group meeting of 2016.⁷¹

The Task Force aims to bring together and work closely with governments, including the US Department of State, the European Union, and the Royal Thai Government. This work has included substantial lobbying efforts with the Thai government regarding the recently updated Fisheries Act, as well as meetings with Thai government representatives and CCCIF, and presentations to the EU Directorate-General for Maritime Affairs and Fisheries (DG Mare) and US Department of State.

The primary focus of a meeting between the Task Force and the CCCIF, attended by the researcher, were improvements to vessel inspection processes, which contribute to the reliability of key documents that are integral to the traceability process, including the Marine Catch Purchasing Document (MCPD) and crew welfare checks that form part of the PIPO process.

Traceability and auditing programme

One of the key elements of this work includes the development of a traceability programme. In order to achieve this, the Task Force has appointed Underwriter Laboratories (UL), described as “a global independent safety science company,” to develop a “traceability protocol tailored to the Thailand fish to feed industry.”⁷² According to the Task Force, this protocol would be the first of its kind in Thailand, and the eventual goal is to provide an “internationally recognized benchmark industry supply chain model, for adoption by all.”⁷³

The Task Force has identified a total of 197 audit sites, including 164 vessels, 13 ports, 15 fishmeal plants and 5 feed mill plants.⁷⁴ The auditing protocol has now been completed and the first round of audits was commenced in October 2015.

According to a presentation by UL’s lead auditor, the traceability audits covered vessels, fishmeal plants, and feed mills and include a review of all relevant documentation, similar to the government’s own PIPO inspections. Some of the key documents covered during the vessel audit include:

- Fishing license;
- Vessel registration;
- Fishing logbooks;
- Crew IDs and work permits;
- Crew contracts;
- Crew payment records.

In line with PIPO inspections, the overall aim of the Task Force’s audit system is to ensure vessels in their supply chain are registered and licensed, catch is being accurately recorded, and all crew are documented. However, one key difference with PIPO was the approach to identifying potential victims

of abuse through confidential interviews. According to UL, translators trained in interviewing potential victims of abuse and exploitation are employed to conduct crew interviews in private. These interviews also provided the basis for further checks, including checking the payroll record of the employer against information gathered through interviews.

All of the information gathered at the initial vessel audit must follow the product to the subsequent fishmeal plant and feed mill stages, where the data is revalidated and further checks are carried out. While essential documents are checked at every stage, fishmeal plants and feed mills also have their own auditing criteria, including lot traceability systems and line-item summary reviews. A ‘mass balance’ is carried out at fishmeal plants to ensure the volume of output is consistent with raw material input. This represents a significant and valuable check and can ensure that fishmeal producers are not mixing raw material from unaudited vessels with that from audited suppliers.

Challenges with the auditing and traceability system

On paper, the UL auditing system appears robust and comprehensive, as well as offering a sensitive and informed approach to identifying potential abuse in the supply chain that is lacking in the government’s inspections; however, it should be noted that the research did not include an observation of a Task Force audit, and cannot provide any comment regarding potential inconsistencies in implementation, as observed with government inspections. Nonetheless, in a sector that has seen the failure of many ethical auditing programmes to identify significant violations, such as forced or child labour, this system has the potential provide much more in-depth audits capable of identifying such practices.

The primary shortfall in the auditing process to date is at the vessel level, where it has achieved just 3% of their vessel audit target, a total of 10 audits, compared with 20% of feed mills and 13% of fishmeal plants.⁷⁵ Vessel auditing presents a major challenge, and much progress will be needed to reach their target by July 2016.⁷⁶

Many of the challenges identified by UL are in fact matters that must be solved by government at a policy level – for example, issues regarding fraudulent worker identification documents and insufficient payroll information. Similarly, questions of the validity of documentation provided by government departments – such as the Marine Catch Purchasing Document (MCPD) and Marine Catch Transshipment Document (MCTD) that depend on the government’s ability to rigorously check ports, run VMS monitoring, and enforce at-sea regulations – have the potential to undermine the reliability of the traceability system.

In particular, persistent challenges regarding transshipments of catch at sea remain. The continued operation of illegal vessels that do not return to port continue to present considerable barriers to full supply chain transparency. Too often in this sector there has been a tendency to declare the problems solved, only to see that problem subsequently reemerge. In March 2015, CPF, who initiated the Task Force, declared, “we have now completely locked down our supply chain;” however, given the complexity of Thai seafood supply chains and the widespread nature of the problems – particularly those connected with transshipments – such a claim seems decidedly premature.⁷⁷ Further, the persistence of the belief that these problems are likely to be resolved in such a short period of time significantly distorts the true scale of the problem and can hinder the type of long-term, focused approach required to address such deep-rooted issues. As discussed, many of the mechanisms required to address these issues rest with the government and are beyond the direct control of the private sector; however, it is important to recognise that – while the Task Force appears to be making a strong contribution to the development of auditing systems – under the current conditions it is practically impossible for any company in the Thai seafood sector to claim full visibility over its supply chain.

Codes of Conduct

The Task Force’s second objective – the development of Codes of Conduct – is being undertaken by a subgroup called Vessel Watch, and includes a VMS trial, the lessons of which it intends to present to

the Thai government to help with “with the cost-effective monitoring and detecting of illegal fishing.” The Vessel Watch subgroup has been tasked with creating and implementing: a Social Compliance Code of Conduct for vessels, ports, and labour recruiters within the seafood supply chain; a Supply Chain Traceability Monitoring Programme; and, a fit-for-purpose monitoring system for the Social Compliance Code of Conduct. This Code of Conduct is initially being developed for vessels, with a view to eventual roll out across all stages of the supply chain, including labour brokers.

According to the Task Force, there is currently no standard Code of Conduct in Thailand, particularly none suited to the challenges of at-sea monitoring, which are much higher than monitoring on land. While this is broadly true, the Good Labour Practices (GLP) developed in partnership with the ILO has created a set of guidelines for compliance with Thai labour law and relevant ILO conventions.⁷⁸ However, these voluntary guidelines have largely failed to improve conditions across the sector since their launch in 2013. Further, there are significant challenges regarding their implementation on fishing vessels.

The Task Force’s Vessel Watch subgroup has been assigned to develop a Code of Conduct that can serve as a model for Thailand, which will include all ports, brokers and vessels in order to codify compliance and traceability from vessel to feed mill. This work will be integrated into their wider monitoring work, with a view to its scalability beyond Thailand.

While there is currently limited public information available on the Task Force’s development of a Code of Conduct for all actors in their supply chain, it does represent a valid and potentially powerful tool. Further, the researcher is aware of some encouraging work by other public-private sector initiatives to develop new auditing models, including more detailed, forensic investigations supported by information provided by local workers’ groups or a multi-language migrant hotline.

However, it is important to recognise that such tools can only be as effective as their implementation and enforcement. Voluntary schemes have proven to be ineffective, and failure to monitor and evaluate

performance provides no assurance that signatories are in fact abiding by their commitments. Any Code of Conduct developed by the Task Force must have clear, mandatory requirements written into contracts for all suppliers, and a well-established procedure for those who fail to act in accordance with their commitments.

Under the Code, suppliers should only be permitted to conduct business with companies that are also adhering in order to ensure consistency and mitigate against raw material from unaudited suppliers entering the supply chain. Finally, it is vitally important that the requirements of any Code of Conduct go beyond the minimum standards of Thai labour law and apply international labour standards, as well as the social responsibility commitments its member companies have made.

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Under the current conditions it is practically impossible for any company in the Thai seafood sector to claim full visibility over its supply chain.

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Fishery Improvement Projects

The Task Force's final objective is to drive Fishery Improvement Projects (FIPs) in the Gulf of Thailand and Andaman Sea. A subgroup has been formed to work on this objective, though it appears to be in its early stages, with an action plan in progress for the Andaman Sea, following the completion of a 'pre-assessment', while a Gulf of Thailand 'pre-assessment' is planned for the six months following October 2015. The Task Force has helped to bring together eight seafood industry associations in Thailand to form the Thai Sustainable Fishmeal Roundtable (TSFR),⁷⁹ and work closely with the Thai government, the World Wildlife Fund (WWF), the UN Food and Agriculture Organization (FAO) and other actors in order to ensure the improvement of Thai fisheries. The TSFR has recently been granted "direct access" to the Prime Minister.⁸⁰

It should be noted that FIPs – including those under the Marine Stewardship Council (MSC) standard

– are primarily concerned with the environmental sustainability of fisheries, and therefore include very limited consideration of labour issues. Though it is recognised that improved fisheries management practices – including improvements to monitoring, control and surveillance mechanisms – have the potential to mitigate against abusive labour practices, it is also significant that these projects are extremely limited in their ability to address specific labour and human rights issues that may be prevalent in a fishery.

Task Force in practice

It is encouraging to see both investment and commitment from all stakeholders in working together to achieve its goals. Globally, fishing and seafood production are extremely challenging, raising issues around human rights, labour rights, environmental impact and sustainability. As it has developed, expanded its membership, and better understood the challenges in Thailand, a number of further issues have arisen, such as the need to expand focus beyond the shrimp feed supply chain. However, the Task Force has recognised this, while reaffirming its commitment to successful completion of its original three objectives.⁸¹

Regarding the Task Force itself, two key issues have been identified. The first regards its potential longevity. The main instigator of the Task Force and its work has been the managing director of CPF UK, who has worked hard to convince both the parent company CP Group – and many of the Task Force's members – of the necessity and value of the initiative. Given the group's current size and influence, it is clear that he has been relatively successful in this endeavor. Though he has committed his involvement until the current objectives are achieved – despite relinquishing his role as managing director – questions over the long-term vision and governance of the group remain. This potential for dilution of or distraction from the objectives is also evident in the group's stated plans to expand geographically; however, it should be noted that the Task Force has explicitly recognised this possibility and re-stated a commitment to achieving its original objectives by July 2016.

The second issue regards the demographics of the Task Force and its representatives. Largely representing international businesses, it is perhaps inevitable that the Task Force is primarily comprised of non-Thai individuals. The Task Force has also previously been criticised for its lack of worker representation.⁸² One of the key challenges regarding this work in Thailand is coordination and management of the range of stakeholder groups – including the management of often conflicting views. As the most prominent multi-stakeholder group working on these issues, there is a clear opportunity to facilitate coordination across a wider range of stakeholders, and its work could be strengthened by better representation from national organisations and workers' groups. While the participation of international NGOs, such as WWF, Environmental Justice Foundation (EJF), Sustainable Fisheries Partnership (SFP), Verité, and FishWise is encouraging, more can be done to include and support under-resourced but extremely valuable local civil society actors. The inclusion of worker representatives also offers the opportunity to both improve and monitor the effectiveness of the developing Code of Conduct.

One of the primary motivating factors of Task Force members appears to be a general frustration with the lack of meaningful action by the Thai government. In fact, the existence of the Task Force can be seen as a symptom of government failure and frustration on the part of industry that don't want to pull out of Thailand, but are increasingly being advised to do so. Addressing a meeting of Thai officials, one member of the Task Force said the negative publicity surrounding seafood from Thailand presented his company with “a choice to leave or stay, and our lawyers said we should leave. But we decided to stay and try to make changes... We're not here to throw tomatoes, we're here to solve the problem, and we need transparency and honesty from all sides.”







Before the reform process began, the Thai seafood industry faced very few constraints. Much of what is now considered illegal was common practice, often openly endorsed by government departments (for example, registering trawlers under push net licenses). While not perfect, the new system – where properly applied – requires violators to work harder and apply more consideration to their operations. Loopholes and gaps still certainly exist, but the work now is to close them and improve the process through learning.

While properly executed document checks, including vessel registration and gear licensing, have the potential to address issues such as illegal vessels, it is also clear that the current PIPO process is unfit for purpose regarding inspection of working conditions or the identification of those in need of assistance.

It is vital that the reforms initiated by the current military government are both sustainable and understood by the industry to be permanent. Sustaining these activities requires significant resource investment. It is encouraging that the government has significantly increased budgets allocated to address both human trafficking nationally and issues related to the fishing industry specifically. However, it is important that these funds are well allocated, maintained, or increased in the

long term. In consultation with all stakeholders, the government must undertake a regular review of funding and resource allocations to ensure sufficient resources are available in key areas, and that resources are being utilised efficiently. It should be recognised that this is not an issue that can be solved by money alone, but requires sustained governance and investment. Large but unsustainable injections of funds may establish unrealistic precedents, and ultimately be detrimental in the long term.

It is also encouraging that the government has set ambitious targets, particularly regarding the inspections that underpin the implementation and enforcement of the new regulations. However, these targets must be realistic and allow for rigorous inspections to be carried out. In many areas – particularly those with high traffic – current targets do not allow sufficient time for comprehensive inspections. It should therefore be recognised that fewer, more effective inspections may be preferable to higher numbers of insufficient ones. Inspectors must be given adequate time and training to conduct thorough inspections, including the opportunity to interview crew in their own language and in private.

As the system matures, the government must recognise the possibility and potential impact of a return to civilian government. The government must develop a legislative and coordination framework capable of functioning without the heavily centralised power and emergency measures associated with military rule, while relevant government departments must be sufficiently empowered and motivated to maintain and build on the current government's reforms.



Methodology Note

As noted previously, this report is designed to present an independent, field-based assessment of recent government and private sector reforms in Thailand, and offer practical recommendations for improvement where appropriate.

The report draws on a combination of desk and field research conducted between November 2015 and April 2016, including a review of policy documents, interviews with key stakeholders in government, business and civil society, and on-site observations in eight Thai ports across five provinces. The report itself has also been reviewed by several independent experts in fisheries and labor issues in Thailand, as well as those closely familiar with the private sector response.

The researcher conducted a total of 31 direct interviews and attended a 2-day meeting in Bangkok that included presentations and conversations with members of the Shrimp Sustainable Supply Chain Task Force and relevant national Thai government officials. Interviewees included representatives from 5 Thailand-based NGOs, 13 officials involved in varying capacities in local PIPO programs, 11 vessel owners and local fishing industry representatives, and 2 feedmill representatives. Interviews were conducted in English or in Thai through a Thai-English translator.

Table: Key Laws

Legislation	Date	Responsible Agencies	Notes
Anti-Trafficking in Persons Act, B.E. 2551 (2008)	30/01/2008	Immigration Bureau, Ministry of Interior	First amendment passed in 2015, second amendment expected in 2016
Alien Working Act, B.E. 2551 (2008)	13/02/2008	Department of Employment, Ministry of Labour	
Occupational Safety, Health and Environment Act, B.E. 2554 (2011)	12/01/2011	Ministry of Health	
Act for the Prevention and Suppression against Participation in Transnational Organized Criminal Groups, B.E. 2556 (2013)	18/06/2013	Ministry of Justice and Ministry of Interior	
Ministerial Regulation to Protect Workers in the Marine Fisheries, B.E. 2557 (2014)	30/12/2014	Department of Labour Protection and Welfare, Ministry of Labour	
Fisheries Act, B.E. 2558 (2015)	28/04/2015	Department of Fisheries, Ministry of Agriculture and Cooperatives	Clarified and expanded in the Royal Ordinance on Fisheries, B.E. 2558 (2015)
National Council for Peace and Order (NCPO) Directive No. 10/2558	29/04/2015	Command Center for Combatting Illegal Fishing, Royal Thai Navy	
National Council for Peace and Order (NCPO) Directive No. 24/2558	06/08/2015	Command Center for Combatting Illegal Fishing, Royal Thai Navy	
Regulation of the Office of the Prime Minister to Prevent the Involvement of Public Officials in Human Trafficking, B.E. 2558 (2015)	16/10/2015	N/A	

Legislation	Date	Responsible Agencies	Notes
Order of the Office of the Prime Minister on Measures to Prevent and Suppress Human Trafficking in Places of Business, Factories and Vehicle, B.E. 2558 (2015)	16/10/2015	N/A	Clarifies first amendment (2015) to the Anti-Trafficking in Persons Act, B.E. 2551 (2008)
Royal Ordinance on Fisheries, B.E. 2558 (2015)	14/11/2015	Ministry of Agriculture and Cooperatives	Attendant legislation forthcoming
Ministerial Regulation to Designate Places of Work Prohibited from Employing Workers under the Age of 18, B.E. 2559 (2016)	14/01/2016	Department of Labour Protection and Welfare, Ministry of Labour	Strengthens age-related provisions in Ministerial Regulation to Protect Workers in Marine Fisheries, B.E. 2557 (2014)
Human Trafficking Criminal Procedure Act, B.E. 2559 (2016)	N/A	N/A	Draft accepted by National Legislative Assembly in February 2016

Table 1: Source, JS Consulting

Table: Roles of different agencies involved in fisheries control

Agency	Function
The Department of Fisheries (DOF), under the Ministry of Agriculture and Cooperatives (MOAC)	The main agency with duties and powers under the new Royal Ordinance on Fisheries B.E. 2558 (2015) for inspecting, controlling and investigating all fishing activities in Thailand.
Thailand National Maritime Enforcement Coordinating Centre (THAI-MECC).	<p>Headed by the Royal Thai Navy, THAI-MECC is the principal law enforcement agency at sea and in coastal areas. The THAI-MECC has recently been given more powers, and tasks that cover IUU fishing. One of these tasks is to inspect all law enforcement agencies, which is expected to reduce corruption and to increase efficiency in control and inspection.</p> <p>The THAI-MECC is an inter-agency network setup by the approval of the cabinet in 1997, and is comprised of 6 main agencies: Royal Thai Navy, the Royal Thai Marine Police, the Custom Department, the Marine Department, Department of Marine and Coastal Resources (DMCR) and the DOF. In October 2014, Thai government approved the National Maritime Security Strategy 2015-2021 where one portion of the strategy is to upgrade and empower THAI-MECC with separated budget and authority to protect the maritime interest. Currently, the Maritime Power Bill is being drafted and should be approved by the National Legislation Council by the end of 2016.</p>
The Royal Thai Navy	Responsible for 29 Acts including the Rights to Fishing in Thai Territorial Act that allow the Navy to exercise its authority to inspect suspected vessels and arrest offenders of all Thai vessels both in Thai territory waters and beyond.
The Marine Police	Role is to prevent and suppress all illegal actions performed in Thai territorial waters especially on Customs acts, waters transportation, and immigration and has the authority to inspect suspicious activity at sea.
Customs Department	Responsible for administering import tariffs of fish raw materials.
The Marine Department	Responsible for the registration and monitoring of all vessels, including fishing vessels in Thai waters.
The Department of Marine and Coastal Resources (DMCR)	Enabled through several Acts such as the Promotion of Sea and Coastal Resources Management 2015 to act as authorised officers
Provincial level agencies	Provincial Fisheries Office and District Fisheries Offices in all provinces with coastal waters (22 provinces) with cooperation from the Regional Maritime Enforcement Coordinating Centre (Regional MECC) to act as an operating unit to control and monitor fishing activities throughout Thailand.

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