

PROPOSAL OF CIVIL SOCIETY AND TRADE UNIONS

ON THE DEVELOPMENT OF A MEMORANDUM OF
UNDERSTANDING BETWEEN **INDONESIA ECONOMIC
AND TRADE OFFICE TO TAIPEI (IETO)** AND
**TAIPEI ECONOMIC AND TRADE OFFICE IN JAKARTA
(TETO)** ON THE PLACEMENT OF MIGRANT FISHERS
ON BOARD DISTANT WATER FISHING VESSELS

2nd May 2024





國市群衆服務協會
Serve the People Association



INDONESIA
OCEAN JUSTICE
INITIATIVE



Humanity
Research
Consultancy

List of Organisations Submitting Proposal (Submitters):

1. Serikat Buruh Migran Indonesia (SBMI)
2. Serikat Pekerja Perikanan Indonesia (SPPI)
3. Serikat Awak Kapal Perikanan Sulawesi Utara (SAKTI Sulut)
4. Serikat Awak Kapal Transportasi Indonesia (SAKTI)
5. Pelaut Borneo Bersatu (PBB)
6. Serikat Buruh Perikanan Indonesia (SBPI)
7. Pejuang Suara Pelaut (PSP)
8. Forum Silaturahmi Pelaut Indonesia (FOSPI)
9. Indonesia Ocean Justice Initiative (IOJI)
10. Human Rights Working Group (HRWG)
11. Greenpeace Indonesia
12. Environmental Justice Foundation (EJF)
13. Destructive Fishing Watch Indonesia (DFW-Indonesia)
14. Better Engagement Between East and Southeast Asia (BEBESEA)
15. Global Labor Justice - International Labor Rights Forum (GLJ - ILRF)
16. Taiwan Association for Human Rights (TAHR)
17. Humanity Research Consultancy (HRC)
18. Serve the People Association (SPA)
19. Stella Maris Kaohsiung

1. INTRODUCTION

1.1. Background

Indonesia is the biggest country of origin of migrant fishers working on Taiwanese-flagged and/or owned fishing vessels. In 2022, the Taiwan Fisheries Agency recorded 14,308 Indonesian migrant fishers working on Taiwanese fishing vessels that operate outside Taiwan's territorial waters (hereinafter referred to as 'overseas placement'). In the same year, 8,529 Indonesian migrant fishers worked in Taiwan's territorial waters (hereinafter referred to as 'coastal placement').¹

While Indonesian migrant fishers dominate the workforce in Taiwanese fishing fleets, vessel owners and/or operators do not provide adequate human rights and labour protection for Indonesian migrant fishers. Between 2018 and 2020, the Head of the Indonesian Migrant Workers Protection Agency (BP2MI) received complaints from migrant fishers, mainly from Taiwan (128 reports), followed by South Korea (43 reports) and Peru (38 reports).²

In recent years, various studies and reports have shown that Indonesian migrant fishers placed on board Taiwanese fishing vessels are misled by disinformation and charged with excessive recruitment fees, leading to debt bondage. They also endure poor working conditions as well as forced labour.³ Different actors of placement, particularly vessel principals, operators, manning agents in Taiwan or Indonesia, and brokers, have been identified as having a role in these systemic violations. When migrant fishers experience exploitation at sea, grievance mechanisms, and safe repatriation are almost impossible to access given the long duration of fishing operations, limited oversight at sea, and limited or absence of communication at sea provided to migrant fishers.⁴

Even though exploitation still occurs, the Governments of Indonesia and Taiwan continue to strive to improve the protection of Indonesian migrant fishers on Taiwanese fishing vessels. In addition to domestic policy reforms, both governments have expressed their intention to develop a Memorandum of Understanding (MoU) on the protection of Indonesian migrant fishers on Taiwanese fishing vessels.⁵ This was conveyed by the Indonesian Ministry of Foreign Affairs⁶ and the Taiwanese Council of Agriculture in the Action Plan for Fisheries and

¹ Fisheries Agency Council of Agriculture, 'Fishery Statistics Annual Report for the 111th Year of the Republic of China (2023)'

² Benny Rhamdani, "Peran Pemerintah Dalam Penempatan dan Perlindungan AKP Migran Indonesia di Kapal Penangkap Ikan Asing" dated 14 May 2020, accessed on <https://kkp.go.id/an-component/media/upload-gambar-pendukung/DitJaskel/publikasi-materi-2/pekerja-migran/BAHAN%20KA%20BP2MI%20WEBINAR%20PELINDUNGAN%20ABK%20DI%20KAPAL%20ASING.pdf>.

³ Serikat Buruh Migran Indonesia (SBMI) dan Greenpeace Indonesia, *Jeratan Bisnis Kotor Perbudakan di Laut* (2020); Scalabrini Migration Centre (SMC), *Out at Sea, Out of Sight: Filipino, Indonesian, and Vietnamese Fishermen on Taiwanese Fishing Vessels* (2020); Indonesia Ocean Justice Initiative (IOJI), *Potret Kerawanan Kerja Pelaut Perikanan di Kapal Asing: Tinjauan Hukum, Hak Asasi Manusia, dan Kelembagaan* (2022).

⁴ IOJI, SBMI, and DFW-Indonesia, *Urgensi Terbitnya Peraturan Menteri Ketenagakerjaan tentang Penempatan dan Perlindungan Awak Kapal Perikanan Migran* (2023).

⁵ The Jakarta Post, *Taiwan prepare migrant fishers protection pact*, accessed on <https://www.thejakartapost.com/world/2024/01/07/indonesia-taiwan-prepare-migrant-fisher-protection-pact.html>.

⁶ The Jakarta Post, 'IOJI makes several recommendations to strengthen protection of Indonesian migrant fishers' accessed on

Human Rights⁷ in 2022, later amended in 2023. This effort is in line with the mandate of Article 31 of Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers ('Law 18/2017'). To strengthen protection, this MoU must cover the rights and protection standards of Indonesian migrant fishers throughout their migration phase in accordance with international human rights and labour rights standards. Also, this MoU must establish a single placement corridor that is regulated and overseen by the Indonesian Ministry of Manpower and a government agency appointed by the Taiwanese Government.

Against this backdrop, civil society organisations (CSOs) and trade unions developed a Proposal titled 'Strengthening the Protection of Indonesian Migrant Fishing Crew on Taiwanese Fishing Vessels.' This Proposal is designed to provide evidence-based input to the Governments of Indonesia and Taiwan in developing a Memorandum of Understanding on the protection of Indonesian migrant fishers on Taiwanese fishing vessels. After explaining legal and policy frameworks in Indonesia and Taiwan, this Proposal provides a full picture of human rights and labour risks on Taiwanese flagged or owned/operated fishing vessels. These risks serve as the basis of consideration for developing recommendations for the Memorandum of Understanding outlined in the Proposal.

This Proposal prioritises the interests of workers throughout the drafting process. For the data collection and analysis process, the drafting team conducted literature review and in-depth consultations with trade unions and convened 2 (two) workshops with relevant CSOs and trade unions in Indonesia and Taiwan. This Proposal contains specific recommendations for protections that need to be prioritised in labour aspects, which are spread out in Chapter 3 and consolidated in the Annex, as an **integral part** of this Proposal. The sustainability of Taiwan's fishing industry may be achieved only if all stakeholders, especially the Governments of Indonesia and Taiwan, protect, respect, and fulfil human rights, including labour rights, of every migrant fisher working in this sector.

1.2. Contribution of Migrant Fishers to Taiwan's Fishing Industry

Migrant fishers play a central role in the growth of the fishing industry in Taiwan. In 2022, a total of 21,811 migrant fishers worked on distant water fishing (DWF) vessels, and 11,250 on board Taiwanese coastal water fishing fleets.⁸ Indonesia dominates this number, followed by the Philippines and Vietnam. The huge number of migrant fishers working in this sector enables Taiwan to hold a strategic position in the global fishing industry. In 2022, Taiwan's fisheries industry reached 874,696 metric tons, with the most contribution from fishing in the far sea.⁹ The value of Taiwan's fisheries as of 2022 reached NT\$ 82,206,232.¹⁰ In addition, Taiwan has a fisheries export value of US\$ 1,683,748,000 with a total production of 554,851 metric tons.¹¹ Tuna is the primary commodity in Taiwan's fisheries industry. In 2019, Taiwan

<https://www.thejakartapost.com/front-row/2022/09/01/ioji-makes-several-recommendations-to-strengthen-protection-of-migrant-workers.html>.

⁷ Council of Agriculture Executive Yuan, 'Action Plan on Fisheries and Human Rights', Amended, (July 2023).

⁸ See Note 1.

⁹ Fisheries Agency, Ministry of Agriculture Taiwan, Fisheries Statistics Annual Report (2022)

¹⁰ Fisheries Agency, Ministry of Agriculture Taiwan, Fisheries Statistics Annual Report (2022)

¹¹ Fisheries Agency, Ministry of Agriculture Taiwan, Fisheries Statistics Annual Report (2022)

ranked fifth largest in the number of fishing and fleet vessels for the purse seine, tuna long line, and albacore long line sectors in the Pacific Ocean.¹²

The high economic value of Taiwan's fisheries is not followed by the industry's costs incurred for workers working on board fishing vessels. This is evident in section 1.3, where the reality of the working environment on board Taiwan's distant water vessels is characterised by indecent working conditions, as well as labour and human rights violations.

1.3. Overview of the Working Environment and Culture on Taiwan's Distant Water Fishing Vessels

Taiwan has the world's second-largest distant water fishing (DWF) vessels, with over 1,100 fishing vessels operating in and across the Atlantic, Pacific, and Indian Oceans and the EEZs of 26 coastal states.¹³ The majority of these vessels are engaged in tuna fisheries. As of 2021, there are also 238 DWF vessels owned by Taiwanese citizens flying the flags of other countries, or what is commonly referred to as the flag of convenience ('FoC') practice.¹⁴ It is then, unsurprising, that the 'overseas water placement' corridor dominates the job vacancies filled by migrant fishers from some countries, especially Indonesia. As of 2022, there are approximately 10,000 more migrant fishers employed in the 'overseas placement' corridor than the total number in the 'coastal placement' corridor.¹⁵ Given that many reports of human rights and labour violations filed to CSOs and trade unions occur in Taiwan's DWF vessels,¹⁶ this Proposal focuses on the working environment in Taiwan's DWF vessels.

Taiwan's DWF vessels generally stay at sea for months without returning to port. For that purpose, they rendezvous with bunker vessels for refuelling and daily needs and reefers for at-sea transshipment. At-sea transshipment heightens the risk of illegal, unreported, and unregulated fishing (IUU-F). This practice enables fishing vessels to transfer illegally caught fish to reefers without any supervision from port authorities.¹⁷ IUU-F practices can also increase the vulnerability of migrant fishers and the risk of human rights violations for migrant fishers working on DWF vessels. Even though the Taiwanese Government has reformed policies related to the management of DWF operations, the challenge lies in monitoring, control, and surveillance (MCS) and law enforcement against IUU-F by the Taiwanese-flagged and/or owned DWF vessels.¹⁸ This is evident from the stories of Indonesian migrant fishers forced to engage in illegal fishing on Taiwanese DWF vessels.¹⁹

¹² Industrial Economic Incorporated, 'Trade Flow Analysis of Pacific Tuna Fisheries' (2023)

¹³ Food and Agriculture Organization (FAO), 2022. 'Mapping distant-water fisheries access arrangements' FAO Fisheries and Aquaculture Circular No. 1252 Rome, accessed on <https://doi.org/10.4060/cc2545en>; Stimson, 'Shining a Light: The Need for Transparency Across Distant Water Fishing' (2019); Overview of the Fisheries, accessed on https://en.fa.gov.tw/view.php?theme=web_structure&id=110.

¹⁴ See Note 8 (FAO, 2022);

¹⁵ See Note 1

¹⁶ EJF, 'Illegal fishing and human rights abuses in the Taiwanese fishing fleet' (2020).

¹⁷ FAO, 'Transshipment: a closer look' 2020.

¹⁸ Chao-Chin Huang, Shui-Ki Chang, dan Shiahn-Wern Shyue, 'Sustain or phase out: Transformation of Taiwan's management scheme on distant water tuna longline fisheries' National Oceanic and Atmospheric Administration, '2023 Report to Congress: Improving International Fisheries Management' (2023).

¹⁹ EJF (2020), Greenpeace dan SBMI (2021).

The operation of DWF vessels, especially those engaged in IUU-F practices, adversely affects the human rights and labour conditions of migrant fishers. As the largest part of Taiwan's DWF vessels, longliners operate longer than other fishing vessels, implying long working hours for migrant fishers.²⁰ Long working hours trigger occupational health and safety issues.²¹ In addition, numerous studies found that migrant fishers on DWF vessels experience verbal and physical abuse, wage deductions, abusive working conditions, even forced labour.²² While working in the DWF vessels, migrant fishers do not have access to contact their families, report violations to authorities and trade unions, and escape exploitative conditions.²³ Although some Taiwanese-flagged DWF vessels have been connected to satellite communication devices, only a few vessels provide migrant fishers with free Wi-fi access and are not ensuring that Wi-Fi enables freedom of association including union access to workers at their worksite on vessels.²⁴

In addition to the legality issues and working environment on board, cultural differences between Indonesia and Taiwan may trigger and fuel negative stigma and discriminatory practices that often lead to human rights violations of migrant fishers on board fishing vessels. For instance, this issue can be triggered by food. Generally, food on board does not match the food culture in Indonesia. Cultural differences in diet include (i) pork is the primary source of protein in Taiwan, (ii) Indonesian migrant fishers are accustomed to consuming large portions of rice, whereas Taiwanese vessel captains/principals generally provide mantou bread or porridge, (iii) the assumption in Taiwanese society that it is impolite to finish all the food served on the plate, in contrast to the Indonesian culture; (iv) many Indonesian migrant fishers are not accustomed to using chopsticks, whereas Taiwanese society upholds the etiquette of using chopsticks.²⁵ Apart from food, two other basic etiquette that are influential are language and work ethic. Both are key to building interpersonal relationships in Taiwan. Work ethic is exemplified by being punctual and keeping promises.

Labor abuses are exacerbated by cultural differences on board. For example, in 2016, on the Tunago No. 61 Fishing Vessel, after Indonesian migrant fishers were physically and verbally abused, including being given inadequate and culturally inappropriate food, conditions of violence and harassment escalated to the point that workers murdered the captain.²⁶ In another case, there was a misunderstanding between the captain and Indonesian migrant fishers due to language differences, where the captain could not communicate with the workers and beat them due to differences in nature.²⁷ All in all, in addition to legalistic and economic approaches, a socio-cultural approach regarding cultural

²⁰ Gavin G. McDonald *et. al.*, 'Satellites can reveal global extent of forced labor in the world's fishing fleet' PNAS Vol. 118 No. 3 (2018).

²¹ Yen, Kuo-Wei dan Liuhung, Li-Chuan, "A review of migrant labour rights protection in distant water fishing in Taiwan: From laissez-faire to regulation and challenges behind," *Marine Policy* (2021).

²² EFJ (2020), Greenpeace dan SBMI (2021).

²³ Pamungkas Dewanto, Jeremia Humolong Prasetya, and Fadilla Octaviani, 'The Precarity at Sea: Lessons from Indonesian Migrant Fishers' (2023) *Heinrich Boll: Southeast Asia*.

²⁴ Global Labor Justice-International Labor Rights Forum (GLJ-ILRF), 'Briefing Paper No. 2 Wi-Fi: Available at Sea - but Not for Fishers' (2023); GLJ-ILRF, 'Briefing Paper No. 3 Wi-Fi for Fishers' Fundamental Labor Rights' (2023).

²⁵ Pamungkas A. Dewanto, Ratu Ayu Asih Kusuma Putri, Hurmayani, Angela Dyah A. Pramastyangtyas, *Buku Panduan Instruktur Orientasi Pra-Pemberangkatan Pekerja Migran Indonesia*, (Jakarta: International Organization for Migration, 2022).

²⁶ Greenpeace, *Misery at Sea: Human suffering in Taiwan's distant water fishing fleet*, 2018

²⁷ Greenpeace, *Misery at Sea: Human suffering in Taiwan's distant water fishing fleet*, 2018

understanding in Indonesia and Taiwan must be part of the collective effort to improve Indonesian migrant fishers' protection on Taiwanese fishing vessels. Thus, the Memorandum of Understanding needs to comprehensively regulate migrant fishers' protection.

2. OVERVIEW OF LEGAL AND POLICY FRAMEWORKS RELATED TO THE PROTECTION OF MIGRANT FISHERS

2.1. Taiwan

2.1.1. Existing Legal and Policy Framework

Taiwan's legal framework recognizes 3 (three) migrant fishers placement corridors. They consist of (1) coastal placement, (2) overseas placement, and (3) flag of convenience (FOC) vessels' placement. Migrant fishers working in the coastal placement corridor are subject to Taiwan's labour law framework under the authority of the Ministry of Labor. In the overseas and FOC placement corridor, fishing vessels operate in distant waters (DWF), by which the Taiwan Fisheries Agency regulates. The overseas placement corridor is governed by the Distant Water Fisheries Act and the Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members ('Overseas Regulations'). The FOC placement corridor is governed by the Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels ('Foreign Vessels Act') and Regulations on the Approval of Investment in or the Operation of Foreign Flag Fishing Vessels ('Foreign Vessels Regulations').

Migrant fishers working in the second and third placement corridors have higher risks than those working on fishing vessels in Taiwan's territorial waters. However, their rights and protection standards are lower than those of migrant fishers in territorial waters, who are entitled to Taiwanese labour standards. This difference includes minimum wage and social security.²⁸ Unlike migrant fishers, the Taiwanese Government protects Taiwanese fishers working on Taiwanese DWF vessels with Taiwanese labour standards. The difference in rights and protection standards between migrant and Taiwanese fishers on board DWF vessels is a discriminatory policy, contradicting the right to equal pay for equal work stipulated in Article 23 (2) of the Universal Declaration of Human Rights (UDHR).

The Taiwanese Government made a series of amendments to the Overseas Regulations for overseas placement schemes and the Foreign Vessels Regulations for FOC placements. The Overseas Regulation regulates the governance of the placement and protection of migrant fishers, including decent working conditions on fishing vessels, labour inspection, grievance mechanism, and manning agents governance. Indicators of decent working conditions set in this regulation are rest hours, employment contract standard, fishers' certificates, insurance, minimum age and medical examination, accommodation and food, minimum wage, and repatriation, in accordance with the logics of ILO C-188.²⁹ However, the Taiwanese Government has not fully adopted ILO C-188 norms. For instance, there are no mandatory provisions on zero recruitment fees for migrant fishers and provisions on occupational safety and health (OSH) mechanisms. Also, the Taiwanese government only requires ILO C-188 accommodation standards for newly built or renovated fishing vessels after November 16, 2020.³⁰

²⁸ Mina Chiang and Kimberly Rogovin, 'Labor Abuse in Taiwan's Seafood Industry & Local Advocacy for Reform' (2020).

²⁹ Kuo-Wei Yen dan Li-Chuan Liu Huang, 'A review of migrant labor rights protection in distant water fishing in Taiwan: From laissez-faire to regulation and challenges' *Marine Policy* 134.

³⁰ Regulations for the Issuance of Building Permit and Fishing License of Fishing Vessel, Article 15-4.

The scope of regulation regarding the protection of migrant fishers in the FOC placement corridor is even more limited. Taiwanese citizens who operate and invest in FOC fishing vessels must obtain a licence from the Taiwan Fisheries Agency. Labour standards and the applicant's track record related to human trafficking and forced labour are set as criteria for the licence issuance.³¹ Labour standards are limited to the minimum age of workers, health certificates and basic safety training (BST), rest hours, minimum salary, insurance, and accommodation on board. There are no labour standards required by the Foreign Vessels Regulations other than provisions regarding the contract's language. Violations of labour standards, human trafficking, and forced labour result in licence revocation.³² Foreign Vessels Regulations do not provide a grievance mechanism for human rights and labour violations that migrant fishers can utilise to fulfil their right to justice.

2.1.2. Policy Direction

The Taiwanese Government expressed its commitment to reform policies and regulations related to human rights protection in the fishing industry to conform to international standards in ILO C-188.³³ The Action Plan for Fisheries and Human Rights contains an action plan for human rights and labour rights protection in Taiwan's fishing industry from 2022 to 2025. This document was amended in 2023. It generally targets policy change or adoption, policy implementation, international cooperation, and public and private agency partnerships. Two main regulations that are set as the focus of policy changes are *Overseas Regulations* and *Foreign Vessels Regulations*. In 2022, the former was amended to improve 3 (three) important aspects: manning *agent* management, insurance, and the effectiveness of labour agreements. In 2024, the *Foreign Vessels Regulations* are expected to be amended to make sure labour standards are made in line with ILO C-188 standards.

2.2. Indonesia

2.2.1. Existing Legal and Policy Framework

Indonesian migrant fishers are categorised as Indonesian migrant workers by Law Number 18 of 2017 on the Protection of Indonesian Migrant Workers ('Law of 18/2017'). The Ministry of Manpower is responsible for issuing Indonesian Migrant Worker Placement Company License (*Surat Izin Perusahaan Penempatan Pekerja Migran Indonesia*, hereinafter 'SIP3MI') for manning agents placing migrant workers. Meanwhile, the Ministry of Transportation issues Business License for the Recruitment and Placement of Vessel Crews (*Surat Izin Usaha Perekrutan dan Penempatan Awak Kapal*, hereinafter 'SIUPPAK') for manning agents placing migrant fishers on board foreign fishing vessels, based on Minister of Transportation Regulation Number 84 of 2013, revoked by Minister of Transportation Regulation Number 59 of 2021. Manning agents holding SIUPPAK placed migrant fishers on foreign fishing vessels, including Taiwanese-flagged, which operate in the Exclusive Economic Zone (EEZ) and far seas. In contrast, the placement of migrant fishers by 'SIP3MI' holders is limited to the waters of Taiwan and South Korea.³⁴

³¹ Regulation on the Approval of Investment in or the Operation of Foreign Flag Fishing Vessels, Article 2 (9).

³² Regulation on the Approval of Investment in or the Operation of Foreign Flag Fishing Vessels, Article 9.

³³ Council of Agriculture Executive Yuan, 'Action Plan on Fisheries and Human Rights', Amended (July 2023).

³⁴ IOJI (2022), *Potret Kerawanan Kerja Pelaut Perikanan...*

The dual licensing system for migrant fishers placement has led to four issues of governance:³⁵ (i) absence of integrated information and data on Indonesian migrant fishers placement amongst ministries/agencies, regional governments, and village governments; (ii) suboptimal implementation of a whole-of-government approach in migrant fisher protection as mandated by Indonesia Law of 18/2017; (iii) weak supervision over migrant fishers placement by SIUPPAK-holding and unlicensed manning agents; (iv) inadequate law enforcement against human rights and labour violations throughout the migration phase of migrant fishers.

More recently, the Indonesian Government issued Government Regulation Number 22 of 2022 on the Placement and Protection of Migrant Seafarers and Fishers ('GR 22/2022'). With the issuance of this regulation, the Government of Indonesia wishes to address the governance issues related to migrant fishers placement. *First*, this regulation requires every Indonesian company placing migrant fishers (manning agents) to meet the latest SIP3MI licensing requirements by June 2024. *Second*, it mandates integrating data and placement systems, previously divided among several institutions, including the Ministries of Manpower, Transportation, Foreign Affairs, and BP2MI. *Third*, it establishes specific protection standards for Indonesian migrant fishers, referencing ILO C-188. These steps reflect the Indonesian Government's commitment to enhance governance, particularly regarding the placement of migrant fishers by manning agents.

In addition to governance of placement, the Indonesian Government has also improved the governance of training and certification for fishing vessel crew. The first step is ratifying the International Convention on Standards of Training, Certification, and Watchkeeping for Fishing Vessel Personnel (STCW-F) 1995 in 2021. The next step involves domesticating STCW-F 1995 through Government Regulation Number 27 of 2021, followed by the Minister of Maritime Affairs and Fisheries Regulation Number 33 of 2021. The third step is the development of a Mutual Recognition Agreement (MRA) to follow up on STCW-F 1995, which was agreed upon by the Governments of Indonesia and Spain in 2023.

2.2.2. Policy Direction

Starting June 2024, only manning agents holding SIP3MI and Migrant Worker Recruitment Permit (*Surat Izin Perekrutan Pekerja Migran Indonesia*, hereinafter 'SIP2MI') are allowed to place migrant fishers overseas. Manning agents failing to comply with these provisions are subject to criminal and administrative sanctions.³⁶ To implement Indonesian GR 22/2022, the Ministry of Manpower is currently drafting a ministerial regulation on the placement and protection of migrant fishers. This regulation is expected to provide legal certainty regarding migrant fishers' placement process in accordance with Indonesian Law of 18/2017 and clarify the role of relevant agencies at various levels of government in the protection of migrant fishers.³⁷ Legal certainty will prepare all relevant government agencies to plan and implement migrant fishers protection in a coordinated manner. This ministerial regulation will

³⁵ IOJI, SBMI, and DFW-Indonesia (2023), *Urgensi Terbitnya Peraturan Menteri Ketenagakerjaan...*

³⁶ Indonesia, *Law on Protection of Indonesian Migrant Workers*, Law Number 18 of 2017, LN.2017/No.242, TLN No.6141 ("Law 18/2017"), Article 86 (c).; Indonesia, *Placement and Protection of Migrant Commercial Ship Crews and Migrant Fishing Vessel's Crews*, GR Number 22 of 2022 ("GR 22/2022"), Article 28 (4)

³⁷ IOJI, SBMI, and DFW-Indonesia, *Urgensi Terbitnya Peraturan Menteri Ketenagakerjaan tentang Penempatan dan Perlindungan Awak Kapal Perikanan Migran* (2023).

also serve as a legal reference for the Government of Indonesia to develop bilateral agreements with destination countries, flag countries, and port countries commonly visited by migrant fishers in their migration process.

2.3. Policy Development Related to the Protection of Migrant Fishers in the Association of Southeast Asian Nations (ASEAN)

ASEAN is one of the largest regions of origin of migrant fishers to the capture fisheries industry of Taiwan, China, and South Korea.³⁸ However, many migrant fishers from ASEAN are trapped in exploitation and forced labour on board foreign fishing vessels. Research conducted by CSOs and trade unions found that this situation took place given the absence of robust national policy to protect migrant fishers. Prior to 2023, there also exists a legal vacuum at the regional level that regulates migrant fishers' protection.³⁹ CSOs and trade unions have been actively pushing for the adoption of legal instruments for migrant fishers' protection at the ASEAN level.⁴⁰

Under Indonesia's Chairmanship in 2023, at the 42nd ASEAN Summit, ASEAN Leaders adopted the Declaration on the Placement and Protection of Migrant Fishers.⁴¹ The Declaration recognized every migrant fisher as migrant worker whose rights are inseparable from and integral to human rights and fundamental freedoms. In this Declaration, ASEAN Member States commit to, among others, enhance migrant fishers' protection throughout their migration phase through fair and ethical recruitment, pre-departure and post-arrival orientation, and access to employment contracts or related employment documents in a language comprehensible to migrant fishers.

The Declaration also encourages ASEAN Member States to initiate and develop bilateral agreements with countries outside ASEAN to facilitate the safe and orderly migration of migrant fishers, especially the placement process, repatriation and reintegration, as well as access to justice and remedy. Therefore, every country of origin in ASEAN is expected to build on this Declaration to increase its bargaining position for migrant fishers' protection vis-a-vis major destination countries through bilateral agreements. In addition, the Declaration also mandates the adoption of the Framework Guidelines for its implementation. This year, in the Laos Chairmanship, ASEAN is expected to adopt Guidelines for the Placement and Protection of Migrant Fishers and their Family Members.

3. PRIORITISED ASPECTS OF MIGRANT FISHERS' PROTECTION FOR THE MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENTS OF INDONESIA AND TAIWAN

This Proposal has outlined general conditions of Indonesian migrant fishers' protection on Taiwanese fishing vessels as well as relevant legal and policy frameworks in Indonesia,

³⁸ International Labour Organization, *ILO Brief*, "Rough seas: The impact of COVID-19 on fishing workers in South-East Asia," (2022)

³⁹ Greenpeace, SBMI, dan HRWG, *A Study on Human Rights Violations of Vessel Crews in Southeast Asia: Omission of Modern Slavery* (2022)

⁴⁰ Greenpeace, *et al.* Briefing Paper on Ratifying and Implementing ILO Convention 188 in Asean Member States (2021)

⁴¹ ASEAN Declaration on Protection and Protection of Migrant Fishers, accessed on https://asean.org/wp-content/uploads/2023/05/10-ASEAN-Declaration-on-Protection-and-Promotion-of-the-Rights-of-Migrant-Fishers_adopted-1.pdf

Taiwan, and ASEAN. The above points serve as a reference for Chapter 3 in identifying the prioritised aspects of Indonesian migrant fishers' protection that should be addressed by the MoU between IETO and TETO. Therefore, Chapter 3 proposes regulatory norms in the MoU on these protection aspects. For the purpose of the Proposal development, parties referred to in the MoU are the Indonesian Economic and Trade Office/IETO (First Party) and the Taipei Economic and Trade Office/TETO (Second Party).

3.1. GUIDING PRINCIPLES

The Proposal proposed that the formulation and implementation of protection in the Memorandum of Understanding are based on the following principles:

1. Human rights principles, emphasising the universality of human rights, equal rights, and anti-discrimination;⁴²
2. Business and human rights principles;⁴³
3. Fundamental principles and rights at work;⁴⁴
4. Decent work principles;⁴⁵
5. Anti-trafficking and forced labour;⁴⁶
6. Genuine and inclusive participation of migrant fishers and their families;⁴⁷
7. Whole-of-government and whole-of-society approach.⁴⁸

3.2. PRE-EMPLOYMENT PROTECTION

In the Memorandum of Understanding, provisions on migrant fishers protection at the pre-employment phase should include the following:

3.2.1. Placement Process of Indonesian Migrant Fishers

General Issues

Different corridors for migrant fishers placement recognized within legal frameworks of Indonesia and Taiwan complicate the implementation of protection, including monitoring and grievance mechanism, by relevant governmental authorities. In the coastal placement corridor, IETO verifies agency agreements between the Indonesian Migrant Worker Placement Company (*Perusahaan Penempatan Pekerja Migran Indonesia*, hereinafter 'P3MI') and the agent (business partner) in Taiwan and job orders to be submitted to P3MI to place migrant fishers. The verification function, however, does not apply to overseas placement and FOC placement corridors. IETO is unable to monitor the placement of migrant fishers in both aforementioned corridors and becomes aware of the migrant fishers' presence in Taiwan only after receiving cases of migrant fishers' rights violations. This allows manning agents in Indonesia and Taiwan, as well as brokers, to continue engaging in

⁴² UN General Assembly, Universal Declaration of Human Rights (1948).

⁴³ UN, United Nations Guiding Principles on Business and Human Rights (UNGPs).

⁴⁴ International Labour Organization, ILO Declaration on Fundamental Principles and Rights at Work (1998).

⁴⁵ International Labour Organization, Decent Work and The 2030 Agenda for Sustainable Development.

⁴⁶ UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000)

⁴⁷ UN General Assembly, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)

⁴⁸ UN General Assembly, *Global Compact for Migration*, "Global Compact for Safe, Orderly, and Regular Migration," (2018).

non-procedural placements and even exploitative practices, including excessive recruitment fees and debt bondage. Various placement corridors also make it difficult for migrant fishers to understand and advocate for their rights throughout their migration stages.

Recommendations for Regulation in the Memorandum of Understanding

1. The parties agree that the placement of Indonesian migrant fishers on board Taiwanese fishing vessels must be conducted within the framework of the One Channel System under the responsibility of the Indonesian Ministry of Manpower and the competent authority appointed by the Government of Taiwan, as stated in the Annex integral to this Memorandum of Understanding;
2. The parties agree to exchange information periodically about the list of company owners/principals, vessel operators, and agents in Taiwan, as well as P3MI in Indonesia, that have been proven to violate the labour and human rights of migrant fishers;
3. The parties agree that job orders for Indonesian migrant fishers from agents in Taiwan to P3MI must be thoroughly verified by the Indonesian Economic and Trade Office in Taiwan (IETO) and the competent authority appointed by the Government of Taiwan, through processes of document and field verification;
4. The parties agree to exchange information in a timely manner about the arrival of migrant fishers in Taiwan and territories outside Taiwan wherein Taiwanese fishing vessels dock, building on the database of the Government of Indonesia and Taiwan. This information includes details about fishing vessels on which migrant fishers work.

3.2.2. Manning Agent Management

General Issues

Manning agents hold important roles in facilitating Indonesian migrant fishers placement on board Taiwanese fishing vessels, particularly in obtaining travel/working documents, seeking job vacancies, handling travel expenses and wage payments.⁴⁹ Additionally, ambiguous placement procedures and weak regulatory oversight over the placement corridor put Indonesian migrant fishers entirely dependent on manning agents for their placement process. The power imbalance between manning agents and migrant fishers heightened fishers' vulnerability to exploitation.⁵⁰

The placement corridors that are least monitored by authorities in Indonesia and Taiwan are the overseas and FOC corridors. To date, Indonesian manning agents placing migrant fishers under these placement corridors include manning agents holding SIUPPAK and those without any placement licences. According to an independent investigative report, 44 Indonesian manning agents that are within both aforementioned categories, placed 97 migrant fishers to work on board 89 Taiwanese flagged or owned vessels involved in forced labour, human trafficking, and IUU-F practices.⁵¹

⁴⁹ IOJI, SBMI, and DFW-Indonesia (2023), *Urgensi Terbitnya Peraturan Menteri Ketenagakerjaan...*; SBMI, 'Memotret Pelindungan Awak Kapal Perikanan dan Pekerja di Pengolahan Hasil Laut Berbasis Kewenangan Desa dan Kelurahan (2023).

⁵⁰ Mina Chiang, 'Human Rights at Sea Baseline Study on the Awareness and Application of Human Rights in Taiwan's Fishing Industry' (2019); IOJI, SBMI, and DFW-Indonesia (2023), *Urgensi Terbitnya Peraturan Menteri Ketenagakerjaan...*

⁵¹ EJF, (2023) *The Weakest Link: How at-sea trans-shipment fuels illegal fishing and human rights abuses in global fisheries.*

The grievance mechanism and victim protection mechanism, including the rights to restitution, in cases involving SIUPPAK-holders and unlicensed manning agents are generally ineffective. There are many cases where Indonesian manning agents have gone bankrupt or disappeared to flee from their responsibilities. The absence of a deposit requirement that manning agents must submit to the Ministry of Transportation as a guarantee for resolving migrant fishers' cases contribute significantly to the ineffective grievance mechanism. The obligation to provide a deposit under the Indonesia Law of 18/2017 regime for P3MI and Overseas Regulations regime for agents in Taiwan presents a significant opportunity for cooperation between the Governments of Indonesia and Taiwan in improving the governance of manning agents, especially in dealing with those lacking good faith to resolve grievances and fulfil the rights of Indonesian migrant fishers.

Recommendations for Regulation in the Memorandum of Understanding

1. The parties agree to set out obligations and responsibilities of principals and operators of fishing vessels, agents in Taiwan, and P3MI in the placement and protection of migrant fishers, stated in the Annex integral to this Memorandum of Understanding;
2. The parties agree that the placement of Indonesian migrant fishers can only be conducted by Indonesian Migrant Worker Placement Companies (P3MI) holding SIP3MI from the Ministry of Manpower, as well as placement companies (agents) holding licences from Taiwanese Ministry of Labor and Ministry of Agriculture;
3. The parties agree to exchange information about the list of P3MI and agents that have obtained licences from relevant authorities according to applicable laws in Indonesia and Taiwan;
4. The parties agree to conduct regular human rights due diligence on agents and P3MI that placed Indonesian migrant fishers on board Taiwanese fishing vessels and to exchange information about the results of human rights due diligence, by promoting cooperation and involving national human rights institutions (NHRI);
5. The parties agree to impose sanctions on P3MI and agents in Taiwan based on the level and frequency of violations, according to applicable laws and regulations in Indonesia and Taiwan as well as this Memorandum of Understanding.

3.2.3. Training and Certification of Migrant Fishers

General Issues

Many Indonesian migrant fishers working on board Taiwanese fishing vessels do not complete the entire basic safety training ('BST') session, even though they possess the BST Certificate. This situation arises because the BST certificates are either not authentic or processed by intermediaries or manning agents in Indonesia.⁵² Migrant fishers who apply for their BST documents on their own, encounter challenges due to the long duration, far-flung locations of training institutions, and the cost of document processing.⁵³ The Indonesian Government, both at the central and provincial levels, are mandated to allocate budgets for migrant fishers training, but the number of training programs are massively inadequate. Migrant fishers, then, resort to using the services of intermediaries or manning agents for the documents processing. In practice, manning agents or intermediaries charge excessive fees to migrant fishers, which vary from one manning agent to another.

⁵² IOJI (2022), *Potret Kerawanan Kerja Pelaut Perikanan...*

⁵³ IOJI, SBMI, and DFW-Indonesia (2023), *Urgensi Terbitnya Peraturan Menteri Ketenagakerjaan...*

Indonesian Law of 18/2017 and Indonesian GR of 22/2022 mandate that every prospective migrant fisher who will be placed overseas must possess a certificate of work competency, migrant fishers' certificate of proficiency, and/or migrant fishers' certificate of competency. Typically, Indonesian migrant fishers only possess the BST certificate, part of the migrant fishers' certificate of competency. This prevents migrant fishers with working experience on fishing vessels from negotiating fairer wages and promotions on Taiwanese fishing vessels.

Recommendations for Regulation in the Memorandum of Understanding

1. The parties agree to recognize the certificate of competency and certificate of proficiency issued only by the competent authorities in Indonesia and Taiwan in accordance with the provisions of STCW-F 1995 as well as laws and regulations in Indonesia and Taiwan;
2. The parties agree to increase financial resources to provide free of charge training programs to prospective Indonesian migrant fishers to be placed on Taiwanese fishing vessels and training programs in Taiwan that prepare Indonesian migrant fishers for sustainable reintegration;
3. Indonesian migrant fishers placed on Taiwanese fishing vessels are exempt from training fees.

3.2.4. Pre-Departure and Post-Arrival Orientation

General Issues

Indonesian Law of 18/2017 and GR of 22/2022 mandate BP2MI to conduct pre-departure orientation ('PDO') for every prospective migrant fisher departing overseas. However, BP2MI is yet to adopt a standardised PDO module that specifically applies to the placement of migrant fishers, especially on board Taiwanese fishing vessels. This PDO obligation is only applicable to every placement in the SIP3MI placement corridor, which means excluding many more Indonesian migrant fishers placed in different corridors from enjoying their rights to receive PDO by BP2MI. In 2023, BP2MI allowed manning agents holding SIUPPAK to register prospective migrant fishers for the PDO program, yet this is not mandatory for manning agents. While some SIUPPAK-holders are found to collaborate with trade unions to provide PDO to prospective migrant fishers, this initiative may result in a large variety of PDO contents, especially given the absence of a standardised PDO module.

The ineffective PDO and post-arrival orientation puts migrant fishers vulnerable once they arrive in Taiwan. There are four following reasons: 1) migrant fishers are either not informed or misinformed about their labour rights and human rights throughout migration phases; 2) migrant fishers are not informed about procedure to safely and effectively access grievance mechanisms when labour and human rights violations occur; 3) migrant fishers do not understand cultural differences between Indonesia and Taiwan; 4) migrant fishers are not informed about how and the benefits of organising and forming or joining unions.

Recommendations for Regulation in the Memorandum of Understanding

1. The parties agree to provide pre-departure orientation in Indonesia and post-arrival orientation in Taiwan for Indonesian migrant fishers according to the laws and regulations of Indonesia and Taiwan. The parties establish partnerships with P3MI, agents, and trade unions in holding the orientations;

2. The parties agree to exempt Indonesian migrant fishers from accommodation, transportation, and related costs during their participation within pre-departure and post-arrival orientation;
3. The parties agree to provide training on occupational safety and health (OSH) standards;
4. The parties agree to establish standards for pre-departure and post-arrival orientation that, at a minimum, (i) culture and language, (ii) rights and obligations of migrant fishers, (iii) grievance mechanisms and reporting procedures, including on-board complaint procedures where available, (iv) hotline call centres owned by the Governments of Indonesia and Taiwan, (v) information about the location and contacts of trade unions, religious groups, and CSOs that handle grievances, (vi) utilisation of Wi-Fi access on Taiwanese fishing vessels, (vii) stop work policy, and (viii) drugs and alcohol policy.

3.2.5. Employment contracts

General Issues

In practice, employment contracts have not provided sufficient protection for Indonesian migrant fishers. Key contributing factors to this issue are the non-transparent process in developing contracts, different standards of contracts, retention of contracts, and difficulty monitoring the implementation of contracts. Migrant fishers do not have the opportunity to read and understand the employment contracts provided in Indonesia and/or Taiwan. In many cases, migrant fishers also sign two different contracts with different clauses, one in Indonesia and another in Taiwan. Representatives of relevant authorities do not accompany migrant fishers while signing employment contracts. Furthermore, many contracts do not specify wage components and payment systems. No regulations in Indonesia and Taiwan that require fixed exchange rates for wage payments to be included in employment contracts. Manning agents exploit this gap to profit from exchange rate differences.

Another significant challenge is the difficulty in monitoring the fulfilment of employment contracts, including wage. This is due to the limited communication access available to migrant fishers while working at sea. Additionally, Indonesian migrant fishers and/or their families are not allowed to hold physical copies of the signed employment contracts. The vessel's captain, agents in Taiwan, and/or Indonesian manning agents retain these documents. As a consequence, migrant fishers face difficulties in proving the breach of contract and identifying the principal or operator of the vessel and manning agents that must be held accountable. Absent this information, grievance mechanisms and law enforcement processes by the authorities in Indonesia and Taiwan become hindered.

Recommendations for Regulation in the Memorandum of Understanding

1. The parties agree to develop the standardised employment contract for Indonesian migrant fishers working on board Taiwanese fishing vessels. The contract should be in two languages, one of which must be Indonesian;
2. The parties agree that P3MI must involve trade unions and/or competent authorities in Indonesia to sign employment contracts. This involvement is intended to provide support for Indonesian migrant fishers in understanding all clauses within the employment contract before signing the contract;

3. The parties agree that the employment contracts must at least contain (i) the amount and components of wages, (ii) dates and methods for wage payments, (iii) the establishment of fixed exchange rates for wage payments, (iv) working hours, (v) the identity of employers or principals or owners of fishing vessels as well as agents in Taiwan, (vi) the identity of the fishing vessels and reefer or bunker vessels (where available), (vii) the duration of fishing operations, (viii) the location of fishing grounds and landing ports, (ix) dispute settlement mechanism, including choice of law and choice of forum, and (x) on-board complaint procedures;
4. The parties agree that the original employment contracts must be provided to the Indonesian migrant fishers, and copies of the contract must be given to the families of the migrant fishers concerned.

3.2.6. Freedom of Association and Collective Bargaining Agreements

General Issues

SIUPPAK-holder manning agents are obliged to sign a collective bargaining agreement (CBA) with trade unions. However, the formulation and implementation of the CBA have yet to be properly implemented, as they tend to be used merely as an administrative requirement to obtain the SIUPPAK licence. The CBA formulation process between trade unions and manning agencies also needs improvement in terms of transparency and accountability. In a transparent and accountable manner, CBA can be used to effectively protect migrant fishers and, equally important, support the creation of social dialogue between trade unions, manning agents in Indonesia and Taiwan, and vessels' principals or owners. The formulation and implementation of the CBA should prioritise the voices of migrant fishers, as represented by trade unions, in negotiating higher labour standards than the current standards in Taiwan and Indonesia *vis a vis* manning agents and vessel owners.

Recommendations

1. The parties commit to ensure high standards in collective bargaining agreements (CBAs) related to Indonesian migrant fishers, including CBAs with Indonesian manning agencies and with Taiwanese vessel owners and their respective associations. Parties recognize that Taiwanese vessel owners are ultimately responsible for conditions for workers on their vessels including for ensuring fair recruitment from Indonesia;
2. The parties agree that the formulation and implementation of the CBA shall promote social dialogue between trade unions and P3MI, agents in Taiwan, and/or vessel owners or vessel owner associations in Taiwan, where trade unions represent the voices and interests of migrant fishers;
3. The parties recognize the importance of and commit to ensure freedom of association for all according to ILO labour standards, including for all migrant fishers and including concrete action to ensure migrant workers' rights against retaliation for protected activities, such as forming or joining a union or raising complaints or grievances to any with support of a union or workers' organisation;
4. The parties agree that the implementation of CBA must ensure the empowerment of Indonesian migrant fishers to organise and advocate for their own human rights and labour rights.

3.2.7. Placement Costs

General Issues

Non-transparent and excessive placement costs trapped migrant fishers working on Taiwanese fishing vessels in debt bondage. As explained in Section 3.2.3, placement costs are generally higher than the official rates set by the Indonesian Government. The costs include handling necessary documents for placement like certificate of competency. From the beginning of the placement process, migrant fishers are not informed about the details of placement costs that they need to incur. The costs are eventually used by manning agents in Indonesia and/or Taiwan for wage deductions. In practice, placement costs charged to migrant fishers vary among manning agents in Indonesia.

Recommendations for Regulation in the Memorandum of Understanding

1. The parties agree to ensure that vessel owners are legally responsible for paying the costs of recruitment and related recruitment costs for Indonesian migrant fishers and for any recruitment abuses in order to prevent workers from being charged recruitment costs. Taiwan and Indonesia must establish national regulations ensuring that employers pay and are liable for recruitment-related costs and fees, as well as recruitment-related abuses;
2. The parties agree to define the components of placement costs and related costs that the employer must bear in an Annex that is an integral part of this Memorandum of Understanding. The components of placement costs referred to include departure tickets, return tickets, work visas, legalisation of employment contracts, job training (for first-time migrant fishers), certificates of competency (for first-time migrant fishers), manning agent services, social security, medical and psychological examinations in Indonesia, health examinations in Taiwan, local transportation from the home area to the departure place in Indonesia, and accommodation during the placement process;
3. The parties agree to prohibit P3MI in Indonesia and agents in Taiwan from charging recruitment and related costs to Indonesian migrant fishers.

3.2.8. Data on Migrant Fishers' Placement

General Issues

There is no accurate data on the placement of Indonesian migrant fishers. The placement data is scattered among relevant Indonesian ministries/agencies within the regimes of SIP3MI and SIUPPAK. Placement data on most Indonesian migrant fishers, taking place in the SIUPPAK regime, are only made available to the Ministry of Transportation. The Indonesian Government, then, struggles to monitor the migration of migrant fishers after they depart from Indonesia. In many cases, Indonesian migrant fishers departed through Singapore before heading to Taiwanese fishing vessels operating in the high seas. Even when migrant fishers directly arrive in Taiwan, they cannot report their arrival to IETO. Consequently, the Indonesian Government, especially IETO, find it difficult to obtain accurate data on the number of migrant fishers on board Taiwanese fishing vessels. This prevents IETO from developing effective strategies on monitoring the rights of and resolving cases concerning Indonesian migrant fishers in Taiwan.

Recommendations for Regulation in the Memorandum of Understanding

1. The parties agree to require agents and vessel owners or operators in Taiwan to give opportunities for Indonesian migrant fishers who have just arrived and will leave Taiwan to report themselves, either offline or online, to the Indonesian Overseas Representative;
2. The parties agree to require P3MI in Indonesia and *agents* in Taiwan to develop a data collection system on migrant fishers that can be accessed at any time by the Indonesian Ministry of Manpower and competent authorities in Taiwan. The data collection system should at least contain (i) information on the arrival and return of migrant fishers, (ii) information on fishing vessels, reefer vessels (where available), the actual position of the fishing vessel, and the location of the landing port, (iii) the status of the fulfilment of the rights of migrant fishers, including the payment of wages, and (iv) the status of dispute settlement of migrant fishers. All this data and information must be updated in a timely manner.

3.3. PROTECTION DURING THE EMPLOYMENT

In the Memorandum of Understanding, provisions on migrant fishers protection during the employment phase should include the following:

3.3.1. Working and Living Conditions on Fishing Vessels

General Issues

Various reports from CSOs and the governments of Indonesia and Taiwan, including the Action Plan for Fisheries and Human Rights (2022), found that many Indonesian migrant fishers experienced indecent working and living conditions on board Taiwanese fishing vessels. This is characterised by (i) the lack of occupational health and safety systems, (ii) uncertain and excessive working hours, (iii) inadequate food and drink for migrant fishers' health, (iv) substandard accommodation, and (v) limited or absence of access to communication for migrant fishers working at sea to contact family, organize, and unionise, and file complaints or grievances.

Recommendations for Regulation in the Memorandum of Understanding

1. The parties agree to ensure that Indonesian migrant fishers are only placed on board Taiwanese-flagged fishing vessels or FOC vessels operated or owned by Taiwanese citizens, that adhere to decent working and living conditions according to international standards set out in ILO C-188;
2. The parties agree to enact laws and regulations requiring that food and drink be provided free to Indonesian migrant fishers on fishing vessels. The food and drink provided by the vessel owner or operator must meet the nutritional, quality, and quantity needs of migrant fishers, as well as commensurate with the duration and location of fishing operations.
3. The parties agree to exchange information about Taiwanese fishing vessels on which Indonesian migrant fishers work and their transit or landing ports. The parties also agree to provide consular access for all Indonesian migrant fishers working on board those fishing vessels.

4. The parties agree to ensure the availability of health services in port areas to address emergency health situations or occupational accidents experienced by migrant fishers.

3.3.2. Access to Communication Onboard Fishing Vessels

General Issues

Limited or absence of access to communication at sea put migrant fishers in isolation. They are unable to contact their families for months or even years and are uninformed about their wage payment status while working at sea. Should migrant fishers endure exploitation at sea, the lack of access to communication makes it difficult for them to file grievances to authorities and trade unions. In the Action Plan for Fisheries and Human Rights, the Taiwanese government aims to provide Wi-Fi access on 300 DWF fishing vessels by 2025. However, this initiative is insufficient given the limited coverage and usage time of Wi-Fi access.⁵⁴ The Taiwanese Government has also not mandated the provision of Wi-Fi facilities and access for migrant fishers on all Taiwanese fishing vessels. The current approach taken by the Taiwanese government is to give incentives and subsidies for vessel owners and/or operators that provide free Wi-Fi access to migrant fishers.

Recommendations for Regulation in the Memorandum of Understanding

1. The parties agree to ensure that vessel owners and/or operators fulfil the obligation to provide Wi-Fi access for migrant fishers on all Taiwanese-flagged fishing vessels and vessels operated or owned by Taiwanese citizens. Wi-Fi must be provided free of charge for all migrant fishers/ The parties agree to ensure Wi-Fi is provided according to mandatory guidelines for Wi-Fi access that **ensure reasonable access for fishers to the internet that ensure freedom of association** including virtual union access to workers while they are at their worksite, for example protections related to amount of time and data privacy.

3.3.3. Force Majeure and Special Circumstances

General Issues

Efforts to protect migrant fishers are increasingly challenging in the event of force majeure, such as natural disasters or human-caused disasters. The most recent force majeure event is the COVID-19 pandemic. According to Marschke et al. (2020), COVID-19 has added a layer of vulnerability for migrant fishers.⁵⁵ Authorities restricted the arrival of migrant fishers in Taiwan in response to the significant number of positive COVID-19 cases. Vessel operators, then, forced migrant fishers to extend their contracts or work beyond the contractual period due to the unavailability of crew changes. This makes migrant fishers work without certainty of returning to Indonesia.⁵⁶ Many migrant fishers are left isolated, whether in ports in Taiwan or major port countries or on board vessels, even after completing their employment contracts. Some migrant fishers identified with COVID-19 were unable to access emergency medical assistance because of port closure. In the event of a pandemic

⁵⁴ Mina Chiang dan Sharlene Chen, *GLJ-ILRF Briefing: Wi-Fi for Fishers at Sea*, Global Labor Justice-International Labor Rights Forum, 2023.

⁵⁵ Marschke, M., Vandergeest, P., Havice, E. et al. "COVID-19, instability and migrant fish workers in Asia", *Maritime Studies* 20, 87–99 (2021), p. 87. <https://doi.org/10.1007/s40152-020-00205-y>

⁵⁶ Peter Vandergeest, et al., "Seafarers in fishing: A year into the COVID-19 pandemic", National Library of Medicine, (2021)

or crisis like COVID-19, all Indonesian migrant fishers should be treated the same as other populations without discrimination, exception, or restriction based on nationality.⁵⁷

Besides force majeure, the prevalence of IUU-F carried out by DWF vessels heightens the vulnerability of migrant fishers to human and labour rights violations. In this case, migrant fishers are often detained by relevant port or coastal authorities for IUU-F activities. This is notwithstanding the fact that migrant fishers only follow orders from the captain to conduct illegal fishing without full understanding of its legal consequences.⁵⁸

Other special circumstances encountered by Indonesian migrant fishers while working on board Taiwanese fishing vessels include vessels catching fires or sinking. In some cases, migrant fishers ended up missing or found dead.⁵⁹ Migrant fishers often lose their personal documents and belongings following incidents of fire or sinking. Moreover, the bankruptcy of vessel owners or the non-operational status of fishing vessels due to operational reasons also puts Indonesian migrant fishers in a vulnerable situation. The non-payment of wages in the event of non-operational vessels creates additional economic burden for migrant fishers.

Recommendations for Regulation in the Memorandum of Understanding

1. The parties agree to hold coordination meetings between relevant governmental authorities in Indonesia and Taiwan, trade unions, vessel owners or operators, agents in Taiwan, P3MI, and relevant civil society organisations to formulate protection efforts for Indonesian migrant fishers no later than 3 (three) days after a force majeure event;
2. The parties agree that in the event of force majeure, including a pandemic, Indonesian migrant fishers are entitled to wage payments for their working period, immediate, safe, and free repatriation, as well as transfer to the new vessel owner should migrant fishers choose to continue working on Taiwanese fishing vessels;
3. The parties agree that in the event of force majeure, including pandemics, Indonesian migrant fishers are guaranteed the right to health care without discrimination based on nationality;
4. The parties agree that in the event of illegal fishing, environmental pollution due to oil spills, or other illegal activities ordered by the captain or vessel owner, migrant fishers are exempt for legal responsibility over these actions and entitled to wage payments for their working period, immediate, safe, and free repatriation, and transfer to the new vessel owner should migrant fishers choose to continue working on Taiwanese fishing vessels;
5. The parties agree that if a vessel owner goes bankrupt, the vessel owner remains legally obligated to pay the wages of Indonesian migrant fishers for the period they have worked. Indonesian migrant fishers are entitled to seek employment with another vessel

⁵⁷ BEBESEA, et al. *Proposed Guideline To Protect Migrant Workers' Rights During Public Health Crisis* (2021)

⁵⁸ E.J.F, *Illegal fishing and human rights abuses in the Taiwan fishing fleet*, (2020)

⁵⁹ Kompas, 'Pekerja Migran Indonesia Kembali Menjadi Korban di Kapal Ikan Taiwan', accessed on: <https://www.kompas.id/baca/internasional/2023/03/06/pekerja-migran-kembali-menjadi-korban-di-kapal-ikan-taiwan>; Medcom, '7 ABK WNI hilang, RI Dorong Mauritius Selidiki Penyebabnya', accessed on <https://www.medcom.id/internasional/timur-tengah-afrika/ybDX0p0b-7-abk-wni-hilang-ri-dorong-mauritius-selidiki-penyebabnya>.

owner in Taiwan if the vessel owner goes bankrupt during the period specified in the employment contract;

6. The parties agree that the non-operational status of fishing vessels due to operational reasons, including fires in and damaged ships, does not exonerate the vessel owner's obligation from paying wages to migrant fishers in the agreed period of work;
7. The parties agree that the arrangements regarding force majeure and special conditions, as stated in points (2), (3), (4), and (5) are detailed in the Collective Bargaining Agreement and employment contract.

3.3.4. Standards and Means of Payment of Wages

General Issues

The Taiwanese Government has set a minimum wage for migrant fishers. In case of migrant fishers working on DWF vessels, whether under the Taiwanese flag or FOC⁶⁰ operated or owned by Taiwanese citizens, the applicable minimum wage is USD 550 per month. However, this amount is significantly lower than the minimum wage for Taiwanese domestic fishers on the same vessel, who are entitled to a minimum wage of USD 827 per month. Besides the discriminatory wage policy, there are no provisions on wage scale, so there is no guarantee for experienced migrant fishers to receive significant wage increases.

Many cases filed by migrant fishers revolve around wage deductions, primarily due to layered payment processes through manning agents in Taiwan and Indonesia. In response, the Taiwanese Government has mandated that vessel owners or operators make direct payments to migrant fishers or through agents in Taiwan and issued a Guidance on Salary Payment to Foreign Crew Members Employed Overseas to follow-up this obligation. During its implementation, trade unions and CSOs have noted a lack of transparency in the wage delegation system. Wages are often, and arbitrarily, deducted by costs for daily necessities on board vessels and in ports, such as food, cigarettes, and clothing, which were not agreed upon in the employment contracts by Indonesian migrant fishers.

Recommendations for Regulation in the Memorandum of Understanding

1. The parties agree to standardise the wage payment structure to ensure fair payment for migrant workers consistent with international labour standard, recognizing their work experience, competence, and equality with migrant fishers from other countries and those from Taiwan, in accordance with fundamental labour rights to non-discrimination;
2. The parties agree that the minimum wage standards for Indonesian migrant fishers shall be evaluated annually by the Transnational Joint Working Group in the forms of tripartite meetings;
3. The parties agree that employers must provide overtime or holiday pay to Indonesian migrant fishers in accordance with international standards.

⁶⁰ The minimum wage standard applies from December 19, 2022 for newly-hired migrant fishers, while for migrant fishers who have existing employment contracts, the standard applies no later than June 18, 2023. Foreign Vessels Regulations, Article 3.

3.3.5. Labour Inspections on Fishing Vessels

General Issues

The Governments of Indonesia and Taiwan are not only obliged to adopt human rights and labour standards but also ensure that these standards are respected and fulfilled for Indonesian migrant fishers. Hence, labour inspections on board fishing vessels are the necessary measure that must be taken by the Taiwanese Government, in addition to receiving complaints or grievances from migrant fishers or relevant stakeholders. This is in line with the commitment of the Taiwanese Government in the 2023 Amended Action Plan for Fisheries and Human Rights. In this document, the Taiwanese Government targets inspections of 550 DWF fishing vessels, or half of the total Taiwan-flagged DWF vessels annually until 2025. It does not elaborate on the allocation of inspections to be carried out at domestic ports, overseas, or at sea. By 2025, there is also a target of around 1000 DWF fishing vessels installing CCTV to support the implementation of inspections.

On some occasions, the Taiwanese Fisheries Agency has involved CSOs and trade unions in carrying out labour inspections. However, those inspections have not been carried out randomly, allowing vessel operators to intimidate or influence migrant fishers to provide 'safe' answers. CSOs and trade unions also expressed the need for labour inspectors, who are equipped with labour and human rights skills and paradigms in the inspection process. Forming a joint inspection team between the Ministry of Labor and the Council of Agriculture is then be considered as one of the ways forward. Moreover, the Taiwanese Government needs to pay more attention to the need for inspections in the high seas, where migrant fishers have higher vulnerability than after the vessel docks at the port.

Recommendations for Regulation in the Memorandum of Understanding

1. The Second Party (TETO) commits that the Council of Agriculture and the Ministry of Labor of Taiwan shall conduct joint labour inspections visits on board all Taiwanese-flagged fishing vessels on which Indonesian migrant fishers work, at least once a year. Inspection visits are carried out at ports in Taiwan and other countries visited by Taiwan-flagged fishing vessels.
2. The Second Party (TETO) commits to carry out labour inspections of all FOC fishing vessels operated and/or owned by Taiwanese citizens 1 time in 1 (one) year. Inspections are carried out at ports in Taiwan and ports in other countries visited by FOC fishing vessels operated and/or owned by Taiwanese citizens.
3. The Second Party (TETO) agreed to apply a victim-centred approach in conducting interviews with Indonesian migrant fishers during the labour inspection process;
4. The Second Party (TETO) agrees to involve trade unions, CSOs, and academia in the implementation and evaluation of labour inspections on board Taiwan-flagged fishing vessels and FOC fishing vessels operated or owned by Taiwanese citizens;
5. The parties agree that the First Party's representative (IETO) are allowed to periodically conduct consular functions to protect Indonesian interest over the labour and human rights of Indonesian migrant fishers at ports where Taiwanese-flagged fishing vessels and FOCs owned or operated by Taiwanese citizens dock;
6. The parties agree to require owners and/or operators of Taiwanese fishing vessels to establish an OSH Committee on board their fishing vessel in order to support the

reporting and grievances resolution involving Indonesian migrant fishers in the event of occupational accidents.

3.3.6. Migrant Fishers Protection on board FOC Vessels

General Issues

Indonesian migrant workers face a greater risk of human rights and labour rights violations while working on the flag of convenience (FOC) fishing vessels. Through the FOC practice, beneficial owners and vessel operators can register their fishing vessels with a country without having to be national or domiciled in that country. This is commonly practised in the global fishing industry to reduce operating costs through lower safety, labour, and environmental standards and prevent beneficial owners from legal sanctions for violations, especially illegal fishing, committed by their vessels.⁶¹ Pursuant to Article 92 (1) of UNCLOS 1982, the protection and fulfilment of human rights and labour rights of Indonesian migrant fishers, especially when the vessel operates in the EEZ and high seas, depend on the political will of the flag state in making and enforcing relevant regulations.

As stated in Chapter 2 of the Proposal, the Government of Taiwan has conducted **promising practices** by regulating Taiwanese citizens who operate or own FOC fishing vessels through a vessel licensing scheme. That said, in addition to the narrow scope of labour standards for vessel licensing, there is no grievance mechanism for violations of the labour rights of migrant fishers. The revocation of the FOC vessel operation/investment licence does not merely enable migrant fishers to obtain remedy. In addition, there are no provisions in the Foreign Vessels Act and Foreign Vessels Regulations that regulate law enforcement mechanisms over labour rights abuses or even forced labour and TIPs against migrant fishers. Also, it remains unclear how international cooperation will be conducted by the Taiwanese Government to encourage flag states adopting and enforcing relevant laws.

Recommendations for Regulation in the Memorandum of Understanding

1. In the event that Indonesian migrant fishers are placed to foreign-flagged fishing vessels (FOC) owned or operated by Taiwan, the placement is prioritised to fishing vessels whose flag state has relevant Memorandum of Understanding with the Government of Taiwan. This Memorandum of Understanding at least includes labour and human rights standards that must adhere to Taiwan's laws and regulations for overseas placements, on-board labour inspections, grievance mechanisms, and law enforcement cooperation;
2. The parties agree to cooperate with relevant flag and port states in the grievance mechanism and law enforcement process over violations of Indonesian migrant fishers' rights on board FOC fishing vessels operated or owned by Taiwanese citizens;
3. The parties agree that Taiwanese owners or operators are liable for human rights and labour rights violations against Indonesian migrant fishers that occur on board FOC fishing vessels that they own or operate;
4. The parties agree to conduct human rights due diligence on Taiwanese citizens who own and/or operate FOC fishing vessels that have and in the process of recruiting Indonesian migrant fishers;

⁶¹ EJF, 'Off the Hook: How flags of convenience let illegal fishing go unpunished' (2020).

5. The second party (TETO) is committed to making laws or regulations that fully adopt ILO C-188 for FOC vessels operated or owned by Taiwanese citizens, including provisions related to grievance and law enforcement mechanisms;

3.4. POST-EMPLOYMENT PROTECTION

In the Memorandum of Understanding, provisions on migrant fishers protection during the post-employment phase should include the following

3.4.1. Access to Justice and Remedy

General Issues

Many human rights violations endured by migrant fishers occur while they work at sea. The lack of access to communication makes them unaware of their rights being violated or unable to file complaints to relevant authorities before the vessel dock. In particular, this prevents them from accessing the grievance mechanisms owned by the Taiwanese Government (1955 Hotline), the Indonesian government (*Portal Peduli WNI*), trade unions, and CSOs. In Taiwan, organisations handling complaints from Indonesian migrant fishers include Stella Maris, Presbyterian Seafarer Center, Yilan Migrant Fishermen Union, and FOSPI. Meanwhile, Indonesian organisations handling complaints of Indonesian migrant fishers in Taiwan are SBMI, SAKTI Sulawesi Utara, SAKTI, SPPI, and DFW-Indonesia.

Many cases faced by Indonesian migrant fishers have not been resolved. Non-transparent and disintegrated grievance mechanisms of the Indonesian and Taiwanese Governments for human rights cases in the overseas and FOC placement corridor enables this long-standing issue. Cases of Indonesian migrant fishers tend to be resolved through mediation or bipartite arrangement between trade unions and manning agents. The litigation process can put migrant fishers in a more vulnerable position given its lengthy process and fishers' urgent financial needs. In some court cases, interpreters are not available, preventing them from articulating their arguments and following the whole process.⁶² Often, restitution and rehabilitation are not made available to Indonesian fishers identified as TIPs victims on board Taiwanese fishing vessels.⁶³

Recommendations for Regulation in the Memorandum of Understanding

1. The parties agree that the Transnational Joint Working Group established by this Memorandum of Understanding is tasked to coordinate and monitor the process of grievance mechanism and the fulfilment of migrant fishers' rights in a regular manner;
2. The parties agree to establish a cooperation mechanism for the investigation of Indonesian migrant fishers' human rights violations on board Taiwanese-flagged and FOC fishing vessels that are operated and/or owned by Taiwanese citizens. This mechanism shall involve the Control Yuan and Indonesian National Commission on Human Rights, in accordance with international human rights standards, including those

⁶² The Taiwan Gazette, *Distance To The Truth – Reinvestigation Of Migrant Fisherman's Death In Indonesia, Critical Cross-Border Witness Testifies*, <https://www.taiwangazette.org/news/2023/4/11/distance-to-the-truth-reinvestigation-of-migrant-fishermans-death-in-indonesia-critical-cross-border-witness-testifies>.

⁶³ IOJI, SBMI, and DFW-Indonesia (2023), *Urgensi Terbitnya Peraturan Menteri Ketenagakerjaan...*

stipulated in Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social, and Cultural Rights;

3. The parties agree to ensure that grievance mechanisms operated by both parties are safe and accessible to migrant fishers throughout their migration phase. The progress of each grievance report shall be made transparent to migrant fishers, their families, and relevant trade unions;
4. The parties agree to promote fishing vessel owners and/or operators to set up an onboard complaint procedure in accordance with international standards. This procedure aims to make complaint handling fair, effective, and fast, which enables Indonesian migrant fishers to file grievances to the captain or master, vessel owners, or external parties, including authorities in Taiwan or port countries and trade unions. The on-board complaint procedure may be regulated in a more detailed manner in the Collective Bargaining Agreement.
5. The parties commit in addition to legally mandatory Wi-Fi access to facilitate agreements between workers' unions and vessel owners to put in place grievance mechanism procedures so that workers can timely and effectively report and resolve issues with their vessel owners;
6. The parties agree that regardless of the on-board complaint procedure, migrant fishers have the right to submit complaint reports directly to the authorities in Indonesia, Taiwan, or relevant flag or port countries;
7. The parties agree to increase the effectiveness of law enforcement against human rights and labour rights of Indonesian migrant fishers through law enforcement cooperation, capacity building of law enforcement officials, and law enforcement that prioritizes the perspective of victims;
8. The parties agree to increase the budget for the provision of legal aid services to Indonesian migrant fishers who in Taiwan and build partnerships with trade unions, religious groups, public defenders, and CSOs to improve the access of Indonesian migrant fishers to justice;
9. The Second Party (TETO) commits that Taiwanese-flagged fishing vessels operating on the high seas can be visited, checked, and verified by warships or the government vessels of any country on the high seas for reasonable grounds stipulated in Article 110 of UNCLOS and considerations of human rights and labour of migrant fishers protection should the latter found any suspicious human rights and labour violations on board the fishing vessel.

3.5. INSTITUTIONAL ASPECT OF THE MEMORANDUM OF UNDERSTANDING IMPLEMENTATION

The Memorandum of Understanding should regulate its institutional aspect to make sure the provisions in Memorandum of Understanding are effectively implemented, such as:

1. The parties agree to establish a Transnational Joint Working Group to monitor and evaluate the implementation of the rights and standards of protection for Indonesian migrant fishers as well as the effectiveness of available grievance mechanism and law enforcement process in cases involving Indonesian migrant fishers, as stipulated in the Memorandum of Understanding;
2. The parties agree to establish a Terms of Reference that serves as a binding guideline for the implementation of the Transnational Joint Working Group. This Working Group

- shall involve relevant government agencies, trade unions, manning agencies, vessel owners and operators, academics, and CSOs. The parties agree that the Transnational Joint Working Group will hold meetings in both (i) tripartite and (ii) multi-stakeholder formats. Tripartite meetings are to be held every six months, and multi-stakeholder meetings annually. The tripartite forum's operations will adhere to standards set by the International Labour Organization (ILO). Each year, the tripartite meeting is tasked to set and evaluate minimum wages, coverage of social security and insurance, the occupational safety and health system (OSH), and high-risk areas for fishing operations;
3. The parties agree to enhance human and financial resources to protect the rights of Indonesian migrant fishers on board Taiwanese-flagged fishing vessels and FOC vessels operated or owned by Taiwanese citizens. The First Party (IETO) commits to build new offices in locations accessible to Indonesian migrant fishers at port areas and to enhance consular services for Indonesian migrant fishers at fishing ports in Taiwan in accordance with the Vienna Convention on Consular Relations 1963.

APPENDIX

UNION DEMANDS REGARDING INDONESIA-TAIWAN LABOR MIGRATION AGREEMENT OR MEMORANDUM OF UNDERSTANDING (MoU) ON MIGRANT FISHERS' RIGHTS

March 1, 2024

The undersigned unions in Taiwan and Indonesia representing Indonesian migrant fishers in Taiwan's fishing industry present the following demands for labor migration agreement (LMA) or Memorandum of Understanding (MoU) being negotiated between Taiwan and Indonesia regarding migrant fishers from Indonesia.

Indonesian migrant fishers have the right to dignity and respect while working on Taiwanese flagged, owned, and operated vessels. Any Indonesia-Taiwan MoU about migrant fishers from Indonesia should ensure migrant workers' respect and dignity aboard such vessels.

The Indonesia-Taiwan MoU under negotiation will be successful in promoting respect and dignity for fishers only if it empowers fishers to collectively organize and advocate for their rights, consistent with international standards such as ILO labour standards.

Therefore, we respectfully propose the following language be included in the MoU in order to promote respect and dignity for Indonesian migrant fishers in Taiwan's fishing industry:

1. ***Fundamental labor rights and decent work.*** Fundamental labor rights including the right to non-discrimination, a safe and healthy workplace, against forced labor and to freedom of association are critical for ensuring decent work for Indonesian migrant fishers in Taiwan's fleet.

The MoU should include the following:

Each Party shall ensure that its labor law and practices embody, and provide protection for, the following internationally recognized labor principles and rights, particularly bearing in mind its commitments under the ILO 1998 Declaration:

- (a) freedom of association and the effective recognition of the right to collective bargaining;*
- (b) the elimination of all forms of forced or compulsory labor;*
- (c) the effective abolition of child labour and a prohibition on the worst forms of child labour;*
- (d) the elimination of discrimination in respect of employment and occupation;*
- (e) acceptable minimum employment standards, such as minimum wages and overtime pay, for wage earners, including those not covered by collective agreements;*
- (f) the prevention of occupational injuries and illnesses and compensation in cases of such injuries or illnesses; and*
- (g) non-discrimination in respect of working conditions for migrant workers.*

To the extent that the principles and rights stated in the paragraphs above relate to the ILO, sub-paragraphs (a) to (d) refer only to the ILO 1998 Declaration, whereas the rights stated in sub-paragraphs (e), (f), and (g) more closely refer to the ILO's Decent Work Agenda.

2. **Freedom of association and anti-retaliation.** Freedom of association is a critical enabling right for all workers including migrant fishers yet migration laws create barriers to access to justice for migrant fishers when they face freedom of association violations.

The MoU should include the following: "In particular, parties recognize the importance of and commit to ensure freedom of association for all according to ILO labor standards, including for all migrant fishers and including concrete action to ensure migrant workers' rights against retaliation for protected activities, such as forming or joining a union or raising complaints or grievances to any with support of a union or workers' organization."

3. **Wi-Fi and access to communication.** Wi-Fi access is essential for freedom of association for Indonesian migrant fishers working in Taiwan.

The MoU should include the following: "Parties commit to ensure legally mandatory Wi-Fi access for migrant fishers at sea on all Taiwanese flagged and owned or operated vessels. Wi-Fi should be free to all migrant fishers. Parties commit to ensure Wi-Fi is provided according to mandatory guidelines for Wi-Fi access that ensure reasonable access for fishers to the internet, for example protections related to amount of time and data privacy."

4. **CBAs.** Indonesia requires manning agencies to sign collective bargaining agreements (CBAs) with unions in Indonesia is an opportunity for labor to set standards for employment on fishing vessels but enforcement remains low.

The MoU should include the following: "Parties commit to ensure high standards in collective bargaining agreements (CBAs) related to Indonesian migrant fishers, including CBAs with Indonesian manning agencies and with Taiwanese vessel owners and their respective associations. Parties recognize that Taiwanese vessel owners are ultimately responsible for conditions for workers on their vessels including for ensuring fair recruitment from Indonesia."

5. **Grievance handling.** The root cause of worker abuse is the power imbalance between workers and employers and government. Experience of workers in Taiwan is that no case handling by the governments can be effective without ensuring that workers can contact the government and unions or NGOs to support them to file complaints *while they are at sea*. Ideally, government enforcement is complemented by agreements between vessel owners and unions with binding grievance handling procedures.

The MoU should include the following: "Parties commit in addition to legally mandatory Wi-Fi access to facilitate agreements between workers' unions and

vessel owners to put in place grievance handling procedures so that workers can timely and effectively report and resolve issues with their vessel owners.”

6. **Fair wages.** Indonesian migrant fishers in Taiwan’s fishing fleet regularly work for unfair wages. Vessel owners commonly pay Indonesian migrant fishers less than migrant fishers from other countries for the same work and do not pay overtime or leave pay according to international standards. Fair wages for Indonesian migrant fishers are essential for decent work in Taiwan’s fishing fleet.

The MoU should include the following: *“Parties commit to standardize a wage payment structure that ensures fair payment for migrant workers consistent with international labor standards.”*

7. **Employer pays for recruitment.** Recruitment fees are a major contributor to forced labor in Taiwan’s fishing sector. The experience of unions around the world is that the only way that recruitment fees have been effectively prevented is for employers to be held accountable for paying recruitment fees and for any recruitment abuses, which incentivizes employers to actually regulate recruiters including fee-charging to workers. Taiwanese vessel owners failing to take legal responsibility for recruitment and pushing costs onto workers is the root cause of recruitment fees.

The MoU should include the following: *“Parties shall ensure that vessel owners are legally responsible for paying recruitment fees and for any recruitment abuses in order to prevent workers from being charged recruitment fees. Such provisions enacted by the parties shall include a public schedule agreed to among the parties for recruitment-related costs and fees, which shall be borne by vessel owners, as well as laws and regulations in Taiwan and in Indonesia that ensure owners pay for and are liable for recruitment-related costs and fees as well as recruitment-related abuses.”*

8. **Union role in migration governance through tripartite Joint Working Group.** In government decision making about migrant workers, it is critical that workers are represented when decisions are made. It is important that the Joint Working Group be recognized in the MoU itself and include a range of unions from Taiwan and from Indonesia that represent migrant fishers. The MoU joint working group should consist of a formal advisory role for unions and establish regular tripartite meetings among government, industry and unions in both countries for the purpose of implementing the MoU. The government parties in both countries should include the Ministry of Labor as well as any other relevant agencies.

The MoU should include the following: *“Parties shall establish a tripartite Joint Working Group to implement this MoU, which shall include seats for representatives from all unions in Indonesia and Taiwan who wish to join and shall hold regular tripartite meetings.”*

