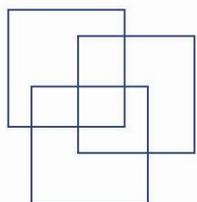




## Work in fishing in the ASEAN region: Protecting the rights of migrant fishers



**Tripartite Action for the Protection and Promotion of the Rights  
of Migrant Workers in the ASEAN Region**

**Regional Office for Asia and the Pacific**

**Canada** 

The Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region (ASEAN TRIANGLE Project) is funded by the Canadian Government Department of Foreign Affairs, Trade and Development. The project aims to protect and promote the rights of migrant workers in the ASEAN the region through increased legal and safe migration and improved labour protection. The project promotes both bilateral and regional approaches to deal with shared concerns, works to make regionalism more effective, and enhances the capacity of institutions in ASEAN. The project objectives are in line with the strategic priorities of the ASEAN Labour Ministers Work Programme (2010-2015) and reflect the goals of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers.

# **Work in fishing in the ASEAN region: Protecting the rights of migrant fishers**

**Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region**

**Regional Office for Asia and the Pacific**

Copyright © International Labour Organization 2014  
First published 2014

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: [pubdroit@ilo.org](mailto:pubdroit@ilo.org). The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit [www.ifrro.org](http://www.ifrro.org) to find the reproduction rights organization in your country.

---

Work in fishing in the ASEAN region : protecting the rights of migrant fishers / Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region (ASEAN TRIANGLE project) ; ILO Regional Office for Asia and the Pacific. - Bangkok: ILO, 2014

vii; 33 p.

ISBN: 9789221288770; 9789221288787 (web pdf)

ILO Regional Office for Asia and the Pacific; Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region (ASEAN TRIANGLE project)

migrant worker / workers rights / fishing / employment policy / conditions of employment / employment service / recruitment / legislation / good practices / ILO Convention / ILO Recommendation

07.02.5

*ILO Cataloguing in Publication Data*

---

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and electronic products can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland, or ILO Regional Office for Asia and the Pacific, 11<sup>th</sup> Floor, United Nations Building, Rajdamnern Nok Avenue, Bangkok 10200, Thailand, or by email: [BANGKOK@ilo.org](mailto:BANGKOK@ilo.org). Catalogues or lists of new publications are available free of charge from the above address, or by email: [pubvente@ilo.org](mailto:pubvente@ilo.org)

Visit our website: [www.ilo.org/publns](http://www.ilo.org/publns) or [www.ilo.org/asia](http://www.ilo.org/asia)

---

Printed in Thailand

## **Preface**

During 12 – 13 September 2013, representatives of governments, employers' organizations and trade unions in the ASEAN region convened at the Aston Hotel, Makassar, Indonesia for the International Labour Organization (ILO) Regional meeting on Work in Fishing: Increased Knowledge Base and Sharing Good Practices for the Protection of Migrant Workers. During the meeting, representatives listened to presentations by regional and international experts and participated in group work that resulted in a list of conclusions and recommendations for further action.

This publication provides a snapshot of the legislation, policies, support services and tools available to improve the protection of migrant fishers in ASEAN. It draws from information shared at the regional meeting as well as other relevant sources. It is hoped that this resource will be a valuable addition to the existing tools available for policy makers and other stakeholders working towards a stronger system of protection for ASEAN migrant fishers.

## Table of contents

List of tables.....	v
List of figures .....	v
Acknowledgements .....	vi
Abbreviations .....	vii
Introduction.....	1
Part 1: Data on select fishing sectors in the East and South-East Asian regions.....	1
1.1 Fleet size and composition .....	1
1.2 Number of fishers.....	2
Part 2: Overview of the Work in Fishing Convention, 2007 (No. 188) and the Work in Fishing Recommendation, 2007 (No. 199).....	3
2.1 The Work in Fishing Convention, 2007 (No. 188).....	3
2.1.1 Application of the Work in Fishing Convention, 2007 (No. 188) to migrant fishers .....	4
2.2 The Work in Fishing Recommendation, 2007 (No. 199) .....	5
2.2.1 Application of the Work in Fishing Recommendation, 2007 (No. 199) to migrant fishers .	5
2.3 Comparison between laws and regulations for fishers and those for seafarers on merchant ships .....	5
Part 3: Overview of national policies, legislation, measures, and recruitment and placement procedures .....	7
3.1 Cambodia .....	7
3.2 Indonesia.....	7
3.2.1 Policies .....	7
3.2.2 Legislation.....	7
3.2.3 Measures .....	8
3.2.4 Recruitment and placement procedures.....	8
3.3 Philippines .....	9
3.3.1 Policies .....	9
3.3.2 Legislation.....	9

3.3.3 Measures .....	9
3.3.4 Recruitment and placement procedures .....	10
3.4 Viet Nam .....	10
3.4.1 Policies .....	10
3.4.2 Legislation .....	10
3.4.3 Measures .....	10
3.4.4 Recruitment and placement procedures .....	11
3.5 Gaps and challenges in countries of origin .....	11
3.6 Japan .....	12
3.6.1 Legislation .....	12
3.6.2 Recruitment and placement procedures .....	12
3.7 Malaysia .....	12
3.7.1 Policies and legislation .....	12
3.7.2 Recruitment and placement procedures .....	12
3.8 Republic of Korea .....	13
3.8.1 Policies .....	13
3.8.2 Legislation .....	13
3.8.3 Measures .....	14
3.8.4 Recruitment and placement procedures .....	14
3.9 Taiwan (China) .....	15
3.9.1 Policies .....	15
3.9.2 Legislation .....	15
3.9.3 Measures .....	16
3.9.4 Recruitment and placement procedures .....	16
3.10 Thailand .....	17
3.10.1 Policies .....	17

3.10.2 Legislation .....	17
3.10.3 Measures.....	17
3.10.4 Recruitment and placement procedures.....	18
3.11 Gaps and challenges in destination countries .....	18
Part 4: Employment conditions of migrant fishers .....	18
4.1 Malaysia .....	18
4.2 Republic of Korea .....	18
4.3 Taiwan (China) .....	20
4.4 Thailand .....	21
Part 5: Support services available to migrant fishers .....	22
5.1 Countries of origin.....	22
5.1.1 Support services.....	22
5.1.2 Trade unions.....	22
5.1.3 Gaps and challenges .....	22
5.2 Destination countries.....	23
5.2.1 Support services.....	23
5.2.2 Trade unions.....	23
5.2.3 Gaps and challenges .....	23
Part 6: Tools developed to improve the protection of migrant fishers.....	25
6.1 Guidelines and codes .....	25
6.1.1 Social and practical responsibility – A code of practice for employment of non-EEA fishing crew .....	25
6.1.2 Good labour practice guidelines for the Thai fishing sector .....	25
6.2 Research.....	26
6.2.1 Employment practices and working conditions in Thailand’s fishing sector .....	26
6.2.2 Comparative study on the recruitment of migrant fishers in the ASEAN Region .....	26
6.3 Other resources relevant to improving conditions of work in the fishing sector .....	26

6.3.1 European Union Council Directive 93/103/EC .....	26
6.3.2 Guide for certification of seafarer recruitment and placement service providers .....	27
6.3.3 European handbook for the prevention of accidents at sea and the safety of fishermen ..	27
6.3.4 Good employment practices in the Spanish fishing sector .....	28
6.3.5 ILO Handbook on Improving Living and Working Conditions on Board Fishing Vessels ..	28
6.3.6 Guidelines for port state control officers for the implementation of the Work in Fishing Convention, 2007 (No. 188) .....	29
Part 7: Conclusions of the Regional Meeting on Work in Fishing: Increased Knowledge Base and Sharing Good Practices for the Protection of Migrant Workers .....	30
Bibliography .....	32

#### **List of tables**

Table 1.1	Composition of fleet of select East and South-East Asian countries
Table 5.1	Support services in select countries in East and South-East Asia

#### **List of figures**

Figure 1.1	Fleet size of select East and South-East Asian countries
Figure 1.2	Number of fishers in select East and South-East Asian countries

## **Acknowledgements**

This paper was prepared by Andy Shen, Legal and Research Consultant to the ILO ASEAN TRIANGLE Project. The publication of this work was made possible through the financial support of the Canadian Government Department of Foreign Affairs, Trade and Development. The author would like to acknowledge Heike Lautenschlager, Consultant – Labour Migration, ILO and Manuel Imson, Senior Programme Officer of the ASEAN TRIANGLE Project, respectively, for their vital contributions during the design, drafting, and editing processes. The author would also like to acknowledge Brandt Wagner, ILO Senior Sector Specialist: Shipping; fisheries; inland waterways, and Hyunsoo Yoon, ILO Associate Expert, Transport and Maritime Sectors Unit, for their expert inputs. This publication would not have been possible without the support and cooperation of everyone involved.

## Abbreviations

ABS	American Bureau of Shipping
ASEAN	Association of South-East Asian Nations
BNP2TKI	National Board for the Placement and Protection of Indonesian Overseas Workers
CLA	Council of Labour Affairs [Taiwan (China)]
CoP	code of practice
DHSC	Direct Hiring Service Center [Taiwan (China)]
DOLAB	Department of Overseas Labour [Viet Nam]
DOLE	Department of Labour and Employment [Philippines]
DOLISA	Department of Labour, Invalids, and Social Affairs [Viet Nam]
EEA	European Economic Area
EFP	European Fishing Policy
EPS	Employment Permit System [Republic of Korea]
EU	European Union
FA	Fisheries Agency [Taiwan (China)]
FAO	Food and Agriculture Organization
FPA	Fishery Partnership Agreement
FSS	Foreign Seafarers System [Republic of Korea]
GLP	Good Labour Practice Guidelines [Thailand]
GRT	gross registered tonnes
GTA	group training association
IDeS	International Direct e-Recruitment System [Taiwan (China)]
IETO	Indonesian Economic and Trade Office to Taipei
IETO-TETO MOU	Memorandum of Understanding between the Indonesian Economic and Trade Office to Taipei and the Taipei Economic and Trade Office in Indonesia

on the Recruitment, Placement, and Protection of Indonesian Overseas Workers

ILO	International Labour Organization
ITF	International Transport Workers Federation
ITQ	individual transferable quotas
IUU fishing	Illegal, Unreported, and Unregulated fishing
KPI	Kesatuan Pelaut Indonesia [trade union]
KRW	South Korean Won [currency]
LBF	land-based fisher
LSA	Labour Standards Act [Taiwan (China)]
MCA	Maritime and Coastguard Agency [United Kingdom]
MOLISA	Ministry of Labour, Invalids, and Social Affairs [Viet Nam]
MoLVT	Ministry of Labour and Vocational Training [Cambodia]
MoMT	Ministry of Manpower and Transmigration [Indonesia]
MOU	memorandum of understanding
NFAT	National Fisheries Association of Thailand
NFFC	National Federation of Fisheries Cooperatives [Republic of Korea]
NTD	New Taiwan Dollar [currency]
POEA	Philippines Overseas Employment Administration
POLO	Philippines Overseas Labour Office
RM	Malaysian Ringgit [currency]
RPS	recruitment and placement service
SBF	sea-based fisher
TETO	Taipei Economic and Trade Office in Indonesia
UK	United Kingdom
VAMAS	Vietnamese Association of Manpower Supply

## Introduction

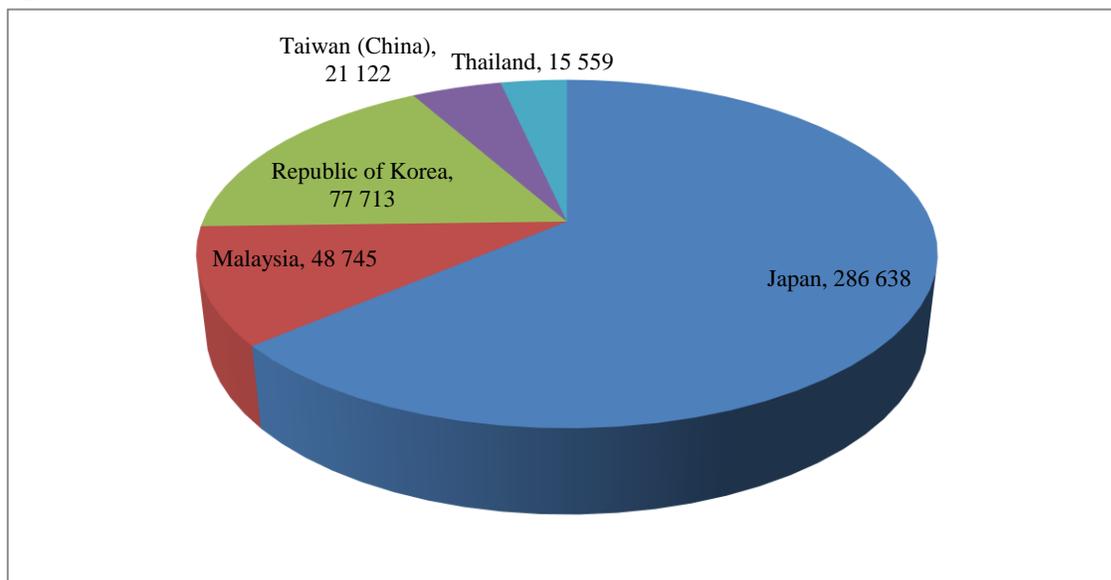
During 12 – 13 September 2013, representatives of governments, employers' organizations and trade unions in the ASEAN region convened at the Aston Hotel, Makassar, Indonesia for the International Labour Organization (ILO) Regional meeting on work in fishing: Increased knowledge base and sharing good practices for the protection of migrant workers. During the meeting, representatives listened to presentations by regional and international experts and participated in group work that resulted in a list of conclusions and recommendations for further action.

This publication draws from the information shared at the Meeting as well as other relevant sources. It is hoped that this resource will be a valuable addition to the existing tools available for policy-makers and other stakeholders working towards a stronger system of protection for ASEAN migrant fishers.

## Part 1: Data on select fishing sectors in the East and South-East Asian regions

### 1.1 Fleet size and composition

**Figure 1.1 Fleet size of select East and South-East Asian countries**



Source: FAO, 2010.

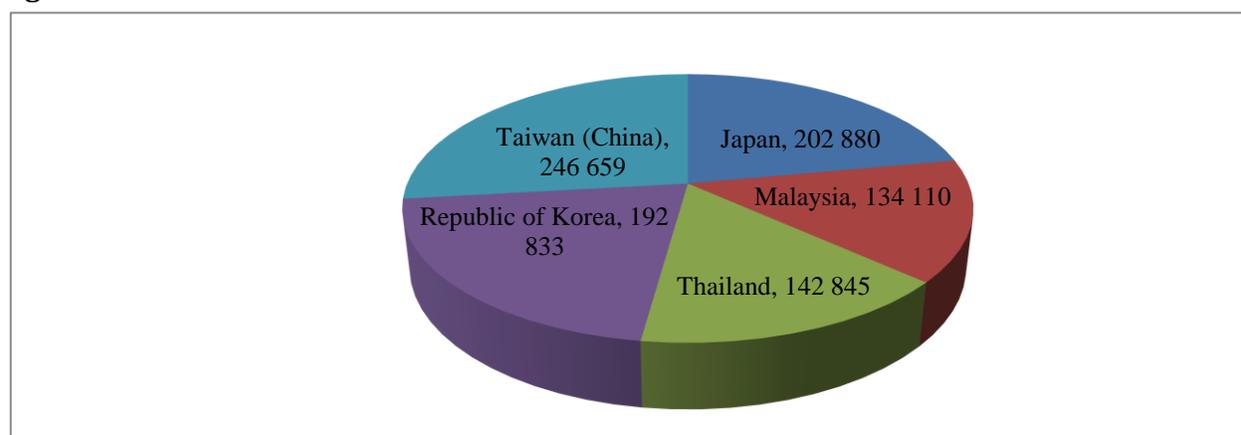
**Table 1.1 Composition of fleet of select East and South-East Asian countries**

Composition of Fleet	Japan	Malaysia	Republic of Korea	Taiwan (China)	Thailand
Powered <sup>1</sup>	281 742	45 747	75 247	20 654	12 920
Non-powered	4 896	2 998	2 466	468	2 639 <sup>2</sup>
<b>Total</b>	<b>286 638</b>	<b>48 745</b>	<b>77 713</b>	<b>21 122</b>	<b>15 559</b>

Source: FAO (2010) and government sources.

### 1.2 Number of fishers<sup>3</sup>

**Figure 1.2 Number of fishers in select East and South-East Asian countries**



<sup>1</sup> Powered refers to motorized vessels propelled by engines. Non-powered refers to unmotorized vessels propelled by oars or sails (FAO, 2010 Yearbook, Fishery and Aquaculture Statistics, p. 16).

<sup>2</sup> This data, from 2000, represents the last obtainable information on the number of non-powered vessels in the Thai fleet. Its inclusion does not suggest that there is currently the same number of vessels but rather, is an attempt to approximate the total number of vessels based on the information available.

<sup>3</sup> See FAO, The State of World Fisheries and Aquaculture, 2012, p. 43, for 2010 data on the number of fishers in the Japanese and Taiwan (China) fishing sectors; the FAO estimate on the number of fishers in the Japanese fishing sector differs greatly from the number provided by Prof. Fujikawa at the ILO Regional Meeting on Work in Fishing (121,060 in 2012). The number of fishers in the Malaysian fishing sector, a 2011 figure provided by the Malaysian government, differs greatly from the FAO's 2006 data which estimated a total of 90,000 fishers at that time (<http://www.fao.org/fishery/facp/MYS/en>). Note that the data on number of fishers in the fishing sector of the Republic of Korea is from a 2003 FAO report citing 1998 figures (<http://www.fao.org/fishery/facp/KOR/en>). The number of fishers in the Thai fishing sector is based on a 2012 survey by the National Fisheries Association of Thailand (NFAT) (ILO, Employment Practices and Working Conditions in Thailand's Fishing Sector, 2013, p. 27).

**Table 1.2 Number of migrant fishers in select East and South-East Asian countries**

Migrant Fishers	Japan	Malaysia	Republic of Korea	Taiwan (China)		Thailand
				Migrant LBF	Migrant SBF	
<b>Cambodia</b>	...	...	...	...	66	Portion of 41 128
<b>China</b>	...	157	721	...	...	...
<b>Indonesia</b>	Approx. 4 000	1 666	2 043	7 919	7 718	...
<b>Lao PDR</b>	...	...	...	...	...	Portion of 41 128
<b>Myanmar</b>	...	...	...	...	62	Portion of 41 128
<b>Philippines</b>	...	354	...	1 315	3 988	...
<b>Thailand</b>	...	25 268	...	...	...	...
<b>Viet Nam</b>	...	1 771	961	137	1 900	...
<b>Other</b>	...	6 743	281	--...-	1 762	...
<b>Total</b>	<b>4 000</b>	<b>35 975</b>	<b>4 006</b>		<b>24 867</b>	<b>41 128</b>

... = indicates data not available

Note: the data for the Japanese fishing sector is based on 2008 figures provided by Prof. Fujikawa at the ILO Regional Meeting on Work in Fishing; the data for the Malaysian fishing sector is based on 2011 figures provided by the Malaysian government (Haji Johari Bin Ramli, Method of Recruitment and Placement of Fishers/Foreign Workers in Fishing Industry, 2011, pp. 2-4); the data for the fishing sector of the Republic of Korea is based on 2010 figures provided by the Government of the Republic of Korea (Employment Practice and Legal Institutions on Migrant Fishermen in Korea, pp. 3-4); the data for the Taiwan (China) fishing sector is based on 2013 figures provided by the Taiwan (China) government (Shen, ILO, Publication Forthcoming); and the data for the Thai fishing sector is based on a 2012 survey by NFAT (ILO, Employment Practices and Working Conditions in Thailand's Fishing Sector, 2013, p. 27).

## **Part 2: Overview of the Work in Fishing Convention, 2007 (No. 188) and the Work in Fishing Recommendation, 2007 (No. 199)**

### **2.1 The Work in Fishing Convention, 2007 (No. 188)**

The Work in Fishing Convention, 2007 (No. 188) was developed through tripartite consultation in response to the need for a clearer and more comprehensive set of standards which, if implemented effectively, could greatly enhance protection for all fishers.<sup>4</sup> The Convention raises the level of standards in the global fishing industry, replacing those found in a number of earlier ILO instruments, and sets forth more specific requirements for fishing vessels with a length of 24 metres and over as well as those remaining at sea for more than three days at a time. The diversity of fishing operations and the capacity of countries to effectively implement the Convention were also taken into account, with flexible implementation provisions allowing for exclusion possibilities, progressive implementation, and substantial equivalence (ILO, 2014a).

The objective of the ILO Convention No. 188 is “to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board; conditions

<sup>4</sup>ILO Convention No. 188 provides greater flexibility and is less prescriptive for vessels under 24 meters in length and those that remain at sea for relatively short periods.

of service; accommodation and food; occupational safety and health protection; and medical care and social security” (Work in Fishing Convention, 2007 (No. 188), Preamble). The main provisions of ILO Convention No. 188 cover the following issues of concern: minimum age, medical examination, manning and hours of rest, crew list, fisher’s work agreement, repatriation, recruitment and placement, payment of fishers, accommodation and food, medical care, occupational safety and health and accident prevention, social security, work-related sickness, injury or death, and compliance and enforcement (ILO, 2014a).

ILO Convention No. 188 applies to all fishing vessels engaged in commercial fishing operations and will enter into force 12 months after ten ratifications by ILO Member States, eight of which must be coastal countries (ILO, 2014a). As of February 2014, four countries have ratified the Convention: Bosnia and Herzegovina, Argentina, Morocco, and the Republic of South Africa (ILO, 2014b). More ratifications are anticipated in the coming years, with gap analysis currently being undertaken in India and the Philippines (ILO, 2014a) and planned for Indonesia, and the *Agreement Between the Social Partners in the European Union’s Sea-Fisheries Sector* paving the way for eventual ratification of ILO Convention No. 188 by European Union member states.<sup>5</sup>

### **2.1.1 Application of the Work in Fishing Convention, 2007 (No. 188) to migrant fishers**

The drafters of the Work in Fishing Convention, 2007 (No. 188) envisaged a modern set of international labour standards that could effectively address the specific issues affecting fishers, including migrant fishers, in the global fishing industry. During the development of the ILO Convention No. 188, the ILO identified three common features of employment among migrant fishers: (1) they are generally employed on distant-water fishing vessels; (2) they comprise a major portion of the fishers worldwide who work on fishing vessels over 500 GRT; and (3) many may be working on fishing vessels engaged in illegal, unreported, and unregulated (IUU) fishing (ILO, 2004). More recent information has shown that migrant fishers are increasingly working in coastal fisheries as well and are now found in the coastal fisheries of most major fishing countries.

While the Convention as a whole affords a broad range of protections to all fishers, the following provisions are especially pertinent for migrant fishers given their particular conditions of employment: Articles 4(1) and (2) (limiting application of the progressive implementation provisions to ensure fishers working on distant-water fishing vessels are duly protected); 8(2)(b) (preventing fatigue); 9(3) and (6) (prescribing a minimum age of 18 years for dangerous work on board fishing vessels and prohibiting night work for fishers under 18 years); 10(3) (limiting application of medical examination exemptions to ensure fishers working on distant-water fishing vessels are duly protected); 12 (requiring specialized medical certificates for fishers working on distant-water fishing vessels); 13(b) (ensuring fishers are given regular periods of rest of sufficient length to prevent sicknesses and injuries); 14(1)(b) (establishing minimum hours of rest for fishers working on distant-water fishing vessels); 15 (requiring all fishing vessels to carry a crew list); 16(a) (ensuring fishers receive a fisher’s work agreement that is comprehensible to them and consistent with the provisions of the Convention); 21 (ensuring all fishers on board vessels moored at foreign ports who are no longer working are repatriated); 22 (requiring regulation of private services providing recruitment and placement for fishers); 26 (requiring appropriate

---

<sup>5</sup> For more information on ILO Convention No. 188 and Recommendation No.199, see [www.ilo.org/fishing](http://www.ilo.org/fishing) [accessed 12 Jun. 2014].

accommodations for fishers working on distant-water fishing vessels); 29 (requiring specialized medical care for fishers working on distant-water fishing vessels); 32 (ensuring fishers working on distant-water fishing vessels are provided suitable and sufficient training, guidance, equipment and clothing for occupational safety and health and accident prevention); 36 (ensuring migrant fishers' social security rights are protected); 39 (ensuring fishers working on distant-water fishing vessels are provided health protection and medical care for work-related sickness, injury or death at least until they are repatriated); and 41 (requiring distant-water fishing vessels to carry on board a valid government-issued document certifying compliance with the provisions of the Convention relating to living and working conditions) (Work in Fishing Convention, 2007 (No. 188)).

## **2.2 The Work in Fishing Recommendation, 2007 (No. 199)**

Unlike the Work in Fishing Convention, 2007 (No. 188) which is binding on all ratifying states once it enters into force, the Work in Fishing Recommendation, 2007 (No. 199) provides non-binding guidance that supplements the Convention.

The main provisions of the Recommendation cover the following issues of concern: conditions for work on board fishing vessels, including protection of young persons, medical examination, and vocational training; conditions of service, including record of service and payment of fishers; accommodation, including sleeping rooms, sanitary areas, and food; medical care, health protection, and social security; and other issues such as compliance requirements for foreign fishing vessels operating in the exclusive economic zones of Member States that have ratified the Work in Fishing Convention, 2007 (No. 188).

### **2.2.1 Application of the Work in Fishing Recommendation, 2007 (No. 199) to migrant fishers**

The following provisions of the Recommendation are especially pertinent for migrant fishers given their particular conditions of employment: Part I, Item 6 (the nature of the medical examination should reflect the age of the person to be examined and the nature of the duties to be performed); Part II, Item 15 (all fishers working on vessels 24 metres in length and over should be entitled to minimum payment in accordance with national laws, regulations or collective agreements); Part IV, Items 36 (fishing vessels carrying 100 or more fishers should have a qualified medical doctor on board), 39 (specific recommendations for provision and inspection of medical equipment and supplies on fishing vessels of 24 metres in length and over), 52 (fishing vessel owners should cover the cost of the fisher's medical care and cash benefits until the fisher is able to work or is declared disabled); and Part V, Item 55 (compliance requirements for foreign fishing vessels operating in the exclusive economic zones of member states that have ratified the Work in Fishing Convention, 2007 (No. 188)).

## **2.3 Comparison between laws and regulations for fishers and those for seafarers on merchant ships**

In many countries, fishers are covered, in whole or in part, by national laws and regulations aimed at seafarers. In some countries, however, legal protection of seafarers is less inclusive and may be lacking for fishers. The Maritime Labour Convention, 2006 (MLC, 2006), which is approaching

universal application in the shipping sector (over 80 per cent of shipping was by States that had ratified the MLC, 2006 as of the last quarter of 2013), specifically excludes fishing vessels from its application. Fishers are protected instead by Work in Fishing Convention, 2007 (No. 188). As ASEAN Member States review, and often amend, national laws and regulations to bring them in conformity with the MLC, 2006, they may be faced with the question of how to address the situation of fishers who are not necessarily covered under new or amended laws protecting seafarers. Ratification and implementation of Convention No. 188 in conjunction with ratification and implementation of the MLC, 2006 may be an appropriate strategy in many countries.

Certain issues such as the recruitment and placement of migrant fishers may be addressed by looking toward the more detailed provisions of the MLC, 2006 with respect to the recruitment and placement of seafarers. The practical actions taken to meet the requirements of the MLC, 2006, may also be useful to reference during national consultations and the drafting of national laws and regulations for fishers. On a more practical level, some ship-owners have used recognized organizations (generally classification societies) to audit private recruitment and placement services of seafarers, and these experiences could be useful to improve the performance of recruitment and placement services for fishers.

A challenge for all countries is the need to clarify the scope of national laws and regulations concerning working conditions of seafarers in order to determine their applicability to fishers in general and, certain types of fishers in particular. This process is especially important considering the changes currently being made to national legislation to implement the Maritime Labour Convention, 2006, which revises existing international labour standards for seafarers but excludes work on fishing vessels.

## **Part 3: Overview of national policies, legislation, measures, and recruitment and placement procedures**

### Countries of origin

#### **3.1 Cambodia**

Cambodia's Ministry of Labour and Vocational Training (MoLVT) defines the protection of migrant workers as "the elimination of exploitation and the fostering of respect for basic human rights and the rights at work of all migrant workers." While the MoLVT has affirmed that protection of Cambodian migrant workers is needed both prior to departure and during employment, it has yet to formulate any specific policies to protect those who seek employment in foreign fishing sectors (ILO, forthcoming). Cambodia does not have any specific laws or regulations aimed at protecting its migrant fishers, nor does it have any targeted measures to protect its migrant fishers and it not permit the recruitment and placement of its migrant workers into foreign fishing sectors (ILO, forthcoming).

#### **3.2 Indonesia**

##### **3.2.1 Policies**

The following policy guidelines frame the laws and protection mechanisms which safeguard the rights of all Indonesian migrant workers, including migrant fishers:

- The right to work is a fundamental human right that should be held in high esteem and respected; the exercise of this right is guaranteed.
- All workers shall, without being discriminated against, have equal rights and opportunities to obtain decent work and earn a decent income, either at home or abroad, according to his/her trade, skills, talents, interests, and abilities.
- The State is obliged to guarantee and protect the fundamental rights of its citizens who work either at home or abroad on the basis of the principles of equity of rights, democracy, social justice, gender equality and justice, anti-discrimination, and anti-human trafficking.
- The placement of Indonesian workers in foreign countries is an effort to carve out equal rights and opportunities for workers to obtain decent work and earn a decent income, and it must be carried out while respecting human dignity and worth, fundamental human rights, legal protection, and equitable employment opportunities, and by taking into account the supply of manpower in relation to national demands.
- The placement of Indonesian workers in foreign countries needs to be carried out in an integrated way among government agencies at both the central and regional levels, with the participation of the community, and in a legal system, in order to protect Indonesian workers who are placed in foreign countries (Law No. 39/2004, Preamble).

##### **3.2.2 Legislation**

The primary source of law protecting the rights of Indonesian migrant workers, including Indonesian migrant fishers, is Law No. 39/2004 *Concerning the Placement and Protection of Indonesian Workers in Foreign Countries*.

Key provisions in Law No. 39/2004 include, among others, a minimum age requirement of 18 for Indonesian migrant workers employed in sectors other than domestic work (Chapter 5, Article 35); a prohibition on charging Indonesian migrant workers for recruitment services other than those expressly listed (Chapter 5, Articles 39 and 76); mandatory vocational training provided by private employment agencies (Chapter 5, Articles 42-45); a guarantee deposit payable to Indonesian migrant workers whose employers fail to fulfill obligations stipulated in employment contracts (Chapter 5, Article 52); government-run pre-departure orientation seminars (Chapter 5, Article 69); on-site services provided by Indonesian representative offices in receiving countries (Chapter 6, Articles 78 and 79); and legal assistance in receiving countries (Chapter 6, Article 80).

### **3.2.3 Measures**

Indonesia has signed MOUs with a number of destination countries and territories to further protect the rights of its migrant workers, including migrant fishers. The MOU between the Indonesian Economic and Trade Office in Taipei (IETO) and the Taipei Economic and Trade Office in Indonesia (TETO) was signed in 2011 and is effective for four years. The objective of the MOU is to "strengthen cooperation in recruitment, placement, and protection of workers and provide opportunities to further develop relations for mutual benefit" (ILO, forthcoming).

Key provisions which strengthen protection of the rights of Indonesian migrant workers, including migrant fishers, include supervision of the accredited private employment agencies and employers in Taiwan (China) by both Indonesia and Taiwan (China); joint cooperation in preventing human trafficking and facilitating the safe return of victims of trafficking to Indonesia; and establishment of a Joint Working Group with regular annual meetings (ILO, forthcoming).

### **3.2.4 Recruitment and placement procedures**

All regular migrant fishers must go through the BNP2TKI, a one-stop shop created by the Indonesian government in 2007 to encourage legal migration and reduce the costs borne by migrant workers. The BNP2TKI was modeled on the Philippines POEA and offers potential migrant fishers information about jobs in destination countries, enables them to obtain necessary travel documents at one location, and facilitates the processing of training center certificates which certify that migrant fishers have the requisite skills and knowledge needed for jobs in foreign fishing sectors (ILO, forthcoming).

All Indonesian recruitment and placement service providers sending Indonesian migrant fishers to work in foreign fishing sectors must be registered with the Ministry of Manpower and Transmigration (MoMT). These service providers are only permitted to recruit prospective migrant workers who are registered at the local office of the MoMT. To ensure the validity of migrant fishers' contracts, all such agreements are checked by the MoMT prior to the workers' deployment and must bear the signature of the migrants, Indonesian recruitment and placement service providers, and foreign employers (ILO, forthcoming).

## **3.3 Philippines**

### **3.3.1 Policies**

In addition to the Philippines' policies which protect the rights of all Filipino migrant workers, the following policies set forth by the Philippines Overseas Employment Administration (POEA) aim specifically at safeguarding the rights of Filipino seafarers, including migrant fishers:

- The dignity and fundamental human rights of Filipino seafarers, including Filipino migrant fishers, must be upheld.
- The POEA will protect every Filipino seafarer desiring to work overseas by securing the best possible terms and conditions of employment for them.
- Filipino seafarers will only be allowed to work in countries which have existing labour and social laws or are signatories to international agreements protecting the rights of seafarers (POEA Rules and Regulations Governing the Recruitment and Employment of Seafarers, 2003).

### **3.3.2 Legislation**

The POEA Rules and Regulations Governing the Recruitment and Employment of Seafarers is the central piece of legislation regulating the recruitment and employment of Filipino migrant fishers (Part 1, Rule 2, Point 38).<sup>6</sup>

Several provisions found in these Rules and Regulations mirror those in Republic Act 8042. Key provisions include, among others, the imposition of joint and solidary liability on Philippines manning agencies (Rule 2, Section 1); a prohibition on charging recruitment fees to Filipino seafarers (Rule 4, Section 1); verification by the Philippines Overseas Labor Office (POLO) of the suitability of foreign employers and the existence of working conditions that meet the minimum standards required by the POEA (Part 3, Rule 1, Section 1); the establishment of standard employment contracts for Filipino seafarers (Part 4, Rule 1, Section 1); measures to combat illegal recruitment practices (Part 5, Rule 1, Section 1, and Part 5, Rule 2, Section 2, and Part 5, Rule 5); free legal assistance to victims of illegal recruitment (Part 5, Rule 1, Section 4); grounds for the POEA to take disciplinary action and/or conduct proceedings against foreign principals/employers (Part 6, Rule 3); and exempting circumstances which allow Filipino seafarers to refuse to depart for the worksite or to abandon/withdraw from employment (Part 6, Rule 2, Section 4).

### **3.3.3 Measures**

To supplement existing protection mechanisms, the POEA and Philippines Department of Labor and Employment (DOLE) devised two strategies to combat illegal recruitment. The first strategy is a two-pronged nationwide anti-illegal recruitment campaign which focuses on information dissemination ("preventive approach") and enforcement of the law ("remedial approach"). The second strategy involves enhancing cooperation and establishing/strengthening linkages with partner agencies (ILO, 2014a).

---

<sup>6</sup> "[The term] [s]eafarer refers to any person who is employed or engaged in any capacity on board a seagoing ship navigating the foreign seas ... [t]he definition shall include fishermen."

### **3.3.4 Recruitment and placement procedures**

The POEA is the sole government entity with the authority to regulate temporary overseas employment, including the activities of recruitment and placement service providers (ILO, Forthcoming). Although the Philippines has entered into agreements with many destination countries to send their workers through government-to-government and direct hiring channels, many Filipino migrant fishers continue to look to recruitment and placement service providers in the Philippines to help them secure employment overseas (ILO, forthcoming).

All Philippines recruitment and placement service providers sending Filipino migrant fishers to work overseas must be licensed by the POEA. These service providers must also comply with the POEA Rules and Regulations Governing the Recruitment and Employment of Seafarers (ILO, forthcoming).

## **3.4 Viet Nam**

### **3.4.1 Policies**

Viet Nam's policies for protection of its migrant workers are found in Law No. 72/2006/QH11, also known as the Law on Vietnamese Guest Workers (Law). The following policy guidelines frame the laws and protection mechanisms which safeguard the rights of Vietnamese migrant workers:

- Create favorable conditions for qualified Vietnamese citizens to work abroad.
- Protect the lawful rights and interests of guest workers, enterprises, and non-business organizations sending workers abroad.
- Support administrator training, job training, and foreign-language teaching for workers.
- Adopt preferential credit policies for social policy beneficiaries to work abroad (Law No. 72/2006/QH11, Article 5).

### **3.4.2 Legislation**

The Law was passed on 29 November 2006 and enacted pursuant to the 1992 Constitution of the Socialist Republic of Vietnam.

Key provisions in the Law include, among others, licensing conditions for employment agencies, including "a specialized section to provide necessary knowledge for workers before sending them abroad and to provide guest worker services in accordance with regulations of [MOLISA]" (Chapter 2, Article 9); the obligations of service enterprises and non-business organizations sending Vietnamese workers abroad (Chapter 2, Articles 27 and 41); the rights of Vietnamese guest workers (Chapter 3, Articles 44, 46, 49, and 53); policies to provide employment support and facilitate job creation for Vietnamese guest workers after they return home (Chapter 3, Articles 59 and 60); vocational training and foreign language instruction (Chapter 4, Articles 61-65); and procedures for handling violations of the Law and settling labour disputes (Chapter 7, Articles 73-76).

### **3.4.3 Measures**

Viet Nam has signed MOUs with a number of destination countries, including the Republic of Korea, to afford its migrant workers, including migrant fishers, the opportunity to obtain employment

through government-to-government channels. The MoU between the Republic of Korea and Viet Nam was renewed in December 2013.

#### **3.4.4 Recruitment and placement procedures**

Recruitment and placement service providers in Viet Nam generally partner with local agencies in the Republic of Korea, Japan, and Taiwan (China) that focus on providing employment services to migrant fishers. Upon signing a contract with their counterparts, Vietnamese recruitment and placement service providers are required to submit the contract to the Department of Overseas Labor (DOLAB) for approval. Once the contract is approved, Vietnamese recruitment and placement service providers commence their recruitment of fishers based on the actual demand from the destination countries (ILO, 2014a).

The provincial Departments of Labor, War Invalids, and Social Affairs (DOLISA) are responsible for ensuring Vietnamese recruitment and placement service providers are operating legally and submitting their recruitment requests to the district and commune governments where most of the recruiting is done. At the commune level, Vietnamese recruitment and placement service providers coordinate with local authorities, unions, and labour migration steering committees to hold informational meetings and recruit fishers. Recruitment and placement service providers, in collaboration with district and commune officials, advertise to all families with young men who wish to work on fishing vessels from the Republic of Korea, Japan or Taiwan (China) (ILO, forthcoming).

After potential migrant fishers are registered with the Vietnamese recruitment and placement service providers, local authorities conduct a screening procedure to certify the applicants have a clean criminal record and do not have any relatives who are illegally residing overseas. After the applicants are certified, recruitment and placement service providers then examine the worker's health, conduct trainings, and send their job applications to the partner agencies overseas for selection. Upon selection, Vietnamese recruitment and placement service providers coordinate with banks to obtain loans for the fishers, assist the fishers in applying for travel documents, provide pre-departure orientation and instruction on the language of the destination country, explain the terms and conditions of their employment contract, and send the fishers to their partner agencies to finalize the process. The partner agencies assign the Vietnamese fishers to fishing vessels that match their qualifications, inform them of the time and location to embark, and provide them with their flight and other departure details (ILO, forthcoming).

### **3.5 Gaps and challenges in countries of origin**

#### **Cambodia**

- Lack of specific policies, legislation, and measures
- Unofficial ban does not stem the outflow of irregular migrant fishers

#### **Indonesia**

- Lack of policies, legislation, and measures to protect irregular migrant fishers
- Recruitment and placement process can be complicated, lengthy, and expensive

#### **Philippines**

- Challenges in combating illegal recruitment

#### **Viet Nam**

- Lack of policies, legislation, and measures to protect irregular migrant fishers
- High rate of migrant fishers with irregular status in destination countries

## Destination countries

### **3.6 Japan**

#### **3.6.1 Legislation**

The primary law governing the management and protection of migrant fishers is the Mariners Law. This law is administered by the Ministry of Land, Infrastructure, Transport and Tourism, along with the Ministry of Agriculture, Forestry, and Fisheries (ILO, 2014).

#### **3.6.2 Recruitment and placement procedures**

In principle, Japan does not allow untrained migrant workers in its fishing sector. Those that are untrained and hired to work on offshore/coastal fishing vessels are considered to be foreign trainees. Distant water fishing vessel owners hire migrant fishers through two systems: the outlying-base system and the Maru-ship system (ILO, 2014).

### **3.7 Malaysia**

#### **3.7.1 Policies and legislation**

Laws and regulations promulgated by the Malaysian Department of Fisheries, indicate that the government is focused on ensuring minimum employment, working, and living conditions are respected by fishing vessel owners (Haji Johari Bin Ramli, 2011).

Under Malaysia's Fisheries Act 1985 Section 10 (1)(c), migrant fishers are not permitted to engage in any fishing activity without the prior written approval of the Director General of the Department of Fisheries (Haji Johari Bin Ramli, 2011). This condition protects migrant fishers from illegal recruitment, labour trafficking, and other forms of abuse and/or exploitation. It also places the responsibility for protecting migrant fishers on the Malaysian Government.

Other protections for migrant fishers include, among others, a minimum age requirement of 18 years; a strict requirement for those seeking to transfer crew to other fishing vessels; and specific provisions for monthly wages, food, health and safety (Haji Johari Bin Ramli, 2011).

#### **3.7.2 Recruitment and placement procedures**

Under the Fisheries Act 1985 Section 10(1), the Director General of the Department of Fisheries has the authority to impose any conditions s/he deems fit when s/he is issuing a license for operating fishing vessels. These conditions include limitations on the nationality and number of persons to be employed or carried on the fishing vessels, and the requirement that migrant fishers are not permitted to engage in any fishing activity without the prior written approval of the Director General (Haji Johari Bin Ramli, 2011).

Other conditions which must be followed during the recruitment and placement process for migrant fishers include:

- (1) The vessel owner must deal with the Department of Fisheries and other government agencies, as necessary, for the entry of migrant fishers.
- (2) Any new application, addition, replacement, extension of migrant fishers is not allowed except for periods after 30 days from the date of approval (Haji Johari Bin Ramli, 2011).

## **3.8 Republic of Korea**

### **3.8.1 Policies**

In September 2012, the Government of the Republic of Korea announced their plan to improve the employment and working conditions of migrant fishers. The plan, in contrast to the previous scheme, entails a more government-controlled system of managing the recruitment and employment of migrant fishers. A Committee for Seafarers Policy, to be chaired by the Ministry of Oceans and Fisheries (previously the Ministry of Land, Transport and Maritime Affairs), will be established to deliberate on the key policy issues affecting migrant fishers (Employment Practice and Legal Institutions on Migrant Fishermen in Korea).

### **3.8.2 Legislation**

The primary piece of legislation which protects migrant workers in the Republic of Korea is the Act on Foreign Workers' Employment. This Act specifies the basic rights of migrant workers in the Republic of Korea and the duties and responsibilities of employers and the relevant authorities to protect migrant workers from discrimination and exploitation. The Act on Labor Standards, however, states that fishers, both domestic and foreign, are not covered under this Act. Migrant fishers working on board vessels less than 20GT are the exception; in their case, the Act on Labor Standards does apply, and as such, all the provisions and guarantees of the Act on Foreign Workers' Employment also apply.

Migrant fishers who work on vessels more than 20 GT are covered under the Seafarers Act, its corresponding Ministerial Decree, and the related Ministerial Guidelines on the Employment and Management of Migrant Fishermen When on Board Vessels of More than 20 Gross Tonnes. The Seafarers Act, while taking into consideration the unique characteristics of the maritime and fishing industry, contains many of the same elements found in the Act on Foreign Workers' Employment, the Act on Labor Standards, and the Occupational Safety and Health Act.

The Government has declared it will negotiate with the representatives of labour and management for an increase in the minimum wage of migrant fishers to a level on par with that of local fishers. The Government has also stated that it will amend its existing laws and regulations to clarify that the service fees for recruitment and placement service providers (RPS) in sending countries should be paid for by the fishing vessel owners and not by the migrant fishers themselves (Employment Practice and Legal Institutions on Migrant Fishermen in Korea).

Other pending changes to legal framework of the Government of the Republic of Korea for the protection of migrant fishers include imposing concurrent penalties on both the direct perpetrator of human rights abuses against migrant fishers and the fishing vessel owners, harsher penalties for violence against migrant fishers, and additional provisions which allow the government to suspend or revoke the overseas fishing permit of fishing companies that violate the human rights of migrant fishers (Employment Practice and Legal Institutions on Migrant Fishermen in Korea).

### **3.8.3 Measures**

The new system currently being implemented also changes the method of choosing sending countries by bypassing the authority of the NFFC and instead, requiring governments to sign Memorandums of Understanding (MOUs) with the Republic of Korea prior to the introduction of their migrant fishers into the national fishing sector. These MOUs mandate regular inspections of recruitment and placement service providers' operations in both sending and receiving countries as well as regular information sharing between the relevant government agencies on both sides (Employment Practice and Legal Institutions on Migrant Fishermen in Korea).

The Call Centre for migrant fishers, which is embedded within existing Foreign Seafarer Welfare Centres and started operating in January 2013, provides comprehensive support including free consultation, grievances settlement, counseling and education services.

Additional measures which the government anticipates will strengthen protection of migrant fishers' rights include the development of training materials prepared in the migrant fishers' native languages, supplemental training courses for job seekers in sending countries, and a mandatory human rights-centered education programme for local fishers and fishing vessel owners (Employment Practice and Legal Institutions on Migrant Fishermen in Korea).

### **3.8.4 Recruitment and placement procedures**

Migrant fishers seeking employment in the Republic of Korea's fishing sector must go through one of two recruitment and placement procedures: the Employment Permit System (EPS) or the Foreign Seafarers System. The EPS, which applies to migrant fishers working on vessels less than 20 GRT, is under the overall control of the Ministry of Employment and implemented through Human Resource Development Korea (HRD Korea). The framework of the EPS is based on the signing of MoUs with sending countries that require all of the parties involved to actively participate in the protection of the rights of migrant workers. Migrant workers can seek employment in 4 industries: construction, manufacturing, agriculture and fishing (including aquaculture and fish processing sectors). Most recently, recruitment into the service industry has been allowed (MOEL, 2013).

On the management side, employers in the Republic of Korea seeking to employ migrant fishers must first apply for an employment permit. Upon receipt of the application, the government's Employment Security Office provides recommendations of qualified candidates based on the rosters sent by the sending countries. If the applicant company selects migrant fishers from the rosters, the Employment Security Office will then issue an employment permit and the applicant company proceeds to the contracting process with the migrant fishers using the standard labour contact form issued by the Ministry of Labor (Employment Practice and Legal Institutions on Migrant Fishermen in the Republic of Korea).

The Foreign Seafarers System, on the other hand, is mainly controlled by the National Federation of Fisheries Cooperatives (NFFC), the representative association for fishing vessel owners in the Republic of Korea. The NFFC has the sole authority to select the countries that may send migrant fishers to work on board fishing vessels weighing 20 GRT or more. Under this system, which is currently undergoing changes to make it more government-driven, the recruitment and placement procedure depends on whether the employer uses the services of a recruitment and placement service provider in the Republic of Korea. If the employer chooses not to use the services of a local service provider, s/he would have to directly contact a recruitment and placement service (RPS) in the sending country to assist with the process of recruitment and placement. The foreign RPS

provider, taking into consideration the employer's demand for migrant fishers, would then send a roster of candidates to the employer for selection. Upon selection of suitable workers, the employer informs the foreign RPS of his/her decisions and begins the negotiation and contracting process with the migrant fishers (Employment Practice and Legal Institutions on Migrant Fishermen in Korea).

Before the contracting process can be completed, the employer is required to obtain an official approval from the Korea Overseas Fisheries Labor Union on the adequacy of the employment and working conditions listed in the contract. Once this step is completed, and both the worker and employer sign the contract, the employer must then submit the statement from the Korean Overseas Fisheries Labor Union and obtain permission from the Ministry of Oceans and Fisheries to hire the worker. After obtaining the requisite approval from the Ministry of Oceans and Fisheries, the employer will proceed by sending the original copy of the Ministry's approval statement to the foreign service provider who, with the assistance of the Republic of Korea's Embassy for visa issuance, will complete the remaining steps needed to send the worker to the Republic of Korea (Employment Practice and Legal Institutions on Migrant Fishermen in Korea).

If the employer chooses to use the services of a RPS based in the Republic of Korea, the process is nearly the same except that the RPS will be involved in the various stages on behalf of the employer (Employment Practice and Legal Institutions on Migrant Fishermen in Korea).

### **3.9 Taiwan (China)**

#### **3.9.1 Policies**

Taiwan (China)'s policies to protect migrant land-based fishers are three-fold:

1. Fundamental Rights: Equality and Justice - the right of migrant workers to the enjoyment of just and favorable conditions of work, and in particular, to just and favorable remuneration, must not be deprived in any way.
2. Employment Rights: National Treatment - non-discrimination and equal protection for, among others, minimum wage, working hours and working conditions, as well as benefits.
3. Living Rights: Universal Principle - this policy recognizes the challenges migrant workers face in adapting to life in Taiwan (China) and emphasizes fostering mutual understanding between migrant workers and local citizens (ILO, forthcoming).

#### **3.9.2 Legislation**

The primary source of law protecting the rights of migrant land-based fishers is the Council of Labor Affairs' (CLA) Labor Standards Act (LSA). The CLA enacted the LSA in 1984 to "provide minimum standards for working conditions, protect workers' rights and interests, improve employer-employee relationships and promote social and economic developments." The Act stipulates that the terms and conditions of any agreement between an employer and a worker must not fall below the minimum standards provided for in this law.

The LSA is the primary source of legislative protection for migrant land-based fishers and it guarantees "National Treatment," that is, equal protection under Taiwan (China)'s labour laws, while they are employed in Taiwan (China). The principle of non-discrimination, the cornerstone of Taiwan (China)'s "Employment Rights" policy, applies to migrant land-based fishers and thus, the

LSA offers equal protection for, among others, minimum wage, working hours, and working conditions (ILO, forthcoming).

Migrant sea-based fishers are not covered under the LSA and as such, are not afforded the same treatment as local fishers. They are covered instead by a pair of regulations promulgated by the Taiwan (China) Fisheries Agency: the Regulations on the Management of Fishing Vessels and Crews in Foreign Fishing Bases (Regulations) and the Directions for Fishing Vessel Owners in Employing Foreign Crew Members Overseas (Directions).

The strongest protection the Regulations provide for migrant sea-based fishers is the requirement that all crew working on Taiwan (China)-registered fishing vessels operating outside of Taiwan (China) waters receive basic safety training (Article 5).

Several provisions in the Directions offer protection to migrant sea-based fishers. Key among these include mandatory registration of migrant fishers (Article 8); a minimum insurance coverage amount of NTD 300,000 for each migrant fisher hired (Article 8(iv)); measures for emergency response to life threatening situations (Article 8(iv)); measures for protecting absconding fishers who become victims of human trafficking and other serious forms of maltreatment (Article 16); and penalties for sequestering migrant fishers aboard other vessels during government inspections (Article 17).

### **3.9.3 Measures**

Taiwan (China) has signed MOUs on labour migration with Indonesia, the Philippines, and Viet Nam, among other countries. The IETO-TETO MOU established a joint working group with regular annual meetings that has proved to be an important forum for communication between both parties on issues related to labour migration, including the protection of migrant fishers (ILO, forthcoming).

### **3.9.4 Recruitment and placement procedures**

Migrant land-based fishers who wish to minimize the cost of securing employment in Taiwan (China) may access the direct hiring channel to bypass the service fees charged by recruitment and placement service providers in Taiwan (China) and their home countries (ILO, forthcoming).

Migrant land-based fishers seeking work in the Taiwan (China) fishing industry have three options for direct hiring: (1) Direct hire by the employer independent of the CLA; (2) Direct hire through the CLA's "Direct Hiring Service Center (DHSC)"; and (3) Direct hire through the CLA's "International Direct e-Recruitment System (IDeS)." The DHSC and the IDeS are migrant land-based fishers' most viable options for direct hiring (ILO, forthcoming).

The DHSC has been a channel for hiring and re-hiring migrant fishers since 2009. This programme relies on cooperation between Taiwan (China) and the sending country in processing the documents needed to hire or re-hire migrant workers. Its main aim is to expedite the re-hiring process and relieve the financial burden of recruitment and placement service fees. Employers and workers save a significant amount of time by dealing solely with the economic and trade/cultural office of the country of origin of the migrant worker; the involvement of the overseas administrations of sending countries is not required for re-hires (ILO, forthcoming).

The IDES, which was launched in December 2011, gives migrant workers, including some migrant fishers, the option of securing employment directly with Taiwan (China) employers via the system's online portal where resumes can be posted for consideration. The system is designed to match migrant workers with a job that fits their qualifications and work experience. Although the IDES still requires migrant workers to pay documentation and visa fees, migrant workers and employers who utilize this system no longer need the services of recruitment and placement service providers and can save on the cost of service fees over the duration of the migrant worker's employment contract (ILO, forthcoming).

The recruitment and placement services channel remains the most common way for migrant land-based fishers to secure employment in the Taiwan (China) fishing industry and it is the only way for migrant sea-based fishers to obtain jobs on Taiwan (China) distant water vessels (ILO, forthcoming). All foreign recruitment and placement service providers sending migrant fishers to work in the Taiwan (China) fishing sector must be approved by the CLA and must comply with the CLA's Regulations for Permission and Supervision of Private Employment Services Institutions (ILO, forthcoming).

### **3.10 Thailand**

#### **3.10.1 Policies**

The following are some examples of Thailand's national policies for the protection of migrant fishers put into practice:

- Manage the recruitment, placement, and training of migrant fishers through seven provincial labour coordination centers set up by the Department of Employment;
- Afford protection to irregular migrant fishers by facilitating their national verification;
- Enable irregular migrant fishers to register with the Administration Department twice in one year;
- Ensure non-discrimination between local fishers and migrant fishers by securing the minimum wage for all workers regardless of their country of origin (ILO, 2014a).

#### **3.10.2 Legislation**

There are four laws which form the legal framework for the protection of migrant fishers. They are:

1. The Recruitment and Job-Seekers Protection Act, B.E. 2528 (1985);
2. The Working of Alien Act, B.E. 2551 (2008);
3. The Labour Protection Act, B.E. 2541 (1998); and
4. The Anti-Trafficking Act, B.E. 2551 (2008) (ILO, 2014a).

#### **3.10.3 Measures**

In addition to the laws and policies mentioned above, Thailand has also implemented a number of measures to further strengthen protection of migrant fishers. These include, among others, Good Labour Practice Guidelines for the Thai Fishing Sector; an information dissemination campaign; a training module for labour inspection in the fishing sector; and a training module to improve occupational safety and health in the fishing sector (ILO, 2014a).

### **3.10.4 Recruitment and placement procedures**

Migrant fishers are recruited primarily through three methods:

1. Brokers in Thailand and countries of origin coordinate with Thai employers to place migrants in the fishing sector and then charge the workers a fee for their services. The brokers either collect the payment in advance or deduct the fee from the workers' monthly wages.
2. Employers coordinate with brokers to recruit new workers and pay for the recruitment fee.
3. Workers come to Thailand by themselves in search of work or are persuaded by friends or acquaintances that have connections to the Thai fishing industry (ILO, 2013).

### **3.11 Gaps and challenges in destination countries**

Japan

- Policies, legislation, and measures do not afford equal protection to migrant fishers

Malaysia

- Fishing vessel owners' unilateral responsibility for repatriating migrant fishers may result in unlawful termination of contracts and deduction of wages

Republic of Korea

- Employment Permit System can be a long process for migrant fishers

Taiwan (China)

- Policies, legislation, and measures do not afford equal protection to migrant sea-based fishers
- Direct hiring processes can be complicated, lengthy, and sometimes fall short of the needs of employers and workers

Thailand

- Limited capacity and resources in provincial offices to implement policies, legislation, and measures for protection of migrant fishers
- Involuntary entry into the Thai fishing sector and irregular status of many migrant fishers

## **Part 4: Employment conditions of migrant fishers**

### **4.1 Malaysia**

Migrant fishers working on Malaysian fishing vessels earn on average Malaysian Ringgit 1,000 (MYR) per month. Some expenses such as food and medical bills are borne by the fishing vessel owner (Haji Johari Bin Ramli, 2011).

### **4.2 Republic of Korea**

The standard labour contract form issued by the Ministry of Labor as part of the recruitment and placement process under the Employment Permit System contains essential terms and conditions such as the wage, working hours, holidays, working conditions and place of employment (Employment Practice and Legal Institutions on Migrant Fishermen in Korea).

The Ministerial Guidelines on the Employment and Management of Migrant Fishermen, which applies to migrant fishers hired under the Seafarers Act, states that standard contracts can be drafted by the Korean Ship-Owner's Association, in consultation with the Government. The contract should include details of the vessel, the contract period, and the conditions of employment, such as the amount of wages, and insurance details (accident insurance, wage claim guarantee insurance, repatriation insurance).

Under the Act on Foreign Workers' Employment, employers are obliged to guarantee, at their own cost, appropriate insurance for migrant fishers on board vessels less than 20 GT that covers them in the event of damages suffered due to unpaid wages. Migrant fishers are also protected from excessive deductions to their wages through Article 27 of the Act which prohibits recruitment and placement service providers from collecting any kind of fees from migrant workers in exchange for their services (Employment Practice and Legal Institutions on Migrant Fishermen in Korea).

Due to the unique characteristics of the fishing industry and the need for a separate system of regulation, migrant fishers hired under the Seafarers Act are not covered under the Act on Foreign Workers' Employment. The Ministerial Guidelines on the Employment and Management of Migrant Fishermen prescribe a minimum wage for migrant fishers that is determined by a collective agreement between representatives of labour and management. For fishers on board pelagic fishing vessels, the minimum wage will be decided by an agreement between the Korean Overseas Fisheries Association and the Korean Overseas Fisheries Labor Union. The minimum wage of fishers working on offshore/coastal fishing vessels will be determined by an agreement between the National Federation of Fisheries Cooperatives and the Federation of Korean Seafarers Union.

The Seafarers Act states that seafarers working on marine capture fishing vessels can be paid either in the form of monthly fixed remuneration plus production bonus or on a catch-basis. The minimum wage for migrant fishers in the Republic of Korea under the Seafarers Act is Won 1,180,000 (KRW) (approximately US\$1,105) per month. The minimum wage for fishers on board pelagic fishing vessels and offshore/coastal fishing vessels is similar.

Migrant fishers covered under the Act on Labor Standards, including those who are hired through the EPS system and are on board vessels less than 20 GT, are guaranteed the same minimum wage as national workers, that is, KRW1,177,000 (approximately US\$1,102). Migrant fishers working in coastal/offshore waters, however, are currently paid a minimum wage of KRW 1,180,000 (approximately US\$1,105) while domestic workers are paid KRW1,415,000 (approximately US\$1,325).

The Foreign Seafarers System, in contrast to the Permit System, is not tied to government MOUs but rather, limits the sending countries to the three that are currently approved by the NFFC: Indonesia, Viet Nam, and China. Under this system, recruitment and placement service providers in both the sending and receiving countries are permitted to collect fees from the employers and the migrant fishers in exchange for the services they provide during the recruitment and placement process. In light of concerns about irregular practices, the NFFC has limited the total fee that service providers can collect from migrant fishers to US\$3,000 for Chinese fishers and US\$2,700 for Vietnamese and Indonesian fishers. The fee covers expenses such as travel documents, medical examinations, pre-departure and post-arrival training, insurance, and other costs during the migration cycle. It also covers the commission paid to service providers and on occasion, the costs associated with office management (Employment Practice and Legal Institutions on Migrant Fishermen in Korea).

Service providers, both foreign and local, are required to submit to the NFFC an itemized list of fees charged to the employers and migrant fishers. While this measure is intended to protect migrant fishers from excessive deductions, the fees paid are reportedly often higher than the limit set by the NFFC. This problem is commonly linked to the practice of RPS in sending countries who require migrant fishers to furnish securities, collateral or other types of guarantees to cover the potential monetary loss a service provider will suffer if their workers abscond (Employment Practice and Legal Institutions on Migrant Fishermen in Korea).

#### **4.3 Taiwan (China)**

Filipino migrant fishers who enter into the Taiwan (China) land-based fishing sector through official channels are entitled to the terms and conditions stipulated in their standard employment contract which is recognized by the Taiwan (China) CLA. The provisions of this contract cover, among others, working hours, wages, paid leave and leave of absence, benefits, medical care, conditions for lawful termination of contract, the complaint mechanism, and repatriation (ILO, forthcoming).

Indonesian migrant fishers who enter into the Taiwan (China) land-based fishing sector through official channels are also entitled to the terms and conditions of a standard employment contract which is recognized by the Taiwan (China) CLA. The provisions of this contract cover, among others, the obligations of the employer and the worker, working hours, wages and method of payment, paid leave and leave of absence, labour and health insurance, conditions for lawful termination of contract, medical care, and repatriation (ILO, forthcoming).

All recruitment and employment of migrant sea-based fishers in the Taiwan (China) fishing industry is regulated by the Taiwan (China) Fisheries Agency, Council of Agriculture. While the Council of Agriculture has passed two regulations related to the hiring of migrant sea-based fishers, these regulations are primarily aimed at preventing fishers from absconding in Taiwan (China) and only briefly touch upon their employment conditions. Due to this lack of government regulation, the employment conditions for migrant sea-based fishers are largely determined by the contractual agreements they enter into with their employers or recruitment and placement service providers (ILO, forthcoming).

The Fishery Association of Kaohsiung City, a group of recruitment and placement service providers in Taiwan (China) that specialize in supplying migrant sea-based fishers to Taiwan (China) fishing vessel owners operating in international waters, has partnered with 14 VAMAS-affiliated recruitment and placement service providers to implement a standard form contract for supplying Vietnamese migrant sea-based fishers to Taiwan (China) fishing vessel owners ("supplier contract"). These service providers have also developed and implemented a standard service contract for Vietnamese migrant sea-based fishers seeking employment on Taiwan (China) distant water fishing vessels ("service contract") (ILO, forthcoming).

Vietnamese migrant sea-based fishers who sign service contracts with the VAMAS-affiliated service providers are bound by the terms and conditions stipulated in these contracts as well as those found in supplier contracts. The key provisions of the service and supplier contracts cover, among others, working hours, wages, benefits, medical care, conditions for lawful termination of contract, the complaint mechanism, and repatriation (ILO, forthcoming).

#### 4.4 Thailand

The Thai Labour Protection Act prescribes limits on working hours but its provisions do not apply to work in fishing. According to data compiled by the ILO, most short-haul and long-haul fishers, regardless of nationality, have indefinite working hours or work 17-24 hours per day. Although nearly the same amount of Thai and migrant fishers reported working 17-24 hours per day, many more migrant fishers reported having indefinite working hours. Thai law also does not set out rest hours for fishers. Among those surveyed by the ILO, 38.5 per cent of migrant fishers reported resting less than five hours each day (ILO, 2013).

Most migrant fishers working on Thai vessels are paid at least a portion of their wages according to the catch. The national minimum wage does not apply to the fishing sector and the amount paid varies by province. Fishers surveyed in four provinces reported the following daily minimum wage: Ranong, Thai Baht (THB)258; Rayong, THB264; Samut Sakhon, THB300; and Songkhla, THB246. Myanmar fishers received a higher mean wage than Cambodian fishers but both groups were paid roughly half of what Thai fishers received (ILO, 2013).

Ministerial Regulation No. 10<sup>7</sup> states that fishers' wages should be paid at least once a month unless it is in the interests of the fisher to be paid on a different schedule. Nearly two-thirds of respondents to the ILO survey reported receiving their payments monthly but Thai fishers are much more likely to receive monthly wages than migrant fishers (ILO, 2013).

Ministerial Regulation No. 10 also states that employers should provide fishers with a record of their payments and grant them up to 30 days paid leave each year. 42 per cent of respondents to the ILO survey reported having a portion of their pay deducted for various costs and a small number of this group stated that their wages were deducted for taking leave. Many fishers surveyed were not clear as to how much and why their wages were being deducted since no itemized record was given to them (ILO, 2013).

---

<sup>7</sup> The Ministerial Regulation No.10 is expected to be reviewed in 2014.

## Part 5: Support services available to migrant fishers

### 5.1 Countries of origin

#### 5.1.1 Support services

Support Services	Cambodia	Indonesia	Philippines	Viet Nam
Information dissemination	√	√	√	√
Vocational training				√
Pre-departure orientation		√	√	√
Repatriation	√	√	√	√
Shelter	√	√	√	
Medical services	√	√	√	√
Psychosocial services	√	√	√	
Legal aid	√	√	√	
Skills training/job placement	√	√	√	√

Source: ILO, forthcoming

Note: Boxes without tick marks do not indicate that the service is non-existent but rather, that no information is available at the time of publication that confirms the service is available.

#### 5.1.2 Trade unions

KPI, the Indonesian branch of the International Transport Workers Federation (ITF), is pursuing different avenues to increase protection for migrant fishers, including providing support at the recruitment and placement stage and counsel during dispute settlement processes, lobbying for a collective bargaining agreement for seafarers, and advocating for KPI-developed standard employment contracts to be used by employers who have collective bargaining agreements with KPI (ILO, 2014a).

#### 5.1.3 Gaps and challenges

Cambodia

- Government services for migrant fishers are mostly non-existent (ILO, forthcoming)

Indonesia

- Dearth of civil society service providers assisting migrant fishers

Philippines

- Dearth of civil society service providers assisting migrant fishers

Viet Nam

- No legal aid services available for migrant fishers (ILO, forthcoming)

## 5.2 Destination countries

### 5.2.1 Support services

**Table 5.1 Support services in select countries in East and South-East Asia**

Support services	Republic of Korea		Taiwan (China)		Thailand
	Migrant LBF	Migrant SBF	Migrant LBF	Migrant SBF	
<b>Information dissemination</b>	✓	✓	✓		✓
<b>Medical services</b>			✓	✓	
<b>Psychosocial services</b>					
<b>Shelter</b>			✓		✓
<b>Legal aid</b>	✓	✓	✓		✓
<b>Repatriation</b>			✓		

Note: Boxes without tick marks do not indicate that the service is non-existent but rather, that no information is available at the time of publication that confirms the service is available.

Migrant LBF refers to migrant land-based fishers, or those employed in accordance with the laws of the CLA. Migrant SBF refers to migrant sea-based fishers, or those employed in accordance with the regulations of the FA.

### 5.2.2 Trade unions

The first migrant worker trade union in Taiwan (China) was formed on 25 May 2013. This trade union, called the Yilan County Fishermen's Trade Union, is composed of 89 Filipino migrant land-based fishers. Its purpose is to strengthen the voice of migrant fishers working in Taiwan (China) and to collectively negotiate with employers on longstanding issues such as excessive working hours and unpaid overtime wages. While the union currently only represents Filipino migrant fishers, it is interested in inviting migrant fishers from other countries to join the organization in the future (ILO, forthcoming).

### 5.2.3 Gaps and challenges

#### Republic of Korea

- Migrant fishers hired under the Foreign Seafarers System are usually charged monthly fees for services the government subsidizes for workers hired under the Employment Permit System (Employment Practice and Legal Institutions on Migrant Fishermen in Korea)

#### Taiwan (China)

- Ineffective provision of service through the CLA's 24-Hour Hotline due to delays and language issues

- Challenges in organizing migrant fishers due to language issues and time constraints (ILO, forthcoming)

#### Thailand

- Limited coordination and sharing of information between government agencies has impeded the process of responding to workers' complaints
- Inadequate staffing which limits inspections at ports and entirely precludes inspections at sea
- Language barrier between Thai, Myanmar, and Cambodian nationals constrains migrants' access to justice (ILO, 2013)

## **Part 6: Tools developed to improve the protection of migrant fishers<sup>8</sup>**

### **6.1 Guidelines and codes**

#### **6.1.1 Social and practical responsibility – A code of practice for employment of non-EEA fishing crew<sup>9</sup>**

In February 2009, the Scottish Fishermen’s Federation introduced a code of practice (CoP) for the employment of non-European Economic Area (non-EEA) fishers. This CoP was developed to ensure that non-EEA fishers, most of whom are required to live onboard their fishing vessels at all times, are afforded safe and habitable living conditions. The CoP assists fishing vessel owners in meeting this duty of social responsibility and is particularly useful as a tool which establishes an agreed set of practices across the Scottish fleet. It is a living document which will be continually updated as the Scottish fishing industry changes and lessons are learned in the implementation of the Code.

The CoP covers the following areas: (1) responsibility for safety; (2) training on safety awareness; (3) safety on board vessels moored at ports; (4) domestic facilities; (5) shore leave, and access to recreational and communication facilities; (6) medical and dental facilities; (7) conditions of employment; (8) adequate wet gear and clothing; and (9) legal requirements and discipline. It also includes five annexes which provide contact information for Scottish Group Training Associations (GTAs), Harbour Masters and Fishermen’s Missions, and the United Kingdom (UK) Border Agency; a Maritime and Coastguard Agency (MCA) Guidance sheet titled “Dead Ships can lead to Dead Fishermen”; and the legal framework for the employment of non-EEA crew.

#### **6.1.2 Good labour practice guidelines for the Thai fishing sector**

The Good Labour Practice (GLP) Guidelines for the Thai Fishing Sector are based on Thai legislation, Thai labour standards, International Labour Standards, and other principles determined through consultation. It is anticipated that the application of these Guidelines will lead to improved working conditions for fishers, including migrant fishers.

The GLP Guidelines cover the following areas: (1) forced labour; (2) recruitment of workers; (3) child labour and young workers; (4) non-discrimination; (5) compensation and wages; (6) working hours, rest periods and holidays; (7) record keeping; (8) workplace cooperation and freedom of association; (9) safety and health at work; and (10) accommodation and welfare. Each section of the GLP Guidelines provides background information on the issue of concern, the applicable laws and regulations, and a good practice checklist. Some sections also include a summary of the key message and a list of good practices to consider.

---

<sup>8</sup> This section provides some examples of a number of tools available to policy makers on the protection of migrant fishers. The author notes that this is simply a compilation of tools that exist at the time the report was prepared and does not represent an endorsement of the tools noted.

<sup>9</sup> The Code of Practice can be found at <http://www.sff.co.uk/sites/default/files/NON-EEA%20CREW%20Code%20of%20Practice.pdf> [accessed 12 Jun. 2014].

## **6.2 Research**

### **6.2.1 Employment practices and working conditions in Thailand's fishing sector<sup>10</sup>**

The 2013 ILO publication, *Employment practices and working conditions in Thailand's fishing sector*, represents the largest survey conducted on this subject to date. Nearly 600 fishers employed on Thai commercial fishing vessels operating in Thai and international waters were interviewed for this study. The fishers that formed the sample group originated from Cambodia, Myanmar, and Thailand, with 490 working on short-haul fishing vessels and 106 employed on long-haul vessels. Field studies were conducted in four provinces: Samut Sakhon; Rayong; Ranong; and Songkhla.

The study consists of the following sections: (1) research approach; (2) situation analysis of Thailand's fishing sector; (3) profile of fishers in the survey; (4) the recruitment process; (5) employment practices and working conditions; (6) deceptive and coercive labour practices; (7) complaint mechanisms and protection for fishers; and (8) conclusions and recommendations.

The scope and scale of this report is such that the data and analysis provided are important resources for policy makers intent on formulating more effective laws and policies to protect migrant fishers.

### **6.2.2 Comparative study on the recruitment of migrant fishers in the ASEAN Region**

This forthcoming publication by the ILO is a comparative study of national laws and policies for protection of migrant fishers, recruitment channels and practices, employment, working and living conditions in the Taiwan (China) marine capture fisheries sector, and support services available for ASEAN migrant fishers. The four ASEAN Member States that are the subjects of this study are Cambodia, Indonesia, the Philippines, and Viet Nam.

This study, which is primarily desk-based but also includes information obtained through interviews and surveys, represents some of the very first in-depth research conducted on the issue of protection of ASEAN migrant fishers in the Taiwan (China) fishing industry. It is anticipated that the good practices and gaps in protection mentioned in the study will be useful for policy-makers involved in strengthening the current system of protection for ASEAN migrant fishers.

## **6.3 Other resources relevant to improving conditions of work in the fishing sector**

### **6.3.1 European Union Council Directive 93/103/EC<sup>11</sup>**

The Council of the European Union (EU) adopted Directive 93/103/EC on 23 November 1993 to set forth the minimum safety and health requirements for work on board commercial fishing vessels flying the flag or registered under the plenary jurisdiction of an EU Member State. All EU Member States were obliged to amend their existing laws, regulations, and administrative provisions, or to bring into force new ones, to conform to the provisions of this Directive within two years of its adoption.

---

<sup>10</sup> The report can be found at [http://www.ilo.org/asia/whatwedo/publications/WCMS\\_220596/lang--en/index.htm](http://www.ilo.org/asia/whatwedo/publications/WCMS_220596/lang--en/index.htm).

<sup>11</sup> The Directive can be found at <https://osha.europa.eu/en/legislation/directives/sector-specific-and-worker-related-provisions/osh-directives/13>.

The Directive prescribes the minimum safety and health requirements for new and existing fishing vessels, life-saving and survival equipment, and personal protective equipment. In addition to annexes which contain detailed provisions related to the aforementioned subjects, the Directive also includes general provisions related to compliance, responsibilities of fishing vessel owners and skippers, information dissemination for the benefit of fishers and their representatives, suitable training for fishers and skippers, and social dialogue.

Directive 93/103/EC is one example of a regional instrument that raises the minimum standards for safety and health on board all fishing vessels registered in or otherwise under the jurisdiction of the Member States of a regional organization. Although its utility for ASEAN Member States may be limited in certain respects due to organizational differences between ASEAN and the EU, it may nonetheless still be a useful tool for policy makers searching for a model regional instrument that has been effective in addressing safety and health issues that affect migrant fishers working on board fishing vessels.

### **6.3.2 Guide for certification of seafarer recruitment and placement service providers<sup>12</sup>**

The Guide for certification of seafarer recruitment and placement service providers, a 2011 publication of the American Bureau of Shipping (ABS), was developed for the purpose of establishing the minimum requirements expected of agencies providing manning services for ships subject to the ILO Maritime Labour Convention, 2006. The provisions in this Guide supplement the requirements of the ILO Maritime Labour Convention, 2006 and are not intended to supersede any portion of the Convention.

Certification by the ABS is its representation that the agency in question has established and implemented a management system that complies with the requirements set forth in the Guide. Such certification is not a representation that the agency complies with their management system or that their management system addresses all contingencies. These types of management performance issues are regulated by the agency itself.

The Guide covers the following areas: (1) general requirements for certification; (2) management responsibility; (3) recruitment and placement services; and (4) measurement, planning and improvement of the system.

Although the Guide does not apply to recruitment and placement service providers assisting migrant fishers, it could be a useful model for policy makers to reference when designing and implementing a certification system that does cover such service providers.

### **6.3.3 European handbook for the prevention of accidents at sea and the safety of fishermen<sup>13</sup>**

The European handbook for the prevention of accidents at sea and the safety of fishermen, a 2007 initiative of the social partners of the European sea fishing sector, contains the minimum guidance on safety and health for fishers working on board fishing vessels. It is not a comprehensive safety manual nor is it a substitute for effective training. Rather, the purpose of the Handbook is to raise

---

<sup>12</sup> The Guide can be found at

[https://www.eagle.org/eagleExternalPortalWEB/ShowProperty/BEA%20Repository/Rules&Guides/Current/183\\_Seafarer/Guide](https://www.eagle.org/eagleExternalPortalWEB/ShowProperty/BEA%20Repository/Rules&Guides/Current/183_Seafarer/Guide) [accessed 12 June 2014].

<sup>13</sup> The Handbook can be found at <http://www.europeche.org/en/content/handbook-safety-fishermen> [accessed 12 June 2014].

awareness of the need for safety training, and increased knowledge and competence on safety issues.

The Handbook covers the following areas: (1) man overboard and related issues; (2) personal survival at sea; (3) personal protective equipment; (4) lifesaving equipment; (5) helicopter operations; (6) fire; (7) vessel stability; (8) slips, trips and falls; (9) first aid; (10) emergency communications; (11) manual handling of heavy loads; (12) engine room; (13) galley; (14) alcohol, medicine, drugs and fatigue; (15) dangerous chemicals; (16) safety signs and signals; (17) risk assessment; and (18) accident reporting.

### **6.3.4 Good employment practices in the Spanish fishing sector<sup>14</sup>**

Good employment practices in the Spanish fishing sector is a presentation that Pablo Xandri Royo, an international fisheries specialist based in Spain, gave at the ILO Regional Meeting on Work in Fishing in September 2013. Mr. Royo's presentation focused on good employment practices in the Spanish fishing sector as well as notable regulatory reform of the European Fishing Policy (EFP).

The following are some of the good employment practices highlighted by Mr. Royo: (1) the social security system in Spain which is aimed specifically at fishers; (2) collective labour agreements for fishers working on board specific types of vessels; (3) an effective telemedicine system; and (4) a foundation in the European fishing sector that has equal representation of employers and trade unions in its governance and control bodies.

Some key features of the newly reformed EFP include: (1) inclusion of environmental issues in the discourse; (2) integrating the fishing policy with the overall maritime policy; (3) more efficient management of fisheries and fishing operations through individual transferrable quotas (ITQs); and (4) social clauses in the EU's fishery partnership agreements (FPAs) with third countries which require three fundamental ILO Conventions (freedom of association, right to collective bargaining, elimination of all forms of forced or compulsory labour) to be applied as between them.

While there are many differences between the fishing sectors of EU Member States such as Spain and those of the Member States of ASEAN, policy makers may nonetheless find the good practices and policies shared in Mr. Royo's presentation to be useful resources which can be adapted to fit the particular characteristics and needs of fishing sectors in the Asia-Pacific region.

### **6.3.5 ILO Handbook on Improving Living and Working Conditions on Board Fishing Vessels<sup>15</sup>**

This handbook was developed to assist competent authorities and the representative organizations of employers and workers in the fishing sector in gaining a better understanding of Convention No. 188 and Recommendation No. 199, with the objective of encouraging national tripartite discussion leading to States taking concrete steps towards the implementation and ratification of the Convention.

---

<sup>14</sup> A summary of Mr. Royo's presentation is included in the ILO Regional Meeting Report which can be found at [http://www.ilo.org/asia/whatwedo/events/WCMS\\_234293/lang--en/index.htm](http://www.ilo.org/asia/whatwedo/events/WCMS_234293/lang--en/index.htm) [accessed 12 Jun 2014].

<sup>15</sup> The handbook is available at: [http://www.ilo.org/sector/Resources/publications/WCMS\\_162323/lang--en/index.htm](http://www.ilo.org/sector/Resources/publications/WCMS_162323/lang--en/index.htm) [accessed 12 Jun 2014].

### **6.3.6 Guidelines for port state control officers for the implementation of the Work in Fishing Convention, 2007 (No. 188)**

These guidelines include an overview of the features and key concepts of ILO Convention No. 188, outline Port State Control responsibilities under this Convention and Recommendation No. 199, and specify the professional profile and qualifications required of Port State Control officers. They examine all aspects of conducting port State inspections and address basic requirements, indicative sources of information and examples of non-conformities for specific inspection areas. The guidelines also cover the actions that may be taken by Port State Control officers when finding non-conformities with respect to the Convention.

## **Part 7: Conclusions of the Regional Meeting on Work in Fishing: Increased Knowledge Base and Sharing Good Practices for the Protection of Migrant Workers<sup>16</sup>**

### **Social and labour issues related to fishers, including migrant fishers**

- The fishing sector in the Asia-Pacific Region is a major source of employment and household income. It plays an important role in the regional economy and ensuring food security.
- Difficult working and living conditions are common in fishing. It is considered to be among the most hazardous occupations with high levels of risk, involving long and undefined working hours, strenuous activity, dangerous machinery, and the risk of drowning.
- Countries face different challenges with regard to the regulation of living and working conditions in the sector, particularly for migrant workers. Close consideration of differences among fleets in vessel types and sizes, methods of fishing, duration of trips, and areas of fishing grounds is required to ensure no migrant fishers are left unprotected.
- Migrant fishers require specific protections. Irregular migrant fishers are more vulnerable to abuse and exploitation aboard vessels.
- ILO fundamental principles and rights at work apply to all workers, including fishers and migrant fishers.
- ILO Work in Fishing Convention, 2007 (No. 188) applies equally to fishers and migrant fishers and its implementation would establish a minimum level of standards for decent work in the fishing sector (ILO, 2014a).

### **National policies and legislation, and ratification of international standards**

- Review of national policies and legislation is required to bridge gaps in legal protection for fishers, including migrant fishers.
- There is a need for effective coordination among Government, Employers' and Workers' organizations, as well as inter-ministerial cooperation among national authorities with responsibilities relevant to the protection of fishers and migrant fishers.
- Governments in the ASEAN region are invited to accelerate efforts to ratify and effectively implement ILO Work in Fishing Convention, 2007 (No. 188) through tripartite consultation. Employers' and Workers' organizations are invited to continue promoting the ratification of ILO Work in Fishing Convention, 2007 (No. 188) (ILO, 2014a).

### **Recruitment, placement, and employment of migrant fishers**

- There is a need for more effective coordination between central and local authorities in the training of the services involved in the inspection of working and living conditions on board

---

<sup>16</sup> The full meeting report can be found at: [http://www.ilo.org/asia/whatwedo/events/WCMS\\_234293/lang-en/index.htm](http://www.ilo.org/asia/whatwedo/events/WCMS_234293/lang-en/index.htm) [accessed 12 Jun 2014].

fishing vessels. In certain cases, the government can certify recognized organizations to inspect and certify working and living conditions.

- Migrant fishers have the right to communicate with their families and relevant authorities (ILO, 2014a).

### **Towards bilateral and regional cooperation**

- In addition to national intervention, bilateral and regional cooperation are important mechanisms to more effectively address issues related to the protection of migrant workers. This cooperation can take the form of exchange of information, regional tripartite forums, sharing of good practices, developing bilateral MOUs and regional agreements (ILO, 2014a).

## Bibliography

American Bureau of Shipping (ABS). 2011. *Guide for Certification of Seafarer Recruitment and Placement Service Providers* (Houston).

ETF; EU; Europeche; REFOPE. 2007. *European handbook for the prevention of accidents at sea and the safety of fishermen*. Available at: <http://www.europeche.org/en/content/handbook-safety-fishermen> [4 Apr. 2014].

Food and Agriculture Organization of the United Nations (FAO). 2003. *Fishery and aquaculture country profile: Republic of Korea*. Available at <http://www.fao.org/fishery/facp/KOR/en> [4 Apr. 2014].

—. 2009. *Fishery and aquaculture country profile: Malaysia*. Available at <http://www.fao.org/fishery/facp/MYS/en> [4 Apr. 2014].

—. 2010. *FAO Yearbook 2010, Fishery and Aquaculture Statistics* (Rome).

—. 2012. *The State of World Fisheries and Aquaculture* (Rome).

International Labour Organization (ILO). 2004. *Conditions of work in the fishing sector: A comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector* (Geneva).

—. 2013. *Employment practices and working conditions in Thailand's fishing sector* (Bangkok).

—. 2014a. *Meeting report -- Regional Meeting on Work in Fishing: Increased Knowledge Base and Sharing Good Practices for the Protection of Migrant Workers*. Available at [http://www.ilo.org/asia/whatwedo/events/WCMS\\_234293/lang--en/index.htm](http://www.ilo.org/asia/whatwedo/events/WCMS_234293/lang--en/index.htm) [4 Apr. 2014].

—. 2014b. Ratifications of C188 – Work in Fishing Convention, 2007 (No. 188). Available at [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300\\_INSTRUMENT\\_ID:312333](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312333) [4 Apr. 2014].

—. Forthcoming. *Comparative study on the recruitment of migrant fishers in the ASEAN Region*. (Bangkok).

Ministry of Employment and Labour, Republic of Korea. 2013. *Update on the employment permit system*, presentation delivered at the ILO-Korea meeting “Effective implementation of the Employment Permit System”, 3 - 4 December 2013. Bangkok, Thailand.

Ramli, H. 2011. *Method of recruitment and placement of fishers/foreign workers in fishing industry*, (Kuala Lumpur, Dept. of Fisheries).

Scottish Fishermen's Federation. 2009. *Social and practical responsibility – A Code of Practice for Employment of Non-EEA Fishing Crew*. Available at <http://www.sff.co.uk/sites/default/files/NON-EEA%20CREW%20Code%20of%20Practice.pdf> [4 Apr. 2014].

During 12 – 13 September 2013, representatives of governments, employers’ organizations and trade unions in the ASEAN region convened at the Aston Hotel, Makassar, Indonesia for the International Labour Organization (ILO) Regional meeting on Work in Fishing: Increased Knowledge Base and Sharing Good Practices for the Protection of Migrant Workers. During the meeting, representatives listened to presentations by regional and international experts and participated in group work that resulted in a list of conclusions and recommendations for further action.

This publication provides a snapshot of the legislation, policies, support services and tools available to improve the protection of migrant fishers in ASEAN. It draws from information shared at the regional meeting as well as other relevant sources. It is hoped that this resource will be a valuable addition to the existing tools available for policy makers and other stakeholders working towards a stronger system of protection for ASEAN migrant fishers.

**ILO Regional Office for Asia and the Pacific**

United Nations Building  
Rajadamnern Nok Avenue  
Bangkok 10200, Thailand  
Tel.: + 662 288 1234  
Fax: +662 288 3062  
Email: [BANGKOK@ilo.org](mailto:BANGKOK@ilo.org) [www.ilo.org/asia](http://www.ilo.org/asia)

**DECENT WORK**

A better world starts here.

ISBN: 9789221288770  
9789221288787 (web pdf)