



COORDINATING MINISTRY FOR
MARITIME AFFAIRS
REPUBLIC OF INDONESIA



Background Paper
Consultative Forum on
Regional Cooperation Against
Human Trafficking, Labour
Exploitation, and Slavery at Sea

27-28 March 2018, Bali

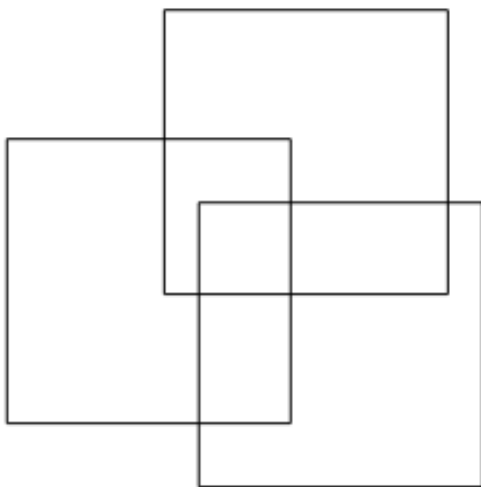


International
Labour
Organization

Background Paper

Consultative Forum on Regional Cooperation Against Human Trafficking, Labour Exploitation, and Slavery at Sea

(Bali, 27-28 March 2018)



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Abbreviations

ACMW	ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers
ACMW	ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers
ACTIP	ASEAN Convention against Trafficking in Persons, Especially Women and Children
AEC	ASEAN Economic Community
AHG	Ad Hoc Group
AHRD	ASEAN Human Rights Declaration
AICHR	ASEAN Intergovernmental Commission on Human Rights
ALM	ASEAN Labour Ministers
ALMM	ASEAN Labour Ministers Meeting
AMAF	Ministerial Meeting on Agriculture and Forestry
AMF	ASEAN Maritime Forum
AMM	ASEAN Foreign Ministers' Meeting
AMMTC	Ministerial Meeting on Transnational Crime
APA	ASEAN Plan of Action against Trafficking in Persons, Especially Women and Children
APSC	ASEAN Political-Security Community
AQD	Aquaculture Department
ARF	ASEAN Regional Forum
ASCC	ASEAN Socio-Cultural Community
ASEAN	Association of Southeast Asian Nations
ASWGF	ASEAN Sectoral Working Group on Fisheries
Bali Process	Bali Process on People Smuggling Trafficking in Persons and Related Transnational Crime
CI 88	ILO Convention 188: Working in Fishing Convention, 2007
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
CSO	Civil Society Organisation
EAMF	Expanded ASEAN Maritime Forum
EAS	East Asia Summit
EU	European Union
FAO	United Nations Food and Agriculture Organisation
FCG	ASEAN-SEAFDEC Fisheries Consultative Group Mechanism
GMS	Greater Mekong Sub-region
GT	Giga Tonne
IFRDMD	Inland Fishery Resources Development and Management Department
ILC	International Law Commission
ILO	International Labour Organization
IMO	International Maritime Organization
IOM	International Organization for Migration
IPOA	International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
IUU	Illegal, Unreported and Unregulated (fishing)
LOA	Length Overall (of vessels)
MFRD	Marine Fisheries Research Department
MFRDMD	Marine Fishery Resources Development and Management Department
MLC	Maritime Labour Convention



MoU	Memorandum of Understanding
MT	Metric Tonne
NGO	Non-Governmental Organisation
PMB	Project Management Board
PRR	Principal Project Representative
PSMA	Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing
RCF	Regional Cooperation Framework
RFMOs	Regional Fisheries Management Organizations
RSO	Regional Support Office
SEAFDEC	Southeast Asian Fisheries Development Centre
SLOM	Senior Labour Officials Meeting
SMEs	Small and Medium Enterprises
SOLAS	Convention for the Safety of Life at Sea
SOM-AMAF	Senior Officials Meeting of AMAF
SOMTC	Senior Officials' Meeting on Transnational Crime
SPA	Sub-Regional Plan of Action
STCW-F	Convention on Standards of Training, Certification, and Watchkeeping for Fishing Vessel Personnel
TD	Training Department
TIP	Trafficking in Persons
TIP Protocol	The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
TMIMF	Tripartite Meeting on Issues Relating to Migrant Fishers
UN	United Nations
UN-ACT	UN Action for Cooperation against Trafficking in Persons
UNCLOS	United Nations Convention on the Law of the Sea
UNDP	United Nations Development Programme
UNGPs	United Nations Guiding Principle on Business and Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNIAP	United Nations Inter-Agency Project on Human Trafficking
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crime
USD	United States Dollar
WG on TIP	Working Group on Trafficking in Persons



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I. BACKGROUND

I.1. BACKGROUND TO THE MEETING

One of the outcomes of the Tripartite Meeting on Issues Relating to Migrant Fishers (TMIMF) held in September 2017 in Geneva was a call to effectively address the serious violations of the rights of migrant fishers, and to enforce their fundamental rights at work and access to justice – irrespective of their migrant status. In particular, the draft Conclusion from the TMIMF highlighted the need to clarify the division of roles and responsibilities for enforcement, compliance and inspection between flag States, port States, coastal States, and labour-sending States. The lack of coordination between States and among government agencies which have a role in the protection of rights of fishers, including migrant fishers, can impede the effectiveness of the response.¹

To build on the momentum of the TMIMF and to strengthen responses to trafficking of persons in fisheries, ILO's Southeast Asia Fisheries Project aims to reduce trafficking for labour exploitation in fisheries by strengthening coordination in Southeast Asia (Southeast Asia) at regional and national levels.

I.2. DISCUSSION POINTS FOR THE MEETING

1. What are the recommendations for the structure, mandate, and Terms of Reference of a Regional Coordination Body?
2. What are the key issues and challenges and opportunities for Southeast Asia in combating trafficking for labour exploitation in fisheries?
3. What are the priority areas of action for the Regional Coordination Body to combat trafficking for labour exploitation in fisheries?
4. What common standards can be set for, and by, flag States, coastal States, and member States in the region?
5. How should the regional coordination body engage with external stakeholders such as market States and the private sector?

¹ ILO.2017. [Conclusions on the promotion of decent work for migrant fishers](#) (TMIMF/2017/7, Geneva).

2. FISHERS AND MARINE CAPTURE FISHERIES IN SOUTHEAST ASIA

2.1. FISHERS

Between 2000 and 2014, global fisheries production – including all three subsectors of marine capture fisheries, inland fisheries, and aquaculture – continued to grow from 136.2 million to 195.7 metric tonnes. During the same period, per capita fish consumption rose from an average of 15.9 to 20.1 kilograms even as human population also increased.² The world trade in fish and fishery products has risen by more than 245 per cent from 1976 to 2014 in terms of quantity, and by 515 per cent in terms of trade in fish for human consumption.³ If the current per capita consumption of fish is maintained, and taking into account the projected global population growth to 9.7 billion by 2050, the global demand for fish is likely to increase by 33 per cent.⁴

In addition to its contributions to food security, the fisheries and aquaculture sector also play an essential role in the livelihoods of millions of people around the world. It is estimated to support the livelihoods of 12 per cent of the world's population directly and indirectly. Globally, more than 56 million people are employed as fishers and fish farmers, with another 140 million employed along the value chain from harvesting to distribution. Women account for 90 per cent of those engaged in processing activities.⁵

As at 2014, around 84 per cent of the global population working in fisheries and aquaculture were in Asia (Figure 1).⁶ More than 38 million people worked in marine and inland fisheries around the world. Nearly 30 million of whom were located in Asia, around 78 per cent of all fishers.⁷

² SEAFDEC. 2017. *The Southeast Asian State of Fisheries and Aquaculture* (SEASOFIA), pp 1-2.

³ FAO. 2016. *The State of World Fisheries and Aquaculture* (SOFIA), p 51.

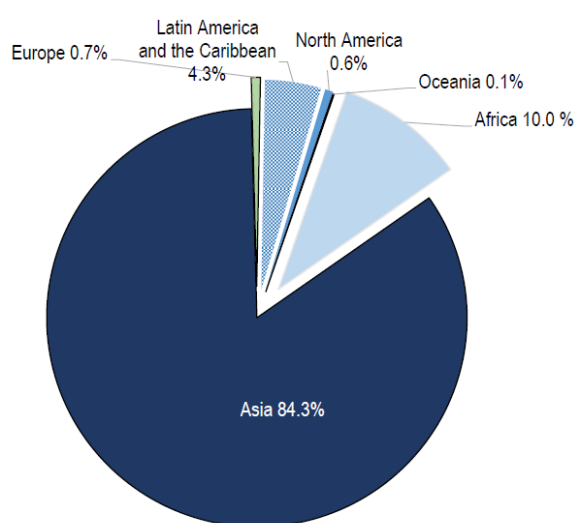
⁴ SEAFDEC. SEASOFIA, pp 1-2.

⁵ FAO. SOFIA, pp ii and 32-34.

⁶ *Ibid.* pp 32-4, and 126.

⁷ *Ibid.* Table 10.

Figure 1: Global workers in fisheries and aquaculture



According to SEAFDEC data, 11 per cent of the world's fishers in 2014 were from Southeast Asia. While data is incomplete, statistics suggest that Myanmar and Indonesia have the highest number of fishers in the region (Table 1: Number of fishers and fish farmers by work status; Table 2: Workers in fisheries and Aquaculture). Indonesia appears to have the highest number of fishers in marine capture fisheries, with around 2.2 million fishers. Myanmar is in second place with 1.4 million fishers in marine capture fisheries with a variety of work status.

Table 1: Number of fishers and fish farmers by work status (Source: SEAFDEC)

Country	Marine Capture Fisheries			Inland Capture Fisheries			Un-specified	Aquaculture		Total
	Full-time	Part-time	Occasional	Full-time	Part-time	Occasional		Full-time	Part-time	
Brunei Darussalam	433	...	...	...	...	...	...	95	...	528
Indonesia	1,192,350	689,740	304,810	217,930	161,480	101,130	...	...	...	2,667,440
Lao PDR	...	...	...	...	...	...	...	...	...	594,500
Malaysia	143,421	...	...	...	...	...	...	26,516	...	169,937
Myanmar	230,550	252,000	917,000	488,000	301,000	...	796,500	224,123	...	3,781,550
Philippines	...	...	...	...	...	...	...	...	...	877,185
Singapore	36	...	...	...	...	...	...	508	162	706
Thailand	...	...	...	...	...	...	...	...	3,781,55	666,908

Table 2: Workers in fishery and aquaculture (Source: FAO)

Country	2010	2011	2012	2013	2014	2015
Indonesia	2,620,277	2,755,178	2,748,908	2,640,095	2,667,440	2,702,664
Viet Nam	650,000	500,000	530,000	N.d.	N.d.	N.d.
Philippines	1,907,435	1,907,435	N.d.	N.d.	N.d.	N.d.
Myanmar	2,948,555	2,952,800	2,979,200	2,980,000	2,981,000	2,999,500
Thailand	155,000	160,000	N.d.	N.d.	N.d.	N.d.
Malaysia	129,622	134,110	136,514	144,019	143,421	145,947
Cambodia	673,963	657,269	N.d.	N.d.	N.d.	N.d.

2.2. FISHING VESSELS

There were an estimated 4.6 million fishing vessels in the world as at 2014.⁸ Asia, excluding Southeast Asia, had nearly half of the world's fishing vessels: 47.5 per cent and 2.2 million vessels. Southeast Asia had the second-highest number of fishing vessels: 1.3 million and around 27.6 per cent. Africa had 14.8 per cent of the world's vessels, and 6 per cent were in Latin America and the Caribbean (Table 3: Number of fishing vessels globally). Small fishing vessels of less than 12 metres in length overall (LOA) amounting to 85 per cent of the global fleet. Only about 2 per cent of the motorized fishing fleet in the world is 24 metres LOA or longer, and an estimated 64,000 of these operate in marine waters.⁹

⁸ *Ibid.* p 35.

⁹ *Ibid.*

Table 3: Number of fishing vessels globally (Source: SEAFDEC)

	Number of fishing vessels (thousand)	Percentage (%)
World	4,606.00	
Africa	679.20	14.75
Asia*	2,189.50	47.54
Southeast Asia	1,270.00	27.57
Europe	95.50	2.07
Latin America and the Caribbean	276.20	6.00
North America	87.00	1.89
Oceania	8.60	0.19

Table 4: Number of fishing vessels in Southeast Asia (Source: SEAFDEC)

Country	Powered boats		Non-powered boats	Total
	Out-board	In-board		
Brunei Darussalam	...	38	...	38
Indonesia	237,696	240,086	174,184	651,966
Malaysia	37,803	17,137	3,032	57,972
Myanmar	12,490	2,736	13,732	28,958
Philippines*	...	...	...	476,124
Singapore	146	12	...	158
Thailand	...	23,556	...	23,556
Viet Nam	...	...	...	31,235
Total	288,135	283,565	190,948	1,270,016

Among Southeast Asian countries, Indonesia appears to have had the highest number of registered vessels in 2014 with a total of 651,966 vessels including 477,782 (73 per cent) powered and 174,184 (27 per cent) non-powered (Table 4: Number of fishing vessels in Southeast Asia).¹⁰ Philippines ranked second with 476,124 vessels, with 99 per cent of them being less than 3 GT, and only 6,317 vessels more than 3 GT. Although Malaysia, Viet Nam, and Myanmar followed in ranking, they had significantly fewer vessels compared to Indonesia and Philippines. Malaysia had 57,972 registered vessels, around 9 per cent of Indonesia's fleet size. Viet Nam reported 31,235 registered vessels, and Myanmar 28,958. While the data on fishing vessels showed some increase in numbers in the region between 2000 and 2009,

¹⁰ FAO statistics differs and puts the Indonesian fleet in 2014 at 805,633 vessels, with 460,567 powered and 345,066 non-powered. See FAO. 2015. *Fisheries and Aquaculture Statistics* (online at <http://www.fao.org/3/a-i7989t.pdf>, accessed 8 Feb 2018)

SEAFDEC interprets this as reflecting improvements in vessel registration and data collection on fishing boats rather than actual increases in the number of vessels.¹¹

2.3. MARINE CAPTURE FISHERIES PRODUCTION

Southeast Asia is bordered by the Andaman Sea and the Indian Ocean in the west and by the Western Pacific Ocean in the east. The total fisheries production of the region covers major fishing areas in the Eastern Indian Ocean, Northwest Pacific, Western Central Pacific, and Asian Inland Waters.

In 2014, the total fisheries production of Southeast Asia – including all three subsectors of capture fisheries, inland fisheries, and aquaculture – was reported at 42.2 million metric tonne (MT), with marine capture fisheries making up 16.7 million MT. Compared to inland capture fisheries and aquaculture, marine capture fisheries in Southeast Asia consistently occupied the largest percentage of fisheries production between 2000 and 2010. Since 2011, however, aquaculture production has overtaken marine capture fisheries (Table 5: Production trends of fisheries sub-sectors of Southeast Asia by volume).

Table 5: Production trends of fisheries sub-sectors in Southeast Asia by volume (Source: SEAFDEC)

Year	Marine Capture Fisheries		Inland Capture Fisheries		Aquaculture		Total Production (million MT)
	Production (million MT)	Percentage (%)	Production (million MT)	Percentage (%)	Production (million MT)	Percentage (%)	
2000	11.88	70	1.36	8	3.70	22	16.94
2001	12.25	68	1.59	8	4.32	24	18.16
2002	12.57	66	1.55	8	4.81	26	18.93
2003	13.22	65	1.67	8	5.47	27	20.36
2004	13.59	63	1.88	8	6.52	29	21.99
2005	13.77	59	2.07	8	7.70	33	23.54
2006	14.06	57	2.25	9	8.56	34	24.87
2007	14.57	56	2.52	8	9.76	36	26.85
2008	13.85	51	2.37	8	11.10	41	27.32
2009	14.00	49	2.35	8	11.70	43	28.05
2010	14.87	47	2.38	8	14.19	45	31.44
2011	15.10	45	2.64	8	15.75	47	33.49
2012	15.59	39	2.82	7	21.16	54	39.57
2013	16.32	41	2.95	7	20.96	52	40.23
2014	16.66	40	3.03	7	22.53	53	42.22

In 2014, aquaculture comprised 53 per cent of all fisheries production compared to 40 per cent from marine capture fisheries in terms of volume, with inland fisheries comprising 7 per cent (Table 6: 2014 production of Southeast Asia fisheries subsectors by volume and value). However, marine capture fisheries were the biggest contributor to production value, accounting for around 50 per cent, whereas aquaculture contributed approximately 41 per

¹¹ SEAFDEC. *SEASOFA*, p 14.

cent and inland fisheries 9 per cent. Marine capture fisheries significantly outperformed aquaculture in terms of value per metric ton: 1,300 USD per metric tonne compared to 775 USD per metric tonne.

Table 6: 2014 production of fisheries sub-sectors in Southeast Asia (Source: SEAFDEC)

Sub-sector	Quantity (MT)	Value (US\$ 1000)	Value (US\$/MT)
Marine Capture Fisheries	16,655,092	21,635,256	1,300
Inland Capture Fisheries	3,028,233	3,693,300	1,220
Aquaculture	22,533,831	17,409,322	775
Total	42,217,156	42,737,878	

Figure 2: 2014 production of fisheries sub-sectors in Southeast Asia by volume

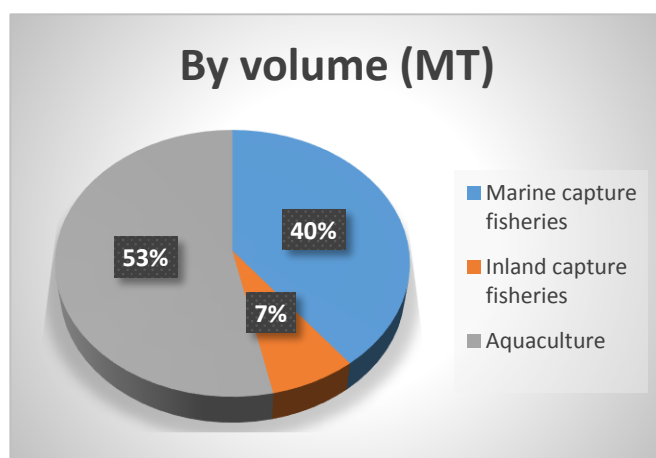
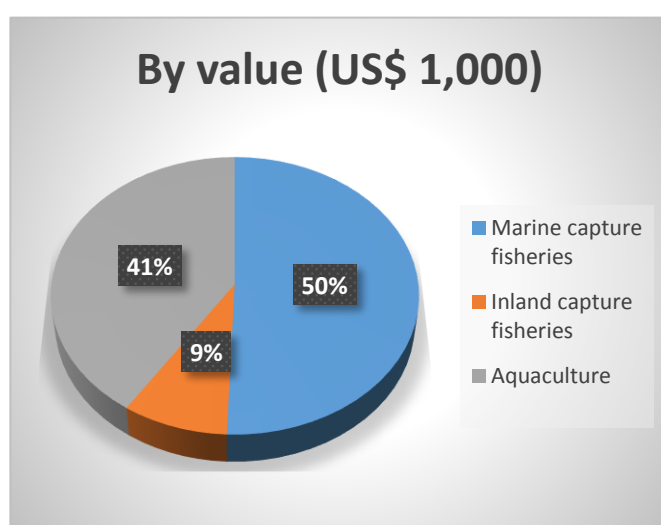


Figure 3: 2014 production of fisheries sub-sectors in Southeast Asia by value



In 2014, Southeast Asia was the third-largest contributor to the global marine capture fisheries production, behind Asia and America. Between 2000 and 2014, there has been a downward trend for marine capture fisheries production globally at an average decrease of 229,000 MT annually. By contrast, Southeast Asia shows an upward trend in marine capture production from 11.9 million MT in 2000 to 16.7 million MT in 2014, at an average annual increase of around 2 per cent. In 2014, the region contributed to just over 20 per cent of the global marine capture fisheries production.¹²

Between 2000 and 2014, Indonesia was consistently the highest producer of marine capture fisheries among the ten ASEAN countries in terms of volume (Table 7: Marine capture fisheries of Southeast Asia countries by volume). In particular, in 2014, Indonesia produced over a third of the region's marine capture fisheries (35.8 per cent, 5.97 million MT), followed by Viet Nam (16.3 per cent, 2.71 million MT), Myanmar (16.2 per cent, 2.70 million MT), the Philippines (12.8 per cent, 2.13 million MT), Thailand (9.4 per cent, 1.56 million MT), and Malaysia (8.8 per cent, 1.46 million MT).

Table 7: Marine capture fisheries production by value (US\$ million) (Source: SEAFDEC)

Year	Brunei Darussalam	Cambodia	Indonesia	Lao PDR*	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam	Total
2000	2.46	36.00	3,807.19	-	1,285.49	949.67	1,740.04	5.37	2,773.67	1,280.59	11,888.48
2001	1.93	42.00	3,979.48	-	1,239.28	1,039.46	1,818.73	3.44	2,634.17	1,488.16	12,246.65
2002	2.05	45.88	4,073.51	-	1,272.08	1,060.25	1,899.49	2.77	2,643.71	1,575.64	12,575.38
2003	1.99	55.61	4,385.10	-	1,289.26	1,139.34	2,038.49	2.09	2,658.22	1,649.48	13,219.58
2004	2.43	55.82	4,379.24	-	1,369.65	1,279.18	2,079.93	2.17	2,654.97	1,765.71	13,589.10
2005	2.71	60.00	4,464.50	-	1,299.60	1,388.67	2,129.22	1.92	2,625.57	1,799.50	13,771.69
2006	2.28	60.50	4,512.19	-	1,379.86	1,525.00	2,154.80	3.10	2,484.80	1,816.10	13,938.63
2007	2.55	54.90	4,734.28	-	1,381.43	1,485.74	2,327.20	3.52	2,079.35	1,987.40	14,056.37
2008	2.36	66.00	4,741.93	-	1,394.53	1,679.01	2,377.52	1.62	1,644.80	1,946.60	13,854.37
2009	1.96	75.00	4,779.41	-	1,391.09	1,787.51	2,398.84	2.12	1,496.16	2,068.30	14,000.39
2010	2.35	85.00	5,039.42	-	1,428.88	2,048.59	2,424.48	1.73	1,617.40	2,226.60	14,874.45
2011	2.16	114.70	5,328.64	-	1,373.11	2,169.82	2,171.77	1.62	1,633.65	2,300.00	15,095.47
2012	4.52	110.00	5,400.98	-	1,472.24	2,332.79	2,145.23	1.97	1,612.07	2,510.90	15,590.70
2013	2.83	110.00	5,767.02	-	1,492.90	2,483.87	2,187.37	1.65	1,630.05	2,647.00	16,322.69
2014	3.19	120.25	5,967.1	-	1,458.13	2,702.24	2,131.87	1.43	1,559.75	2,711.10	16,655.06

Indonesia's annual marine capture production grew between 2000 and 2014 from 3.8 to 5.97 million MT. Similarly, Myanmar's production has been steadily increasing from 0.95 to 2.7 million MT. Cambodia, while still a small producer of marine capture fisheries, shows a significant increase from 36,000 to 120,000 MT between 2000 and 2014, with an average growth rate of 16 per cent annually. By contrast, Thailand's production of marine capture has declined in the period, partly attributable to reduced overfishing in the country and

¹² *Ibid*, p 5.

environmental degradation in the Gulf of Thailand, as well as the cessation of fishing operations by Thai vessels in Indonesian waters.¹³

While complete data is not available, the total value of the region's marine capture fisheries production seems to have increased corresponding to the value of production between 2000 and 2014 (Table 7: Marine capture fisheries production by value (US\$ million)).¹⁴

The most economically important marine species in Southeast Asia include tunas, small pelagic fishes, crustaceans and molluscs, demersal fishes, and seaweeds. These species dominate the fisheries exports from the region.¹⁵ Tuna contributed to 14 per cent of the total value of region's marine capture fisheries production in 2014, with skipjack tuna and yellowfin tuna contributing the highest value at 30 per cent and 27 per cent respectively. However, data suggests that albacore tuna commanded the highest price among the tuna group at around 2,555 USD per MT.

Small pelagic fishes - including scads, mackerels, anchovies and sardines – contributed to 21 per cent of Southeast Asia's marine capture fisheries production. Indonesia was the main contributor in 2014, accounting for almost half (48 per cent) of the region's total small pelagic production, followed by the Philippines at 27 per cent, Thailand at 13 per cent and Malaysia at 12 per cent.¹⁶ Mackerels were the highest value fish, accounting for 42 per cent of total value of small pelagic fish production. It seems to have also commanded the highest price compared to other species at about 1,870 USD per MT.

Demersal fishes accounted for around 11 per cent of total marine capture fisheries production, with Indonesia as the highest contributor of more than half of the region's total demersal fish production at 59 per cent. Philippines, Malaysia and Thailand also contributed substantially at 16 per cent, 15 per cent and 9 per cent respectively. The production of demersal fishes in Southeast Asia has gained economic importance due to the high price some species command: flounders, halibuts, and sole can command up to 3,795 USD per MT.

Crustaceans and molluscs are also important contributors to Southeast Asia's marine capture fisheries production. Although complete data is not available, the production of crustaceans and molluscs appear to have contributed about 6 per cent to the total marine capture fisheries production. Indonesia was also the largest producer here, accounting for 46 per cent of the region's production, followed by Malaysia and Thailand both at 21 per cent, and the Philippines at 12 per cent. Crustaceans, a higher value commodity, contributed 8 per cent to the total

¹³ *Ibid*, p 6.

¹⁴ Lao PDR is a landlocked country and has no marine capture production.

¹⁵ SEAFDEC. *SEASOFIA*, p 7.

¹⁶ *Ibid*, p 10.

value of production though it only contributed 3.8 per cent in terms of volume. Lobsters attracted the highest price at around 5,450 USD per MT.

In terms of exports, however, FAO data shows that in 2014, Viet Nam has overtaken Thailand as the leading exporter of fish and fisheries products in the region (Table 8: Top ten exporters and importers of fish and fisheries products).¹⁷ Thailand has declined in exports since 2013, mainly linked to reduced shrimp production and lower prices of shrimps and tunas. Both Viet Nam and Thailand have important processing industries, which contribute significantly to the economy. In 2015, Viet Nam, Thailand, and Indonesia were the leading exporters of fisheries products in the region (Table 9: Total value of exports of seven fisheries commodity groups by country).

Table 8: Top-ten exporters and importers of fish and fisheries products globally (Source: FAO)

		2004	2014	APR
		(US\$ millions)		(Percentage)
EXPORTERS	China	6 637	20 980	12.2
	Norway	4 132	10 803	10.1
	Viet Nam	2 444	8 029	12.6
	Thailand	4 060	6 565	4.9
	United States of America	3 851	6 144	4.8
	Chile	2 501	5 854	8.9
	India	1 409	5 604	14.8
	Denmark	3 566	4 765	2.9
	Netherlands	2 452	4 555	6.4
	Canada	3 487	4 503	2.6
	Top ten subtotal	34 539	77 801	8.5
	Rest of world total	37 330	70 346	6.5
	WORLD TOTAL	71 869	148 147	7.5
IMPORTERS	United States of America	11 964	20 317	5.4
	Japan	14 560	14 844	0.2
	China	3 126	8 501	10.5
	Spain	5 222	7 051	3.0
	France	4 176	6 670	4.8
	Germany	2 805	6 205	8.3
	Italy	3 904	6 166	4.7
	Sweden	1 301	4 783	13.9
	United Kingdom	2 812	4 638	5.1
	Republic of Korea	2 250	4 271	6.6
	Top ten subtotal	52 119	83 447	4.8
	Rest of world total	23 583	57 169	9.3
	WORLD TOTAL	75 702	140 616	6.4

¹⁷ This includes fisheries products from marine and inland capture fisheries and aquaculture.

Table 9: Total value of exports of seven fisheries commodity groups by country¹⁸ (USD 000) (Source: FAO)

	Brunei Darussalam	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam
2012	2,435	61,000	3,592,003	27	843,424	653,765	814,484	356,833	8,132,389	6,276,751
2013	4,311	62,500	3,835,699	20	793,426	652,755	1,143,961	328,215	7,057,194	6,888,846
2014	4,144	63,900	5,600,900	21	863,962	536,166	997,200	315,069	6,633,959	8,028,649
2015	3,334	65,900	4,871,591	88	685,625	479,722	775,450	367,910	5,677,394	6,756,070

¹⁸ The seven principal fisheries commodities defined by the FAO in its statistics on international trade are: (1) fish, fresh, chilled or frozen; (2) fish, dried, salted or smoked; (3) crustaceans and molluscs, fresh, frozen, dried, salted etc; (4) fish products and preparations, whether or not in airtight containers; (5) crustacean and mollusc products and preparations, whether or not in airtight containers; (6) oils and fats, crude or refined, of aquatic animal origin; (7) meals, solubles and similar animal feeding stuffs. See FAO. 2015. *Fisheries and Aquaculture Statistics* (online at <http://www.fao.org/3/a-i7989t.pdf>, accessed 8 Feb 2018)

3. FORCED LABOUR AND TRAFFICKING IN FISHING

3.1. LIVING AND WORKING CONDITIONS IN THE FISHING SECTOR

Fishing is recognised as a hazardous occupation compared to others, with capture fisheries having among the highest incidence of occupational injuries and fatalities.¹⁹ Workers in commercial fishing operations face long working hours, dangerous weather conditions, and hazardous marine environments. Fishers on vessels that operate at high seas live and work on board, often for extended periods in relatively confined spaces, and in isolation at sea far from help in terms of distance and time. They are under the control of the skipper during their time at sea and even in port.

Fishers are often paid for their work based on share of the value of the catch rather than a set wage. While this system can inspire efficiency and productivity from the fishers, it can also create strong incentive to work excessive hours and to continue to work even in dangerous conditions. Many workers are also considered to be self-employed by virtue of the share system, and such work arrangements can erode labour rights and protections for fishers. It is also common for fishers, particular migrant fishers, to be employed by third parties rather than by the fishing vessel owner. Many do not have written agreements or contracts, which makes it difficult to understand, clarify or pursue their rights and can result in under-payment of wages.

As fishers work at sea, they often fall through gaps in laws, regulations and measures that countries have established to protect workers. Even where legal protections are in place, the monitoring of working conditions of fishers and enforcement of legislation is challenging because fishers are on board vessels at sea, often for extended periods of time.

3.2. MIGRANT FISHERS

The challenges of work at sea can make it difficult to attract new fishers or retain experienced fishers. It is seen as a less desirable occupation by nationals in some countries. Fishing vessel owners may turn to migrant fishers to fill labour shortages.

While global statistics are not available, there is data illustrating that migrant fishers are a regular part of the fishing sector. In Europe, fishing vessels owners employ relatively high proportions of “non-local” crew from non-EU countries. While the majority of non-local workers are EU nationals, in Spain and Portugal the vast majority of non-local workers are nationals from outside of the EU. In Portugal, most non-EU workers are employed in capture

¹⁹ ILO. 2017. [Tripartite Meeting on Issues Relating to Migrant Fishers](#), p 4.

fisheries and are generally limited to surface longline fleets with workers coming from a variety of locations including Indonesia.²⁰

In the United Kingdom, 27 per cent of the workforce in the Scottish fishing industry come from non-local workers, among whom 63 per cent of non-local fishers are from the Philippines. The majority of non-locals are employed in deckhand positions, although 14.3 per cent of all engineers in the Scottish fishing fleet are Filipino.²¹

In Spain, the use of non-local workforce has been stable in the catching subsector, particularly in the long-distance fleets. Nationals are generally reluctant to work in long-distance fleets because of tougher working conditions. Interestingly, prior to the economic crisis in 2008, South Americans replaced nationals in the fisheries sector. However, more recently, they have been replaced by Indonesians who are directly recruited from the home country. These fishers usually work for four to five years before repatriating with their savings.²²

In Japan, 4 per cent of workers employed in the fisheries industry were non-local in 2008. However, because of the size of the Japanese fisheries sector, the number of non-local workers in Japan (17,799) was almost as many as non-local workers in all EU coastal member states combined (estimated at 18,912). Faced with an ageing workforce and difficulties in attracting young people to a fishing career, Japan has relied on migrant workers from other parts of Asia, including China, Indonesia, Viet Nam and the Philippines. While disaggregated data on fisheries is not available, Filipinos made up 9.5 per cent of migrant workers in Japan.²³

In East and Southeast Asia, although statistics are incomplete, data suggests that there are substantial numbers of migrant fishers in Malaysia, Thailand and Taiwan (Table 10: Number of migrant fishers in select East and Southeast Asian countries).²⁴

²⁰ European Commission. [Study on the employment of non-local labour in the fisheries sector: final report](#), p 83.

²¹ *Ibid.*, p 22.

²² *Ibid.*, Appendix B: Southern Member States and Fleet Segment Case Studies, p 21.

²³ *Ibid.*, p 53

²⁴ ILO. 2014. [Working in fishing in ASEAN region: Protecting the rights of migrant fishers](#), p 3.

Table 10: Number of migrant fishers in selected East and Southeast Asian countries (Source: ILO)

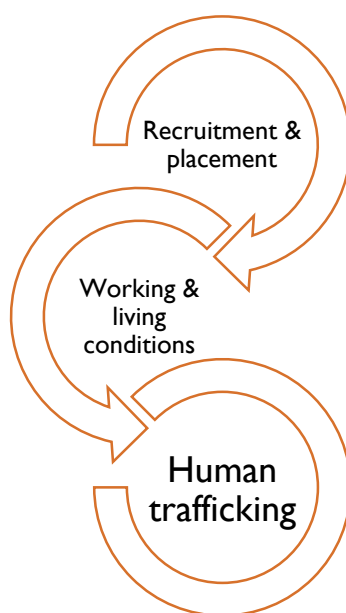
Country of origin of migrant fishers	Japan (2008)	Malaysia (2011)	Republic of Korea (2010)	Taiwan, China (2013) ²⁵	Thailand (2012)
<i>Cambodia</i>	n.d.	n.d.	n.d.	66	Part of 41,128
<i>China</i>	n.d.	157	721		Part of 41,128
<i>Indonesia</i>	c. 4,000	1,666	2,043	7,718	n.d.
<i>Lao PDR</i>	n.d.	n.d.	n.d.	n.d.	n.d.
<i>Myanmar</i>	n.d.	n.d.	n.d.	62	Part of 41,128
<i>Philippines</i>	n.d.	354	n.d.	3,988	n.d.
<i>Thailand</i>	n.d.	25,268	n.d.	n.d.	n.d.
<i>Viet Nam</i>	n.d.	1,771	961	1,900	n.d.
<i>Other</i>	n.d.	6,743	281	1,762	n.d.
Total	4,000	35,975	4,006	24,867	41,128

3.3. ISSUES FACED BY MIGRANT FISHERS

Migrant fishers are particularly vulnerable and can face challenges not experienced by other fishers. Two major areas of risks are: first, deceptive and fraudulent practices during the recruitment and placement process; and second, exploitative working conditions on board the fishing vessels. Either, or together, these vulnerabilities can result in migrant fishers falling victim to human trafficking (Figure 4: Migrant fisher's vulnerabilities to trafficking).

²⁵ Data provided segregated sea-based and land-based fishers; this table only includes sea-based fishers.

Figure 4: Migrant fishers' vulnerabilities to trafficking



Migrant fishers may face a number of challenges during the recruitment and placement process, such as with regard to the payment of fees and taking out of loans; obtaining appropriate training or recognition of training certificates; finding a fishing vessel owner/employer; obtaining the appropriate travel or identity documents; obtaining a certificate of medical fitness; arranging transportation from their home country across international borders and to the vessel; reviewing and signing an employment contract or other type of work agreement; participating in a social security scheme; making arrangements to send remittances to dependants; obtaining training concerning the type of vessel(s) on which they will work; and receiving a pre-employment or pre-departure briefing in order to obtain necessary information about rights and access to justice mechanisms.

Once on board, fishers may find the conditions of their employment contract not respected or their contracts substituted. They may face challenges when familiarizing themselves with the vessel, its equipment, its operating procedures and the relevant national laws and regulations. It may be difficult to communicate with other fishers and the skipper, due to cultural and language differences. The food provided may be unfamiliar. Communication with family may be difficult.

Common issues faced by migrant fishers

In recruitment and placement

- Lack of transparency in payment of wages, withheld wages, illegal deductions of wages
- Non-standard forms of employment
- Lack of written work agreements or contracts
- Contract substitution after departure
- Language and communication issues
- Inadequate training
- Excessive fees during the recruitment process which can lead to debts and debt bondage

In working and living conditions

- Lack of familiarity with the available equipment
- Inability to change employers and lack of mobility
- Lack of protections if injuries or health issues occur
- Lack of appropriate legal and administrative documents or withheld
- Excessive working hours
- Lack of fresh drinking water
- Lack of access to communication facilities
- Lack of social security or other forms of social protection
- Abandonment in foreign ports
- Lack of complaint mechanisms
- Arrest due to transboundary fishing, IUU fishing, or fisheries crime

Fishing vessel owners may also face challenges when engaging migrant fishers, such as information asymmetry and skills mismatch (for example, training and competency); ensuring medical fitness; acquisition of visas and/or work permits for fishers; and language differences. Moreover, some fishing vessel owners may not be entirely aware of their specific legal responsibilities with respect to the engagement of migrant fishers, or of national laws and regulations.

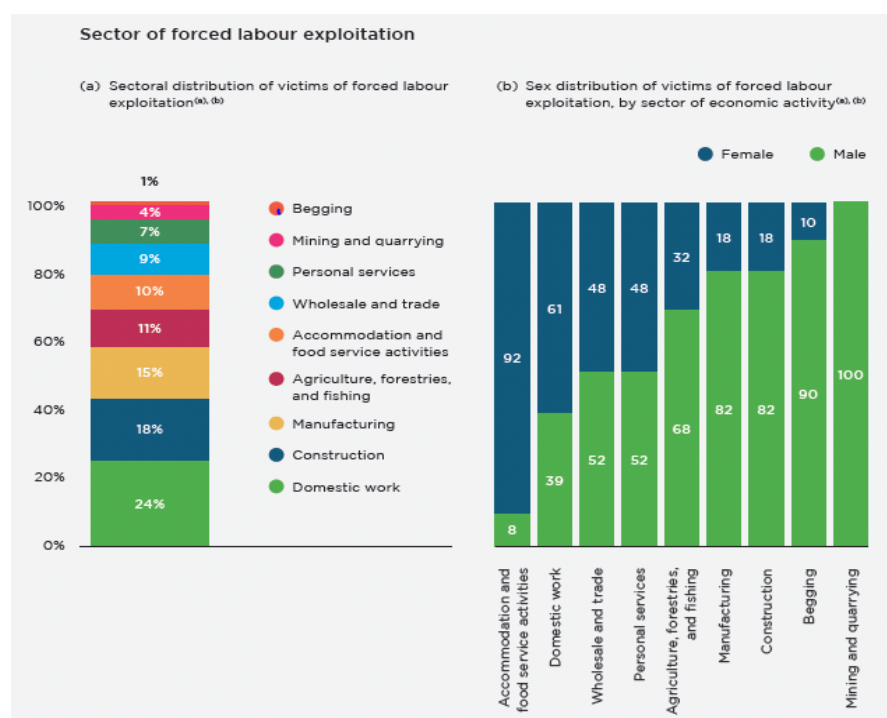
3.4. TRAFFICKING FOR LABOUR EXPLOITATION IN FISHERIES

In the fisheries industry, trafficking in persons for the purposes of forced labour on board fishing vessels or other at-sea operations has been identified as a form of trafficking. According to ILO estimates, on any given day in 2016, 16 million people were victims of forced labour

exploitation in the private sector.²⁶ Among cases where the type of work was known, agriculture and fishing comprised 11.3 per cent of victims or approximately 1.8 million people (Figure 5: Sector of forced labour exploitation). While women and girls accounted for 57 per cent of victims of forced labour exploitation by private actors, men were disproportionately subject to forced labour in sectors that traditionally involve manual labour, including agriculture and fishing (68 per cent of victims).²⁷

Most victims of forced labour suffered multiple forms of coercion from employers or recruiters as a way of preventing them from leaving the situation. Nearly a quarter of victims (24 per cent) had their wages withheld or were threatened with non-payment of due wages. Threats of violence (17 per cent) and acts of physical violence (16 per cent) were also common tactics by exploiters.²⁸ The isolation of working on fishing vessels on high seas poses risks for migrant fishers, who are far from help.

Figure 5: Sector of forced labour exploitation (Source: ILO)



According to the US Department of State (Office to Monitor and Combat Trafficking in Persons), in 2017, only the Philippines met the Trafficking Victims Protection Act minimum

²⁶ ILO and Walk Free Foundation. 2017. [Global estimates of modern slavery: forced labour and forced marriage](#), pp 9 and 10. Figures provided here exclude sexual exploitation.

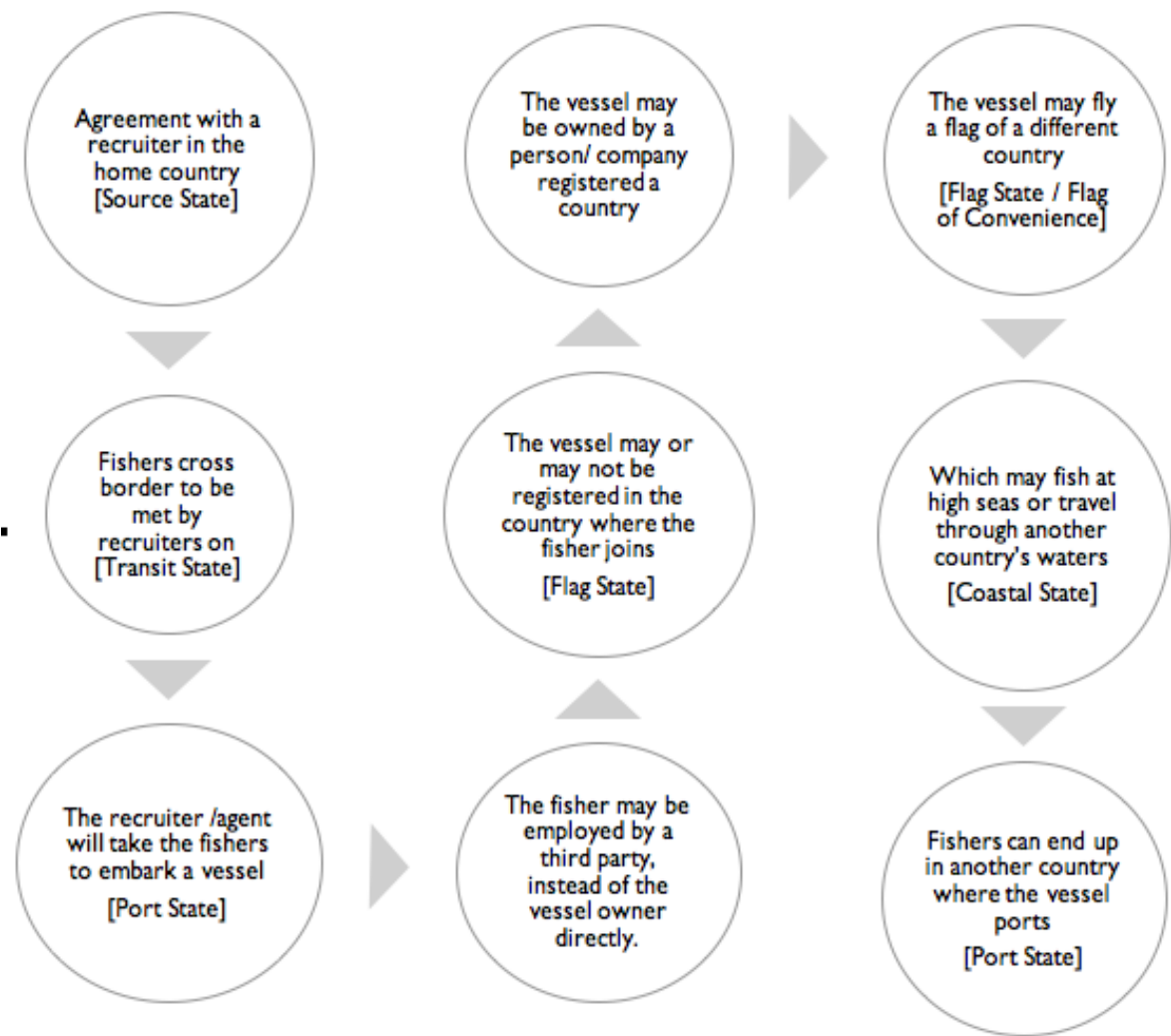
²⁷ *Ibid.*, p 23.

²⁸ *Ibid.*, p 11.

standards in Southeast Asia. However, many are making significant efforts to do so, including Indonesia, Viet Nam, and Malaysia (Tier 2 countries). Notably, three countries improved its ranking from 2015 to 2016, and another two were upgraded between 2016 and 2017.

Working in fishing is highly transnational in character, particularly for migrant workers. Fishers are recruited from their home country, taken to a port of embarkation on a vessel often in a second country, and onto fishing vessels which may be owned by an entity based in a third country and flagged to a fourth country. In addition, the fisher may not be directly employed by the fishing vessel owner, but by a manning agency. The fishing vessel itself may pass through the waters of one or more other countries, and may land its catch or port at yet another country (Figure 6: transnational nature of working in fishing).

Figure 6: Transnational nature of working in fishing



The traditional analytical framework for human trafficking, however, does not fit easily with the jurisdictional complexities of trafficking in fisheries. While global trafficking flows are often described in the context of “source,” or “destination” countries, these territorial concepts

are not fully aligned with the jurisdictional divisions in relation to at-sea responsibilities between flag States, port States, coastal States.

For example, a fishing vessel at sea may be situated on the high seas, and thus subject to the jurisdiction of the flag State. A victim of trafficking may be recruited from his/her country of nationality, the port of State of the fishing vessel, or the flag State of vessels from which the victim is transferred at sea. All of these might be considered “source” countries under the traditional trafficking paradigm. If victims of trafficking on board fishing vessels are transported in and out of harbours, and through the territorial sea of coastal States, these may be considered to be “transit” States. At the same time, traditional “transit” State concepts apply to workers who travel to a transit country on a tourist visa before being picked up by manning agencies to be placed on a vessel flagged to a third State. In all these cases, there may be jurisdictional overlaps between States, which can give rise to gaps in accountability as well as opportunities for enforcement.

While flag States have primary jurisdiction over a fishing vessel while it is at high seas, the use of flags of convenience means that flag States are often unwilling or unable to enforce its jurisdiction. Instead, particularly in the region, there are significant opportunities for coastal and port States to exercise their jurisdiction, and for source States to strengthen the governance of recruitment and placement of migrant fishers.

3.5. RELATED ISSUES

Trafficking for labour exploitation in fisheries does not take place in isolation. Practices in commercial fishing can have an impact on the working and living conditions of fishers, as well as their recruitment and placement. In addition, a range of other illegal activities are often associated with trafficking for labour exploitation.

3.5.1. ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING

IUU fishing is broadly defined and includes:²⁹

- (i) fishing and fishing-related activities conducted in contravention of national, regional and international laws;
- (ii) non-reporting, misreporting or underreporting of information on fishing operations and their catches;
- (iii) fishing by “Stateless” vessels;
- (iv) fishing in the areas of competence of regional fisheries management organizations (RFMOs) by non-party vessels; and
- (v) fishing activities which are not regulated by States and cannot be easily monitored and accounted for.

²⁹ FAO. 2016. *Illegal, unreported and unregulated fishing*, (online at <http://www.fao.org/3/a-i6069e.pdf>, accessed 8 Feb 2018).

Vessels engaged in IUU fishing tend to hide from regulatory authorities, which undermines fisheries management and conservation, as well as vessel safety and working conditions of fishers. Undocumented fishers are more likely to be forced or coerced into such operations. IUU fishing has also been linked to forced labour and trafficking in persons.³⁰

3.5.2. OTHER TRANSNATIONAL FISHERIES CRIME

Fisheries crime covers a range of criminal offences, frequently transnational and organized in nature, encompassing but also going beyond illegal fishing. Such offences include document fraud, tax evasion, money laundering, as well as drug trafficking.

Often, criminal activities in the fishing sector are viewed as synonymous with illegal fishing, which many States treat as fisheries management concerns rather than as criminal offences that can be prosecuted.

In addition, to avoid law enforcement measures, fishing operators engaged in fisheries crime use secrecy jurisdictions and register their vessels in open international registers. They may make use of flag States that are unable or unwilling to exercise their criminal law jurisdiction and follow international health and labour standards. When working on board vessels engaged in fisheries crime, fishers may have limited or no means of protection and are therefore vulnerable to exploitation.³¹

3.5.3. TRANSHIPMENT AT SEA

Transshipment at sea is frequently a part of fishing operations and may even be compulsory in some fisheries. Typically, fish caught on one vessel are transferred to other refrigerated vessels which carry the catch into port, cutting costs. As a result, vessels remain at sea without returning to port, thereby evading monitoring and enforcement mechanisms, sometimes for years at a time.

Transshipment can help vessel owners to evade enforcement measure. Reduced transparency can facilitate fisheries crime, IUU fishing, forced labour and human trafficking, and human rights abuse on board may go undetected.

Notably, by Ministerial Decree from the Ministry of Maritime Affairs and Fisheries, Indonesia has placed a moratorium on transshipment since 2014.

3.5.4. BUSINESS AND THE GLOBAL SUPPLY CHAIN

Internationally, the responsibility of the business to respect human rights and eliminate modern slavery and other abuses of workers is one of the 2030 Agenda for Sustainable Development

³⁰ ILO. 2017. [Tripartite Meeting on Issues Relating to Migrant Fishers](#). p 5.

³¹ *Ibid.*, p 5

adopted in 2015. ILO's Working in Fishing Convention (C188) contains provisions in relation to the responsibility of the fishing vessel owners. In March 2017, the Governing Body of the ILO also amended the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy to incorporate updates such as the ILC Conclusions concerning the promotion of sustainable enterprises (2007); ILO Declaration on Social Justice for a Fair Globalization (2008), and the ILC Conclusions concerning decent work in global supply chains (2016) as well as other international labour standards.³²

In addition, the UN Guiding Principle on Business and Human Rights (UNGPs) set out the standard of practice expected of all states and businesses in relation to respect for human rights. They also put into operation the "Protect, Respect, and Remedy" framework which consists of the following three pillars:

- A state's duty to protect human rights
- Corporate responsibility to respect human rights
- The need for greater access to remedy for victims of business-related abuses.

In the fisheries and seafood sector, some private sector initiatives have made positive changes to the working and living conditions of fishers.

³² ILO. 2017. [Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy](#) (5th edition), p 1.

4. APPLICABLE INTERNATIONAL AGREEMENTS AND STANDARDS

There are a number of international agreements and standards relevant to combatting trafficking for labour exploitation in fisheries at sea. The most crucial are:

- ILO Conventions that address working conditions, labour standards, inspection and enforcement.
- UN Convention against Transnational Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children

In addition, the UN Convention on the Law of the Sea and related agreements, as well as conventions and agreements that address fisheries resource management, maritime safety and maritime security are also relevant.

4.1. ILO CONVENTIONS AND TOOLS

ILO's Working in Fishing Convention, 2007 (No. 188) sets minimum requirements for work on board fishing vessels in order to ensure that fishers have decent conditions of work. It replaces several existing ILO Conventions concerning the fishing sector, and addresses a number of deficiencies in the protection of fishers as compared to seafarers on merchant ships who are covered by the Maritime Labour Convention, 2006 (MLC 2006).

[MLC 2006] applies to all ships [...] **other than ships engaged in fishing** or in similar pursuits.

MLC 2006, Article II(4)

C188 has been ratified by ten States and entered into force on 16 November 2017. However, no State in Southeast Asia has yet ratified the Convention.

C188 cover a range of issues, of particular relevance to the challenges faced by migrant fishers and the risks of trafficking for labour exploitation are those concerning recruitment and placement medical certification, repatriation and social security (Figure 7: Issues addressed by C188).

C188 requires States to establish effective systems for the inspection of conditions on board vessels flying the flag of a ratifying State. Importantly for Southeast Asia, it also contains provisions for inspection of foreign vessels through the exercise of the ratifying State's port State jurisdiction and a "no more favourable treatment" provision which can be used to reveal and address problems on, for example, distant-water vessels. In addition, Recommendation No. 199, which accompanies C188, provides that coastal States which have ratified C188 can

require fishing vessels to comply with the requirements of the Convention when granting licenses to foreign vessels for fishing in its exclusive economic zone.³³

Figure 7: Issues addressed by C188

- Issues addressed by Convention No. 188**
- Implementation (Art. 6)
 - Competent authority and coordination (Art. 7)
 - Responsibilities of fishing vessel owners, skippers and fishers (Art. 8)
 - Minimum age (Art. 9)
 - Medical examination (Arts 10–12)
 - Manning and hours of rest (Arts 13–14)
 - Crew list (Art. 15)
 - Fisher's work agreement (Arts 16–20, Annex II)
 - Repatriation (Art. 21)
 - Recruitment and placement (Art. 22)
 - Payment of fishers (Arts 23–24)
 - Accommodation and food (Arts 25–28, Annex III)
 - Medical care (Arts 29–30)
 - Occupational safety and health and accident prevention (Arts 31–33)
 - Social security (Arts 34–37)
 - Protection in the case of work-related sickness, injury or death (Arts 38–39)
 - Compliance and enforcement (Arts 40–44)

In addition to C188, ILO has developed tools such as the *Guidelines on flag State inspection of working and living conditions on board fishing vessels*, which aim to assist States to exercise their jurisdiction and control effectively over vessels that fly their flag.

However, due to the use of flags of convenience, and the lack of effective jurisdiction and control by some flag States over fishing vessels, port State jurisdiction may be exercised to inspect vessels in order to detect and rectify failures in compliance. ILO has also adopted the *Guidelines for State control officers carrying out inspections under the Working in Fishing Convention, 2007 (No. 188)*. These provide practical information and guidance to port State authorities that can be adapted to reflect national practices and policies and other applicable international arrangements in force concerning port State control inspection of fishing vessels.

The eight ILO Fundamental Conventions (Figure 8: ILO's fundamental Conventions), particularly the Forced Labour Convention 1930 (No 29) and its Protocol (No 29) are also relevant.

³³ ILO. 2017. [Tripartite Meeting on Issues Relating to Migrant Fishers](#), p 5.

Figure 8: ILO's fundamental Conventions

The eight fundamental Conventions are:

1. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) >
2. Right to Organise and Collective Bargaining Convention, 1949 (No. 98) >
3. Forced Labour Convention, 1930 (No. 29) >
4. Abolition of Forced Labour Convention, 1957 (No. 105) >
5. Minimum Age Convention, 1973 (No. 138) >
6. Worst Forms of Child Labour Convention, 1999 (No. 182) >
7. Equal Remuneration Convention, 1951 (No. 100) >
8. Discrimination (Employment and Occupation) Convention, 1958 (No. 111) >

4.2. UN CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME AND THE PROTOCOLS

The UN Convention against Transnational Organized Crime (UNTOC) is the main international instrument in the fight against transnational organized crime, including trafficking in persons. The UNTOC has been widely ratified in the world and has 189 parties. All States in Southeast Asia have ratified the Convention.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children ("the TIP Protocol") has also been widely adopted. It has 173 parties. All States in Southeast Asia, except for Brunei Darussalam, have ratified the Protocol, which came into force on 25 December 2003. It is the first legally binding instrument with an agreed definition on trafficking in persons.

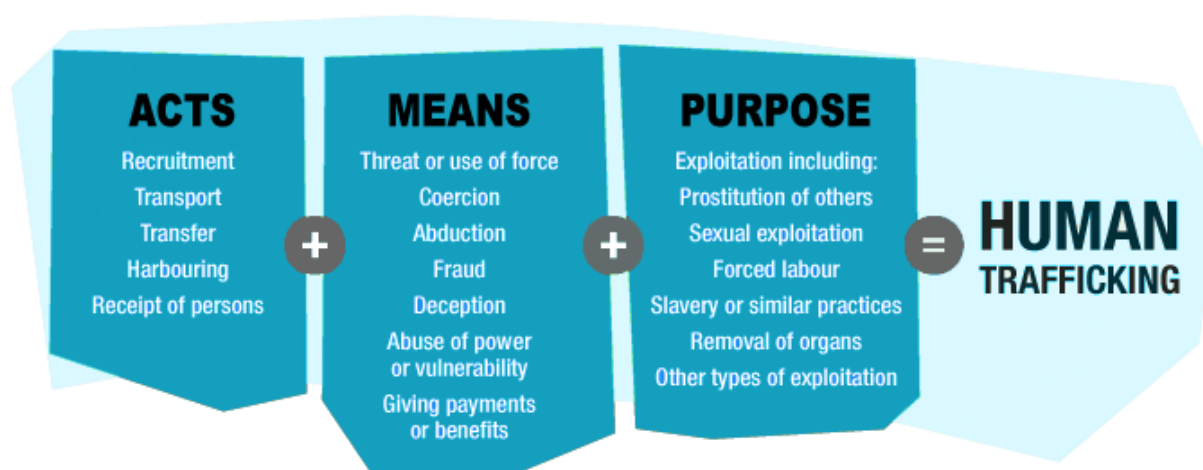
The TIP Protocol defines human trafficking as (Figure 9: Definition of human trafficking):

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of

*others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;*³⁴

The TIP Protocol makes clear that the consent of a victim of trafficking to the intended exploitation is irrelevant where any of the prohibited means have been used.³⁵

Figure 9: Definition of human trafficking



The UNODC is tasked with the implementation of the UNTOC Convention and the Protocols.

4.3. LAW OF THE SEA AND OTHER MARITIME AND FISHERIES AGREEMENTS

Although not directly concerned with labour exploitation or trafficking in persons, there are a range of international instruments and agreements related to the law of the sea, maritime safety and security, and fisheries resources management that are relevant. Together, these instruments provide the basis on which States, as flag States, port States, and coastal States, can intervene and disrupt the business of trafficking for labour exploitation in fisheries at sea.

The UN Convention on the Law of the Sea (UNCLOS) lays down a comprehensive regime of law and order in the world's oceans and seas establishing rules governing all uses of the oceans and their resources. It enshrines the notion that all problems of ocean space are closely interrelated and need to be addressed as a whole. UNCLOS entered into force on 16 November 1994, and has 168 parties. All States in Southeast Asia have ratified UNCLOS, under which there are also several bilateral and multilateral maritime boundary delimitation agreements in the region.

³⁴ [Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime](#), Article 3(a).

³⁵ *Ibid.*, Article 3(b).

The International Maritime Organization (IMO) has adopted several treaties relevant to maritime safety and security, as well as the port-ship interface. Those of particular relevance to fishers include:

- Convention for the Safety of Life at Sea (SOLAS) 1974
- The 1993 Torremolinos Protocol for the Safety of Fishing Vessels; and the Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol
- Convention on Standards of Training, Certification, and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995

All States in Southeast Asia has ratified SOLAS, except for the landlocked Lao PDR.³⁶

The Food and Agriculture Organization of the UN (FAO) has also adopted several agreements in relation to fisheries management which are of relevance, including the Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing, 2009 (PSMA). The PSMA 2009 entered into force in June 2016 and has 52 State Parties and one Member Organization (the EU). In Southeast Asia, only Indonesia, Myanmar and Thailand are party to the Convention.

In addition, the FAO has a range of agreements related to regional fisheries management, including:

- Agreement for the Establishment of the Regional Commission for Fisheries (1999)
- Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (1993)
- Agreement for the Establishment of the Indian Ocean Tuna Commission (1993)

In addition, the FAO has also elaborated the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA), a voluntary code within the framework of the Code of Conduct for Responsible Fisheries.

³⁶ Timor Leste also has not ratified [SOLAS](#).

5. RELEVANT REGIONAL BODIES

In Southeast Asia, there are several regional organizations and initiatives that address aspects of trafficking in persons. Key among these are:

- a. The Association of Southeast Asian Nations (ASEAN) and its various bodies
- b. The Bali Process on People Smuggling and Trafficking in Persons and Related Transnational Crimes
- c. The Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT Process)

In addition, the Southeast Asian Fisheries Development Centre (SEAFDEC) deals with fisheries resource management.

In this section, the features most relevant to combatting human trafficking for labour exploitation in fisheries will be highlighted. In addition, Annex 1 provides a detailed summary of the mandate, structure and operations of each of these organizations or initiatives, including the work of their Secretariats. Annex 2 provides a comparative analysis of their key features.

Although the regional initiatives and organizations are relevant to combating trafficking in persons and fisheries management, *there is no specialised regional entity that specifically addresses the unique characteristics of human trafficking for labour exploitation in fisheries at sea.*

Moreover, efforts to address issues of trafficking in persons, labour exploitation and working conditions in fisheries, fisheries management, and maritime cooperation tend to be compartmentalized and fall under the purview of different institutions or bodies. A majority of regional initiatives tend to be government-led, although engagement with the private sector, NGOs, CSOs, and other stakeholders do take place.

A regional cooperation body in Southeast Asia will support existing national bodies to improve coordination in combating trafficking in the fisheries sector. It will be a forum for Southeast Asian countries to coordinate strategies in priority areas, share information and experience, as well as coordinate responses in providing victim support. It can also provide a forum for strategic and coordinated engagement between Southeast Asian countries and other flag or market States that can have an impact on the working and living conditions of fishers from the region.

5.1. ASEAN

ASEAN is an inter-government organization first established in 1967 to promote regional cooperation and integration and intensifying community building. It comprises of ten Member Countries, including Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam. ASEAN is committed to intensifying community building through enhanced regional cooperation and integration.

A basic principle of ASEAN is that decisions are made based on consultation and consensus. If a consensus cannot be achieved, the ASEAN Summit – the supreme policy-making body of ASEAN – can decide how a specific decision can be made.

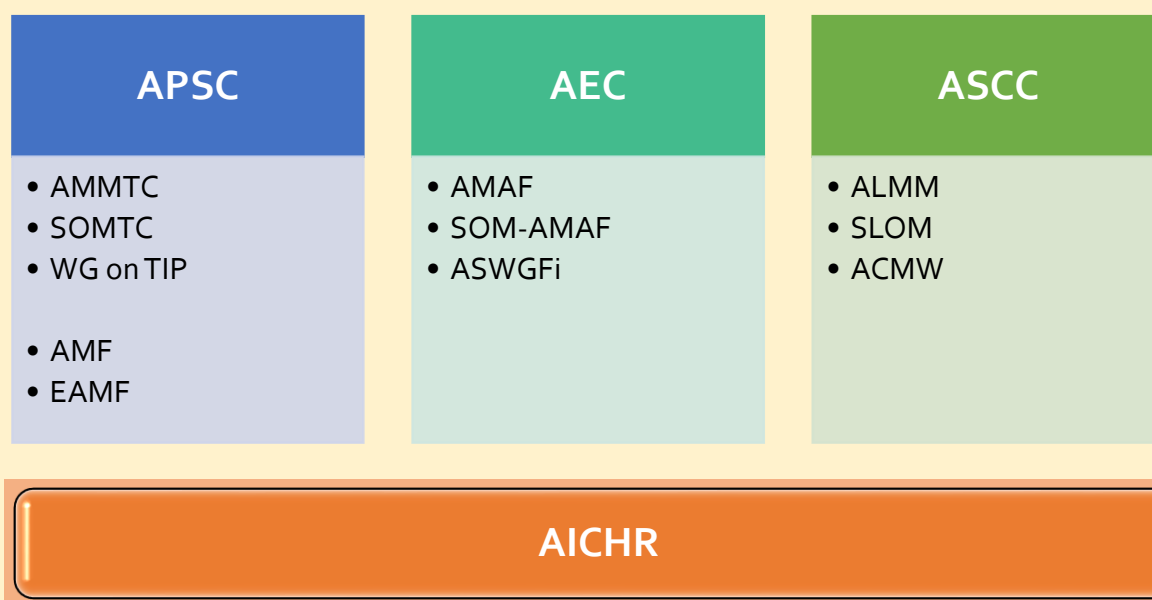
Under the ASEAN Charter, which is binding upon all Members States and provides the legal and institutional framework for it, ASEAN is organised into three Communities:

1. ASEAN Political-Security Community (APSC)
2. ASEAN Economic Community (AEC)
3. ASEAN Socio-Cultural Community (ASCC)

Under each Community, Sectoral Ministerial Bodies are established and function according to their mandates (Figure 10: ASEAN Communities and Bodies).

Trafficking in persons falls under the APSC, with the Ministerial Meeting on Transnational Crime (AMMTC) and its subsidiary Senior Officials' Meeting on Transnational Crime (SOMTC), along with SOMTC's Working Group on Trafficking in Persons (WG on TIP) as key bodies. The ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP) falls under the purview of AMMTC, SOMTC and the WG on TIP.³⁷ They are also mandated to oversee the implementation of the ASEAN Plan of Action against Trafficking in Persons, Especially Women and Children (APA).

Figure 10: ASEAN Communities and bodies



³⁷ Nine Member States have ratified [ASEAN Convention against Trafficking in Persons, Especially Women and Children](#): Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Thailand, Singapore, Viet Nam.

Also under the APSC are the ASEAN Maritime Forum (AMF) and the Expanded ASEAN Maritime Forum (EAMF). AMF was established to apply a comprehensive approach on the safety of navigation and maritime security issues. The EAMF was first held in 2012 and includes ASEAN Member States as well as Australia, China, India, Japan, New Zealand, Republic of Korea, Russian Federation, and the USA. The EAMF was formed to establish a venue for ASEAN to engage external parties on issues of maritime cooperation, including in relation to sustainable marine economic development.

Under ASEAN, fisheries issues are included under ASEAN cooperation on food, agriculture and forestry and fall in the AEC. The Ministerial Meeting on Agriculture and Forestry (AMAF) and its Senior Officials Meeting of AMAF (SOM-AMAF) are key implementing bodies. The ASEAN Sectoral Working Group on Fisheries (ASWGF) was established under the AMAF, and is responsible for the fisheries sub-sector and for implementing the Strategic Plan of Action for the ASEAN Cooperation on Fisheries 2016-2020.

Labour issues fall under the ASCC. The ASEAN Labour Ministers Meeting (ALMM) and its Senior Labour Officials Meeting (SLOM) leads ASEAN cooperation on labour issues and the implementation of the ASEAN Labour Ministers' Work Programme 2016-2020 (ALMM).

The ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) works under the supervision of SLOM. It was established to ensure that commitments made under the ASEAN Declaration on the Protection and Promotion of Migrant Workers, also known as the Cebu Declaration, are implemented. It is also tasked with developing an action plan under the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, which was signed in November 2017.

As each of these Sectoral Bodies fall under different ASEAN Communities, Sectoral Body and its subsidiary meetings and working groups tend to work in silo, and towards their own specific mandate. As such, there are no coordinated and targeted efforts to address the specific issue of trafficking in persons for labour exploitation in fisheries at sea.

In addition to the sectoral bodies, the ASEAN Intergovernmental Commission on Human Rights (AICHR) was established as an inter-governmental consultative body. It is the overarching human rights institution in ASEAN with overall responsibility for the promotion and protection of human rights in ASEAN. The AICHR developed the ASEAN Human Rights Declaration (AHRD) and the Phnom Penh Statement on the Adoption of the AHRD (the Phnom Penh Statement), which were adopted and signed in 2012. AICHR does not have the mandate to handle individual cases, and has no specific mandate to deal with trafficking in persons or labour exploitation.

5.2. BALI PROCESS

The Bali Process on People Smuggling Trafficking in Persons and Related Transnational Crime (Bali Process) is a voluntary and non-binding process with 48 members, including 45 governments and three UN agencies (UNHCR, UNODC, and IOM). It also has 27 observer countries and international agencies, including the ILO. Since 2012, the work of the Bali Process has been supported by the Regional Support Office based in Bangkok.

The objectives for Bali Process include:

- The development of more effective information and intelligence sharing;
- Improved cooperation among regional law enforcement agencies to deter and combat people smuggling and trafficking networks;
- Increased public awareness in order to discourage these activities and warn those susceptible;
- The enactment of national legislation to criminalise people smuggling and trafficking in persons;
- Provision of appropriate protection and assistance to the victims of trafficking, particularly women and children; and
- Assisting countries to adopt best practices in asylum management.

Its Steering Group comprises of Australia, Indonesia, New Zealand, Thailand, IOM and UNHCR. An Ad Hoc Group (AHG) was established in 2009 as a mechanism to comprehensively address situations on a case-by-case basis upon the request of most-affected countries, and to report developments to the wider membership as appropriate.

The Bali Process works through a series of meetings including Ministerial Conferences, Senior Official Meetings, and AHG Senior Official Meetings. Issues that are of particular focus are identified by members, and working groups or task forces are established to address these. Current working groups include the Working Group on Trafficking in Persons. It met for the first time on 27 March 2015. Its latest Forward Work Plan 2017-19 includes annual meetings in 2018 and 2019 to share and update information, to promote the use of the Bali Process Policy Guides, and to promote effective engagement with the private sector and civil society organizations.

There is no working group or task force on trafficking in persons for labour exploitation in fisheries at sea. The membership of the Bali Process is also significantly broader than the proposed regional coordination body to address human trafficking in fishing.

The Bali Process is government-led. In 2017, the first Bali Process Government and Business Forum were held in Australia. The meeting brought together ministers and business leaders from the 45 countries to determine policies to tackle human trafficking, modern slavery, and forced labour. No specific industry sector focus has been identified.

5.3. COMMIT PROCESS

The Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) is a government-led process incorporating six countries in the Greater Mekong Sub-region - Cambodia, China, Lao PDR, Myanmar, Thailand, and Viet Nam – in a formal alliance to combat human trafficking. It is a multi-country and multi-stakeholder framework against human trafficking, engaging relevant government agencies, international organizations, civil society organizations (CSOs) and the private sector.

The objectives of the COMMIT Process are:

- To promote and strengthen systems and arrangements of inter-country and regional cooperation against human trafficking.
- To establish a holistic regional response, covering all aspects of the trafficking problem and ensuring that concern for the victim is at the centre of all interventions.
- To identify and adapt successful models in one country to others as appropriate.
- To enhance national capacities to address human trafficking in order to facilitate each country's engagement at the regional level, building on existing strengths in each country.

The work of COMMIT is guided by the Sub-Regional Plan of Action (SPA) and national plans of action developed under the SPA. The COMMIT Process is also supported by UN Action for Cooperation against Trafficking in Persons (UN-ACT), which is established as a project executed by the UNDP and acts as the COMMIT Secretariat. The UN-ACT is based in Bangkok but COMMIT has project offices in all six countries covered.

COMMIT works on all forms of trafficking and does not focus on any particular sector or type of exploitation.

5.4. SEAFDEC

The Southeast Asian Fisheries Development Center (SEAFDEC) is an autonomous inter-governmental body established in 1967, and comprises of 11 Member Countries, including all ten ASEAN countries and Japan. Its mandate is to develop and manage fisheries resources in the region through the transfer of technologies, research and information dissemination. The Secretariat of SEAFDEC is also located in Bangkok.

Since 2009, the programme framework of SEAFDEC has comprised of the following main areas of focus:

1. Developing and promoting responsible fisheries for poverty alleviation and food security.
2. Enhancing capacity and competitiveness to facilitate international and intra-regional trade.
3. Improving management concepts and approaches for sustainable fisheries.

4. Providing policy and advisory services for planning and executing management of fisheries.
5. Addressing international fisheries related issues from a regional perspective.

Since 1998, the ASEAN-SEAFDEC Fisheries Consultative Group Mechanism (FCG) has worked on technical cooperation between ASEAN and SEAFDEC on sustainable fisheries development, through which SEAFDEC also works with ASWGF on issues of regional fisheries management. In August 2016, the ASEAN-SEAFDEC Joint Declaration on Regional Cooperation for Combating IUU Fishing and Enhancing the Competitiveness of ASEAN Fish and Fishery Products was issued. However, attempts to formulate ASEAN Guidelines in relation to labour practices have not progressed. SEAFDEC does not have a particular focus or expertise on labour exploitation or trafficking in persons.

ANNEX I: SUMMARY OF MANDATE, STRUCTURE, AND OPERATIONS OF REGIONAL BODIES

ASEAN

The Association of Southeast Asian Nations (ASEAN) is an inter-governmental organization first established in 1967 to promote regional cooperation and integration and intensifying community building. It comprises of ten Member Countries, including Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam. ASEAN is committed to intensifying community building through enhanced regional cooperation and integration.

ASEAN was first established by Indonesia, Malaysia, Philippines, Singapore and Thailand, with the other Member States subsequently joining between 1984 and 1999. The purposes of ASEAN are set out in the ASEAN Declaration and, among others, include:

- To accelerate the economic growth, social progress and cultural development in the region through joint endeavours in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community of Southeast Asian Nations;
- To promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter;
- To promote active collaboration and mutual assistance on matters of common interest in the economic, social, cultural, technical, scientific and administrative fields; and
- To maintain close and beneficial cooperation with existing international and regional organisations with similar aims and purposes, and explore all avenues for even closer cooperation among themselves.

The Treaty of Amity and Cooperation in Southeast Asia of 1976 governs the relationship between ASEAN Members which includes fundamental principles of:

1. Mutual respect for the independence, sovereignty, equality, territorial integrity, and national identity of all nations;
2. The right of every State to lead its national existence free from external interference, subversion or coercion;
3. Non-interference in the internal affairs of one another;
4. Settlement of differences or disputes by peaceful manner;
5. Renunciation of the threat or use of force; and
6. Effective cooperation among themselves.

The ASEAN Charter, which entered into force in 2008, is binding upon all Member States and provides the legal status and institutional framework for ASEAN. It also codifies ASEAN norms, rules, and values.

Under Article 20 of the ASEAN Charter, as a basic principle, decision-making ASEAN is to be based on consultation and consensus. If consensus cannot be achieved, the ASEAN Summit can decide how a specific decision can be made. The ASEAN Summit comprises of the Heads of State or Government of the Member States, and is the supreme policy-making body of ASEAN. It meets twice annually, and can convene special or ad hoc meetings.

Under the ASEAN Charter, three Community Councils are established which have purview over Sectoral Ministerial Bodies:

1. ASEAN Political-Security Community Council
2. ASEAN Economic Community Council
3. ASEAN Socio-Cultural Community Council

ASEAN Sectoral Ministerial Bodies are established under respective Community Councils and function according to their mandates. They are tasked to implement agreements and decisions of the ASEAN Summit under their purview, and strength cooperation in their respective fields to support ASEAN integration and community building.

Of particular relevance to the proposed regional coordination body to combat trafficking in fishing are the following bodies falling under the three ASEAN Communities (Table 2-1).

Table I-I: Summary of relevant ASEAN organs, instruments and documents		
ASEAN Community	Instrument(s)	Implementing bodies
ASEAN Political and Security Community	• ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP); • ASEAN Action Plan against Trafficking in Persons, Especially Women and Children`	AMMTC and SOMTC
	• EAS Statement on Enhancing Regional Maritime Cooperation (2015); • ARF Statement on Cooperation to Prevent, Deter, and Eliminate IUU Fishing; • ARF Statement on Enhancing Cooperation among Maritime Law Enforcement Agencies	AMF and EAMF
ASEAN Economic Community	• Strategic Plan of Action for the ASEAN Cooperation on Fisheries 2016-2020	AMAF, SOM-AMAF, and ASEAN Sectoral Working Group on Fisheries (ASWGF)
ASEAN Socio-Cultural Community	• ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers; • ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers	ALMM, SLOM, and the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW).
Overarching bodies	• ASEAN Human Rights Declaration (AHRD); the Phnom Penh Statement on the Adoption of the AHRD (the Phnom Penh Statement)	ASEAN Intergovernmental Commission on Human Rights (AICHR)

- ASEAN Political-Security Community (APSC):
Ministerial Meeting on Transnational Crime (AMMTC) and Senior Officials Meeting on Transnational Crime (SOMTC)

The AMMTC was convened in 1997 pursuant to the ASEAN Declaration on Transnational Crime. It is mandated to facilitate and promote cooperation and coordination within ASEAN in preventing and combating existing and emerging transnational crime; strengthen and improve cross-sectoral coordination including information sharing on transnational

crime issues within relevant ASEAN sectoral bodies, and enhance cooperation with dialogue partners and relevant stakeholders.³⁸

SOMTC was subsequently established in 1999 to support the work of the AMMTC. Areas of cooperation under the SOMTC including arms smuggling, terrorism, money laundering, sea piracy, people smuggling, trafficking in persons, international economic crime, cybercrime, illicit drug trafficking, and illicit trafficking of wildlife and timber. The Philippines currently leads the efforts in combatting trafficking in persons.

The SOMTC operates through the mechanism of working groups including the Working Group on Trafficking in Persons (WG on TIP), which was first institutionalised in 2007 in Lao PDR and meets at least once per year. In addition to implementing the SOMTC Work Programme with regard to TIP, the WG on TIP also facilitates the exchange of information and experiences among ASEAN member states, and considers ways to strengthen regional and international cooperation. However, currently, the SOMTC does not have a focus on fisheries or at-sea TIP.

SOMTC is formed by Senior Officials from law enforcement and police of each member state. The Chairmanship of the SOMTC is rotated among member states annually based on alphabetical order. Currently, Lao PDR is the chairman of SOMTC until May 2018.

Key legal instruments under the purview of AMMTC and SOMTC include the ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP), which was signed in 2015 and came into force in March 2017. According to the ASEAN Plan of Action against Trafficking in Persons Especially Women and Children (APA), SOMTC, supported by its WG on TIP, oversees the implementation the APA, which complements ACTIP and aims to provide specific action plans within Member States domestic laws and policies.

ASEAN Maritime Forum (AMF) and the Expanded ASEAN Maritime Forum (EAMF)

The ASEAN Maritime Forum (AMF) was first held in Indonesia in July 2010 and was established to implement the APSC Blueprint as well as commitments in the Declaration of ASEAN Concord II.

The AMF was established to apply a comprehensive approach that focuses on the safety of navigation and security concerns in the region, to take stock of maritime issues, and identify maritime cooperation, as well as promote cooperation in maritime safety and search and rescue.

In 2012, the first Expanded ASEAN Maritime Forum (EAMF) was held in the Philippines attended by the ASEAN Member States as well as Australia, China, India, Japan, New

³⁸ TORs adopted by the 11th AMMTC on 20 September 2017: <http://asean.org/storage/2012/05/ToR-of-the-AMMTC-endorsed-by-SOMTC-and-DGICM-adopted-by-11th-AMMTC.pdf>

Zealand Republic of Korea, Russian Federation, the USA, and the ASEAN Secretariat. The EAMF was convened in response to the statement of ASEAN leaders as well as the Leaders of the East Asia Summit (EAS) in 2011, which encouraged dialogue involving EAS participating countries to address common challenges on maritime issues and to build upon the AMF.

The objectives of the EAMF were:

1. To create a new venue for ASEAN to engage its stakeholders, Dialogue Partners, and other external parties on important issues;
2. To generate ideas and inputs for further development of maritime cooperation in ASEAN in general and for the enhancement of AMF in particular;
3. To develop practical maritime cooperation activities in support of ASEAN's community building by involving and learning from appropriate interested parties that are capable of contributing to the cooperation
4. To mobilize support and attract capacity-building assistance in all relevant maritime issues for ASEAN across its three communities.

The EAMF also makes decisions by consultation and consensus, and respects the ASEAN principles and purposes as set out in the ASEAN Charter. The EAMF is convened back to back with the regular annual AMF. The most recent 5th EAMF took place with the 7th AMF in Jakarta in December 2017. Trafficking in persons and IUU fishing was discussed under the maritime security agenda.

The APSC Blueprint 2025 highlights the need to promote maritime cooperation to comprehensively address maritime issues, including to:

Expand ASEAN maritime cooperation to effectively combat transnational crimes such as maritime terrorism, smuggling of goods, people and weapons, drug trafficking, trafficking in persons, piracy, hijacking, armed robbery against ships, as well as to address transboundary challenges including [...] illegal, reported and unregulated fishing, through concrete and practical activities.

In addition, in 2015, parties to the EAMF issued the East Asia Summit Statement on Enhancing Regional Maritime Cooperation which included a commitment to enhance cooperation in sustainable marine economic development to achieve sustainable development of the seas and oceans in accordance with relevant international instruments, particularly the UN Convention on the Law of the Sea. Specifically, the parties committed to protecting “marine and coastal environment, marine biodiversity, ecosystems and resources as well as people who depend on them for their livelihoods from harmful activities” including illegal, unreported and unregulated fishing” (IUU fishing). The parties also committed to strengthening cooperation in addressing transboundary challenges including utilizing ASEAN-led mechanisms to ensure that the region is “free of [...] IUU

fishing, irregular movement of persons at sea particularly those linked to trafficking in persons [...]”.³⁹

Other relevant documents include the ASEAN Regional Forum (ARF) Statement on Cooperation to Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated Fishing and the ARF Statement on Enhancing Cooperation among Maritime Law Enforcement Agencies, which includes encouragement to promote concrete and practical cooperation between ARF participants in “sharing experience and best practices in handling fishing vessels of other countries and their crews”.

- ASEAN Economic Community (AEC):

Ministerial Meeting on Agriculture and Forestry (AMAF) and Senior Officials Meeting of AMAF (SOM-AMAF)

Fisheries is included in ASEAN cooperation on food, agriculture and forestry. In line with the guidance of the Fourth ASEAN Summit in 1992, the AMAF identified seven priority areas as reflected in the Ministerial Understanding on ASEAN Cooperation in Food, Agriculture and Forestry signed in October 1993. Among others, these include “strengthening food security in the region” and “management and conservation of natural resources for sustainable development”.

The ASEAN Economic Community Blueprint 2025, adopted in 2015 at the 27th ASEAN Summit, provides broad directions through strategic measures for the AEC from 2016 and 2025. In it, there are two specific mentions of the fishing sector: first, in relation to liberalising existing investment restrictions in fisheries, and second in strategic measures to increase fishery and aquaculture production.⁴⁰

The SOM-AMAF is the main implementing mechanism that oversees the overall ASEAN cooperation in food and agriculture, with the guidance of AMAF. Sectoral working groups, joint committees and boards, as well as expert groups have been established to implement respective cooperation sectors of food, and various sub-sectors of agriculture and forest products. One such working group is the ASEAN Sectoral Working Group on Fisheries (ASWGF).

ASWGF is the responsible working group for the fisheries sub-sector.⁴¹ It consists of representatives from ministries overseeing marine affairs and fisheries from each Member State, and holds annual meetings.

³⁹ EAS Statement on Enhancing Regional Maritime Cooperation (22 November 2015)

⁴⁰ AEC Blueprint p 7 and 26

⁴¹ <http://asean.org/storage/2016/10/Strategic-Plan-of-Action-on-ASEAN-Cooperation-in-Fisheries-2016-2020.pdf>

The Strategic Plan of Action for the ASEAN Cooperation on Fisheries 2016-2020 names the following Strategic Thrusts for the work of the ASWGFi:

1. Enhance quantity and quality of production with sustainable, 'green' technologies, resource management systems, and minimise pre- and post-harvest losses and waste
2. Enhance trade facilitation, economic integration and market access
3. Ensure food security, food safety, better nutrition and equitable distribution
4. Increase resilience to climate change, natural disasters and other shocks
5. Assist resource constrained small producers and SMEs to improve productivity, technology and product quality, to meet global market standards and increase competitiveness in line with the ASEAN Policy Blueprint on SME Development
6. Strengthen ASEAN joint approaches on international and regional issue

Activities envisaged under the Strategic Plan of Action include “promote corporate and public responsibility with regard to sustainable fisheries practice”, “update and strengthen national fisheries policy, legal and institutional frameworks through consultation and engagement of government agencies, the private sector, fishers, civil society and other relevant stakeholders” and “develop simple and practical indicators in supporting planning and monitoring of sustainable fisheries”.

- ASEAN Socio-Cultural Community (ASCC):

ASEAN Labour Ministers Meeting (ALMM) and the Senior Labour Officials Meeting (SLOM)

ASEAN cooperation on labour is led by the ASEAN Labour Ministers Meeting (ALMM), which was first held in 1975. Under the ASEAN Labour Ministers' (ALM) Work Programme 2016-2020, the objective of the ALMM is work towards a “better quality of life for ASEAN people through workforce with enhanced competitiveness and engaged in safe and decent work derived from productive employment, harmonious and progressive workplace, and adequate social protection”.⁴²

ALMM is supported by the Senior Labour Officials Meeting (SLOM). SLOM has established three subsidiary bodies, which addresses 23 thematic areas related to the objectives of the ALM Work Programme.

One of the subsidiary bodies working under the supervision of SLOM is the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW). It meets annually and consists of representatives from labour agencies of each country. It reports to SLOM.

ACMW was established to ensure that commitments made under the ASEAN Declaration on the Protection and Promotion of Migrant Workers, also known as the Cebu

⁴² http://asean.org/storage/2012/05/UPDATED_ASEAN-Labour-Ministers-Work-Programme-2016-2020-and-Work-Plans-of-the-Subsidiary-Bodies.pdf

Declaration, are implemented. In addition, ACMW was tasked to develop an ASEAN instrument on the protection and promotion of the rights of migrant workers.⁴³

In November 2017, the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers was signed at the 31st ASEAN Summit and ten years since the adoption of the Cebu Declaration. It stipulates the general principles, fundamental rights of migrant workers and members of their families, specific rights of migrant workers, obligations and commitments of ASEAN Member States. It also aims to establish a framework for closer cooperation among member states on addressing migrant workers' issues in the region. Following the signing of the ASEAN Consensus, the ACMW is tasked with developing an action plan.

- ASEAN Intergovernmental Commission on Human Rights (AICHR)

In addition to the sectoral bodies under the three ASEAN Communities, the ASEAN Intergovernmental Commission on Human Rights (AICHR) was established in 2009, to give effect to the commitment made in 1993 by the ASEAN Foreign Ministers in their Joint Communique of the 26th ASEAN Foreign Ministers' Meeting (AMM) and to implement Article 14 of the ASEAN Charter (2008).

The AICHR is an inter-governmental consultative body that is an integral part of ASEAN. It is the overarching human rights institution in ASEAN with overall responsibility for the promotion and protection of human rights in ASEAN. Decision making of the AICHR is based on consultation and consensus. It engages in dialogues and consultations with Entities associated with ASEAN, and also consults other national, regional and international institutions and entities concerned with the promotion and protection of human rights. It does not have the mandate to handle individual cases.

Each ASEAN Member State appoints a representative to the AICHR, and Representative of the Member State holding the Chairmanship ASEAN is the Chair of the AICHR. While it is not a sectoral body itself, it works with all ASEAN sectoral bodies dealing with human rights, and it reports to the ASEAN Foreign Ministers Meeting under the APSC.

Among others, the AICHR is mandated to develop an ASEAN Human Rights Declaration, with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other relevant instruments. ASEAN Human Rights Declaration (AHRD) and the Phnom Penh Statement on the Adoption of the AHRD (the Phnom Penh Statement) were adopted and signed in 2012. The AHRD reflects ASEAN's Commitments to international human rights instruments including the UN Charter, the Universal Declaration of Human Rights, and the Vienna Declaration and Programme of Action. The AHRD sets out the commitment of ASEAN member states to the general principles of

⁴³ Statement of Establishment of ACMW

human rights including those of migrant workers, as well as civil and political rights, and economic, social, and cultural rights. Moreover, the AHRD stipulates that each person and peoples of ASEAN are entitled to the right to development and the right to peace.

The AICHR holds two regular meetings each year and additional meetings if and when necessary. The AICHR also submits a Work Plan of programme and activities with an indicative budget every five years for approval by the AMM upon the recommendation of the Committee of Permanent Representatives to ASEAN. Annual budgets are also submitted to and approved by the AMM. The current Five Year Work Plan of AICHR (2016-2020) was endorsed at the 48th AMM, and it aims to further promote and implement the AHRD and the Phnom Penh Statement.

The annual budget of the AICHR is funded on an equal sharing basis by ASEAN Members, but can receive additional resources from any ASEAN Member State for specific extra-budgetary programmes from the Work Plan. The AICHR is restricted to receiving funding and other resources from non-ASEAN Member States solely for human rights promotion, capacity building and education.

The **ASEAN Secretariat** was established in 1976 by the AMM and is based in Jakarta. It is mandated to “provide for greater efficiency in the coordination of ASEAN organs and for more effective implementation of ASEAN projects and activities”. More recently, the ASEAN Standing Committee decided that the ASEAN Secretariat should function as the coordinating Secretariat to help facilitate effective decision-making within and amongst ASEAN bodies.⁴⁴

The Secretariat is led by the Secretary-General, who is responsible to the Heads of Government Meeting and to all Meeting ASEAN Ministers when they are in session and to the Chairman of the Standing Committee at all other times. The Secretary-General can initiate, advise, coordinate, and implement ASEAN activities including develop and provide the regional perspective on subject and issues before ASEAN.

The Secretariat prepares the 3-year plan of cooperation for submission and approval, and monitors the implementation of the plans. It is in attendance at all Heads of Government Meetings and functions as the Secretary to all the Meetings of ASEAN Ministers and participates at the technical level. It prepares the Annual Budget Estimates of the Secretariat for approval and acts as the custodian of all ASEAN documents.

Currently, the Secretariat comprises of 99 staff members including the Secretary-General, two Deputy Secretary Generals.⁴⁵

⁴⁴ http://asean.org/?static_post=asean-secretariat-basic-documents-asean-secretariat-basic-mandate-2

⁴⁵ http://asean.org/?static_post=asean-secretariat-basic-documents-asean-secretariat-basic-mandate-2

BALI PROCESS AND THE REGIONAL SUPPORT OFFICE

The Bali Process on People Smuggling Trafficking in Persons and Related Transnational Crime (Bali Process) is a voluntary and non-binding process with 48 members, including 45 governments and three UN agencies (UNHCR, UNODC, and IOM). It also has 27 observer countries and international agencies, including the ILO.

Initiated at the Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime held in Bali, Indonesia, the Bali Process aims to address practical issues related to smuggling, trafficking and related transnational crime. The objectives for Bali Process include:

- The development of more effective information and intelligence sharing;
- Improved cooperation among regional law enforcement agencies to deter and combat people smuggling and trafficking networks;
- Increased public awareness in order to discourage these activities and warn those susceptible;
- The enactment of national legislation to criminalise people smuggling and trafficking in persons;
- Provision of appropriate protection and assistance to the victims of trafficking, particularly women and children; and
- Assisting countries to adopt best practices in asylum management.

All ten countries proposed for the regional coordination body to combat trafficking in fishing are members of the Bali Process. In addition, Indonesia, Thailand, Malaysia, Myanmar and the Philippines are also members of the AHG. Indonesia has co-chaired the Bali Process with Australia since its inception in 2002. It is also a part of the Steering Group, which includes Australia, New Zealand, Thailand, IOM and the UNHCR.

In 2009, the Ad Hoc Group (AHG) was established as a mechanism to comprehensively address situations on a case-by-case basis upon the request of most-affected countries, and to report developments to the wider membership as appropriate.

The Bali Process works through a series of meetings including:

- Ministerial Conferences
- Senior Official Meetings
- AHG Senior Official Meetings

There are also Working Groups and Task Forces formed around cross-cutting themes and issues. It is a member-driven process in terms of identification of issues. ‘

Working Groups include the Working Group on Trafficking in Persons. It met for the first time on 27 March 2015. Its latest Forward Work Plan 2017-19 includes annual meetings in

2018 and 2019 to share and update information, to promote the use of the Bali Process Policy Guides, and to promote effective engagement with the private sector and civil society organizations. Other areas of focus include building “follow the money” tools and techniques to support investigation and prosecution of TIP and to disrupt illicit profits; strengthening the Member States’ capacity to combat trafficking for the purposes of labour and sexual exploitation; increase awareness of corruption as a key facilitator of human trafficking; strengthen international cooperation to investigate trafficking cases.⁴⁶

The **Regional Support Office** of the Bali Process (RSO) was established ten years after the process was initiated in 2012 to operationalize the Regional Cooperation Framework (RCF) to reduce irregular migration in the Asia Pacific Region.

The RSO was established to strengthen practical cooperation on refugee protection and international migration, including human trafficking and smuggling, and other components of migration management in the region. Its role is to act as a focal point for States interested in the RCF with respect to:

1. Information sharing between States
2. Capacity building and exchange of best practices
3. Pool of common technical resources
4. Logistical, administrative, operational and coordination support for joint projects.

The RSO is located in Bangkok and its activities are funded primarily by the Australian government via IOM, as it does not have independent legal status as an organization in Thailand. Funding for specific activities undertaken by States come from the participating governments often through in-kind donations.

There is a small core group of staff of eleven at the RSO, including two co-Managers (Australian and Indonesian). Governments can also contribute to the working of the RSO through staff secondments to project activities such as capacity building, information sharing, and technical assistance.

COMMIT PROCESS AND UN-ACT

The **COMMIT Process** is a government-led process incorporating six countries in the Greater Mekong Sub-region - Cambodia, China, Lao PDR, Myanmar, Thailand, and Viet Nam – in a formal alliance to combat human trafficking. The COMMIT Process was first initiated to create a sustained and effective system of cross-border cooperation and collaboration to combat human trafficking. The COMMIT Memorandum of Understanding (MoU) was signed

⁴⁶[http://www.baliprocess.net/UserFiles/baliprocess/File/Bali%20Process%20Trafficking%20in%20Persons%20Working%20Group%20-%20Forward%20Work%20Plan%202017-19%20\(002\).pdf](http://www.baliprocess.net/UserFiles/baliprocess/File/Bali%20Process%20Trafficking%20in%20Persons%20Working%20Group%20-%20Forward%20Work%20Plan%202017-19%20(002).pdf)

in October 2004 at the first Inter-Ministerial Meeting. It is a multi-country and multi-stakeholder framework against human trafficking, engaging relevant government agencies, international organizations, civil society organizations (CSOs) and the private sector.

The objectives of the COMMIT Process are:

- To promote and strengthen systems and arrangements of inter-country and regional cooperation against human trafficking.
- To establish a holistic regional response, covering all aspects of the trafficking problem and ensuring that concern for the victim is at the centre of all interventions.
- To identify and adapt successful models in one country to others as appropriate.
- To enhance national capacities to address human trafficking in order to facilitate each country's engagement at the regional level, building on existing strengths in each country.

The COMMIT MoU called for a Sub-Regional Plan of Action (SPA) to be developed and implemented to operationalize the MoU. The first SPA (SPA I) was implemented from 2005-07, and subsequently, SPA II (2008-10) and SPA III (2011-13) were agreed. The current SPA IV (2015-18) focuses on systems building and sustainability. SPAs are developed through a series of consultations including evaluation review of the previous SPA, regional consultations, and evaluation of previous processes.

The COMMIT works through:

- COMMIT Senior Officials Meetings
- Multi-sectoral COMMIT Task Force which oversees national activities and the implementation of national action plans
- Regional Network Meetings

In addition, under SPA IV, COMMIT countries will cooperate with non-COMMIT countries through bilateral and multilateral cooperation. COMMIT also shares information with ASEAN and conducts some joint activities.

UN Action for Cooperation against Trafficking in Persons (UN-ACT) is a project executed by the UNDP Asia-Pacific Regional Centre, which also serves as the Secretariat for the COMMIT Process from 2014 to 2018. It provides technical, financial, and coordination support. UN-ACT aims to ensure a coordinated approach to more strategically and effectively combat trafficking in persons in the Greater Mekong Sub-region (GMS) and beyond.

Objectives of the UN-ACT include:

1. Strengthen national and regional capacities through support to the six governments.
2. Increase regional cooperation between COMMIT countries and other countries or regional mechanisms.
3. Further evidence-based research to fill the gap of reliable data on human trafficking.
4. Support civil society and other non-state actors to contribute more effectively to anti-trafficking efforts.

UN-ACT is based in Bangkok but has project offices in all six COMMIT countries with a total of around 25 staff and 3 country liaison officers. It is primarily funded by the Governments of Norway and Sweden. The UNDP Asia-Pacific Regional Centre effectively acts as the project manager and there is a Project Management Board established as the decision-making body. There is also a Technical Advisory Group comprised of UN agencies, NGOs, donors, and governments.

THE SOUTHEAST ASIAN FISHERIES DEVELOPMENT CENTER (SEAFDEC)

SEAFDEC is an autonomous inter-governmental body established in 1967, and comprises of 11 Member Countries, including all ten ASEAN countries and Japan. SEAFDEC's mandate is to “develop and manage the fisheries potential of the regional by rational utilization of the resources for providing food security and safety to the people and alleviating poverty through the transfer of new technologies, research and information dissemination activities”.⁴⁷

Since 2009, the programme framework of SEAFDEC has comprised of the following main areas of focus:

1. Developing and promoting responsible fisheries for poverty alleviation and food security.
2. Enhancing capacity and competitiveness to facilitate international and intra-regional trade.
3. Improving management concepts and approaches for sustainable fisheries.
4. Providing policy and advisory services for planning and executing management of fisheries.
5. Addressing international fisheries related issues from a regional perspective.

In August 2016, the ASEAN-SEAFDEC issued the Joint Declaration on Regional Cooperation for Combating IUU Fishing and Enhancing the Competitiveness of ASEAN Fish and Fishery Products. However, attempts to formulate ASEAN Guidelines in relation to labour practices have not progressed.

SEAFDEC operates through the Secretariat located in Thailand, and has five technical departments: the Training Department (TD); the Marine Fisheries Research Department (MFRD); the Aquaculture Department (AQD); the Marine Fishery Resources Development and Management Department (MFRDMD); and the Inland Fishery Resources Development and Management Department (IFRDMD).

The SEAFDEC Secretariat is mandated to coordinate and oversee the general policy and planning of the Center, and acts as the focal point for channelling and implementing the

⁴⁷ SEAFDEC <http://www.seafdec.org/about/>

decisions and resolutions of the SEAFDEC Council of Directors. In addition, the Secretariat also organizes regular SEAFDEC meetings to obtain directives and guidance from the Member Countries on the operation of the organization, as well as regional technical consultations and meetings on issues as recommended by the Member Countries.

ANNEX 2: REGIONAL COORDINATION MECHANISMS RELEVANT TO FISHING AND HUMAN TRAFFICKING IN SOUTHEAST ASIA COMPARED

Short name	Bali Process	COMMIT Process	SEAFDEC	ASEAN
Long name	The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime.	Coordinated Mekong Ministerial Initiative against Trafficking	The Southeast Asian Fisheries Development Center	Association of Southeast Asian Nations
Objectives	A voluntary and non-binding process led by government. The objectives for Bali Process include: • The development of more effective information and intelligence sharing; • Improved cooperation among regional law enforcement agencies to deter and combat people smuggling and trafficking networks; • Increased public awareness in order to discourage these activities and warn those susceptible; • The enactment of national legislation to criminalise	The objectives of COMMIT are: • To promote and strengthen systems and arrangements of inter-country and regional cooperation; • To establish a holistic regional response; • To identify and adapt successful models in one country to others as appropriate; and • To enhance national capacities to address human trafficking in order to facilitate engagement at the regional level	An autonomous inter-governmental Regional Fisheries Body. Its mandate is to develop and manage the fisheries potential of the regional by rational utilization of the resources for providing food security and safety to the people and alleviating poverty through the transfer of new technologies, research and information dissemination activities.	ASEAN is an inter-governmental organization. It was first established in 1967 by the signing of the ASEAN Declaration. The ASEAN Charter entered into force in December 2008 and is a foundational document for ASEAN's the legal status and institutional framework. ASEAN is committed to intensifying community building through enhanced regional cooperation and integration, particularly by establishing ASEAN Communities including the ASEAN Security Community, the ASEAN Economic Community, and the ASEAN Socio-Cultural Community.

	people smuggling and trafficking in persons; • Provision of appropriate protection and assistance to the victims of trafficking, particularly women and children; and • Assisting countries to adopt best practices in asylum management.			
Year established	2002	2004	1967	1967
Membership	48 members including 45 governments and 3 UN agencies, as well as 27 observers including the ILO.	Six countries in the Greater Mekong Sub-region: Cambodia, China, Lao PDR, Myanmar, Thailand, and Viet Nam.	11 Member Countries including all ten ASEAN countries and Japan.	Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam.
Key bodies	• Steering Group • Ad Hoc Group (AHG) • Working Groups • Task Forces	National multi-sectoral COMMIT Taskforces in each country	• Council of Directors • Five departments: 1. Training 2. Marine Fisheries Research 3. Aquaculture 4. Inland Fishery Resources Development and Management 5. Marine Fisheries Resources Development and Management	• ASEAN Summit • ASEAN Coordinating Council • ASEAN Community Councils and related Sectoral Ministerial Bodies • ASEAN National Secretariats • ASEAN Intergovernmental Commission on Human Rights
Key meetings	• Regional Ministerial Conferences, every 2-3 years • Senior Official Meetings, every 2-3 years	• Inter-Ministerial every 3 years • Annual COMMIT Senior Officials' Meetings	• Annual SEAFDEC Council Meetings • Annual SEAFDEC Program Committee Meetings • Meetings of the Fisheries Consultative Group under the ASEAN-SEAFDEC Strategic Partnership	• ASEAN Summit Meetings • ASEAN Ministerial Meeting • ASEAN Ministerial Sectorial Meeting • ASEAN Senior Official Meeting

	Annual AHG Senior Official Meetings Meetings are also convened on request basis.	Biannual Regional COMMIT Taskforce Meetings		- Committee of Permanent Representative Meeting - ASEAN Working Group Meeting
Secretariat	Regional Support Office	UN-ACT , previously UNIAP	SEFADEC Secretariat	ASEAN Secretariat
Year secretariat established	2012	2014 (currently funded until December 2018) 2000-2013, UNIAP.	1967	1976
Key instrument(s)	Regional Cooperation Framework	COMMIT MoU Sub-regional Plan of Action (SPA) IV: 2015-18	Decisions and resolutions of the SEAFDEC Council of Directors	ASEAN Charter ACTIP ASEAN Plan of Action Against Trafficking in Person Cebu Declaration 2007 ASEAN Consensus 2017
Secretariat mandate and objectives	To implement and operationalize the RCF. To act as a focal point for interested States in the RCF with respect to the following: I. Information sharing between States	1. Strengthen national and regional capacities through support to the six governments. 2. Increase regional cooperation between COMMIT countries and other countries or regional mechanisms. 3. Further evidence-based research to fill	To coordinate and oversee the general policy and planning of SEAFDEC, and act as the focal point for channelling and implementing the decisions and resolutions of the SEAFDEC Council of Directors. The Secretariat organizes regular meetings to obtain directives and	The ASEAN Secretariat's mission is to initiate, facilitate and coordinate ASEAN stakeholder collaboration in realising the purposes and principles of ASEAN as reflected in the ASEAN Charter.

	2. Capacity building and exchange of best practices 3. Pooling of common technical resources 4. Logistical, administrative, operational and coordination support for joint projects.	the gap of reliable data on human trafficking 4. Support civil society and other non-state actors to contribute more effectively to anti-trafficking efforts.	guidance from Member Countries, as well as regional technical consultations and meetings on issues recommended by Member Countries.	
Secretariat location	Bangkok	Regional office in Bangkok. Project offices in all six COMMIT countries.	Bangkok	Jakarta
Secretariat structure and supervision	The RSO does not have legal status in Thailand and is administered via IOM. Indonesia and Australia as co-managers of the RSO. The co-Managers report biannually to Bali Process Co-Chairs in consultation with the UNHCR and IOM. They also report to the Steering Group in session, the AHG, and the full membership at the SOM and Ministerial Conferences.	UN-ACT is a project of UNDP Asia-Pacific Regional Centre. Its role as the Secretariat to the COMMIT Process is only one of its areas of activity. • UNDP Asia-Pacific Regional Centre is the manager of the project and the Principal Project Representative (PRR). • Project Management Board (PMB) established as the decision-making body with the PRR as the chair. • Technical Advisory Group provides substantive guidance for the implementation of the project.	The Secretariat is headed by the Secretary-General and Deputy Secretary General. It has three offices: • Administrative and finance • Policy and program coordination • Information programme coordination.	The Secretariat headed by Secretary General. The Secretary-General elected by alphabetical order, appointed by the ASEAN Summit for a non-renewable term of office of five years. The Secretary-General assisted by four Deputy Secretaries-General.

		Project country offices report to the Regional Manager but also respective UN Resident Coordinators in each country.		
Secretariat staffing	11 staff as at late 2017, with secondments from interested governments and international organizations. - Roster of experts	Around 25 staff in total with six country offices, and the project management office in Bangkok.	Around 30 staff including the Secretary General and Deputy Secretary General, additional representatives from member countries to serve as members of the Regional Fisheries Policy Network.	99 staff in the Secretariat including the Secretary-General and two Deputy Secretary Generals.
Work plan	- Annual Plan for the Secretariat submitted to the Bali Process Steering Group for Agreement. - Additional activities agreed by the AHG.	UN-ACT helps COMMIT to draft multiyear Sub-regional Plan of Action (SPA) operationalize the MoU. - Current SPA IV (2015-2018) - The SPA is the basis for national work plans.	The SEAFDEC Programme Framework was endorsed by the SEAFDEC Council in 2009 and includes five major programme thrusts. The Secretariat is mandated to act as the focal point for channelling and implementing the decisions and resolutions of the SEAFDEC Council of Directors.	ASEAN Plan of Action against TIP
Funding	The RSO is primarily funded by the Australian government, via IOM disbursement. Other member states contribute through in-kind	UN-ACT funded as a project under UNDP Asia-Pacific Regional Centre. Specific activities or needs for the COMMIT Process funded primarily by donor	SEAFDEC and its activities are primarily funded by member governments with additional contributions from other donors.	National government funding into the common budget. Additional funding from Dialogue Partners. Bilateral donor funding for projects.

	donations. E.g. Secondment of staff.	countries such as Norway and Sweden.	In 2016, more than 50 per cent of the funds for the Secretariat came from Japan. Four of the five departments were funded by a single Member Country. The Marine Fisheries Research Department did not receive any contributions in 2016.	
Relevance to proposed regional coordination body	• Government-led. • Much broader membership. • Transnational crime approach to people smuggling, trafficking in persons, and related crimes. • Historically focused on irregular migration and irregular movements (by air and sea) • No focus on the fishing sector.	○ Focused on all forms of human trafficking. ○ No particular focus on labour conditions or working and living conditions on fishing vessels. ○ Sub-regional focus excludes countries covered by the proposed regional coordination body: Indonesia, Brunei, Malaysia, Philippines and Singapore.	• No focus on fishers, working conditions in fisheries, or trafficking for labour exploitation in fisheries. • An advisory and management body for fisheries resource, with a focus on species, population of fish, and technology. • Same coverage of countries as the proposed regional coordination body with the additional member of Japan.	• Same coverage of countries as the Same coverage of countries as the proposed regional coordination body. • Aspects of fisheries management and trafficking in persons covered by different departments with limited communication. • No focus on trafficking in fisheries.