

FOCUS ON LABOUR ISSUES IN THE FISHING INDUSTRY



CURRENT & POTENTIAL IMPACTS OF LEGAL REFORMS ON BUSINESSES AND WORKERS IN THAILAND'S FISHING INDUSTRY

SERIES PAPER 1

ISSARA INSTITUTE

OCTOBER 2016

Prepared by Josh Stride, Technical Consultant to the Issara Institute

© Issara Institute, 2016

All rights reserved. For reprints, please contact:

Issara Institute

info@issarainstitute.org

www.issarainstitute.org

Printed in Thailand

OVERVIEW

Since 2014, the Royal Thai Government has initiated a series of broad legal and policy reforms aimed at addressing the widespread, ongoing issues of illegal fishing and labour abuse in the fishing sector. The reforms represent long-overdue changes to an industry that has operated largely free from regulation for decades, and will have a range of impacts on businesses at all stages of the Thai seafood supply chain as well as international companies sourcing from the country.

Many of the reforms are fundamental to effective fisheries management, such as accurate vessel registration and gear licensing; however, the introduction of even the most basic regulation to an industry so accustomed to little or no oversight is likely to have a significant impact. They are also likely to face considerable pushback from the industry, which has already been seen. Despite the fact that the pace of change and the burden placed on some businesses has

caused some consternation, the reforms are generally understood to be essential for the long-term sustainability and competitiveness of the Thai seafood industry in a global market. While some challenges around design and implementation remain, the aim of the reforms – to improve conditions for workers in the sector, help to restore Thailand’s depleted fish stocks and ultimately to make the industry more safe, sustainable and profitable in the long term – should be supported and encouraged by invested stakeholders, whether Thai businesses, international companies or the Thai government.

This paper will examine in greater detail the key legislative changes and their impact on business, including key improvements, key challenges for implementation, and specific details regarding Port-In, Port-Out (PIPO) and at-sea inspections.

KEY TAKEAWAYS: POTENTIAL IMPACTS FOR BUSINESS

There are a number of potentially positive outcomes from the recent reforms, particularly with regard to traceability, accountability, monitoring and treatment of crew. At the same time there may still be some negative knock-on effects as a result of the industry reforms. While significant challenges regarding implementation remain, the reforms prescribe a number of improvements to the industry that should impact positively on international buyers. Potential positive and negative impacts of the reforms include:

NEGATIVE

- 1 Reduced availability of raw materials.
- 2 Increased raw material price, such as trash fish, with knock-on effects down the chain.
- 3 Closure of supplier businesses due to economic pressure or heavy fines from enforcement.
- 4 Increased administrative burdens and financial requirements for compliance may lead to further cutting of labour costs.

POSITIVE

- 1 Registration records of all authorized fishing vessels.
- 2 Strengthened port-level controls to monitor treatment of crew and improve traceability.
- 3 VMS requirement allowing real-time and historical tracking of vessel activity.
- 4 Significantly increased fines and penalties, providing credible deterrent.
- 5 Legally mandated improvements to working conditions; legislative reform now brings Thai law more in line with international standards.

OVERVIEW OF RECENT LEGAL REFORMS IMPACTING LABOUR IN THE THAI FISHING INDUSTRY

The **Fisheries Act B.E. 2558 (2015)** and the **Royal Ordinance on Fisheries B.E. 2558 (2015)** are the first new fisheries legislation in Thailand since 1947. New legislation was needed to address new fishing techniques and new situations that have arisen since 1947, such as the influx of migrant workers into the sector. There are considerable challenges to implementation as well, since many areas have been neglected for decades.

The new legislation far more accurately reflects the challenges facing the industry today. The Fisheries Act and Royal Ordinance on Fisheries are broad and wide-ranging, covering all aspects of the seafood industry, including fishing in and outside of Thai waters, aquaculture and terrestrial processing operations throughout the seafood industry, including ports, markets and factories. Much of the detail remains to be published in subordinate Ministerial Regulations; however, the new legislation sets out an encouraging framework for improvements in the sector.

DRAMATIC REFORMS

While many of the reforms are designed to update legislation and close regulatory gaps, some are decidedly more dramatic. All vessels of 30 gross tonnes (GT) or more are now required to report to their local Port In/Port Out (PIPO) Centre for inspection of craft, crew and equipment by multi-agency teams when entering or leaving port. Vessels of 30GT or above represent approximately 15% of the total Thai fishing fleet; however, these vessels represent well over 70% of the Thai fleet classified as 'commercial'. Vessels of 10GT or below are classed as 'artisanal' and constitute more than 70% of the entire Thai fishing fleet.

Further, vessels are subject to additional inspections at sea by a strengthened force of inspectors, which aim to inspect 10% of all vessels at sea, including those under 30GT. Vessels of 30GT or more are also required to install Vessel Monitoring Systems (VMS), which should allow authorities to track the vessel's movements and identify suspicious behaviour.

CONSEQUENCES FOR ILLEGAL PRACTICE WITHIN THE FIRST YEAR

According to the Royal Thai Government, as of November 2015, a total of 8,024 illegal fishing vessels had their vessel registrations revoked, and 5,609 fishing vessels greater than 30 gross tonnes had reported through PIPO centers. However, the rigour and effectiveness of these inspections – both in port and at sea – has been called into question by recent evidence, which will be discussed at greater length in this paper.

INCREASED PROTECTIONS FOR WORKERS

The **Labour Protection Act B.E.2541 (1998)** is Thailand's primary labour legislation, and establishes acceptable working hours (8 per day; 48 per week), regular and overtime wages and the scope of permitted wage deductions.

Ministerial Regulations on Labour Protection in Sea Fishery Work introduced new requirements and prohibitions to address sector-specific gaps in the Labour Protection Act B.E.2541 (1998), including mandated rest periods, annual crew inspections, adequate sanitation, and others presented in more detail on pages 5-6.

The **Ministerial Regulation to Designate Places of Work Prohibited from Employing Workers under the Age of 18, B.E. 2559 (2016)**, implemented with immediate effect in January 2016, now prohibits children (minors under age 18) from working in any capacity within the seafood sector.

IMPACTS ON THAI BUSINESS

The impact on Thai businesses – particularly those in breach of more tightly enforced regulation, such as operating gear that does not match their license – has already been significant.

Conversations with vessel owners as well as businesses further downstream reveal frustration at the added regulatory burdens, threats to raw material supply, and associated costs, such as retrofitting fishing vessels to comply with licensing requirements.

In many ways, Thailand's reforms represent relatively straightforward requirements designed to bring the fishing industry in line with basic international standards, including licensing and registration requirements. Despite this, there has been considerable resistance from an industry accustomed to operating under minimal scrutiny and regulation. The speed and top-down imposition of changes – seen by many vessel operators as a knee-jerk reaction to the threat of sanction by the EU – has appeared to cause some resentment.

Nonetheless, increased regulation was long overdue, with the industry operating under legislation that was more than 60 years old until April 2015. Whilst change of this magnitude is always likely to encounter resistance, it is viewed by the government and international community alike as a necessary modernization and professionalization that will keep Thailand's seafood industry competitive, equitable and sustainable in the long term.

PENALTIES FOR INFRACTIONS: SIGNIFICANTLY INCREASED IF ENFORCED

The Royal Ordinance on Fisheries, B.E. 2558 (November 2015) supersedes the Fisheries Act, B.E. 2558 (June 2015) and establishes a range of infractions with significantly increased penalties from the last update in 1947. While some of the changes increase existing penalties in order to provide a deterrent, others target previously common practices—such as employing undocumented migrants or fishing gear different to the license—with extremely high fines. However, it remains to be seen how stringently the law will be enforced and how many offenders will be punished.

The table below summarizes a selection of key infractions and associated punishments according to law (in US dollars).

INFRACTION	PENALTY ACCORDING TO LAW
Possession of illegally caught fish	Maximum \$28,843 or 5x catch value
Unauthorized transshipments; false reporting; failure to return to designated port	Maximum \$57,686
Failure to install and maintain VMS; failure to display proper markings	Maximum \$115,372
Fishing outside Thai waters without a license	Maximum \$288,430 or 5x catch value
Factories employing illegal or undocumented workers (<5)	Maximum \$23,074 per unlawfully employed person; Director General orders suspension of 10-30 days
Factories employing 5+ illegal or undocumented workers; commits another violation within 3 years; or attempts to operate another seafood factory following a closure order	Director General orders closure of factory; imprisonment not exceeding 2 years or a fine of maximum \$57,686
Employing crew without seaman documents; employing undocumented workers	\$23,074 per seaman; revocation of owner's fishing license; revocation of masters' seaman document
Failure to prepare MCPD by fishing port owner, fish market entrepreneur or a buyer of seafood	Maximum \$28,843

LABOUR RECRUITMENT: A PERSISTENT CHALLENGE TO THE THAI SEAFOOD SECTOR AND OTHER SECTORS

A failure to regulate labour recruitment and provide safe, legitimate recruitment channels for job-seekers and employers remains a significant and persistent challenge in the Thai seafood sector. Citing a labour shortage, company owners report being forced to rely upon unofficial recruitment channels in order adequately crew their vessels. Similarly, without well-publicized, easy access to formal recruitment, migrant workers often find themselves forced into the hands of unregistered brokers, making them vulnerable to exploitation and abuse, including debt bondage, over-priced (often fraudulent) documentation and an inability to choose or leave their employers.

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

Under the current system, migrant workers are also required to obtain a resignation letter signed by their employer before being allowed to take up other employment. Evidence gathered by Issara Institute (paper forthcoming) demonstrates that this requirement has led to the further abuse of workers, including employers demanding a fee for the letter or restricting a worker's movement in order to prevent them from leaving.

Informal and illegitimate recruitment practices lie at the heart of many of the labour and human rights abuses reported in the Thai fishing industry. Considering its importance, the reform of labour recruitment should be viewed as a matter of importance for all stakeholders, and businesses should work with their suppliers, as well as labour providers and the government to provide practical solutions that both ensure worker safety and provide sufficient labour to the industry, thereby limiting the need to rely on informal broker channels.

IMPACT OF FISHERIES LEGAL REFORMS ON BUSINESSES & WORKERS

The Thai government's reforms to the seafood industry are unprecedented, and the scale and pace of change has seen considerable pushback from some sections of the industry. However, the majority of the changes represent a long-overdue modernization of seriously outdated legislation and a closing of regulatory gaps that allowed bad practice to flourish. By bringing Thailand in line with international standards, the goal of the reforms is to improve conditions for workers in the sector, help to restore Thailand's depleted fish stocks and ultimately to make the industry more safe, sustainable and profitable in the long term. But what are some of the expected positive and negative knock-on effects in the near term?


Increased Enforcement
Increased inspections, in theory, will lead to crews having increased interaction with officials, creating higher official identification of cases of abuse. Additionally, some areas have begun paying closer attention to workers' documentation, allowing fewer forged visas to go unnoticed.


Businesses operating on tighter budget and with added costs
PIPO requirements have significantly increased the amount of paperwork to be completed by businesses, adding financial and administration costs. Many vessel operators are finding it difficult to adapt.

Increased Vessel Suspensions
Many vessels are now inactive due to enforcement of licensing laws, which has put further strain on many companies operating on tight margins and may threaten raw material supplies and increase prices. The suspension of unlicensed vessels and reduction of fishing capacity will likely lead to a decreased amount of employment opportunities for migrant workers in the fishing industry.

Less appealing sector for migrant workers who have choices
Tighter operating costs may lead to stricter working environments, leading to a less appealing sector for migrant workers. In a country like Thailand with an overall shortage of migrant workers across most industries, there may be many other more appealing sectors to work in.

Strategies to Retain Crew
Channels for the safe and regular hiring of foreign crew are currently lacking, leading fishing vessel owners to have to pursue less safe means. Competition to retain workers exists both between the fishing industry and other industries, and, between fishing vessel owners.

 Business can opt to give workers a better salary, better benefits and better working environment to retain them.

 Or businesses can revert to harsher working conditions, creating potential for trafficking of workers

POTENTIAL OPPORTUNITIES

BUSINESS

Thailand's reforms have introduced reporting and traceability requirements previously unprecedented in the industry. The significant increase in data collection and reporting provides businesses with an opportunity to develop traceability and audit systems that effectively make use of newly available information and documentation, such as MCPDs, logbooks, PIPO inspection checklists and VMS data.

SUPPLIERS

While some Thai businesses have expressed concern over the pace and scale of change in the industry, the aim of the reforms is to bring the Thai seafood sector in line with international standards and maintain competitiveness over the long term. Early adopters have an opportunity to set themselves apart from their competition by ensuring full compliance, making themselves more attractive to international buyers.

GOVERNMENT

The government's inspection regime represents some of the most comprehensive measures the industry has ever seen. However, there are major concerns about implementation, including training and resources, as well as whether the 100% and 10% inspection targets for PIPO and at-sea inspection respectively are realistic. The government should reexamine its inspection targets, as well as resourcing for inspections, to ensure these checks are done thoroughly, and include confidential interviews with migrant workers in their own languages.

KEY LEGISLATIVE CHANGES & IMPLEMENTATION CHALLENGES

Fisheries Act B.E. 2558 & Royal Ordinance on Fisheries B.E. 2558 (2015)
Ministerial Regulation to Protect Workers in Marine Fishing (2014) &
Ministerial Regulation to Designate Places of Work Prohibited from Employing Workers under the Age of 18, B.E. 2559 (2016)*



DATA COLLECTION

Changes

The Department of Fisheries (DoF) is required to prepare and submit up-to-date fisheries statistics to the National Fisheries Committee – headed by the Prime Minister – on a monthly basis. Recording of data is the responsibility of port owners and/or “fish market entrepreneurs”.

Challenges

Accurate data collection and reporting has been a long-running challenge for the Department of Fisheries, and significant questions remain over the Department’s ability and willingness to rigorously collect information. The DoF largely relies on captains or business owners to report catch volume and composition, many of whom may have economic or personal reasons for misreporting their catch. Documentation is easily fabricated and often completed after the catch has been landed, sorted and sold. Observations in ports by Issara and others suggest DoF officials even allow captains to complete the DoF’s own documentation.



HEALTH & SAFETY

Changes

Licensees must ensure their vessel is safe and hygienic, and “provide proper working conditions” for crew. Many of these details are yet to be published, however some further detail is provided for by the Ministerial Regulation to Protect Workers in Marine Fishing (2014) and Ministerial Regulation to Designate Places of Work Prohibited from Employing Workers under the Age of 18, B.E. 2559 (2016)

Challenges

Without carrying out checks aboard the vessel, it is impossible for officials to ensure vessels are compliant with health and safety standards and providing decent working conditions for crew. In practice, it appears that little has changed in in this area of vessels’ operation, with crew continuing to share cramped sleeping quarters, unsanitary cooking and toilet facilities with little in the way of health and safety provision.



PORT IN/PORT OUT (PIPO) CONTROL CENTRES

Changes

All vessels of 30GT and above are required to report to their local PIPO centre when departing or returning to port, and will be inspected by a multi-disciplinary team. Prior to departure, the owner or the master of a fishing vessel must submit documents related to vessel registration, the vessel use permit, the fishing license, details of the number and a list of outgoing seamen on board, evidence of authorisation, license and permit under, as well as evidence related to the provision of appropriate systems for ensuring occupational safety, hygiene and wellbeing of seamen.

Challenges

Serious questions have been raised over the rigour and effectiveness of the new inspection regime, both in port and at sea. Some of the key issues observed by Issara and others include: inadequate training for officials, confusion regarding inspection requirements and regularity, cursory checks on migrant documentation, no inspection aboard the vessel and a lack of translators or private interviews with crew. Current targets – 100% on land and 10% at sea – do not provide adequate time for rigorous inspections, which may undermine the credibility of the process and the documentation created as a result.



TRACEABILITY

Changes

Implementation of a traceability system, which enables the identification of the “source of an aquatic animal or aquatic animal product at any stage from fishing operations to ultimate consumers.” This is primarily achieved through requirements on operators, owners and buyers to prepare logbooks and other catch or purchasing documentation, including the Marine Catch Purchasing Document (MCPD).

Challenges

Traceability and related documentation also relies heavily on non-official sources, in particular, port owners and “fish market entrepreneurs”. Recording is left to individuals with a vested interest in the products and documentation is easily forged. Without access to VMS tracking data, officials in port are unable to verify the information submitted, such as catching location or transshipment activity.



VESSEL MONITORING SYSTEM

Changes

All vessels of 30GT and above must install and maintain the functionality of a Vessel Monitoring System (VMS).

Challenges

VMS can be a powerful tool, but only when properly implemented. Officials in port do not have access to real-time or historical VMS tracking, and are only able to verify whether a vessel’s VMS is transmitting. At present there are also concerns that illegal vessels remain at sea, transshipping their catch with legal vessels. While these vessels are unlikely to have VMS, real-time and historical tracking would allow authorities to identify behavior consistent with transshipping and challenge the documentation submitted by the landing vessel. Some vessel owners have also expressed hostility to the requirement as a result of the cost burden being placed entirely on operators.



TRANSSHIPMENT RESTRICTIONS

Changes

Transshipments at sea are now severely restricted, and only permitted onto vessels registered as ‘carrier’ or ‘storage’ vessels. Prior to transshipment, the owner or master of the fishing vessel must obtain permission from a competent authority by radio as well as submit a transshipment declaration certified (MCTD) by the master of fishing vessel to the competent official after completion of transshipment.

Challenges

Without real-time and historical VMS tracking data, it is impossible for authorities to check whether a landing vessel has transhipped with another, perhaps illegal vessel at sea, making the restrictions on transshipments at sea impossible to police.

Vessel owners in Songkhla, for example, report the continued operation of illegal vessels that remain offshore and transship their catch with illegal vessels, which launder and land their catches. These vessels do not have VMS and avoid inspections by operating at the edge of Thailand’s inspection area.



LICENSING

Changes

Commercial fishing operations must obtain a commercial fishing license from the Director-General, which includes: the number and type of fishing gears authorised, authorised fishing areas and the maximum allowable catch.



INSPECTIONS

Changes

Inspections of vessels, crew and catch are carried out by multi-agency teams as part of the PIPO process, as well as at-sea. Both are overseen by the Thai Maritime Enforcement Coordinating Centre (Thai-MECC) and cover at least 16 different elements. Current inspection targets are 100% of vessels 30GT and above at PIPO Centres and 10% of all vessels 10GT and above at sea.



OBSERVERS

Changes

Thai vessels fishing outside of Thai waters are required to have an observer stationed on board.

Challenges

The observer requirement is welcome, though it is vital that the observer's mandate includes human rights and labour considerations, and that the individual is adequately trained, resourced and protected considering past reports of coercion and intimidation.



MANDATED REST

Changes

Crew working aboard fishing vessels are now legally entitled to a minimum of 10 hours rest in a 24 hour period and 77 hours over a seven day period.

Challenges

Fishing requires extended periods at sea, with some of busiest fishing ports located in remote areas where powerful local figures exert considerable control. Once the vessel leaves port, the power to enforce mandated rest periods is extremely limited.

Without more detailed questioning of crew when in port it is difficult to ensure these rules are being complied with.



CONTRACTS

Changes

Crew are required to be provided with a multi-lingual written contract, which is signed by the employer and employee.

Challenges

Based on current information, the provision of written, multi-lingual contracts from employers to migrant fishermen is extremely rare. In recent research including interviews with 260 fishermen, 0% had contracts.



ANNUAL CREW INSPECTION

Changes

All crew are required to be returned to port for inspection every 12 months. This regulation is designed to stop vessels remaining at sea for prolonged periods to avoid detection, as well as keeping individual crew members at sea by transferring them between vessels. Within Thai waters, this problem is also mitigated by the requirement for vessels to cease fishing for a certain number of days per month (nine days in the Gulf of Thailand and five days in the Andaman Sea). The 12-month inspection requirement is particularly relevant to distant water vessels.



FINES & PENALTIES

Changes

The Royal Ordinance outlines a much a broader range of violations, including fishing without a license or employing undocumented workers, and establishes much higher penalties in order to create a credible deterrent. Previously, fines were set by the 1947 Fisheries Act, which were as low as THB 50 (USD \$1.40) for illegal fishing. (See Royal Ordinance Fines table)



CREW REGISTERED TO VESSELS

Changes

Crew documents, permits and licenses are only valid for work on board the vessel specified, meaning crew are unable to move between vessels without prior authorisation and amendments to the relevant crew lists.



UNDUE LOCAL INFLUENCE

Challenges

The influence of powerful regional figures is a long-running and difficult issue to address, particularly in coastal areas with an economic reliance on fishing, and one that has been identified by the DoF. In some areas, such as Samae San, powerful local figures have considerable influence over both vessel operators and officials and potentially undermine the reliability of PIPO checks.



UNDER-18 PROHIBITION

Changes

The minimum working age for employment aboard fishing vessels was increased in 2016 by the Ministerial Regulation to Designate Places of Work Prohibited from Employing Workers under the Age of 18, B.E. 2559. The updated Regulation prohibits the employment of under-18s aboard fishing vessels. The new Regulation also prohibits the employment of children under the age of 18 at all establishments related to the seafood processing industry as specified in the Royal Ordinance on Fisheries, B.E.2558, and the Factories Act, B.E.2535.

Challenges

There are considerable cultural challenges associated with child labour in Thailand, and a zero tolerance approach - particularly regarding children of 16 or 17 years old - can often create tension between the reality and the law. In many cases, particularly amongst migrant communities, older children may represent a considerable proportion of the family's income. If they don't speak the language and have already fallen behind in school, forcing them back into the education system without a consideration to support networks and loss of family income can often be counter-productive.



SANITATION

Changes

The Regulation mandates that crew are provided clean, fresh water, as well as adequate sanitation and medical standards aboard the vessel.

Challenges

The Thai fishing fleet industrialised rapidly in the 1960s, but the ready availability of cheap labour has meant operators have been reluctant to invest in new technology and vessels. The design of Thai fishing vessels dates from before a time when adequate crew quarters, cooking, sanitation and medical standards were given little consideration. This presents a significant challenge to mandates that would, in many cases, require a fundamental retrofit or redesign of the vessels, at considerable cost. Currently, many vessels continue to fail to provide adequate fresh water, sanitation, cooking and medical facilities.

*Please see Issara's Legal Brief on the rights of trafficking victims in Thailand for information on changes to the Anti-Trafficking in Persons Act (2015)

IMPLEMENTATION IN FOCUS: PIPO & AT-SEA INSPECTIONS

COMPLIANCE THROUGH VESSEL INSPECTIONS

PIPO and at-sea inspections represent the frontline for the implementation, monitoring and enforcement of the government's reforms to the fishing industry. Though there are some key differences, both initiatives are essentially concerned with ensuring compliance through vessel inspections, including paperwork and documentation, vessel condition and checks on crew.

Both inspections involve multi-disciplinary teams - including provincial-level officials from the Department of Fisheries (DoF), Marine Department, and Ministry of Labour (MoL) - overseen by the Thai Maritime Enforcement Coordinating Centre and at least 16 different elements (see below).



PIPO inspections now cover all 22 coastal provinces and require all vessels of 30 GT or above to report to the PIPO centre at the port when departing or returning. PIPO officials are then to inspect relevant documentation, equipment and fishing gears and crew details. One of the most important aspects of this check is the integrated fishing labour inspection, which should employ a standardised inspection form to indicate if the vessel is suspected of using child labour, forced labour, violence or human trafficking. If violations are found, the vessel is to be detained and prohibited from fishing. Current PIPO inspection targets are 100% of vessels 30 GT and above.

At-sea inspections serve to both recheck documentation and crew conditions following the Port Out inspection, as well as targeted inspections of suspicious vessels or activities. Current targets for at sea inspections are 10% of vessels; however, this includes artisanal vessels up to 10

GT, as well as commercial vessels 10 GT and above. According to the Government statistics, the CCCIF inspected 507 fishing vessels in Thai waters (215% of the initial 220 target) between November 2015-January 2016.

PIPO IN PRACTICE: CONTINUED CHALLENGES OF TRAFFICKING & FORCED LABOUR

Observations made by Issara and others reveal that, in practice, there are significant gaps in the implementation of reforms through PIPO and at-sea inspections. For example, while visiting ports Issara has continued to observe vessels entering, unloading and leaving port without being checked by authorities. Further, authorities in Kantang, for example, consistently failed to identify victims in need of assistance, who were later rescued by central authorities following calls to Issara's hotline.

A recent report by the Freedom Fund demonstrated significant and consistent failures of the PIPO process across a number of different provinces; in particular, the report's findings were not able to corroborate the government's claims that PIPO is capable of preventing fishing vessels "from committing any wrongdoing with their business in Thailand from now on." Inspections were observed in eight ports across five provinces, none of which included a translator or individual interviews with crew in order to ascertain their living and working conditions or whether they were in need of assistance. However, had translators been present, it is unlikely officials would be capable of undertaking meaningful interviews due to the time constraints imposed by the Royal Thai Government's 100% target for PIPO inspections. As a result, inspections largely involved cursory document checks - primarily the migrant workers' pink card - against crew lists submitted by the vessel owner or captain.

Further, despite the introduction of these inspections and their respective targets, cases of human trafficking and labour abuse continue to persist in the Thai fishing industry. Time constraints resulting from the 100% PIPO inspection target are likely to mean the majority of checks can be little more than cursory and therefore unable to identify or assist potential victims of abuse. For example, inspections observed through Freedom Fund research did not involve boarding the vessel, and some former crew reported being made to hide in order to avoid inspections. This is further underlined by the current lack of translators accompanying inspection teams and an overreliance on the veracity of worker identification cards. Without more rigorous inspection methods, including vessel boarding, better verification of identity documents and translators for safe and private crew interviews, illegal practices may remain undetected.

BOAT OWNERS' PERSPECTIVES ON THE NEW INSPECTION REGIME: COMMONLY EXPRESSED CONCERNS

- * Constantly changing regulations, taking immediate effect and so providing no time to understand or prepare
- * Lack of clear government policies, and little support or instruction from government on how to implement reforms
- * Difficult registration processes
- * High price of VMS (vessel management system) and lack of knowledge on how to use it
- * Higher administrative burdens and paperwork
- * Restriction on vessels' ability to go out to sea

IMPLICATIONS & RECOMMENDATIONS FOR BUSINESS

The impact of the new fisheries legislation in Thailand on businesses is potentially significant, from new regulations on how and where fish can be caught, administrative and traceability requirements and tightened inspection regimes, to heavier fines and new enforcement powers to close down businesses and confiscate assets. Many of these changes are in their infancy, and the true impact on Thai seafood businesses, their international customers, and the sector as a whole remain to be seen. However, if the direction of travel continues and regulations are better implemented and enforced, the industry will undergo dramatic change. Some key recommendations for businesses grappling with the new legislative changes and their implementation follow:

RECOMMENDATIONS

☑ **Know the law.** The changes to the seafood industry under the new laws are revolutionary in many ways and it is important for businesses to understand the new regulatory and legislative landscape in which they are operating. Understanding the law, particularly with regard to reporting requirements, provisions for crew, traceability, and restrictions on fishing, will help businesses to ensure they are compliant.

☑ **Make use of reporting requirements.** The levels of reporting, oversight, and traceability prescribed under the new policies are unprecedented and provide an excellent opportunity to strengthen your supplier systems.

☑ **Adopt a policy to guide suppliers.** Ensure that company policies communicate clearly what suppliers are required to do, both in compliance with Thai law and company expectations. Create a clear set of guidelines for suppliers, particularly with regard to exactly what is expected of them with regard to treatment of workers within their fleet and your supply chain.

☑ **Help your suppliers be compliant.** Much of the burden of the new regulations has fallen directly onto business owners, with little or no official guidance. Free technical support in understanding the law and the requirements for getting labour recruitment and management systems in compliance is offered to Thai businesses by the Issara Institute, for suppliers of Issara Strategic Partners. Issara's Inclusive Labour Monitoring system provides the added bonus of worker voice, which is especially valuable in this sector where audits and inspections often fail to identify forced labour and other labour risks.

CONCLUSION

One of the key challenges for businesses operating in Thailand has been the weakness of Thai law regarding labour and employment standards, which are often below the levels expected by their customers. The new legislation – particularly regarding working age for fishermen, signed contracts and working conditions – brings many aspects of Thai employment law in line with international standards. However, the scale of the changes being introduced combined with the longstanding nature of the problems present significant challenges for implementation.

New regulations addressing issues of traceability have also made considerable improvements to inspections, documentation of fishing vessels and employed crew, and reporting regimes, providing assurances that abuses are less prevalent within Thai seafood supply chains. However, again, the new regulations' success hinges on implementation and enforcement. These reforms are essential for the long-term stability and competitiveness of the industry, as well as safe and equitable jobs becoming the standard for the thousands of migrant workers in Thailand. While

legislative gaps remain, and concerns over implementation and enforcement require diligent scrutiny, the reforms represent some significant steps towards protecting workers and punishing violators. In particular, the fines and other punishments for breaking the law established by the Royal Ordinance on Fisheries B.E. 2558 (2015) provide a credible deterrent against some very common, though none the less illegal, practices within the Thai seafood sector. These changes have potentially significant impacts for international buyers and their interactions with suppliers. The new laws mean commonplace infractions previously considered relatively minor are now both explicitly illegal and carry heavy penalties, which could seriously disrupt or even close businesses.

While significant challenges remain, it is important to remember that the goal of the reforms is to improve conditions for workers in the sector, help to restore Thailand's depleted fish stocks, and ultimately to make the industry more safe, sustainable and profitable in the long term. These improvements will require buy-in and dedication from all actors working together.

ISSARA MEANS **FREEDOM** | www.issarainstitute.org



Issara Institute is an independent U.S. not-for-profit corporation based in Thailand, Myanmar, and the United States tackling issues of trafficking and forced labour through data, technology, partnership, and innovation. People—including worker voice and feedback—are at the center of Issara's data and intelligence work, and at Issara Labs we conduct a wide range of research, analytics, and technology development related to human trafficking in global supply chains—the people, the policies, the impact, and how to eliminate it.





ISSARA
INSTITUTE

WWW.ISSARAINSTITUTE.ORG