



## Synopsis

Research and Development Project

# "A SURVEY OF MIGRANT WORKER EMPLOYMENT PRACTICES IN THE THAI TUNA PROCESSING SECTOR"

## Submitted by

The Asian Research Center for Migration (ARCM) at the Institute of Asian Studies,  
Chulalongkorn University, Bangkok, Thailand

## TO

Thai Food Processors' Association (TFPA)

November 2013







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## ACKNOWLEDGEMENTS

The US TIPS Report on human trafficking, the Special Report on Trafficking of Women and Children, and the FINNWATCH Report have caused concern in all sectors, including the private sector and business owners, regarding the impact that this issue can have among its trading partners.

This Research and Development Project report of the “Survey of Migrant Worker Employment Practices in the Thai Tuna Processing Sector” is, in part, an expression of the concern and sense of importance of the problem perceived by the Thai Food Processors’ Association (TFPA).

The Asian Research Center for Migration (ARCM) at the Institute of Asian Studies of Chulalongkorn University is one technical agency which has been monitoring the situation and has attempted to provide data for objective decision-making by domestic and international societies. The data from these studies were obtained from systematic data collection and analysis in conformance with Thai legal provisions and ethical standards.

The findings from this study show that the Thai employers of foreign migrant workers are adhering to the relevant labor laws and standards. Nevertheless, there remain some areas for improvement, such as the deduction of employee wages to compensate employment procurement agencies and transportation. However, those deviations from standards mostly are attributed to misunderstanding of the legal provisions. What is more, a number of the employers of foreign migrants made extra effort to increase the benefits for their employees such as providing written employment contracts (which is not required by Thai law).

The research team would like to express their gratitude to the participating government and private agencies, and all key informants who graciously participated in the data collection for this study.



Professor Dr. Supang Chantavanich  
Director, Asian Research Center for Migration  
Institute of Asian Studies Chulalongkorn University





## FOREWORD

Thailand has been listed in Tier 2 of the watch list of the 2013 Trafficking in Persons Report (TIPs Report) by the U.S. Department of State and it has been on the list for four consecutive years. The fishery and fishery related Industry sectors have been accused of unfair treatment of transnational labourers through the exploitation of children and forced labour as well as human trafficking. This has affected the image of fishery goods and the continual fishery industry a great deal.

The Thai Food Processors' Association has considered and realized the importance of migrant workers who bring economic benefit to the country and has, therefore, announced a policy relating to migrant worker to make its members aware of the importance of labourers and to encourage them to unite in employing them according to the relevant laws and to encourage and give support to them in order to enable labourers to work with respect and happiness. This will benefit business entrepreneurs, add value to work and improve the quality of life and human dignity of employees, which, in turn, will result in the projection of a positive image for the country.

To lend importance to this issue, the Thai Food Processors' Association, through the Tuna Processing Sector, requested that the Asian Research Center for Migration (ARCM) at the Institute of Asian Studies, Chulalongkorn University, conduct a research project entitled a "Survey of Migrant Worker Employment Practices in the Thai Tuna Processing Sector". It wanted the research work to present clear, correct and true information about labourers working in tuna production factories. It is believed that the research findings, which reveal that there is no exploitation of children or forced labour and human trafficking, will enable other countries to receive true information about transnational labourers who work in tuna processing sector at the present time and will help them to achieve a better understanding of this issue.

The Thai Food Processors' Association wishes to express its appreciation to the Asian Research Center for Migration at the Institute of Asian Studies, Chulalongkorn University, which conducted the research with accuracy and professionalism and also to the tuna production factories and related government agencies which collaborated in this study and assisted this report to accomplish its goals.

The Thai Food Processors' Association  
November 26th, 2013





## SYNOPSIS

### PART 1

#### BACKGROUND OF THE RESEARCH AND DEVELOPMENT PROJECT

Since 2006, Thailand has attracted attention for potential violation of human rights in such areas as illegal child labor and forced labor working in the fisheries and seafood processing industry. This is reflected in international labor reports such as the U.S. State Department on human trafficking or TIP Report, the Special Rapporteur on Human Trafficking especially on women and children report, and the FINNWATCH Report, among others. The implication that Thai seafood production and processing involves coercive labor practices could impact on domestic and international consumption of these products.

The shortage of labor in the Thai fisheries sector and the working conditions of laborers, especially foreign migrant workers (MW) are problematic issues which are attracting an increased amount of international attention. These issues include types of hiring practices, recruitment,



retaining personal documents of the MW, labor requirements outside of the employment contract, wages, treatment of MW, occupational safety, health and working condition/environment, worker rights and ability to have grievances heard. Some aspects of labor in Thailand might be considered coercive or trafficking in the eyes of international organizations.

As global market competition intensifies, issues of treatment of MW in the fisheries industry may intersect with Thai seafood production, including both seafood processing and frozen seafood products industries. The extent to which attention focuses on cross-border trafficking of MW could have an adverse impact on Thailand's image and Thai seafood exports. Today's global food markets are changing significantly from the past. At present there is less emphasis on tariffs and more priority placed on food quality, occupational safety and environment. While some may view this transition as a form of unfair trade practices, it may be more the result of improved capacity of food producers. Thus, going forward, it is likely that labor standards will be more closely intertwined with standards of commerce.

As noted, Thai manufacturers are facing a shortage of labor while human capital is becoming more expensive, and this directly impacts on investment costs. As labor becomes more scarce and expensive, it is predictable that more highly-skilled laborers will be required who can perform a variety of functions and increase productivity. That said, unskilled labor is still required in the food industry and there is a shortage of Thais willing to do this work. Thus, the government has a policy of facilitating the use of foreign MW to address the labor gap, and has developed more explicit legal measures regarding foreign labor. There remain loopholes and unnecessary restrictions in the labor laws related to food processing which need to be addressed in order to be fair to all the stakeholders involved (Source: Directory of the Thai Food Processors' Association, 2011-2013, pp 8-10).

Data from the Migrant Worker Rights Network (MWRN) and the State Enterprise Labor Relations Confederation (SELRC) (November 22, 2013) indicate that migrant workers (MW) from Myanmar, Cambodia and Lao PDR comprise ten percent of the Thai labor force. The proportion of MW is even higher in the labor-intensive export sector such as seafood processing, agriculture, garment, construction, and domestic worker. Some MW are exploited or required to work in abusive conditions, receive less income than was contracted for, receive less than the minimum wage or have wages withheld, are required to work overtime or work in hazardous or non-hygienic environments, are denied the right to organize bargain collectively, are employed in indentured servitude, or are child laborers.

The Thai government and businesses in the fisheries sector have not been complacent in the face of accusations of unfair labor practices, and have convened consultative meetings to develop strategies to protect the rights of MW and eliminate violations of good labor practices, especially in the seafood processing and fisheries sector which are vulnerable to human trafficking and illegal child labor. The Thai government and related private and public agencies are urgently developing measures and guidelines for good labor practices which are efficient and effective in combating labor exploitation



and trafficking in the seafood and fisheries sector. These agencies are also taking a long-term view of the challenge to prevent vulnerable persons from becoming victims of forced migration by employers or agents and eliminate conditions which result of charges of sub-standard treatment of MW in Thailand and violation of human rights.

The Thai Food Processors' Association (TFPA), especially the Thai tuna processing sector, recognizes the importance of collecting relevant data on the situation, and fully supports this "Survey of Migrant Worker Employment Practices in the Thai Tuna Processing Sector" with the objectives to study the practices in hiring foreign migrant workers and protections of rights while in Thailand, and to propose guidelines for good MW labor practices. The findings from this study will help shed light on the actual situation and improve understanding in the international community regarding the protection of rights and good labor practices for MW in Thailand. This study will serve as part of the overall effort to rectify Thailand's image in how it treats MW in this sector by promoting improvements in labor practices and reinforcing those companies, factories, establishments and associations affiliated with the TFPA who already implement good labor practices.

## FOREIGN MIGRANT WORKERS (MW) IN THAILAND

Official data as of June 2013 record 1,143,781 MW in Thailand, representing an increase of 17.2% (167,797 persons) over the previous year and reduction of the number of illegal MW. MW can be classified into two groups as follows:

### (A) MW WHO ENTERED THAILAND LEGALLY

Of the total MW population, 1,122,343 (98.13%) are in this group, and the number increased by 217,302 (24%) over the previous year and by 47,986 (4.5%) in the previous month. This group includes those with permanent employment status (983), general workers (82,515), those covered under the MOU\* (1,008,141: 875,099 verified nationality and 132,042 imported labors) and investment promotion (30,704); and

### (B) MW WHO ENTERED THAILAND ILLEGALLY

This group comprises 21,438 persons or 1.9% of the total. This total declined from the previous year by 49,505 (69.8%) and from the previous month by 628 (2.9%) persons. All of the illegal entrants were from ethnic minority groups.

*(Source: "Foreign Migrant Worker" in Labor Market Status. Labor Market Research Division, Department of Employment, Volume 21, No. 7, July 2013, p. 5)*

Remarks\*

\*Permanent migrants as of January 2011 totaled 983 based on a survey conducted on November 23, 2010.

\* Article 9 of the Foreign Migrant Workers Act of B.E. 2551 (2008); describing a memorandum of understanding between Thailand and Myanmar, Lao PDR and Cambodia granting permission for MW from these three countries to work in Thailand.

## Objectives

- 1) To study and conduct a survey of foreign migrant workers employment practices for the seafood (tuna) processing industry in the context of Thai protections for foreign migrant laborers;
- 2) To study and search for good foreign migrant worker practices in seafood (tuna) processing in Thailand.

## Research Methodology

This study used both quantitative and qualitative methods, and collected information from a sample of 527 MW working in the tuna processing sector. Of these, 393 were Myanmar and 134 were Cambodian. All respondents were told the objectives of the study and description of the items to be asked. Persons were interviewed with the assistance of bi-lingual interpreters who were members of the research team and who work for non-governmental organizations that are familiar with the MW population. This study focused on the protection of MW while in Thailand, and includes general information about the



sample such as sex, age, ethnicity, communication skills, position, job skills, possession of an identity card/documentation, type of residence, reason for becoming a migrant worker, steps in the process of recruitment, working conditions, workplace safety, occupational health and environment, wages, overtime, and treatment of youth MW and pregnant women. This study asked respondents about their job satisfaction and their knowledge of labor rights and ability to file grievances. The focus of the data collection was the actual working conditions of the MW working in the seafood (tuna) processing plants of businesses who are members of the TFPA. The information was intended to be shared with the relevant agencies, businesses and individuals. The study also documented cases of good business practices for MW as a model for other companies/factories to emulate.

This study used a standard questionnaire for the interviews. The questionnaire was developed based on a review of the related literature and labor protection laws, domestic and international. The questions were designed by the research team in consultation with study advisors and representatives from the TFPA. In addition to the quantitative survey with the sample of MW (no intervention or observation from companies' staffs during the interviews), the researchers also conducted in-depth interviews and focus group discussions with key informants and stakeholders such as MW labor leaders, company/factory managers, policy makers, and staff of the Ministry of Labor. Members of the research team include experts in migration and protection of migrant labor rights, and also conducted the in-depth interviews. Both the quantitative and qualitative data were analyzed by the research team and advisors to the Asian Research

Center for Migration (ACRM) at the Institute of Asian Studies of Chulalongkorn University.



## CHARACTERISTICS OF THE SAMPLE

The samples of 527 MW were employed by tuna businesses which are members of the TFPA in five provinces. Of these, 393 are Myanmar while 134 are Cambodian (see Table 1.1).

Table 1.1: Sample Characteristics by Province of Employment

Province		Number of Foreign Migrant Workers by Province of Employment		
		Myanmar	Cambodia	Total
		393	134	527
1.	Samut Prakan	9	56	65
2.	Samut Sakorn	243	15	258
3.	Songkla	40	27	67
4.	Rayong	36	36	72
5.	Nakorn Pathom	65	0	65

The 527 respondents were selected using multi-stage random sampling and are representative of the entire MW workforce in the sampled worksites.

#### Key Informants

Public and private sector

- 14 government officers
- 29 key informants from the private sector

Table 1.2: Number of Key Informants by Sample Province

	Province	Government			Private Sector
		Provincial Labor Office	Labor Employment Office	Labor Welfare and Protections Office	
		Total			
		5	3	6	29
1.	Samut Prakan	1	1	1	3
2.	Samut Sakorn	1	1	1	10
3.	Songkla	1	0	2	10
4.	Rayong	1	1	1	2
5.	Nakorn Pathom	1	0	1	4

#### ETHICAL CONSIDERATIONS

MW respondents gave voluntary, informed consent prior to participating in the interview. The MW were informed about the objectives of the study and informed in advance of the types of questions in

the questionnaire. They were told that their responses would be kept confidential and anonymous. Respondents were informed that they could refuse to answer any questions for any reasons. The data from the in-depth interviews and focus group discussions with key informants were not linked to the participants' names or employers or companies.

#### LOCATION OF DATA COLLECTION

Thirteen businesses/factories which are members of the TFPA and which employ MW in seafood processing were selected to participate in the study. The 13 worksites are located in the five provinces of Samut Prakan, Samut Sakorn, Songkhla, Rayong and Nakorn Pathom. There were 14 key informants from the government and 29 from the private sector.

#### QUANTITATIVE RESEARCH METHODOLOGY

##### Population Group:

The research team specified a finite population for the study consisting of foreign MW working in seafood (tuna) processing for TFPA-member businesses in the five designated provinces. The sample of 527 MW are representative of the total population of MW (of the selected worksites) based on data from TFPA of February, 2013. The Yamane Formula was used to determine an appropriate sample size with a 95% confidence interval for determining statistical significance and representativeness of the sample, which equal to 514 cases. The items used in the questionnaires and other data collection instruments were developed by the research team after a thorough review of the related literature. Data were analyzed using descriptive statistics such as frequency distributions and percentages, and by cross-tabulations to study two variable associations. Other content areas of interest were identified by the research team for further in-depth analysis.

For actual research, the researchers used 527 respondents (estimated deviation) for data collection based on average by proportion of the population in the target locations, and with a distribution of the sample within worksites. Selection of individual respondents was conducted by Systematic random sampling.

#### QUALITATIVE RESEARCH METHODOLOGY

The qualitative component of this study consisted of two parts: Documentary research from secondary sources, and field research. Reference materials included documents from the public and private sector, legal documents and bi-lateral agreements and MOU between Thailand and its neighbors. Related domestic and international researches were also included in the desk review. In the field research, the team conducted in-depth interviews and focus group discussions with human resource staffs and head of sections of the worksites, and with key informants from the government agencies which oversee labor conditions and worker rights, or are involved with the hiring of MW (e.g., representatives of agencies under the Ministry of Labor such as the Provincial Labor Office, Employment Office, and the Office for Labor Protection and Welfare), and from the private sector (e.g., policy makers and senior managers



involved with MW issues). In each of the sampled worksites, in addition to the quantitative information being collected from MW, the research team conducted non-participant observation to provide a more comprehensive picture of the situation and perform triangulation of some portions of the data to ensure accuracy.

## PART 2

The summary of findings of this research and development study on the topic of a “Survey of Migrant Worker Employment Practices in the Thai Tuna Processing Sector” is divided into four sections as follows:

### EXECUTIVE SUMMARY

This presents the core findings, guidelines for good labor practices for MW, and recommendations.

#### Section 1: Introduction

This presents the background and rationale for the study, the objectives, methodology and general characteristics of MW, and the definition of the respondents, sampling frame, ethical considerations and locations of data collection.

A second part of this section includes a review of the domestic and international laws and regulations related to MW, including standards of good labor practices as per international accords covering the following eight dimensions:

- 1.) Unskilled labor migration
- 2) Employment of MW
- 3) Recruitment of MW
- 4) Health, safety, and occupational health
- 5) Legal protections
- 6) Collective bargaining
- 7) Repatriation of illegal MW
- 8) Human trafficking and forced labor

#### Section 2: Results of the Study

This section presents the results of the data analysis and description of the current status of MW in the tuna processing sector in Thailand. This section presents the quantitative data in tabular and diagram forms and the qualitative data covering the following components:

- 2.1 General characteristics of the MW in the tuna processing sector
- 2.2 Characteristics and steps in the recruitment process
- 2.3 Status of the work situation of the MW
  - Employment contract, wages and compensation, overtime, and non-work-day pay

- Safety and occupational health
- Information on MW youth and/or pregnant women (there were no youth MW found in this sample)
- Happiness and job satisfaction of the MW

2.4 Labor rights and processing grievances

2.5 Other viewpoints from the MW

### Section 3: Guidelines for Good Labor Practices of the Employers/Business Owners/TFPA, and Recommendations

This final section presents a synthesis of the findings and analysis with consideration of guidelines for good labor practices for MW by the companies/factories/worksites. This section then presents recommendations for applications of the guidelines, with special consideration of the tuna processing sector and businesses which are members of the TFPA.

#### GUIDELINES FOR GOOD LABOR PRACTICES FOR MW

##### ● Child Labor

☒ No employment of children.

This study of 13 tuna processing work sites in five provinces of Thailand found no incidence of child labor.

##### ● Forced Labor

##### Selection and Employment

☒ No MW were recruited/employed through deceptive practices.

☒ No MW were coerced or threatened in order to accept employment.

☒ No MW were physically abused or had their sexual rights violated.

☒ No MW experienced limitations of freedom to seek new employment, i.e., there was no coercion to remain with the employer, no forced detention in the worksite, or prohibition from leaving the living quarters.

☒ No MW was threatened with exposure to the police or government officials.

☒ No MW experienced threats of deportation (i.e., all 527 migrant workers in this sample were legally working in Thailand).

☒ No MW was deprived of community or social life by the employer.

☒ No MW had their rights or benefits diminished or denied regarding right to temporary shelter, food and other life essentials.

☒ Some MW had their official identity document kept by the employer (22 persons or 4.2%) asked the employer to keep their documents, a minority of whom (3 persons, or 0.6%) stated the employers would like to keep their documents. Most of the sample (496 persons or 94.1%) kept their official identity

document with them while 6 persons or 1.1% kept their documents in slots provided for this purpose at the worksite.

#### Employment Contract

☒ No MW had to make an advance payment to obtain employment or a guarantee of employment.

Of the 82.5% (435) of the MW who had signed employment contracts, this study had the following findings:

☒ MW had a signed employment contract translated into their native language.

☒ MW had the terms of employment explained to them in their native language if they were not literate in Thai.

☒ MW had their position and responsibilities and hours of work clearly specified in the contract.

☒ MW had contracts which clearly specified the financial compensation, other benefits and employee's rights.

For MW without signed contracts, this study had the following findings:

☒ MW did not have a signed contract with the employer. This study found that 15.4% (81) did not have a signed contract with their employer (working in six companies A, B, H, I, K and M). An additional 2.1% (11) were not sure if they had signed a contract or not (working in three companies A, L, and M).

"Signed contract" as per Article 5 of the 1998 Labor Protection Act denotes "A contractual agreement, verbal or in writing, which terms are clear and evident whereby the employee agrees to work for the employer for a stated amount of compensation." Because Thai labor law does not require a written contract, the fact that some MW in this study did not have a signed contract cannot be considered unlawful. In addition, the relevant agencies which oversee labor protections (e.g., Office of Labor Protection and Welfare, the Ministry of Labor, the Department of Social Welfare and Development, the Ministry of Social Development and Human Security, etc.) have the responsibility to protect all workers equally according to a single standard, regardless of whether there is a written employment contract or not.

#### ● Recruitment through an employment agency or broker

☒ MW obtained employment through a broker (in their home country and in Thailand).

This study found that 14.2% (75: 26 Burmese, 12 Mon, 10 Tavoy, 2 Rakhine, and 1 Shan and 24 Cambodian) of the MW said that their current job was obtained through the assistance of a broker. Of these, almost all (96%) contacted an agent while still in their home country and all knew the fee they had to pay and that they had to pay the fee in advance.

☒ MW obtained employment through a broker.

Fifty-one MW in this study paid the broker prior to obtaining employment. 29.3% (22) of those who obtained employment through a broker agreed to pay in installments out of their weekly/monthly wages (who worked in Companies A, F, G, H, I and J). A small percentage (2.7%) of employers paid the broker's fee (Company A).

It was not clear whether the payment of the broker is directly deducted from the worker's pay. Of those who entered under the MOU, 0.4% (2 in Company H) had the company advance the cost of processing the (Myanmar) MW passport and work permit, but deducts that amount at a later date. For those who entered Thailand under the labour MOU, the cost of processing work permit and other related service cost can be charged to worker but not exceed THB10,000. However, Article 76 of the 1998 Labor Protection Act prohibits the deduction of fees direct from the worker's regular wages, compensation or overtime/holiday work pay. Therefore, the worker must receive their remuneration first, and then they can pay to the broker or service provider at the later stage.

#### ● Work conditions

☒ MW pay is not tardy, suspended or issued at irregular intervals.

☒ MW are not subject to financial punishments such as indebtedness between the employer and employee, or delayed wage payments as a means of retaining employees.

☒ MW are paid directly (e.g., through bank direct deposit).

☒ MW are provided with meals or sleeping quarters for an appropriate fee which is not a financial burden to the employee or might lead them into debt (pertains to factories with worker dormitories). This study found some cases of MW whose pay was deducted to cover the cost of accommodation's electricity.

☒ MW normal work day is eight hours or not to exceed 48 hours per week.

This study found that most of the MW (70.4% or 371) had nine-hour work days while 25.6% (135) had eight-hour work days, 3.4% (18) had 8.5 hour work days, while 0.6% (3) had variable work day lengths, but not exceeding nine hours.

According to the 1998 Labor Protection Act and other related statutes specify that the number of hours of work in a day not exceed eight or nine hours or when summed, not to exceed 48 hours in a week. The work hours of all the MW in this study are in compliance with Thai law.

☒ MW have opportunities for overtime work on normal work days and are assigned appropriate and essential over-time tasks with the consent of the MW. Overtime is usually sought out by many employees without pressure or coercion from management. In this survey 45.5% (239) sought daily overtime in the amount of two hours.

☒ MW are paid compensation for overtime work on routine work days, work on non-work days at rates prescribed by law.

☒ There is a written record of compensation paid to MW and data related to pay and other compensation

☒ There is at least one day off from work per week.

● **Non-discriminatory practices: A fair workplace with a single standard for all employees**

☒ MW are not paid different rates for the same work and experience level because of gender (male/female).

☒ There is no workplace policy or practice which prohibits, prevents or punishes female employees if they are pregnant.

☒ MW who become pregnant while employed are not fired or pressured to resign.

☒ MW have the right to maternity leave with pay as per government regulations.

☒ There is a policy to enable postpartum MW to resume their employment in the original position and at the same level of compensation as before the maternity leave.

In this sample, six MW were pregnant at the time of the survey. Some reported that they were aware that they would be treated differently from normal labor; others said they were spared from heavy labor. All six reported not having to work during the period from 10 p.m. to 6 a.m. or to work overtime, on holidays, or perform hazardous or arduous tasks. All six said they were eligible for maternity compensation, paid directly to them through bank transfer, and have to check in/out their working time.

● **Freedom of association, and protection of the right to organize, and right to engage in collective bargaining**

☒ MW have the freedom of assembly and to organize with other workers without interference or obstacles.

☒ MW have methods and channels of filing grievances with/about their employer

☒ 80.8% (426) of the MW in this study were not aware that their factory had an employees' Fringe Benefit board, while 19.2% (101) were aware of this board. Some worksites (Factory K) announced the existence of the board in order to encourage MW to apply for positions on the board. But some MW were not aware of this opportunity and election.

**Issues of compensation, wages, overtime and work hours**

**Compensatory pay and wages**

☒ MW are paid at least the minimum wage according to national law

☒ There is a written record of payments to the MW, and MW are informed of the details of the compensation, wages, etc.

☒ MW are able to spend their wages as they see fit

- ☒ Employers do not pay MW in-kind wages or overtime compensation in lieu of cash
- ☒ Employers do not pay compensation irregularly or at variance with the agreed pay-day schedule
- ☒ Employers do not pay a proxy for the MW (they pay MW directly through bank deposits)
- ☒ Employers do not pay MW outside of regular work hours
- ☒ This study found cases of MW whose pay was deducted for cost of housing (N=65) working in

six worksites (80% in Worksite G: 16 persons from total of 20 persons; 17.4% in Worksite H: 4 persons from total of 23 persons; 66.7% in Worksite I: 10 persons from total of 15 persons; 33.3% in Worksite J: 3 persons from total of 9 persons; 40.3% in Worksite K: 29 persons from the total of 72 persons; and 15% in Worksite M: 3 persons from the total of 20 persons). Worksite C deducted the cost of transport for six MW. In all of these cases, the MW consented to the pay deductions.

☒ MW received overtime pay. Of the total sample, 437 worked and received overtime pay. Of these, 98.2% received overtime pay in accordance with the national law, while 1.9% (8 MW) received less than legally required; 6 received THB50.- per hour and 2 received THB54.- per hour.

**Remarks:** The 2008 Labor Protection Act specifies the rates of overtime pay, including Article 61 which states that “...in the case that an employer requires a worker to work overtime on a routine work day, the compensation must be at least one time’s pay per hour or not less than 1.5 times the regular pay in accordance with the work product for workers paid by product output.” In terms of wages, this study found that the entire sample was paid at least the minimum wage of 300 baht per day. Thus, the lowest hourly overtime pay rate is 56.25 baht

#### Work hours (including breaks but not including overtime)

☒ No MW worked for more than nine hours in a routine work day or more than 48 hours per week in accordance with the 1998 Labor Protection Act and other related laws, which says that a routine work day may consist of 8 or 9 hours but not to exceed 48 total hours per week. Most of the MW (70.4%) worked 9-hour days (inclusive of a one-hour break). One-fourth (25.6%) worked 8-hour days, while 3.4% worked an 8.5-hour day (inclusive of the one-hour break).

☒ No MW was forced to work overtime in excess of 36 hours in a week (inclusive of overtime on routine work days, work on non-routine work days and overtime on non-routine work days).

Most of the MW in this study (82.9%) worked overtime; of these 73.7% worked two hours of overtime per day. One-tenth (10.5%) worked four hours of overtime per day, while 8.5% worked three hours and 6.4% worked one hour of overtime per day.

☒ No MW was forced to work overtime; all MW consented to work overtime. Indeed, the MW sought out overtime work to increase their income. The most common preference (45.5%) of the MW was to work two hours of overtime every day.

☒ MW are given at least one day off from work per week

● **Issues related to occupational health, safety, the worksite environment and worker welfare**

☒ The companies/factories have written policies for safety, occupational health, and quality work environment.

☒ MW know where to access the first aid kits and infirmary set up by the company/factory/worksite

☒ MW receive materials/equipment to prevent harm to themselves from the work activity. Some (19.4%) MW bought their own protective supplies while 80.6% received these from the factory/worksite. Of those who received protective supplies from the employer, 199 received these once when they first started work, while 208 received supplies once a year.

☒ The worksite is well-lit.

☒ The worksite is well-ventilated.

Most (89.6%) of the MW in this study felt the worksite was spacious and comfortable to work in.

☒ The worksite temperature is in accordance with established standards.

Most of the MW in this study are satisfied with the temperature in the worksite. That said, a small number (7.4%) felt it was too warm (in Worksites B, C, D, G, H, J, K, L and M) while 2.7% said it was too cold (in Worksites D, F, G, and K). In some cases, the worksite temperature is governed by the stage in the process of product preparation. For example, raw seafood needs to be kept cool (and the employer provides special garments to keep MW warm who are involved in this part of the process). Alternatively, the disinfection process requires higher temperatures. These are standard quality control guidelines and, thus, the temperatures are not always determined by the worksite manager.

☒ MW are provided with free, clean drinking water and this is a legal requirement for worksites with ten employees or more. But in this study 1.7% of MW said their employer did not provide free drinking water (in Worksites F, K, and M) despite that fact that observation by the research team verified that there was this service in these worksites.

☒ MW said that bathroom facilities were adequate (97.3%) while 2.7% said they were not (in Worksites A, B, C, F, K, and M). However, all factories need to comply with GMP specifications, one of which is provision of adequate bathroom facilities for their employees. Thus, the negative response may be a reflection of personal preference.

☒ There are emergency response drills at the worksite according to 98.7% of the MW, while 1.3% (7) said there were not (in Worksites G: 2 persons from total of 20 persons; and K: 5 persons from total of 72 persons).

☒ Almost all (98.5%) of the MW reporting seeing an emergency response map in the worksite, while 1.5% did not (in Worksites B: 1 person from total of 60 persons; and K: 7 persons from total of 72 persons).



☑ There is harm protection equipment/supplies according to nearly all MW in this study. Only two Myanmar (from total of 70 interview persons), working in Worksite C said there was no such equipment.

☑ There are some issues with the timing of bathroom breaks or personal time. Fully 47.2% said their factory did not specify times for bathroom breaks or personal time, where 52.8% said the factory did specify break times, and these were usually not to exceed 15 minutes. In this sample, 92% said that the timing of the breaks was not a problem, while, those that did (23 MW), did not specify what the problem was (in Worksites C, D, F, G, and K).

☑ Work-related accidents occurred to 3.8% of the sample requiring hospital or clinic care. The accidents included cuts, crushed foot/toes by a trolley, fainting from the heat, head injury from fish tank collision, arm injury from machine conveyer belt, finger caught in machinery, cuts from cleaning machinery, falls on slippery floors, or severed finger(s). Of those injured, 90% received permission to take leave and receive financial compensation. One MW working at Worksite K was allowed to take leave but without compensation. This person had an injured finger requiring two stitches.

This study also asked workers about their job satisfaction, including labor rights and ability to file grievances.

● **Happiness in the workplace:** (This survey asked MW about their contentment with the current job, what is the cause of their happiness or discontent, and satisfaction with working in Thailand compared to work in their home country.)

☑ This study found that three-fourths (76.7%: 404 persons) of the sample were highly satisfied and content with their job. By nationality, 297 Myanmar, 107 Cambodian of these 404 are highly-contented. Only 116 of the 527 respondents said that they only had moderate job satisfaction. The reasons for high job satisfaction include the level of pay, good boss, many friends, good work, and comfortable conditions, good benefits and independents.

☑ Most (87.1%) of the sample said they were more satisfied with the work in Thailand than in their home country, while 11.8% said there was no difference.

☑ There was job dissatisfaction due to the difficult nature of the work (N=4 in Worksites C and K).

☑ There were some problems with their current job (one respondent could answer more than one choile); including arduous work assignment (6 persons in Worksites C, D, F, and H); lack of permission by employer to wear plastic gloves when scaling fish (6 persons from total of 70 interviewed persons in Worksite C); lack of bonus pay/special compensation (5 persons in Worksites B, C, and H); communication difficulties with the boss (3 persons from total of 85 interviewed persons in Worksite F); lack of information on the amount of special compensation to be paid (2 persons from total of 85 interviewed persons in Worksite F); lack of overtime work opportunity (2 persons from total of 72 interviewed persons in Worksite K); inadequate duration of rest periods (1 person from total of 70 interviewed persons in Worksite C); and

lack of enough water for bathing in the living quarters (1 person from total of 72 interviewed persons in Worksite K).

Despite these few complaints, it is clear that the overall job satisfaction and contentment of working in Thailand is high, and this is a tribute to the good practices of the worksite owners/managers for creating a positive work environment for MW.

● **Knowledge of workers' rights (labor rights) and ability to file grievances**

☒ Fully 56.9% of the sample knew about workers' rights.

☒ MW who wanted to know more about their labor rights wanted to know about fair pay practices, good employment practices, workplace safety, good benefits packages, equal treatment, and good work environment.

☒ Only one MW in this study had filed a grievance, and this Myanmar person was fluent in Thai. The grievance was related to workplace sanitation and, after filing the grievance, the problem was rectified. Of the 526 MW who never filed a grievance most said they never felt that their rights were violated, while a few said they did not want to cause any problems or did not know who to file the grievance with.

**Summary**

The findings from this report can be used to inform guidelines for implementing good work and labor practices for seafood processing worksites with MW populations (in particular tuna processing). Only in a few areas is there a need to provide further orientation for worksite owners/managers in order to improve work conditions. The following recommendations are intended to be applied by businesses who are members of the Thai Food Processors' Association to help them establish and maintain good work and labor practices for MW.

### 3.2 Recommendations for employers/managers/and the Thai Food Processors' Association (TFPA)

● **Forced Labor**

1) Employers need to ensure that their MW employees understand workers' rights, and conduct refresher checks of this understanding from time to time. This includes special rights and responsibilities of MW, and which should be presented to the MW in their native language.

2) Employers need to ensure that their MW employees have freedom of employment in different positions as long as it is consistent in the employment contract.

3) Employers should not retain the ID, passport or any other travel documents of MW employees.

4) There should be a written employment contract in Thai and the language of the MW, signed by the employer and MW, with a copy for each to keep.

5) In the event of termination of employment, the employer should prepare a document on change

of employer immediately after termination of employment.

6) Communication with MW should be clear, easy to understand and transparent about the terms of employment, the work situation, pay and wages, and other benefits that the MW is entitled to.

7) If the employer uses a middleman/broker/employment agency in recruiting MW labor, there needs to be a clear understanding with the broker concerning the details of the agreement between the broker and the MW to ensure that the MW will receive fair treatment on the job according to the pre-employment agreement

8) Employers need to use safe methods of recruiting MW and promote good relationships with the broker/employment agency in the MW's home country.

9) The employer should not deduct the cost of the broker/employment agency from the salary of the MW who is recruited by the broker.

10) The employer should not deduct from wages, overtime, work/overtime on non-routine work days to cover costs of MW living quarters or other amenities, with the exception of expenses specified in Article 76 of the 1998 Labor Protection Act.

11) Employers should guard against indentured servitude of MW.

12) Employers should implement measures to control fees of brokers who recruit MW and other fees in the process.

13) Employers should form strong, sustainable networks in collaboration with relevant government agencies, the private sector, and Civil Society, to monitor and provide leads to the relevant authorities if there are cases of deceptive, labor exploitation, unethical or illegal MW recruitment practices or coercion.

#### ● Non-Discrimination

1) There is clear specification, verbally and in writing (in the native language of the MW) on non-discrimination of labor.

2) MW need to be confident that they will receive treatment equal to what Thai workers receive.

3) There should be support for solidarity with and understanding of cultural differences of the MW of other nationalities and languages.

4) There should be support for gender equality among MW.

#### ● Freedom of association, protection of the right to organize, engage in collective bargaining, and filing grievances

Remark: Foreign MW are not allowed to form labor unions according to Thai law, but they can organize to conduct collective bargaining with an employer.

1) There needs to be dissemination of knowledge about and importance of the Employees' Fringe Benefit Board (if there is one).

2) Employers must not instill fear among MW related to their job security if those MW choose to file a grievance or request a review of their rights.

3) There should be support for MW to choose a representative to act on their behalf in negotiations with the employer, or to serve on the Employees' Fringe Benefits Board (if there is one).

4) There should be support for MW to exercise their right to elect representatives to serve on the Employees' Fringe Benefits Board (if there is one).

5) There should be dissemination of information for MW so that they know the procedures of filing a grievance related to the worksite, including stipulations of the 1998 Labor Protection Act (Article 12 on filing and considering a grievance by an employee).

6) There should be regular education of MW about labor rights and filing grievances.

7) MW should be given the opportunity to participate in meetings or activities which disseminate information about labor rights.

#### ● **Compensatory pay, wages, overtime and work hours**

1) There should be supporting documentation of pay and other financial benefits that the MW can understand, with clear detail on rate of pay such as wages, overtime, incentive pay, special position pay, other types of special pay, pay for overtime on non-routine work days, compensatory pay, etc.

2) There should be clear and auditable information on wages, overtime, non-routine work day pay and overtime, compensation for work-related accidents, paid holidays, annual leave, etc.

3) There should not be any deduction from the MW wages or earned overtime pay to cover costs of worker housing, transportation, utilities, loss of work, tardiness, leave, violations, or other costs, with the exception of those specified in Article 76 of the 1998 Labor Protection Act.

4) There should be announcements of available overtime opportunities, and provided with the written consent of the MW to perform the overtime work.

#### ● **Occupational health, safety, work environment and benefits**

1) There should be standard, regular training and drills in safety procedures and emergency response, with signs and alarm systems, and diagrams of the worksite in the native language of the MW.

2) New MW employees should be oriented to the location of the first aid kit and methods of use.

3) There should equipment/materials to prevent hazards or harm to the MW, and these should be distributed for free to the MW when they begin employment. For example, MW need to be instructed to wear gloves when using a knife to scale fish, or other harm-protection equipment/material.

4) Using the native language of the MW, employers should promote understanding and provide guidance in use of equipment and special garments for MW who have to work in unusually hot or cold work environments.

5) Employers should orient MW on the specifications on appropriate use of bathroom or personal time breaks during work hours.

6) Employers should give importance to and take responsibility for MW who are injured on the job, so that the MW receives proper medical care, leave from work and compensatory pay.

7) Employers should support and cooperate with public and private agencies in promoting occupational health and safety in the workplace.

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### (Company)

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I.S.A.Value.Co.Ltd. **Interview**, 8 March 2556.

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P.B.Fishery Products Co.Ltd. **Interview**, 20-21 March 2556.

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Tropical Canning Public. **Interview**, 6 March 2556.

Unicord Public Co.,Ltd. **Interview**, 27 February 2556.

### Research Team

Professor Dr. Supang Chantavanich	Advisor to the Project
Dr. Ratchada Jayagupta	Project Manager / Senior Researcher
Mr. Smarn Laodumrongchai	Senior Researcher
Miss. Waranya Jitpong	Researcher
Mr. Podsakorn Yothinneeranat	Research Assistant
Miss. Pajongruk Srichaiwong	Research Assistant
Ms. Sajin Prachason	Documentary Researcher
Ms. Thanyaporn Wongboonchainan	Documentary Research Assistant