TERMS OF REFERENCE
FOR INDIVIDUAL CONTRACT

POSITION TITLE: International Consultant (Research) - A political economy analysis of impediments to effective labour governance in Southeast Asian fishing and seafood processing: the case study of Thailand

AGENCY/PROJECT NAME: United Nations Development Programme (UNDP)

COUNTRY OF ASSIGNMENT: Home-based, with travel within Thailand as required

Duration: 10 March 2022 until 30th August 2022

1) GENERAL BACKGROUND

Labour abuses of workers in fishing and seafood processing in Southeast Asia have made headlines globally and prompted changes in national law and policy to reduce exploitative practices in recent years. Thailand was among one of the countries placed under international scrutiny for the prevalence of Illegal, Unreported and Unregulated (IUU) fishing in its waters as well as labour and human rights abuses in the sector. Thailand's commercial fishing and seafood processing industries are an important source of livelihoods, supplying over 20 percent of the country export and employing over 350,000 workers – most of which are migrant workers from neighbouring countries including Cambodia, Laos, Myanmar and Vietnam. Since the European Commission issued a yellow card warning for Illegal, Unreported and Unregulated (IUU) fishing, Thailand has made significant endeavours to address IUU fishing and promote labour rights and protections of migrant workers in fishing. To achieve decent work standard and improve labour living conditions in the fishing and seafood processing industries, the country ratified ILO’s Protocol of 2014 to the Forced Labour Convention (P29) and the Convention No. 188 on Work in Fishing (C188). Following those reforms and introduction of new legislations i.e., the Emergency Decree amending the Anti-Trafficking in Persons Act BE 2551 (2008), BE 2562 (2019) to expand on forced labour elements found in fishing sector and the Labour Protection in Fisheries Act BE 2562 (2019) were introduced as the part of the C188 ratification process. These legal reforms coupled with enhanced labour inspection and enforcement were instigated with the aim to improve protection of migrant workers whilst underaged workers have become legally prohibited to work in the fishing and seafood sector.

Despite positive progresses, exploitations of migrant workers in the fishing and seafood processing sector persist. While anecdotal evidence suggests a decline in the most egregious examples of exploitation, migrant workers continue to endure significant rights violations, even as legal frameworks grow more robust. According to the ILO, at least 14 percent of migrant fishers and 7 percent of seafood processing workers have experienced involuntary work, coercion and forced labour conditions. Workers are still reported lack of access and/or understanding of their employment contract – in some cases such contracts are still not made available in their native language. The situation of wage payments has also not dramatically improved. Regardless of the electronic payment system being legally enforced, many vessel operators continue to pay workers in lump sum – with only 44 percent of workers reported of paid full

2 The migrant workforce in fishing and seafood processing are predominantly from Myanmar and Cambodia. Migrant workers from Laos and Vietnam and workers from indigenous hill tribe groups make up around 2.75% of the migrant workforce in the fishing sector. https://www4.fisheries.go.th/local/file_document/20210217105209_1_file.pdf
5 https://www.bangkokbiznews.com/social/963605
wage monthly. In this context, vulnerability to forced labour is heightened as unclear employment agreements and payment could lead to debt bondage. Many workers also experienced retentions of identification documents and ATM cards, which make it challenging for workers to obtain independence when attempting to change jobs. This persistent evidence of labour violations and exploitation in the sectors stand in contrast to messages coming from the Royal Thai Government (RTG) and private sector and sustainability actors in the fishing sector regarding the changes since the height of media attention in the mid 2010s.

Under current regulation, exploitative practices should be identified and reported by government inspectors who conduct labour inspections during Port-In, Port-Out (PIPO) inspections, but workers reported that inspectors mainly focused on document verifications and often did not proactively address their concerns and issues. On some occasions inspectors gave informal warnings to vessel operators instead of writing official reports on subtle violations, driving workers to mistrust formal processes, and meaning abuses go unreported. Such practices could stem from the culture of false incentive officials perceives that many complaints reported reflects poor performance. On the other hand, officials’ ability to enforce effective labour protection and governance, especially on commercial vessel operators committing potential labour exploitations may be influenced by the power dynamics, and connections between policymakers at both local and central levels and commercial vessel operators such as the national network of National Fisheries Association (NFAT) – who have demonstrated consistent ability to influence more relaxed policy directions and implementations concerning law and measures on IUU fishing and labour protection.

There is also an outstanding gap in Monitoring, Control and Surveillance (MCS) of commercial fishing vessels under 30 gross tonnes. These vessels are not subjected to the instalment of Vessel Monitoring System (VMS). Vessel and business operators are presented with gaps to engage IUU fishing without getting noticed as they can take advantage of weaknesses in fisheries management. This gap has been acknowledged by relevant government agencies but is still advocated against to be addressed by some actors in the private sector.

In sum, there appear to be remaining gaps in regulation, as well we weak enforcement of existing/new regulation, and potentially incentive structures that prevent the adoption sustainable practices – both in terms of IUU fishing and labour issues – amongst key stakeholders in fishing and seafood processing sector. Power dynamics amongst public and private actors in policymaking and enforcement regarding IUU fishing and labour protection in fishing and seafood processing sector exists as a significant factor that can drive or impede an effective governance. It is crucial that governments, private sector stakeholders, workers’ organisations, and CSOs are able to identify risks arising from overlaps and complexity in regulatory frameworks, and key impediments to effective introduction and enforcement of regulation that allow for the persistence of exploitative practices in both fishing and seafood processing.

Identifying these risks, though, requires a fuller understanding of organisational and local cultural factors, and structural impediments that impact the prospect of decent work for all in fishing and seafood processing, and of how the political economy of these sectors enable illicit practices.

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9 Ibid
11 https://www.mfa.go.th/en/content/5d5bd12915e39c306002236aa?cate=5d5bcb4e15e39c306000683e
15 Ibid
16 https://www.bangkokpost.com/thailand/general/1818154/fishermen-threaten-strike-action
Research objectives and approach:
Using Thailand as a case study, this research will employ political economy analysis to identify impediments to the effective introduction and implementation of national and international laws and regulations for addressing labour rights violations and human trafficking within the fishing and seafood processing sectors in Southeast Asia, with attention to linkages to IUU fishing operations.

Political economy analysis (PEA) aims to situate development interventions within an understanding of the prevailing political and economic processes in society – specifically, the incentives, relationships, and distribution and contestation of power between different groups and individuals. In this instance, the research seeks to understand the incentives, relationships, and distribution of power related to enterprises, policymakers, and law enforcement along the fisheries value chain in Thailand.

2) OBJECTIVES OF THE ASSIGNMENT

The Research consultant will manage and implement the study outlined above, in close consultation with UNDP Human Mobility Team members, planning for data collection in target provinces and at central level, analysing data, and drafting the report.

3) SCOPE OF WORK

The research consultant research two key elements – strengthening regulatory frameworks and advancing enforcement of labour protection – which have progressed the since the RTG has committed to the fisheries and migrant labour management reforms in 2015.

Element I: Strengthen Legislative Frameworks
Desk-review of notable literature that examine the policy-making process, key legislative changes and progress made in labour governance and workers protection in fishing and seafood processing sector in Thailand, especially migrant workers. This will be conducted with a particular focus on the inclusion/exclusion of different stakeholders in these processes. The results from the desk-review will determine potential data collections needed to further underscore outstanding dynamics between policy-making bodies, the private sector, workers organisations, and migrant workers in policy development and making that constitutes to the impediments of effective labour governance.

Additional data collection and interviews of key stakeholders may be commissioned to explore where sustainable, ethical, and legal approaches to fishing and labour governance have been adopted in these legislations, and the limitations in aligning such elements to with international principles that Thailand has committed to including ILO’s C188 and P29.

Element II: Advancing Labour Protection Enforcement
Detailed field research will be conducted in three major fisheries provinces: Samuth Songkram, Songkhla and Pattani. Surveys and interviews to collect case studies on common abuses found in fishing and seafood processing sector will be done, looking into how abuses and labour violations are handled when detected and/or reported to relevant authorities. Capacity to enforce labour protection in these provinces will be analysed through stakeholder interviews (e.g., PIPO officials, labour inspectors, migrant workers who formally made complaints, CSOs who assisted migrant workers in labour abuse cases) and as well as a mapping of involvement and connections of local fishing operators in local political economy. Good practice examples of effective enforcement and capacity development needs of practitioners will be identified and highlighted in the analysis.

17 These provinces are also provinces where NFAT has a strong presence – the current NFAT President and Senior Advisor are based in Samut Sakhon. The presidents of NFAT in Songkhla and Pattani have also been very active in engaging with the government to seeks reforms for more relaxed IUU and fisheries sustainability regulations. Examples of latest protest threats in June 2020: https://www.bangkokpost.com/opinion/opinion/1932880/quotas-and-the-future-of-the-fishery-sector
Suggested common labour abuses/violations chosen for the research examination – amongst others – are:

- Retention of personal and identification documents and access to ATM card/bank account by employer/supervisor.
- Consistent and electronic payment of all working wages.
- Lack of employment contract or understanding of conditions written in the document.

Ultimately, major obstacles impeding decent work in fishing and seafood processing in Thailand will be pinpointed through the PEA conducted in this research. The research findings will then draw recommendations for government, private sector, CSOs and workers organisation on how to address these challenges to move forward for a more effective and comprehensive labour governance in the sector.

To accomplish this, the research consultant will produce:

- A research proposal, with methodology, data collection plan, and anticipated report structure, to be agreed with UNDP Human Mobility Team members.
- An internal mapping report of vessel and processing business ownership in target areas.
- One report internal report mapping the incentives, relationships, and distribution of power related to enterprise and regulation along the fisheries value chain in Thailand, with a focus on how these enable exploitative labour practices. This should also include an advocacy strategy for UN agencies and the Ship to Shore Rights Programme implementers.
- One external report detailing the above, but with a much stronger focus on policy recommendations and examples of good practice.
- A set of recommendations for government, private sector organisations, CSOs and workers organisations on how to identify areas of risk and address challenges to advance with effective labour governance in fishing and seafood processing sector.
- An article featuring political economy analysis of factors impeding effective labour governance for a potential submission to an academic journal – detailing key hypotheses and findings found from the research.

4) DURATION OF ASSIGNMENT, DUTY STATION AND EXPECTED PLACES OF TRAVEL

Duration
70 working days from 10 March 2022 until 30th August 2022.

UNDP will require up to 10 working days to review deliverables and certify approval of outputs.

Duty Station
Home-based, within possible travel in Thailand (Samut Songkram, Songkhla and Pattani), as required. Travel mission to be arranged by UNDP as per UNDP Travel policy

5) EXPECTED DELIVERABLES

<table>
<thead>
<tr>
<th>Deliverables/ Outputs</th>
<th>Estimated Duration</th>
<th>Target Due Dates</th>
<th>Review and Approvals Required</th>
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<tbody>
<tr>
<td>18</td>
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These are provided as options for the consultant to choose from. Feasibility and significance of analysing each of these practices will be later discussed with the consultant.
A research proposal – including literature review – with methodology, data collection plan, and anticipated report structure, to be agreed with UNDP Human Mobility Team members.

<table>
<thead>
<tr>
<th>Activity Description</th>
<th>Duration</th>
<th>Due Date</th>
<th>Department</th>
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<tbody>
<tr>
<td>An internal mapping report of vessel and processing business ownership in target areas, including data collected and organized for reference.</td>
<td>13 days</td>
<td>31 March 2022</td>
<td>Regional Advisor on Recovery, Livelihoods &amp; Human Mobility</td>
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<tr>
<td>One report internal report mapping the incentives, relationships, and distribution of power related to enterprise and regulation along the fisheries value chain in Thailand, with a focus on how these enable exploitative labour practices. This should also include an advocacy strategy for UN agencies and the Ship to Shore Rights Programme implementers.</td>
<td>13 days</td>
<td>15 July 2022</td>
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<tr>
<td>One external report detailing the above, but with a much stronger focus on policy recommendations and examples of good practice.</td>
<td>10 days</td>
<td>30th August 2022</td>
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<tr>
<td>A set of recommendations for government, private sector organisations, CSOs and workers organisations on how to identify areas of risk and address challenges to advance with effective labour governance in fishing and seafood processing sector.</td>
<td>4 days</td>
<td>30th August 2022</td>
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<td>TOTAL</td>
<td>70 workdays</td>
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6) PROVISION OF MONITORING AND PROGRESS CONTROLS

The consultant will report to the Regional Advisor on Recovery, Livelihoods & Human Mobility and will work closely with the and the Migrant Protection and Development Analyst in every aspect. Consultant is also required to work or consult with other colleagues as designated by UNDP.

7) DEGREE OF EXPERTISE AND QUALIFICATIONS

The Contractor should process the following expertise and qualifications:

**Education:**
- At least Master’s Degree in international relations, social sciences, development, or relevant studies. Focused studies in migration, trafficking, and labour rights will be advantage.

**Experience:**
- Minimum 3 years of work researching issues related to labour governance, labour rights, and migration in Thailand, with experience looking at the fishing and seafood processing sectors advantageous.
- Experience organizing data collection from government and non-government stakeholders, demonstrated through one published research report.
- Strong ability to communicate technical concepts into simple language.
- Excellent writing skills.

**Language:**
- Fluency in written and spoken English and working knowledge in Thai.

8) REVIEW TIME REQUIRED
The review and approval of payments will be made by the assigned supervisor(s) within 10 working days following receipt of the deliverables.

9) CONSULTANT PRESENCE REQUIRED ON DUTY STATION/UNDP PREMISES

- [X] NONE
- [ ] PARTIAL
- [ ] INTERMITTENT
- [ ] FULL-TIME

10) PAYMENT TERMS

X LUMPSUM

Candidates must send a financial proposal based on Lumpsum Amount. They shall quote an all-inclusive Daily Fee for the contract period. The term “all-inclusive” implies that all costs (professional fees, communications, consumables, etc.) that could be incurred by the successful candidate in completing the assignment are already factored into the daily fee submitted in the proposal.

In the event of unforeseeable travel not anticipated in this TOR, payment of travel costs including tickets, lodging and terminal expenses should be agreed upon between the respective business unit and the consultant, prior to travel, and will be reimbursed. In general, UNDP shall not accept travel costs exceeding those of an economy class ticket. Should the consultant wish to travel on a higher class, they should do so using their own resources.

Payments shall be done on a lumpsum basis, upon verification of satisfactory delivery and of completion of deliverables and approval by the supervisor.

<table>
<thead>
<tr>
<th>Deliverables/ Outputs</th>
<th>Payment term</th>
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</table>
| Deliverable 1  
  - Research proposal – including literature review – with methodology, data collection plan, and anticipated report structure. | 20%          |
| Deliverable 2  
  - An internal mapping report of vessel and processing business ownership in target areas, including data collected and organized for reference. | 40%          |
| Deliverable 3  
  - One report internal report mapping the incentives, relationships, and distribution of power related to enterprise and regulation along the fisheries value chain in Thailand, include an advocacy strategy. | 20%          |
| Deliverable 4  
  - One external report detailing focus on policy recommendations and examples of good practice.  
  - A set of recommendations on how to identify areas of risk and address challenges to advance with effective labour governance in fishing and seafood processing sector. | 20%          |
| TOTAL                                                      | 100%         |

11) CRITERIA FOR SELECTION OF THE BEST OFFER

Evaluation Method and Criteria
**Cumulative Analysis**: The candidates will be evaluated through Cumulative Analysis method. When using the weighted scoring method, the award of the contract will be made to the individual consultant whose offer has been evaluated and determined as:

- Responsive/compliant/acceptable; and
- Having received the highest score out of set of weighted combine technical evaluation of desk review and interview (70%), and financial criteria (30%). Financial score shall be computed as a ratio of the proposal being evaluated and the lowest priced proposal received by UNDP for the assignment.

**Technical Criteria for Evaluation (100 points) – 70%**

<table>
<thead>
<tr>
<th>Evaluation criteria</th>
<th>Maximum points</th>
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<tbody>
<tr>
<td>Criteria 1</td>
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<td>Criteria 2</td>
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<tr>
<td>Criteria 3</td>
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<td>Criteria 4</td>
<td>15</td>
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<td>Criteria 5</td>
<td>15</td>
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<tr>
<td><strong>Total points:</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

**Only candidates obtaining a minimum of 70% or above in the technical evaluation would be considered for the Financial Evaluation.**

**Financial Evaluation (30%)**
Financial proposals from all technically qualified candidates will be scored out of 30 marks based on the formula provided below. The maximum marks (30) will be assigned to the lowest financial proposal. All other proposals will receive points according to the following formula:

- \( p = y \left( \frac{\mu}{z} \right) \).

Where:
- \( p = \) points for the financial proposal being evaluated;
- \( y = \) maximum number of points for the financial proposal;
- \( \mu = \) price of the lowest priced proposal;
- \( z = \) price of the proposal being evaluated.

**Only candidates obtaining a minimum of 70% or above in the Technical evaluation would be considered for the Financial Evaluation.**

12) **Application Procedure / Recommended presentation of offer**

Instructions to Applicants: Click on the **"Apply now"** button. Input your information in the appropriate Sections: personal information, language proficiency, education, resume and motivation. Upon completion of the first page, please hit "submit application" tab at the end of the page then the uploading option for the required document will be available.

Please group all your document into one (1) single PDF document as the application system only allows to upload maximum one document.

Interested candidates must submit the following documents/information to demonstrate their qualifications. Please group them into one (1) single PDF document:
1. **Letter of Confirmation of Interest and Availability with Financial Proposal (in USD) using the template provided as Annex III**

   [Financial proposal: Consultant shall quote an all-inclusive fixed total contract price, supported by a breakdown of costs, as per template provided for the entire assignment. The term “all-inclusive” implies that all costs (professional fees, communications, consumables, etc.) that could be incurred by the IC in completing the assignment are already factored into the proposed fee submitted in the proposal]

   If an Offeror is employed by an organization/ company/ institution, and he/she expects his/her employer to charge a management fee in the process of releasing him/her to UNDP under Reimbursable Loan Agreement (RLA), the Offeror must indicate at this point, and ensure that all such costs are duly incorporated in the financial proposal submitted to UNDP.

2. **P11 or Personal CV**, indicating all past experience from similar projects, as well as the contact details (email and telephone number) of the Candidate and at least three (3) professional references.

3. **ACCESSIBLE track record or Portfolio or sample of work related to migration, displacement, and human trafficking** written by the candidate.

   **Failure to submit the above-mentioned documents or Incomplete proposals shall result in disqualification**

   **Please group all your document into one (1) single PDF document as the application system only allows to upload maximum one document.**

The short-listed candidates may be contacted, and the successful candidate will be notified.