

# “Good Labor Practices for Migrant Workers in the Thai Seafood Processing Industry”



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**Asian Research Center for Migration (ARCM)**

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## Research Report

### Good Labor Practices for Migrant Workers in the Thai Seafood Processing Industry

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## Introduction

Increased concern about the use of child labor, forced labor and cross-border trafficking of migrant workers has led to more interest in 'good practices' of large and medium-sized export factories, and the extent to which they protect the rights of their foreign employees and take steps to prevent coerced and child labor. This research study highlights the good labor practices being applied in the Thai seafood industry, with a focus on the importance and benefit of increasing and implementing good labor practices. This study includes guidelines for factories and mechanisms for government action and attention to the prevention and eradication of the problem through inter-sectoral collaboration.

This project on "Good Labor Practices for Migrant Workers in the Seafood Processing Industry" originated from this concern and need to shed light on the adherence of Thai-based seafood processing companies to the principles and guidelines for good labor practices through collaboration between the worksite owners and the government to guarantee the protection of migrant laborers, as evaluated objectively since the research team has no organizational link to either stakeholder.

The Asian Research Center for Migration of the Institute of Asian Studies of Chulalongkorn University would like to thank the Research Advisory Committee for their highly valuable recommendations, and the research team, comprised of technical experts and NGO representatives from Civil Society that are working closely with the government and worksite owners on MW issues. Thanks are due to the government and private agency representatives who sacrificed their valuable time to participate in interviews for this research and the valuable information they shared on GLP. The worksites in this study exemplify high standards of export product processing in the context of the protection of human and labor rights in accordance with laws related to hiring of MW to work in large and medium-size factories in Samut Sakorn Province, which is the focus of international interest in this area. Finally, this work owes a debt of gratitude to the Department of International Organizations of the Ministry of Foreign Affairs for its support of this research.

The research team sincerely hopes that this research report will be of use for individuals and organizations for improved understanding going forward.

The Research Team

## Executive Summary

This research study entitled: “Good Labor Practices for Migrant Workers in the Thai Seafood Processing Industry” was implemented by the Asian Research Center for Migration (ARCM) with the following objectives: (1) To study good practices in large and medium-size seafood exporting factories in terms of workforce protections and prevention of violation of the rights of MW, absence of forced or child labor; (2) To motivate the Thai seafood factories and activate government mechanisms to show more concern in collaboratively addressing problems, and recognizing the benefits of having GLP standards to prevent these problems from occurring in the future; and (3) To promote the implementation and role of Thailand under the framework of the Commission on Crime Prevention and Criminal Justice and the United Nations Partnership Framework.

Data were collected from key informants in Samut Sakorn Province, including representatives of government agencies with responsibility for overseeing the controls and care for foreign migrant workers (MW) in Thailand (e.g., the Officer for Labor Protection and Welfare, the Office of Employment, the Social Security Office) and private agencies (e.g., the Chamber of Commerce, and the Federation of Thai Industries). In addition, data were collected by interviews with a sample of 406 MW, and by in-depth interviews with worksite managers in six selected seafood processing factories.

### Results of the Research

#### 1. Background of the Seafood Production Industry in Samut Sakorn and MW

The Thai frozen foods processing sector has been expanding for decades, with an emphasis on international export. The largest factories are concentrated in Samut Sakorn Province given the tax incentives and good communications infrastructure. In addition, the progressive replacement of small-scale fishing companies with large companies has meant that it is more efficient to inspect these worksites to ensure compliance with international principles of good labor practices (GLP).

Canned seafood processing has been actively promoted since 1972, following the establishment of the Board of Investment. Initially, the emphasis in this sector was canned tuna exports, and the techniques and variety of processes has expanded continuously. Samut Sakorn has become regional hub for sea food processing and export and plays a significant role in the overall economy of the country. The rapid expansion of this sector has meant that the supply of Thai labor has not kept up with demand, given the labor-intensive nature of seafood processing. Accordingly, year after year, more MW from Thailand's lower-income neighbors have come to work in Thailand, and Samut Sakorn Province has one of the highest ratios of MW to Thai workers compared to other sectors.

## 2. Guidelines for GLP Toward MW Working in the Thai Seafood Processing Sector

### 2.1) Implementation of Labor Law and Benefits Related to Workplace Safety, Occupational and Environmental Health, and Medical Care.

All of the MW sampled in this study had received orientation on maintaining safety of the worksite, and had seen the alarms and warning signs in the factory. Most of the MW received training in the tasks they perform as part of their employment, and receive protective clothing or gear to prevent accidents and exposure to toxic chemicals. The development of GLP came about as a result of the priority of the businesses to minimize work-related accidents. What is more, the seafood processing businesses invest in improving safety in the workplace, are careful not to practice any form of discrimination for all nationalities, and ensure that MW receive the same benefits as their Thai counterparts. The worksites have clear, written policies on workplace safety and environmental health. The worksites keep a public record of work-related accidents and illness, and there is a workplace safety committee. Each worksite in this study had first aid kits which are convenient to access and use.

**Health and medical are benefits:** All the MW in this sample said that their employer provided benefits for medical care and health promotion, including annual physical exams, and promotion of enrollment in the social security system. Of the 19 MW who had experienced a work-related accident/injury in their current job, most were treated at a government hospital, a worksite infirmary, or a private clinic, and at no cost to the MW. The factories also provided special services and consideration for pregnant workers such as shifting them to lighter jobs and

no requirement for overtime work. Antenatal care visits (ANC) are not considered leave, and the worksites provide 90 days of paid maternity leave. What is more, some of the factories set up special “corners” for nursing mothers to collect breast milk. Health education information is made available to the MW in their native language.

## **2.2) Implementation of Social Security and Workman's Compensation Funds**

This includes the right to health care as per the provisions of public social security, health insurance, or from private plans arranged by the employer for all workers. This study found that all the public sector paid into the workman's compensation fund on schedule, and the 19 MW who experienced an accident/illness received appropriate compensation. All the accidents/illness were minor and did not require any more than three days of leave. One shortcoming in the health coverage for MW is the gap of more than three months at the start of employment, and this is due to the extra paperwork processing for non-Thais. Public sector/government agencies are not as pro-active as they could be in helping MW to register, and there are delays in verification of nationality (in the home country).

## **2.3) Labor Relations Act of 1975**

According to Thai law, MW are not allowed to unionize themselves but can join associations of workers. None of the MW in this study had joined associations even though the employers provided full freedom of assembly and processing Memoranda of Understanding related to work conditions or rights.

## **2.4) Schooling for Accompanying Children of MW**

Only 11 MW in this study had school-age children with them, and these children were able to enroll in local Thai government or NGO-sponsored schools. Some of the children received educational scholarships or financial support for books, supplies and uniforms. Fully 70% of the MW had the opportunity to pursue on-going education, either provided by the worksite or Civil Society.

### **2.5) Work-Related Grievances and Channels for Filing Grievances**

Of the six factories in this study, only one MW out of 406 sampled workers had filed a grievance with the provincial office of labor protection and welfare. An additional 13 MW had expressed a grievance with their employer directly (related to overtime pay, days off, and wages). In most of these cases, the grievance was successfully resolved.

### **2.6) Legal Assistance**

None of the MW in this study needed legal assistance to address work issues. Only two workers needed some coordination such as advice on how to seek compensation for a work-related injury, or how to access maternity benefits.

### **2.7) Best Labor Practices**

The worksites in this study actually went beyond what is required by law such as providing free uniforms and protective gear to MW. Some worksites had lodging facilities available, while others provided special provisions for conducting religious rights. All the worksites conducted recreational activities for the MW periodically.

## **3. Conclusion**

This research found that the six seafood processing factories in this study were practicing GLP toward their MW in the following ways:

- There was no use of child labor;
- There was no use of forced labor;
- There was no discrimination of members of the workforce;
- There was no human trafficking or exploitation of the workforce;
- Workers enjoyed freedom of assembly;
- Workers could engage in collective bargaining to address work-related issues;
- The worksite is safe;
- There is no exposure to toxic chemicals;
- There were no cases of youth MW in this study;
- The worksite is hygienic and there is proper waste disposal.



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## Chapter 1

### Introduction

#### 1.1 Background of the Research and Objectives

A model for Good Labor Practices (GLP) for foreign migrant workers (MW) in the Seafood Processing Industry of Thailand will serve as guidance in making improvements in working conditions for MW in fisheries and seafood processing worksites. The outcome should be a suitable work environment with reduced risk of harm on the job, payment of fair wages and provision of benefits, accessible channels for filing grievances, and the opportunity to receive assistance from public and private agencies in accordance with international standards. The GLP model addresses policy for labor protections and eradication of exploitation and human trafficking, including support for measures to combat child labor in the fisheries. Relevant agencies from the government, private organizations and business owners should consider the GLP model to inform guidelines for promoting decent work conditions, labor and worksite inspections, preventing and managing cases of labor rights violations, mechanisms of filing grievances, issuing of work permits, registering MW and verification of nationality. MW working as deep-sea fishing boat crew are an especially vulnerable population with elevated risk of harm and exploitation due to human trafficking practices.

Many groups have a vested interest in the development of GLP for MW in the Thai Seafood Processing Industry since Thailand is a leading global exporter of seafood products. But the risk of harm in some aspect of the seafood processing industry and fisheries remains considerable. Thus, Thai labor law has been improved to address these challenges, and there is increased collaboration between the Department for Labor Protection and Welfare (DLPW) of the Ministry of Labor (MOL), the Department of Fisheries (DOF), the International Labor Organization (ILO), the Thai Frozen Foods Association (TFFA), the Thai Food Processors' Association (TFPA), the Thai Shrimp Association, the Ministry of Agriculture and Agricultural Cooperatives (MAAC) and other related agencies to address labor problems at the frontline level through contribution to development of the GLP guidelines for the fisheries, shrimp and seafood industry. In 2013, these agencies launched a pilot project for shrimp farming and seafood processing as an example for factory owners to emulate. They have organized advocacy for the Thai government to be a

signatory to the relevant international agreements in accordance with principles of the ILO. The Labor Rights Promotion Network and the Raks Thai Foundation have played an important role in monitoring MW worksite practices, assisting workers who want to file grievances, and setting up schools for children of MW.

However, any GLP model has no chance of success without the involvement of the relevant business owners, who will play the crucial role of applying the GLP guidance. Many of the larger exporters have clear measures for the protection and welfare of their workforce, including rights of MW, and these worksites provide a good example for other factories in creating a safe and healthy work environment, including fair labor contracts, work permits and medical care.

There is increasing global concern about violation of workers' rights, child labor, and human trafficking across borders to serve portions of the Thai seafood processing and fisheries industry (e.g., see the Trafficking in Persons Report of the US State Department Human Trafficking Office). Thailand has been on the "Tier 2" watch list for the past four years. The adverse consequence of this is that seafood importing countries and consumers may view Thai products in a negative light and seek produce from other countries with better reputations for labor practices. This would clearly harm the Thai economy, especially if the characterization of Thailand in this way is false or inaccurate. Thus, this study was conducted to document good labor practices for MW in the seafood processing sector and to propose guidelines for GLP through cooperation and involvement of all the relevant stakeholders.

#### **1.1.1 Objectives**

1. To study good practices in large and medium-size seafood exporting factories in terms of workforce protections and prevention of violation of the rights of MW, absence of forced or child labor.
2. To motivate the Thai seafood processing factories and activate government mechanisms to show more concern in collaboratively addressing problems, and recognizing the benefits of having GLP standards to prevent these problems from occurring in the future.

3. To promote the implementation and role of Thailand under the framework of the Commission on Crime Prevention and Criminal Justice and the United Nations Partnership Framework.

## 1.2 Research Methodology

### 1.2.1 Research Questions

1. What are the core elements of GLP for MW working in the seafood processing industry of Thailand, and to what extent can factories apply the GLP?
2. To what extent can GLP guidelines help improve mechanisms of collaboration between the public and private sectors in protections and welfare?
3. To what extent can the GLP guidelines influence the opinion of countries which import Thai seafood, and serve as a good example for companies and medium and small-size factories in how to treat the MW labor force?

This research selected factories for conducting qualitative case studies using the maximum-variation sampling method. This method allowed for inclusion of frozen seafood, seafood preparation and cleaning, and seafood canning factories, which cover the full spectrum of seafood processing for export. The seafood produced in the factories included in this study represent 80% of the value of seafood product categories according to Ministry of Commerce classification (based on data from 2007-2011). These export products include fresh and frozen fish, fish filet and other fish meat products, shrimp, crabs, crayfish, fish meat preparations, shellfish, and squid (Trade Policy and Strategy Office).

The Asian Research Center for Migration (ARCM) defined the inclusion criteria of the seafood processing exporters to include three large and three medium-size factories in Samut Sakorn who were willing to participate in development of the GLP model for treatment of MW in the Thai seafood industry.

### 1.2.2 Data Providers

1. Managers, human resources section chiefs, and chiefs of worksite benefits programs in the six study sites.
2. 60 - 65 male and female MW in each of the study factories in total of 406 were sampled, and included those who had experienced work-related accidents, pregnant MW, and MW with school-age children.

**1.2.3 Data Collection and Duration:** Data were collected by interview with MW and factory staff, with different questions by type of respondent (e.g., general worker, workers who had experienced work-related accidents, pregnant or post-partum workers, and workers with children in school). Data were collected during June to September 2013.

**1.2.4 Data Analysis:** Data analysis was conducted in collaboration with government and NGO staff.

- SPSS was used for quantitative data analysis
- Content analysis, summary and synthesis was used for qualitative data analysis

### 1.2.5 Selection of the Case Study Worksites

#### Inclusion Criteria for Factories

Only medium and large factories were included which produced seafood products for export.

The Department for Industrial Promotion classifies factories as follows:

- Small-size factories with no more than 50 workers or less than 10 million baht capital
- Medium-size factories with over 50 but not more than 200 workers or capital of more than 10 million baht but not more than 100 million baht
- Large factories with more than 200 workers or capital over 100 million baht

Factories were further stratified by system of GLP, resulting in the following selection by type of seafood produced:

Factory 1	Large Tuna Fish Factory (1)
Factory 2	Large Frozen Seafood Factory
Factory 3	Large Tuna Fish Factory (2)
Factory 4	Medium-size, Shrimp/Squid Factory (2)

Factory 5	Medium-size Shrimp/Squid Factory (1)
Factory 6	Large Shrimp/Squid Factory

### 1.2.6 Definition of Terms

Seafood Processing Industry: This includes businesses which process seafood for domestic consumption or export and includes the following five categories according to 1992 regulations of the Department for Industrial Promotion:

- 1: Production of seafood which is in vacuum-sealed packaging
- 2: Production of preserved seafood by heating, smoking, salting, fermenting, air-drying, or freeze-drying
- 3: Production of seafood, skins or fish fat
- 4: Production of oil extract or fat extracts to produce food products, or purified fish oil
- 5: Washing, sectioning, boiling, steaming, frying, or mincing seafood

### 1.3 Theories and Related Concepts

The concept of GLP as it pertains to cross-border MW is an important part of the international development debate. Organizations from many sectors are lobbying for GLP to be institutionalized, if only to remove the stigma of being tolerant of coercive or child labor. There are two groups of thought related to GLP for MW including the concepts of social protection and fair treatment of MW, as per the following:

**1. Social Protections:** The root of this concept comes from the need to reduce vulnerability and manage risk for low-income laborers, families or communities. The aim is to increase access to minimum essential products and services. Often this population is subdivided by age group, health status, and relationship to the urban labor market. The concept of social protection has been linked with migration patterns in analyses of the benefits and hazards of migration (Rachel Sabates-Wheeler and Myrtha Waite, 2003). The argument is that development planners and policy makers should give greater priority to protections for migrants at different stages in the migration process, including their dependents, both accompanying and not accompanying the migrant. However, countries interpret social protections differently, just as do international organizations such as the International Labor Organization, World Bank and Asian

Development Bank. Helping employees to access social insurance is a key part of this conceptual thinking, and is a mechanism to manage risk and improve quality of life for the worker.

**2. Treating Workers Well: Legal Measures and Trends in Protection:** The concept of Good Labor Practices (GLP) for MW originated from the collaboration of the Department for Labor Protection and Welfare (DLPW) of the Ministry of Labor (MOL), the Department of Fisheries (DOF), and businesses in the fisheries and seafood processing industry. GLP in this sector has the following attributes:

1. No to Child Labor
2. No to Forced Labor
3. No to Trafficking in Persons
4. No to Discrimination
5. Yes to Freedom of Association
6. Yes to Open Communications
7. Yes to Safe and Healthy Working Environment
8. Yes to Chemical Safety
9. Yes to Youth Employment
10. Yes to Hygiene and Waste Management

GLP is an outgrowth of a human rights approach to labor which should reduce or eliminate problems of child and forced labor, coercive or deceptive recruitment practices, and ensure a range of benefits and protections for the workforce. GLP is especially relevant for the Thai seafood processing sector because of its heavy reliance on MW. GLP has been incorporated into international law and standards, and member countries of international organizations are encouraged to adapt their labor laws and policies to conform with these principles. The International Labor Organization (ILO) places high priority on labor rights as can be seen from ILO Convention No. 81 (1947) regarding Labor Inspection in Industry and Commerce, ILO Convention No. 129 (1969) regarding Labor Inspection in Agriculture, and ratification of the Declaration on Social Justice for Fair Globalization (ILO, 2010). These conventions are consistent with principles of good governance and are a tool for implementation of the Labor Administration and Inspection



Program (LAB/ADMIN) which has been accepted by many countries to promote good labor conditions and relations (Ibid.). This can be seen through the expanded endorsement at the national, regional and global level of these principles which are incorporated into plans for collaboration between the Department of Fisheries (DOF), International Labor Organization (ILO), the Thai Frozen Foods Association (TFFA), the Department for Labor Protection and Welfare (DLPW), the Ministry of Agriculture and Agricultural Cooperatives (MAAC), the Thai Employers' Association, and the Labor Rights Promotion Network Foundation. These principles are also reflected in the policy declaration on combatting child and forced labor (Thai Frozen Food Association, 2013) which can be considered as GLP guidelines for MW. The following are five core principles of GLP according to the MOL, MAAC and ILO:

1. Legal protections for the labor force (wages, overtime, days off, work hours, etc.)
2. Benefits for the worker and accompanying dependents
  - 2.1 In-service education and training for the worker
  - 2.2 Education and training for the children of the worker
  - 2.3 Medical care
  - 2.4 Other benefits
3. Availability of channels to air grievances
4. Protection from accidents, and compensation
5. Absence of child/forced/trafficked labor

### **3. Globalization of GLP: Role of the Workplace In the Seafood Industrial Sector**

Global trends are having direct and indirect impact on seafood businesses with pressure to adhere to international standards in accordance with joint concern by the Thai government and the ILO, especially with regard to the Thai and MW labor force in agriculture and the shrimp and seafood processing sectors (MOL, MAAC, and ILO, 2013). The expectation is that same work rules apply to the Thai and MW laborers. From the data collection from the six factories in this study, it was found that most of the factories are implementing GLP in accordance with labor law, with some applying best labor practices such as allowing one-month home leave for MW without losing their job, a benefit not offered to Thai workers. Some might view this as positive discrimination (Somchai Homlaor, 24 September, 2013).

The movement toward GLP for MW in the seafood processing sector is also an outgrowth of international criticism of overfishing, illegal fishing, overcapacity and coastal degradation caused by some Thai businesses. The Food and Agriculture Organization of the United Nations (FAO) of the UN views these practices as a threat to food security for developing countries (Valdimarsson, 2005). Improvements in technology and quality of the seafood production process, as advocated by the Organization for Economic Co-operation and Development (OECD) have also provided support for the GLP concept since the mid-1990s (Bhagwati, 1995).

In particular the medium and large-size seafood businesses in Thailand which export products have attracted attention regarding labor practices due to the international consumer issues and advocacy, and human rights promotion. This has resulted in improvements to Thai labor law (2007) and ILO conventions (ratified in 2001) which include labor inspections to ensure compliance with GLP.

Promotion of GLP in the private sector is consistent with the movement toward more Corporate Social Responsibility (CSR) in the Thai seafood industry. CSR promotes labor rights and standards along with socio-economic development through public-private collaboration in the seafood sector as one way to increase confidence among importing countries, especially the USA, that Thailand is practicing GLP throughout the seafood cultivation, processing, and exporting process. These activities are in accordance with policies to eradicate poverty and promote a quality workplace (Welford and Frost, 2006).

The genuine concern and dedication to the principles of GLP is reflected in the Anti-Trafficking in Persons Action Plan for 2012-2013, with specific reference to the fisheries and seafood processing industry. The plan calls for addressing injuries to victims and prosecuting perpetrators, greater enforcement of existing anti-trafficking law, and implementing tighter labor inspection standards (Department of Fisheries, 2013).

#### 1.4 Background of the Seafood Processing Industry in Samut Sakorn Province and Migrant Workers

Samut Sakorn is an industrial area which has been promoted ever since the 1960's. Both domestic and international investors promoted the development of Samut Sakorn's industrial capacity (Suehiro 1984) with Thailand's growing interest expanding the export sector of the economy. The government provided tax incentives to large industry and built up the communication infrastructure in Samut Sakorn making it an important destination for Thai migrant workers (Wongsuphasawat, 2011). The province has also faced problems in view of the large number of unregistered residents which strain its population-based budget for services and infrastructure (Keyes, 2012). Given its location at the Gulf of Thailand and mouth of the Tha Chin River, Samut Sakorn industry has become dominated by the seafood processing and fisheries sector. Increasingly, export of fish products from deep-sea fishing displaced the subsistence and small-scale coastal fishing enterprises of the area. This industry relied heavily on semi-skilled labor, with many of the workers and boat crew initially coming from the impoverished Northeast region of Thailand. At the same time, their remained linkages between local fishing operations which fed produce into the larger commercial operations primarily for export (Bauchet and Morduch 2013). The supply of labor failed to keep pace with the expansion of the industry and the increased competition among the smaller fishing operations placed intense pressure to reduce costs, with consequent pressures on the migrant labor population as well. In the period of the late-1980s to the mid-1990s there was an increase in labor protection laws to address increasing potential for abusive practices (Glassman 2014). The improving economic status of Thai laborers meant that fewer Thais wished to take on the low-pay, low-skill jobs in the arduous seafood processing industry. These developments converged to pave the way for increased import of MW from Thailand's lower-income neighbors, whose average age was younger and who were willing to work difficult jobs for low wages. Initially, many of the MW worked in the smaller and medium-size enterprises. Eventually, however, MW have become a dominant presence in all aspects of the fisheries industry in Samut Sakorn Province.

At present, most of the MW in Samut Sakorn are from Myanmar, and have been increasing in number over the past three decades. During periods of civil unrest in Myanmar, many of the MW became political refugees as well as economic migrants. But the increased demand for labor in

this sector pressured the Thai authorities to loosen restrictions on cross-border MW and reduced repatriation of illegal MW. Often they were undocumented workers without the ability to return and the Thai seafood processing industry has drawn increased attention from Civil Society and international rights groups given the large number of foreign MW in Thailand (with a concentration in Samut Sakorn) and corresponding international pressure to apply labor protection laws to the entire workforce (Dicken, 2011). Consumers groups advocated for good governance by industry to meet international standards. With Thai seafood companies increasingly focused on exports, Thai industry had to heed the call for worker's rights and GLP for MW, especially given the reports of abuse and exploitation of MW in Samut Sakorn. Thus, the Thai seafood processing industry had to adapt to both the economic and political pressures to create a more favorable work environment, as reflected by the evolution in the six case study factories (see table below):

Company	Has International Trading Partners	Passed Quality Inspection for Workplace Environment and Treatment of Workers	Discontinued Imports of Primary Product from Producers Who Do Not Meet Labor Standards	In Compliance With Minimum Wage Law	Organizational Relations to Improve Efficiency
1	yes (public company)	meets international standards	yes, discontinued	yes, in compliance	workers' committee according to labor law
2	yes	complies with Thai labor law	preliminary inspection	yes, in compliance	workers' committee according to labor law
3	yes	complies with Thai labor law	preliminary inspection	yes, in compliance	workers' committee according to labor law
4	yes	complies with Thai labor law	preliminary inspection	yes, in compliance	workers' committee according to labor law
5	yes	complies with Thai labor law	preliminary inspection	yes, in compliance	workers' committee according to labor

Company	Has International Trading Partners	Passed Quality Inspection for Workplace Environment and Treatment of Workers	Discontinued Imports of Primary Product from Producers Who Do Not Meet Labor Standards	In Compliance With Minimum Wage Law	Organizational Relations to Improve Efficiency
					law
6	yes	meets international standards	yes, discontinued	yes, in compliance	workers' committee according to labor law and labor union

The information in the table shows evidence of Thai business responding to international pressure and trends in global trade to improve labor practices. A remaining challenge includes the inspection of raw produce used by the processing factories, but companies are increasingly willing to use their own capital to improve labor conditions to comply with standards of worker rights. Also, as the industry evolves toward larger factories, inspections become easier and more efficient.

Over the past 20 years the importance of seafood production, canning and processing has dramatically increased in importance, with Samut Sakorn being a major buyer and seller of product. Improved techniques of fishing and preserving the hygienic qualities of the catch have vastly increased the industry's ability to meet domestic demand and export product, with a case in point being canned tuna (Wisuth Tilakul, 2002).

When the government formed the Office for Investment Promotion, this provided an important boost the seafood processing industry with major companies from Thailand, Australia and Taiwan becoming more involved with canned seafood for export (Thailand Development Research Institute - TDRI, 1998: 182). Further, the US shifted a large portion of its tuna canning industry to Asia during this time, further accelerating development of this sector in Thailand. Canned products expanded from tuna to include sardines, crab meat, shrimp, clams and squid. At the same time, Thai frozen seafood production was also developing rapidly, with concentration of

factories in Samut Sakorn (Wisuth Tilakul, 2002). The Office of Commerce of Samut Sakorn Province reports that the number of factories increased steadily in 2010 with total of nearly 5,000. Many of these factories are directly related to seafood processing and the supporting industries (canning, packaging, etc.).

By its nature, seafood processing requires intensive labor, starting with the handling and preparation of the raw product. Because of the importance of attention to detail and adherence with strict quality control requirements, most of the labor force in seafood processing is female (or 83% of the workforce in this sector). Workers stand on either side of long stainless steel tables, as if it were an assembly line. They remove bones and fins, scale the fish, sort fish meat by grade or color, and take care not to allow cross-contamination of fish product. A fair degree of skill and training are required to properly and the raw product to maintain hygiene and quality of the seafood.

## Chapter 2

### Case Study of Good Labor Practices with Migrant Workers

An initial criterion for inclusion in the case study was being a factory for export. The six factories selected are competitive within the regional export sector. In order to be competitive, these factories need to have modern equipment, quality labor, state-of-the-art processes and quality raw product to process. The worksites are expected to comply with Thai labor protection laws and other related conventions which Thailand is a signatory to.

#### 2.1 Background Information on the Six Case Study Worksites

**2.1.1 Large Tuna Factory (1)** produces frozen seafood for domestic consumption and export and has 22 subsidiary worksites, domestic and international. In addition to tuna and other seafood production, this company has expanded into other consumer products, packaging material for food container, animal feed, shrimp breeding, shrimp nurseries and farms. The company is a public entity and has been listed on the Thai Stock Exchange since 1994.

**2.1.2 This Large Frozen Foods Factory** produces ready-to-cook and ready-to-eat frozen foods, most of which comprise seafood (e.g., squid, salmon, cod, shrimp, mackerel, etc.). This company also produces pork products and vegetables, mostly for export. As such, the products need to be international standards of quality and hygiene, and meet the standards of the importing country.

**2.1.3 Large Tuna Factory (2)** produces canned tuna, sardines and other seafood for export. The company also produces canned sardines and mackerel for domestic consumption. This company includes the Large Tuna Factory (2) and the Medium-Size Shrimp/Squid Factory (1). The mother company imports raw product for processing and canning for export. As with other export companies, this family of companies must meet international standards of production as well as the standards of the importing countries.

**2.1.4 Medium-Size Shrimp/Squid Factory (1)** produces frozen seafood for export, raw and cooked. The company exports product to Asia, Europe, North America and Australia. The product must meet standards for freshness, hygiene, and price in order to be competitive. The company has met the standards for GMP, HACCP, Halal, and ISO 9001:2000. The company places high priority on quality control at all stages in the production and packaging process.

**2.1.5 Medium-Size Shrimp/Squid Factory (2)** also processes frozen seafood for export, including boiled shrimp, fried and breaded shrimp, in addition to squid and other semi-cooked fish. This company makes a special point of opposing child, forced or trafficked labor. It is trying to expand into canned products in order to guarantee product standards. The company's products comply with ISO, HACCP, BRC, MSC, TQCSI, IFS, and Halal standards. The company's trading partners include Japan, Europe, USA, Australia and New Zealand.

**2.1.6 The Large Shrimp/Squid Factory** produces frozen seafood for export, including frozen shrimp, boiled shrimp, and processing shrimp meat, among other cooked seafood. This factory has over 3,000 workers and is trying to expand its operations to become a leading Thai seafood exporting company. The company gives high priority to food quality and worker safety to meet MRG standards and standards and laws of the importing countries. The company refuses to consider employment of forced labor, i.e., all its workers voluntarily join its work force and can resign at any time. The company promotes the workers by encouraging them to form employees' benefit committees to discuss improvements.

**Table 2.1 Sample Size by Factory**

Factory	N	%
Factory 1 Large Tuna (1)	85	20.9
Factory 2 Large Frozen Seafood	61	15.0
Factory 3 Large Tuna (2)	70	17.2
Factory 4 Medium Shrimp/Squid (1)	63	15.5
Factory 5 Medium Shrimp/Squid (2)	61	15.0
Factory 6 Large Shrimp/Squid	66	16.3
Total	406	100.0

## **2.2 Basic Characteristics about the MW in the Case Study Factories**

A total of 406 MW were interviewed in this study (Table 2.1). Half (51%) were age 21 to 30 years, and two-thirds were female. Fully 44% were single, one-third were currently married, and one-fifth were co-habiting with a partner (Tables 2.2 and 2.3).



Table 2.2 Age of MW

Age (years)	N	%
18 - 20	64	15.8
21 - 30	207	51.0
31 - 40	115	28.3
41 or older	20	4.9
Total	406	100.0

Table 2.3 Marital Status

Status	N	%
Single	181	44.6
Married	135	33.2
Divorced	4	1.0
Widow(er)	2	0.5
Co-habiting	84	20.7
Total	406	100.0

Type of employment is classified into preparing cooked frozen foods, preparation of raw seafood, preparation of product for canning, and other categories such as assistant to the manager, shrimp boiler, sorting, hygiene inspection, applying stickers, wiping and kneading the shrimp, quality control, etc. About half (53%) of the sample worked to prepare cooked frozen seafood, while one-fourth prepared raw seafood (dissection, and cleaning) (Table 2.4).

Table 2.4 Type of MW Work

Type	N	%
Produce cooked, frozen food	215	53.0
Dissect and cleaning raw seafood	101	24.9
Produced product for canning	7	1.7
Other	83	20.4
Total	406	100.0

Most of the MW in this sample possessed temporary cross-border travel permits (97%), while 64% had work permits and 36% had the Thaw Raw 38/1 Form (Table 2.4).

**Table 2.5 Work Documentation**

Documentation	Have		Do not have		Total	
	N	%	N	%	N	%
Temporary Travel Permit	393	96.8	13	3.2	406	100.0
Work Permit	262	64.5	144	35.5	406	100.0
Taw Thaw 8 Form (Receipt of the Work Permit)	2	0.5	404	99.5	406	100.0
Certificate of Identity	29	7.1	377	92.9	406	100.0
Thaw Raw 38/1 Form (Temporary Stay Registration)	145	35.7	261	64.3	406	100.0

## 2.3 Treatment of Migrant Workers According to Standards of Good Labor Practices and Labor Protection Rights

### 2.3.1 Criteria for Labor Law Protections in the Case Study Worksites

Each of the six companies in this study have aspirations to be leading global exporters, and this requires them to apply international standards and conventions to all aspects of production to ensure quality, competitive exports. The hiring practices of all six factories conform to labor protection laws related to hiring, wages, overtime, work on holidays, leave days, and payment into worker's compensation fund.

Nearly all nationalities (98.52%) responded that they had received overtime compensation, while 0.74% responded "no." From the interviews, it was found that the MW chose to work on non-routine work days in order to receive extra compensation. The remaining 0.74% actually had responded "don't know/no response." Also, nearly all respondents (99.26%) said they were allowed a one-hour break for every work segment of at least 4-5 hours. The remaining 0.74% responded "don't know/no response." Most of the MW (79.06%) said their worksite had conducted training or orientation about workers' rights, while 20.44% responded that there was no training/orientation. The remaining 0.49% responded "don't know" (Table 2.6).

Table 2.6 Wages, Overtime, Hours of Work and Hours for Breaks

	N	%
There is an explanation of the work procedures, wages and overtime pay in a language that is understandable		
Yes	368	90.6
No	38	9.4
Wages are at least 300 baht per day		
Yes	406	100.0
No	0	0.0
Receive overtime pay		
Yes	323	100.0
No	0	0.0
Have at least one day off per week		
Yes	406	100.0
No	0	0.0
Have days off for national holidays		
Yes	405	99.8
No response	1	0.2
Can take 6 days of annual leave per year after completing one year of work		
Yes	400	98.5
No	3	0.7
no response/don't know	3	0.7
Have one hour break after working 4 to 5 consecutive hours		
Yes	403	99.26
No response/don't know	3	0.74
Received orientation on worker rights		
Yes	321	79.06
No	83	20.44
don't know	2	0.49

Virtually all the sampled MW said their factory provides free drinking water, while 58% said the bathroom facilities were adequate. However 40% said that there should be more bathrooms (Table 2.7).

**Table 2.7 Free Drinking Water and Adequate Bathroom Facilities**

	N	%
There is free drinking water		
Yes	405	99.8
No response	1	0.2
There is an adequate supply of bathrooms		
Yes	236	58.1
No	165	40.6
No response	5	1.2

The 1998 labor law stipulates that workers be provided with channels to air grievances when they feel their labor rights have been violated. This study found that 96% of the sample had never voiced a grievance because they did not feel their rights were violated. For those that did file a grievance, a common reason was a health issue, followed by work hours. Over two-thirds of those with a grievance filed the complaint with their boss or manager. Most (81%) had their grievance addressed and the problem resolved (Table 2.8).

**Table 2.8 Filing a grievance**

	N	%
History of filing a grievance		
yes	16	3.94
No	390	96.06
Filed the grievance with:		
Boss/manager	11	68.75
Government officer	1	6.25
Employment agent/broker	1	6.25
No response	3	18.75

	N	%
Grievance was redressed (N=16)		
yes	13	81.25
No	1	6.25
No response	2	12.5
Topic of grievance		
Hours of work	1	7.14
Wages	2	14.29
Health, illness, injury	11	78.57

The vast majority (94%) of the sample applied for work directly to the factory and on their own. Only 5% relied on a broker or employment agency (in their home country). See Table 2.9.

**Table 2.9 Method of Obtaining Employment (N= 406)**

	N	%
Broker within Thailand	3	0.7
Employment agent in home country	20	4.9
Walk-in	383	94.3
Type of work consistent with broker's description (N=23)		
yes	23	100.0
No	0	0

The data so far show that the factories in this study are complying with labor law. Indeed, some even provide more benefits to their MW workers than required by law. The interviews with the factories' human resources staff also reinforce this finding:

*"...it is easy for the factory to comply with the Thai labor law because our trading partners have even more strict requirements for the workforce, and they conduct regular inspections to verify implementation of those requirements..."*

Interview, 26 June 2013

Staff of Large Tuna Factory (1)

### 2.3.2 Criteria of Labor Protections, Compensation, Health Benefits, and Conventions Which Thailand Is a Signatory To

#### 1) The 1998 Labor Law has the following stipulations for protection of worker rights:

Work hours Article 23 specifies that employers must post the routine work hours for all workers to see, start and end times, not to exceed 8 hours per day, but scheduling subject to modification based on mutual agreement between employer and employee.

Article 27 specifies that the employer must allow one hour of break time after no more than five hours of continuous labor.

Overtime work and pay: Article 26 and ministerial regulation #3 (1998) as part of the Thai labor law specifies that a work week shall not exceed 36 hours. Article 61 specifies that employers must pay 1.5 times the wage for each hour of overtime on routine work days.

Days off: Article 28 specifies that employers must provide their workforce at least one day off per week. Article 29 must clearly post holidays in advance and not less than 13 holidays per year. Article 30 stipulates that workers who have completed one year of employment have the right to at least six days of annual leave. If the worker works on any of these holiday or other non-routine work-days, then the employer is to pay double or triple time per hour worked in accordance with the worker's status and type of leave day.

Sick leave, personal leave and maternity leave: Article 32 specifies that workers have the right to take paid sick leave; if three days or more, the employer may request a medical certificate. No more than 30 paid sick leave days per year are required by law. Article 34 says that workers have the right to take personal leave and Article 41 states that female workers may take up to 90 days of maternity leave, 45 days of which are paid leave by the employer (Article 59) while the balance of 45 days may be covered by social security.

Pay rate: Article 5 and Proclamation #7 of the Wage Committee specifies that the minimum wage in Bangkok, Samut Prakan, Samut Songkram, Samut Sakorn Provinces is at least 300 baht per day.

These regulations must be applied without discrimination, including registered MW, so there is equality between the Thai and non-Thai labor force in the same work site performing the same tasks.

## **2) Protection of Rights to Compensation According to 1994 Law as per the following:**

Payment of compensation: In accordance with Articles 44 and 45, employers are to post the type and extent of compensation payment, which must be reported and paid within 30 days and may not exceed 5% of annual pay. Article 13 states that workers are to be paid compensation for work-related accident or illness and provide and pay for immediate medical care for acute conditions. Employers are also required to continue to pay workers during rehabilitation for work-related injury or illness. In the case of work-related death, the employer is to pay 100 times the highest daily wage in accordance with Article 16.

## **3) Ministry of Interior Proclamation on Health Benefits for Workers**

1. Employers are to provide free, clean drinking water and adequate, hygienic bathroom facilities.
2. Employers are to provide assistance or first aid to injured workers, including provision of a staffed infirmary at the worksite.

## **4) Protection of Rights in Accordance With Conventions Which Thailand Is a Signatory To**

The International Labor Convention stipulates standards, and Thailand has ratified this convention in principle, but is only signatory to 15 of 189 convention documents (e.g., equality of pay for men and women, minimum age of workers, and opposition to the worst forms of child labor exploitation). The general guideline for minimum age of worker is the age at completion of compulsory education and not to be less than 15 years in any circumstance. Further, jobs which pose hazards to the worker's health or safety are restricted to persons age 18 years or over.

## Chapter 3

### Protections for Migrant Workers in Accordance with Good Labor Practices

#### 3.1 Protections Under Thai Labor Law

##### 3.1.1 Safety, Occupational Health and Environmental Protections in the Workplace

##### (1) Results of the Survey of Environmental Health and Safety in the Study Sites

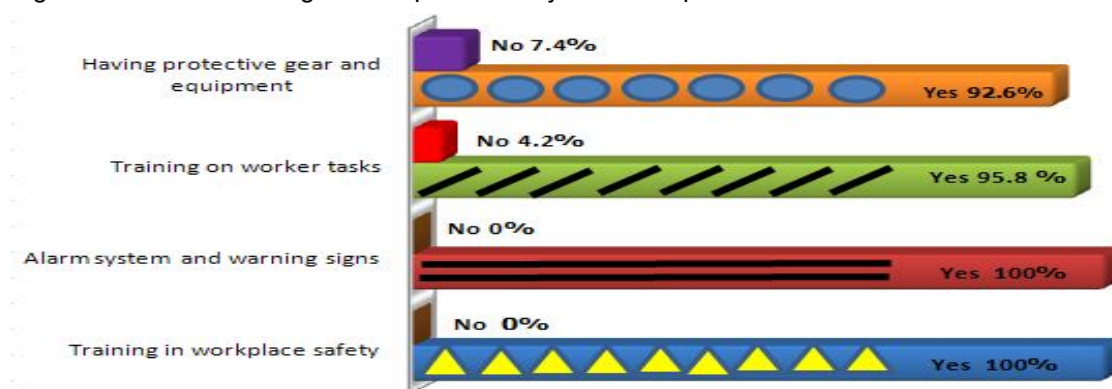
All of the sample of MW in this survey of six factories said they received training on workplace safety and all know where the alarms are and how to activate them (Table 3.1).

Table 3.1 Workplace Safety Training

	N	%
Received Training in Workplace Safety		
Yes	406	100.0
No	0	0.00
Topic of Workplace Safety Training Received		
Fire Prevention	385	94.8
Protection from Toxic Chemicals	2	0.5
Don't Know/No Response	19	4.7

Most (96%) of the sample had been trained in the nature of the work and how to prevent accidents or harm. Fully 93% said they were provided with protective gloves, footwear, masks, and other supplies or garments to prevent harm. All the MW in the sample had seen the posted warning and hazard signs (see Figure 3.1.1).

Figure 3.1 Training in Workplace Safety and Occupational Health





## (2) Data From the Employer

- Workplace Priority in Preventing Accidents or Harm for the Workforce

All six factories in this study have Workplace Safety Committees which oversee and inspect the safety systems in the factory. The committees meet monthly:

*"....In terms of accidents and safety in the workplace, I serve on the Safety Committee of the company, and I can confirm that this company places high priority on safety, and there is regular review and discussion for how to maintain or improve safety..."*

Interview, 12 September 2013

Human Resources Section Manager, Factory 3 Large Tuna Fish Factory (2)

The factories also produce annual safety plans every year which include worker capacity building, inspection and maintenance, promotion of safety in routine work, and prevention of hazards, including emergency drills.

Figure 3.2 Sample of a Workplace Safety Plan

Worksite Safety Plan																		
No.	list	Month												Training Course Venue/Inspection	Budget (Bant)	Note		
		Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.					
1	Implement the 2013 workplace safety program	●												-				
	Work Force Capacity Building													Internal training				
2	Basic training in fire control and evacuation								●					Internal training	17,000/ time	Subject to modification as appropriate		
3	Training in first aid and assisting victims				●						●			Internal training	3,000/ time			
4	Working safely with hazardous chemicals			●			●							Internal training	3,000/ time			
5	Training in use of personal protective gear and equipment		●						●					Internal training	500/ time			
6	Training to promote a workplace safety mind-set		●				●							Internal training	3,000/ time			
7	Training in safe operation of a fork-lift			●		●			●				●	Internal training	1,000/ time			
	Control, Inspection and Improvements																	
8	Conduct safety inspections by members of the workplace safety committee	●	●	●	●	●	●	●	●	●	●	●	●	-				
9	Establish rules, regulations and standards for workplace safety		●	●	●	●	●	●	●	●	●	●	●	-				
10	Ensure that safety/warning signs and indicators are up to standard	●	●	●	●	●	●	●	●	●	●	●	●	-	10,000			
11	Inspect the work environment (sound, brightness, heat)			●					●					Internal training	3,000/time			
12	Inspect the work environment for chemical hazard			●					●					Internal training	8,000/ time			
13	Inspect components and fixed equipment with moving parts Crane equipment										●			-	10,000/ time	Inspection Engineer		
14	Create a safety data system on use of chemicals (MSDS)	●	●	●	●	●	●	●	●	●	●	●	●	-	-			
15	Identify and install needed safety equipment/procedures	●	●	●	●	●	●	●	●	●	●	●	●	-	-			
	Safety-Promotion Activities																	
16	Create an information corner on workplace safety	●	●	●	●	●	●	●	●	●	●	●	●	-	-			
17	Produce a workplace safety handbook	●	●	●	●	●	●	●	●	●	●	●	●	-	-			
18	Display posters/boards with workplace safety policy													Internal training	2,500			
19	Conduct off-site study tours of model workplace safety sites	●		●		●	●	●	●	●	●	●	●	Outside training	-	Subject to topic as appropriate		
20	Inspect and maintain the quality of personal protective gear and equipment	●	●	●	●	●	●	●	●	●	●	●	●		-			
21	Identify and prevent workplace-related disease/illness	●	●	●	●	●	●	●	●	●	●	●	●		-			

Source: Factory 3 Large Tuna Factory (2)

- **Investment in Safety Systems and Equipment**

All six of the case study factories employ a full-time safety officer, and with staff depending on the size of the factory. The safety officer prepares safety plans and projects for funding by the company as needed:

*“...The safety plan considers the safety of the worker as the central focus, even if the cost of implementation is considerable. In some cases, the plan calls for replacement of the flooring to reduce slipperiness...”*

Interview, 20 June 2013

Safety officer, Factory 3 Large Tuna Fish Factory (2)

In some cases, the trading partner of the company stipulates workplace safety requirements:

*“...while Thai law only requires distribution of worker masks through a central bin, inspectors from our trading partner insisted that masks be made available in the locker rooms of the workers as well, and we complied...”*

Interview, 4 September 2013

Assistant Manager, Factory 1 Large Tuna Fish Factory (1)

- **Non-Discrimination by Nationality**

There is a sense of solidarity among the worksite managers and the workforce, and this promotes a sense of equality and fair treatment:

*“...Throughout its 12 years of operations, this factory looks after its workers well. It is like a large family. There is no discrimination between Thais, Myanmar or Cambodians. All are treated equally...”*

Interview, 11 September 2013

Assistant to the Company Management Board, Factory 6 Large Shrimp/Squid Factory

*“...There are Thai and Myanmar workers in this factory. Our Thai co-workers help us out when we need it. They share extra clothing and there are good relationships. There is fair and equal treatment for all...”*

Interview, 10 July 2013

Myanmar worker, Factory 4 Medium-size, Shrimp/Squid Factory (2)

- **Collaboration and Reduction of Gaps Between the Public and Private Sectors**

In February 2013, business owners, the MOL and Samut Sakorn Province announced their declaration to combat child, forced and trafficked labor in the province.

- **Importance of the Surrounding Environment and Community**

There are laws in place to restrict pollution from factories in Samut Sakorn, and many government agencies share responsibility for monitoring compliance with these laws. The factories in this study are exceptionally compliant and go beyond measures required by law:

*“...We have a system of waste water management that meets the standards and have been praised by inspectors. We take good care of the surrounding environment and community as part of our corporate vision...”*

Interview, 12 September 2013

Personnel Office Manager, Factory 2 Large Frozen Seafood Factory

### **(3) Government Safety Inspections**

According to 2012 data, Samut Sakorn had 8,220 factories (with 370,082 workers) registered with social security. About half are in the non-agriculture sector, and the number of MW who are legal was 30,139 persons. The ratio of Thai to MW workers is 11:1. The Provincial Office for Labor Protection and Welfare (OLPW) has the primary responsibility to ensure that workers are being treated according to their legal rights, including MW. One of these areas is labor inspections: (1) Inspection of protections; and (2) Inspection of worksite safety. In 2012, the Samut Sakorn OLPW inspected 443 worksites including 104 factories with 10 to 19 workers, 144 factories with 20 to 49 workers and 19 factories with over 300 workers. Nearly all (97%) were in compliance with labor

protection law. In the same year, the OLPW conducted safety inspections for 190 worksites including 71 with 20 to 49 workers, 23 with 50 to 99 workers, and 45 with 100 to 299 workers. Fully 95% of the sites were in compliance with safety regulations. No separate tabulations are available for cross-border MW and Thai workers since the work forces are mixed (Table 3.2).

**Table 3.2 Inspection of Workplace Safety by Size of Factory in Samut Sakorn (2012)**

Factory Size (No. of Workers)	Worksites Passing Inspection	Received Inspection				Inspection Result (Sites)	
		Male	Female	Child ren	Total	Passed	Did Not Pass
1-4	0	0	0	0	0	0	0
5-9	6	30	16	0	46	6	0
10-19	16	189	82	0	271	15	1
20 – 49	71	1,618	842	0	2,460	68	3
50-99	23	998	696	0	1,694	22	1
100-199	45	4,578	3991	0	8,569	41	4
200-499	13	3,172	1988	0	5,160	13	0
500-999	9	3,290	3285	0	6,575	9	0
1,000	7	6,544	12042	0	18,586	6	1
<b>Total</b>	<b>190</b>	<b>20,419</b>	<b>22,942</b>	<b>0</b>	<b>43,361</b>	<b>180</b>	<b>10</b>

Source: Office of Labor Protection and Welfare, Samut Sakorn Province

Part of this level of compliance is attributable to the efforts of Khun Chockchai Danviriyakun of the Samut Sakorn OLPW who had the following observations:

*“...We perform the inspections for all types of worksites with the full range of nationalities of the workers, whether Thai, Myanmar, Cambodian or Lao. We look for evidence of unequal treatment, regardless of whether the MW is legally registered or not. If any violations are detected we apply the full force of the law to rectify the situation...”*

Interview, 9 May 2013

Khun Chokechai Danwiriyakul, Samut Sakorn OLPW

From the on-site inspections of worksites in Samut Sakorn, the researchers found only one factory (among worksites with over 1,000 workers according to the OLPW data for 2012) which had labor practices which did not entirely comply with GLP-- though it is noteworthy that this factory was not one of the case-study sites.

#### **(4) Guidelines for Environmental Health and Workplace Safety**

As early as 1929, Thailand began instituting workplace safety laws and regulations, and then established the Occupational Health Division of the Ministry of Public Health in 1967. The second National Master Plans on Occupational Safety and Health (OSH) was developed for 2007-2016 by the Ministry of Labor of Thailand, including guidelines for compensation for workplace injury or illness. Currently, there are over 40 laws across five ministries which support worksite health and safety. Thailand has ratified the ILO convention which includes Document # 155 on safe and health work environments, # 161 with specifications on occupational health, # 174 on prevention of serious accidents in the workplace, and # 187 which provides a framework for implementation workplace safety and health. In addition to these international conventions, there are country-specific standards for exporters such as ISO 9001:2008 on product quality control from the UKAS (United Kingdom Accreditation Service) among others.

- **Seafood Processing and Concepts of GLP As They Relate to Workplace Health and Safety**

The 2012 Thai Report on Occupational Health and Safety by the Office of Worker Safety, DLPW, MOL, specified that, in 2011, the employment sector with the greatest work hazards to employees was steel manufacturing (23,381 accidents) while seafood and beverage processing was ranked 5<sup>th</sup> most hazardous (10,888 accidents) out of a total of 16 types of employment (with a total of 129,632 accidents. According to GLP, it is the responsibility of the employer and employees to work together to minimize hazards and reduce or eliminate accidents. In addition to GLP guidelines, there are also Good Manufacturing Practices (GMP) which provide minimum standards for product quality control to protect consumers, and cover the full range of the production-consumption cycle. Certain steps in seafood processing are prone to hazard from preparation of raw product, product processing, inspection, and packaging (see Figures 3.3 and 3.4).

Figure 3.3 Process of Canned Tuna Production and Potential Hazards

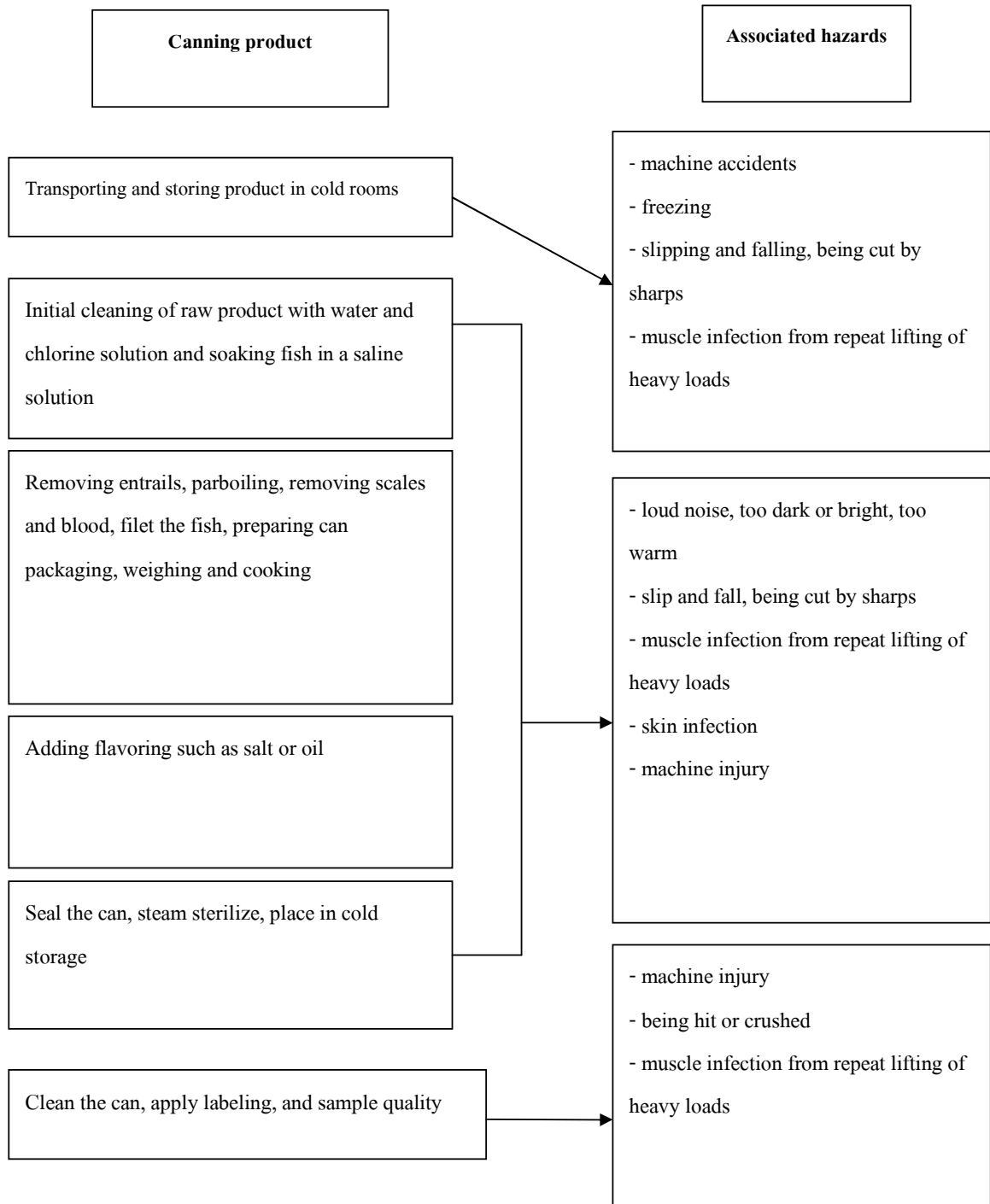


Figure 3.4 Process of Producing Frozen Shrimp and Related Hazards

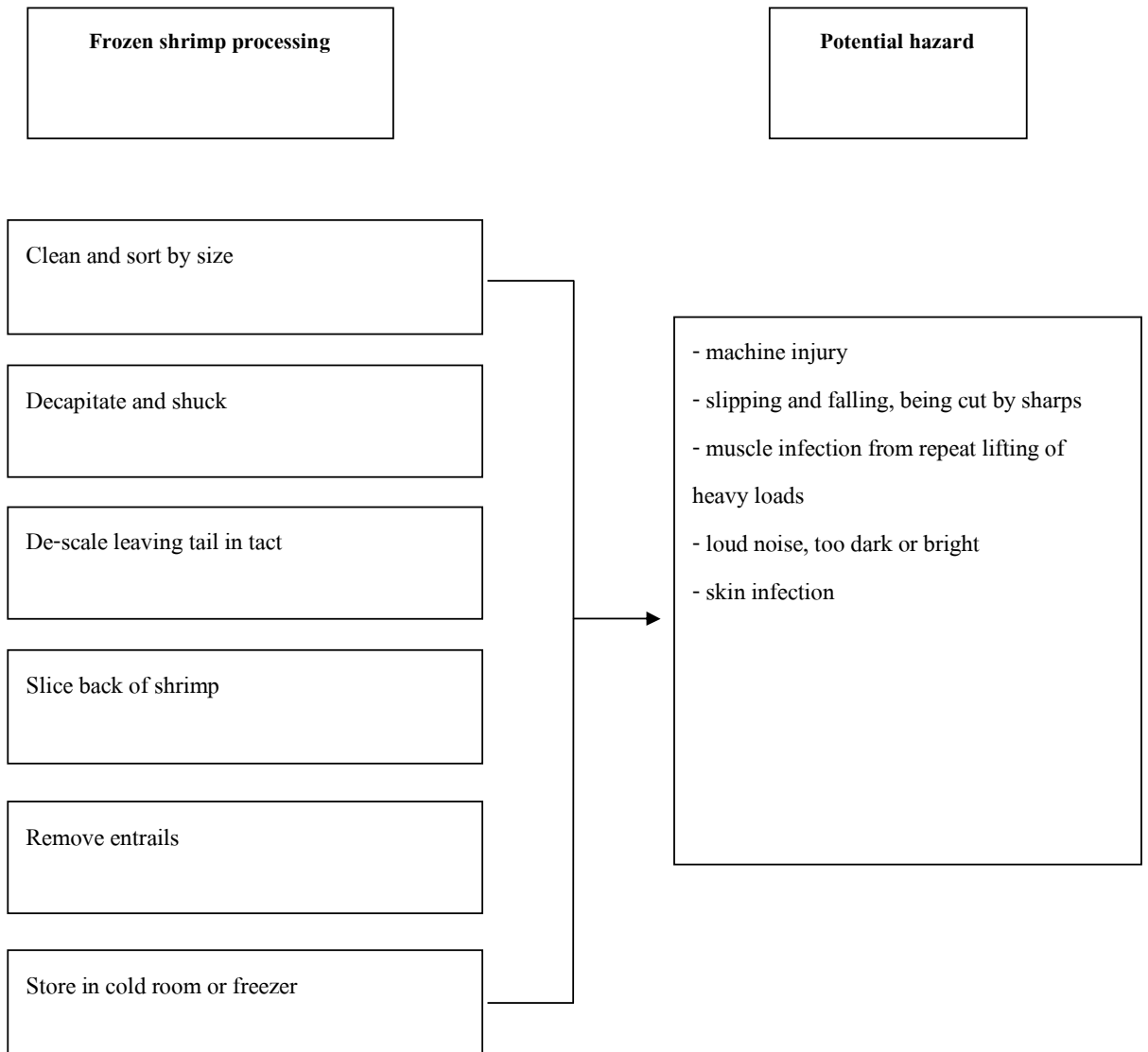
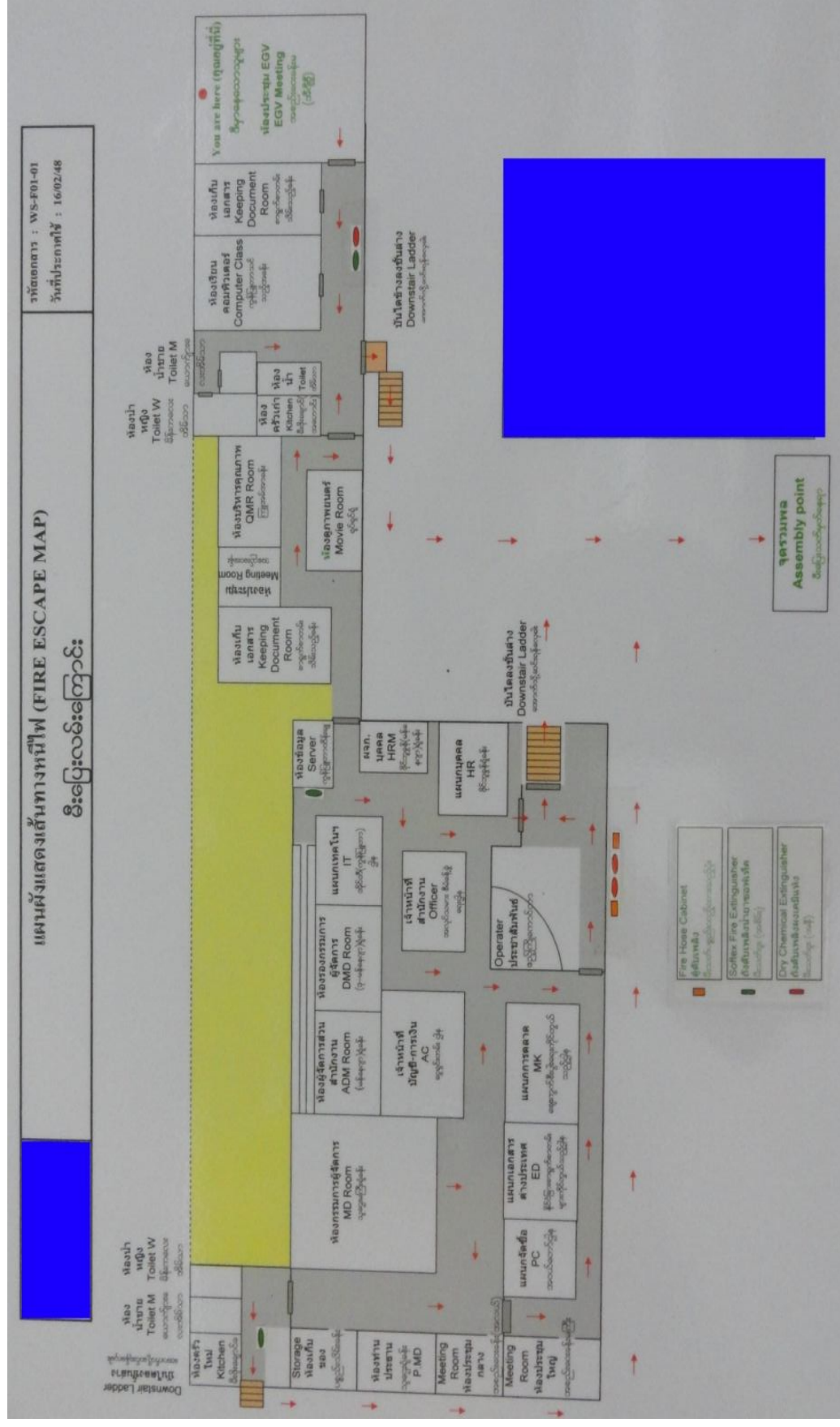




Figure 3.5 Sample fire evacuation plan in Thai and Myanmar languages



Source: Photo of Display in Factory 6: Large Shrimp/Squid Producer

Figure 3.6 Sample Fire Extinguisher and Instructions for Use in Thai and Myanmar



Source: Photo in: Factory 2 Large Frozen Seafood Factory

### 3.1.2 Medical Care

#### (1) Medical Care and Health Promotion

Medical care for workers is required by law but some worksites go beyond the provisions of the law to boost staff morale and retention (Table 3.3).

Table 3.3 Medical Care for MW

	N	%
Never received treatment	387	95.3
Treated in the factory infirmary	5	1.2
Treated in a government hospital	10	2.5
Treated in a private hospital	4	1.0
Total	406	100.0

Most (95%) of the sampled MW in this study had never needed medical care for a work-related condition. Those who did were mostly seen by a government hospital or the worksite infirmary.

*“...All personnel in this factory have to abide by the regulations since employee safety is one of our highest priorities. Occasionally workers become ill or have a cut. We have a nurse practitioner stationed in a 24-hour infirmary to care for these cases. There is a bed for them to recuperate in the infirmary, or they can take medicine back with them...”*

Interview, 4 September 2013

Assistant to the Company Management Board, Factory 1

Basic health care for MW include periodic physical exam, vaccinations, AIDS education, provision of infant feeding space, and orientation about a health worksite.

## **(2) Health Care and Safety for the MW**

MW are usually provided with an annual physical exam as part of the work permit renewal process. The worksite may conduct other screening for illness or infectious disease, and may give ill workers 15 paid days off to get treatment.

If a worker misses work but then presents a medical certificate to explain the absence, then the worker is not disciplined. It is difficult for the factory to trace the whereabouts of absent MW since they be living in a dispersed area, instead of a cluster. Some managers try to create work teams so that management can be informed if one member of the team is out sick. Otherwise the ill worker can call in sick to her supervisor.

## **(3) Health Insurance in the Workplace**

There are two insurance schemes that MW can access for health care for themselves and their accompanying dependents. The first is a specific program for MW from Myanmar, Cambodia and Lao PDR whose nationality is verified but who are not covered by social security. The second is coverage under the national Social Security System. It is well-known that many worksites attempt to avoid registering their MW employers to avoid having to pay into the social security fund on

behalf of the worker. In the six case study factories in this study, 85% of the MW were covered by social security, and all worksites had clear policies to promote social insurance coverage for their MW employees. The processing of coverage can take up to one month. The six worksites provide temporary health insurance for new Thai and MW employees to cover them during this transition period. If there are longer delays, the Ministry of Health offers a health insurance plan at the price of 475 baht for three months coverage. Some companies have a direct agreement with certain hospitals to reimburse uninsured MW during the transition period, with the worker paying the company back over time in installments. These and other efforts by the worksites in this study, besides being humanitarian, also relieve the anxiety of the worker and create loyalty to the company. Also, because of the rather lengthy paperwork to enroll in social security, and language comprehension issues, the factories assign personnel from Human Resources to facilitate processing for the MW; no MW is required to go unaccompanied to file application papers or a claim.

#### **(4) Care for Pregnant Women**

In part, because of pressure from the international trading partners of the companies, the factories in this case study who had pregnant MW in their workforce provided close care for these women from the time of reporting the pregnancy to her supervisor and Human Resources, to changing the women's job assignment to a less arduous position, and not asking them to work overtime. ANC visits at the local hospital are not considered sick leave, and a representative of the company visits the woman and her infant after delivery. MW can take 90 days maternity leave, 45 days of which is paid by the factory and 45 days covered by social security. Myanmar MW are able to take leave to take their infant back to their home in Myanmar to leave with relatives to provide care. Factories have a nursing mother's corner in the worksite for post-partum women to fill breast milk pumps.

*"...The impetus for the nursing mother's corner came from workers' suggestions. Since we view the workers as part of our extended family we were happy to comply..."*

Interview, 11 September 2013

Assistant to the Company Management Board, Factory 6

### **(5) Care for Workers Experiencing a Work-Related Accident or Health Issue**

Factories provide orientation on procedures in case of illness or accident, and the workers' compensation fund. Supervisor and Human Resources are informed when there is a work-related accident or illness. If possible, the injury or illness is treated on-site at the infirmary. If a higher level of care is required the worker is accompanied to a nearby hospital. If the condition requires recuperation at the worker's residence, then the worker continues to receive wages up to the maximum allowed.

### **(6) Promoting Health Education**

Worksites provide health education in conjunction with the annual physical exam and at other times as appropriate. The worksites recognize the value in having a mentally and physically healthy workforce. Public and private hospitals in Samut Sakorn conduct visits to factories to conduct health promotion campaigns on various topics, whereas the OLPW provides education on work safety. Health educational media are produced in the native language of the MW and distributed in the worksite.

## **3.2 Protections Under the Social Security Law and Worker's Compensation Fund**

The worksites in the seafood industry have been constantly adapting to evolution of protections for the workforce, Thai and MW. However, there are many MW who are not taking advantage of these protections or face obstacles to accessing their rights. This is more of a problem in the smaller factories and enterprises than the large Thai export companies.

### **3.2.1. Health Rights**

Thai labor law stipulates rights to health protection but, in practice, this is influenced by whether the MW legally entered Thailand or not. Also, the additional volume of documents required for registering MW for social security may serve as a deterrent to business owners to facilitate this registration.

### **Survey Findings of Social Security and Health Insurance Coverage in the Sample**

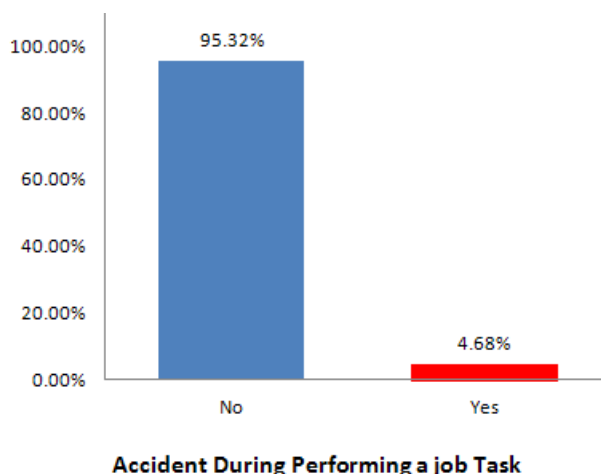
The survey of 406 MW from six factories found that 76% had social security coverage while 23% had health insurance from a separate scheme (Table 3.4)

**Table 3.4 Right to Social Security and Health Insurance**

Worker right to:	N	%
Social security	309	76.1
Health insurance	94	23.2
Other	3	0.7
Total	406	100.0

### 3.2.2 Rights to Worker's Compensation Fund Support

The inspections of the seafood export factories is often more rigorous than for worksites producing for domestic consumption, and this includes inspection of rights to benefits, such as worker's compensation. Most of the companies in this sector hire individual workers directly. Workers in this sector are exposed to a variety of work conditions and temperature environments, from frigid to very hot. But factories are mindful of the hazards and have managed to keep accident rates low through proper training, protective gear and appropriate rest periods. Data for 2013 show that reimbursements through the compensation fund totaled 388 cases in Samut Sakorn as a whole.



#### Implementation in Accordance With 1994 Law on Worker's Compensation

The case study factories in this study paid into the worker's compensation fund in accordance with law and on a regular basis. Only 19 (4.7%) of the 406 sampled workers had an accident while on the job. Of these, 12 had to take some leave and received compensation. No worker was disabled by the accident, and injuries were minor and could be treated in the factory infirmary. Workers with social security prefer to use that scheme for medical care coverage rather than the worker's compensation because of their familiarity with the former. It is possible that more workers would use the worker's compensation fund if they received more orientation on the benefits.

### **3.2.3 Basic Rights of Registered Workers**

MW from Myanmar, Lao PDR and Cambodia who have had their nationality verified can take this verification form along with a work permit in order to claim eligibility for the minimum package of labor rights under Thai law. The increase of the minimum wage to 300 baht per day raised the status of living of the MW. This also increased the supply of MW seeking jobs in Samut Sakorn, especially those from Myanmar. MW who pay into the insurance fund can, like their Thai counterparts, choose where to receive medical care. The Thai social security benefit was rolled out in the 1990's, followed by the universal "health for all" insurance scheme in 2001. Thailand is a leader in the SE Asia region in terms of its benefits for Thai and MW laborers. MW pay 3% of their wages into the social security scheme and this coverage is competitive with other countries, including a number of industrialized nations. Since most of the MW workforce is in the younger age groups there is little need for coverage for elderly benefits or unemployment insurance (since demand is so high). There are generous provisions for disability and death, but no use of these was reported in this study. The only drawback of the scheme is the several months delay between registration and when coverage actually begins.

Another gap in the system is the lack of outreach to register more of the uninsured MW, whose number must be large, but is unknown. Currently, only 50,000 MW are registered. Part of the problem is the delay in obtaining nationality verification from the home country.

The two main factors which are propelling the expansion of rights and protections for MW is the pressure from trading partners and the desire of the factory to motivate workers and create company loyalty. In addition to the practical nurse on call at the infirmary, physicians visit the larger factories once a week to provide special consultation. It should be noted that some factories may not send injured workers to outside care facilities out of concern that their workplace risk rating (issued by the social security office) might increase.

### **Case Study of MW Covered by Social Security**

A closer examination of the MW accidents or health issues involves a classification into the following: Accident during performing a job task, accidents that occurred outside work hours, and health problems. As noted, MW who experience work-related accidents are eligible for worker's

compensation (Figure 3.7). There are two levels of coverage: worker's compensation (for acute conditions) and social security (for chronic conditions). MW who experience accidents outside work hours can present a medical certificate to obtain worker's compensation. Those who develop chronic conditions are eligible for social security benefits. Employers who terminate employees for health reasons must pay severance (Figure 3.8).

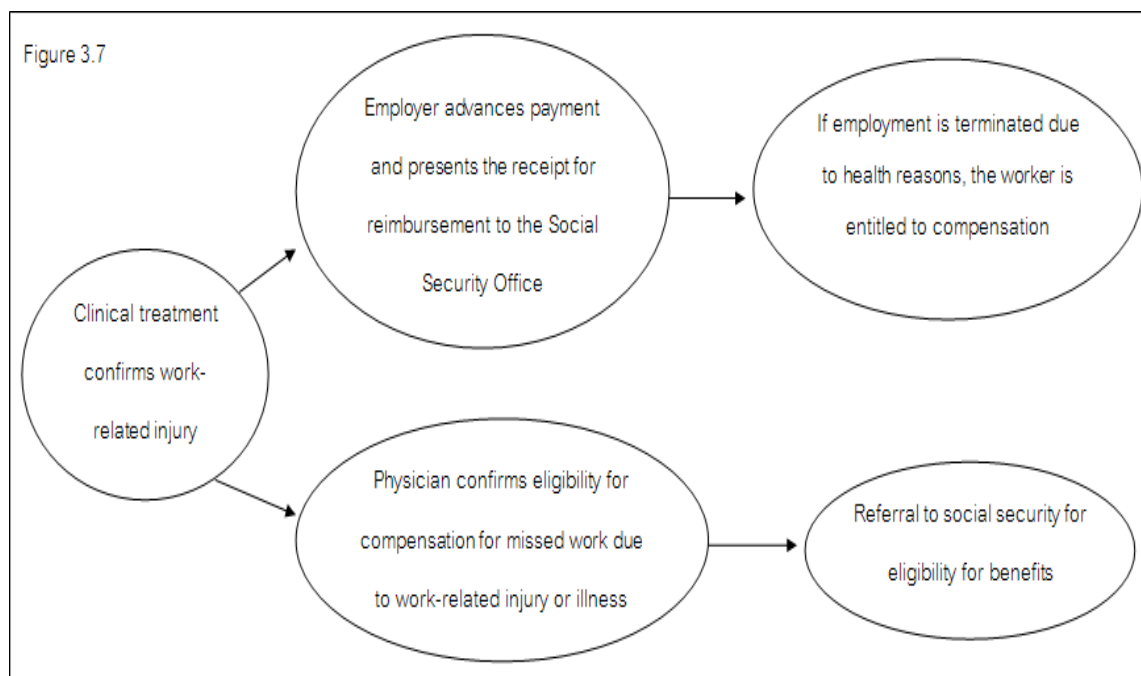
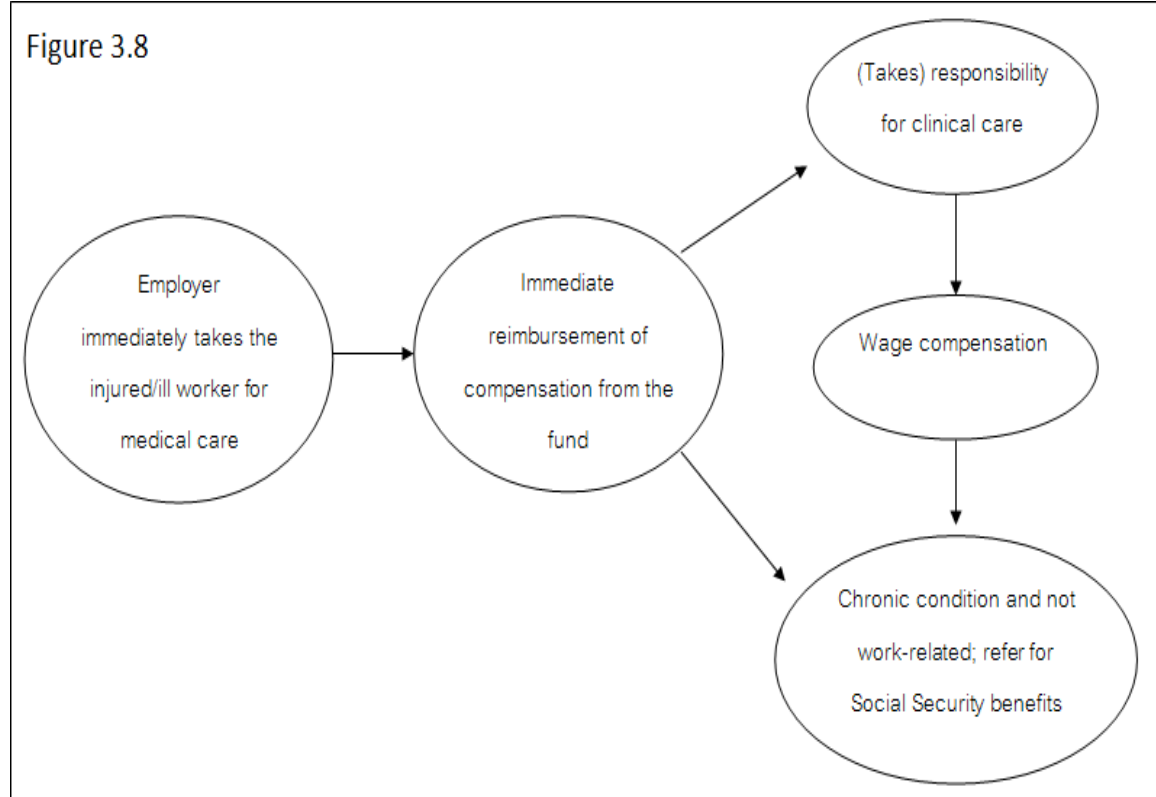


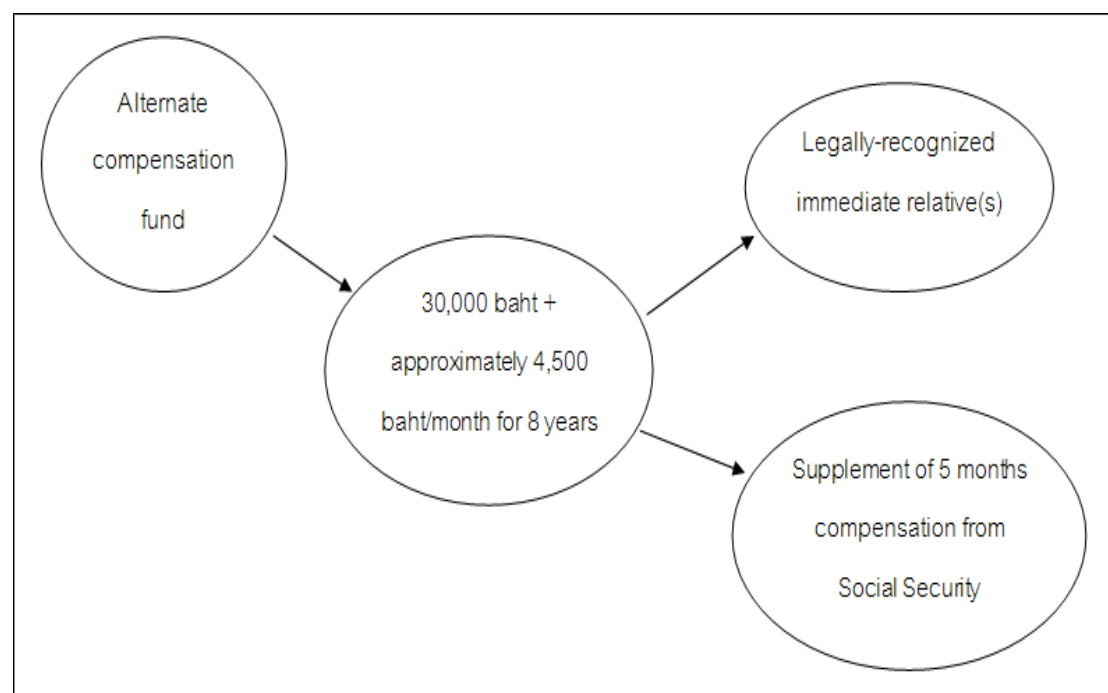


Figure 3.8



For cases of death or disability see Figure 3.9

Figure 3.9



### 3.2.4 Summary of Protections for Health and Accidents

Table 3.5 Overview of Protections From Accidents by Case Study Worksite

Factory	Compensation Fund (For Accidents During Work Hours)	Social Security Benefits (General) Health Care Outside of Work Hours)	Private Accident Insurance	Direct Compensation	Temporary Health Insurance
Factory 1	Yes	Yes	No	Joint Coverage By Law	No
Factory 2	Yes	Yes	No	Joint Coverage By Law	No
Factory 3	Yes	Yes	No	Joint Coverage By Law/Funeral Costs	No
Factory 4	Yes	Yes	Yes	Joint Coverage By Law	No
Factory 5	Yes	Yes	Yes	Joint Coverage By Law	Compensation
Factory 6	Yes	Yes	Yes	Joint Coverage By Law/Funeral Costs	Compensation

### 3.3 Protections According to the Labor Relations Act of 1975

This legislation pertains to the relationship between the employer and employee, from the time of hiring through to time of termination of employment. This law covers issues such as hiring contracts, position description, work controls, probationary period, wages, training, laborer benefits, workplace safety, advancement, monthly salary, punishment, performance assessment, transfer, filing grievances, bargaining, strikes, work closings, labor union agreements and termination of employment.

The six factories in this study are members of the Thai Frozen Foods Association (TFFA), under the Thai Food Producers Association (TFPA). These two associations help to promote standards and GLP, which also apply to MW. The DLPW and the DOF of the MAAC, and the ILO worked

together to launch these associations with a special focus on the seafood processing industry. Of primary concern is the elimination of child/forced or trafficked labor, discrimination of workers, work environment and safety, and workers' freedom to assembly. Even seafood businesses that are not members of these associations still feel pressure to comply with GLP in view of competition and image in the international trade community. All the factories in this study were attempting to promote a friendly work environment with minimal or no MW conflict. All MW have channels to air grievances. However, non-Thai workers are not allowed to form labor unions in Thailand and, as noted, a majority of the lower-wage workforce in the seafood processing sector is non-Thai.

## Chapter 4

### Guidelines for Good Labor Practices in Benefits and Other Forms of Assistance

#### 4.1 Education for Accompanying Children of Migrant Workers

The survey found that 14 MW in the sample (3.4%) have school-age children living with them. These children are enrolled in seven schools or NGO learning centers of Samut Sakorn (Table 4.1).

Table 4.1 Schools for Children of MW

School	N	%
No child in school	392	96.6
Wat Siri Mongkol and Wat Thepnorarat Schools	2	0.5
Wat Kampra School	2	0.5
Studying at the Local Temple	2	0.5
Samut Sakorn Witayalai	1	0.2
NGO Learning Center	1	0.2
Wat Bang Ya Phraek School	1	0.2
Can't Recall Name of School	2	0.5
No Response	3	0.7
Total	406	100.0

In addition, some of the children receive financial support for school fees, uniforms, supplies, and transport, are covered by health insurance, and participate in recreational activities on field trips. For adult MW, the factories provide opportunity for on-going education with support from Civil Society.

#### Educational Welfare for Non-Thai Children in Samut Sakorn

The Labor Rights Promotion Network Foundation (LPN) arrange for cross-border children to attend school with Thai peers. As noted, Samut Sakorn has one of the largest populations of MW per capita, and many have accompanying dependent children. The challenge is to ensure that all these children of MW have the same educational opportunities as Thais. The ILO and Save the

Children Foundation are working with the LPN to formalize schooling for MW children through local and national policy advocacy. Since 2005, the LPN has worked with parents groups and the local community to set up model programs for accommodating the children of MW into the formal school system. Currently the Wat Sirimongkol, Wat Sri Sutharam (or Wat Kampra), Luang Paet Kosol Uppatham, and the Wat Koh Schools in Muang District of Samut Sakorn are piloting these model programs of mixed classrooms. These model programs are attracting interest from around the country and offer lessons and guidelines for replication in the Mekong Sub region. That said, there is still resistance in some communities and local administrative organizations for including non-Thais in the formal education system.

### **Cooperate Social Responsibility (CSR)**

The TFFA has played an important role in promoting the welfare of young MW in the shrimp and seafood export industry by overseeing compliance with anti-child labor and forced labor in the 183 members of the TFFA and 97 aquatic animals processing plants. The TFFA also reminds its members to adhere to safety regulations for workers and domestic and international standards. The TFFA and LPN conduct regular orientation and education in the workplace to keep people informed about the problem of child labor in the seafood industry and to promote the welfare of the MW, their children and accompanying dependents. The TFFA and LPN have also collaborated to provide 100 educational scholarships (1,000 baht each) and 500 school uniforms to needy children of MW. Currently hundreds of MW children are studying side by side with their Thai counterparts in regular schools or NGO learning centers. The TFFA also works with the Labor Center to provide ad hoc assistance and counseling for MW on rights issues. In 2013, the TFFA sponsored a campaign (with 70,000 baht donation) to promote education for MW children. There are also programs to help prepare MW children to enter Thai schools, with cultural and language training to ease their transition. These are sponsored in collaboration with the Large Tuna Factory (1) in this study.

## **4.2 Filing Grievances and Channels of Appeal for Migrant Workers**

### **4.2.1 Data from the Six Case Study Factories**

This survey found that only one of the workers in the six study factories had filed a grievance with the Social Welfare Office of Samut Sakorn. The complaint was about health care coverage and

has since been resolved. No MW filed a grievance with Civil Society organizations either. This finding suggests that the factories in this study are practicing GLP. Within the factory, a total of 13 MW (out of the sample of 406) filed a grievance. The topics included over time, days off, work hours and pay rates (Table 4.2). All grievances were addressed satisfactorily.

**Table 4.1 Filing a Grievance by the MW**

History of Filing a Grievance	N	%
Never	390	96.1
Filed with Boss/Manager	11	2.7
Filed with Government Officer	1	0.2
Filed with Employment Agent/Broker	1	0.2
No Response	3	0.7
Total	406	100.0

#### **4.2.2 General Information about Filing Labor Grievances in Samut Sakorn**

The LPN reported that, starting in 2001-2, more MW became more aware of their rights and areas where their rights may have been violated. Importantly, in 2004, when MW registration began in earnest, more MW who had been working underground came out into the open, and received assistance from Civil Society when there were potential issues of exploitation. The Samut Sakorn provincial offices collaborated closely with Civil Society in assisting these MW. Discussion of human trafficking became more visible in 2006 and Civil Society became more active in probing and monitoring this issue. In the past, there were issues of rights violations in terms of illegally low wages or non-payment of wages, lack of care for accidents and sexual harassment of female workers. Lately, these types of grievances have declined, being replaced by issues of deceptive recruitment practices of employment agencies and brokers. Still, Civil Society continues to play an important role in policy advocacy and assisting MW on a case-by-case basis. Government agencies are increasingly including Civil Society in worksite and labor inspections. Government facilitates filing of grievances by printing complaint forms in Myanmar, Lao and Cambodian languages. In 2012, a total of 880 grievances were filed in Samut Sakorn Province.

### 4.3 Legal Assistance and Coordination for Legal Cases

Thai frozen seafood exports are a hundred billion baht industry, with shrimp accounting for 70% of the exports. Thailand is the leading exporter in this sector followed by Vietnam, China, Indonesia and India. In such a large industry, it is inevitable that disputes will occur between employers and employees. Part of GLP is having an effective system to prevent and manage labor conflict. From interviews with the six study factories, NGOs and the Human Rights and Development Foundation (HDRF), the following are some of the examples of cases of conflict during the 2012-13 period.

#### 4.3.1 Out-of-Court Cases

**Worksite 1:** On November 11, 2012, Ms. M, a Myanmar worker, age 38 had her finger caught in a machine while working at a shrimp shucking station. The employer took M to a hospital and paid for treatment. M was also eligible for financial compensation in accordance with the worker's compensation fund, but did not know the process for obtaining that. The HDRF provided assistance to M to process the claim and coordinated with the worksite to smooth the process. This case is still pending according to Workmen's Compensation Law.

**Worksite 2:** On October 4, 2012, three Myanmar MW, Ms. O, age 36, and Ms. N, age 33, and on February 11, 2013 Ms. J, age 23, reported a pregnancy. They wanted to exercise their right to social security but did not know the process. The HDRF assisted the women to request compensation for delivery costs and other needs from the Social Security Office in Samut Sakorn. Ms. O received 13,000 baht for delivery and compensation for days off in the amount of 11,848 baht for a total of 24,848 baht. Ms. N received 13,000 baht for delivery as well and 10,197 baht for compensation for days off for delivery for a total of 23,197 baht. Ms. J received 13,000 baht for delivery as well and 11,934 baht for compensation for days off for delivery for a total of 24,934 baht.

**Worksite 3:** On March 2, 2013, Ms. Y, an ethnic Tavoy from Myanmar and age 17 had been working for less than three months when she was murdered in her dormitory room. Even though the worksite was not responsible for damages, the worksite still paid 200,000 baht as a death benefit to the father of Y, and covered 50,000 baht of the cost of the funeral.

No other cases of this magnitude were reported for the other three factories in this study. Most conflict was minor, if at all, and could be resolved within the worksite.

#### **4.3.2 Court Cases**

This study of six factories, including interviews with representatives of NGOs and the Human Rights and Development Foundation (HRDF) found no court cases involving MW labor issues. However, HRDF did describe one case which occurred in a shrimp processing factory in 2008. This was a case of forced labor and human trafficking.

**(1) Facts of the Case:** On March 10, 2008, child protection police officers of the Region 7 Investigation Headquarters, in collaboration with local Samut Sakorn police, immigration police, staff of the Department of Employment, staff of the Department for Labor Protection and Welfare (DLPW), staff of the Ministry of Social Development and Human Security (MSDHS) and Labour Rights Promotion Network (LPN) interpreters for Mon and Karen languages, raided this factory to rescue 206 MW who had been coerced into working for the factory, 25 of whom were under age 18 years. The factory had high walls with barbed wire on top, steel mesh on the ceiling and around entrance and exits, and doors were locked to prevent escape of workers. The workers were required to work 14 hours a day without breaks, and received 50 to 100 baht per week. Money was deducted from their pay for utilities and broker fees. The penalty for not working was 200 baht a day. The workers slept in rooms of 20 to 30 persons with a single shower room and seven lavatories. Ceilings in the bathrooms and sleeping quarters were sealed by metal grill. There were six closed-circuit cameras to monitor worker behavior. Fully 206 of the workers had no work permit or travel documents and, hence were working and living in Thailand illegally.

#### **(2) Legal Proceedings**

##### **1. Labor Law Case**

Fifty-four of the coerced workers filed a suit and, under negotiations for back pay. The court approved a settlement of 500,000 baht for the workers.

##### **2. Criminal Case**

On September 10, 2008, the provincial prosecutor for Samut Sakorn sued Mr. W and Ms. O. The suit charge the pair with procuring 206 Myanmar, 11 of whom were 15 years or younger, and compelled to work in their shrimp factory in slave-like conditions. Workers were required to work day and night with no days off. The prosecutor asked for the pair to be punished in accordance with the Labor Protection Law. On November 26, 2009, the provincial court made the following decision:



- 1) The defendants were found guilty of employing workers under age 16 years in slave-like conditions and in violation of the 1997 anti-trafficking law. The maximum punishment was applied which included six years imprisonment, which was reduced to four years given the confession of the factory manager, and 8 years for the other defendant.
- 2) In addition, the factory manager was fined 2,060,000 (reduced to 1,030,000 based on confession) for employing 206 illegal workers at the level of 10,000 baht per person. The fine for the other defendant was in excess of two million baht.
- 3) The fine for employing a worker under 15 years was 4,000 baht per person, and 4,000 baht per person age 16 to 18 not reported to the labor inspection office. Defendants were also fined for inhumane labor practices for each worker.

This case sheds light on some of the labor practices in the fisheries industry of past years and presents the difficulty of comprehensively enforcing labor law. Further, these types of abuses and violations are more likely to occur in the smaller factories, which may be closed off from outside scrutiny. Thus, it is difficult to estimate how many, if any, factories such as this case are still in operation in Thailand.

This case reflects the continuing challenge of the Thai legal system in which cases take a very long time to conclude, and this is not limited to cases of labor law violations. Factors which contribute to the delays include the large back-log and legal complexity of cases, among others. The case also reflects on past incidence of labor exploitation in Thailand, a practice which has hurt businesses more than it has helped them. This negative image has motivated Thailand and numerous companies to combat forced labor.

The six medium and large factories in the case study are involved in the seafood export sector which generates a large amount of foreign exchange for Thailand. These companies are a model of prevention of violations of labor rights and promotion of good labor practices (GLP). In addition to pursuit of economic benefit and the enhanced image of Thailand, the exporters, by applying principles of GLP, are building a higher quality work force for this sector, and this improves global confidence in Thai products and labor standards.

#### **4.4 Additional Labor Protections Beyond Those Required by Law: Best Labor Practices**

In addition to the labor protections provided by law and international convention, market competition and trade-partner pressure also influence worksites to provide benefits above and beyond the legal minimum standards. This also improves worker morale and company loyalty. This is manifest in the management structure of the larger factories which often include a Human Resources Section, a Personnel Management Section, a Worker Relations Section, etc. Based on interviews with factory staff, MW and related government officials, the study worksites provide additional and equal benefits to Thai and non-Thai workers equally. Indeed, some groups of MW (i.e., Myanmar) are given longer periods of leave for visiting their home town than are their Thai counterparts. In addition, the factories cooperate with the Provincial Chief Medical Office (PCMO) in recruiting and training migrant health volunteers to provide an additional link for MW to health care and servicers. The extra services these factories provide can be classified as follows:

##### **Special Benefits Within the Worksite**

###### **(1) Provision of Uniforms and Other Work-Related Gear or Garments**

Some of the factories in this study provided two sets of uniforms at the beginning of employment, with annual replacements. Others provide free uniforms at the beginning and then sell replacement uniforms at low-cost. Factories also provide gloves, protective footwear, masks, etc. at the beginning of employment, with free replacement for worn or damaged apparel.

###### **(2) Transportation To/From the Worksite**

Some factories do not have on-site lodging for the MW. In those cases, the workers are free to find accommodations within the vicinity and can take advantage of subsidized transport to and from the worksite, the cost of which can be reimbursed.

###### **(3) Lodging**

Factories with enough space arrange free lodging for workers but, if space is limited, may restrict access to single, female workers. Workers staying in company lodging may be charged a nominal fee for utilities.

###### **(4) Safe, Inexpensive Quality Meal Service**

All of the six factories in this study have a canteen with standard specifications and quality food at economical prices. The food service is normally catered by a business selected by competitive bidding to keep costs low.

#### **(5) Provision of Consumable Supplies to the MW**

In consideration of the welfare and quality of life of the workforce, five of the six factories in this study distribute supplies for their workforce at least twice a year which includes 5 kg bags of rice, cooking oil, canned fish, soap, toothpaste, laundry detergent, etc. For special occasions, some of these factories also provide donations of household goods to the community as a public service.

#### **(6) Merit-Making Activities**

Most of the MW who work in the seafood factories are Buddhist. On important Buddhist days, the factory may organize group merit making activities and give the workers the rest of the day off. In factories with a majority Myanmar MW workforce, Myanmar monks may be invited to conduct religious ceremonies in Myanmar. Workers may organize their own personal merit-making activities and make use of designated areas of the worksite for that purpose.

#### **(7) Special Activities During International, Chinese and Thai New Year Celebration**

Some of the factories organize recreational activities on/around New Year's festival days, including special meal service, singing contests, or games to create a happy atmosphere. Gifts may be exchanged at this time. The Chinese New Year break is one of the longest holidays of the year. During Songkran, some Myanmar MW may request home leave to visit family in Myanmar and, as mentioned above, may receive an extended period of paid leave.

#### **(8) Additional Safe Training**

Law stipulates that worksites conduct fire drills at least once a year, but some of the factories in this study conduct up to four drills per year and training in use of electrical equipment.

#### **Support for Activities With the Government or Private Sector for Continuing Education**

As part of their CSR policies, the Large Shrimp/Squid Factory in this study collaborate with the LPN to buy school uniforms for children of MW, organize activities for MW children on Children's Day, provide nutritional snacks for children, and arrange "Walk for the Kids" campaigns to raise funds for educational scholarships. The Factory 5 Medium-Size Shrimp/Squid Factory (1) support English-language training for MW children in collaboration with local schools, socio-cultural education, and pre-school daycare. Another factory has supported the creation of a "living library" as part of a local school, with training in computer use.

## Chapter 5

### Conclusion

#### 5.1 Absence of Child Labor / Forced Labor / Victims of Human Trafficking In the Process of Labor Recruitment

The following are discussed with reference to MW and GLP in Thailand.

##### a) Child Labor

For the purposes of this study, the investigators defined 'youth' labor as MW age 15 to 18 years. Those under age 15 are referred to as 'child' labor, and which is illegal according to Thai law. Even though youth labor is legal, the employer needs to inform the labor inspector and ensure that they receive additional protections.<sup>1</sup> This includes protecting youth labor from engaging in illegal activities as part of the job or labor which might subject the youth to mental or physical abuse. Also of consideration is that the labor does not adversely affect the youth's development or access to schooling, including night shifts, or long periods of continuous labor. The following are key findings on this topic from the sample survey of 406 MW and six factories:

- Factories have policies prohibiting the hiring of workers under age 15

##### b) Forced Labor

Forced labor, as defined by the 2008 anti-trafficking law constitutes coercion to work, inciting fear, threats of harm or shame, or damage of property or other use of force to compel a person to perform a job against their will. This is a violation of human rights. In the seafood processing industry, forced labor is considered in two dimensions: punishment, threats or harassment to perform a task, and involuntarily performing a job or task. This is based on the principle that each worker has the right to refuse to perform a job. Employer pressures include such practices as withholding wages or confiscating identification or travel documents of the employee to prevent to restrict movement. Other considerations include whether the MW is pregnant or from an ethnic minority or other vulnerable group and, thus, are more susceptible to exploitation. The ILO has expanded on other dimensions of forced labor (see ILO 2013: Indicators of Forced Labor) and which are summarized in the table below:

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<sup>1</sup> Guidelines for GLP for the Seafood Processing Industry in Thailand, 2013. MOL, MAAC, ILO, and Private Associations

Indicator	Key Content
1) Abuse of Vulnerability	Illegal MW are vulnerable to exploitation and coerced labor due to inability or fear to seek help from outside the workplace.
2) Deception	Labor is considered forced if the assigned work or work environment is significantly worse than what was promised, verbally or in printed contract.
3) Restriction of Movement	Labor is coerced if the MW cannot freely leave or enter the workplace, or has freedom of movement restricted by the presence of surveillance camera or security officers.
4) Isolation	There is greater risk of forced labor if the worksite is isolated or closed off from the outside, and if MW are not able to contact others outside the worksite.
5) Physical and Sexual Violence	Coerced labor can easily transition into physical or sexual violence when the MW is in a state of forced submission to the employer.
6) Intimidation and Threats	When illegal MW are subject to threats of police or immigration inspections, arrests, fines or other loss of property as a means to intimidate the MW, this is forced labor.
7) Retention of Identity Documents	MW who cannot retrieve their personal identification documents or valuables are at risk of being exploited since they have no ability to access outside help without their ID cards or travel documents.
8) Withholding of Wages	Withholding of MW wages is considered to be forced labor if the purpose is to prevent the MW from resigning.
9) Debt Bondage or Bonded Labor	When loans are taken out by family members or other third party with the labor of the MW as collateral, and repayment to be made over a long period of time, this

Indicator	Key Content
	is considered forced labor.
10) Abusive Working and Living Conditions	If MW are required to live or lodge in sub-standard or dangerous worksites as part of the job then this is forced labor.
11) Excessive Overtime	When overtime is required in excess of that permissible by law, that is forced labor.

Source: ILO, 2013. Indicators of Forced Labor. Summarized by Dr. Ratchada Jayagupta

This survey of six case study factories in Samut Sakorn during June to October 2013 **found no cases of forced labor** (see details below):

- **Issues Related to Forced Labor**

#### Findings From Six Factories in the Case Study

- ☒ Labor protections are applied equally for MW and Thais.
- ☒ There is appropriate attention to and compliance with the 2008 law on MW
- ☒ There is appropriate attention to and compliance with the 1975 labor relations law
- ☒ There is appropriate attention to and compliance with the 2008 law against human trafficking
- ☒ There is appropriate attention to and compliance with Thai labor standards and Thai CSR

#### Labor Recruitment and Hiring

- ☒ There is no forced labor in any form
- ☒ There were no cases of deceptive hiring of MW
- ☒ There were no cases of threats or use of force to compel MW to work
- ☒ There were no cases of physical or sexual abuse
- ☒ There was no restriction of movement of the MW
- ☒ There were no threats of informing government authorities
- ☒ There were no threats to repatriate MW to their home country

- ☒ There was no confiscation of the MW's personal ID information or travel documents by the employer

### Employment Contract

- ☒ There was no requirement to pay a deposit or bond in exchange for employment other than allowed by law
- ☒ There were written employment contracts in the native language of the MW
- ☒ The details of the employment contract were verbally explained to MW with low literacy
- ☒ There was clear specification of position description and routine work hours
- ☒ The contract specified the wages and benefits that the MW are entitled to
- **Hiring Through an Employment Agency/Broker**
  - ☒ New MW hires were recruited directly and not through an agency or broker
  - ☒ Out of the sample of 406 MW, 23 had used the services of a broker in the past (20 in their home country)
- **Status of Hiring**
  - ☒ There were no cases of withholding or delayed payment of wages to MW
  - ☒ The employer did not place any financial burdens on the MW by extorting loans or delaying the payment wages
  - ☒ Wages were paid directly to the MW
  - ☒ Employers which provided lodging and meals for MW charged usage fees which were not a burden on the MW
  - ☒ Work hours were no more than 8 hours per day or 48 hours per week
  - ☒ MW were given the opportunity on routine workdays to work overtime at appropriate levels and only with their voluntary consent
  - ☒ The employer paid the correct amount of overtime pay as allowed by law
  - ☒ Printed pay statements were provided to the MW explaining their wages
  - ☒ There was at least one day off from work per week

### c) Human Trafficking

Human trafficking in the context of MW labor in the seafood processing industry refers to the procurement, sale, confinement, delivery or sending of persons for the purpose of employment by force or deception, or other unlawful means of extracting consent to work (MSDHS, Handbook of the Multi-disciplinary Team for the Protection of Trafficking Victims, 2013, 12). Any form of trafficking to a workplace is considered forced labor. This study of 406 MW from six case study factories found **no cases of human trafficking**.

## 5.2 Absence of Discrimination / Freedom of Assembly Among Workers / Collective Bargaining and Consultation with Employer / Safe, Healthy Work Environment / and Youth Labor

### d) Absence of Discrimination: Equality of Working Conditions for All

Implementation guidelines for GLP (2013) define discrimination in terms of separate, less favorable treatment (of an MW) based on ethnicity, skin color, gender, religion, political viewpoint, social background, disability, having non-infectious disease, age, or sexual orientation. In addition, employers need to provide appropriate opportunity for MW to engage in practices or customs according to their home culture, and not to allow this may be considered discrimination. Male and female MW must receive the same wages for the same work, and the same wages as their Thai counterparts. Of particular interest is discrimination against pregnant women:

#### Findings From the Survey:

- ☒ None of the worksites in this study had discriminatory policies or practices which prevented or punished female workers from becoming pregnant
- ☒ No pregnant MW was terminated because of the pregnancy or pressured to resign because of the pregnancy
- ☒ Pregnant MW know that they have the right to special consideration during the pregnancy, such as not having to perform arduous work
- ☒ MW are allowed paid maternity leave
- ☒ The employers have policies for the post-partum women to return the original jobs at the same rate of pay



- It is noteworthy that **some** companies let MW return to their home countries for maternity leave, and this is a benefit that exceeds what is available to the Thai workers in the same company.

**e) Freedom of Assembly, Filing Grievances, Collective Bargaining and Sharing of Opinions Between Employees and Management**

None of the MW in this study had formed groups for collective bargaining with their employers. But each worksite had well-developed systems for two-way communication between MW and management, including channels for filing grievances. Employers in this survey readily responded to work-related complaints from MW and successfully addressed these.

**Findings From the Survey:**

- ☒ The worksite has a system for receiving and processing worker grievances or reports of conflict in a way that is mutually respectful of the rights of workers and employers.
- ☒ The employer makes a sincere effort to redress worker grievances while providing regular updates to the workers.

**f) Safe and Healthy Work Environment**

'Safe' and 'healthy' in this context refers to both mental and physical health, and both the MW and management have responsibility for promoting a healthy and safe work environment.

**Findings From the Survey:**

- ☒ Worksites maintained a safe and healthy work environment under clear, written policies for this
- ☒ There is appropriate management of the workplace environment so that it is up to standard, for such aspects as temperature controls, ventilation, noise level, and brightness.
- ☒ There is a record of work-related accidents and injury according to labor legislation.

- ☒ There is a committee for a safe and healthy work environment
- ☒ There are clear warnings of hazards
- ☒ There is first-aid equipment and supplies that are easily accessible

#### g) Youth Labor

None of the worksites in this study had MW of age 15 to 18 on their workforce; indeed some had policies not to hire MW under 18 years of age.

### 5.3 Collaboration Between the Thai Seafood Processing Industry, Government and Other Sectors in Promoting Good Labor Practices

#### 5.3.1 Child and Youth Labor

There were no child or youth laborers in the six case study factories.

#### 5.3.2 Forced Labor

➤ There were no deductions from MW pay or overtime wages for payment to employment procurement agencies or brokers, or deductions for lodging, utilities or other compensation except when permitted by law

➤ MW were informed of any deductions to pay (e.g., social security) and the benefit they receive from that deduction.

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## Appendix

### Questionnaire for Interviews with Migrant Workers (MW) in the Thai Fisheries Industry (General Migrant Workers Population)

Questionnaire #..... Site of Interview ..... Interviewer Code.....

Name ..... Date ...../...../ 2013 Time.....

Mark the box next to the selection which most closely matches the response

#### 1.1 Sex

1. ☐ Male 2. ☐ Female

#### 1.2 Age .....

#### 1.3 Marital status

1. ☐ Single (skip to 1.5) 2. ☐ Legally registered marriage 3. ☐ Divorced  
4. ☐ Widowed 5. ☐ Co-habiting 6. ☐ other, specify .....

#### 1.4 Do you have any children?

1. ☐ No  
2. ☐ Yes number..... Males..... age..... years / Females ..... age ..... years

#### 1.5 Type of work

1. ☐ frozen food 2. ☐ dissection and cleaning of raw product  
3. ☐ canned food 4. ☐ other, specify .....

#### 1.6 What type of ID/travel document do you carry? (multiple response allowed)

1. ☐ Temporary Passport 2. ☐ Work permit  
3. ☐ Form Taw Thaw 8 (in lieu of work permit) 4. ☐ Certificate of Identity  
5. ☐ Form Thaw Raw 38/1 6. ☐ other, specify ..... 7. ☐ none (skip to 1.8)

#### 1.7 Type of domicile

1. ☐ Factory dorm 2. ☐ Rented room/house 3. ☐ Parents/relatives' house  
4. ☐ House of employer 5. ☐ Friend's house 6. ☐ other, specify

### Wages, Overtime, Holidays, Hours of Work

2.1 Were you informed of the wages, overtime, holidays, hours of work in a language you could understand?

1. ☐ yes 2. ☐ no

2.2 Do you receive at least 300 baht per day?

1. ☐ yes 2. ☐ no

2.3 Do you have overtime (OT)?

1. ☐ yes, ..... hrs/days/week 2. ☐ no (skip to 2.5)

2.4 If 'yes' did you receive OT pay?

1. ☐ yes 2. ☐ no

2.5 Do you get one hour break after working 4 or 5 straight hours?

1. ☐ yes 2. ☐ no

2.6 Do you get at least one day off per week?

1. ☐ yes 2. ☐ no

2.7 Do you have days off during national holidays and festivals?

1. ☐ yes 2. ☐ no

2.8 Are you eligible for six paid annual leave days after completing one year of employment?

1. ☐ yes 2. ☐ no

### **Educational Benefits and In-Service Training**

3.1 Does the employer provide training for you to build skills?

1. ☐ yes, specify..... 2. ☐ no 3. ☐ other.....

### **Safety and Environmental Protection in the Workplace**

3.2 Has your workplace ever provided training on safety, such as prevention of fire or serious accidents, or what to do in the event of an earthquake, and how to use chemicals safely?

1. ☐ yes specify..... 2. ☐ no

3.3 Are you aware of the alarms and warning signs in the workplace?

1. ☐ yes 2. ☐ no

3.4 Did the factory train you in the use of work-related equipment and machinery?

1. ☐ yes specify..... 2. ☐ no

3.5 Do you have your own set of safety gear such as gloves, boots, masks, etc.?

1. ☐ yes 2. ☐ no

3.6 Is there free drinking water in the worksite?

1. ☐ yes 2. ☐ no

3.7 Does your worksite provide any of the following benefits (multiple response allowed)?

1. ☐ health insurance card 2. ☐ social security card  
3. ☐ six days of annual leave 4. ☐ other, specify .....

3.8 Are there enough toilets?

1. ☐ no 2. ☐ yes

4.1 Has your worksite provided orientation on worker rights?

1. ☐ Yes, specify the topic.....  
2. ☐ no 3. ☐ unsure

4.2 Have you ever filed a grievance, and, if so, what about? (multiple response allowed)

1. ☐ No (skip to 4.5) 2. ☐ Yes, about OT payment 3. ☐ Yes, about days off  
4. ☐ Yes, about work hours 5. ☐ Yes, about wages 6. ☐ other, specify

4.3 Who did you file the grievance with?

1. ☐ employer/manager 2. ☐ an association  
3. ☐ government official 4. ☐ employment agent/broker  
5. ☐ labor union 6. ☐ NGO  
7. ☐ embassy 8. ☐ other, specify.....

4.4 Was your grievance resolved? (skip to 5.1 after response)

1. ☐ yes, specify..... 2. ☐ no, specify.....

4.5 Why have you never filed a grievance? (multiple response allowed)

1. ☐ never had rights violated 2. ☐ don't want to cause problems  
3. ☐ don't think it would do any good 4. ☐ don't know who to file grievance with  
5. ☐ difficulty in language communication 6. ☐ fear of being detained or extorted  
7. ☐ not sure/don't know 8. ☐ other, specify.....

5.1 Did you get this job through a broker?

1. ☐ yes 2. ☐ no (skip to 6.1)

5.2 Where was the broker/agency/referrer located?

1. ☐ broker in home country 2. ☐ employment agency in home country  
3. ☐ broker in Thailand 4. ☐ friend in home country  
5. ☐ friend in Thailand (nationality)..... 6. ☐ other, specify.....

5.3 Did you have to pay a broker's fee ?

1. ☐ yes, paid the broker with (own funds) / (loaned funds)
2. ☐ yes, deducted from monthly wages
3. ☐ yes, employer paid and then deducted from wages (number of months).....
4. ☐ no, employer covered all costs of recruitment

5.4 Is the work you do consistent with what the broker told you?

1. ☐ yes
2. ☐ no (skip to 6.1)
3. ☐ the work differed in the following way.....
4. ☐ I was deceived, (specify).....

6.1 Are you treated differently from other workers?

1. ☐ no
2. ☐ yes specify.....

6.2 Do you have to work between the hours of 10 p.m. and 6 a.m.?

1. ☐ yes, (type of work).....
2. ☐ no

6.3 Do you have to work OT or on days off?

1. ☐ yes
2. ☐ no

6.4 Are you interested in continuing your education or being trained for a new trade?

1. ☐ no
2. ☐ yes, I'd like to learn at .....
3. ☐ other, specify.....

6.5 Is your work hazardous?

1. ☐ no
2. ☐ yes specify..... where..... when.....

6.6 Do you have to do heavy lifting or pushing?

1. ☐ no
2. ☐ Yes (specify type and weight of object.....)

6.7 Are you paid your wages directly by your employer?

1. ☐ No (specify the intermediary.....)
2. ☐ Yes

6.8 Do you have to report your time of work?

1. ☐ no
2. ☐ yes

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**Questionnaire for Migrant Workers in the Thai Fisheries Industry Who Experienced a Work-Related Accident or Injury.**

Questionnaire #..... Site of Interview ..... Interviewer code.....

Name ..... Date ...../...../ 2013 Time.....

Mark the box ☐ next to the selection which most closely matches the response

1.1 Did you ever have a work-related accident or injury in your current job which required time off?

1. ☐ yes, specify .....
- 1) ☐ took time off and received full compensation
- 2) ☐ took time off and received partial compensation
- 3) ☐ other, specify.....
2. ☐ no

1.2 What benefits did you receive in relation to the accident/injury?

1. ☐ social security                      2. ☐ workman's compensation  
3. ☐ employer's fund                      4. ☐ other.....

1.3 If you required medical treatment, where was that provided?

1. ☐ factory infirmary                      2. ☐ clinic                      3. ☐ government hospital  
4. ☐ private hospital                      5. ☐ other, specify .....

1.4 What benefits did you receive? (multiple response allowed)

1. ☐ health insurance card      2. ☐ social security card  
3. ☐ 6 days of annual leave      4. ☐ other, specify \_\_\_\_\_

1.5 Does your employer provided any of the following health benefits? (multiple response allowed)

1. ☐ general health exam for all workers
2. ☐ immunizations
3. ☐ arranging group activities such as sports, recreation or health orientation
4. ☐ education about AIDS and STIs
5. ☐ provision of an infant feeding section
6. ☐ drug abuse prevention program
7. ☐ other, specify .....

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**Questionnaire for Migrant Workers in the Thai Fisheries Industry with a Pregnancy (Delivery between January 2012 and April 2013, or School-age Children)**

Questionnaire #..... Site of Interview ..... Interviewer code.....

Name ..... Date ...../...../ 2013 Time.....

Mark the box ☐ next to the selection which most closely matches the response

1.1 Did you inform your employer about your pregnancy?

1. ☐ yes
2. ☐ no, because.....

1.2 Did your work change after your employer was informed about the pregnancy?

1. ☐ yes                      2. ☐ no

### 1.3 Can female employees take maternity leave?

1. ☐ yes, 90 paid leave days                      2. ☐ yes, with ... (number of) paid leave days  
3. ☐ yes, with .... (number of) non-paid leave days                      4. ☐ other.....

#### 1.4 Are there other benefits for workers on maternity leave?

1. ☐ no                      2. ☐ yes specify .....

### 1.5 Can you breastfeed during work hours?

1. ☐ no                      2. ☐ yes

### Educational Benefits and Training

1.6 Have you received training or continuing education from your employer?

1. ☐ yes specify..... 2. ☐ no 3. ☐ other.....

### For Workers With Children Under 15 Years of Age:

1.7 Are your children in school?

1. ☐ no                      2. ☐ yes    name of school .....



1.8 Do you receive financial help to pay for the cost of school?

1. ☐ no

2. ☐ yes, receive financial help from: (multiple response allowed)

1) ☐ NGOs (name).....

2) ☐ employer

3) ☐ school or private scholarship (name).....

1.9 Does your employer provide any of the following benefits for your children Multiple response allowed

1. ☐ medical care

2. ☐ payment of school fees

3. ☐ health/life insurance

4. ☐ daycare center in the workplace

5. ☐ lunch

6. ☐ recreational activities such as scouts camps, study tours

7. ☐ payment for school uniforms or supplies

8. ☐ transportation to school

9. ☐ other specify.....

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