

The Response of the Fisheries Agency to the GJL-ILRF Regarding Labor Abuse in Taiwan's Seafood Industry and Local Advocacy for Reform

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In recent years, the issue of protection of foreign crew members' rights and benefits has received attention from non-governmental organizations (NGOs). Notwithstanding that the Fisheries Agency (FA) is the competent authority of the management of fishery resources, it endeavors to improve the protection of the rights and benefits of the crew members and listens to opinions from different sectors. The FA appreciates the comments and hopes to continue receiving practicable suggestions in addressing the problems we are facing right now. The FA believes that, with the efforts of the industries, NGOs, and the government, the needs of the fishery industry will be satisfied, and the labor rights in fisheries will be protected, creating a win-win situation.

The report presented in GLJ-ILRF compiled relevant documents, and we noticed that some documents were based on personal views. Moreover, some conducted unilateral interviews with only crew members of specific cases and inferred from their narratives. Views from the vessel owners were not presented in the documents. The vessel owners did not have a chance to be interviewed and provide their explanations. For example, the report cited Greenpeace's report on the case involving Chun-Yi No. 217, while Chun-Yi No. 217 was merely navigating and passing through the waters where the pirate incident happened,

and the investigation demonstrated that people floating on the sea were not crew members on Chun-Yi No. 217. Another example is the case of Tunago No. 61, a fishing vessel flagged in Vanuatu. The U.S. CBP had revoked its Withhold Release Order based on information obtained by CBP and considered tuna and tuna products from this vessel were no longer produced under forced labor conditions. The CBP then removed the vessel from the list of Trafficking in Person. As a result, this report lacks comprehensive, objective and equitable verification and may be subject to partiality or subjective identification.

Regarding the uncertainty and deficiencies cited in the report as well as the proposed improvements, the FA hereby presents a response to clarify and elucidate current improvement measures.

- I. Regarding the two-track system of the employment of foreign crew members, which the Ministry of Labor and the FA administers separately:
 - i. The Ministry of Labor considers those foreign crew members onboard Taiwan's distant water fishing vessels are not subject to the Labor Standards Act because those crew members are employed overseas, laid off overseas, and returned directly to their home country after the fishing operation finished. Since 2017, the FA has established the Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members (the Regulations) pursuant to the Act for Distant Water Fisheries, raising the legal level of management and clarifying legal authorization to enhance protection.

ii. Before the establishment of the Regulations, the wage of foreign crew members employed overseas by Taiwanese distant-water fishing vessels was determined by the international market mechanisms. At that time, foreign crew members who had never been on a fishing boat were paid approximately USD 250 and gradually increased based on their experience. After the Regulations entered into force in 2017, foreign crew members employed overseas and work onboard Taiwanese vessels are guaranteed to have a minimum wage of USD 450. In addition, the Regulations implement relevant measures and require commercial insurance, etc. Since crew members seldom enter domestic ports, commercial insurance becomes a more timely and feasible option to give protections to crew members. Before signing the employment contract, foreign crew members are required to watch a video explaining their basic rights and obligations, and the entire process will be recorded.

II. Regarding excessive working hours as pointed out by the report:

Fishery is a hunting industry. The operation onboard a fishing vessel is different from working on land, in which the time workers enter the factory is considered as the start of working hours and the time after leaving the factory would be rest hours. In contrast, the fishing vessel becomes the sole place where fishery crew members work and rest once the vessel goes out to the sea. Generally, rest hours

include the period of navigation and fish finding, unless the crew member is on duty. When a school of fish appears, the crew members are required to engage in fishing operations immediately to maintain the freshness of the caught fish. The fishing operation lasts and cannot be interrupted until the whole process completed. Due to the intensity and continuity of the fishing operation, working hours encompass the period of fishing operation at sea, fish processing, and gear repair. The remaining time is regarded as hours of rest. Current regulations refer to the Work in Fishing Convention of the International Labor Organization (ILO C188), requiring the minimum hours of rest per day to be at least ten hours and the minimum rest days per month to be at least four days. The FA will also take actions to ensure the implementation of such requirements.

III. Regarding recruitment fees, wage reduction and debt bondage:

The Regulations carried out in 2017 articulated that the agent shall not charge fees under false pretenses. The amendment in 2019 also referred to relevant provisions in ILO C188, requiring no fees or other charges for recruitment or placement of fishing crews be borne by the fishing crew. Therefore, domestic agents shall not withhold wages as penalty for breaching the contract or as indemnity.

IV. Regarding living conditions:

- i. The FA has been conducting interviews with foreign crew members when distant water fishing vessels return to

domestic ports. The interviewees will watch a video made in their native language, and the interviewer will make sure they have a thorough understanding of the interview process. As of September 2020, the interview result shows that rare cases involve the aforementioned labor abuses; on the other hand, 15 interviewees reported issues with unclean drinking water. In fact, drinking water on fishing vessels is unlikely to be insufficient as the vessels not only carry fresh water but also are equipped with seawater desalination machine. For longer trips, problems may occur as drinking water generated from seawater desalination machine becomes odorous due to unboiled water or uncleaned machine. In this regard, the FA has issued administrative guidance to request ship owners to improve. Besides, some crew members are unsatisfied with the food onboard. As far as the Agency investigates, the complaint is mainly because of disagreeable taste and the lack of fresh vegetables onboard during the long voyage. Very few are due to religious reasons. Although the vessel owners have given evidence to prove they provided enough rice, vegetables, and meat, this Agency also issued administrative guidance to the owners, requiring them to improve and respect crew members' eating culture. As for maintaining a clean living environment on fishing vessels, all crew members on board the vessel bear the responsibility to keep the environment clean since all share the space. This Agency will continue to advocate the importance of maintaining hygiene on fishing vessels to vessel owners,

captains, and all crew members.

ii.

Regarding onshore facilities: To facilitate physical and mental health of foreign crew members, this Agency has continued to establish recreation centers at major ports, planned to set up onshore accommodations for foreign crew members near Qianzhen Fishing Port and Nanfangao Fishing Port, and arranged to install shower facilities at ports in which more than 200 foreign crew members gather.

- V. Regarding the inadequate safety on the fishing vessels: According to the Ship Equipment Regulations, every fishing vessel must equip with sufficient life jackets for all people aboard, in consistent with the International Convention for the Safety of Life at Sea. In general, life jackets are stored in cabins and are subject to regular inspections to ensure navigation safety for the personnel onboard. In the future, this Agency will strengthen its policy advocacy, requesting vessel operators (masters) to store life jackets in places accessible. Currently, the life jackets in widely use onboard are bulky, causing inconvenience when working. This Agency has convened several meetings to find the solution and work with the Industrial Technology Research Institute and related businesspersons to improve the material used to make the life jackets to promote their utilization.
- VI. Regarding issues of mistreatment, forced labor, and human

trafficking mentioned in the report sourced from NGOs:

- i. Taiwan has zero-tolerance for verbal and physical abuse onboard fishing vessels. If abuse and violence reports potentially involve human trafficking, this Agency would refer the cases to judicial investigation pursuant to the Human Trafficking Prevention Act. For example, five alleged cases were transferred pursuant to the law and charged with human trafficking in 2018 and 2019. Furthermore, this Agency surveyed nearly 40% of the foreign crew members onboard the distant water fishing vessels from 2017 to 2019; therefore, the above individual cases shall not be directly amplified as general situation.
- ii. The FA has promulgated the Standard Operation Procedures for Reporting and Processing Cases of Foreign Crew Members Employed Overseas Onboard Distant Water Fishing Vessels Suspicious of Violating Human Trafficking Prevention Act. If there were Taiwanese fishing vessels allegedly involving human trafficking, this Agency would refer them to judicial investigation pursuant to the rules.
- iii. Regarding the indication of labor exploitation, the violations onboard fishing vessels such as forced labor, physical abuses, or mistreatment are not allowed in Taiwan. The FA surveyed totaled 544 vessels, approximately 49 % of the distant water fishing vessels, including vessels being accused. A small number of

fishing vessel owners were given administrative disposition for violating relevant regulations, and some were transferred to the District Prosecutors Office as issues involving human trafficking are subject to criminal procedure. However, the result demonstrated that a majority of fishing vessel owners do not engage in such unlawful conduct.

VII. Regarding the deficient labor inspection: The Ministry of Labor is in charge of occupational safety inspection. Nevertheless, for the comprehensive protection of foreign crew members employed overseas, this Agency has also initiated an interview project in 2017 and carried out since 2018. The number of interviewers in domestic ports has grown from six people to ten people. The Agency also dispatched six fisheries inspectors to foreign ports to investigate labor conditions of foreign crew members employed overseas and working onboard Taiwanese vessels. If any violations are discovered, this Agency will take appropriate measures pursuant to the laws and regulations.

VIII. Regarding the alleged FOC by Taiwanese vessel owners:

- i. Flag of Convenience (FOC) is a practice consistent with the UNCLOS. FOC has been prevalent since the 1950s, and this is by no means caused by Taiwan, nor will it be put to an end if Taiwan abolishes FOC regulations. The core of resolving FOC is to manage Open Registry.
- ii. The Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels applies to Taiwanese

nationals rather than foreign-flagged fishing vessels as Taiwan has no jurisdiction over fishing vessels flying the flag of other countries. Therefore, the Government adopts laws and relevant regulations to prevent nationals from engaging in illegal fishing activities at sea by obtaining information about their investment and operation.

- iii. To prevent Taiwanese nationals from taking advantage of FOC to engage in forced labor and human trafficking and compete for fishery resources with reduced cost, the FA has amended Article 2 and Article 6 of the Regulations on the Approval of Investment in or the Operation of Foreign Flag Fishing Vessels, prohibiting Taiwanese nationals from engaging in human trafficking and other illegal activities through FOC.
- iv. Moreover, the FA, in accordance with its port State jurisdiction, has been deliberating the amendment of the Regulations on the Approval of Investment in or the Operation of Foreign Flag Fishing Vessels. It is expected to include conditions for refusing port access in Article 7 of the Regulations, i.e., vessels will be denied entering the port if a domestic court decides, or an international organization or foreign government reports that the vessel is in violation of human trafficking or involving in forced labor, and this draft amendment notice will be published soon.

Taiwan is known for its ethos of warmth and kindness. A

majority of fishing vessel owners/operators deeply recognize their fellowship with the foreign crew members and treat them friendly. A number of foreign crew members are also willing to continue to work with the vessel owners. The FA does not wish to see a few cases obliterate the whole fishing industry. In the future, the FA will not only strengthen the management of fisheries to avoid such situations from happening but also continue to uphold human rights issues deliberately and equitably. Oppositely, this can be unfair if NGOs repeatedly resort to past information and cases and disregard the efforts made by the government and industry in protecting the rights and benefits of foreign crew members. The FA is grateful for the attention and advice from the community and will continue to listen to the views of different sectors.