



The Exodus Road®

Briefing on Thailand's Fisheries Legislation Developments

22nd March 2024
Bangkok, Thailand

*The analysis presented herein is tailored to the Thai commercial fishing sector.
It is predicated on the availability of data at the time of writing.*

Introduction:

Despite Thailand having made substantive strides to address illegal, unreported and unregulated (IUU) fishing and associated human trafficking and forced labour abuses in recent years, a newly elected coalition government - led by the Pheu Thai party - has taken a drastically different stance towards further development of the fishing industry. Proposals put forward by the administration and - strongly supported by the commercial fishing sector - threaten many of the fisheries and labour reforms introduced since 2015. Several of these were instrumental both for the removal of the European Commission's yellow card warning as well as US Department of State Trafficking in Persons Report ranking upgrades.

The proposed rollbacks will increase the risks of IUU fishing, human trafficking and forced labour going undetected onboard fishing vessels, 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 2021.¹

Methodology:

To conduct this in-depth legal analysis, EJP hired a professional lawyer with 11 years of legal experience on labour issues in the Thai fishing industry. EJP's Thai team worked with this lawyer to review all eight Fisheries Act drafts, assess which are the most concerning Articles, and identify commonalities and/or differences between the different drafts. EJP also convened consultations and focus group discussions with 13 artisanal fishing associations and labour organisations to determine which Articles were of most concern. As a result, 17 concerning Articles were identified.

Understanding the context:

In the runup to the 2023 general election, several of the largest political parties published policy positions on reforming Thailand's fisheries sector. Across the political spectrum a number of common themes were identified including the theme of 'unlocking' commercial fishing, removing supposedly unfair restrictions, and overhauling legislation concerning punishments as well as vessel requirements. The new coalition government has pressed ahead with these pledges including by tabling a new Fisheries Act draft to replace the existing Royal Ordinance on Fisheries.²

This stance has been driven by longstanding and powerful lobbying by the commercial fishing industry and vessel owners - most notably by the National Fisheries Association of Thailand (NFAT) - to do away with or relax many of the regulations and enforcement mechanisms implemented over the last eight years.

¹ Food and Agriculture Organisation, (2021), FishStat: Fisheries and Aquaculture. www.fao.org/fishery/statistics-query/en/trade_partners/trade_partners_value

² Royal Government of Thailand, (2023), Prime Minister Srettha Thavisin Pledges to Tackle Problems Facing the Fisheries Industry. <https://thailand.prd.go.th/en/content/category/detail/id/48/iid/211503>

The main arguments put forward by NFAT and elements of the commercial fishing sector for why reforms and regulatory relaxations include:

- Economic concerns: Vessel operators argue that the fisheries reforms have led to the imposition of costly administrative and operational burdens that make fishing operations no longer profitable. Tighter regulations and enforcement measures have also resulted in reduced fishing quotas or temporary closures of fishing grounds populations to recover. Vessel operators also complain that fines for committing IUU fishing and minor labour violations are too high.
- Resistance to scientific facts: Many vessel operators may resist fisheries reforms due to a reluctance to change established practices. They are accustomed to operating under permissive regulations and view recent reform efforts as unnecessary interference or disruption to their business operations. Vessel operators may have a limited understanding of the long-term benefits of fisheries reform, such as improved stock abundance, improvements in catches and enhanced market access.
- Legitimacy question: Vessel operators see the drafting of a new Fisheries Act as an opportunity to “reset” or repeal unpopular regulations. They view the political upheaval as a chance to influence the development of new regulations that are more favourable to their interests. Such a viewpoint is also held almost unanimously by political parties across the political spectrum. Operators are strongly urging all parties to help streamline regulations to prioritise profits, industry interests and facilitate greater flexibility in fishing operations.

Seafood prices are increasing:

One of the main arguments put forward by the commercial sector for why these rollbacks are needed is that the prices for seafood products are too low to justify fishing vessel operations. However, analysis of available catch landing data by tonnage and value shows that for almost all species groupings, the value of seafood landed by Thai-flagged vessels has gone up on average by 48% between 2014-2022.³ These increases were especially high for food fish (representing 47% of the total landed catch by value in 2022), squid & cuttlefish (26%), and crabs (13%). Even accounting for average Thai inflation of 1.2% over the last 10 years, these increases are significant.⁴

Species group	Baht per tonne (2014)	Baht per tonne (2022)	Change in baht/tonne (%)	Proportion of 2022 landings by value (%)
Food fish	33,407.59	42,868	28%	47%
Trash fish	7,642.93	8,523	12%	4%
Shrimps	110,411.91	94,289	-15%	8%
Crabs	142,908.45	176,330	23%	13%
Squid/cuttlefish	94,780.97	175,256	85%	26%
Molluscs	26,994.54	73,711	173%	2%
Others	2,921.78	34,222	1071%	1%

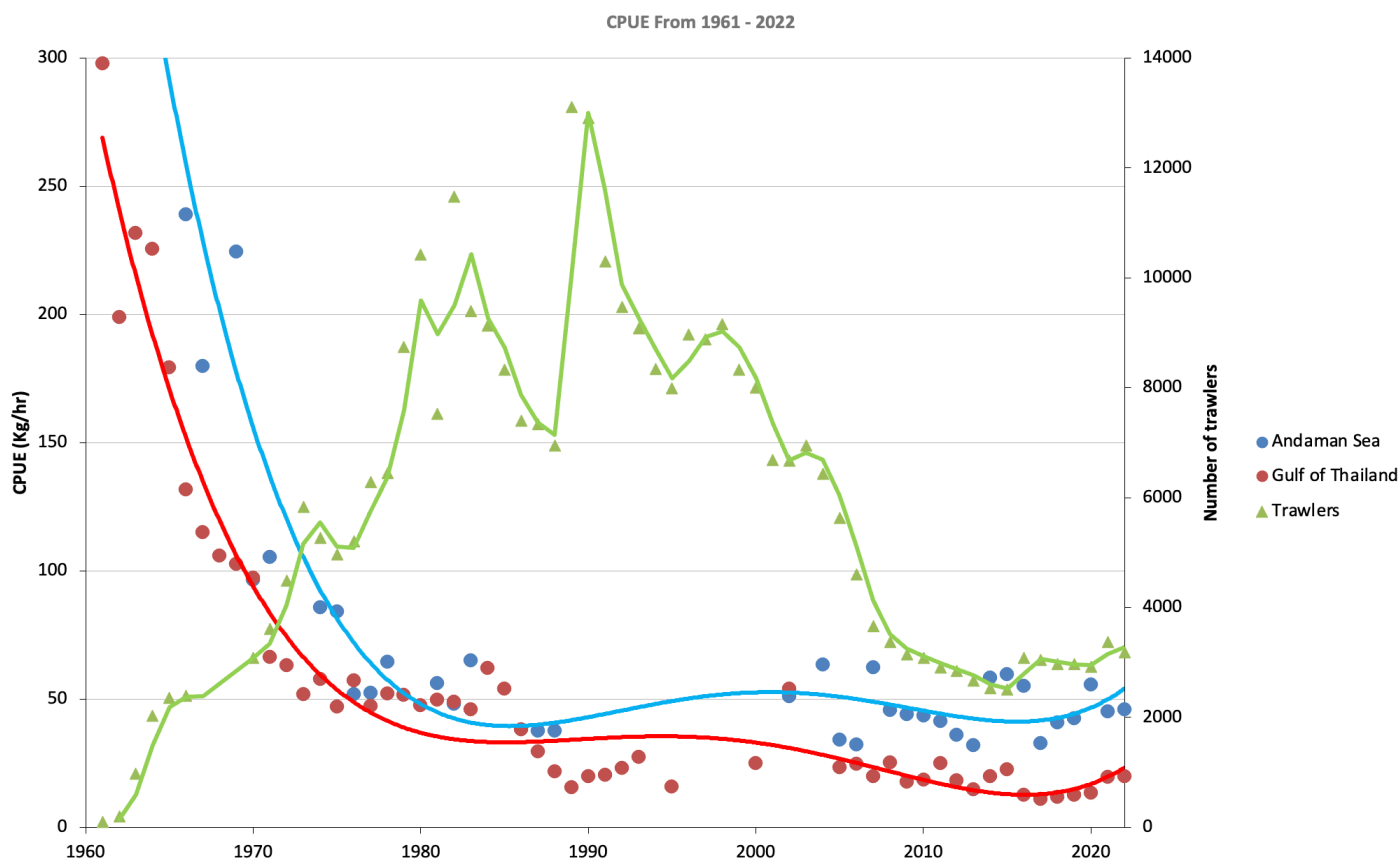
Although shrimp value/tonne has dropped by 15% since 2014, it makes up just 8% of the proportion of landed catch by value as of 2022.

³ Department of Fisheries, (2022), Fisheries statistics of Thailand 2022, https://www4.fisheries.go.th/local/file_document/20231124142604_new.pdf

⁴ Focus Economics (2022) Inflation in Thailand, <https://www.focus-economics.com/country-indicator/thailand/inflation/#:~:text=Consumer%20price%20inflation%20in%20Thailand,2022%20average%20figure%20was%206.1%25.>

Catches are improving:

Another argument for relaxing the regulations has been that their imposition has had a negligible impact on improving seafood populations and that relaxing regulations would do no harm. Catch per unit effort (CPUE) – a measure of how healthy fish stocks are and measured in kilograms of fish caught per hour – across both the Gulf of Thailand (GOT) and the Andaman Sea (AND) experienced steep declines from the 1960s onwards as the Thai fishing fleet expanded and vessels began overfishing and conducting IUU fishing activities. CPUE levels reached their lowest level ever recorded in 2017, falling by 96% in the Gulf between 1961 and 2017 and by 86% in the Andaman Sea between 1966 and 2017.⁵



This graph tells two stories: 1) How uncontrolled growth in the number of trawlers from the 1960s-1990s led to precipitous declines in fishery productivity, and 2) How stabilised and better regulated fisheries management has resulted in tentative signs of recovery in both the Andaman Sea and Gulf of Thailand.

Since 2017 however, CPUE levels have begun to recover with a 40% recovery in the Andaman Sea and a 80% recovery in the Gulf of Thailand as of 2022. Despite these improvements, only five years have passed, and EJJ strongly recommends that it is still too early to relax reform efforts for fear of reversing this recovery.

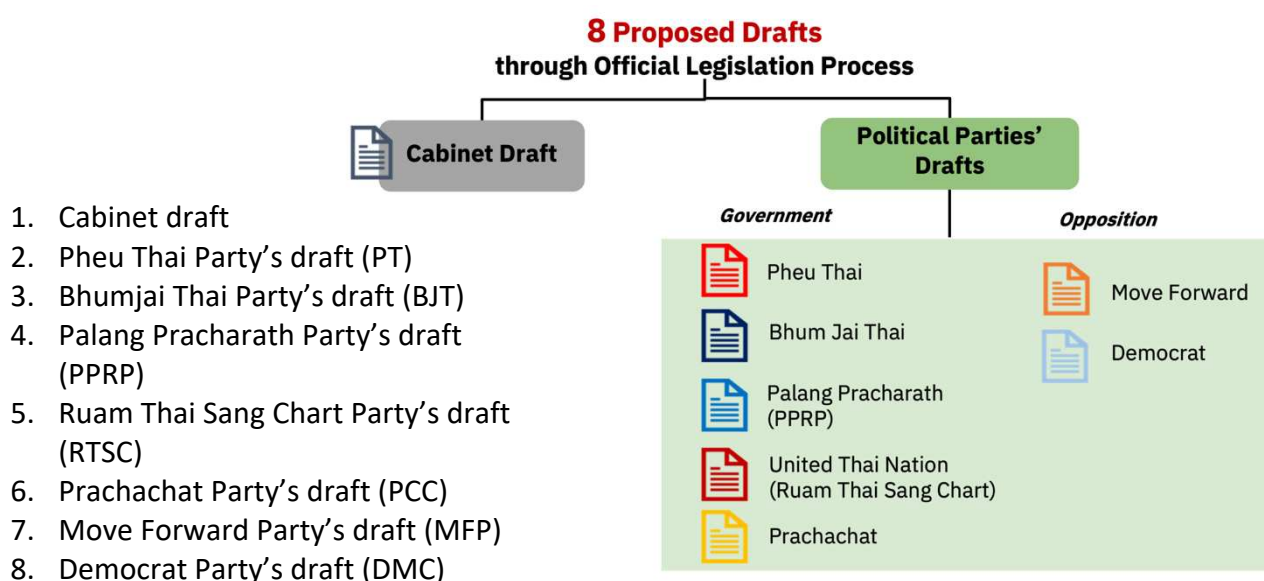
⁵ Department of Fisheries, (2022), CPUE statistics for the Gulf of Thailand and Andaman Sea.

A selection of Thailand's CPUE measurements between the 1960s - 2022				
Year	Andaman	Gulf of Thai	% change AND	% change GOT
1961	-	297.8	-	-
1966	238.9	131.8	-	-126%
2014	58.33	19.89	-310%	-563%
2015	59.61	22.59	2%	12%
2016	55.01	12.61	-8%	-79%
2017	32.71	11.00	-68%	-15%
2018	40.94	11.73	20%	6%
2019	42.59	12.61	4%	7%
2020	55.55	13.52	23%	7%
2021	45.12	19.51	-23%	31%
2022	45.93	19.79	2%	1%

Drafting a new Fisheries Act:

As of the time of writing, the Thai Parliament has voted and passed eight different draft Fisheries Acts. MPs voted unanimously 416-0 (Three votes were added verbally) on the 22nd February 2024 to pass the eight drafts. This first reading stage allows these eight drafts to proceed to the second reading and the appointment of a drafting committee to finalise the contents of the final draft legislation.

The eight Fisheries Acts (Formal title - 'Draft Royal Decree amending and supplementing the Royal Ordinance on Fisheries, B.E. 2558 (2015)') are presented as follows:



Background of the Cabinet draft

The so-called ‘Cabinet draft’ originated from the “Sub-committee on the Royal Ordinance on Fisheries B.E. 2558 (2015) and its revision B.E. 2560 (2017)”, with the Department of Fisheries (DoF) as the primary government agency responsible. This sub-committee was chaired by Minister for Agriculture and Cooperatives, Thamanat Prompow. The DoF developed the draft and conducted a public hearing from December 22, 2023, to January 5, 2024. Subsequently, the draft was submitted to the Cabinet, endorsed on January 30, 2024, and forwarded to the Council of State for review.

Initially, the Cabinet estimated the Council of State's revision process to take about a month. However, due to political motivations and pressures, particularly from opposition parties, the Council of State completed its revision in just two weeks, returning the draft to the Cabinet on February 13. On February 22, the draft was presented to Parliament alongside drafts from seven political parties.

It is worth noting that during the formation of the ad-hoc committee in the 2nd reading, the Cabinet draft (revised by the Council of State) underwent another round of public hearings on [the law portal website](#) between February 21 to March 6. This underscores the government's urgency to pass this amendment before concluding the meaningful public consultation process.

Drafting committee:

The drafting committee in the 2nd reading comprises various stakeholders, including government agencies, Parliamentary MPs, representatives from the National Fisheries Association of Thailand (NFAT), and artisanal fisheries representatives. It is important to highlight that this drafting committee lacks representation from several crucial stakeholders, namely seafood processors, seafood exporters, labour rights organisations, and environmental organisations. Furthermore, it has been officially announced that Plodprasop Suraswadi will be assigned as the President of the Committee.

Taking into account the Parliament vote in the 1st reading and the composition of the drafting committee, which predominantly favours the relaxation of fisheries and labour regulations, it is evident that the voting stance of committee members **will heavily lean** towards the interests of the commercial fisheries sector. Although the Cabinet draft includes 59% of the most problematic Articles proposed across the eight drafts (See Appendix), the composition of the drafting committee could allow for some of the more extreme Articles from the other seven political party drafts to be inserted into the Cabinet draft.

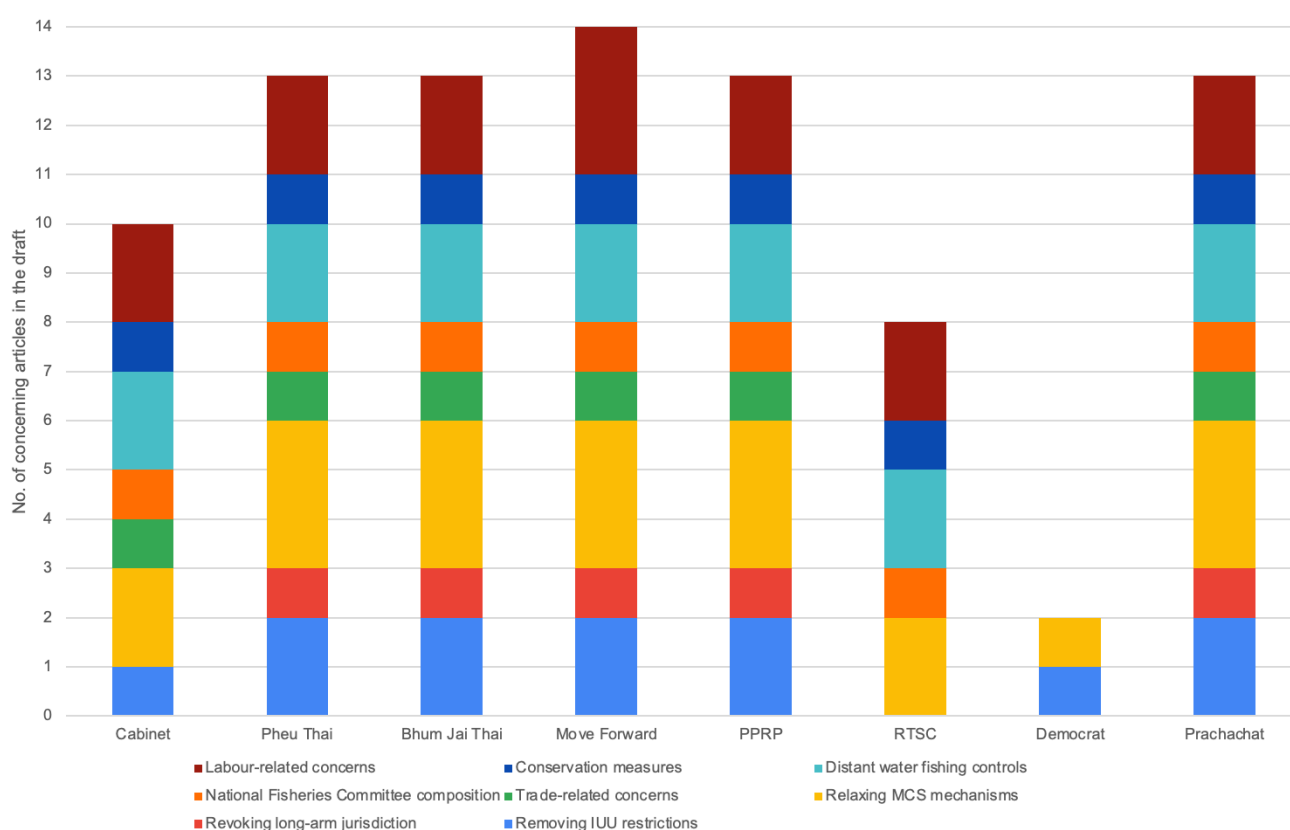
Concerning articles from draft legislation:

Based on EJF's analysis, there are at least 17 concerning Articles across the eight drafts that would erode many of the transparency, sustainability and labour protection achievements secured over the last eight years. EJF provides an in-depth assessment of the seven most pressing issues below. A full comparison of the 17 articles is provided on pages 16-20.

The analysis of all eight drafts indicates that the draft from the Move Forward Party is the most “extreme” in terms of its revisions. Out of 17 problematic or concerning Articles as identified by EJF, artisanal fishing groups and labour organisations, Move Forward's draft included **82%** of these, notably: reauthorising at-sea crew transfers, relaxing the regulation on the catching of charismatic or protected marine animals, and no longer requiring seaman books for migrant fishers. The draft with the fewest problematic Articles was proposed by the Democrat Party with only two problematic areas included;

re-authorising at-sea trans-shipment and no longer requiring real-time locations for the vessel monitoring system. The Cabinet draft includes 59% of the problematic Articles. An overview table showing this analysis is provided in the Appendix.

	Cabinet	Pheu Thai	Bhum Jai Thai	Move Forward Party	Palang Pracharath	Ruam Thai Sang Chart	Democrat	Prachachat
No. of concerning articles	10	13	13	14	13	8	2	13
% of concerning articles	59%	76%	76%	82%	76%	47%	12%	76%



1. Weakening penalties aimed at deterring IUU fishing:

A consistent trend observed across all drafts is the relaxation of penalties associated with IUU fishing crimes. This is evident through the proposed changes in at least **53** articles across all drafts, all aimed at diluting existing punitive measures. Prison sentences are eliminated for all offences, alongside reductions in fines for various offences.

For example, the fine for commercial vessels caught fishing in protected coastal areas has dropped significantly. These previously ranged from 200,000 to 30,000,000 THB (approximately 6,350 to 950,400 USD), depending on vessel size. These now range from 50,000 to 500,000 THB (approximately 1,580 to 15,870 USD), marking a **98% decrease**.

The penalty system has also changed from a proportional to a flat rate, impacting smaller vessels more. Furthermore, this reduction may not effectively deter illegal activities, especially

considering that large commercial fishing vessels can earn up to 1.8 million THB per trip (approximately 57,140 USD).⁶

Notably, **Article 114** of the Royal Ordinance, which outlines severe IUU fishing violations and their penalties, saw the removal of nine specific articles. Consequently, several former IUU fishing infractions will no longer be categorised as severe offences. These include:

- Preparing a fishing logbook or reporting a fishing operation based on false information/documents or destroying a document or evidence related to an offence (present in all drafts).
- Modification of a fishing gear under Article 42, or use of a prohibited fishing gear (present in all drafts).
- Fishing in violation of rules prescribed by a coastal state or a Regional Fisheries Management Organisation (included in drafts by the Cabinet and Ruam Thai Sang Chart Party).
- Falsifying, concealing or changing a vessel's mark or registration (included in drafts by the Cabinet and Ruam Thai Sang Chart Party).

Furthermore, the majority of political parties' proposals seek to remove the state's jurisdiction, as outlined in **Article 8**, for offences occurring beyond Thai waters involving Thai beneficial owners or operators of non-Thai flagged fishing vessels. This would mean losing the ability to prosecute Thai citizens who are beneficial owners of fishing vessels flying non-Thai flags or flags of convenience (FoC) implicated for IUU fishing.

Deterring IUU fishing is only possible through the effective enforcement of suitably strong and proportional punishments. These amendments raise concerns regarding the legislation's effectiveness in combating IUU fishing and labour abuses, potentially fostering a sense of impunity among wrongdoers. EJP contends that maintaining proportionality in penalties is crucial, and in the context of fishing activities, laws should account for the harm caused, including impacts on natural resources and human rights.

"There are laws but they aren't enforced. You get fined 5,000 baht (\$150) for fishing within three kilometres of the coast, but this is like a grain of sand for the larger fishers; they might as well just pay up before they head out for the night."

- Sirasa Kantaratanakul, Thai campaigner speaking about fines for IUU fishing in Thailand in 2013.⁷

2. Relaxation of at-sea trans-shipment practice:

At-sea trans-shipment is prohibited under the current Royal Ordinance in **Article 85/1 and Article 87**. Both the Cabinet and the majority of political parties' drafts have proposed its reintroduction (88% of drafts include it). They suggest granting authority to the Director General 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 Director General's directives.

The relaxation of this regulation could significantly undermine transparency in Thailand's fishing

⁶ Thairath, (11 January 2024), Satun fishing boats placed a net once bringing in a total of millions baht. <https://www.thairath.co.th/agriculture/agricultural-products/2754509>

⁷ Gillet, K (21 October 2013), A slight catch: Thailand's overfishing crisis <https://www.scmp.com/magazines/post-magazine/article/1332931/slight-catch-thailands-overfishing-crisis>

industry, diminishing the capacity of enforcement and monitoring agencies to ensure fisheries compliance and oversee the living and working conditions of crew members aboard fishing vessels. Furthermore, such a relaxation would contravene the Codes of Conduct or traceability regulations of numerous major international seafood companies (including Thai Union and Nestle). Consequently, this could prompt these companies to refrain from purchasing seafood caught in Thai waters.

Royal Ordinance on Fisheries	Draft amendment (Cabinet and Bhumjai Thai drafts)
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> 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>	<i>"No person shall use a fishing vessel to transship aquatic animals except <u>when authorised to register as a trans-shipment vessel by the Director General.</u>"</i> <u><i>The criteria, procedures, and conditions for applying for and obtaining permits for the trans-shipment of aquatic animals shall be as specified by the Director General's announcement</i></u> <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 <u>or fishing vessels that have been notified to the Port Control Center in accordance with the criteria and procedures specified by the Director's announcement.</u></i>

3. Re-authorisation of at-sea crew transfer practice:

Article 83/1 of the existing Royal Ordinance imposed restrictions on the practice of at-sea crew transfers. However, across over 60% of the drafts (including those of Pheu Thai, Bhumjai Thai, Move Forward, Palang Pracharath, and Prachachat), the phrase "during its fishing operation" has been altered to "after porting out." Moreover, these drafts extend the exception for such practices beyond safety reasons by merely stating "where necessary."

This amendment overlooks the potential risks associated with crew transfer practices during at-sea operations. Historically, such practices were prevalent in Thai fishing fleets, primarily to rotate undocumented migrant workers among fishing vessels to prevent their escape.⁸

The drafts attempt to address potential labour exploitation concerns by requiring that crew members being transferred to other vessels must not have worked at sea for more than 30 days. However, enforcing or monitoring this requirement will be **almost impossible** due to the difficulties of verifying worker living and working conditions whilst at sea. Additionally, it is crucial to acknowledge that at-sea crew and catch transfers frequently coincide, implying that

⁸ Environmental Justice Foundation, (2015), Thailand's seafood slaves: Human trafficking, slavery and murder in Kantang's fishing industry, www.ejfoundation.org/reports/thailands-seafood-slaves-human-trafficking-slavery-and-murder-in-kantangs-fishing-industry

authorising one may exacerbate challenges associated with the other.

Royal Ordinance on Fisheries	Draft amendment (Pheu Thai draft)
<i>"No owner or master of a fishing vessel shall accept any seaman from other vessels to work during its fishing operation in the seas except where necessary for safety reasons, provided that the Port-In Port-Out Controlling Center is notified within twenty-four hours after the seaman is accepted."</i>	<i>"No owner or master of a fishing vessel shall accept any seaman <u>or crew</u> from other vessels to work <u>during its fishing operation after the vessels porting out</u> in the seas except where necessary <u>for safety reasons</u>, provided that the Port-In Port-Out Controlling Center is notified within twenty-four hours after the seaman is accepted."</i>

4. Risk of losing real-time fishing locations and catch recordings:

Numerous political drafts have revised the requirement for vessel owners to install a vessel monitoring system (VMS) stipulated in **Article 81 (1)**. Instead, they seek to simplify the requirement to just require the installation of a "vessel monitoring device". This would allow vessel operators to install much cheaper devices which would record vessel locations during fishing operations but would only transmit these locations to the Fisheries Monitoring Centre (FMC) when the vessel was within cellular network coverage rather than via satellite. This is to address concerns from commercial fishing vessel operators regarding the high costs associated with VMS installation and satellite data transmission.

Such a change would erode the monitoring and enforcement capabilities of the FMC and related agencies which have until now been reliant on real-time fishing vessel locations to facilitate actionable enforcement actions of suspicious activities, at-sea patrol patterns and at-sea vessel inspections.

Royal Ordinance on Fisheries	Draft amendment (Move Forward draft)
<i>"Any person wishing to use a commercial fishing vessel of a size prescribed by the Minister to engage in a fishing operation must...</i> <i>(1) having installed a fishing vessel monitoring system and maintained the functionality thereof at all times in accordance with the rules and procedures prescribed by the Director-General</i>	<i>"Any person wishing to use a commercial fishing vessel of a size prescribed by the Minister to engage in a fishing operation must...</i> <i>(1) having installed a fishing vessel monitoring system <u>device</u> and maintained the functionality thereof at all times in accordance with the rules and procedures prescribed by the Director-General</i>

5. Elimination of crew list and seaman book requirements for vessels porting out:

Both the Cabinet draft and those of political parties have eliminated the mandate for vessels

undergoing “port out” inspections to provide *“details of the number and a list of outgoing seamen on board,”* as stipulated in **Article 82** of the Royal Ordinance. This change was driven by concerns regarding excessive administrative burdens and regulatory compliance. Nevertheless, EIJ, labour organisations, and monitoring, control and surveillance best practices would argue that maintaining an up-to-date crew list is essential for ensuring crew safety and welfare as well as vessel owner accountability.

The International Labour Organisation’s (ILO) ‘Work in Fishing’ Convention No. 188 - of which Thailand became a signatory in 2019 - also stipulates that a crew list is a mandatory requirement for inspecting sea fishery workers on fishing vessels and should be regularly inspected to uphold official records.⁹

Royal Ordinance on Fisheries	Draft amendment (Pheu Thai draft)
<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... to the competent official at the Port In-Port Out Controlling Centre ”</i>	<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... to the competent official at the Port In-Port Out Controlling Centre ”</i>

Additionally, the Move Forward Party's proposal has amended **Article 83** concerning requirements for seaman books for Thai fishers and work licences for migrant workers. The revision introduces an exception to the requirement for migrant work licences for *“crew members of vessels licensed for coastal fishing and vessels licensed for commercial fishing operations in offshore waters.”* This amendment could weaken measures aimed at protecting migrant workers and is also in contravention of the ILO Maritime Labour Convention (MLC) of 2006¹⁰, and the International Maritime Organization (IMO) Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW)¹¹, which Thailand has ratified.

6. Removal of regulations for destructive fishing gears (trawlers):

Article 67 of the Royal Ordinance aims to conserve marine biodiversity by regulating the use of

⁹ ILO, (2007), C188 - Work in Fishing Convention, 2007 (No. 188).

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C188

¹⁰ ILO, (2006), Maritime Labour Convention (MLC). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C186

¹¹ International Maritime Organization (IMO), (1978), <https://www.imo.org/en/OurWork/HumanElement/Pages/STCW-Convention.aspx>

destructive fishing gears. Among these gears, bottom trawling stands out as particularly problematic due to its indiscriminate capture of various species, including economically valuable fish such as mackerel and squid, especially juveniles (See EJF report, Scourge of the Seas).¹²

According to one SEAFDEC study, **40%** of pair trawler catches were made up of juveniles of economically important species which were caught before they’ve had the opportunity to reproduce.¹³ This can wipe out entire fish populations, devastating marine ecosystems.

Instead of promoting more sustainable fishing practices, several political parties have proposed removing "a trawl net" from the list of controlled fishing gears, simply categorising it as a gear with a specific net mesh size requirement. This change would relax regulations on this harmful fishing method, adversely affect marine ecosystems through increased deployment and lack of regulation of trawler vessels, and potentially endangering the livelihoods of both commercial and artisanal fishers in the long term.

Royal Ordinance on Fisheries	Draft amendment (Palang Pracharath draft)
<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> ...	<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 fishing gear with the size of the meshes round the bottom part as prescribed by Notification of the Director-General. <u>Such designation of meshes size shall require approval from stakeholders before final approval is granted;</u></i> ...

7. Relaxation of regulation on the catching of charismatic or protected marine animals:

Originally, **Article 66** of the Royal Ordinance aimed to conserve protected marine animals by imposing restrictions and penalties on their capture. Several drafts have shown promising progress by adding the term "hunting" alongside “catching” - strengthening the regulation.

However, a proposed amendment by the Move Forward Party seeks to relax the provisions regarding the capture of protected species by replacing the word “catch” with “hunt”. Their draft also specifies that only hunting “for commercial purposes” would be deemed illegal. This could potentially permit incidental catching/bycatch as well as the non-commercial hunting of charismatic species, such as dolphins and protected sharks.

One famous example from 2018 involved the incidental capture of a pregnant whale shark by a pair trawling vessel in Phuket. Instead of releasing the animal, the vessel captains

¹² EJF, (2024), Scourge of the Seas: The impact of bottom trawling on Thailand’s marine ecosystems and recommendations for sector reform, https://ejfoundation.org/resources/downloads/Scourge-of-the-Seas_EN_Update_AUGUST2023_230823.pdf

¹³ SEAFDEC (2017) Trawl catch composition and quantity in Prachuap Khiri Khan and Chumphon Province, Thailand, http://repository.seafdec.or.th/bitstream/handle/20.500.12067/1158/Thailand_Chumphon%20Trawl%20catch%20composition.pdf?sequence=1&isAllowed=y

had brought the whale shark onboard one of the pair trawler vessels. It was only because the incident was caught on camera by a passing dive boat that the vessel operators could be brought to justice.¹⁴ The vessel captains were fined a record three million baht (84,000 USD) and their fishing licenses were revoked. Under MFP’s proposal, such future incidents would no longer be classed as illegal fishing.



A pregnant whale shark is hauled onto a pair trawler in Phuket province in 2018 – In this case the vessel operators were penalised for not attempting to release the protected animal.¹⁵ Under MFP’s proposals, such incidences could go unpunished.

Royal Ordinance on Fisheries	Draft amendment (Move Forward draft)
<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>	<i>“No person shall catch <u>hunt</u> 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 <u>for commercial purposes</u>, except where it is necessary to do so in order to save the life thereof, <u>which shall not be considered an offence.</u>”</i> <i><u>In cases where entanglement occurs unintentionally, the captured aquatic animal shall be promptly released back into the sea.</u></i>

¹⁴ Aqua centre (2018) #RIPฉลามวาฬแม่ลูกที่ถูกเก็บไปทำไมปลาเล็กปลาน้อย จีบปลาใหญ่ดีกว่า แคมใต้ลูกในท้องมันด้วย เวิร์กจริง!! ขอขอบคุณกับตันเรือ Aquea และนักดำน้ำทุกคนบนเรือ ที่ช่วยกันกดดันจนมันยอมปล่อย ถึงแม้เขาจะต้องตายทั้งกลม!! ที่ภูเก็ต ก็ตาม, https://www.facebook.com/story.php?story_fbid=2009232115776278&id=544142188951952

¹⁵ Aqua centre (2018) #RIPฉลามวาฬแม่ลูกที่ถูกเก็บไปทำไมปลาเล็กปลาน้อย จีบปลาใหญ่ดีกว่า แคมใต้ลูกในท้องมันด้วย เวิร์กจริง!! ขอขอบคุณกับตันเรือ Aquea และนักดำน้ำทุกคนบนเรือ ที่ช่วยกันกดดันจนมันยอมปล่อย ถึงแม้เขาจะต้องตายทั้งกลม!! ที่ภูเก็ต ก็ตาม, https://www.facebook.com/story.php?story_fbid=2009232115776278&id=544142188951952

8. Implementation of stricter import regulations and trade barriers:

Article 97 of the Royal Ordinance provides exemptions for non-Thai-flagged small-scale fishing vessels registered in bordering coastal states from certain seafood import regulations. Proposed amendments by most political parties suggest imposing an import cap of no more than 200 kilograms of imported seafood into Thailand per day per small-scale vessel.

Royal Ordinance on Fisheries	Draft amendment (Bhumjai Thai draft)
<i>“The Minister may issue a notification to prescribe that a fishing vessel of a flag state which shares a border with the Kingdom of Thailand undertaking artisanal fishing does not have to comply with all or certain provisions under section 95 and section 96. In this regard, the Minister shall also have the power to determine a guideline for such vessels to comply with in order to prevent IUU fishing.”</i>	<i>“The Minister may issue a notification to prescribe that a fishing vessel of a flag state which shares a border with the Kingdom of Thailand undertaking artisanal fishing <u>and imports in quantities not exceeding 200 kilograms per day</u> does not have to comply with all or certain provisions under section 95 and section 96. In this regard, the Minister shall also have the power to determine a guideline for such vessels to comply with in order to prevent IUU fishing.”</i>

Simultaneously, the Cabinet proposes an addition to an existing annex regarding seafood import fee rates by imposing an import fee of 20 THB/kg (approximately 0.56 USD) for all aquatic animals or seafood products imported into Thailand. This change will have a sizable impact on the business operations of seafood importers to Thailand, with a total volume of 2 million tonnes imported in 2022.¹⁶

These measures aim to address concerns raised by commercial fishing vessel owners regarding supposed declines in local seafood prices due to an influx of cheap imported seafood products. However, analysis of available catch landing data by tonnage and value shows that for almost all species groupings, the value of seafood landed by Thai-flagged vessels has gone up on average by 48% between 2014-2022.¹⁷

Another demand from the commercial sector has been for equal standards of transparency and traceability inspections for imported aquatic products from foreign countries, consistent with those applied domestically.

Concerning article compatibility with international standards:

The aforementioned articles, if implemented, would contradict various international standards and policy instruments concerning labour, transparency, traceability, and marine sustainability. While Thailand's recent progress towards a sustainable fishing sector is commendable, reverting these reforms now could jeopardise Thailand's international standing and the credibility of its fishing industry, particularly as the global seafood market moves towards increased transparency and

¹⁶ UN Comtrade, (2022), Thailand's aquatic import statistics 2022, analysed and calculated by EJJ.

¹⁷ Department of Fisheries, (2022), Fisheries statistics of Thailand 2022, https://www4.fisheries.go.th/local/file_document/20231124142604_new.pdf

accountability. It is important to note that the following examples of international standards are just limited examples and non-exhaustive.

Concerning issues	Labour-related international laws	Seafood company Code of Conducts	Sustainability-related international standards
At-sea crew transfer	ILO Maritime Labour Convention (MLC) of 2006		
At-sea trans-shipment		Nestlé Responsible Sourcing Standard ¹⁸ Thai Union Fishing Vessels Code of Conduct ¹⁹	FAO's International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing ²⁰
No real-time fishing location and catch recordings		Thai Union Fishing Vessels Code of Conduct, Sea Value Code of Conduct on International Fisheries ²¹	The Global Charter for Fisheries Transparency ²²
Elimination of crew list and seaman book requirement for migrant fishers	ILO C188 - Work in Fishing Convention (Article 15), ILO Maritime Labour Convention (MLC) of 2006		
De-regulation of destructive fishing gears		Nestlé Responsible Sourcing Standard ²³	United Nations General Assembly Session 59 Verbatim Report 56. A/59/PV.56 ²⁴
Relaxation of protected marine animal catches		Nestlé Responsible Sourcing Standard	FAO International Guidelines on Bycatch Management and Reduction of Discards (2011a) ²⁵

Estimated timeframe for amendment:

¹⁸ Nestle Responsible Sourcing Core Requirements, (2024), Requirements on Aquaculture and Fisheries, page 10.

<https://www.nestle.com/sites/default/files/asset-library/documents/library/documents/suppliers/nestle-responsible-sourcing-standard-english.pdf>

¹⁹ Thai Union, (2023), Thai Union Fishing Vessels Code of Conduct and Improvement Program 3.0.

<https://www.thaiunion.com/files/download/sustainability/20240125-tu-code-of-conduct-3.0-en.pdf>

²⁰ Food and Agriculture Organisation of the United Nations, (2001), International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing. <https://www.fao.org/3/y1224e/y1224e.pdf>

²¹ SeaValue, Code of Conduct on International Fisheries, <https://www.seavaluegroup.com/code-of-conduct-on-international-fisheries/>

²² EIJF, (2018), The Ten Principles for Global Transparency. <https://ejf.foundation.org/resources/downloads/EIJF-Transparency-10-principles-final-1.pdf>

²³ Nestle Responsible Sourcing Core Requirements, (2024), Requirements on Aquaculture and Fisheries, page 10.

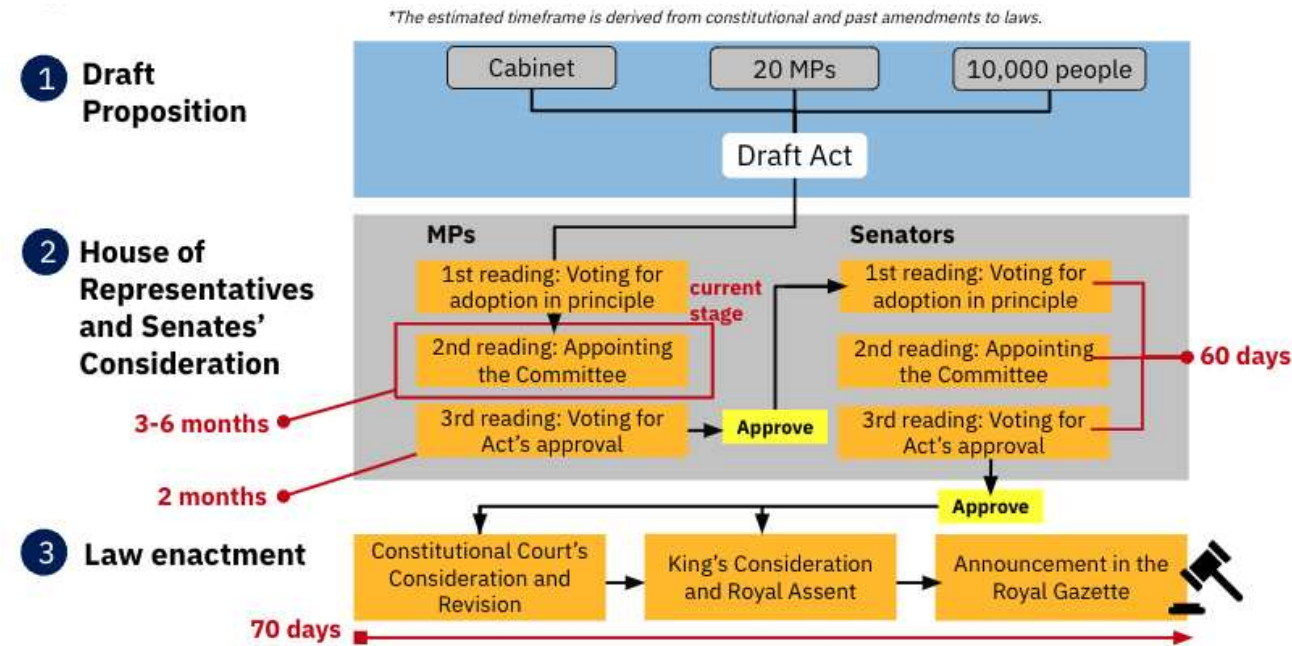
<https://www.nestle.com/sites/default/files/asset-library/documents/library/documents/suppliers/nestle-responsible-sourcing-standard-english.pdf>

²⁴ United Nations General Assembly, (2004), General Assembly official records, 59th session : 56th plenary meeting.

https://digitallibrary.un.org/record/535188?ln=zh_CN

²⁵ FAO, (2011), International Guidelines on Bycatch Management and Reduction of Discards. <https://www.fao.org/3/ba0022t/ba0022t.pdf>

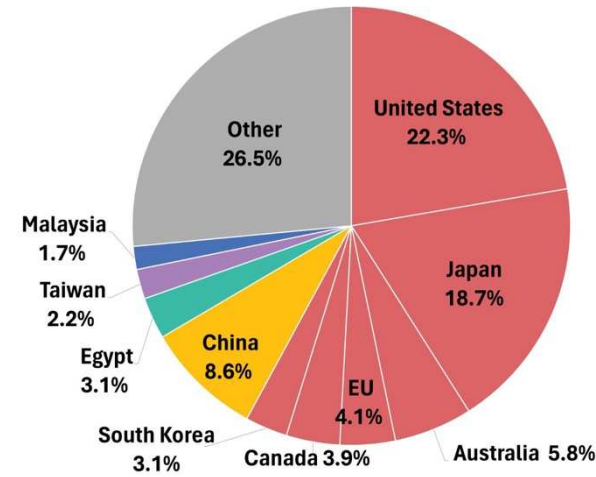
Based on previous legislative amendment processes, EJF predicts that the remaining legislative stages could take between 160 days to 370 days. It should be noted that this is an **estimate** based on the best available information at the time of writing and prior legislative amendment timelines. It should also be noted that once the bill passes the 3rd reading there is little chance for further revisions to the text.



Legislative process according to the 2017 Constitution (B.E. 2560). The current stage is as of March 2024.

What would be the trade implications if these rollbacks were to go ahead?

Current proposals, if enacted, could threaten seafood trade valued at **US\$ 3.3 billion** to just six countries plus the EU bloc (with already introduced or soon-to-be introduced trade instruments, transparency or traceability requirements). Collectively, these countries represented just under 60% of Thailand's seafood trade in 2022.²⁶ This includes trade to the United States (22.3%), Japan (18.7%), Australia (5.8%), the EU (4.1%), Canada (3.9%), South Korea (3.1%), and New Zealand (0.8%).



This is even before import regulations focused on barring market access for products associated with forced labour, such as the US Customs and Border Protection Agency's Withhold Release Orders²⁷ and the European Union's near-finalised Forced Labour Regulation²⁸, are taken into account.

This pie chart shows the main destinations for Thai seafood exports in 2022. The six countries and the EU are marked in red. These indicate countries which have either already implemented or are developing trade instruments to restrict the flow of IUU-caught/forced labour associated seafood into their markets.

²⁶ UN Comtrade (2022) Thailand trade statistics
²⁷ US CBP (2023) Forced Labor, <https://www.cbp.gov/trade/forced-labor>
²⁸ European Parliament (2023) Proposal for a ban on goods made using forced labour, [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2023\)739356](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2023)739356)

Subordinate regulations:

Aside from the aforementioned amendments, several subordinate regulations have already been revised and published. Agriculture Minister Thammanat has stated that 19 subordinate regulations will be revised to address concerns from the sector.²⁹ However, some of these regulations have dissolved or weakened crucial IUU mechanisms without adequate scientific explanation or meaningful consultation dialogues.³⁰ For example, increasing allowable fishing days (No.5) and reintroducing destructive fishing gears for small-scale vessels in coastal fishing areas (No.6). As of March 2024, at least **8** subordinate regulations have been officially published and announced:

1. Diminishment of PIPO regulations including reallowing crew list name revisions and exceptions for port-in or port-out requests: Announcement of the Department of Fisheries regarding the determination of criteria and procedures on notification of port ins and port outs by commercial fishing vessels, B.E. 2566³¹
2. Diminishment of logbook regulations including repeal of real-time reporting: Announcement of the Department of Fisheries on determining the format of the fishing logbook, period and method for submitting the fishing logbook report of commercial fishing vessels, B.E. 2566³²
3. Diminishment of vessel marking regulations including exceptions for marking of support vessels: Announcement of the Department of Fisheries regarding the establishing criteria and methods for organising fishing boat identification marks for commercial fishing vessels, B.E. 2566³³
4. Diminishment of vessel monitoring system (VMS) regulations including requirement for VMS Generation II installation: Announcement of the Department of Fisheries on criteria and methods for installing a fishing boat tracking system, B.E. 2566³⁴
5. Increasing the allowable fishing days across vessel gear groups: Announcement of the Department of Fisheries regarding the increase of the fishing days³⁵
6. Incorporate trawlers as eligible fishing gear for artisanal fishing vessel licences: Announcement from the Department of Fisheries regarding the licensing requirements for artisanal fishing vessels and associated fishing gear used in coastal fishing operations³⁶
7. Remove trawlers from commercial fishing gears: Announcement from the Department of Fisheries regarding the specification of vessel sizes and fishing gear for certain types of commercial fisheries³⁷
8. Impose bail regulation instead of detaining or seizing vessels during the trial: Announcement from the Department of Fisheries regarding placing bail instead of seizing fishing gear or detaining fishing boats³⁸

²⁹ Royal Thai Government, (24 December 2023), Minister Thammanat promised to find solutions to artisanal fisheries concerns. <https://www.thaigov.go.th/news/contents/details/76566>

³⁰ EJF acknowledges that the authority to announce subordinate regulations lies with the minister and director-general, without the need for an official public hearing. However, we argue that any regulations that overturn existing mechanisms and affect various stakeholders should undergo thorough and inclusive consultation processes.

³¹ Department of Fisheries, (2023), Announcement of the Department of Fisheries regarding the determination of criteria and procedures on notification of port ins and port outs by commercial fishing vessels, B.E. 2566. <https://ratchakitcha.soc.go.th/documents/14862.pdf>

³² Department of Fisheries, (2023), Announcement of the Department of Fisheries on determining the format of the fishing logbook, period and method for submitting the fishing logbook report of commercial fishing vessels, B.E. 2566. <https://ratchakitcha.soc.go.th/documents/14857.pdf>

³³ Department of Fisheries, (2023), Announcement of the Department of Fisheries regarding the establishing criteria and methods for organising fishing boat identification marks. For commercial fishing vessels in B.E. 2566. <https://ratchakitcha.soc.go.th/documents/13724.pdf>

³⁴ Department of Fisheries, (2023), Announcement of the Department of Fisheries on criteria and methods for installing a fishing boat tracking system, B.E. 2566. <https://ratchakitcha.soc.go.th/documents/15090.pdf>

³⁵ Royal Thai Government, (2023), Announcement of the Department of Fisheries regarding the increase of the fishing days. <https://www.thaigov.go.th/news/contents/details/76308>

³⁶ Department of Fisheries, (2024), Announcement from the Department of Fisheries regarding the licensing requirements for artisanal fishing vessels and associated fishing gear used in coastal fishing operations. <https://ratchakitcha.soc.go.th/documents/21207.pdf>

³⁷ Department of Fisheries, (2024), Announcement from the Department of Fisheries regarding specification of vessel sizes and fishing gear for certain types of commercial fisheries. <https://www.thaigov.go.th/news/contents/details/78831>

³⁸ Department of Fisheries, (2024), Announcement from the Department of Fisheries regarding placing bail instead of seizing fishing gear or detaining fishing boats. <https://ratchakitcha.soc.go.th/documents/15024.pdf>

Endorsement organisations:

1. Center for Alliance of Labor and Human Rights (CENTRAL), Cambodia
2. Environmental Justice Foundation (EJF)
3. Fisherman Labour Group (FLG)
4. Foundation for Education and Development (FED)
5. Greenpeace
6. Human Rights and Development Foundation (HRDF)
7. Independent Federation of Myanmar Seafarers: IFOMS
8. Labour Protection Network (LPN)
9. Labour Rights Foundation (LRF)
10. Legal Support for Children and Women (LSCW), Cambodia
11. Migrant Working Group (MWG)
12. Myanmar Migrant Network Bangkok (MMNB)
13. Save Andaman Network Foundation
14. Solidarity Center
15. State Enterprises Workers' Relations Confederation (SERC)
16. The Exodus Road

Comparison table of eight Fisheries Act amendment drafts:

**Red tick means containing key concerns | Question mark means risking contained key concerns*

Key concerns	Cabinet	Pheu Thai	Bhum Jai Thai	Move Forward	Palang Pracharath	Ruam Thai Sang Chart	Democrat	Prachachat
Removing restrictions on IUU-related practices								
Article 83/1: Re-authorise at-sea crew transfers: Such a practice could facilitate forced labour and prevent abused crew from raising the alarm		art. 33 ✓	art. 32 ✓	art. 39 ✓	art. 31 ✓			art. 33 ✓
Article 85/1, 87: Re-authorise at-sea trans-shipment: This can facilitate laundering of IUU caught seafood with legitimate catch	?	?	?	?	?		?	?
	...in accordance with the procedures prescribed by the Director-General							
Revoking long-arm jurisdiction for Thais engaged in IUU activities overseas								
Article 8: Revoke long-arm jurisdiction for Thais engaged in IUU activities overseas: This would extend to Thai beneficial owners of foreign-flagged fishing vessels implicated for IUU fishing.		art. 9 ✓	art. 9 ✓	art. 8 ✓	art. 8 ✓			art. 8 ✓

Key concerns	Cabinet	Pheu Thai	Bhum Jai Thai	Move Forward	Palang Pracharath	Ruam Thai Sang Chart	Democrat	Prachachat
Monitoring, Controlling, Surveillance (MCS) mechanisms								
Article 81: Real-time location from VMS not required: This will reduce the effectiveness and real-time monitoring of the VMS system		art. 31 	art. 30 	art. 36 	art. 29 		art. 12 	art. 31 
Article 81: Real time logbook not required: This will reduce the traceability and transparency of catch monitoring systems	art. 24 	art. 31 	art. 30 	art. 36 	art. 29 	art. 29 		art. 31 
Article 87-89: Relaxation on support vessel monitoring: This will reduce requirements and criteria for using support vessels	art. 28 	art. 36 	art. 35 	art. 43 	art. 34 	art. 32 		art. 36 

Key concerns	Cabinet	Pheu Thai	Bhum Jai Thai	Move Forward	Palang Pracharath	Ruam Thai Sang Chart	Democrat	Prachachat
Trade-related concerns								
Article 97: Limitations of import seafood from neighbouring countries: This would impose a daily cap for the amount of imported seafood per small-scale vessel		art. 42 	art. 41 	art. 49 	art. 40 			art. 42 
Annex: "Fees" scheme for imported seafood: This would impose a 20 THB/kg fee on all seafood imports	art. 34 							
National Fisheries Committee composition								
Article 14: Lack of inclusive representation in National Fisheries Board: No representation from seafood business, labour/environmental organisations	art. 10 	art. 13 	art. 13 	art. 12 	art. 12 	art. 12 		art. 13 

Key concerns	Cabinet	Pheu Thai	Bhum Jai Thai	Move Forward	Palang Pracharath	Ruam Thai Sang Chart	Democrat	Prachachat
Distant water fishing controls								
Article 48: Relaxation of distant water fleet controls: Extend permissions for fishing in foreign waters and high seas under the DG's authority	art. 18 ✓	art. 23 ✓	art. 23 ✓	art. 26 ✓	art. 21 ✓	art. 22 ✓		art. 23 ✓
Article 92, 96: Relaxation of Port State Measures: Moving to self-reporting and licence verification rather than evidence-based permissions		art. 38 ✓	art. 37 ✓	art. 45 ✓	art. 36 ✓			art. 38 ✓
Article 114 (7): Remove penalties for IUU fishing in a coastal state: This will decrease the severity of IUU violation from 'severe' to 'general'	art. 30 ✓					art. 37 ✓		

Key concerns	Cabinet	Pheu Thai	Bhum Jai Thai	Move Forward	Palang Pracharath	Ruam Thai Sang Chart	Democrat	Prachachat
Conservation measures								
Article 66: Relaxation on rare animal landings on fishing vessels: Would permit incidental catching/bycatch and non-commercial hunting (MFP)	<i>strengthen the regulation to include "hunting"</i>	<i>strengthen the regulation to include "hunting"</i>	<i>strengthen the regulation to include "hunting"</i>	art. 31 		<i>strengthen the regulation to include "hunting"</i>		<i>strengthen the regulation to include "hunting"</i>
Article 67: De-regulate destructive gears (Bottom trawlers): Many drafts are looking to remove the term "a trawl net" from the list of controlled fishing gears, simply categorising it as a gear with a specific net mesh size requirement.	art. 22 		art. 29 		art. 27 	art. 27 		art. 29 

Key concerns	Cabinet	Pheu Thai	Bhum Jai Thai	Move Forward	Palang Pracharath	Ruam Thai Sang Chart	Democrat	Prachachat
Labour-related concerns								
Article 4 (9): Remove legislative intent on labour protection: This will result in the relaxation of subsequent labour-related articles	art. 3 	art. 3 	art. 3 	art. 3 	art. 3 	art. 3 		art. 3 
Article 82: Crew list not required before port out: Lost of opportunity to inspect up-to-date crew list to ensure crew's safety and well-being	art. 25 	art. 32 	art. 31 	art. 37 	art. 30 	art. 30 		art. 32 
Article 83: Seaman book for migrant fishers not required: Weaken measures aimed at protecting migrant workers				art. 38 				

Appendix: Trend analysis across all 8 Fisheries Act drafts across 17 problematic areas.

Article	Cabinet	Pheu Thai	Bhum Jai Thai	Move Forward Party	Palang Pracharath	Ruam Thai Sang Chart	Democrat	Prachachat	No. of parties	% of parties
Removing restrictions on IUU-related practice										
83/1		✓	✓	✓	✓			✓	5	63%
85/1, 87	✓	✓	✓	✓	✓		✓	✓	7	88%
Revoking long-arm jurisdiction for Thais engaged in IUU activities overseas										
8		✓	✓	✓	✓			✓	5	63%
Monitoring, Controlling, Surveillance (MCS) mechanisms										
81A		✓	✓	✓	✓		✓	✓	6	75%
81B	✓	✓	✓	✓	✓	✓		✓	7	88%
87-89	✓	✓	✓	✓	✓	✓		✓	7	88%
Trade-related concerns										
97		✓	✓	✓	✓			✓	5	63%
Annex	✓								1	13%

National Fisheries Committee composition										
14	✓	✓	✓	✓	✓	✓		✓	7	88%
Distant water fishing controls										
48	✓	✓	✓	✓	✓	✓		✓	7	88%
92		✓	✓	✓	✓			✓	5	63%
114 (7)	✓					✓			2	25%
Conservation measures										
66				✓					1	13%
67	✓	✓	✓		✓	✓		✓	6	75%
Labour-related concerns										
4 (9)	✓	✓	✓	✓	✓	✓		✓	7	88%
82	✓	✓	✓	✓	✓	✓		✓	7	88%
83			✓						1	13%
										
No. of concerning articles	10	13	13	14	13	8	2	13		
% of concerning articles	59%	76%	76%	82%	76%	47%	12%	76%		

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