

Comments Concerning the Ranking of Taiwan by the U.S. Department of State in the 2023 Trafficking in Persons Report

**Submitted by Global Labor Justice - International Labor Rights Forum
and Greenpeace USA on behalf of the Seafood Working Group**

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1. INTRODUCTION

This report contains the comments and recommendations of the Seafood Working Group (SWG) concerning the ranking of Taiwan in the United States Department of State's 2023 Trafficking in Persons (TIP) Report.¹ Given that migrant fishers in Taiwan's fishing industry are at serious risk of severe forms of trafficking including forced labor,² the SWG submitted comments concerning the ranking of Taiwan in the 2022 TIP Report based on the members' expertise.³ In 2022, the U.S. Department of State maintained Taiwan at its Tier 1 ranking on the basis that "Taiwan authorities fully meet the minimum standards for the elimination of trafficking."⁴

The SWG recommends that Taiwan be given a Tier 2 ranking in the 2023 TIP Report on the basis that it does not fully meet the TVPA's minimum standards but is "making significant efforts to bring themselves into compliance with those standards". To maintain a Tier 1 ranking, governments need to demonstrate appreciable progress each year in combating trafficking. The findings of this report show that Taiwan has not demonstrated significant progress in 2022-2023 to maintain a Tier 1 ranking. Throughout 2022, the Taiwanese government made efforts to improve the working conditions in its distant water fishing industry; however, these have not been appreciable. In addition, as shown in Section 3 of this submission, Taiwan has not made significant progress on any addressed areas identified by the 2022 TIP Report for improvement.

Working conditions for Taiwan's distant water fishers

Migrant fishers in Taiwan's fishing industry continue to be at serious risk of severe forms of trafficking, including forced labor. In September 2022, Greenpeace Taiwan published the report, *Fake My Catch*, which documented forced labor indicators on six Taiwan-owned or -flagged fishing vessels supplying to Bumble Bee Seafoods, including excessive overtime and retention of identity documents; over two-thirds of surveyed workers had their wages withheld.⁵ In 2022, the U.S. Department of Labor (DOL) has, for the second year in a row,

¹ The Seafood Working Group (SWG) is a global coalition of human rights, labor, and environmental organizations that work together to develop and advocate for effective government policies and industry actions to end the related problems of labor exploitation, illegal fishing and overfishing in the international seafood trade. For more information, see "Seafood Working Group," GLJ-ILRF, https://laborrights.org/industries/seafood?qt-quicktabs_seafood=3#qt-quicktabs_seafood.

² *Labor Abuse in Taiwan's Seafood Industry & Advocacy for Reform*, GLJ-ILRF, December 2020, <https://laborrights.org/publications/labor-abuse-taiwan%E2%80%99s-seafood-industry-local-advocacy-reform>; see also *Seabound: The Journey to Modern Slavery on the High Seas*, Greenpeace, 2019, <https://www.greenpeace.org/southeastasia/publication/3428/seabound-the-journey-to-modern-slavery-on-the-high-seas/>.

³ *Comments Concerning the Ranking of Taiwan by the United States Department of State in the 2022 Trafficking in Persons Report*, SWG, April 7, 2022, <https://laborrights.org/publications/comments-concerning-ranking-taiwan-united-states-department-state-2022-trafficking>.

⁴ *2022 Trafficking in Persons Report: Taiwan*, U.S. State Department, 2022, <https://www.state.gov/reports/2022-trafficking-in-persons-report/taiwan/>.

⁵ *Fake My Catch: The Unreliable Traceability in our Tuna Cans*, Greenpeace Taiwan, September 2022, <https://www.greenpeace.org/usa/reports/gpea-report-fake-my-catch/>.

included Taiwan-caught fish in its List of Goods Produced by Child Labor or Forced Labor.⁶ Since the start of 2023 alone, at least two fishing vessels with dozens of Indonesian and Filipino migrant crew on board went missing due to bad weather and other issues.⁷

Throughout 2022, the Taiwanese government made efforts to improve the working conditions in its distant water fishing industry. Despite this, significant barriers remain that are contributing to forced labor and severe forms of trafficking in Taiwan. While the Fisheries Agency raised the monthly salary for distant water fishers by \$100 USD, from \$450 to \$550 USD,⁸ the minimum wage for all other categories of workers in Taiwan, including coastal and offshore fishers, is \$740 USD per month, underscoring the discriminatory treatment of foreign migrant fishers in the distant water fleet. The Fisheries Agency's National Action Plan on Fisheries and Human Rights, approved by the Executive Yuan in May 2022, established a 10-month maximum time at sea for distant water vessels, which previously were found to remain at sea for over one year. However, a period of 10 months at sea is still well beyond the 90-day maximum time at sea period recommended by some international organizations.⁹ While Taiwan has also committed to domesticate the International Labour Organization (ILO) Work in Fishing Convention, 2007 (No. 188), no concrete steps have been taken to implement the provisions in this convention.¹⁰

Furthermore, ongoing, widespread abuse of migrant fishers reported by local organizations continues due to structural features of Taiwan's governance of labor conditions in the distant water fishing industry. The Taiwanese government has the power to address these issues, but it has not done so sufficiently during this reporting period. In particular, the "two-tiered employment system" has not been abolished; under this system, migrant workers in the distant water fishing industry work with fewer legal protections and labor rights compared with all other categories of workers in Taiwan.¹¹ Related to this, distant water fishers remain under the authority of the Fisheries Agency, which is not authorized to conduct labor inspections or penalize vessel operators. In addition, migrant workers are unable to freely initiate a change of their employers without a substantial reason, such as

⁶ 2022 List of Goods Produced by Forced or Child Labor, U.S. Department of Labor, https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2021/2022-TVPRA-List-of-Goods-v3.pdf.

⁷ To read about the Hsin Chang Fa No. 88, see "1 body found, 6 people missing after Taiwan fishing boat capsizes off Japan," Focus Taiwan, March 6, 2023; <https://focustaiwan.tw/society/202303060006>; to read about the Lien Sheng Fa, see "Taiwan fishing vessel reported missing in Indian Ocean," Focus Taiwan, February 24, 2023, <https://focustaiwan.tw/society/202302240017>; see also Fisheries Agency press release: https://wm.coa.gov.tw/preview_fa/view.php?theme=Press_release&subtheme&id=1904&fbclid=IwAR10oVSU GGV5JOCWnwCmEUoU0wA3NstyZYGH2xCYxESHDzZQ1FomPGnfJ6k.

⁸ "Wages for migrant fishers rise by US\$100 this month," Taipei Times, July 19, 2022, <https://www.taipeitimes.com/News/taiwan/archives/2022/07/19/2003782022>.

⁹ Greenpeace Sustainability, Labour & Human Rights, and Chain of Custody Asks for Retailers, Brand Owners and Seafood Companies, 2020, https://www.greenpeace.org/usa/wp-content/uploads/2020/03/Final_GP-seafood-market-ask_Feb-2020.pdf.

¹⁰ "Action Plan for Fisheries and Human Rights," Council of Agriculture, Executive Yuan, May 2022, https://www.fa.gov.tw/view.php?theme=Rights_for_Foreign_Crews&subtheme=&id=27.

¹¹ *Labor Abuse in Taiwan's Seafood Industry & Local Advocacy for Reform*, GLJ-ILRF, December 2020; see also *The Two-Tiered System: Discrimination, Modern Slavery and Environmental Destruction on the High Seas*, Greenpeace, Inaugural Plenary Meeting of the ILO SEA Forum for Fishers 25-26 September 2019, Bali, Indonesia, https://www.greenpeace.org/usa/wp-content/uploads/2019/09/Greenpeace-Briefing-on-the-Two-Tiered-System_9.19.19.pdf.

when the employer has violated the law or both the employee and the employer have agreed to transfer the worker to a new employer.¹² For distant water fishers in particular, their recruitment agencies are able to change their employers with the approval of the Fisheries Agency, but the workers have no right to initiate such a change.

Taiwan has not implemented effective policies and other enforcement actions to manage systemic recruitment practices that contribute to severe forms of trafficking and forced labor. Migrant fishers, unfamiliar with Taiwanese law and lacking local language skills, have continued to be targeted by unscrupulous recruitment agencies, and were exploited by excessive recruitment-related charges and wage deductions. During the reporting period, the Ministry of Labor and the Fisheries Agency have not taken any steps to eliminate the imposition of recruitment fees on migrant workers or to promote direct hiring.

It is critical to ensure freedom of association rights in order to prevent severe forms of trafficking into forced labor, yet migrant workers in Taiwan's distant water fishing fleet continue to face significant barriers to exercising their rights to freedom of association, especially due to lack of Wi-Fi access on vessels. Taiwan's distant water fishing fleet does not guarantee Wi-Fi access to workers.¹³ Introduced in 2022, Taiwan's Wi-Fi subsidy program covers a small number of fishing vessels (5-10% of the fleet) and only requires that fishers have at least five minutes of Wi-Fi access per week.¹⁴ This is far from being adequate to ensure workers' rights to communication while at sea, which is critical for their ability to exercise fundamental labor rights while at work. As such, the majority of the more than 22,000 workers across over 1,100 vessels remain without access to two-way communication systems on board and are unable to report abuses in real time to their labor unions, the government, or service providers.¹⁵ Isolated and unable to seek help externally while working at sea, the fishers face a heightened risk of trafficking in persons.

Even though Taiwanese law allows foreign migrant workers the right to form and lead unions, without access to Wi-Fi and the ability to contact their unions, migrant workers are not able to exercise their fundamental rights to freedom of association and collective bargaining. While Taiwan has engaged productively with migrant workers and Taiwanese allies advocating for Wi-Fi on vessels so far, migrant workers in Taiwan's deep sea fishing fleet still remain without Wi-Fi access.

¹² Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=M0050061>.

¹³ The constitution of Taiwan, the Labor Union Act, and the Enforcement Rules of the Labor Union Act provide the legal grounds for freedom of association. The Labor Union Act was amended in May 2011 to allow foreign workers to serve as directors or supervisors of a union, which allows them to form and lead their own unions.

¹⁴ According to the Action Plan for Fisheries and Human Rights (May 2022) and a December 2022 announcement, the government will subsidize Wi-Fi installation for 60 vessels and monthly service fees for 110 fishing vessels between 2023-2025. Participating vessels would be required to allow foreign fishers to use Wi-Fi for at least five minutes per week and for at least six months; see "漁業與人權行動計畫 Action Plan for Fisheries and Human Rights," Council of Agriculture, Executive Yuan, May 2022, https://www.fa.gov.tw/view.php?theme=Rights_for_Foreign_Crews&subtheme=&id=27; see also 遠洋漁船經營者提供非我國籍船員無線網路使用輔導措施, Fisheries Agency, Council of Agriculture, Executive Yuan, December 2022, https://www.fa.gov.tw/view.php?theme=OceanShippingAct_RULE&subtheme=&id=15.

¹⁵ For more information, see "Wi-Fi Now For Fishers' Rights at Sea," GLJ-ILRF, <https://globallaborjustice.org/wifinowforfishersrights/>.

2022 TIP Report Recommendations

In the body of this submission, the SWG provides an assessment of Taiwan’s implementation of the 2022 TIP Report recommendations. As discussed further below and summarized in Table 1, Taiwan has made no or limited progress on the 2022 recommendations.

The position of the SWG is that while it is concerning that Taiwan has not made appreciable progress on the 2022 recommendations, Taiwan should fundamentally aim to prevent the causes of severe forms of trafficking and forced labor for migrant fishers in the first place, which are presented above, especially through ensuring freedom of association for fishers.

Table 1: Summary of findings

Recommendation	Assessment	Justification
1. Increase inspection in the distant water fleet	Limited Progress	The Fisheries Agency increased the number of “interviewers”, but lacked sufficient interpreters for migrant crew and are still not authorized to conduct official labor inspections or to penalize vessel operators. ¹⁶
2. Expand the mandate of foreign port-based Fisheries Agency personnel	Limited Progress	While the Fisheries Agency has hired new “labor interviewers,” they have not provided them with a legal basis for operating or with proper training.
3. Formally include civil society input into the labor broker evaluation process	Limited Progress	Three civil society organizations (CSOs) have been included in the process, however their recommendations have not been incorporated; there is no system for verifying the claims of the recruitment agencies with the reality of the recruitment process of fishers.
4. Amend relevant policies and legislative	No Progress	The Ministry of Labor and the Fisheries Agency have made no efforts to

¹⁶ The Ministry of Labor is authorized to conduct “labor inspections (勞動檢查),” which are official inspections for inspecting workplace labor conditions. However, these labor inspections do not cover distant water fishing vessels. The “vessel interviews (漁船訪查)” conducted by the Fisheries Agency, unlike the MOL’s “labor inspections,” are not backed by national law, and are therefore less effective in advancing labor rights. 漁船訪查 has been translated as “vessel interview.” In Mandarin, “訪” means visiting and interviewing, and “查” means inspecting. To differentiate between the Ministry of Labor and Fisheries Agency’s work in this report, “interview” refers to the practices undertaken by the Fisheries Agency, while “inspection” refers to the official practices carried out by the Ministry of Labor.

loopholes to eliminate the imposition of all recruitment fees and facilitate direct hiring		eliminate recruitment fees for migrant fishers or to coordinate with the origin countries to do so.
5. Continue to strengthen efforts to screen for trafficking among vulnerable populations	No Progress	Vulnerable populations face deportation due to structural problems with the immigration system and lack of protective mechanisms.
6. Extend trafficking victim identification authority to key stakeholder agencies	No Progress	Key government agencies have made no efforts to extend authority to CSOs and unions on the frontlines.
7. Increase resources for and implement anti-trafficking training for police, prosecutors, and judges	Limited Progress	Insufficient resources and support have been allocated to implement the anti-trafficking training.
8. Increase efforts to prosecute and convict traffickers	No Progress	The legal definition of human trafficking is unclear and insufficient, and very severe penalties have resulted in fewer prosecutions of cases of forced labor.

2. METHODOLOGY

This report is based on consultations with seven civil society organizations (collectively “CSOs” or “consulted CSOs”) in Taiwan during a workshop convened in February 2023 and individual meetings with Greenpeace Taiwan, Serve the People Association (SPA), Taiwan Association for Human Rights (TAHR), Taiwan Rerum Novarum Centre, the Yilan Migrant Fishermen Union (YMFU), Stella Maris Kaohsiung, and the Indonesian Seafarers Gathering Forum (FOSPI), as well as desk research to supplement and confirm findings by Global Labor Justice-International Labor Rights Forum (GLJ-ILRF), Greenpeace USA, and Humanity Research Consultancy. These CSOs are independent organizations working on a daily basis with migrant workers in Taiwan’s fishing industry. The purpose of collecting the information during the workshop was to track the Taiwanese government’s progress on adopting the prioritized recommendations made by the U.S Department of State’s Trafficking in Persons (TIP) Office in the 2022 TIP Report, eight of which relate to the fishing industry.¹⁷ The progress has been assessed and ranked as “No Progress,” “Limited Progress,” or “Significant Progress” and is summarized in the following section. Given the expertise of the Seafood Working Group (SWG) and partners, the scope of this submission is limited to the

¹⁷ There were nine prioritized recommendations in total; however, this report focuses on the eight that relate to the fishing industry; see *2022 Trafficking in Persons Report: Taiwan*, U.S. State Department, 2022, <https://www.state.gov/reports/2022-trafficking-in-persons-report/taiwan/>.

commercial fishing industry and focuses on developments during the 2023 TIP Report reporting period, April 2022 to March 2023.

3. MONITORING THE 2022 TIP REPORT RECOMMENDATIONS

This section analyzes the progress of the Taiwanese government against the eight recommendations from the TIP Office in its 2022 TIP Report that relate to the fishing sector. Based on this analysis, the Taiwanese government has made Limited Progress on four of the recommendations and No Progress on four of the recommendations. This represents insufficient progress during the reporting period to maintain a Tier 1 ranking.

1. Increase inspections and, where appropriate, prosecute the senior crew and owners of Taiwan-owned and -flagged as well as Taiwan-owned, foreign-flagged fishing vessels suspected of forced labor in the DWF, including vessels stopping in special foreign docking zones.

Limited Progress has been made under this recommendation during the reporting period. Taiwanese CSOs consulted for this submission report that while the government has attempted to increase inspections, the efforts have been insufficient to detect and deter wrongdoings on fishing vessels and are limited by the ongoing presence of Flag of Convenience (FoC) vessels – namely, vessels that are owned or funded by Taiwanese nationals but are purposefully flagged to other nations with weaker regulatory frameworks – within Taiwan’s fleet.

Taiwanese law mandates only the Ministry of Labor to carry out labor inspections, while the Fisheries Agency does not have a legal basis for doing so.¹⁸ In practice, the Ministry of Labor rarely conducts labor inspections on fishing vessels at ports. The Fisheries Agency has increased the number of interviewers to visit distant water fishing vessels; however, because the Fisheries Agency does not have the legal power to conduct “labor inspections” and can only conduct “labor interviews”, no fines or punishment can be imposed when they find misconduct on the fishing vessels. Participating CSO representatives who have observed the interviews conducted by the Fisheries Agency describe that the Fisheries Agency interviewers would simply ask the vessel owners to stop unlawful practices in the future while not taking any concrete action to hold them accountable for the found practices. They explain that there are a limited number of interpreters available onsite to communicate with migrant workers. In some cases, a single interpreter must assist two interviews simultaneously. The interview process takes less than two hours and is overseen and directed by a recruitment agency representative or the captain. This creates the potential for conflict of interest and may prevent fishers from reporting abuses to the interviewers.

Consulted CSOs who work in the ports regularly observe that when labor exploitation is identified, government agencies tend to avoid responsibility for investigating and

¹⁸ The Ministry of Labor is the authority in charge of the coastal-offshore fishing industry, while the Fisheries Agency is in charge of the distant water fishing industry. For more information, see *Labor Abuse in Taiwan’s Seafood Industry & Local Advocacy for Reform*, GLJ-ILRF, December 2020, <https://laborrights.org/publications/labor-abuse-taiwan%E2%80%99s-seafood-industry-local-advocacy-reform>.

prosecuting and waive the problems aside by claiming that what happened is not within their mandate. Moreover, they find that disputes between workers and the recruitment agencies where trafficking in persons may have occurred have not been actively investigated. The common rhetoric is that the recruitment agencies are not Taiwanese or that the vessel flag is not Taiwanese, despite the fact that the vessel owners and other individuals who have significant control of the fishing companies are Taiwanese.

One obstacle to identifying the exploitation is Taiwanese law enforcement bodies' limited understanding of the definition of human trafficking and forced labor. Only the most extreme violations, such as severe physical abuses and the practices of "selling people" are identified, while others involving nuanced abuse of vulnerability (an ILO indicator of forced labor) and coercion (an element of human trafficking according to the Palermo Protocol) tend to be overlooked. Migrant fishers facing salary deduction, withholding of wages, and inhumane working conditions — all of which are ILO indicators of forced labor — are not considered as potential victims of trafficking. CSOs consulted expressed that amendments to the legal definition of human trafficking and forced labor are urgently needed (see #8 in this section).

There are additional challenges conducting labor interviews on FoC vessels.¹⁹ As of March 31, 2023, the Fisheries Agency listed 242 FoC vessels in Taiwan's fleet.²⁰ However, the actual number of FoC vessels in Taiwan's fleet is believed to be at least three times larger than the official figure.²¹ Many FoC vessels are not captured in the Fisheries Agency's official list and therefore avoid being subject to labor interviews and scrutiny by authorities (see Case 1 below). In addition, FoC vessels do not often operate around Taiwan or dock in Taiwanese ports, making it difficult for governments to inspect these vessels.

Case 1: In June 2022, 48 migrant fishers working on two fishing vessels, MV Shang Fu and Nata 2, were brought in for investigation in Walvis Bay, Namibia by local authorities.²² Among them, 35 Filipino fishers were subjected to working conditions on the vessels with strong indicators of human trafficking and forced labor, including extremely long hours, confiscation of documents, and insufficient food and drinking water onboard.²³ These two vessels are Namibia-flagged, but according to the ongoing investigation by Taiwanese CSOs, it is believed that they are FoC vessels owned by Taiwanese nationals. Some of the fishers were recruited to work on these two vessels through an agency called Shang-Chi based in Kaohsiung, Taiwan, and it is suspected that the two vessels are owned by Shang-Fu Fishing Enterprise, a Taiwanese fishing company. Shang-Fu Fishing Enterprise shut down in October 2022, one month after the case in Namibia was exposed. These vessels are not included in

¹⁹ OFF THE HOOK How flags of convenience let illegal fishing go unpunished, Environmental Justice Foundation, 2020, <https://ejfoundation.org/resources/downloads/EJF-report-FoC-flags-of-convenience-2020.pdf>

²⁰ Fisheries Agency, FoC Vessel List, March 31, 2023, [https://www.fa.gov.tw/list.php?theme=LOCPLBTCOA&subtheme=.](https://www.fa.gov.tw/list.php?theme=LOCPLBTCOA&subtheme=)

²¹ "Vessels with Flag of Convenience and ghost vessels in the lawless context," The Reporter, 2018, <https://www.twreporter.org/i/slave-fishermen-naham3-focs-gcs>.

²² "FISHING COMPANY REJECTS HUMAN TRAFFICKING CLAIMS," Adam Hartman, Erongo, September 2022, <https://www.erongo.com.na/fishing-ero/fishing-company-rejects-human-trafficking-claims2022-09-06>.

²³ Human trafficking victims discovered on shadowy fishing vessels in Namibia, ADF, 2022, <https://adf-magazine.com/2022/10/human-trafficking-victims-discovered-on-shadowy-fishing-vessels-in-namibia/>.

the Fisheries Agency's current FoC vessel list. This case demonstrates the inability of the Taiwanese government to properly monitor and control FoC vessels invested in or operated by Taiwanese nationals.

2. Expand the mandate of foreign port-based fisheries agency (FA) personnel to include victim-centered screening for forced labor indicators among foreign fishing crew members; increase inspector coverage to all authorized overseas ports; train all maritime inspection authorities on victim identification, referral, and law enforcement notification procedures; and expand the availability of interpretation services for such inspections, especially for Bahasa and Tagalog languages.

Limited Progress has been made under this recommendation during the reporting period.

The recommendation called on the government to “expand the mandate of foreign port-based fisheries agency (FA) personnel to include victim-centered screening for forced labor indicators.” While the Fisheries Agency has hired new “labor interviewers”, they have not provided them with a legal basis for operating, as they are not covered by the current Labor Inspection Act. Moreover, these newly recruited labor interviewers are based in Taiwan and mainly conduct labor interviews at Taiwan ports.

This mandate issue also leads to inter-agency finger-pointing and confusion when it comes to whose responsibility it is to carry out labor inspections. Fisheries Agency interviewers are authorized to conduct interviews, but are not authorized to issue penalties to vessel owners if they refuse to have their vessels inspected. CSO representatives observing the interviews in Taiwanese ports reported that sometimes the Taiwanese-based Fisheries Agency would discuss the interview time with vessel owners in advance, calling into question issues of independence and the effectiveness of their role in conducting interviews. Regarding the call to “increase inspector coverage to all authorized overseas ports”, personnel from Taiwan’s Fisheries Agency based in foreign ports are still not authorized to conduct labor inspections.²⁴

Further, there is a lack of transparency around port inspections, and unlike the labor inspection conducted by the Ministry of Labor, the vessel interviews conducted by the Fisheries Agency are not backed by an official regulation. Participating members of civil society report that the Fisheries Agency is not transparent regarding interview procedures or the number conducted, and is selective in allowing civil society to observe interviews. As CSOs are not included as official members of these labor interviews on fishing vessels, the owners of the vessels have the right to reject the boarding request made by CSOs, and the Fisheries Agency has even demanded that these CSOs not intervene in the interview process.

A lack of training for inspectors is a chief concern of CSOs consulted this reporting period. The Fisheries Agency has hired new inspectors who have no prior experience in labor

²⁴ Port visit done by Humanity Research Consultancy in Suva, Fiji in February 2023.

interviews and who have not been properly trained. In addition, they have not actively taken up offers from the Ministry of Labor to assist with training.

The inspectors' lack of experience is illustrated by observations from CSOs consulted, such as the following:

Not recognizing red flags: *"I went with them to...labor inspections (meaning the interviews arranged by the Fisheries Agency)...There was a notice on the vessel saying if the fishers fight on the vessel, they will be fined 50 USD, which is very exploitative. The labor inspector did nothing but ask them to remove the notice."*

Not acting on red flags: *Observers consulted reported that inspectors would see red flags but would only note them, not address them in the moment. Additionally, there was a lack of ownership over the issues found. For example, there are reports that, when inspectors find that fishers were charged a deposit by an Indonesian recruitment agency, they will say, "Oh good it's Indonesian," as it requires no action on their part given that they do not have jurisdiction over Indonesian agencies.*

Asking improper questions: *"I've participated in the interviews with the [fishers on the] vessels. They will ask the fishermen, "Can you accept such long working hours?" If the fisher responds "yes", then they will not regard that as a problem. This shows that they don't understand what a victim-centered approach is about."*

Providing advance notice: *"The date [of interview] has been changed again and again. The vessel owners have also been informed of the date and time of the interview."*

Finally, interviewers were not using properly-trained interpreters, which observers witnessed has led to confusion and misinterpretation over technical questions during interviews. As explained above, there are also an insufficient number of interpreters, with one interpreter sometimes supporting two interviews at the same time.

Case 2: *The Shunjie vessel is a Taiwanese-flagged fishing vessel operating in the Tonga Islands. This vessel has been operating without Wi-Fi communication access for the migrant crew on board, and the 11 fishermen on this vessel reported to one of the CSOs consulted that they were working under exploitative conditions. On average, they worked 20 hours a day with little time to rest. In the event of work injury, the fishers can only wrap their wounds with wire tapes, as there are no medical bandages on vessels. The captain would even scold the fishers when they were ill and asked for medicine. The fishers on this vessel were only able to report these conditions when they borrowed Wi-Fi from fellow fishers during a 2022 port call. This case highlights the predicament of fishers not being covered by any protection provided by the government, as well as the risk of not having any accessible Wi-Fi communication channel for them to seek help externally, which can further put them at risk considering the dangerous nature of distant water fishing.*

Fishers may also go for very long periods of time without being paid before any issues are detected, as in the following case. This is an issue that can be addressed by actions such as increased labor inspections and guaranteed access to Wi-Fi while at sea.

Case 3: In April 2022, one CSO received a case regarding nine Indonesian fishers on the Lian Horng Fa vessel. The fishers reported that they had not been paid in 14 months, a sum of approximately \$63,000 USD each. Due to the lack of Wi-Fi access at sea, the fishers were unable to communicate with their families to confirm if they had received their salaries, and only found out after 14 months that they had not been paid. The CSO reported the case to the Fisheries Agency on April 15, 2022. After investigating, it was found that the vessel owner may have been involved in drug smuggling and was claiming to have insufficient funds to pay the workers. On April 28, the fishers accepted a NTD 50,000 (\$1,639 USD) payment and agreed to be transferred to other ships for work while waiting to receive the remaining salary payments from the Taiwanese recruitment agency. Between December 2022 and January 2023, the fishers were paid the remaining wages. The solution was to pay the salary from the deposit of the Taiwanese recruitment agency. It is not known if there were any penalties to the employer for the unpaid wages. While the Fisheries Agency was able to take action and ensure compensation for the fishers, an intervening period of 14 months between the lack of payments and the report to the Fisheries Agency highlights the lack of oversight over working conditions and enforcement of contracts on distant water vessels, as well as the difficulty of filing complaints and seeking compensation for migrant fishers.

3. Formally include civil society input into the labor broker evaluation process.

Limited Progress has been made under this recommendation. While Taiwan’s evaluation process committee was expanded to include some CSOs, the process has not been reformed to incorporate their recommendations. In particular, there is no system for verifying the claims of the recruitment agencies with workers or actual practices.

As explained in the SWG’s 2022 TIP Report submission, the majority of blue-collar migrant workers in Taiwan (including offshore fishers, factory workers, nursing workers, and domestic workers) have entered the country through private employment service institutions, which are recruitment or broker agencies. As of the end of 2022, there were about 50 human resources agencies certified for conducting the foreign worker recruitment business for distant water fishers.²⁵ From the perspective of Taiwanese CSOs consulted, the government uses these recruitment agencies as a tool to manage and control the migrant workers, while it fails to carry out a sound management system towards the foreign

²⁵ “Statistics of the certified foreign worker employment service institutions,” Ministry of Labor, 2023, <https://statdb.mol.gov.tw/html/mon/m50030.pdf>.

workforce in Taiwan.²⁶ Recruitment brokers have long been recognized as a key part of the process that leads to the exploitation of migrant workers in Taiwan.²⁷

In Taiwan, the Ministry of Labor and the Fisheries Agency each have an evaluation system for recruitment agencies. The role of these committees is to evaluate the performance of the Taiwan-based recruitment agencies and score the agencies using a standardized rating system. The Fisheries Agency evaluation committee evaluates agencies that recruit migrant workers for employment on Taiwan-flagged vessels in the distant water fleet. The committee is composed of representatives from the Fisheries Agency and the official Taiwan Cross-Strait Fisheries Cooperation Development Foundation, scholars, independent NGOs, and local government officials in areas with significant fishing activities (such as Kaohsiung, Pingtung, and Donggang).

In 2022, based on the recommendations of Taiwanese CSOs and the TIP Office, three independent organizations were included in the committee, namely, Stella Maris Kaohsiung, Rerum Novarum, and Serve the People Association (SPA).

There are significant remaining challenges with the Fisheries Agency evaluation system that are preventing the type of independent and thorough evaluation of the recruitment agencies needed to prevent abusive practices and keep out exploitative agencies:

- 1. The committee does not interview workers to verify the claims made by agencies.** This is a challenge because the majority of the committee members have close ties to the Fisheries Agency and fishing businesses and have little or no interaction with workers. According to Taiwanese CSOs consulted, the agencies will show videos of fishermen signing contracts and of fishermen watching videos about the recruitment process to prove that fishermen sign contracts of their free will. However, these videos of select fishermen are insufficient to account for the majority of fishermen going through the recruitment process.
- 2. The evaluation system is based on a review of documents provided by the agencies and completion of a checklist.** It is mostly a paperwork process between the evaluation team and the agencies. These records are prepared by the agencies themselves with no oversight, which means that abuses could be purposefully hidden. The majority of the committee members do not have any direct contact with migrant fishers, and there is no channel for incorporating fishers' perspectives into the committee process. The records also only show one point in time and do not show what might have happened to the workers later on, such as incurring wages deductions.

²⁶ See Section 3.1, *Comments concerning the Ranking of Taiwan by the United States Department of State in the 2022 Trafficking in Persons Report*, GLJ-ILRF, 2022, <https://laborrights.org/sites/default/files/publications/SWG%20Taiwan%20TIP%20Report%202022%20Submission%20Final%20April-7-2022.pdf>.

²⁷ "Review of the Initial Reports of the Government of Taiwan on the Implementation of the International Human Rights Covenants," Concluding Observations and Recommendations Adopted by the International Group of Independent Experts. No. 39, Covenants Watch, 2013, https://covenantwatch.org.tw/wp-content/uploads/2018/12/2013-ICCPR-ICESCR-CORs_EN.pdf.

- 3. The independence of the evaluation teams is undermined by existing relationships between some evaluators and the fishing industry.** In one incident, an independent CSO was assigned to review an agency; however, they were replaced at the last minute with a different evaluator with known connections to the fishing industry. Even if the CSOs members are included in the evaluation team, it is still possible for the recruitment agency to manipulate the system and have them replaced, for example, by accepting a recruitment agency's last-minute request to change the date of the evaluation, making it impossible for a CSO to participate.

In addition, the labor broker evaluation system may also be incentivizing brokers to control the freedom of movement of migrant workers. Among all the indicators the Taiwanese recruitment agencies are evaluated against, one indicator is on how many of their contracted migrant workers became “runaway workers” or “undocumented workers”. Because of that, even though the law has forbidden agencies to retain migrant workers’ personal documents, workers still repeatedly face their passports and other personal documents being held by the agencies, a method to control their freedom of movement. The Indonesian Seafarers Gathering Forum (FOSPI), located in Donggang and represents more than 2,500 Indonesian fishermen working on Taiwanese fishing vessels, reported that 80-90% of their members do not currently maintain their passports and other documents. These documents are maintained by recruitment agencies or their employers. The evaluation system thus has the unintended consequence of encouraging the agencies to control the workers’ freedom of movement and institute practices such as document withholding. This highlights the power of the recruitment agency and the limited extent to which they are regulated under Taiwanese law.

The Taiwanese CSOs consulted for this submission recommended that the evaluation committee should include fisher representatives and experts and practitioners who understand the day-to-day situation pertaining migrant labor in the fishing industry. The Taiwanese CSOs consulted for this report recommended that the evaluation committee should assess the contracts signed by migrant fishers even before they come to Taiwan — contracts for the origin country and Taiwan — including the scope and salary, and to investigate the service quality and how much the recruitment agency has earned from these recruitment practices. Furthermore, the CSOs consulted recommend that the results of the evaluation are shared with the origin countries and that potential migrant crew are able to review this information prior to selecting a recruitment agency.

4. Amend relevant policies and legislative loopholes to eliminate the imposition of all recruitment, registration, and service fees and deposits on workers, and coordinate with sending countries to monitor and harmonize contract provisions and facilitate direct hiring.

There has been No Progress on this recommendation during the reporting period. The Ministry of Labor and the Fisheries Agency have made no efforts to eliminate recruitment fees for migrant fishers or coordinate with the origin countries to do so.

Lack of governance in the overseas recruitment system

In practice, most Indonesian migrant workers working in Taiwan were recruited by recruitment agencies in Indonesia, which coordinate with recruitment agencies and employers in Taiwan. Workers typically pay recruitment fees to recruitment agencies in Indonesia — a piece of the process that is regulated by the Indonesian government.

The discriminatory two-tier recruitment scheme in Taiwan

In Taiwan, there are separate sets of regulations that govern the recruitment of distant water fishers and other types of fishers and workers. Distant water fisher recruitment is governed and monitored by the Fisheries Agency, whereas other migrant worker recruitment by the Ministry of Labor.²⁸ The Fisheries Agency has less monitoring capacity than the Ministry of Labor, and when it comes to legislation, there is far more vagueness and a lack of specificity around what fees can be charged to distant water fishers.

For example, while legislation indicates that fees charged must be included in the contract, it does not indicate what counts as allowable “service fees”, which leaves room for potential abuses and unjust charges.²⁹ As explained in the SWG’s 2022 TIP Report submission, it is common practice for migrant workers, including offshore fishers, domestic workers, and factory workers, to pay fees to Taiwanese agencies ranging from NTD 50,000 (\$1,897 USD) to NTD 70,000 (\$2,529 USD) to be introduced to a new job or be transferred to a new employer even though recruitment agencies are not permitted under Taiwanese law to charge up-front placement fees.³⁰

Legally permissible recruitment fees

Taiwanese legislation does permit the charging of certain fees by recruitment agencies once workers are employed, but workers are often charged more than the legally permissible amount. According to the Ministry of Labor’s Standards for Fee-charging Items and Amounts of the Private Employment Services Institution,³¹ recruitment agencies in charge of the recruitment of foreign blue-collar workers, including offshore fishers, factory workers, nursing workers, and domestic workers, are allowed to charge them a monthly service fee: up to NTD 1,800 (\$65 USD) per month in the first year of a worker’s employment, NTD 1,700 (\$62 USD) for the second, and NTD 1,500 (\$54 USD) for the third and the following years. Some fishers have reported having their monthly salary deducted beyond the legal standard. According to a survey conducted by Stella Maris Kaohsiung, between 2021 and 2022, more than 100 workers made complaints about their salary. Among them, 60% had their wages deducted between NTD 1,500 (\$54 USD) and NTD 4,500 (\$149 USD) per

²⁸ Standards for Fee-charging items and amounts of the private employment services institutions, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=N0090028>; Regulation on the Authorization and Management of Overseas Employment of Foreign Crew Members; <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=M0050061>.

²⁹ Standards for Fee-charging items and amounts of the private employment services institutions, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=N0090028>; Regulation on the Authorization and Management of Overseas Employment of Foreign Crew Members; <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=M0050061>.

³⁰ Standards for Fee-charging items and amounts of the private employment services institutions.

³¹ Law and Regulations Database of the Republic of China (Taiwan) (2023). Standards for Fee-charging Items and Amounts of the Private Employment Services Institution.

month.³² This practice is clearly against the ILO *General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs*, which states that workers and job seekers should not pay any recruitment fees or related costs.³³

Fishers unable to receive salary directly from their employers

The Fisheries Agency requires salaries to be paid to workers directly by the employer; in practice, however, the salary often passes through the recruitment agency. This causes a range of problems, including migrant fishermen failing to receive payments when Taiwanese or Indonesian recruitment agencies do not make the transfer.

Case 4: In a recent case received by a CSO in 2022, an Indonesian recruitment agency opened bank accounts for the workers they recruited, but withheld their debit cards and passwords, meaning neither the workers nor their family members have direct access to their salary deposits. If the workers or their families needed money, they would have to “borrow” money from the agency. This case demonstrates a typical situation in which recruitment agencies can be in control of the workers’ finances, creating another layer of exploitation.

Case 5: Another case in March 2022 highlights the poor handling of recruitment-related cases by the government. The captain of a Taiwanese vessel attempted to fire a fisherman who had been working for six months and had three months remaining in his contract. There were several issues with the terms of his employment and payment. First, his family had only received part of his salary, and the salary on his contract was \$140 USD per month lower than the legal minimum of \$450 USD per month at that time. Second, the name of the vessel he was working on was different from the name on the contract. Third, his contract was written using a template provided by the Philippine government, and the terms were not aligned with those of Taiwan. The Fisheries Agency asked the employer to bring this fisherman to Qianzhen Office and asked the employer to pay him the final three-months owed wage and to ensure it was \$450 for each month. As for the previous three months, the employer said they already gave the money to the agency, and it was not their responsibility. The employer did not ensure if the money was given to the worker after transferring it to the recruitment agency. The Fisheries Agency took no further action to support fishers in receiving the unpaid wages that the worker was legally entitled.

CSOs surveyed also witnessed exploitation in the shipbuilding industry.

Case 6: For example, a situation with CSBC Coating Solutions Co., Ltd, a Taiwanese shipbuilding company, demonstrates the Taiwanese government’s lack of regulation of recruitment service institutions involved in the recruitment of foreign workers. In 2022, two men who reported this case to a CSO, were recruited to work for CSBC

³² *Protecting and empowering seafarers and fishers*, Stella Maris Kaohsiung, 2022. This unpublished paper has been submitted to the TIP Office to supplement this report.

³³ General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs, Article 17, ILO, 2019, https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_536755.pdf.

*Coating Solutions Co., Ltd. in Taiwan.*³⁴ These two workers were deceptively recruited through the white-collar scheme in Taiwan.³⁵

The two men who reported this case received the job offer by email when they were in Batam, Indonesia, which stated that they would be contracted by Sheffield Green Singapore to work for CSBC in Taiwan, undertaking work as structure fitters. They were asked to have a medical checkup in Batam. The application process took two weeks after they submitted the required documents to a broker in Batam. The contract was issued to these workers a day before their departure, and they were taught by the representative assisting them at the airport to tell the immigration officer that they are going to Taiwan to work as a “professional worker” (white-collar worker).

Upon arrival, these two workers were placed in dorm rooms shared by 16-20 workers, and received NTD 16,000 (\$526 USD) per month, which was far less than the minimum salary of NTD 26,400 (\$835 USD) in Taiwan. One of them was accused of breaking the workplace regulation by “leaving work too early,” and another was unable to receive medical treatment when he was sick. They sought help from Stella Maris, a CSO supporting migrant fishers in Taiwan, and contacted the local Labor Bureau and the 1955 migrant worker hotline in Taiwan. However, the government agencies were unable to intervene, and the two men were deported back to Indonesia.

Based on preliminary information received, it is possible that 400 other workers were deceptively recruited through the same illicit scheme in 2022.

Recruitment agencies withholding payment

In addition, there were cases in which the fishers’ salaries were taken away by the recruitment agencies in Indonesia. In these cases, the Taiwanese employers were paying the fishers through their recruitment agencies, which meant the fishers were not able to directly receive their salaries. The unethical Indonesian agencies collected the salaries of the fishers, claimed bankruptcy, and disappeared from the market, leaving the fishers without any means to redeem their salaries. These kinds of problematic brokers continued to exist in Taiwan’s migrant labor market, demonstrating the government’s negligence to manage the recruitment practices in Taiwan.³⁶

The Taiwanese CSOs recommended that recruitment agencies be entirely removed from the overseas employment system; and that employers should directly hire foreign workers and pay for their recruitment fees and related costs in their entirety, in accordance with ILO guidance. The consulted CSOs also recommend that employers transfer fishers’ salaries directly into their bank accounts in Taiwan to prevent Taiwanese recruitment agencies from making deductions from workers’ salaries.

³⁴ “Introduction of the company,” CSBC Corporation, 2023, <https://www.csbcnet.com.tw/English/>.

³⁵ “Resident visas for white collar workers,” Bureau of Consular Affairs, 2022, <https://www.boca.gov.tw/cp-166-276-48430-2.html>.

³⁶ Based on cases collected by Humanity Research Consultancy.

Recruitment of fishers on to FoC vessels

The Fisheries Agency does not monitor the recruitment of migrant fishermen to foreign-flagged vessels. It leaves those fishermen vulnerable to human trafficking during the recruitment process due to the lack of government oversight of FoC vessels (see Case 1).

Unilateral contract termination and deportation

An emerging policy issue regarding migrant fishers in this reporting period is unilateral contract termination and deportation. Incidents of unilateral contract termination and forced deportation have been reported to CSOs and unions supporting migrant fishers in recent months.

Case 7: In one case in January 2022, a group of Indonesian migrant fishers were suddenly picked up by a recruitment agency and told they would be deported in the afternoon. The crew contacted Stella Maris Kaohsiung for assistance as to why they were suddenly being deported from Taiwan even though they still had valid contracts for another one and a half years. The recruitment agency's interpreter said that the employer didn't want them anymore because they were lazy, they threw the catch back into the water, and other false accusations that slandered the fishers. CSOs supporting these workers suspect that the captain no longer needed the crew, and this was an easy solution for them as there is no oversight on the fishing vessels or any way for migrant workers to dispute the claims against them.

Unlike other categories of workers, distant water fishers are unable to seek new employment in Taiwan (explained more under Recommendation 6 below). In these cases, they are deported from Taiwan, lose the recruitment fees paid, and are unable to claim back unpaid wages.

5. Continue to strengthen efforts to screen for trafficking among vulnerable populations, including ... foreign workers falling out of visa status within Taiwan after fleeing abusive working conditions and/or surrendering to immigration authorities, and refer them to protective services.

The government has made No Progress under this recommendation during the reporting period. From the perspectives of the CSOs consulted, there were three key trends during the reporting period that indicate the government has made insufficient progress in strengthening efforts to screen for trafficking among foreign workers falling out of visa status within Taiwan after fleeing abusive working conditions and/or surrendering to immigration authorities.

Given issues in protection mechanisms addressed elsewhere in this submission, workers who experience exploitative working conditions often feel they are left with no choice but to leave their employers. However, there are several caveats of the Taiwanese employment system that make a migrant workers' choice to leave an employer particularly challenging:

1. **The legal system for blue-collar migrant workers classifies them as undocumented workers and criminals and not as potential victims of human trafficking.** This arises due to the Immigration Act, which states that the National Immigration Agency shall deport foreigners who overstay their visits in Taiwan.³⁷ Functionally, this means that when an employee leaves an employer and the employer terminates their contract and cancels their visa, the individual will be left with no legal status and is subject to deportation. Further, the Employment Service Act, states that “no foreign worker may engage in work within the Republic of China should his/her employer have not yet obtained a permit via application.”³⁸ The Ministry of Labor previously stated that if undocumented workers working illegally in Taiwan turned themselves in within a certain period of time, they would be imposed a reduced penalty of NTD 30,000 (\$1,024 USD) to NTD 150,000 (\$5,120 USD), deported back to their country of origin, and could never apply to work in Taiwan again.³⁹ Later, the Immigration Agency used the threat of greatly increased fees after this period, to encourage workers to turn themselves in.⁴⁰ These policies do the opposite of strengthening screening efforts; they criminalize victims, and they must be reformed. Moreover, the high penalty intimidates undocumented migrant workers who have been exploited by their previous employers, preventing them from reporting potential cases of trafficking in persons to the authorities, and negatively impacting the Taiwanese government’s ability to prevent human trafficking.

2. **There are not adequate protective services for safe support leaving workers vulnerable to re-exploitation.** Workers leaving exploitative employers are often not protected by any authorities, nor referred to protective services, and are thereby left with nowhere to turn for support. As the only avenue to regularize their immigration status is to find a new job, they turn to a recruitment agency to secure new employment. In this situation, there is a large imbalance of power between the worker and the recruitment agency. The CSOs surveyed reported that this can lead to additional exploitation, including the charging of illegal fees.

3. **Some categories of migrant workers are legally unable to leave their employer even if they are faced with exploitation, which trafficking screening needs to**

³⁷ Law and Regulations Database of the Republic of China (Taiwan) (2023), Immigration Act, Article 15, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0080132>.

³⁸ Law and Regulations Database of the Republic of China (Taiwan) (2023), Employment Service Act, Article 43, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=N0090001>.

³⁹ Responding to the Secretary Director Yeh’s comments on the ‘escaped migrant workers’, Ministry of the Interior, 2019, https://www.wda.gov.tw/News_Content.aspx?n=949874E4899E18ED&sms=59A1456A835E6B2A&s=7CBF7DE6030955E5#:~:text=%E5%8B%9E%E5%8B%95%E5%8A%9B%E7%99%BC%E5%B1%95%E7%BD%B2%E5%85%A8%E7%90%83%E8%B3%87%E8%A8%8A%E7%B6%B2&text=%E5%8B%9E%E5%8B%95%E9%83%A8%E8%AA%AA%E6%98%8E%EF%BC%8C%E7%A7%BB%E5%B7%A5,120%E8%90%AC%E5%85%83%E4%BB%A5%E4%B8%8B%E7%BD%B0%E9%87%91%E3%80%82.

⁴⁰ Responding to the Secretary Director Yeh’s comments on the ‘escaped migrant workers’, Ministry of the Interior, 2019, https://www.moi.gov.tw/News_Content.aspx?n=8&s=14673#:~:text=%E4%B8%8D%E8%AB%96%E6%98%AF%E5%A4%B1%E8%81%AF%E7%A7%BB,%E6%A1%88%E8%80%85%EF%BC%8C%E9%83%BD%E6%9C%83%E5%8A%A0%E9%87%8D%E8%99%95%E7%BD%B0%E3%80%82.

take into account. Distant water fishers are not legally entitled to the right to change jobs in Taiwan as they are considered to be “employed overseas,” even if they are working for Taiwanese vessels.⁴¹ This is a structural problem stemming from the two-tiered employment system, under which only “domestically employed” workers are able to change jobs. In order to change jobs, migrant fishers in the distant water industry would need to terminate their contract and return to their home country, then seek new employment. In practice, this means that migrant fishers in abusive situations may return to their home countries without any screening for human trafficking, forced labor, or other abuse. It also means they are faced with an unnecessarily difficult decision of staying with an abusive employer or leaving their job and returning home, where they would be vulnerable for re-exploitation, especially if they are victims of debt bondage.

6. Extend trafficking victim identification authority to key stakeholder agencies.

CSOs report that the key stakeholder agencies, including the National Immigration Agency and the Ministry of Labor, have made No Progress on this recommendation.

CSOs recommend that the government extend the authority to identify trafficking victims to CSOs and unions as they work on the frontlines and have long-term, trusted relationships with workers, enabling them to gather sensitive information from at-risk populations. Taiwan will continue to underreport the number of trafficking victims until it expands its victim identification authority.

7. Increase resources for and implement anti-trafficking training for police, prosecutors, and judges.

The government has made Limited Progress under this objective during the reporting period.

In 2023, the annual budget allocated to the National Human Rights Council is NTD 131 million (\$4.2 million USD),⁴² representing a NTD 6 million (\$195,000 USD) reduction compared to the budget in 2022.⁴³ With the ongoing labor rights crisis and low government capacity to effectively prevent human trafficking against migrant workers, the budget cut for human rights may lead to a reduction in the already insufficient resources in anti-trafficking-related training and programs. This is in direct contradiction to the recommendation to increase resources in this area.

⁴¹ Law and Regulations Database of the Republic of China (Taiwan) (2023), Regulations on Authorization and Management of Overseas Employment of Foreign Crew Members, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=M0050061>.

⁴² Chiu Tsai-Wei, “The budget for the Control Yuan has been increased by NTD 43.4 million; the National Human Rights Council was allocated with 130 million,” 2022, <https://udn.com/news/story/6656/6604793>.

⁴³ Lai Yu-Jen, “The National Human Rights Council’s budget was increased to NTD 20 million,” 2021, <https://www.cna.com.tw/news/aipl/202109080362.aspx>.

The Taiwanese government has become aware of the importance of training and education regarding trafficking victim identification and the implementation of the Human Trafficking Prevention Act. Nonetheless, according to the frontline CSO workers consulted, the existing resources for anti-trafficking training are far from sufficient.

In May 2022, the Executive Yuan published Taiwan's first-ever National Human Rights Action Plan.⁴⁴ This action plan designates the Human Trafficking Prevention and Racial Discrimination Elimination Coordinating Meeting coordinated by the Executive Yuan to be in charge of the protection of migrant workers' rights and the prevention of human trafficking.⁴⁵ It also mentions that the government will conduct a "Seed Instructor Training Program for Investigating Cases of Human Trafficking," aiming at empowering the staff at relevant authorities to handle and investigate cases of human trafficking.⁴⁶

The official training programs mentioned above are supposed to provide all relevant law enforcement officers with the proper skillset to identify trafficking victims and investigate cases of trafficking. However, the CSOs consulted in Taiwan have seen insufficient progress towards this goal in the reporting period. They take the plans and promises made by the government with a grain of salt and are highly suspicious regarding the effectiveness of these training programs for the following reasons. Firstly, most training was conducted online, without any face-to-face discussion or practice sessions. Secondly, not all law enforcement officers completed the training before onboarding. Finally, some of the positions in Taiwan's law enforcement authorities operate on rotation, and new batches of officers who were rotated to the post may not be required to complete this training.

8. Increase efforts to prosecute and convict traffickers under the anti-trafficking law, and sentence convicted traffickers to adequate penalties, which should include significant prison terms.

No Progress was made under this recommendation during the reporting period. As was explained in the SWG's 2022 TIP Report submission, Taiwan's existing Human Trafficking Prevention Act is impractical, making it difficult for the authorities to prosecute or convict the suspected traffickers. Taiwan's juridical system regards trafficking as a felony that is as severe as murder and robbery. In reality, many criminal practices that constitute a case of human trafficking, such as the withholding of wages and deception, are considered to be less serious crimes that do not amount to felonies. As a result, it is challenging for law

⁴⁴ 臺灣首部「國家人權行動計畫」, Executive Yuan, <https://www.ey.gov.tw/Page/5A8A0CB5B41DA11E/023535d2-10e0-484e-a737-c98d24a3a2c4>.

⁴⁵ Executive Yuan, National Human Rights Action Plan, 2022, at 21, <https://www.ttsb.gov.tw/media/5363/%E5%9C%8B%E5%AE%B6%E4%BA%BA%E6%AC%8A%E8%A1%8C%E5%8B%95%E8%A8%88%E7%95%AB-%E8%A1%8C%E6%94%BF%E9%99%A2%E6%A0%B8%E5%AE%9A%E7%89%88.pdf>.

⁴⁶ Executive Yuan, National Human Rights Action Plan, 2022, at 21, <https://www.ttsb.gov.tw/media/5363/%E5%9C%8B%E5%AE%B6%E4%BA%BA%E6%AC%8A%E8%A1%8C%E5%8B%95%E8%A8%88%E7%95%AB-%E8%A1%8C%E6%94%BF%E9%99%A2%E6%A0%B8%E5%AE%9A%E7%89%88.pdf>.

enforcement officers to prosecute the suspects in these cases under the Human Trafficking Prevention Act.⁴⁷

The current Human Trafficking Prevention Act⁴⁸ does include severe prison terms for violators, but due to the severe punishment and unclear definition of human trafficking described by the law, the anti-trafficking law is rarely used to prosecute cases of victims who were legally employed and then exploited for forced labor. Criminal cases in which the mafia intentionally trafficked victims using violence or deception to exploit their labor or for organ trafficking abroad are prosecuted under the anti-trafficking law.⁴⁹ Yet, criminal cases involving exploited workers, including on fishing vessels, are rarely brought. On April 20, 2022, nine people related to the infamous Da Wang vessel were prosecuted under the Human Trafficking Prevention Act⁵⁰ after the U.S. Customs and Border Protection (CBP) published their findings that Da Wang used forced labor in its operations.⁵¹ The vessel was previously sanctioned with a Withhold Release Order (WRO) by CBP in July 2020, denying entry of its goods into the United States, pending further investigation and conclusive evidence. Beside the Da Wang vessel, during the reporting period, no other Taiwan-owned or -flagged fishing vessels have been prosecuted for human trafficking.

At the moment, there is an ongoing discussion between some CSOs and members of the Legislative Yuan regarding amendment of the law, but the timeline for implementing changes is not yet clear. These CSOs have been advocating to amend the law for more than a decade. The definition of human trafficking in the current version of the Human Trafficking Prevention Act is overly narrow and does not align with the Palermo Protocol. For example, the unclear definition of practices of misconduct relevant to trafficking makes it difficult for the government to charge individuals for the more serious crimes in the law. Additionally, the definition of “debt bondage” in this Act is not comprehensive of the debt-related exploitation faced by migrant workers in Taiwan.⁵² The CSOs consulted have recommended the law include an actionable and more precise and internationally-recognized definition of human trafficking and forced labor, rather than focusing on the prison terms.⁵³

⁴⁷ *Comments concerning the Ranking of Taiwan by the United States Department of State in the 2022 Trafficking in Persons Report*, GLJ-ILRF, 2022, <https://laborrights.org/sites/default/files/publications/SWG%20Taiwan%20TIP%20Report%202022%20Submission%20Final%20April-7-2022.pdf>.

⁴⁸ Human Trafficking Prevention Act, Ministry of Interior, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0080177>.

⁴⁹ Pei-Sun Chang, *Exposing the organ harvesting trade organisation in Taiwan - victims being trafficked to Cambodia*, 2022, <https://bit.ly/3novSmk>.

⁵⁰ 臺灣高雄地方檢察署 Taiwan Kaohsiung District Prosecutors Office 新聞稿 (111.4.20) 發稿人：襄閱主任檢察官徐弘儒, <https://bit.ly/3zbgoon>.

⁵¹ “CBP Issues Detention Order on Seafood Harvested with Forced Labor,” CBP, September 18, 2020, <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-detention-order-seafood-harvested-forced-labor-0>.

⁵² *Comments concerning the Ranking of Taiwan by the United States Department of State in the 2022 Trafficking in Persons Report*, GLJ-ILRF, 2022, <https://laborrights.org/sites/default/files/publications/SWG%20Taiwan%20TIP%20Report%202022%20Submission%20Final%20April-7-2022.pdf>.

⁵³ “Press conference on the amendment of the Human Trafficking Prevention Act,” Taipei Women’s Rescue Foundation, 2017, <https://www.twrf.org.tw/info/title/397>.

4. RECOMMENDATIONS

The SWG supports the recommendations made by the U.S. State Department TIP Office to the Taiwanese government in 2022. In addition, we ask the TIP Office to support the following recommendations to the Taiwanese government:

1. Abolish the overseas employment scheme for migrant fishers, apply the Labor Standards Act to all fishers, and ensure that all migrant fishers are governed by the Ministry of Labor and thus afforded the same rights and protections as Taiwanese fishers.
2. Establish a clear timeline for swift and full domestication and implementation of the ILO Work in Fishing Convention, 2007 (No. 188).
3. Increase inspections of Taiwan-owned and -flagged as well as Taiwan-owned, foreign flagged vessels, and prosecute the owners and senior crew suspected of forced labor, especially among distant water fishing vessels.
4. Deploy labor inspection personnel in foreign ports where Taiwan's distant water fishing vessels are authorized to port, and train all maritime-related inspection authorities on victim identification and law enforcement.
5. Increase transparency in the fishery sector by requiring disclosure of vessel position (i.e. publishing Vessel Monitoring System or Automatic Identification System data, punishing vessels for turning either system off), 100% observer coverage (independent human or effective electronic catch monitoring, such as camera and remote sensor), and ensuring the safety of all observers on all fishing vessels.
6. Ensure accessible and encrypted Wi-Fi access on all distant water fishing vessels in Taiwan's fleet.
7. Ensure migrant workers' internationally-recognized rights to freedom of association and collective bargaining in accordance with ILO Conventions 87 and 98, including protection against retaliation for organizing and union activity, and ensuring non-interference with independent worker organizations by employers or the government.