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Strengthening the Protection of Migrant Fishers through the Adoption of the ASEAN Declaration on the Protection of Migrant Fishers

Labuan Bajo, East Nusa Tenggara, 9 May 2023 – Indonesia Ocean Justice Initiative (IOJI) assesses the Indonesian Government's initiative to encourage the process of adopting the Declaration on the Protection of Migrant Fishers at the 2023 ASEAN Summit in Labuan Bajo, East Nusa Tenggara as a good first step to protect migrant fishers. The government of Indonesia needs to continue to take advantage of its ASEAN Chairmanship in 2023 to ensure the adoption of the Declaration by ASEAN Member Countries and its implementation documents.

The adoption of the ASEAN Declaration on the Protection of Migrant Fishers is very important because many migrant fishers come from and/or work in the ASEAN region and on the fishing vessels of other flag countries outside ASEAN. They experience exploitation, modern slavery, and even become victims of human trafficking. (IOM Indonesia, MMAF, and Coventry University, 2016; Scalabrini Migration Center, 2020; ILO, 2020).

In accordance with the commitment of Indonesian President Joko Widodo to eradicate criminal acts of trafficking in persons in the discussion of the 2023 ASEAN Summit which was delivered on May 8 2023, efforts to protect migrant AKP need to be a top priority for the Government of Indonesia. As one of the largest regions of origin for migrant fishers worldwide, ASEAN does not yet have accurate data on the number of migrants considering the large number of non-procedural placements in this sector. The ILO (2022) noted that around 125,000 AKP working on ships from Japan, the Republic of Korea, Thailand and Taiwan came from ASEAN member countries. Thus, ASEAN has a high bargaining power to ensure better protection of migrant fishers in the global capture fisheries industry.

Once adopted, the Declaration on the Protection of Migrant Fishers will be the first ASEAN instrument that regulates the protection of migrant fishers. So far, migrant fishers have not been discussed specifically in existing ASEAN forums. There is no mechanism for cooperation between ASEAN Member States in dealing with cases of exploitation and human trafficking experienced by Migrant Fishers from ASEAN. The current ASEAN instruments, such as the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers and the ASEAN Declaration of Human Rights, are still oriented towards land-based workers and have not addressed the vulnerability of Migrant Fishers. Although not legally binding (non-binding), this Declaration will encourage the inclusion of Migrant Fishers protection programs in the policies and work mechanisms of ASEAN and ASEAN member countries regarding migration and human rights.

This declaration is the first step for ASEAN to enhance cooperation between ASEAN Member States regarding the protection of migrant fishers from ASEAN. Cooperation that needs to be prioritised is related to (i) supervision and law enforcement, (ii) exchange of information related to migrant fishers cases, including cases of human trafficking, taking into account the privacy aspect, (iii) setting decent work standards on fishing vessels and occupational health and safety on fishing vessels, (iv) access to justice, including the restoration of rights for migrant fishers, (v) repatriation and reintegration of migrant fishers, and (vi) certification and recognition of the skills of migrant fishers.

At the Multi-Stakeholders Consultation Workshop on the Development of the ASEAN Declaration on the Protection of Migrant Workers on Board Fishing Vessels on 16-17 March 2023 in Bali, civil society groups, including IOJI, submitted written input to the leaders of the Senior Labor Officials Meeting (SLOM) related to the provisions of migrant fishers protection that must be included in this Declaration. These inputs are adjusted to the vulnerabilities of migrant fishers from ASEAN, such as layered and unmonitored recruitment, isolation in the middle of the sea without access, unrecorded transit processes, impunity for corporations that commit human rights violations and labour against migrant fishers, debt trap, and low access to justice.

Some of the inputs submitted were related to (i) affirmation of equal human and labour rights between migrants fishers and other migrant workers; (ii) increasing the protection of migrant fishers at all stages of migration, including the stages of recruitment and placement, social security, and setting decent work standards on fishing vessels, (iii) recognition of the right of migrant fishers to communication and the right to get immediate emergency response, (iv) assistance and access to justice, (v) affirmation of commitment to identify, deal with, and punish all acts of violence and exploitation, including human trafficking against migrant fishers, and (vi) affirmation of the need for accountability for the role and responsibility of the flag state, port countries, coastal countries, and transit countries in the protection of migrant fishers. The six aspects above can increase protection for migrant fishers from ASEAN.

Based on the above matters, IOJI again encourages the Government of Indonesia to ensure the adoption of the ASEAN Declaration on the Protection of Migrant Fishers, which includes the aspects of protection recommended in the Multi-Stakeholder Consultation Workshop on 16-17 March 2023 in Bali. The Government of Indonesia also needs to develop Guidelines to follow up on this Declaration. The contents of the Guidelines should translate the norms and principles of protecting human rights for migrant fishers listed in the Declaration and international law into concrete action plans and technical programs for the ASEAN and ASEAN member countries. ***

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The Indonesia Ocean Justice Initiative (IOJI) is a think-tank and policy advocacy group that supports Indonesia, as the largest archipelagic country in the world, to realise its marine governance based on the principles of effective protection, sustainable use, and equitable welfare. IOJI builds collaborations with state and non-state actors to influence decision-making processes at national, regional and international levels by providing various scientific evidence-based policy proposals. IOJI also conducts assistance and empowerment programs for ocean-dependent people, such as small-scale fishermen, coastal communities and migrant fishers, in defending and fighting for their basic rights.

Note to the Editor:

- Prior to the 42nd ASEAN Summit on 10 May 2023, the ASEAN Socio-Cultural Community Council (ASCC) held its 29th meeting on 8 May 2023 in Bali, Indonesia. This meeting extended full support to Indonesia's Chairmanship in ASEAN with the theme of "ASEAN Matters: Epicentrum of Growth", focusing on three priorities, namely (i) ASEAN Matters; (ii) Epicentrum of Growth; and (iii) Implementation of the ASEAN Outlook on the Indo-Pacific. The meeting, which is under the purview of the ASEAN Socio-Cultural Community Pillar, is very strategic because it agreed on various issues, including strengthening the regional health architecture; empowering villages to enable them to accelerate rural development in the region; promoting environmental cooperation for biodiversity conservation and mitigating the impacts of climate change; better protecting ASEAN migrant workers and enhancing workers' capacity to secure the Future of Work; as well as strengthening disability-inclusive development.
- The ASCC Sectoral Bodies have strengthened the protection for ASEAN peoples and looked forward to the adoption of the ASEAN Declaration on the Protection of Migrant Workers and Family Members in Crisis Situations and the ASEAN Declaration on the Placement and Protection of Migrant Fishers by the ASEAN Leaders at the 42nd ASEAN Summit in Labuan Bajo, East Nusa Tenggara, Indonesia. The Meeting also looked forward to the ongoing development of the ASEAN Guidelines on the Protection of Migrant Workers and Family Members in Crisis Situations; ASEAN Guidelines on the Placement and Protection of Migrant Fishers; ASEAN Guidelines on Portability of Social Security Benefits for Migrant Workers; and ASEAN Guiding Document to Implement ASEAN Declaration on Promoting Competitiveness, Resilience and Agility of Workers for the Future of Work.