

Human Trafficking in the Thai Fishing Industry: A Call to Action for EU and US Importers

by Giulia Cretti

Thailand is one of the world's largest fishery exporters. It is the leading exporter of canned tuna and one of the world's top exporter of frozen shrimps.¹ This multi-billion-dollar seafood industry has come under the international spotlight since 2015, however, when investigations revealed serious issues such as human trafficking, modern slavery and illegal unreported unregulated (IUU) fishing taking place in Thai waters.

Since the European Union threatened to ban imports from the country in 2015, the Thai government made significant efforts to clean up the sector. In particular, Thailand amended its 2008 anti-trafficking laws and other regulations related to forced labour in the seafood industry. Moreover, on 30 January 2019, Thailand's Minister of Labour ratified the International Labour

Organization (ILO) Work in Fishing Convention,² making Thailand the first country in Asia to do so.

Issues related to human trafficking in Thailand have improved as a result. This was highlighted in the US State Department's yearly Trafficking in Persons (TIP) reports. In 2015, Thailand was ranked Tier-3, meaning that the government did not meet the minimum anti-trafficking standards and was not making significant efforts to do so. Yet, by 2018, Thailand was upgraded to Tier-2 level, that is to say, the country did not fully comply with the minimum standards but was making significant efforts to improve its policies.

¹ Srisuman Ngamprasertkit, "Thailand Seafood Report", in *GAIN Reports*, No. TH8067 (8 May 2018), p. 1-2, <https://www.fas.usda.gov/data/thailand-seafood-report>.

² The Work in Fishing Convention No. 188, 2007 (C188) sets out binding requirements relating to work on board fishing vessels, including occupational safety and health, medical care at sea and ashore, rest periods, written work agreements, and social security protection. It also aims to ensure that fishing vessels provide decent living conditions for fishers on board. See ILO website: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:P12100_ILO_CODE:C188.

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Welcoming this upgrade, Thailand's Ministry of Foreign Affairs declared in a January 2018 press release that government policies have "led to the deterrence and elimination of labour trafficking and illegal workers on fishing vessels" in the country.³

Such assessments are premature. Abuses in the Thai fishing industry persist and the country still does not meet the minimum anti-trafficking standards in several key areas, as noted by Human Rights Watch in a July 2018 letter to European Union officials.⁴

Indeed, prominent local activists, including Nobel Peace Prize nominee Patima Tungpuchayakul have continued to release evidence of serious implementation gaps. These include insufficient identification of cases, inadequate protection for victims, a dysfunctional and corrupt judicial system and official complicity with both trafficking rings and its perpetrators.⁵

The EU is Thailand's third largest market for seafood exports, after the US and Japan, with 426 million euro (496.5 million US dollars) of seafood products imported from Thailand to Europe in 2016.⁶ Europe, like the US, therefore

represents an important export market for Thailand, with significant potential leverage over the government's activities in this sector.

What are major Western importers doing about these challenges however, and can EU and US importers improve oversight and employ their leverage more effectively to address shortcomings in Thailand's fishing industry?

Both the EU and the US are committed to combatting human trafficking and labour abuses, as well as illegal fishing. The EU has backed these norms and rules, including the principle of sustainability of ocean governance, via the Common Fisheries Policy.⁷

Moreover, in 2010, the EU issued the IUU Regulation, which prevents access to the EU market for fisheries products that are not certified as legal by the country of origin of the export (i.e. the flag State country).⁸ Following this, in 2015, the European Union announced that Thailand was not taking sufficient measures in the international fight

³ Thailand's Ministry of Foreign Affairs, *Thailand's Comments on Report on Labour Situation in Fishing Industry of Human Rights Watch*, 25 January 2018, para. 2, <http://www.mfa.go.th/main/en/news3/6886/86080>.

⁴ Human Rights Watch, *Thailand: Labor Abuses Persist in Fishing Fleets*, 15 July 2018, <https://www.hrw.org/node/320379>.

⁵ Author interview with Patima Tungpuchayakul, founder of the NGO Labour Protection Network (LPN), Samut Sakhon, 3 December 2019.

⁶ Marwaan Macan-Markar, "Thai Seafood

Industry Grapples with International Scrutiny", in *Nikkei Asian Review*, 26 July 2017, <https://asia.nikkei.com/Politics-Economy/Economy/Thai-seafood-industry-grapples-with-international-scrutiny>.

⁷ See European Commission website: *The Common Fisheries Policy (CFP)*, <https://europa.eu/!HT66MM>.

⁸ When flag States are unable to certify their products, the EU Commission starts a process of cooperation and assistance with them to help improve their legal frameworks. The indicators of this process are the yellow cards for warnings, the green cards if issues are solved and the red cards leading to a trade ban if issues persist as it happened for Cambodia. See IUUWatch website: *EU Carding Decisions*, <http://www.iuuwatch.eu/map-of-eu-carding-decisions>.

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against IUU fishing and issued a yellow card for the country.

In particular, the Commission denounced Thailand's shortcomings in its fisheries monitoring, control and sanctioning systems.⁹ The aim was to push Thailand to bring its fishing industry in line with international standards. This warning had an impact, forcing the government to address the issue to safeguard exports and private companies involved in the fishery industry.

Yet, in January 2019, the European Commission decided to lift the yellow card warning for Thailand, citing substantive progress in tackling IUU fishing since 2015. Notably, the EU positively recognised that Thailand had amended its legal framework for fisheries, bringing this in line with international law of the sea, reinforced its legislation and set up a preventive regime of sanctions for the companies and brokers involved in human trafficking.¹⁰

Another large importer of Thai seafood and fundamental trade partner for Thailand is the United States. In 2018, the share of Thailand's export to the US was 11 per cent of its total, with a value of 28.12 billion US dollars.¹¹ Since 2015,

the US has been closely monitoring Thailand's human trafficking and worker rights legislation.

The US government is committed to working with Thailand to advance respect for labour rights, including via the use of trade preference programmes such as the Generalized System of Preferences (GSP).¹² Yet, Washington is equally committed to taking strong action when progress is not made, including the suspension of trade benefits.

In October 2019, president Trump announced a suspension of 1.3 billion US dollars in trade preferences for Thailand under the GSP, citing its failure to adequately provide internationally-recognised worker rights. The GSP eligibility will be revoked by April 2020 for 573 products, approximately one-third of Thailand's GSP trade, which totalled 4.4 billion US dollars in 2018.¹³

This would represent a great loss for the Thai economy. Products to be excluded from GSP are products for which the United States is a relatively important market for Thailand, but where Thailand accounts for a relatively small share of US imports.

According to this latest US decision, and despite six years of engagement, Thailand is accused of failing to make sufficient progress to grant such rights

⁹ European Commission, *EU Acts on Illegal Fishing: Yellow Card Issued to Thailand while South Korea & Philippines are Cleared*, 21 April 2015, https://ec.europa.eu/commission/presscorner/detail/en/IP_15_4806.

¹⁰ European Commission, *Commission Lifts "Yellow Card" from Thailand for Its Actions Against Illegal Fishing*, 9 January 2019, https://ec.europa.eu/commission/presscorner/detail/en/IP_19_61.

¹¹ Thailand Ministry of Commerce, *Foreign Trade Statistics of Thailand 2018*, 2019, p. 191, <http://>

tradereport.moc.go.th/File/BookStatistic2018.pdf.

¹² See US Trade Representative (USTR) website: *Generalized System of Preferences (GSP)*, <https://ustr.gov/node/7346>.

¹³ USTR, *USTR Announces GSP Enforcement Actions and Successes for Seven Countries*, 25 October 2019, <https://ustr.gov/node/10018>.

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in several areas. Indeed, Thailand does not have internationally recognised worker rights and the laws which exist to protect workers remain elusive and not effectively enforced. There are no robust efforts to address the widespread corruption that too often safeguards perpetrators from accountability and fails to effectively protect victims.

For these reasons, Western governments should welcome the efforts so far implemented by Thai governments but insist that more action be taken before fully embracing and recognising the country's efforts. In particular, there is a need to improve enforcement and implementation of laws and regulations in Thailand and more effectively combat corruption in the sector.

Against this backdrop, the US's suspension of the GSP programme could serve to motivate Thai authorities to enact important reforms before the April 2020 deadline, or risk losing out on lucrative trade privileges. To avoid such a scenario, the Thai government must take comprehensive, urgent and earnest action to address the issue of human trafficking in the fishing industry.

Having committed to the fight against IUU fishing and the respect of labour rights, the EU and the US must enact effective monitoring tools in order to ensure that imported seafood products are not involved in any form of slavery and illegal fishing. With regards to Thailand, the European Union – which has recently withdrawn its yellow card warning for Thailand – has not been as forceful as the US in pressing Thai

authorities to address the issue.

As the new Commission begins work in Brussels, touting the EU's newfound willingness to act "geopolitically" on the world stage while strengthening the rules-based international order, the issue of worker rights and compliance by Thai authorities could represent an interesting test case for the EU's ambition. In this regard, Brussels should also consider more effective measures including bans of imports or economic sanctions to foster clear reforms in the country of export.

At the same time, national governments must ensure that national or international companies do not indirectly contribute to these abuses of human and labour rights, whether these be in Thailand or other countries. Major Western importers, retailers and consumers must demand transparent supply chains, free of any product that may have been caught or produced by victims of human trafficking.

In this regard, human trafficking is not only confined to the fishing sector in Thailand, but also impacts the construction, agriculture and livestock industries, where exploitative practices towards migrants coming from Myanmar, Laos and Cambodia are widespread.¹⁴

Western partners should not forget the broader labour market in the country to only focus on fisheries and exports.¹⁵

¹⁴ Benjamin Harkins (ed.), *Thailand Migration Report 2019*, Bangkok, UN Thematic Working Group on Migration in Thailand, January 2019, <https://thailand.iom.int/node/162>.

¹⁵ Rina Chandran, "Focus on Thai Fishing

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Instead, they should use the present focus on Thailand's fishery industry as a means to simultaneously address the wider spectrum of worker and labour rights in the country as a whole.

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Distracts from Worker Abuse in Other Sectors: Researchers", in *Reuters*, 24 January 2019, <https://reut.rs/2sLCUSo>.

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