



Revisiting the draft of Thailand's Fisheries Act: A critical assessment of legislative developments and the rollbacks

25th December 2024

Disclaimer:

This analysis of Thailand's Fisheries Act and its development process is based on information available from the Parliamentary Drafting Committee, relevant stakeholders, and publicly accessible legislative records. It is important to note that this analysis is not an exhaustive legal interpretation of the Fisheries Act. While every effort has been made to ensure accuracy, the analysis does not cover every aspect of the Act's provisions or its potential legal implications. This document should not be treated as a comprehensive legal guide or substitute for expert legal consultation.

This analysis focuses on the Thai commercial fishing sector, encompassing commercial fishing practices, seafood processing, environmental considerations, and labour-related issues. Artisanal fisheries are not necessarily covered in this report and EJF recommends addressing the unique concerns of artisanal fishing associations through meaningful consultations and policy discussions.

The complexities of the Fisheries Act, including its intersection with other domestic laws, international treaties, and sector-specific regulations, require ongoing interpretation by legal professionals and authorities as the legislative environment evolves. Therefore, readers are encouraged to consult updated legal sources and seek independent legal advice when engaging with the provisions of the Act or related matters.

Executive summary:

This analysis provides a critical assessment of recent legislative developments in the drafting of Thailand's new Fisheries Act, focusing on the legislative process, influential stakeholders, and the implications of the proposed rollbacks contained therein. As one of the world's major seafood exporters, Thailand has faced intense international scrutiny to regulate its fishing industry in line with sustainable, legal, and ethical standards as well as transparent practices for both environmental and labour aspects. The current drafting process has exposed significant regulatory issues with the proposed rollbacks, primarily driven by elements of the commercial fishing sector seeking widespread deregulation of the industry.

The proposed rollbacks have drawn criticism from multiple stakeholders including Thai civil society, academia, government agencies and the international community. They have also sparked significant concern amongst global seafood buyers, government bodies and institutions. Without robust safeguards, the rollbacks risk undoing years of progressive fisheries reform progress whilst also once again tarnishing Thailand's global seafood market credentials. Key rollbacks contained within the current Fisheries Act draft include:

- Remove labour safeguards for seafood processing sector (Art. 10/1, 11, 11/1)
- Permission of purse seines with small mesh sizes lured by light generators at night (Art. 69)
- Re-authorise at-sea trans-shipment (Art. 85)

With various contentious provisions still unresolved and no substantial improvements expected as the legislation enters the Senate process, the proposed draft suggests a missed opportunity to align Thailand's fisheries sector with global norms on sustainability, legality, and human rights.

This analysis highlights the potential long-term ramifications of the Act (in its current form) and underscores the need for a firm commitment from the Royal Thai Government (RTG) to reform Thailand's fisheries industry. Without a decisive course correction, Thailand risks eroding its standing in the global market whilst facilitating the expedited degradation of its marine resources and human rights in the fishing sector.

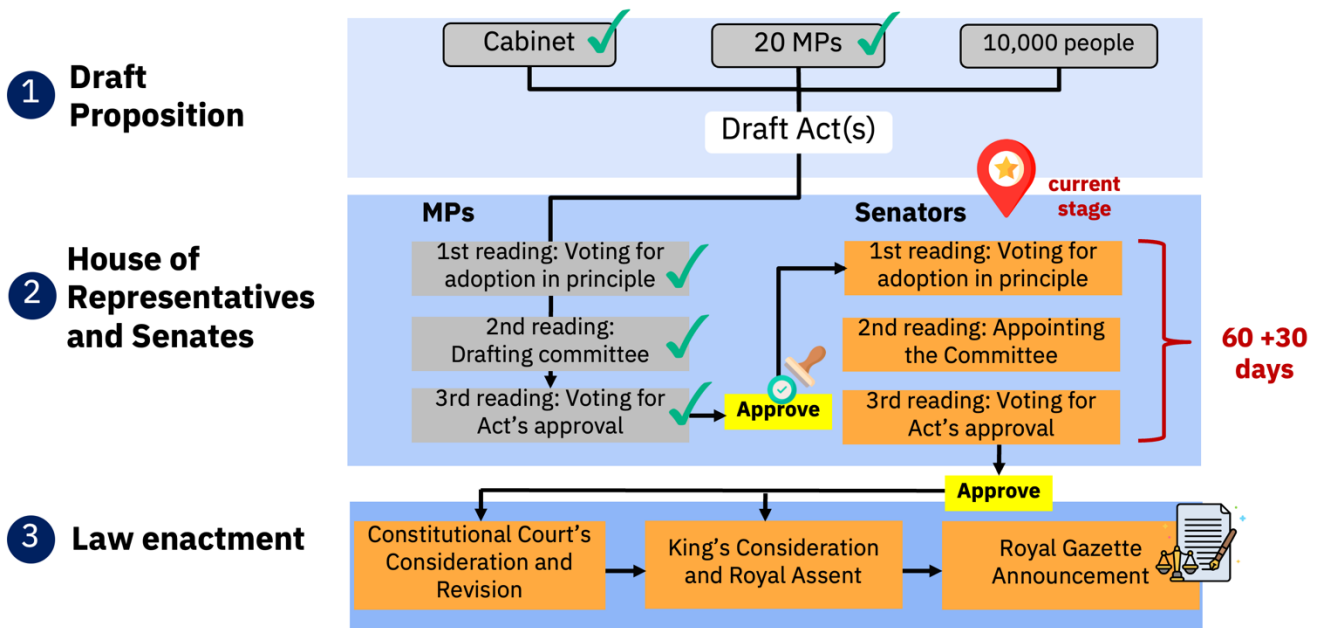
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Introduction:

Since February 2024, a Parliamentary Drafting Committee (PDC)¹ has deliberated on eight new Fisheries Act drafts proposed by different political parties.² Rollbacks on several transparency measures and damaging new proposals included in these drafts—strongly supported by the commercial fishing sector—threaten many of the progressive fisheries and labour reforms introduced since 2015.³ Several of these were instrumental in removing the European Commission’s yellow card warning and upgrading the US Department of State’s Trafficking in Persons Report ranking.

As of December 2024, the PDC finalised the consolidation of the draft Act (hereafter referred to as the Committee Draft). The Draft was then debated (Second parliamentary reading) and approved (Third reading) by Parliamentary MPs on the 25th December 2024. The bill was approved with 366 votes out of 368, with 2 abstentions and no opposing votes.⁴ It is scheduled for consideration by the Senate Committee in early January 2025.



Legislative process according to the 2017 Constitution (B.E. 2560).

The current stage is as of December 25st, 2024.

Based on EJF’s updated analysis, the latest version of the Committee Draft still contains **at least three concerning Articles**. These Articles will increase the risks of IUU fishing, human trafficking and forced labour going undetected onboard fishing vessels. Additionally, they will compromise the rights and safety of migrant fishers and will pose a threat to marine ecosystems. If fully enacted, these changes would reduce transparency and accountability across the industry whilst severely restricting law enforcement and government agency monitoring and enforcement capabilities to detect these crimes. They would also threaten Thailand’s seafood exports valued at 172 billion baht (US\$ 5.4 billion) in 2021.

Methodology:

This briefing presents a comprehensive analysis of the Committee Draft, focusing on environmental and human rights issues relevant to current legislative and policy developments as of December 2024. It examines the status of these provisions, identifying key challenges, recent advancements, and critical areas that demand attention. This document serves as a follow-up to the *Briefing on Thailand's Fisheries Legislation Developments* published in March 2024 by a coalition of 16 civil society organisations and labour unions. Readers should refer to that briefing for foundational context.

In this analysis, the Fisheries Act B.E. 2558 (2015) and amended Act B.E. 2560 (2017) will serve as the baseline for comparison against the Committee Draft.

EJF's analysis focuses on fishing industry reforms since 2015 and the 2023-2024 political transition to assess the Act's intended purpose, particularly regarding the commercial fishing sector's role in the existing legal framework. The Committee Draft is compared to current legislation to identify inconsistencies and conflicts, and benchmarked against relevant international norms (e.g., ILO standards, UN Conventions) to assess compliance and alignment. The analysis also reviews the Act's language for clarity, legal certainty, and interpretability, with attention to potential judicial challenges or gaps in enforceability.

Where relevant, judicial interpretations will reference rulings from the Supreme Court of Thailand to illustrate possible interpretations. In Thailand's civil law system, Supreme Court rulings provide critical guidance on statutory application, particularly in complex or ambiguous cases. EJF will reference Supreme Court decisions as needed to ensure alignment with legal precedents that may affect the Committee Draft.

This document also incorporates insights from the PDC's minutes, as available on the Parliament website, stakeholders consultations and publicly accessible legislative records. It is important to note that this analysis is not an exhaustive legal interpretation of the Fisheries Act, and the provisions discussed may be subject to change as the legislative process continues. While every effort has been made to ensure accuracy, the analysis does not cover every aspect of the Act's provisions or their potential legal implications.

This document was prepared by EJF's research team in collaboration with a legal expert specialising in labour issues within Thailand's fishing industry. The team analysed the Committee Draft provided by the PDC, identifying the most concerning Articles and comparing these with the current Fisheries Act to highlight similarities, differences, and areas of concern. EJF also engaged in consultations and focus group discussions with artisanal fishing associations and labour organisations to capture stakeholder perspectives on the Act's most contentious provisions.

Concerns about the legislative process:

The drafting process has been criticised for its limited transparency and insufficient engagement with civil society, environmental organisations and labour rights advocates, raising concerns about the inclusivity of the process. Artisanal fishers have been largely excluded, despite their livelihoods being directly impacted by the Act. Migrant fishers, who make up most of Thailand's commercial fishing workforce, have had minimal opportunity to participate, despite facing significant challenges such as exploitation and trafficking risks.

Despite the Cabinet draft passing the Parliament's First Reading and fulfilling constitutional requirements, it lacked input from important stakeholders, specifically seafood industry representatives and civil society organisations focused on environmental and labour rights. The public hearing process was not carried out in a meaningful and inclusive manner with the draft posted on the Council of State's online portal during the New Year holiday without any proactive efforts from government agencies to encourage public participation.⁵ The absence of civil society (CSO) representatives in the PDC working on IUU fishing and safeguarding sustainable marine resources, stands in stark contrast to this principle of public participation.

Powerful industry stakeholders, such as the National Fisheries Association of Thailand (NFAT)⁶, have exerted considerable influence over the drafting, raising concerns that industry interests are being disproportionately prioritised over sustainability concerns or labour protections.

Additionally, the establishment of bodies like the Thai Senate Sub-Committee on Fisheries Act Studies in October has raised concerns about potential conflicts of interest between their members. A large proportion of this Sub-Committee are either directly or indirectly linked to commercial fisheries interests. As the Committee Draft progresses through the Senate, stakeholders are concerned that critical gaps may go unresolved and previously addressed concerns may be resurfaced. Please see page 23 for a full analysis of the Senate drafting process.



Artisanal fishers gathered to express concerns against the Committee Draft while the House of Representatives was engaged in the Second and Third Readings at the Parliament on 25 December 2024.⁷

In failing to incorporate the voices of artisanal fishers, migrant workers and other local stakeholders, the Committee Act risks further centralising power among fishing industry leaders whilst eroding community-led resource management efforts. Without genuine public participation, Thailand’s future Fisheries Act is likely to undermine both environmental sustainability and social equity. A participatory approach could promote regulations that are not only ecologically responsible but also economically and socially just, aligning with international norms on sustainable development and community rights.

Summary of concerning Articles and their current status:

The initial assessment of Thailand’s fisheries rollbacks, conducted by a coalition of 16 civil society organisations and labour unions and titled “Briefing on Thailand’s Fisheries Legislation Developments,” was published in March 2024. The briefing identified 18 particularly controversial articles covering illegal fishing regulations, reductions to transparency measures, and a decline in labour protections.⁸

As of the 25th December 2024, EJF has identified that **at least 15/18 of these Articles had tentatively been removed from the Committee Draft**, as shown below. These removals are considered "tentative" because the draft still must undergo review by a Senate Drafting Committee and is subject to a final parliamentary vote before any text can be deemed final. Below are the details of the current text for each of the 18 Articles along with their tentative status.

Key concerning amendments (Article No. as referenced in the existing RO)	Current status	Remark
Art. 4(9): Remove legislative intent of the Act to protect workers in the fisheries sector	Removed	The final draft retains the crucial legislative intent of the Act to protect workers in the fisheries sector. The same legislative intent of worker protection now is on the final draft Art.4(8/2)
Art. 8: Revoke long-arm jurisdiction for Thais engaged in IUU activities overseas	Removed	Removed since the Council of State's review process of the Cabinet draft.
Art. 10/1, 11, 11/1: Remove labour safeguards for seafood processing sector	Remains in the draft	The Committee voted to remove these safeguards from the draft, citing concerns about duplication with other existing Acts. However, new investigations by EJF reveal how the removal of these Articles will have a devastating impact on migrant labour protections against both forced/child labour as well as undocumented workers in seafood processing facilities. Notably, no other legislation currently enables for the immediate suspension or revocation of seafood processor licences in cases of child labour exploitation.
Art. 14: Lack of inclusive representation in the National Fisheries Board	Removed	Included representatives from artisanal fishers and academia with a clearer definition

Art. 48: Relaxation of distant water fleet controls	Removed	The final draft withdraws the proposal for the relaxation of distant water fleet controls
Art. 66: Relaxation on rare animal landings on fishing vessels	Removed	Added the term “hunting” alongside “catching” - strengthening the regulation
Art. 67: De-regulate destructive gears (Bottom trawlers)	Removed	'Trawler(s) (with specific mesh sizes)' is back on the list of prohibited fishing gears
Art. 81(1): Real-time location from VMS not required	Removed	7/8 drafts proposed this amendment (except Ruam Thai Sang Chart Party). The Committee chose to retain the same text as the existing RO
Art. 81(2): Real time logbook not required	Removed	6/8 drafts proposed this amendment (except Ruam Thai Sang Chart Party and Democrat Party). The Committee chose to retain the same text as the existing RO
Art. 82: Crew list not required before port out	Removed	Voted to retain the crew list requirement before vessels leave port
Art. 83: Seaman book for migrant fishers not required	Removed	Voted to retain the seaman book requirement for migrant fishers
Art. 83/1) Re-authorise at-sea crew transfers	Removed	Retained the same text as in the existing RO
Art. 85/1: Re-authorise at-sea trans-shipment	Remains in the draft	<p>The Committee has voted to allow at-sea trans-shipment for general fishing vessels <u>under specific conditions</u>, requiring them to register as trans-shipment vessels according to the DG's requirements. Only vessels that port out and notify through the PIPO system can conduct trans-shipment operations.</p> <p>However, EJF maintains that allowing any fishing vessel to register for trans-shipment poses significant monitoring and enforcement challenges. The resulting risks to supply chain traceability far outweigh the economic benefits for vessel operators.</p>
Art. 87-89: Relaxation on support vessel monitoring	Removed	Retained the same text as in the existing RO
Art. 92, 96: Relaxation of Port State Measures	Removed	Retained the same text as in the existing RO
Art. 97: Limitations of import seafood from neighbouring countries	Removed	Retained the same text as in the existing RO
Art. 114: Revocation of serious infringement status for IUU fishing infractions	Removed	The final draft contains all the same 14 serious infringements (incl. illegal at-sea catch trans-shipment, falsifying or concealing identification marks, and participating in illegal fishing in foreign countries) while a number of provisions are paraphrased.
Annex) “Fees” scheme for imported seafood	Remains in the draft	Remains in draft however, significant reduction of fees from proposed 20 THB/KG to 0.10 - 0.50 THB/KG of imported seafood into Thailand.
<i>Additional concern separate to the Fisheries Act drafting process: Young apprenticeship (16+ yr olds) schemes for fishing vessels</i>	<i>Pending</i>	<i>The Dept. of Fisheries has recently resumed the consideration of a draft Department Notification that would allow for young apprenticeship (16+ yr olds) schemes for Thai domestic fishing vessels.</i>

Remaining concerned Articles in the Committee Draft:

1. Weakening labour protections and increasing risks for child labour in supply chains

a) Remove labour safeguards for seafood processing sector (Art. 10/1, 11, 11/1 of the RO)

Articles 10/1, 11, and 11/1 of the RO were crucial for safeguarding workers' rights and helped to establish high standards for labour protection mechanisms in the seafood processing industry. The PDC's decision to repeal these three key Articles poses significant risks to labour protections, particularly in eradicating child labour in shrimp processing facilities. For context, Thai shrimp products were delisted from the US Dept. of Labor's List of Products Produced by Forced or Indentured Child Labor (E.O. List) in September 2024⁹:

- Article 10/1 mandates licensing and qualification requirements for seafood processors. Its removal would weaken these standards, allowing operators to bypass stringent safety, labour, and ethical criteria, increasing the risk of non-compliance and exploitation in the industry.
- Article 11 prohibits factory operators from employing foreign workers without a valid work permit, with violations leading to suspensions and escalating penalties, including factory closure for repeated offences.
- Article 11/1 enforces penalties for violations of child labour protections, particularly regarding minimum age requirements and unlawful security deposits, with suspensions or closures for repeat violations.

Implications:

Factories under the Royal Ordinance are businesses involved in the processing of aquatic animals, classified as related fishing activities. Most of these businesses are located near fish markets or fishing ports. Therefore, the workforce in these related fishing businesses often includes individuals directly connected to fisheries workers, such as family members of fishers.

In the past, labour rights violations in these related fishing businesses were common.¹⁰ Most workers in these businesses were often employed informally, with wages paid on a piece-rate basis and employment offered only when needed. As a result, workers faced issues such as wages below the legal minimum, long working hours, and lack of registration as required by law.

The repeal of three key Articles directly undermines efforts to combat child labour and protect vulnerable workers in this high-risk environment. Unlike the broader labour regulations that apply across various industries, the specific safeguards in the RO were designed to address the distinct challenges faced by seafood processing facilities. These included provisions that mandated stricter oversight and accountability measures tailored to the realities of the sector, thus ensuring that violations could be promptly addressed and that offenders could face immediate repercussions. These Articles gave the authorities the powers to immediately suspend processing facility licenses, even during the initial investigation process.

While the PDC argues that these Articles are redundant - as other regulations already apply to seafood processors - EJF's analysis shows that the RO is the only law offering comprehensive labour protection mechanisms in the processing business. **No** other legislation currently allows for the immediate suspension or revocation of seafood processor licences in cases of child labour exploitation by deploying administrative measures. The Factory Act B.E. 2535 (1992) does have a provision to suspend licenses, but this process is slow and can take many months, all whilst the factory can continue operating as usual. Along similar lines, there are no such measures available in the Labour Protection Act either.

In this sense, both the Factory Act and the Labour Protection Act are not an adequate substitute for labour protections in the seafood processing sector. While the Factory Act focuses on general workplace health and safety standards applicable across various manufacturing industries, it lacks the specific provisions needed to address the distinct challenges of seafood processing. Additionally, the Factory Act's enforcement mechanisms are not sufficient to handle the rapid developments and oversight requirements of seafood processing.

BOX I: Risk of Thai seafood being relisted due to the removal of stringent regulations on labour protection

Since 2009, Thai shrimp has been listed on the U.S. Department of Labor's (DoL) annual "List of Goods Produced by Child Labor or Forced Labor (TVPPRA List)" and List of Products Produced by Forced or Indentured Child Labor (E.O. List).¹¹ This, along with the threat of seafood boycotts and increased global pressure in 2015-2016, brought attention to the Thai shrimp industry. International media investigations exposed human trafficking, forced labour, and violence in the industry, as well as enforcement gaps in shrimp pre-processing facilities, or "shrimp sheds," where labour protections and safety laws were lacking.¹²

In response to this pressure, the Thai Frozen Foods Association (TFFA) ended outsourcing to external shrimp pre-processing facilities across its members' supply chains, backed by major shrimp companies to ensure strict supervision of production.

The RTG also implemented stringent fisheries reform, including the ratification of the ILO's Maritime Labour Convention in 2016¹³ and the Work in Fishing Convention¹⁴ in 2019. Several important regulations were enacted, such as the Ministerial Regulation Prohibiting Children in Seafood Processing¹⁵ and the Royal Ordinance on Fisheries, which introduced stringent requirements and penalties for processing factories to protect labour rights as outlined in Articles 10/1, 11, and 11/1 of the RO (See page 11-12 for further details).

These incremental reforms to the industry played a crucial role in the DoL's recent decision in September 2024 to remove Thai shrimp from the TVPPRA and EO list under the child labour category.¹⁶ The DoL report highlighted the RTG's efforts to improve traceability in aquatic resource management, as well as revisions to the Labor Protection Act of 1998 and the Royal Ordinance on Foreign Worker Management (No. 2), which have significantly reduced incidents of forced child labour in shrimp processing.¹⁷

Attempts to undermine these specific regulations aimed at preventing forced and child labour in the processing sector pose a serious risk of a rapid reversal by the DoL, potentially leading to Thai shrimp or other seafood being relisted.

BOX II: Principle of special law repeals general laws: Supreme Court's ruling No. 6661/B.E. 2561 (2018)

In Supreme Court Judgment No. 6661/2561 (2018)¹⁸, the Court examined the case by Ranong Provincial Prosecutor as the plaintiff on the applicability of Fisheries Act B.E. 2558, Article 11 and Labour Protection Act B.E. 2541, Article 45 to determine whether these statutes conflicted in their regulatory scope over fisheries-related labour practices. The Court's ruling upheld the distinct yet complementary roles of these statutes, finding the defendant, Trapsampao Fisheries Company Limited, liable under both the Fisheries Act and the Labour Protection Act for the employment of undocumented migrant workers in a seafood processing facility.

- Dispute: Employment of undocumented migrant workers in a seafood processing facility
- Special law: Fisheries Act B.E. 2558, Article 11
- General law: Labour Protection Act B.E. 2541, Article 45

This judgement exemplifies the Supreme Court's application of the 'lex specialis derogat legi generali principle', which prioritises specialised laws over general laws within specific sectors. In this case, the Fisheries Act served as the specialised law in governing fisheries management and employment practices specific to the fishing. In contrast, the Labour Protection Act acted as the general law, establishing broad employment rights across all sectors, including fishing, without industry-specific provisions. This dual application underscores that compliance with sector-specific regulations does not exempt industries from adhering to universal labour standards.

The court's decision affirmed that the Fisheries Act and Labour Protection Act serve complimentary, non-conflicting roles, with the former addressing industry-specific compliance and the latter ensuring baseline workers' rights. This reinforces a harmonised legal structure where specialised and general labour laws operate concurrently, supporting an integrated framework of accountability across industries.

b) Permitting child labour on Thai fishing vessels

In March 2022, the Ministry of Labour (MoL) implemented a new Ministerial Regulation known as the Labour Protection in Sea Fishery Work Regulation B.E. 2565 (2022), which would allow individuals aged 16 to 18 to take on apprenticeship roles aboard fishing vessels. It was designed to address labour shortages across the commercial fishing sector. This Regulation stipulates that each commercial vessel may employ one apprentice, provided that the apprentice is a relative of the vessel's owner or captain, works solely during daylight hours, and possess a relevant training certificate.¹⁹ In August 2024, the DoF was assigned the task of re-evaluating the feasibility of this Ministerial Regulation, spurring concerns that the RTG plans its imminent rollout.²⁰

In its current form, the Ministerial Regulation is at odds with Thailand's commitment to child protection and contravenes ILO Convention No.138 (Minimum Age Convention) and No. 182 (Worst Forms of Child Labour) - Both of which Thailand has ratified.²¹ Additionally, in 2022 the Thai National Committee for the Eradication of the Worst Forms of Child Labour designated fisheries as one of the 'worst forms of work for children'. Continuing to endorse and develop this Regulation in its current state would pose a serious threat to Thailand's reputation as a leader in ethical seafood practices.

Numerous global brands, particularly those operating in the European Union and the United States, have Codes of Conduct that expressly prohibit the employment of individuals under the age of 18 within their supply chains.²² Recent international attention to the issues of child labour and forced labour in the Thai fishing sector identified through the TVPRA listing of Thai fishmeal and derivate products should also raise concerns about systemic issues within the fisheries sector which require urgent attention.²³

Instead of facilitating entry into this perilous occupation for young apprentices, the RTG should focus on implementing robust protections for children and young people, ensuring that they are not placed in situations that compromise their health and safety. The most effective means of addressing the current labour shortage in the fishing industry would be to improve existing living and working conditions onboard Thai fishing vessels, expand labour protections and worker rights through robust implementation of contracts and training, and tackle the pervasive cycle of exploitation across the commercial fishing sector (See next section). Only by making the fishing sector a safer and more viable employment opportunity will the shortages be reduced.

2. Re-authorise at-sea trans-shipment (Art. 85/1)

The PDC has concluded to relax restrictions on the practice of at-sea trans-shipment. The PDC suggests granting authority to the Director General (DG) of the DoF to specify the criteria and procedures for obtaining permission for at-sea trans-shipment instead. It is noteworthy that this permission extends not only to registered seafood trans-shipment vessels but also to **any** fishing vessels compliant with the DG's directives.

According to the DoF's statement²⁴, under current regulations, trans-shipment is restricted to vessels that are specifically registered as trans-shipment vessels. Thus, the motivation of this amendment is to alleviate the costs to fishers that this imposes by allowing any fishing vessel to register as a trans-shipment vessel.

Implications:

The removal of restrictions on at-sea trans-shipment has been one of the key proposals consistently advocated for by the NFAT. The Thai authorities had banned this practice in 2016 due to its potential to facilitate the mixing of illegally caught fish with legally sourced seafood – undermining traceability and hampering efforts in fisheries management and enforcement. Reauthorising at-sea trans-shipment would significantly hinder the ability of regulatory agencies to monitor seafood supply chains, detect indicators of IUU fishing, and oversee the living and working conditions of crew members.

EJF has identified at-sea trans-shipment as a major contributor to both IUU fishing and labour exploitation at sea. Our research on distant water fisheries revealed that nearly 30% of vessels involved in at-sea trans-shipment were engaged in IUU fishing, compared to just 18% for those that did not trans-ship.²⁵

By opening up registration of trans-shipment vessels to any fishing vessel, it creates a significant, if not impossible, monitoring and enforcement challenge. While there is an attempt to establish the rules and procedures for trans-shipment permissions through subordinate regulations under

DG’s authority. EJF maintains that the supply chain traceability risks that come with this relaxation far outweigh the economic benefits for vessel operators. The re-introduction would also contradict the ethical commitments of major seafood corporations, including the Seafood Task Force,²⁶ Thai Union,²⁷ Nestlé,²⁸ and Mars Petcare,²⁹ whose Codes of Conduct prioritise transparency and responsible sourcing.

Royal Ordinance on Fisheries	Committee Draft
<p>Art. 85/1: <i>“No person shall use a fishing vessel to transship aquatic animals except where the vessel is registered as a trans-shipment vessel.</i></p> <p><i>The provisions of Article 39 shall apply to registered transshipment vessels mutatis mutandis.³⁰”</i></p> <p>Art. 87: <i>“No trans-shipment of aquatic animals shall be made at sea with the exception of a trans-shipment onto a fishing vessel registered as a carrier for the trans-shipment of aquatic animals...”</i></p>	<p>Art. 85/1: <i>“No person shall use a fishing vessel to transship aquatic animals except where the vessel is registered as a trans-shipment vessel <u>by the DG and</u> provisions of Article 39 shall apply to registered transshipment mutatis mutandis.</i></p> <p><u><i>The criteria, procedures, and conditions for registration as a trans-shipment vessel for aquatic animals shall be as specified in the DG’s announcement.</i></u></p> <p>Art. 87: No revision</p>

3. Weakening penalties aimed at deterring IUU fishing

While there are positive developments in the penalty provisions—such as the PDC's decision to reinstate the proportional fine system and categorise offences based on the scale of violations and vessel sizes—the Committee Draft still proposes eliminating imprisonment as a punishment for IUU fishing. This includes offences involving distant water fishing (DWF) fleets, without providing a clear rationale. Additionally, there is a significant reduction in fines for most offences: the minimum fine has been halved and the maximum fine has decreased by 90%. These changes ultimately weaken the deterrent effect and make the issuance of fines less equitable, as they fail to account for the varying severity of cases.

Previously, violations such as failure to request a licence (Article 48), non-compliance with coastal states’ rules or regional fisheries management organisation (RFMO) regulations (Article 49), DWF vessels engaging in fishing operations in Thai waters without a licence (Article 52) could result in fines ranging from 200,000 to 30 million baht (approximately US\$ 5,715 to 857,145), based on vessel size. However, under the Committee Draft (Article 123), fines for these offences have been reduced to 10,000 to 1 million baht (approximately US\$ 289 to 28,571), representing a **50-97%** decrease.

Currently, the Fisheries Act imposes imprisonment for only a few select violations, i.e. employing of child workers in seafood processing facilities, relying mainly on fines. However, in practice,

these fines are often reduced by the courts or even result in case suspensions, weakening the law's deterrent effect. This leniency has already raised concerns about the Act's effectiveness in encouraging compliance. Removing imprisonment penalties entirely would only further undermine the law's authority, signalling a diminished commitment to combating IUU fishing and safeguarding sustainable practices in the fishing industry.

BOX III: Suspended fine for illegal fishing with serious infringement: Supreme Court's ruling No. 2693/ B.E. 2566(2023)

In Supreme Court Judgment No. 2693/2566 (2023)³¹, the ruling exemplified a gap between the severity of unlicensed commercial fishing offences as a serious infringement, as outlined in Article 114(2) of the Fisheries Act B.E. 2558 (2015), and the penalties actually enforced. NFAT usually argues that the penalties for such serious violations are disproportionately high, given that defendants are often subject to both significant fines and vessel confiscation. However, in this case, the court found the defendants guilty of commercial fishing with a beam trawl net without a licence—an activity considered a grave offence under the law—yet it only imposed a suspended fine of 55,000 baht and vessel confiscation, with no additional incarceration.

This ruling suggests NFAT's claims are false in two main areas. First, the claim that the penalties are excessive does not align with the outcome: the fine was not only modest but also suspended, indicating minimal immediate financial consequence for the defendants. This outcome undermines NFAT's stance by demonstrating that, rather than excessive punishment, enforcement has been largely ineffectual in achieving deterrence. The absence of further penalties or jail time may suggest that the current prosecutorial approach does not sufficiently incentivise compliance with the Fisheries Act.

Moreover, the ruling sends a mixed message to the fishing industry. While NFAT asserts that high penalties are intended to underscore the gravity of illegal fishing operations, this outcome may signal that violations could result in lenient, non-punitive outcomes. For NFAT, this case may highlight a need to reassess both the argument of "too high" penalties and the approach to prosecution to ensure that penalties are both fair and sufficient to deter illegal fishing activities. This way, the regulatory framework can more effectively uphold the Fisheries Act's intended environmental and economic protections.

4. Annex "Fees" scheme for imported seafood

The proposal to impose an import fee of 20 baht/kg (approximately US\$ 0.59) on aquatic animals or seafood products imported into Thailand has been reviewed in several sessions of the PDC, as well as in discussions with various seafood associations in Thailand. The final decision was to retain this fee scheme but reducing the fee to 0.10 - 0.50 baht/kg (approximately US\$ 0.003 - 0.015), with a maximum total fee capped at 50,000 baht (approximately US\$ 1,482). This fee will follow a progressive rate based on the volume of imported products.³²

Royal Ordinance on Fisheries	Committee Draft
<p>Annex: “Fee rates ... (3) A permit for the importation or exportation of aquatic animals or aquatic products charged at 500 baht per permit ...”</p>	<p>Annex: “Fee rates ... (3) A permit for the importation or exportation of aquatic animals or aquatic products charged at 500 baht per permit (3/1) A permit for the importation of aquatic animals or aquatic products, charged as follows; (a) For a quantity of animals not exceeding 1,000 kilograms, 500 baht per permit. (b) For a quantity of animals exceeding 1,000 kilograms but not over 30,000 kilograms, 1,500 baht per permit. (c) For a quantity of animals exceeding 30,000 kilograms but not over 100,000 kilograms, 5,000 baht per permit. (d) For a quantity of animals exceeding 100,000 kilograms but not over 200,000 kilograms, 10,000 baht per permit. (e) For a quantity of animals exceeding 200,000 kilograms but not over 500,000 kilograms, 25,000 baht per permit. (f) For a quantity of animals exceeding 500,000 kilograms, 50,000 baht per permit. ...”</p>

Concerning Articles that have been removed from the Committee Draft:

During the process of reviewing and amending the RO, the PDC provisionally agreed to revoke 15 out of the 18 concerning Articles that were flagged by EJF and CSOs as areas of concern. However, it is important to note that several stages remain in the legislative process. The Committee Draft will next undergo review by a Senate Drafting Committee, where additional critiques may be considered, potentially altering some of the recent amendments. For more information, refer to the section “Conflict of interest in the establishment of the Thai Senate Sub-Committee on Fisheries Act Studies”.

The following section provides the current text of the Articles that was approved by the House of Representatives as of December 25th, 2024. The text of the Articles below reflects the most recent version accessible to EJF at the time of writing:

1. Remove legislative intent of the Act to protect workers in the fisheries sector (Art. 4 (9)):

The PDC has decided to retain the legislative intent for worker protection in the Committee draft, ensuring that labour safeguards remain in place for workers in the fisheries sector. The specific provision on labour protection is now located in Article 4(8/2) of the Committee Draft.

Article 4 of the Royal Ordinance outlines the legislative intent, emphasizing the Act’s commitment to addressing labour issues within the sector. Although this article may not have an

immediate regulatory or policy function, it enshrines the core priorities and purpose of the Act. The decision to maintain this provision underscores the Fisheries Act’s significance, not only in managing fisheries and combating IUU fishing but also in protecting labour within the sector and improving the working and living conditions for workers.

This article is also crucial for the proper interpretation of laws by the courts. By retaining this essential component, the Act will provide a protective framework for workers and contribute to the judiciary’s ability to apply the law in alignment with its legislative purpose.

Royal Ordinance on Fisheries	Committee Draft
<p>Art. 4: <i>The provisions of this Royal Ordinance aim to reorganise fisheries in Thailand and in waters at large with a view to preventing IUU fishing in order to preserve aquatic animal resources as a sustainable source of food for humanity and preserve the environment in an appropriate state along the line of approaches, criteria and standards recognised internationally, as well as to protect the welfare of seamen and prevent all forms of forced labour in the fisheries sector, with due regard to the following objectives:</i></p> <p><i>(1) to achieve good governance in the management and conservation of aquatic resources and the fisheries sector, and ensuring that complete and accurate data thereof are collected;</i></p> <p><i>(2) to protect special interests of artisanal fisheries and local fisheries communities;</i></p>	<p>Art. 4: <i>The provisions of this Royal Ordinance aim to promote, support, and reorganise fisheries in Thailand and in waters at large with a view to preventing IUU fishing in order to preserve aquatic animal resources as a sustainable source of food for humanity and preserve the environment in an appropriate state along the line of approaches, criteria and standards recognised internationally, as well as to protect the welfare of seamen and prevent all forms of forced labour in the fisheries sector, and to protect the livelihoods of those engaged in fisheries and related activities, while also conserving aquatic resources as a food source for humanity and ensuring their sustainable economic use. It aims to foster public participation in conserving, maintaining, restoring, and protecting the environment in a suitable condition. Additionally, it seeks to prevent illegal, unreported, and unregulated (IUU) fishing in accordance with internationally accepted standards and practices for fisheries, with due regard to the following objectives:</i></p> <p><i>(1) to achieve good governance in the management and conservation of aquatic resources and the fisheries sector, and ensuring that complete and accurate data thereof are collected;</i></p> <p><i>(2) to protect special interests of artisanal fisheries and local fisheries communities, assist, and support fishing by all possible means, in</i></p>

<p>(3) to fulfil Thailand's international obligations with regard to the conservation and management of aquatic resources;</p> <p>(4) to provide effective means for preventing, deterring and eliminating IUU fishing, as well as unlawful labour practices in the fisheries sector.</p> <p>(5) use of best available scientific evidence to achieve long-term economic, social and environmental sustainability, in line with the ecosystem based approach and precautionary approach, to ensure that fisheries resources are maintained or restored to a level that can produce the maximum sustainable yield;</p> <p>(6) prevent and eliminate overfishing and overcapacity and ensure that the level of fishing effort does not undermine the sustainability of fisheries resources;</p> <p>(7) implementation of systematic measures for the application of this Royal Ordinance;</p> <p>(8) cooperation with other states, private agencies, as well as international organisations, with a view to achieving the objectives under this Royal Ordinance;</p> <p>(9) to protect the well-being in working for workers in the fishing industry;</p> <p>(10) ensuring effective monitoring, surveillance and control of fishing activities;</p>	<p><i>harmony with diverse ways of life, in order to achieve sustainable fishing practices;</i></p> <p>(3) to fulfil Thailand's international obligations with regard to the conservation and management of aquatic resources <i>within Thai waters and any other waters where Thailand holds authority under relevant agreements, ensuring sustainability and maximum benefit;</i></p> <p>(4) to provide effective means for preventing, deterring and eliminating IUU fishing, as well as unlawful labour practices in the fisheries sector <i>conducted intentionally by both Thai and foreign fishing vessels.</i></p> <p>(5) to conduct, surveys, research, and use of best available scientific evidence to achieve long-term economic, social and environmental sustainability, <i>manage aquatic resources in Thai waters,</i> in line with the ecosystem based approach and precautionary approach, to ensure that fisheries resources are maintained or restored to a level that can produce the maximum sustainable yield;</p> <p>(6) prevent and eliminate overfishing and overcapacity and ensure that the level of fishing effort does not undermine the sustainability of fisheries resources;</p> <p>(7) implementation of systematic measures for the application of this Royal Ordinance and <i>fit with Thailand's context;</i></p> <p>(8) cooperation with other states, private agencies, as well as international organisations, with a view to achieving the objectives under this Royal Ordinance; <i>to establish fishing rights in Thai waters and promote sustainable fishing practices within these waters.</i></p> <p>(8/1) <i>to establish measures and policies for aquaculture to support and promote production, development, and distribution, as well as to protect and safeguard the country's fisheries products to ensure competitiveness in the international trade arena.</i></p> <p>(8/2) <i>to protect the well-being in working for workers in the fishing industry</i></p> <p>(9) to protect the well-being in working for workers in the fishing industry; <i>to promote cooperation with other states, the private sector,</i></p>
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<p><i>(11) implementation of an effective traceability system from fishing operations to ultimate consumers;</i></p> <p><i>(12) imposing proportional and deterrent administrative and criminal sanctions.</i></p>	<p><i>and international organizations to achieve the objectives outlined in this Royal Ordinance.</i></p> <p><i>(10) ensuring effective monitoring, surveillance and control of fishing activities; to promote fishing outside Thai waters in accordance with international agreements and obligations.</i></p> <p><i>(11) implementation of an effective traceability system from fishing operations to ultimate consumers; ensuring effective monitoring, surveillance and control of fishing activities;</i></p> <p><i>(12) imposing proportional and deterrent administrative and criminal sanctions.</i></p> <p><i>implementation of an effective traceability system from fishing operations to ultimate consumers;</i></p> <p><i>(13) imposing proportional and deterrent administrative and criminal sanctions.</i></p>
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2. Revoke long-arm jurisdiction for Thais engaged in IUU activities overseas (Art. 8):

Most political parties proposed to remove the state's jurisdiction over offences occurring outside Thai waters involving Thai beneficial owners or operators of non-Thai-flagged fishing vessels. However, the committee chose to align with the cabinet draft (the version reviewed by the Council of State) by retaining this provision in the RO,³³ thereby allowing for the prosecution of Thai citizens who are beneficial owners of fishing vessels flying non-Thai flags or flags of convenience (FoC) implicated in IUU fishing.

3. Lack of inclusive representation in the National Fisheries Board (Art. 14):

The PDC agreed to include representatives from artisanal fishers, as well as experts in various areas of fishing, including brackish water fishing and coastal aquaculture, distant water fishing, inland fisheries and freshwater aquaculture, industrial fishing, and environmental issues.³⁴ This revision enhances the inclusivity of the National Fisheries Board by incorporating a broader range of industry expertise.

However, it is notable that a labour expert is still not included, despite several Articles addressing labour protection mechanisms in fishing activities. The exclusion aligns with the PDCs' attempt to remove several Articles related to labour issues. This remains an area for improvement in the Committee Draft, which should be addressed in the next stages of the legislative process to ensure the final draft includes all relevant aspects.

4. Relaxation on rare animal landings on fishing vessels (Art. 66):

The final text from the PDC demonstrates promising progress in this Article by adding the term "hunting" alongside "catching," thereby strengthening the regulation for the conservation of protected marine animals. Another key revision introduces an exception, stating that bringing such animals on board with the intention of saving their lives is not an offence, supporting the

preservation of rare marine species, as outlined in the second paragraph of the revised Article (right-handed column below).³⁵ Additionally, the PDC has added a new Article to clarify the exceptions for actions taken by government officials for research purposes or public safety in Article 66/1.³⁶

Royal Ordinance on Fisheries	Committee Draft
<p>Art. 66: <i>“No person shall catch aquatic mammals, rare aquatic animals or aquatic animals near extinction as prescribed by the Minister or take any such aquatic animal on board a fishing vessel, except where it is necessary to do so in order to save the life thereof.”</i></p>	<p>Art. 66: <i>“No person shall catch <u>or hunt</u> aquatic mammals, rare aquatic animals, or aquatic animals near extinction as prescribed by the Minister’s declaration, or bring such animals on board a fishing vessel, except when necessary to save the life of such animals.</i></p> <p><i><u>If any aquatic animal mentioned in the first paragraph becomes entangled on a vessel or fishing gear, the person who promptly releases it back into the wild shall not be deemed guilty.”</u></i></p> <p><u>Art. 66/1:</u> <i><u>“For the purposes of research, study, or academic experiments, conservation, preservation, or recovery of the aquatic animals, or for prevention or mitigation of harm to the public as stated in Article 66, first paragraph, related to the capture or taking of aquatic animals onto fishing vessels, the following actions shall not be considered violations:</u></i></p> <p><i><u>(a) Actions undertaken by government agencies, which must receive prior written permission from the DG of the DoF under prescribed principles, methods, and conditions.</u></i></p> <p><i><u>(b) Actions undertaken by officials as permitted by the Department of Marine and Coastal Resources, following the rules and procedures established by the Director General.”</u></i></p>

5. De-regulate destructive gears (Bottom trawlers) (Art. 67):

Despite an attempt to remove trawl nets from the list of controlled fishing gear in Article 67 of the RO, the PDC ultimately voted to keep them on the list due to their harmful impact on marine resources. The main changes in the RO relate to mesh size regulations, specifically by removing the “round bottom part” clause, which targets the particularly problematic aspects of trawl nets. Additionally, authority over mesh size specifications has shifted from the DG of the DoF to the Minister of Agriculture and Cooperatives, with approval from the National Fisheries Board.³⁷

While this can be seen as progress, it is essential to closely monitor the development of subordinate regulations, such as ministerial regulations, which will directly impact the enforcement of controls on fishing gear.

Royal Ordinance on Fisheries	Committee Draft
<p>Art. 67: <i>"No person shall use or have in possession for the purposes of using any of the following fishing gears:</i> ... <i>(3) a trawl net with the size of the meshes round the bottom part as prescribed by Notification of the Director-General;</i> ..."</p>	<p>Art. 67: <i>"No person shall use or have in possession for the purposes of using any of the following fishing gears:</i> ... <i>(3) a trawl net <u>or other fishing gear</u> with the size of the meshes—round the bottom part as prescribed by Notification of the Director-General Minister of Agriculture and Cooperatives with the approval of the National Fisheries Board;</i> ..."</p>

BOX VI: Use of 'push nets' and 'purse seine nets with fine mesh' - concerns raised amongst small-scale fishers

Although trawler have been reinstated on the list of regulated fishing gear, Article 67 introduces an exemption allowing small-scale or freshwater fishers with permits to use these regulated fishing gears. This legal loophole effectively permits the use of highly destructive fishing methods, particularly push nets, which predominantly capture juvenile economic species and are frequently used illegally in coastal areas. Small-scale fishers have consistently called for stricter controls on such destructive fishing gear.³⁸

Additionally, cabinet and political parties have proposed amendments to Article 69, which governs the use of purse seine nets with mesh sizes smaller than 2.5 cm. Previously, these nets were permitted for daytime fishing only. The new proposal suggests relaxing restrictions to allow their use beyond 12 nautical miles from the shoreline and during nighttime hours. This marks the first relaxation of encircling net regulations since they were first introduced in 1983.

The relaxation led to concerns among small-scale fishers due to the destructive practices of the purse seine nets. The use of purse seine nets with fine mesh for nighttime fishing typically involves the use of electric generators to lure marine animals together with light, followed by sweeping them up with fine-mesh nets. This practice leads to the capture of various species and age groups, including economically valuable fish and juveniles that have not yet reached maturity. The long-term impact includes the depletion of fish populations and severe disruption of the marine ecosystem's food chain.³⁹

Although the committee claims that the relaxed measures are restricted to areas beyond 12 nautical miles, it is undeniable that fine-mesh nets harm juvenile marine life regardless of the fishing location. Furthermore, while the draft law attempts to mitigate the depletion of marine resources by requiring the Minister of Agriculture and Cooperatives to issue guidelines, conditions, and methods for fishing—including provisions to regulate the use of lights for luring fish⁴⁰—the actual ability of state agencies to effectively monitor and enforce these regulations remains questionable. This is especially concerning in coastal areas, which serve as critical nursery grounds for juvenile marine life.

6. Real-time location from VMS not required (Art. 81):

The PDC has maintained the requirement for commercial fishing vessel operators to install a Vessel Monitoring System (VMS) as stipulated in Article 81 (1) of the RO.⁴¹ This will enable the Fisheries Monitoring Centre (FMC) and related agencies to access real-time locations of fishing vessels, enhancing monitoring and enforcement capabilities.

7. Crew list not required before port out (Art. 82):

The PDC has upheld the requirement for vessels departing for fishing operations to present a crew list during inspections. This documentation must include details of the crew count, a list of outgoing fishers, and proof of authorisation, licences, and permits under Article 83. Additionally, the revised regulation now permits submission of this list electronically, as specified by the DG.

However, another notable change to this Article is that, if a vessel fails to submit the required documentation or does not meet safety, hygiene, and crew welfare standards, the authorities are no longer authorised to order its detention or return to port, thereby relaxing the port-out requirements. However, a penalty fine for non-compliance remains under Article 139.⁴²

Royal Ordinance on Fisheries	Committee Draft
<p>Art. 82: <i>“Prior to proceeding with the port-out procedure pursuant to article 81, the owner or the master of a fishing vessel shall submit documents related to vessel registration, the vessel use permit, the fishing licence, details of the number and a list of outgoing seamen on board, evidence of authorization, licence and permit under article 83, as well as evidence related to the provision of appropriate systems for ensuring occupational safety, hygiene and wellbeing of seamen as prescribed in the Ministerial Regulation to the competent official at the Port In-Port Out Controlling Centre in accordance with the rules and procedures prescribed by the Director-General</i></p>	<p>Art. 82: <i>“Prior to proceeding with the port-out procedure <u>for fishing operations</u> pursuant to article 81, the owner or the master of a fishing vessel shall submit documents related to vessel registration, the vessel use permit, the fishing licence, details of the number and a list of outgoing seamen on board, evidence of authorization, licence and permit under article 83, as well as evidence related to the provision of appropriate systems for ensuring occupational safety, hygiene and wellbeing of seamen as prescribed in the Ministerial Regulation to the competent official at the Port In-Port Out Controlling Centre <u>or via electronic means</u>, in accordance with the rules and procedures prescribed by the Director-General</i></p>

<p><i>In the case where the owner or the master of a fishing vessel fails to submit the documents and evidence pursuant to paragraph one, or the provision of a system for ensuring occupational safety, hygiene and wellbeing of seamen does not comply with the requirements stated in the Ministerial Regulation, the competent official shall order the detention of the fishing vessel at the fishing port or order the return of the fishing vessel to the fishing port.”</i></p>	<p><i>In the case where the owner or the master of a fishing vessel fails to submit the documents and evidence pursuant to paragraph one, or the provision of a system for ensuring occupational safety, hygiene and wellbeing of seamen does not comply with the requirements stated in the Ministerial Regulation, the competent official shall order the detention of the fishing vessel at the fishing port or order the return of the fishing vessel to the fishing port.”</i></p>
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8. Seaman book for migrant fishers not required (Art. 83):

The PDC has decided to retain the requirement for seaman books for both Thai and migrant fishers.⁴³ This will remain the proper regulation aimed at protecting migrant workers and is concurrent with international standards.

9. Re-introduction of at-sea crew transfer (Art. 83/1):

Since the beginning of the amendment process, 60% of the drafts, including those from political parties, have attempted to reintroduce at-sea crew transfers by broadening the exception beyond safety concerns. However, it is encouraging that the PDC has not endorsed this proposal and has chosen to retain the original text from the RO which imposes comprehensive restrictions on at-sea crew transfers.⁴⁴

10. Relaxation on support vessel monitoring (Art. 87-89):

Some political parties had proposed easing the rules for using support vessels in fishing operations. For example, they suggested that requirements for trans-shipment vessels should apply only to non-Thai vessel owners, while the original rule included Thai vessels as well. Nonetheless, after discussions, the PDC decided to retain the existing regulations on support vessels as outlined in the RO, to ensure effective monitoring and oversight of their activities.⁴⁵

11. Relaxation of Port State Measures (Art. 92, 96):

While proposals from political parties suggested several relaxations to port state measures, such as shifting to a self-reporting and licence verification system. The PDC has ultimately decided to maintain the existing port state regulations of the RO, which specify evidence-based permission for foreign-flagged vessels entering Thailand.

12. Limitations of import seafood from neighbouring countries (Art. 97):

Originally, most political parties suggested imposing an import cap of no more than 200 kilograms of imported seafood into Thailand per day per small-scale vessel to respond to commercial fishers’ concerns on the influx of cheap imported products. Yet, the PDC has chosen to retain the existing regulation by not imposing trade barriers and more stringent import regulations from bordering coastal states.

13. Revocation of serious infringement status for IUU fishing infractions (Art. 114):

The PDC has agreed to retain all 14 serious IUU infringements listed in Article 114, with some provisions having been paraphrased. While this is a positive development, there have been structural changes, as the PDC has separated these infringements into two categories: domestic waters and distant-water fleets. These categories show slight differences in how serious IUU fishing violations are defined.

The domestic water category includes fewer violations, as the PDC has removed certain sub-articles, such as "fishing contrary to regulations set by the coastal state or international organization" and "repeat offenses more than three times within one year." In contrast, the distant-water fleet regulations retain all 14 violations as outlined in the Royal Ordinance, with some paraphrasing.

It should be noted that this is an interim observation, and further investigation and careful analysis are needed regarding the specific wording and term changes. It is also important to analyse the relevant subordinate regulations in more detail, as these will provide clearer, more tangible guidance on the matter.

Conflict of interest in the establishment of the Thai Senate Sub-Committee on Fisheries Act Studies:

Concerns have been raised over the establishment of a Thai Senate Sub-Committee on Fisheries Act Studies, pointing to significant conflicts of interest that may undermine the integrity and transparency of the legislative process. This is because the biggest interest group of the Sub-Committee's members are either directly or indirectly linked to the NFAT, including individuals previously implicated in violations of the Fisheries Act - both in terms of environmental and labour aspects.

Key points of concern include:

- **NFAT representation:** Nearly 40% of the Sub-Committee are NFAT members or NFAT-affiliated individuals, signalling a potential bias favouring industry interests.
- **Advisory composition:** Among the 18 advisors to the Sub-Committee, at least 22% have direct or indirect NFAT ties.
- **Excluded stakeholders:** The Sub-Committee has not included representatives from artisanal fishing communities, labour advocacy groups, seafood processing organisations, or environmental CSOs, thereby excluding key voices from the discussion. Without inputs from these groups, the Sub-Committee risks prioritising industry interests over broader societal and environmental concerns. This imbalance undermines the legitimacy of the Sub-Committee work, as it fails to incorporate the voices of those most affected by IUU fishing and associated human rights abuses.

It is expected that this Sub-Committee will be tasked with delivering a final report that discredits the effectiveness of the existing RO, draws into question the necessity of strict enforcement measures on fishing vessels, and ultimately calls for widespread deregulation and further rolling back. NFAT will likely use this final report to try and persuade the Fisheries Act Senate Drafting

Committee to repeal many of the hard-won amendments to the Committee Draft (see above section).

EJF recommends that the RTG work to ensure that the Senate Drafting Committee is kept well-informed about the potentially biased final report that will come from this Sub-Committee. The Senate Drafting Committee should also be encouraged to seek out fisheries experts and representatives from other stakeholders outside of the commercial fishing sector to provide their analysis on the Committee Draft and the future direction of the Fisheries Act.

Signatories:

1. Environmental and Social Foundation มุลินธิเพื่อสิ่งแวดล้อมและสังคม
2. Environmental Justice Foundation (EJF) มุลินธิความยุติธรรมเชิงสิ่งแวดล้อม
3. Federation of Thai Fisherfolk Association (FTFA) สมาคมสมาพันธ์ชาวประมงพื้นบ้านแห่งประเทศไทย
4. Greenpeace Southeast Asia กรีนพีซ เอเชียตะวันออกเฉียงใต้
5. Legal Support for Children and Women (LSCW) องค์การการสนับสนุนทางกฎหมายสำหรับเด็กและสตรี
6. Migrant Working Group (MWG) เครือข่ายองค์กรด้านประชากรข้ามชาติ
7. Save Andaman Network Foundation มุลินธิอันดามัน
8. Solidarity Center โซลิดาริตี เซ็นเตอร์
9. Thai Climate Justice for All (TCJA)
10. Thai Sea Watch Association สมาคมรักษ์ทะเลไทย

Appendix:

Remaining concerned articles in the Committee Draft

Key concerns	Status in the Committee Draft (X indicates concern remains)
Removing restrictions on IUU-related practices	
Art. 83/1: Re-authorise at-sea crew transfers	
Art. 85/1: Re-authorise at-sea trans-shipment	X
Weakening penalties aimed at deterring IUU fishing	
Art. 114: Revocation of serious infringement status for IUU fishing infractions	
Revoking long-arm jurisdiction for Thais engaged in IUU activities overseas	
Art. 8: Revoke long-arm jurisdiction for Thais engaged in IUU activities overseas	
Monitoring, controlling, surveillance (MCS) mechanisms	
Art. 81 (1): Real-time location from VMS not required	
Art. 81 (2): Real time logbook not required	

Art. 87-89: Relaxation on support vessel monitoring	
Trade-related concerns	
Art. 97: Limitations of import seafood from neighbouring countries	
Annex: "Fees" scheme for imported seafood	X
National Fisheries Committee composition	
Art. 14: Lack of inclusive representation in the National Fisheries Board	
Distant water fishing controls	
Art. 48: Relaxation of distant water fleet controls	
Art. 92, 96: Relaxation of Port State Measures	
Conservation measures	
Art. 66: Relaxation on rare animal landings on fishing vessels	
Art. 67: De-regulate destructive gears (Bottom trawlers)	
Labour-related concerns	
Art. 4(9): Remove legislative intent of the Act to protect workers in the fisheries sector	
Labour-related concerns	
Art. 10/1, 11, 11/1: Remove labour safeguards for seafood processing sector	X
Art. 82: Crew list not required before port out	
Art. 83: Seaman book for migrant fishers not required	

Reference:

¹ List of Committee members of the Ad-hoc Committee on the amendment of Fisheries Act B.E. 2558 (2015), <https://tinyurl.com/433m2m6b>

² ThaiPBS, February 22nd 2024, มติ สภาฯรับหลักการร่างแก้ไข พ.ร.ก.ประมง [The House of Representatives has accepted the draft amendment to the Fisheries Act in principle], accessed November 4th 2024, <https://www.thaipbs.or.th/news/content/337339>

³ Briefing on Thailand's Fisheries Legislation Developments (March 22nd 2024) https://mwgthailand.org/sites/default/files/2024-03/legislation-briefing-20240322_en.pdf

⁴ Prachatai, December 26th 2024, สภาฯผ่านแก้กฎหมายประมง ม.69 ประมงพื้นบ้านรวมตัวค้าน ปชช. ดันออกแบบกติกาให้เหมาะสมพื้นที่ [Parliament passes amendment to Fisheries Act Section 69; small-scale fishers unite in opposition, urging public participation to design regulations tailored to local contexts], accessed December 27th 2024, <https://prachatai.com/journal/2024/12/111839>

⁵ The drafts were published for public feedback from December 22, 2023, to January 5, 2024 (the bare minimum of 15 days). The survey can be accessed from the Council of State's portal, https://law.go.th/listeningDetail?survey_id=MzEwOURHV9MQVdfRIJPTIRFTkQ=

⁶ The National Fisheries Association (NFAT) represents Thailand's commercial fishing sector and advocates for policies favourable to commercial vessel owners.

⁷ Bangkok Post, (2024), Marine life under threat. www.bangkokpost.com/opinion/opinion/2928626/marine-life-under-threat

⁸ Briefing on Thailand's Fisheries Legislation Developments (March 22nd 2024) https://mwgthailand.org/sites/default/files/2024-03/legislation-briefing-20240322_en.pdf

⁹ US Department of Labor, (2024), List of Products Produced by Forced or Indentured Child Labor. www.dol.gov/agencies/ilab/reports/child-labor/list-of-products

¹⁰ See Box I: "Risk of Thai seafood being relisted due to the removal of stringent regulations on labour protection," page 18

¹¹ The U.S. Department of Labor produces the List of Goods Produced by Child Labor or Forced Labor every two years, in accordance with the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005. The list includes goods suspected of being produced with child or forced labour. The TVPRA requires USDOL's Bureau of International Labor Affairs (ILAB) to develop

and make available to the public a list of goods from countries that ILAB has reason to believe are produced by forced labour or child labour in violation of international standards.

¹² AP news, Seafood from Slaves, <https://www.ap.org/news-highlights/seafood-from-slaves/>

¹³ Ministry of Foreign Affairs of the Kingdom of Thailand, June 14th 2016, Thailand's Ratification of ILO's Maritime Labour Convention, 2006, https://image.mfa.go.th/mfa/0/SRBviAC5gs/migrate_directory/news-20160614-172856-841217.pdf

¹⁴ Ministry of Foreign Affairs of the Kingdom of Thailand, February 13th 2019, Thailand's ratification of the International Labour Organization Convention No. 188 on Work in Fishing, B.E. 2550 (2007), <https://www.mfa.go.th/th/content/5d5bd21415e39c3060027ceb?cate=5d5bcb4e15e39c306000683d>

¹⁵ Ministerial Regulation on Labour Protection in Sea Fishery Work B.E. 2557 (2014), <https://protection.labour.go.th/attachments/article/92/2557-02.PDF>

¹⁶ The U.S. Department of Labor (2024) 2024 List of Goods Produced by Child Labor or Forced Labor, https://www.dol.gov/sites/dolgov/files/ilab/child_labor_reports/tda2023/2024-tvpra-list-of-goods.pdf

¹⁷ Notice of Initial Determination To Remove Shrimp From Thailand and Garments From Vietnam From the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor Pursuant to Executive Order 13126, May 10th 2024, <https://www.federalregister.gov/documents/2024/05/10/2024-10249/notice-of-initial-determination-to-remove-shrimp-from-thailand-and-garments-from-vietnam-from-the>

¹⁸ Supreme Court Judgement No. 6661/2561(2018), accessed September 30th 2024, <http://deka.supremecourt.or.th/>

¹⁹ DLPW, (2022), Ministerial Regulation titled Labour Protection in Sea Fishery Work B.E.2565 (2022). www.nakhonsrithammarat.labour.go.th/attachments/article/791/กฎกระทรวงคุ้มครองแรงงาน ในงานประมงทะเล%20พ.ศ.2565.PDF

²⁰ Department of Fisheries (22 August 2024) Meeting to consider the draft announcement on criteria, methods and conditions for training on fishing boats in Thai waters B.E. ...https://www4.fisheries.go.th/dof/activity_item/9775/all_activity2/3

²¹ The Convention defines hazardous child labour as work that may be conducted in legitimate sectors, but is likely to harm the health, safety or morals of children.

²² OECD, (2019), Ending child labour, forced labour and human trafficking in global supply chains, www.mneginelines.oecd.org/Ending-child-labour-forced-labour-and-human-trafficking-in-global-supply-chains.pdf

²³ Bureau of International Labor Affairs, (2024), List of Goods Produced by Child Labor or Forced Labor. www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods

²⁴ Department of Fisheries, April 3rd 2024, https://drive.google.com/file/d/130K4Uo6_eISWibJpZjpZ6-ta-fDmu6-C/edit

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