



# Made in Taiwan

Government Failure and Illegal, Abusive and Criminal Fisheries

April 2016

**GREENPEACE**



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## Introduction



Illegality and criminal wrongdoing in Taiwanese fisheries are increasingly well documented. Yet too often these very serious problems are reported and dealt with by Taiwanese authorities as if they were isolated incidents - the responsibility of individual unscrupulous operators, reckless captains or poorly disciplined foreign crews. This approach serves the Taiwanese Fisheries Agency and the Taiwanese government well. Responsibility remains in the hands of individual wrongdoers.

It is also entirely wrong.

Pulling together a series of case studies into a single report yields a very different picture. The reality is a global Taiwanese fishing fleet operating almost entirely out of control, in which some of the most serious crimes, including violence, appalling labour abuses, illegal, unreported and unregulated (IUU) fishing and serious environmental impacts, are endemic and routine. This is not a failure of individual operators, but a failure of Taiwan's authorities at the highest level.

Taiwan's fishing fleets supply tuna and other seafood that reaches markets around the world. The issues we highlight in this report are relevant and will be of great interest to consumers in Europe, the US, Japan and many other countries. These consumers demand higher standards than Taiwan can currently provide. Without urgent action to systematically address these problems, Taiwan risks jeopardising its fishing industry and, as importantly, its wider international trading reputation, by becoming associated with tuna and seafood caught at terrible human and environmental expense.

No one wants to see the demise of Taiwan's fishing fleets but it is clear that a wake-up call is needed for the Taiwanese Fisheries Agency. The threat of European sanctions for IUU looms large - there is a need for far-reaching and sustained action to avoid this. That process of change can only start with an admission: we have a problem that we need to fix.

Our hope is that this report exposes these problems as systemic. Without urgent legislative action and effective enforcement in port and at sea, Taiwan's industry will continue to behave in ways that exploit both the environment and people.

*Oliver Knowles – Global Project Leader - Tuna*

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## Executive Summary



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This report examines acute and enduring problems in Taiwan's fishing industry, particularly in its distant water fleet, the global impact of its behaviour, and the official response to those problems. Concerns centre on the environmental impacts of illegal, unreported and unregulated (IUU) fishing, labour conditions on Taiwanese-flagged vessels, human rights and labour abuses at sea, overfishing, and the apparent inaction of authorities who consistently fail to properly investigate and sanction Taiwan's powerful fishing industry.

IUU fishing by Taiwanese-flagged vessels is widespread and appears to be strongly linked with labour and human rights abuses at sea. Both the environmental and human costs are enabled by transshipping at sea (exchanging crews or catch between vessels at the direction of vessel owners and operators), which has been linked to other crimes including human trafficking and drug trafficking, and the fact that there are more than 3,500 longline vessels on the Western and Central Pacific Fisheries Commission (WCPFC) record of fishing vessels, but only around 1% observer coverage of longline fishing in the region. Most of that observer coverage is within exclusive economic zones (EEZs), leaving high seas longline fishing virtually unmonitored.<sup>1</sup>

Taiwan is one of the world's top three catchers of tuna and tuna-like species. With up to 160,000 migrant workers working on Taiwan's distant water fishing vessels, the industry appears beset by issues of human trafficking, and forced and debt-bonded labour. These can occur when recruitment agencies trick foreign workers, withhold travel documents, or deduct heavy service fees from their pay, often under the terms of an employer or recruitment agency written contract. Despite allegations of non- or under-payment of wages, long working hours, physical abuse, lack of food and water, and poor living conditions, investigations are rare, and prosecutions more so.

Taiwan is currently operating under a formal warning from the European Union (EU) for failing to take sufficient measures in the fight against IUU fishing. Without substantial improvements, the warning could result in an EU ban on importing seafood products from Taiwan.

This report illustrates the systemic illegal and unsustainable fishing practices within Taiwan's fishing industry, and demonstrates how these go hand in hand with labour and human rights abuses. Further, the report reveals that Taiwan knows these issues exist, and does little to address them despite domestic and international requirements.



The report:

- examines the development and current state of the Taiwanese fishing industry.
- summarises a 12-month Greenpeace investigation, in which dozens of fishermen, interviewed at ports in Taiwan and Fiji, share their experiences aboard Taiwanese fishing vessels. They paint a picture of a violent industry plagued by abuses, where companies profit from bending and breaking the rules, confident that negligible penalties will rarely be imposed.
- analyses three internationally reported incidents involving IUU fishing, mass murder, forced labour and human trafficking, and asks, in each case, whether Taiwan's response was adequate, appropriate or transparent.
- follows the case of a Taiwanese longliner, revealed to be illegally fishing, transshipping and involved in illegal shark finning, which, even after Greenpeace alerted authorities, continued to behave unlawfully.
- uses a high profile human trafficking case to expose Taiwan's unwillingness to tackle the human rights abuses that seem endemic to its fisheries.
- explores how a Filipino fisherman's mysterious death on board a Taiwanese-flagged longliner has not been properly investigated, despite evidence suggesting he was illegally recruited.
- examines the cold-blooded shooting of up to five unarmed men, a case perfectly captured in the New York Times' headlines, MURDER AT SEA: CAPTURED ON VIDEO, BUT KILLERS GO FREE.<sup>2</sup> Despite identifiable witnesses and vessels, the case remains unsolved and, to all appearances, inadequately investigated.
- explores Taiwan's response to new legislation introduced to address shark finning, to demonstrate that amending laws and regulations alone, is not enough to tackle the problem.

Taiwan's industry appears to be out of control, and despite legislative change, Taiwan seems either reluctant or unable to properly manage its fleet and industry. Without proper monitoring, enforcement and sanctions, there will be little change.

Tuna is a global business and the impacts of Taiwan's behaviour have far-reaching implications. Complex supply chains mean Taiwanese-caught tuna often makes its way into the supply chains of many major global companies and on to international markets. Taiwan's reach into global seafood markets is best exemplified by fishery giant Fong Chun Formosa Fishery Company, Ltd. The Taiwanese-based company is one of tuna trading's "big three," and with close ties to Thai Union Group, the largest canned tuna company in the world, it ensures that large quantities of Taiwanese tuna and other fish make their way into markets in the US, Europe, UK and the Asia Pacific region.<sup>3</sup>

Given the state of Taiwan's fishing industry, an important question stands out:

Who is eating Taiwanese-caught fish?

The vessels named in the IUU chapter, the vessels involved in the shootings at sea, the vessels involved in the trafficking of over 1000 humans, all caught tuna that could have been unwittingly purchased and eaten in any major market in the world.

Consumers have a right to expect that the companies selling them seafood are not involved in illegal fishing, labour and human rights abuses, and murder. Yet a culture of indifference and permissiveness that runs from Taiwan's fisheries through the Fisheries Agency (FA) and all the way to its government, allows this human rights abuse and environmental exploitation to continue with little risk of facing effective or meaningful sanctions.

While new regulations are a positive step, without resourcing and effective implementation it is not enough to bring meaningful change. Although many of the cases outlined in this report might have been dealt with through existing legislative and regulatory tools, inadequate resourcing and a lack of action make those tools ineffective. Unless Taiwan develops a vision of a sustainable industry, with appropriate implementation and enforcement, its fishing industry will continue to damage our oceans, its international reputation, and its valued 'made in Taiwan' brand.

Taiwan's distant water fisheries (DWF) have a systemic problem. To fix it requires systemic change.

## Methodology



The report is based on information collected from field investigations conducted in 2014 and 2015, three case studies that highlight the endemic problems in Taiwan's fishing industry, and an investigation of shark fin landings in Taiwan.

The investigation work, explored in chapter 2, is a combination of formal and informal interviews with fishers and industry experts, as well as at-sea and in-port evidence collection.

Throughout 2014 and 2015 Greenpeace organised and conducted interviews with more than 100 fishers in towns and cities throughout Taiwan, including the ports of Kaohsiung, Donggang, and Nan Fang Ao, Yilan, about IUU fishing and their employment and labour conditions. Interviews were also conducted with distant water fishers on Taiwanese-flagged vessels in Suva, Fiji. A summary of the key issues emerging from those interviews and investigations is detailed in this report.

In addition, three case studies are described and analysed in this report;

- Chapter 5: IUU fishing by Shuen De Ching No. 888
- Chapter 6: Human trafficking and forced labour on Taiwanese fishing vessels
- Chapter 7: Murder on the high seas – a shooting video

Each case was selected based on its matrix of facts, including: the central role the Taiwan fishing industry played, the case's international nature, the seriousness of the behaviour highlighted and, prima facie, the unacceptably slow response from authorities in Taiwan.

Throughout 2015 Greenpeace documented and observed shark fin landings in Taiwan fishing ports. The evidence collected is summarised in chapter 6.

Where requested, identifying details of interviewees have been withheld for their protection and personal safety.



# Taiwan's Fishing Industry



Fisheries have traditionally been an important part of Taiwan's economy. Its DWF fleet is substantial and supplies many of the world's major markets, making Taiwan a highly influential participant in the global fishing industry. Before describing each of the issues identified in this report, it is important to provide the context in which they occur by briefly setting out the development of the industry and some of the factors that contribute to the identified problems in the Taiwanese fishing industry.

## Development

Taiwan is a small but densely populated island on the eastern seaboard of a global superpower, China. Its relationship with China is fraught, and since World War II Taiwan has relied heavily on close trade relations with the United States. Alongside other developing industries, Taiwan's fisheries grew rapidly after World War II. A combination of factors contributed, including: fishery investment during the Japanese colonial period, assistance from the United States Agency for International Development (USAID), loans from the World Bank<sup>4</sup> and domestic funding and subsidies<sup>5</sup>. As a result the quantity and value of fish produced by Taiwan grew quickly from the 1950s, and most intensively from 1970 to 1990.

While Organization for Economic Co-operation and Development (OECD) data suggests growth has recently levelled off, fisheries and fishery-related industry remain a large and influential component of Taiwanese society.

## Global Trade

### Profile and Scale

In addition to its own substantial coastal fisheries, Taiwan catches tuna and other fish in all of the major oceans of the world.<sup>6</sup> Seafood export values are estimated to be around US\$2 billion, with primary markets in Thailand, Japan and the United States.<sup>7</sup> Its fishing vessels, numbering more than 2000, are regular visitors to ports in Africa, South America, the South Pacific, Sri Lanka and other fishing centres.<sup>8</sup>

Tuna is a particularly important and high profile species.<sup>9</sup> According to Food and Agriculture Organisation (FAO) data, approximately 36% of the world's tuna longliner fleet is Taiwanese-flagged (see Figure 1). However the FAO data only tells part of the story.

Both overcapacity and poor fleet management are global issues in fisheries, and Taiwan is no exception. Like IUU fishing, overcapacity is a key driver of non-sustainable fishing.<sup>10</sup> Taiwan's fleet operates in the exclusive economic zones (EEZs) of more than 30 countries,<sup>11</sup>

and the size of Taiwan's longline fleet is likely to be a major contributor to the declining tuna stocks.

Globally there are 19 stocks of the top four commercial tuna species (skipjack, yellowfin, bigeye, albacore) of which seven are overfished, two have a significant risk that they are overfished, and two do not have enough data to know the status.<sup>12</sup> Demand for tuna remains high and it is clear that the world's tuna fishing fleet has a significant overcapacity<sup>13</sup>.

OECD data indicates that in recent years, Taiwanese fish landings in foreign ports have continued an upward trend in both value and volume despite overcapacity issues. In 2012, Taiwan's estimated US\$1 billion of fish landing in foreign ports was more than twice the value of its closest OECD rival, Korea (see Figure 2).<sup>14</sup>

The failure of Taiwan's government to manage its fleet, particularly in its DW fisheries, is reflected in the EU's decision to issue it with a yellow card warning for IUU fishing in October 2015. The yellow card decision identifies multiple management failures including: catch certificate deficiencies, ineffective IUU management, repeated infringements in the Indian Ocean Tuna Commission (IOTC) area, failure to cooperate with coastal states, and failure to analyse the fleet data and set benchmarks.<sup>15</sup>

### Flag States of Tuna Longliners

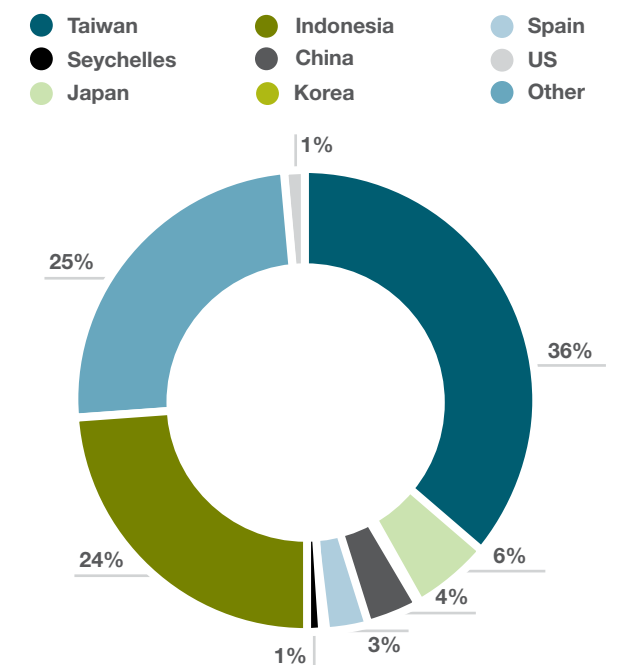


Figure 1. Flag States of Tuna Longliners.



Taiwanese-owned vessels operating under a flag of convenience (FOC)<sup>16</sup> are not included in captured data, but research suggests a significant number of FOC vessels operate from Taiwan. In 2009 Greenpeace found over 400 working FOC vessels with operational and/or ownership links to Taiwan<sup>17</sup>. Providing another indication of poor fleet management, only 108 of the 400-plus vessels were registered, as required, with the Taiwanese government at that time. The number of FOC vessels now registered is 239. This laxness of registration is symptomatic of a wider management malaise in Taiwan, a problem that will be described in more detail later in this report.

In 2012, the OECD reported Taiwan's fisheries workforce as 326,000, a number likely to exclude undocumented or illegal workers and those working on foreign based vessels.<sup>18</sup> The US State Department 2014 *Trafficking in Persons* (TIP) report cited a claim that up to 160,000 migrants could be working on Taiwanese fishing vessels around the world,<sup>19</sup> which suggests the industry could be much larger than the official figures suggest.

While Taiwan's more than 2000 longliners are owned and operated by hundreds of individual companies, the industry in Taiwan is dominated by one company, Fong Chun Formosa Fishery Company (FCF).

This 40-year-old privately owned company based in Kaohsiung, Taiwan, with offices and subsidiary companies around the world, is widely considered to be one of global fisheries' "big three" companies, and is a good case study for just how global Taiwan's fisheries are. FCF trades over 600,000 tons of tuna and 100,000 tons of other fish annually, and supplies brands such as Chicken of the Sea, Bumble Bee, Starkist and Princes. FCF has traditionally exported frozen products such as tuna for canning, deep frozen tuna for sashimi and frozen squid to markets in North America, Europe and Asia. FCF fish destined for Europe tends to be sorted in Bangkok and shipped via container.<sup>20</sup> The FCF website illustrates the breadth and depth of its global reach.<sup>21</sup>

A 2011 Pacific Island Forum Fisheries Agency (FFA) report identified FCF's major markets as Thailand, the United States, Japan and to a lesser extent Latin America and the European Union. Of note, the report quoted FCF officials complaining that EU catch certification requirements introduced in 2010 were onerous "in a fishery that has seen very few problems with IUU fishing in comparison with other regions/fisheries that supply the EU."<sup>22</sup>

Taiwan, and FCF in particular, are major exporters to both Thailand and Japan. Thailand is a global leader in seafood processing and canning, while Japan is the world's largest consumer of raw or sashimi tuna.

Like Taiwan, Thailand's tuna industry is dominated by a corporate giant, in this case Thai Union.<sup>23</sup> According to the FFA, Taiwan's FCF has an agreement with Thai Union for the supply of light meat. Indeed, as recently as 2011 FCF claimed it was the single largest supplier of raw material to Thai Union.<sup>24</sup> On the FCF website, Thai Union is listed as brand partner and major manufacturer and cannery for FCF.

The FCF website also lists Bumble Bee, Princes, CMC, Frinsa, SeaValue and Torei as brand partners. The market reach of FCF and partners is illustrated at Table 1.

It is clear that Taiwanese-caught fish, particularly tuna, makes its way to consumer markets in the US, Europe and UK, Asia and beyond.

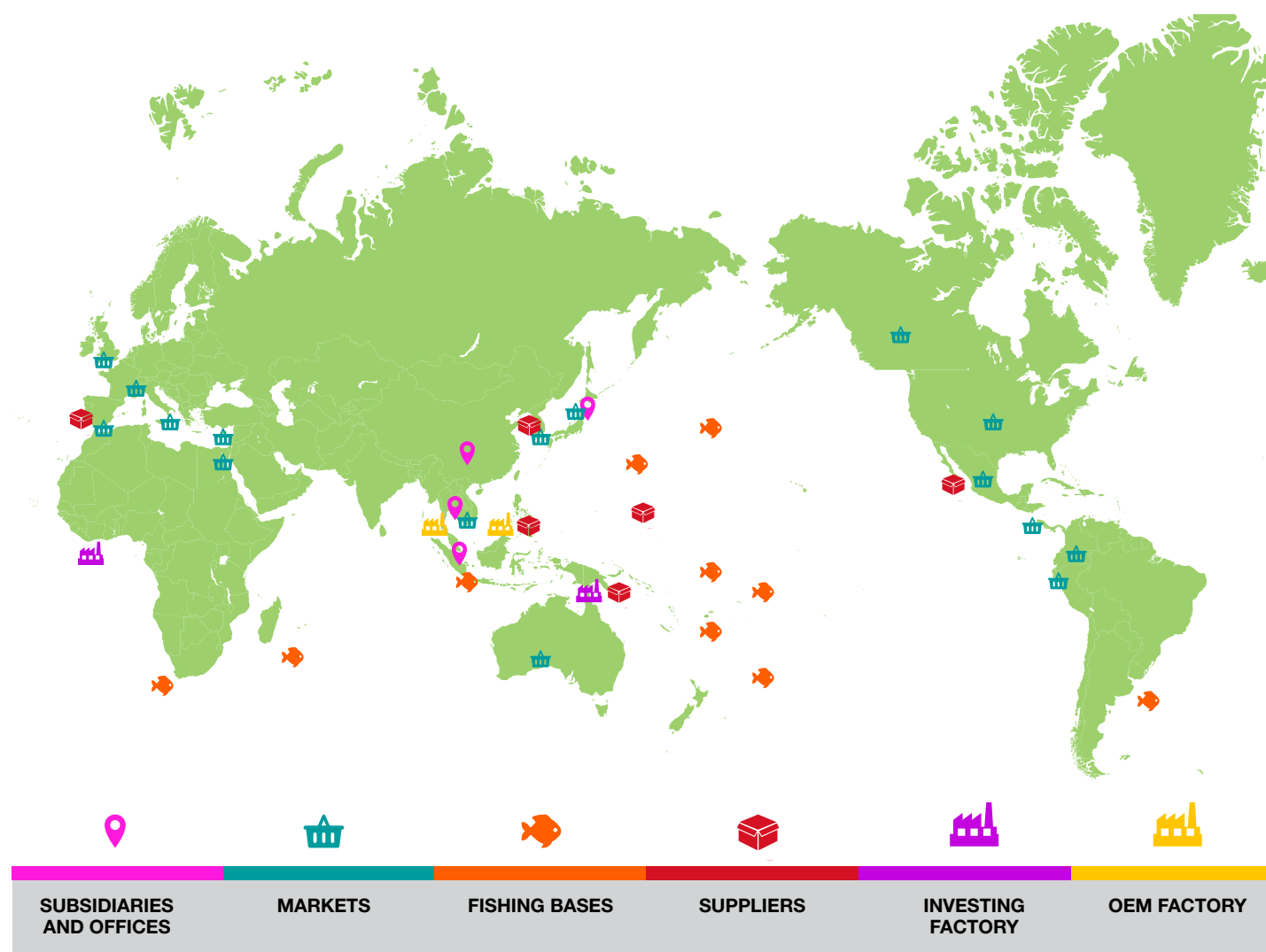


Figure 3. FCF Locations

Brand/Manufacturer	Country	Brand	Market
Thai Union	Thailand	Chicken of the Sea	US
Bumble Bee	US	Bumble Bee	US
Princes	UK	Princes	UK/Europe
CMC	Thailand		
Frinsa	Spain	Frinsa	Spain
SeaValue	UK	SeaValue, Sea Fish Fresh, Super C Chef	Asia, South Asian, Europe
Torei	Japan		

Table 1. FCF Brand Partners. Source: FCF Website - <http://www.fcf.com.tw/brand-partners/>

### National landings in foreign ports

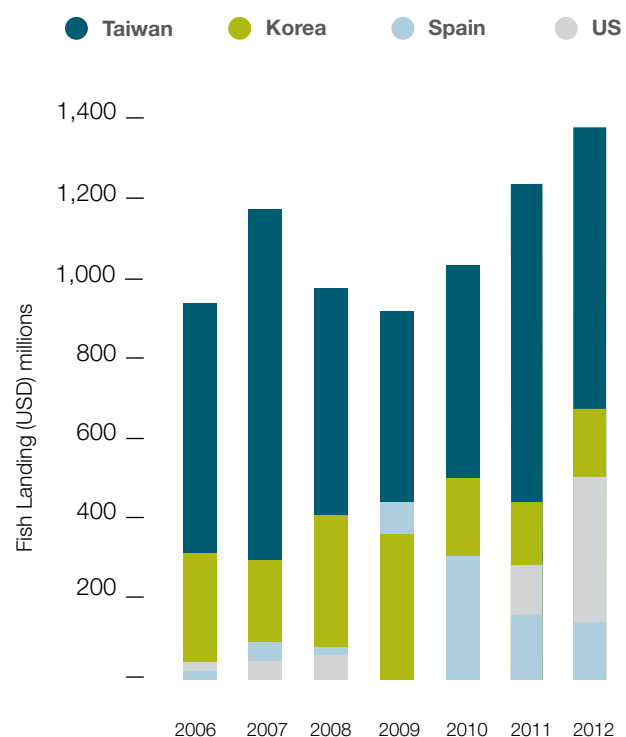


Figure 2. Value of National Landings in Foreign Ports.



## Migrant Workers

In recent years a steady flow of evidence, some of which is outlined in this report, indicates that foreign fishers working on Taiwanese vessels are often the victims of labour and human rights abuses or worse. While global attention has focussed predominantly on Thailand, problems within the Taiwanese industry have barely been reported, despite some disturbing evidence.

The International Labour Organisation (ILO) has found that current international laws and conventions fail to properly protect those who work on fishing vessels.<sup>25</sup>

During the 1980s Taiwan experienced an acute labour shortage of low-skilled workers. A combination of economic development and enhanced educational opportunities meant increasing numbers of Taiwanese citizens became unwilling to work in low-wage employment.<sup>26</sup> This was exacerbated by the rapid growth of the fishing industry, particularly DW fisheries. With insufficient Taiwanese workers to satisfy the demands of an expanding fishing industry, employers hired undocumented migrant workers until the government began to regulate the flow and management of the migrant workers.<sup>27</sup>

As a result of this process, the legal framework for migrant workers in Taiwan has developed over time to produce an inherently idiosyncratic and two-tiered labour system.

## Law and Regulations

The ILO's 2014 analysis of Taiwanese labour laws divides fishers into two categories.<sup>28</sup>

1. Land-based fishers – regarded as employed within the territory of Taiwan. Generally nationals of Taiwan or non-nationals who have a foreign fisherman certificate.
2. Sea-based fishers – employees hired to work on a Taiwanese vessel, ostensibly based at a foreign port that is short of crew.<sup>29</sup>

Land-based fishers are granted various forms of protection and rights by the Labour Standards Act (LSA).<sup>30</sup> The LSA regulations include minimum wage, working hours and working conditions, but a closer examination of these laws reveals troubling weaknesses. Exemptions can be granted when the statutory requirements cause employers “undue hardship,” consequently making the practical effect of the Act vague and uncertain. Later in this report evidence will demonstrate how, despite the legislated protection, fishers regularly experience breaches of these laws.

The only statutory protections available to sea-based fishers are two regulations promulgated by Taiwan's Fisheries Agency (FA): *The Regulations on the Management of Fishing Vessels and Crews in Foreign Bases* (Regulations) and *The Guidelines on Overseas Employment of Foreign Seafarers for Taiwan Fishing Vessel Owners* (Guidelines).<sup>31</sup> According to the ILO, the strongest protection provided by the Regulations is the requirement that all crew working on Taiwan-registered fishing vessels operating outside Taiwan receive basic safety training. The Guidelines provide instructions around insurance coverage, emergency responses to life threatening situations, and some restrictions around trafficking and maltreatment. Neither offer any guidance or statutory protection for sea-based migrant fishers around minimum wages, maximum hours of work, general working conditions, or when and how their employment contracts might be terminated.

In addition to the weak legal framework, the role of *recruitment agencies* can further harm the interests of fishers.

In 2010 the Environmental Justice Foundation (EJF) documented how fishing crews often find their way into fishing work through recruitment agencies. It outlined how these agencies operate with little regard for local or international regulations and how, in many cases, they exploit poverty and illiteracy to extract extortionate fees and sums from job seekers, leaving considerable numbers of fishers indebted after many months, or even years, of work on vessels.<sup>32</sup> There is also evidence that the recruitment agencies target naive, marginalised and vulnerable individuals from the lowest socio-economic areas in developing countries to work on DW vessels.<sup>33</sup>

Research conducted for this report is consistent with the EJF findings. It appears that recruitment agencies can also act as a buffer, protecting employers in cases of labour dispute and/or negotiation, and frustrating crew attempts to receive their entitlements, while deducting disproportionate agents' fees from the crew's meagre wages. Greenpeace believes the role of these offshore recruitment agencies in Taiwan's DW fisheries requires both urgent international attention, and legislative change in Taiwan, to protect vulnerable and exploited migrant workers.

Based on our research, Greenpeace believes migrant fishers on Taiwanese vessels suffer from a lack of protection and are without proper access to legal or practical remedies. This is particularly extreme for sea-based fishers who, evidence suggests, are routinely exploited and poorly treated.

## IUU Fishing, Human Rights and Labour Rights - Connecting the Dots

Despite official claims to the contrary, it is widely suspected that Taiwan tolerates extensive IUU fishing.<sup>34</sup> Evidence detailed in this report suggests the fishing industry not only tolerates IUU fishing but may rely on it to sustain its business model. Catch reconstruction is one indicator - data suggests there is a substantial discrepancy between fish landings and the related food balance data.<sup>35</sup> Between 1984 and 2007 the gap between fish reported as landed and fish entering the system in Taiwan averaged 37%, a number which increased year by year. The most likely explanation is that unreported catch, much of which will be IUU, is continuing to grow.

Emerging evidence suggests that the drivers of forced labour and trafficking have much in common with the drivers of IUU fishing. This is particularly acute in longline fishing, in part because of the negligible levels of independent observers on board vessels.<sup>36</sup> Although there has been no detailed analysis of the relationship between the two,<sup>37</sup> compelling anecdotal evidence suggests a symbiotic relationship between labour abuse and fisheries crime. This suggests the industry is relying on exploited workers to subsidize an unsustainable and destructive business model.

A weak regulatory framework and lack of proper enforcement both contribute to IUU fishing and human rights abuses. In Taiwan's case, the two-tiered labour system seems to further enable the exploitation of workers. These weaknesses, combined with powerful financial incentives for fishing operators to reduce labour costs, contribute to a “race to the bottom in labour costs” driven in part by the need for cheap labour in order to sustain yields.<sup>38</sup> IUU fishing is driven by the same financial imperative.

“The opportunities for operators to increase their revenue when illegal, unreported and unregulated (IUU) fishing catches are converted to currency through the market encourage the persistence and growth of this activity. It is often the same market that is targeted for the legal trade of fish. Thus, paradoxically, the market demand creates and incites it, at least from an economic point of view.”<sup>39</sup>



## International Pressure

In 2015, the EU issued Thailand and Taiwan with warnings that they risked being identified as uncooperative in the fight against illegal fishing. It was the first step of a process the EU uses to combat IUU fishing, the final step being the blacklisting of states that turn a blind eye to illegal fishing activities.<sup>40</sup> For both countries, the reputational cost of an EU red card would be devastating.

In April 2015, Thailand was issued with a yellow card. The yellow card gave Thailand a six-month period to improve its fishery Monitoring Control and Surveillance (MCS) management measures<sup>41</sup> or face the consequence of a possible red card, a ban on seafood imports to the EU.

“As a result of a thorough analysis and a series of discussions with Thai authorities since 2011, the Commission has denounced the country’s shortcomings in its fisheries monitoring, control and sanctioning systems and concludes that Thailand is not doing enough.”<sup>42</sup>

The decision is yet to be published.

On 1 October 2015 the EU then issued Taiwan a yellow card, notifying, in accordance with Article 32 of the IUU regulation, “the possibility of being identified by the Commission as a non-cooperating third country in fighting IUU fishing”<sup>43</sup>

“The decision to issue a yellow card to **Taiwan** is based on serious shortcomings in the fisheries legal framework, a system of sanctions that does not deter IUU fishing, and lack of effective monitoring, control and surveillance of the long-distance fleet. Furthermore Taiwan does not systematically comply with Regional Fisheries Management Organisation (RFMO) obligations.”<sup>44</sup>

The EU warning identified a number of concerns relating to Taiwanese vessel activity and MCS measures, including, but not limited to the issues outlined in the following table.<sup>45</sup>

Paragraph	Commentary
27	Deficiencies detected on catch certificates validated by Taiwanese authorities on 19 January 2015.
42	At least 22 vessels involved in IUU activities during the 2010 to 2015 period.
43	Taiwanese flagged vessel <i>Yu Fong No. 168</i> caught IUU fishing and not sanctioned.
44	20 Taiwanese-flagged vessels reported by Indian Ocean Tuna Commission to have committed infringements including non-marked gear, no original documents on board, out-dated fishing licences, no Vessel Monitoring System (VMS), conducted shark finning, illegal at sea transshipments, and others
46	Failure to properly investigate issues recited in paragraphs 42, 43 and 44.
48	Insufficient traceability of catch
56	“The analysis of products caught by Taiwanese flagged vessels revealed the following inconsistencies: catch certificates with data amended or without all required data, inconsistent information concerning catch, master declarations, logbook, ICCAT (International Commission for the conservation of Atlantic Tunas) statistic documents, dolphin safety declarations, transshipment, landing and processing, data and dates, lack of access to Vessel Day Scheme actual fishing effort data for vessels operating in the Pacific, no records of licences from coastal States, inconsistencies on fishing and carrier vessels with vessels changing names and vessels not listed in the Union sanitary approved establishments lists, incomprehensible trade patterns (i.e. fish caught in Atlantic/Indian Ocean, transported in Asia, processed and export to the Union) and incomplete information on processing statements and relevant production yields.”
72	Insufficient fines to deprive large commercial vessels of the benefits of potentially illegal activity.
74	MCS capabilities were insufficiently developed

Table 2. EU Decision - Key Points



Approximately three weeks prior to this notification, Greenpeace ship *Rainbow Warrior* located and collected evidence of IUU fishing from the Taiwan-flagged vessel *Shuen De Ching No. 888* (SDC 888).

The ensuing FA investigation began prior to the EU notification but was completed several weeks after the yellow card was issued. While the yellow card warning would not have been affected by the SDC 888 incident, the behavior of the ship following its exposure by Greenpeace and the initial reaction of the FA (discussed in chapter 5), reflects an industry and authorities failing to effectively tackle IUU.

Taiwan’s yellow card is due to be reviewed by the EU later in 2016.

## Conclusion

As one of the world’s largest DW fishing entities, Taiwan’s powerful and wealthy fishing industry feeds into the supply chains of most seafood markets. With the help of corporate giants like Thai Union and FCF, Taiwanese-caught fish, particularly tuna, finds its way to supermarkets, restaurants and homes around the world.

The nature of DW fishing means that Taiwan has largely escaped international attention for what appear to be high levels of IUU fishing and labour and human rights abuse on board its fishing vessels. Taiwan’s weak legislative framework, and poor monitoring, control and surveillance efforts have enabled these problems to continue for years, creating an environment in which the abuses are normalised.

The EU yellow card warning has brought the state of Taiwan’s industry into focus, along with the superficial and permissive approach of its authorities.



# Beaten, Overworked and Underpaid. The Greenpeace Interviews.



**“Many distant water fishing vessels operate with impunity, with very limited, if any, observer coverage and enforcement on the high seas. Given that many are at sea for very long periods of time and transship their catches, they are also largely immune from port state controls.**

Dr Glenn Simmons

In recent years Greenpeace has become increasingly concerned about the labour situation in the Taiwanese fishing industry, particularly the plight of migrant fishers. The effect of Taiwan's labour laws is that many fishers are often left vulnerable, both legally and physically.

While there are undoubtedly many responsible Taiwanese fishing operators conducting their business in an ethical and reasonable way, anecdotal evidence, some of which is detailed in this report, suggests a large, indigent and desperate workforce regularly being abused while at sea. Although there does not appear to have been any systemic analysis on labour and human rights abuse occurring in Taiwan's fishing industry,<sup>46</sup> ILO and Greenpeace Taiwan analyses of the labour laws in Taiwan suggest that the migrant workforce, in particular, is vulnerable to exploitation, as discussed in chapter 3.

Evidence of various types of exploitation has emerged from occasional cases which have been reported - for example the Giant Ocean and Eril Andrade cases (see chapter 6). Moreover, some of those who assist migrant fishers report egregious, widespread and persistent labour and human rights abuses, which are often accompanied by IUU fishing and other forms of environmental exploitation.

In 2014 Greenpeace began to investigate the treatment of fishers on Taiwanese-flagged vessels. Over the last 18 months investigators have conducted interviews with fishers, academic researchers and a union representative about the labour situation. In addition, the investigators conducted in-port inspections of dozens of vessels, examining the living and working conditions of migrant fishers on Taiwanese vessels, predominantly tuna longliners.

Three key issues emerged in the course of the preliminary investigative work, which tended to corroborate earlier anecdotal reports:

1. Widespread labour and human rights abuses and severe physical violence at sea were frequently reported to Greenpeace investigators,
2. Fishers and their representatives reported a reluctance by officials to investigate their claims, or even take them seriously, even when complaints were laid and evidence was provided<sup>47</sup>
3. Fishers reported other crimes (such as drug trafficking) and IUU fishing, although they were reluctant to discuss these in detail.

## Who Eats the Fish?

The fishers interviewed by Greenpeace in the course of this investigation worked on Taiwanese-flagged or -operated fishing vessels all over the world. Fishing in the Pacific, Atlantic and Indian Oceans all featured in their stories. They told Greenpeace that transshipment at sea was not only a regular occurrence, but something that enabled many of the abuses and crimes they reported to go undetected. It also contributed to allowing the fish they caught to enter the global supply chain. As chapter 3 makes clear, tuna and other fish caught by the fishers interviewed in this chapter almost certainly made its way to lunch boxes and dinner plates in the US, Europe, Japan and other parts of the world.

## Interviewees

Along with dozens of interviews with fishers, whose identities we have chosen to protect, we interviewed three advocates and academics. Their interviews helped provide a broader understanding of the conditions and situations migrant fishers face on Taiwanese vessels.

Father Bruno Ciceri, co-author of *Fishers and Plunderers: Theft, Slavery and Violence at Sea*,<sup>48</sup> was the chaplain of Kaohsiung, Taiwan from 1996 to 2008, where he was heavily involved in counselling and advocating for migrant fishermen in Taiwan.

Dr Glenn Simmons is a research fellow at the New Zealand Asia Institute, University of Auckland Business School. For the last six years Dr Simmons has been investigating human trafficking for forced labour and human rights abuses in the fishing industry, in New Zealand and internationally. He is widely published and is a respected industry expert who has presented to a number of governments and law enforcement organisations such as Interpol.

Alison Lee is the Secretary General of the Yilan Migrant Fishermen's Union. She has been advocating for migrant fishermen in Taiwan for many years. Her work involves providing support services to migrant fishers and conducting lobbying work on their behalf.

Together, with substantial numbers of interviews with fishery workers, they paint a picture of an industry culture built on cheap migrant workers and an economy that depends on the exploitation of those workers.



## The Role of Agents and Recruitment Companies

Fr Bruno Ciceri's 12 years in Kaohsiung have given him unique insight into Taiwan's fisheries. He describes an environment where Taiwanese ship owners, and operators based in Taiwan, were able to distance themselves from the labour and human rights abuses suffered by migrant fishermen. This situation, he believes, is reflective of the current legislative framework which allows brokers and middlemen to source migrant workers for the fishing industry, recruiting them in their home countries and embarking them directly to vessels, so they do not physically or legally pass through or transit Taiwan.

“What tended to happen was that if Taiwanese authorities became involved, or made enquiries, in relation to complaints or issues that had arisen for the migrant fishermen, the structural setup of the fishing industry simply allowed companies to say that they had made the appropriate payments to the various manning agencies and brokers who were typically based in other countries. Often the fishing companies do not have a contract with the migrant fishers but with the agent. The agent required that a small amount be paid directly to the fisher on board, with the balance to be given to the fisher in a lump sum at the end of the contract. If the fisher disembarked early they would lose all the salary and because he did not have a contract with the fishing company, he could not claim the salary from them. This also enabled the fishing companies and the Taiwanese part of the labour supply chain to distance themselves from the exploitation and violence.

**Fr Bruno Ciceri**

“Globally many distant water fishing vessels employ a cost-driven low-road business model, underpinned by vessels operating in an institutional and legal vacuum. This is not an accident, it is by design, and it serves a purpose.

**Dr Glenn Simmons**

“With the contracts, there are usually two versions; a legal one, and one provided by the recruitment agency, the conditions of which contradict those of the first.

**Alison Lee**

Recruiting companies and agents regularly feature in fishers' complaints about their treatment as they act as a buffer, insulating Taiwanese fishing companies from allegations of predatory behaviour or exploitation. They pocket varying, but often substantial, portions of the fisher's pay packet, while offering very little protection to their low-wage clients in return.

“The overseas employment of foreign seafarers is a grey area. The government cannot supervise overseas agents and fishery companies, and the seafarers who were hired overseas cannot be protected by the Taiwanese domestic labour regulations. In addition, the seafarers usually sign their contract in a third country, so it doesn't fall under the jurisdiction of Taiwanese domestic labour regulation. If the employment conditions cannot be supervised by the Taiwanese government, the employers basically can do whatever they want, usually it is related to employee's salary and basic rights.

“For those with onshore contracts, even though they're entitled to protection under Taiwanese labour laws, even though there are labour contract regulations in place, there's currently no way to enforce these laws. So it's extremely common for employers to violate the contract. So common in fact that everyone takes it as normal...

**Alison Lee**

“After the contract was finished, I came to Taiwan again, and I was hired as the domestic employment of seafarers this time. I think being hired with the domestic employment of foreign seafarers is better, because I get protected by the law, and have basic insurance. However, the Taiwanese agent still takes advantage of us, since we don't understand the Taiwanese labour rights. For example, the agent over-charges us for the placement fee and accommodation fee.

**TU\*, Indonesia - 34 years old**

“When we were berthing, the captain said a lot of the tuna we caught could not be exported because the meat was bruised. I saw that some of the tuna was bruised and bleeding but not all of them. I got blamed for all of it and I could not defend myself due to the language barrier.



© Paul Hilton / Greenpeace

“After offloading, the boss told me and some others 'you three persons - go home'. I told him I wanted my salary first. The boss said that my salary had already been sent to Indonesia and that was his reason that he doesn't bring the money. When I arrived in Indonesia, my office was in Jakarta, they said that not even one cent had been received. They claimed they did not receive any of my money at all.

“There were nine other guys who had experienced the same as me. We just wanted what was rightfully ours. Why would they treat us like that?

**KN, Indonesian - 35 years old**

“In general, there are two ways to hire foreign seafarers, one is domestic employment, the other one is overseas employment. Although the domestic employment of foreign seafarers theoretically need to be protected by the "Employment Service Act" and "Regulations of Employment of Foreign Works," the implementation of the law is weak. There are many employers who violate the contract. Because it is happened so often, people start to think this kind of illegal and unhealthy hired relationship is normal.

**Alison Lee**





## Issues at Sea

Because of the nature of the fishing industry, many of the bad things that happened to the fishers took place many hundreds of miles offshore. The problem is exacerbated by transshipment at sea, where crew can be exchanged between vessels at the direction of vessel owners and operators. Fishermen are at sea for months at a time with no oversight from authorities, and therefore when problems occur, there is nowhere for fishermen, particularly illegal workers, to complain.

“Even the legal workers suffer from exploitation so you can imagine what it is like for the illegal workers. It’s an invisible problem. Their working conditions can’t be regulated or supervised so the problems are well hidden.

**Alison Lee**

## Violence at Sea

Many of the fishers interviewed complained of being physically abused at sea. The violence ranged from a slap on the back of the head or chest to being bashed with weapons, or even being shot. Violence was often committed by the captain or engineer (usually Taiwanese) and the victims were typically migrant fishers.

“[the fishermen] told us how hard it was to work on these boats. The new hires, the ones who’d just started working there, would all get a beating from the captain. One of them told me the captain had punched him many times... The work on the boat is very isolated, because the workers have to work in a confined space so the chance of being violently treated is higher. If it is not the migrant worker that gets killed, it’s the captain.

**Alison Lee**

“I didn’t know how to fish in the beginning, so I was slapped and hit a lot by the supervisor of the boat. I was beaten five times in that year.

**S\*, Indonesia - 34 years old**

“I had experienced violence. I guess because of the language problem and misunderstanding. I was beaten, and things were thrown at me by the captain before. This captain carried an air gun as his weapon. When we were shot by the plastic bullets, it was very painful. When my colleagues and I did something wrong, the captain used the air gun to shoot our body and face. When we raised this concern with our agent, the agent defended the captain. We also raised this concern with police, but there was no follow-up, the situation continued for two months.

**CK\*, Indonesian - 37 years old**

“A lot of big longliners had weapons on the vessel, for example, my friend, G\* from Java was shot by his captain on a Taiwanese longliner, operated around Panama in 2009. When we reported it to the police, they said there was no evidence. All the evidence had just disappeared. I heard of or saw about 30 seafarers die since I had worked at this place.

**CK\*, Indonesian - 37 years old**

“Working on that boat was terrible. If we were just a little wrong or a little late, they would hit us. They would beat everyone. They did not feed us regularly. They would pull you and hit you with a bicycle pump until your head would bleed. The captain would bring plenty of beating weapons. For eating wrongly, one of the Vietnamese crew got a beating from the captain. The crewman was beaten until his arms and legs were broken. Even his head was broken. I am happy at work. We all have to work, do our job and love our job, but if the people above you are hitting you, then we are not being treated as humans, but more like animals. Daily activities, we would start work at 5.30am and be in the fishing area until 2.30pm. We would set two areas and when we were finished, we would sleep for two to three hours, and then we would wake up and start the next shift. On the second trip they changed the captain, and it started to become rocky. There was no holiday. Even with a good attitude you couldn’t do anything right. He would hit me here, and hard. Sometimes I kept quiet because I was looking to put food on my plate, and was far from my family. For the whole time we were out at sea with him, we did not get a day off. Whether there was no fish or lots of fish, we worked constantly. We did not have rest. Even when the ship was close to port, we were still working, it was like that for the whole five months we were at sea.

**BS\*, Indonesian - 35 years old**

“When I got onto the boats, because I had never experienced it before, I got seasick. The first time we did the setting I was still feeling seasick. The captain came looking for me and said I had to keep working but I didn’t want to because I needed to rest and felt sick and that was it. After they finished the hauling, I was sleeping and the captain came into my room. He tapped my feet to wake me. As soon as I woke up and got into a sitting position, he hit me. In the morning my punishment was to bake in the sun until lunchtime. I got hit again there. I was told I was not allowed to eat or drink. After that I was called and told I could not sleep in the room anymore. I had to sleep at the back with the floats.”

**BH\*, Indonesian - 32 years old**

Violence does not occur exclusively at sea. Alison Lee recounted an incident when a local politician was incensed about her involvement in a dispute between him and fishers he employed.

“I had a case with an elected representative. [The elected representative] brought an iron bar with him, it looked like he was about to hit someone, but I don’t know who. He’d come up the stairs at the old place we used to rent, he came up with the bar in his hand, while the [Fishery] agency was knocking loudly downstairs. So I called the police. The police arrived and came upstairs. When they saw [the elected representative], they took a bow to him and greeted him..... the migrant workers were hiding on the third floor. After some negotiation I came downstairs and police officers were having a cup of tea with [the elected representative].

**Alison Lee**



## Labour Abuse at Sea

In addition to violence at sea, one of the most common issues related by fishers was the deduction of salary for food and various claimed services. Consequently, the fishermen see very little of the money they work so hard for.

Fishers described regularly not being paid by their agent or captain, being debt bonded, receiving very low pay rates, having their pay heavily reduced by exorbitant fees, and living in horrific conditions. There were frequent accounts of fishers working up to 22 hours each day, for months on end.

“ I was signed as overseas employment and worked in a tuna/shark longliner from 2006 to 2008. I worked 17 hours per day in average. I stayed at the vessel for one year on my first time on board. My salary was \$120 USD per month

**S\*, Indonesia - 34 years old**

“ In the beginning our salary was small for the process of payment, all of it was the same. They would send it to the agent in Taiwan, from Taiwan to the agent in Indonesia and then to us. We would get only \$170, but what was written was \$400. When the boss of the boats became bankrupt, he had to sell all the ships. For about one and half years we worked for nothing. No salary at all. We went to the embassy and they didn't want to know. So we went to the agent. The boss was in Semarang. We heard from the guys in Taiwan that his company likes to disappear. Turns out that he was handling hundreds of people, and none of their salaries were paid. The embassy guys also said it was hard to find him. They said he was like a snake. There are hundreds of agents in Indonesia that have not cleared everything correctly.

**ND\*, Indonesian - 36 years old**

“ I work on a longliner, mainly catch shark. I am an overseas employment seafarer. I have worked on this boat for nine months. Whenever we work at the sea, we usually work 22 hours a day. I didn't receive my salary for four months. Also, although I signed a contract for 300 USD per month, and got the first three months' salary, I only received 100 USD each month for the first three months, because the agent charged me for the passport and insurance guarantee. My kid back home was sick, and my wife didn't have a job. The money I sent was used to pay back what we owe to our neighbours. I am in a very bad condition now.

**TR\*, Indonesian - 31 years old**

“ I haven't received my salary for seven months already. I felt shame to call back home. It's been seven months and I haven't sent my family money for my kids' school tuition or daily needs. I felt so hopeless every time my family cried and asked me about when I will send money to them. I tried to ask KDEI [Indonesian Trade and Economy Office] Taipei's help, but they cannot help me, because I was hired overseas.

**BM\*, Indonesian – 40 years old.**

“ If we were retrieving fish, we would start at six in the evening and work until morning. Sometimes it would be longer if there were lots of fish. I have experienced working straight for 29 hours. Even if you are injured, you must work. If the injury was serious, you still worked but not on deck. What's more, if anything bad happened to us we had to use our own money. There was no insurance covered by them. If you didn't finish your work you didn't get any food. You always had to work. We cannot leave the boat when we come into port. There is a gate that stops us from leaving. It is exactly like a prison. We were really slaves.

**BS\*, Indonesian – 35 years old**

Many of the DWF migrant fishers told us they were working 17-22 hours per day (often around 20 hours per day), seven days a week, for months on end.

A typical rate of pay for DW sea-based crew was US\$300/month.

\$300/30 days

\$10/day

\$10/20 hours

**\$0.50/hour**

Worse still, for those fishers such as SR\* who are forced to pay recruitment brokers by deduction;

\$100/30 days

\$3.33/day

3.33/22 hours

**\$0.15/hour**



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## Living Conditions At Sea

Living conditions on Taiwanese longliners range from cramped and dirty to outright foul. With rationed fresh water and open toilets, sometimes within arm's length of cramped bunks, hygiene is a serious concern. Added to this, fishermen report being given inadequate food and water, and sometimes even being fed bait. When poor diet combines with gruelling work days frequently over 20 hours, accidents are not only more likely, but inevitable.

“The state of the accommodation on some of these vessels was just terrible. Many times the fishermen would be sleeping on the vessel in very small, cramped spaces. They were dirty, often near the engine and were very smelly and often highly affected by exhaust fumes of the engine. In my experience storage of fish was more important to the captain and senior officers on a vessel than the accommodation provided to the crew. That really tells you something, dead, fish were more important and more valuable than the crew themselves.

Fr Bruno Ciceri

“I have fished since 1997. I have worked as a domestic employment since my first time in Taiwan, which was 13 years ago. I had been mistreated during my work in Taiwan, although it has not happened often. Now I am on a fishing boat with very bad conditions, I basically think this boat should not go out to fish considering its condition. This is the first time I felt my working conditions have been this bad, sometimes I don't even have water to shower, and my hands get infected because of the dirty conditions. But I think things like this only happen in Taiwan. In other countries I've been to, like Japan, there was never anything like this.

ST\*, Indonesian, 41 years old



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## IUU and Other Crimes

The fishermen interviewed were at times reluctant to discuss activity that they were involved in and knew to be illegal. Most, however, acknowledged that sharkfinning and other forms of IUU were regular occurrences, often aided by transshipments at sea.

“For sharks, it was up to the captain, sometimes he would tell the crew it was not allowed but if we caught a shark in the line and it was not deliberate and it was dead we would cut the fin. Even if it was alive, however, we would still cut the fin. We did not catch sharks very often. But Taiwanese boats are smart. If there is only little meat, the body will be thrown away after taking the fin. Before shark didn't have any bans so if we caught shark then we would take the fin for the fin money. Usually the money would be given to the captain. The fins are collected in a chest. Later, in the middle of the sea, it is offloaded. So when we go to land, the fins are already not there. So if there are any checks, there is no evidence. As it turned out the fins had already been given to the collecting ship. So that's how the boats manipulate things.

TT\*, Indonesian - 25 years old

There were reports of Taiwan-flagged vessels involved in crimes such as drug trafficking and other forms of smuggling.

“There were many mafia-run fishing vessels in Taiwan. I worked on a mafia vessel. They smuggled cigarettes, heroin and cocaine from Philippines and China. I was working on a legal fishing vessel, but the vessel's owner had co-operated with mafia. We use transshipment at the sea to smuggle things. A mother boat (flag Taiwan, longlining) usually went inside of the Philippines to take drugs. Once the mother boat left the Philippines, many small longliners would transfer drugs from the mother boat, and brought the drugs back to the land. The transshipments were happening once every two or three days. Each crew member can get extra pay - around 5,000 NTD to 8,000 NTD per time.

BK, Indonesian - 37 years old

BK's experience is far from isolated. A 2011 report from the UN Office of Drugs and Crime concluded that fishing vessels were readily used for smuggling illicit drugs and weapons. Fishing vessels were found to be well suited as mother ships and supply vessels, and several examples of trafficking were referred to.<sup>49</sup> In 2015 more than US\$11 million worth of amphetamines was found hidden in frozen tuna bellies in Kaohsiung, Taiwan. Three employees of a Taiwan-based refrigeration firm were arrested<sup>50</sup>.



## IUU Fishing and Labour Rights - A Symbiotic Relationship

Our interviewees had little doubt that there is a strong and symbiotic relationship between labour abuse and IUU fishing. In an environment of weak regulation and poor enforcement, greed and profit will always override sustainability and human rights.

IUU fishing and human rights abuses occur because they allow fishing companies to make more money. When the workers involved in IUU fishing are migrant workers, their position is particularly vulnerable, and there is very little chance they would risk reporting their vessel's illegal activities. With much IUU activity taking place far from land, and no mechanisms in place for workers to report such incidents, the illegalities will continue as long as fishing companies see a profit in it.

“IUU fishing and the exploitation of workers on fishing vessels appear to go hand in hand.

**Dr Glenn Simmons**

“In my experience, where there is one form of illegality there will be other forms of illegality. By this I mean that by the very nature of the working conditions of the migrant fishermen and the fact that they really have no recourse or anywhere to go when things get difficult or they are being mistreated, they are vulnerable to and become involved in IUU fishing on a fairly extensive basis.

**Fr Bruno Ciceri**

“Anecdotal evidence indicates IUU fishing and the exploitation of workers on Taiwanese vessels is consistent with the cost-driven low-road business model. It is a model that favours substandard vessels, IUU fishing, seafood fraud, abuse of the environment, and particularly poor labour practices.

**Dr Glenn Simmons**

## Identifying the Problems

In spite of ongoing legislative change, there has been little actual improvement in the conditions and treatment of workers on Taiwanese vessels.

“...in the 12 years I was there, [Kaohsiung] I would say that there was no real advancement in the conditions for the fishermen. Things would move or change slightly but in reality what was happening to them in 1996 was still happening to them in 2008. I have remained in contact with this industry and I am aware that much of what was going on during my period in Kaohsiung continues today – nothing has changed despite some legal changes.

**Fr Bruno Ciceri**

Because of the difficult nature of work on the fishing vessels, few Taiwanese people want to become fishermen, which means the ever-growing fishing fleets of Taiwan continue to source fishermen from other countries.

“But we all know the Fisheries Agency has no stake in protecting labour rights.

**Alison Lee**

“The exploitation is extensive and I primarily blame the brokerage system for this. There seems to be no real desire to change the system, yet it is this very system of manning agencies and brokerages that allows migrant fishers in particular to be abused, exploited and mistreated. It is my view that there is no real incentive for the Taiwanese authorities to want to reform the system, because any attempt to do so may have an economic impact. The companies and the politicians who rely on the fishing industry to continue making money have no real need or desire to change the system. You need to understand that a lot of money is being made by a lot of people with this industry and any structural change to the industry would cause people to not make as much money as they are now. Nobody is motivated to make less money and so the exploitation of the workers and the issues that go with that remain and will continue to remain until something drastic happens.

**Fr Bruno Ciceri**



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## A Chance for Change

The activity and behaviour outlined in this chapter appears to be so embedded in Taiwan's fishing industry that it is seemingly ignored and/or tolerated by authorities. Genuine change requires more than legal amendments or adjustments on paper. Reform requires a complete change of culture within the industry, regulatory authorities and the political landscape.

“I really think there is a lack of political will to reform what is happening in the Taiwanese fishing industry. It is an industry that makes a lot of money for the country and any change in the way that it operates might lead to some financial loss, at least in the short term.

“No politician wants to be responsible for that and I think there are many powerful people in the fishing industry that make sure that does not happen. If that reform does not take place then the problems that I have talked about will continue in the fishing industry until such time as there are drastic changes to the system and in particular the recruitment agencies and brokerages that provide labour to the Taiwanese fishing industry.

**Fr Bruno Ciceri**

The tuna and other fish caught by fishers interviewed for this chapter undoubtedly made its way into shopping trolleys, lunch boxes and dinner plates in the US, EU, United Kingdom and the wider Asia Pacific region.

Transshipment at sea and less than transparent supply chains, enable tainted fish to enter market countries undetected. As the next chapter demonstrates, even when IUU fishing is detected, insufficient action from authorities means fish caught by illegal operations can enter supply chains, market countries, and even the homes of unwitting consumers.



## Caught in the Act



### Shuen De Ching No. 888

The case of the tuna longliner *Shuen De Ching No.888* offers a perfect illustration of the divide between well-intentioned legislation and its practical implementation, policing and enforcement. A brand new vessel, the *Shuen De Ching No.888* (SDC 888) should have been a flagship for the new face of Taiwan's fisheries. Instead, the story of its illegal operations exposed Taiwan's apparent apathy towards its international obligations.

### The Facts

- 27/06/15: SDC 888 departs Taiwan
- 6/7/15: Stops in Palau to pick up six Indonesian national crew members, all hired through an Indonesian recruitment agency
- 9/07/15: Fishing commences in high seas pocket 1<sup>51</sup>

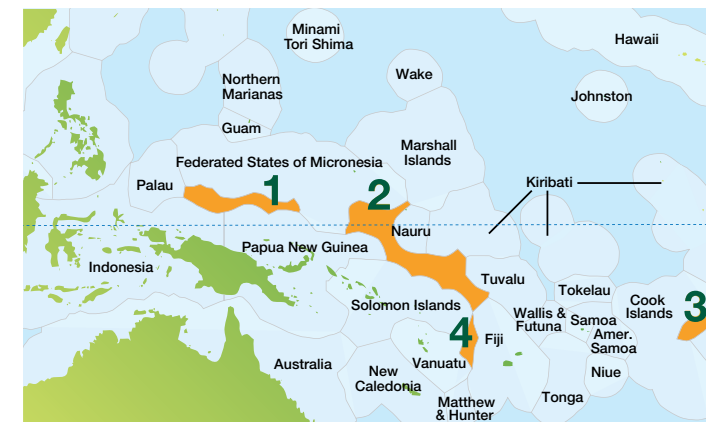


Figure 4. High Seas Pockets Western Central Pacific

- 9/9/15: the Greenpeace ship *Rainbow Warrior* identified the Taiwanese-flagged tuna longliner *Shuen De Ching No.888* as a vessel of interest, as it appeared to be fishing without being authorised to do so. Built in 2014, SDC 888 was new and had only recently been issued a fishing license by Taiwan, in April 2015. According to the captain, it was on its first fishing trip.

#### UTC 02:39, position 00° 46' South 159° 50' East:

Greenpeace *Rainbow Warrior* helicopter spots SDC 888 setting its longline in the high seas of the Pacific near Papua New Guinea waters

#### UTC 05:34 in position 00° 43.855' South 159° 53.763' East:

*Rainbow Warrior* sights the vessel drifting. The captain allowed Greenpeace crew to come aboard.



Following confirmation from the Western and Central Pacific Fisheries Commission (WCPFC) and the Pacific Islands Forum Fisheries Agency (FFA) that the vessel's name and call sign did not match any authorised vessel on their respective lists, Greenpeace informed Taiwan's FA that the SDC 888 was found fishing in the region without authorisation. WCPFC later advised Greenpeace that SDC 888 was authorised to fish but through an administrative error had not been included on the register.



## Greenpeace Boarding

### Catch Log

Greenpeace boarded *SDC 888* with the consent of the vessel's captain and conducted a series of interviews and inspections, finding discrepancies between the catch log, the actual catch in the hold, and the captain's account of the ship's fishing activity.

Given the length of time the vessel had been at sea, approximately two months fishing in high seas pockets one and two, neither the amount of catch recorded in the log book, nor the quantity of fish found in the hold appeared to be plausible.

Species	Log Book Number	Log Book Weight (kg total)
Bigeye Tuna	28	840
Yellowfin Tuna	87	1,740
Sailfish	14	210
Marlin	5	150
Swordfish	1	30
Mahi Mahi	10	50
Albacore Tuna	6	90
Shark	3	55

Table 3. *SDC 888* Catch Log

The log entries above are an implausibly low catch for two months of fishing, and raised the suspicion that there may have been transshipment conducted at sea. The AIS track of *SDC 888* is displayed in Figure 7.<sup>52</sup>

In addition, the logged shark catch was inconsistent with the shark content in the freezer holds and was in violation of WCPFC and Taiwanese laws. These required a ratio of shark fins to be no more than 5% of the weight of shark bodies on board. This is covered in more detail below.

## Taiwan's International Legal Obligations

As a full member of the WCPFC, under the name Chinese Taipei, Taiwan is covered by the Convention and Conservation and Management Measures (CMMs) which describe binding decisions relating to conservation and management measures.

The WCPFC is a regional Fisheries Management Organisation (RFMO), which:

“ seeks to address problems in the management of high seas fisheries resulting from unregulated fishing, over-capitalization, excessive fleet capacity, vessel re-flagging to escape controls, insufficiently selective gear, unreliable databases and insufficient multilateral cooperation in respect to conservation and management of highly migratory fish stocks.<sup>53</sup>”

### Transshipment

Transshipment in the high seas by longliners is restricted by the WCPFC, as set out by CMM 2009-6, Clause 34:<sup>54</sup>

34. There shall be no transshipment on the high seas except where a CCM has determined, in accordance with the guidelines described in paragraph 37 below, that it is impracticable for certain vessels that it is responsible for to operate without being able to transship on the high seas, and has advised the Commission of such.

Given the aforementioned discrepancies between the duration of the fishing trip and the amount of catch logged and present onboard, Greenpeace questioned the captain about any transshipment activity by the *SDC 888*.

Initially the captain claimed there had been no transshipment since the vessel left Taiwan. However, on further questioning he admitted that the vessel had transshipped part of its catch four days earlier. His admission was recorded and the transcript reads as follows:<sup>55</sup>

**Greenpeace (GP):** Have you done any transshipment?

**Capt:** Yes...Uh, no. There was a fishing vessel going back [to Taiwan] so I ask her to take some back.

**GP:** How much volume?

**Capt:** About more than four tonnes.

**GP:** 14 tonnes?

**Capt:** Four tonnes.

Some of the fishing crew mentioned that there had been two additional transshipments at sea.

Given the captain refusing to provide the name of the vessel that received their catch, it is plausible that a second vessel involved in transshipment would also be in breach of the CMM's and Taiwan's domestic law, and should also be the subject of a full and proper investigation.

**Article 40-1** of Taiwan's Fisheries Act is unequivocal:

*Fishing vessels shall not transport catches caught by other vessels nor allow other vessels to transport catches caught by the fishing vessels themselves without authorization. The qualifications for authorization, terms and conditions, required documents, procedures for application, notification and procedures for transshipment of catches, inspection and other requirements shall be prescribed and implemented by the central competent authority, taking into consideration the management measures adopted by international fisheries organizations.*

Greenpeace reported the suspected transshipment to the Taiwanese government and suggested co-operation with the WCPFC to determine from the Vessel Monitoring System (VMS) tracks of this vessel whether there was any evidence of transshipment.

In spite of the EU yellow card, it appears Taiwanese authorities have done little to identify and sanction the vessels *SDC 888* transshipped to.



## Shark Finning

The vessel's log book stated that three blue sharks had been caught, with a total weight of 55kg, which was wholly inconsistent with what Greenpeace found in the hold:

- Nine carcasses, only one of which had its fins attached to the body.
- The weight of only three only of the nine carcasses totaled 100kg. Three sacks of shark fins (including tails, dorsal and other shark fins) were found, with a total weight of 95-97kg (see image).

*The sacks contained 42 shark tail fins, indicating that the minimum number of sharks actually caught was 42.*

Physical Evidence	<i>SDC 888</i> Logbook (9 September 2015)	<i>Rainbow Warrior</i> inspection (9 September 2015)	<i>Hsun Hu No.9</i> (Coast Guard) inspection (17 September 2015)
<b>Shark bodies</b>	3	9 (1 with fins attached)	5 (5 with fins attached)
<b>Shark weight (kg)</b>	55		
<b>Shark fins (kg)</b>		95-97	
<b>Shark fin (total no.)</b>		662	110
<b>Shark tails (no.)</b>		42 (indicating a minimum of 42 sharks)	
<b>Anal fins</b>			104 (indicating a minimum of 52 sharks)

Table 4. A comparison of the logbook record for sharks and actual numbers found following the Greenpeace and Coast Guards inspections



## Log Book Inconsistencies

In an attempt to identify the species of shark in the hold, Greenpeace photographed the carcasses, tails and fins located during the vessel inspection, and sought advice from international experts.

In addition to the blue sharks listed in the vessel's log book, these experts identified a number of species, including:

- silky shark (a species fishers are prohibited to retain in the region)
- scalloped hammerhead (a species listed on the Convention on International Trade in Endangered Species (CITES)) and
- mako shark.



Figure 5. Image1 shows 12 dorsal fins identified as silky shark (*Carcharhinus falciformis*) dorsal fins and one (the largest in the picture), a scalloped hammerhead (*Sphyrna lewini*) dorsal fin.<sup>56</sup>

With more than 5% in weight of shark fins compared to bodies found on the vessel<sup>57</sup> before reaching its first point of landing, Greenpeace found it very likely the *SDC 888* was in breach of the WCPFC regulations on shark finning, as well as Taiwanese domestic fishing laws, which require fins to be attached or at least tied to shark bodies. These laws are covered in greater detail in Chapter 8.



Figure 6 was analysed by shark morphology expert Lindsay Marshall who identified two silky shark (*Carcharhinus falciformis*) pectoral fins (on the left) and two blue shark (*Prionace glauca*) pectoral fins (on the right).

## The FA Investigation

The Taiwanese FA issued a press release on 10 September, reacting to the inspection, suggesting that Greenpeace had “breached Taiwan’s jurisdiction and international laws”.<sup>58</sup>

It is unknown what contact the FA had with *SDC 888* vessel owners in advance of its criticism of Greenpeace, but the recorded radio request to *SDC 888* makes it clear that Greenpeace obtained consent ahead of boarding.

The FA claimed it would conduct its own investigations.

In response to reports then submitted to the FA by Greenpeace, the FA asked a Coast Guard vessel to board and inspect *SDC 888*.

The Taiwanese FA responded relatively quickly with two seemingly inconsistent press releases:

1. 10/9/15: An initial reaction, suggesting Greenpeace had “breached Taiwan’s jurisdiction and international laws”<sup>59</sup>.
2. 21/9/15: “After conducting inspection by patrol vessel HSUN HU No.9 on 17 and 18 September, inspectors found out that total catch on board this fishing vessel accounted for 10.4 tons, including 5.4 tons of yellow fin tuna, 2 tons of bigeye tuna and 3 tons of others. The findings were significantly discrepant to the quantities filled in the logbooks. As for shark catches, it found 5 carcasses with fins tied, and 110 pieces of separated fins without carcasses. Of those 110 pieces of fins, 1 for pectoral fin, 1 for dorsal fin, 4 for caudal fin, and 104 for anal fin (note: each shark should have 2 anal fins). This is an obvious violation of shark finning. In addition, Shuen De Ching No.888 is suspected of conducting transshipment on high seas without prior authorization. The Fisheries Agency of Taiwan resolutely orders Shuen De Ching No.888 to stop operations and navigate directly back to Taiwan, under escort of the HSUN HU No.9, for further investigation and clarification on any irregularities it has conducted in accordance with the Fisheries Act promulgated by this Agency.”<sup>60</sup>

## Findings and Sanctions

In consequence of the FA’s initial findings, the *SDC 888*’s licence was suspended on 23 October 2015 for eight months and its owners fined the maximum fine, equivalent to approximately US\$5,000.

Two weeks later, the FA concluded the vessel had transshipped at sea without approval, resulting in:

- a fine of the same amount (no increase in fine)
- confiscation of the shark catch
- the suspension of the fishing licence for 12 months<sup>61</sup>.

Regrettably, the FA investigation does not appear to have uncovered any other evidence of illegal fishing, the occurrence of any additional transshipment activity or even the identity of the other vessels and individuals involved in the transshipment.

## Failures in the FA Investigation

Following the events at sea, Greenpeace conducted an independent investigation into *SDC 888*’s activities, to properly assess the FA’s response to evidence of IUU fishing provided by the *Rainbow Warrior*.

Greenpeace appreciates the difficulties that authorities face in attempting to combat IUU activity, with particular acknowledgement of the vast expanse of the high seas. Nevertheless, a straightforward way to mitigate these difficulties would be for authorities such as the FA to conduct robust and thorough investigations when IUU activity is identified, and then properly explore all reasonable avenues of inquiry, identify those involved and issue sanctions where appropriate.

The most important independent evidence relating to the movements of *SDC 888* is the VMS data. While Greenpeace does not have access to that data, the FA will have a complete record of all *SDC 888*’s movements, including records of other vessels within close proximity of its voyage.

In light of that, Greenpeace adopted the following investigative techniques:

1. Retrospective interviews of a small number of *SDC 888* crew members
2. Analysis of Automatic Identification System (AIS) data
3. Independent examination of shark fin evidence
4. Comparative analysis of FA findings and evidence collected by Greenpeace.



## Crew Interviews

Following *SDC 888*'s return to Donggang, Taiwan, Greenpeace investigators conducted and recorded<sup>62</sup> interviews with a small number of crew.

Accordingly, the crew gave Greenpeace the following information:

Prior to Greenpeace boarding:

- *SDC 888* transhipped at sea at least twice, offloading several fish species, including shark, to another vessel
- on occasions, the captain had switched off the monitoring systems on the vessel and illegally fished in the Papua New Guinean EEZ.

Subsequent to the Greenpeace boarding, and prior to the Taiwanese Coast Guard boarding, the captain:

- arranged to transship fish, including sharks, to another vessel. Fish were transferred from *SDC 888* to the other vessel, and *SDC 888* received some of the other vessel's catch
- ordered the dumping of shark bodies at sea.

Some of this evidence can be corroborated by comparing the details of the catch recorded by the FA with that recorded by the *Rainbow Warrior* inspection team, as there are marked differences between the two (see Table 4). Nonetheless, at the time of publishing, the FA had not sought any further information or evidence collected by Greenpeace to assist or inform their investigations.

Furthermore, VMS data could be used to corroborate the evidence provided by the crew regarding fishing in PNG waters and the additional three transshipments, as well as identifying the other vessel/s involved.

In addition to the IUU-related breaches, the crew of the *SDC 888* provided evidence that suggests the captain interfered with the FA's investigation into *SDC 888*'s IUU fishing by arranging to offload catch in advance of inspection. A competent FA investigation should have investigated this possibility, including by comparing Greenpeace inspection records and analyzing VMS data.

Taiwanese law makes obstructing an inspection a violation of law. Subsection 7 of Article 65 of the Fisheries Act provides:

### Article 65

*Any person who undertakes any of the following activities shall be liable to a fine of between NT\$30,000 and NT\$150,000.*

*(7) Refusing, evading, or obstructing an inspection carried out pursuant to Article 49, paragraph 1, or refusing to answer to the officers' queries without good cause or making false statement.*

## Switching Off The AIS

Greenpeace compiled and analysed the AIS data, tracking *SDC 888* and plotting its activity on Google Earth (see Figure 7).

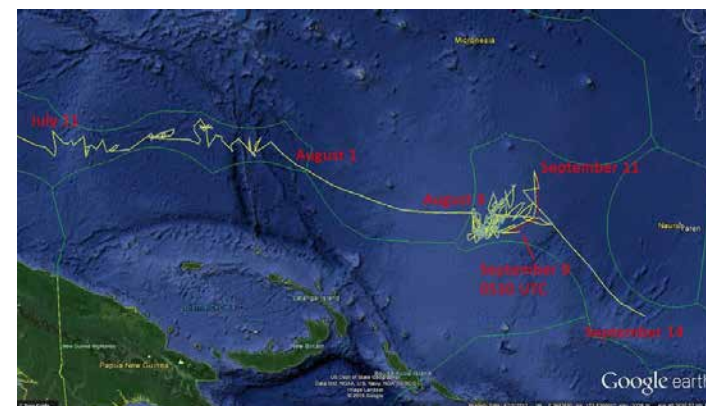


Figure 7. *SDC 888* Vessel Track

While useful to an extent, unlike the VMS system the AIS equipment is very simple to disable at sea, and evidence from the data collected by Greenpeace on *SDC 888*'s movements indicates the vessel's AIS was switched off for periods both before and after Greenpeace's boarding and inspection.

## Conclusion

As a vessel on its maiden voyage, the *SDC 888* had every chance to be the modern face of a responsible DW fishing nation. Instead, the brand new ship sailed to the Pacific and crew say it began IUU fishing in the high seas, and later in the EEZ of Papua New Guinea, ignoring laws, conventions and international agreements. Moreover, the apparent apathetic response of Taiwanese authorities is indicative of a systemic problem infiltrating deeper than the specific actions of the *SDC 888*.

Nearly six months later and despite the considerable body of evidence supplied by Greenpeace, there is still:

- no indication that the FA has conducted a full and transparent investigation
- no indication of investigations leading to sanctions of the other vessel(s) involved in, and now compromised by, the illegal transshipping
- no attempt to determine if the actions of the *SDC 888* were isolated or endemic or even whether the owners, or indeed the wider industry, were complicit.

In fact, no-one has yet been held to account for their actions.

The exposure by Greenpeace of blatant acts of illegal fishing and shark finning, coupled with the FA's reluctance to react meaningfully, highlights an industry out of control. It is an industry that relies on a slow-to-act government department more concerned with upholding its reputation than ensuring an effective enforcement regime. Despite evidence suggesting that the vessel's captain may have turned off its AIS and transhipped catch, no individuals have been held accountable and the paltry fine that was issued to the vessel owner, despite being at the upper end of the scale, only reinforces the sense that Taiwan's fisheries are not answerable to anybody.

Due to the cost, logistically and financially,<sup>63</sup> of monitoring and controlling DW fishing, it is imperative that when instances of IUU fishing are brought to the attention of the relevant authorities, they are thoroughly investigated.

The *SDC 888* gave Taiwan a rare opportunity to demonstrate to Taiwanese fishery companies, and to the global tuna industry, that Taiwan was ready to be deemed a responsible international fishing entity, serious about tackling IUU activities. Instead, the evidence suggests the FA's investigation was superficial, reluctant and incomplete, inferring that, despite the presence of an EU yellow card, its controls are inadequate, and that violations and breaches of law may be ignored or swept under the carpet, leaving the world with the impression that in Taiwanese fisheries, crime pays.

Even in this clear case of illegal transshipment and shark finning, the system failed to prevent tainted tuna from entering the global supply chain.



## Crossing Borders



The extent of human rights abuse, forced labour and human trafficking in the fishing industry has been highlighted in a number of reports over the last decade.<sup>64</sup> However, the mainstream media has shown particular interest over the last 12 months. *Associated Press*, the *New York Times* and the *Guardian* have reported harrowing accounts of fishers and factory workers killed, enslaved and exploited in the fishing industry, particularly in Thailand.<sup>65</sup> A common thread emerging from these stories is the role that “manning” or recruitment agencies play in the abuses.

The United Nations Office of Drugs and Crime (UNODC) describes the role of recruitment agencies:

“Recruitment agencies can play a legitimate and essential role in facilitating supply and demand in labour markets, across geographies and sectors. In particular, they often facilitate the movement of workers looking for job opportunities outside their home countries. Yet abusive recruitment practices seem to flourish in all parts of the world. Such practices seem to be closely linked with trafficking in persons.”<sup>66</sup>

That view is reiterated in research from South East Asia which further suggests that those who migrate, particularly across borders, are most vulnerable to exploitation and abuse.<sup>67</sup>

The 2014 US Department of State *Trafficking in Persons* (TIP) report alluded to the scale of the issue, citing a claim that up to 160,000 migrants could be working on Taiwanese fishing vessels around the world.<sup>68</sup> The 2015 TIP report went further to recognise that migrant workers can be charged “exorbitantly high recruitment fees, resulting in substantial debts that are used by brokers or employers as tools of coercion” and that migrant workers have experienced indicators of trafficking on Taiwanese fishing vessels.

Despite the apparent scale and prevalence of the problem, there have been no arrests or convictions in Taiwan for human trafficking violations on Taiwanese fishing vessels.<sup>69</sup>

The two case studies below highlight the scale of the problem and its potentially fatal consequences, as well as the apparent inaction of Taiwanese authorities to address it.

### Human Trafficking - The Giant Ocean Case

In late 2011, UN agencies, NGOs and local authorities became aware of a human trafficking ring in Cambodia. It became known as the Giant Ocean case.

Giant Ocean International Fishery (Pty) (Giant Ocean) was a Cambodian recruitment agency operated by a Taiwanese national and with strong ties back to Taiwan.<sup>70</sup> Set up in Cambodia prior to 2010, it registered with the Cambodian Labour Ministry and lodged a \$100,000 surety, claiming its purpose was “recruiting and sending Cambodians to work in Malaysia, Thailand, Japan and Kuwait”.<sup>71</sup>

#### The UN cites many indicators of human trafficking.

Signs that people have been trafficked may include:

- Indications that their movements are controlled
- Injuries that appear to be the result of an assault
- Working excessively long hours
- Lacking access to medical care
- The perception they are bonded by debt
- Acting on the basis of false promises.

Following a series of complaints from the families of Cambodian fishermen who were trapped or missing after being recruited by Giant Ocean, various agencies and local NGOs began to compile data and collect evidence. It was reported that Giant Ocean had almost immediately begun to recruit Cambodian men to work on fishing vessels, not in the listed countries but in places like South Africa, Senegal, Fiji and Mauritius.<sup>72</sup>

In May 2012, the Cambodian National Committee to Lead the Suppression of Human Trafficking, Smuggling, Labour and Sexual Exploitation of Woman and Children hosted the first formal discussions between Cambodian government agencies and civil society about the Giant Ocean case.<sup>73</sup> The Community Legal Education Center in Cambodia estimated that more than 1000 Cambodians had been trafficked to fish on predominantly Taiwanese vessels by Giant Ocean.<sup>74</sup>

The victims who came forward gave harrowing, but often similar, accounts of being tricked about working conditions, starvation, debt bondage, physical abuse, lack of medical care, death threats and 21-hour work days.<sup>75 76</sup>

Cambodian investigations followed and in May 2013 the Department of Anti-Human Trafficking and Juvenile Protection arrested and charged six Taiwanese nationals, including the manager of Giant Ocean, Ms Lin Yu Shin, with human trafficking offences.<sup>77</sup>

In April 2014, the six were convicted of human trafficking by the Phnom Penh Municipal Court. All six were sentenced to 10 years in prison and ordered to pay the 150 identified victims between \$1,750 and \$15,900 each in compensation<sup>78</sup>. Following an unsuccessful appeal in April 2015, Lin Yu Shin remains the only one in prison. The remaining five were convicted in absentia, and their whereabouts remain unknown.

#### The Taiwan Connections

In addition to the six individuals convicted in Phnom Penh being Taiwanese, there is strong evidence that the Giant Ocean human trafficking operation was:

- a Taiwanese enterprise
- run by Taiwanese nationals
- used to provide Cambodian labour to predominantly Taiwanese fishing vessels.<sup>79 80</sup>

Finally, and perhaps most significantly, there is evidence that the operation had a Taiwanese base, with an office and staff in the southern city of Kaohsiung. A basic desktop search for Giant Ocean International provides a Kaohsiung address for the company.<sup>81</sup>



# Kaohsiung City – Key Locations

**Hung Yu Fishery Co. Ltd.**  
  
鴻瑜漁業股份有限公司

**Kaohsiung local court**  
  
高雄地方法院

**Giant Ocean previous office**  
  
巨洋國際前辦公室

**Tching Ye Fishery Co. Ltd (Chun I No. 217)**  
  
春億漁業股份有限公司

**Fisheries Agency Office**  
  
高雄漁業署

Image © 2016 DigitalGlobe  
Image © 2016 TerraMetrics  
Image © 2016 GeoForce Technologies  
© 2016 Google

Google™ earth



In June 2014, the BBC reported prosecutors in Kaohsiung saying they could not investigate because “the NGO” had not supplied victims’ testimonies.<sup>82</sup> Similarly, Legal Support for Children and Women (LSCW), the NGO representing many of the Giant Ocean victims, told Greenpeace in November 2015 that Taiwanese authorities required victims to submit complaints directly to Taiwanese authorities. LSCW said it had not been able to secure funding to take the Cambodian victims to Taiwan to formally submit complaints and provide statements.<sup>83</sup>

Greenpeace sought legal advice on whether, procedurally, formal complaints by victims (either in person or otherwise) were a prerequisite before Taiwanese authorities could launch an investigation. The advice was unequivocal - they do not. Human trafficking is a criminal offence under Article 296-1 of the Criminal Code and Section 32 of the Human Trafficking Prevention and Control Act 2012. While in Taiwan some crimes are expressly “no trial without complaint” offences, there is nothing in the Taiwanese Criminal Code or the Act requiring a complaint for human trafficking offences to be investigated or prosecuted.

Furthermore, there is an express obligation in the Act (Sections 9 and 11) on the judicial police authority to take action to identify suspected victims of trafficking immediately once they are notified of it. This notification may come from anyone (Section 9). Despite this, it appears that Taiwan’s authorities have done little to identify the victims of Giant Ocean’s human trafficking ring.

Whether or not the events in question occurred in Taiwan, Cambodia or elsewhere, Taiwan has jurisdiction to prosecute trafficking crime (Section 42). It seems clear that Taiwanese authorities had an obligation to investigate the cases of the Giant Ocean victims but failed to do so.

## Taiwan’s Criminal Code

### Relevant provisions of the Criminal Code

#### Article 296

*A person who enslaves another or places him in a position without freedom similar to slavery shall be punished with imprisonment for not less than one and not more than seven years.*

*An attempt to commit an offence specified in the preceding paragraph is punishable.*

#### Article 296-1

*A person who trades in or mortgages humans shall be sentenced to imprisonment for not less than five years and, in addition thereto, a fine of not more than five hundred thousand yuan may be imposed.*

*A person who for purposes of making a person engage in sexual intercourse or making an obscene act commits the offence specified in the preceding paragraph shall be treated to imprisonment for less than seven years and, in addition thereto, a fine of not more than five hundred thousand yuan may be imposed.*

*A person who through the use of violence, threats, intimidation, controls, drugs, hypnosis or other means commits an offence specified in the two preceding paragraphs shall be sentenced to a punishment by increasing it up to one half.*

*A person who arranges, accepts or conceals a traded or mortgaged person specified in the three preceding paragraphs or causes him to be concealed shall be sentenced to imprisonment for not less than one year but not more than seven years. In addition thereto, a fine of not more than three hundred thousand yuan may be imposed.*

*A public official who harbours a person who commits an offence specified in the four preceding paragraphs shall be sentenced to the punishment prescribed in the relating paragraph by increasing it by one half.*

*An attempt to commit an offence specified in paragraphs 1-3 is punishable.*

## Where Are They Now?

Greenpeace has sought to establish what official efforts have been made to identify and, where possible, rescue the fishers who may have been trafficked by Giant Ocean more than six years ago.

LSCW say they have attempted to track trafficked victims using information provided by families, but are not aware of any effort on the part of national authorities, including Taiwan, to locate the many hundreds of people recruited by Giant Ocean to work on Taiwanese fishing vessels around the world.

In 2015, Brigadier General Chiv Phally, who investigated the case in Cambodia, told USAID that Giant Ocean staff destroyed business documents prior to Ms Lin Lee Chen’s arrest.<sup>84</sup> The destruction of that evidence makes the task more difficult, but not impossible.

While Taiwan’s diplomatic status could complicate any transnational investigations, the legal barriers preventing a full-scale criminal investigation within Taiwan itself are negligible. The evidence available to Taiwanese authorities from the testimonies of Cambodian victims, and the domestic avenues for inquiry into the Giant Ocean’s offices, representatives and clients in Taiwan, should be sufficient to inform a criminal investigation.

Greenpeace has strong reason to believe that Taiwanese authorities have information and evidence relating to the criminal activities of Giant Ocean, in the form of witness statements from some of the victims in Cambodia. It has been reported that NGOs have had contact with Taiwan prosecutors.<sup>85</sup> Despite this, more than 3 years after the first arrests in Cambodia, there is no indication that Taiwanese authorities have thoroughly investigated the Giant Ocean case, or are close to prosecuting anyone.

## The Trafficking and Suspicious Death of EriL Andrade

In November 2015 the tragic story of EriL Andrade featured on the front page of the *New York Times*.<sup>86</sup> EriL Andrade was a healthy 31-year-old Filipino recruited by the Singapore recruiting firm Step-Up Marine.

It was reported that Andrade was recruited by an agent for Step-up Marine in his home village of Linabaun ur, Banga, in the Philippines, to work in the fishing industry in Singapore.<sup>87</sup> The circumstances of his recruitment are currently being examined by a Philippine court investigating the recruitment of Filipinos by one individual. According to documents filed in that proceeding, the key facts are as follows:

- After EriL left the Philippines for Singapore, his brother Julius Andrade y Morales received a text message from his phone on 15 September 2010 confirming his arrival in Singapore.<sup>88</sup> Shortly afterwards the family lost all contact with him.
- It is now established that EriL spent a few days in a room in Singapore, before being placed on the Taiwan-flagged longliner *Hung Yu No.212*, for his first stint as a DW fisher.<sup>89</sup>
- EriL’s family heard nothing from or about him until 5 April 2011, when his mother received a telephone call informing her that he had become sick and died at sea. She was told he had died on 22 February 2011 on board the *Hung Yu No.212*.<sup>90</sup>

The only written record accounting for the loss of EriL Andrade was purportedly written by the captain of *Hung Yu No.212*, and stated:

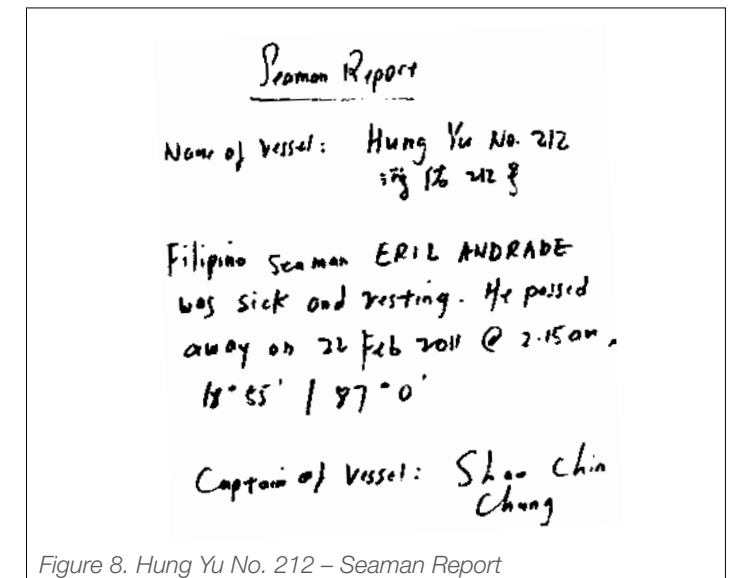


Figure 8. Hung Yu No. 212 – Seaman Report



### The scene of Eri's death:

- VESSEL: a 48-metre 550 tonne Taiwanese-flagged longliner named the *Hung Yu No.212*
- WHEN & WHERE: The captain's note provides the time and co-ordinates of *Hung Yu No.212* when Eri died

A week after the phone call, a post mortem was conducted by Dr Wee Keng Poh of Singapore's Health Services Agency. He signed a single-page cause of death certificate concluding that Andrade's death was "consistent with acute myocarditis" (heart failure due to infection).<sup>91</sup>

The lack of medical detail explaining Andrade's death was in stark contrast to the exactness of the document recording his belongings – including insignificant items like cotton buds (eight) and a rubber band. The certificate made no mention of missing body parts or external injuries.

On 18 April 2011, at Andrade's mother's request, a second post mortem examination was completed in the Philippines. It concluded that Andrade's cause of death was a "myocardial infarction" (heart attack).<sup>92</sup> Of greater concern than the different description of the cause of death were the substantial injuries evident on Eri's body:

1. Abrasion, right supraorbital area measuring 0.8 by 0.1 cm, 4 cm from anterior midline
2. Abrasion, nose measuring 0.5 by 0.4 cm along the anterior midline
3. Abrasion, upper lip measuring 4 by 1 cm anteriorly
4. Abrasion, lower lip, measuring 5 by 1 cm anteriorly
5. Contusion, right axilla, measuring 2 by 1 cm, 12 cm from the anterior midline<sup>93</sup>

It was also established in the second autopsy that Eri's pancreas and one of his eyes was missing.<sup>94</sup>

Inquiries by Greenpeace suggest none of *Hung Yu No.212*'s crew were ever interviewed about his death. The *New York Times* also reported in November 2015 that neither the Taiwanese police nor the FA had any record of having interviewed the captain, despite these troubling circumstances around Eri's death.<sup>95</sup> The failure by officials to investigate means that the circumstances around Eri's death remain unknown.

There does not appear to have been any formal or detailed examination by Taiwanese officials of what happened to him in the days and weeks leading up to his death, despite a missing pancreas, a missing eye, facial injuries, and evidence that he was illegally recruited.

### *Hung Yu No. 212* – IUU and Exploitation

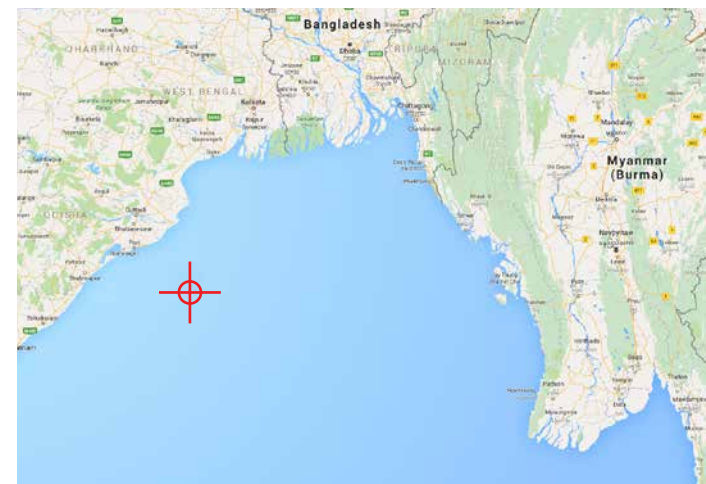


Figure 9. Location of Eri Andrade's Death – According to Seaman Report.

In addition to the evidence that *Hung Yu No.212* was using unlawfully recruited fishers and Eri's suspicious death, there is evidence that the Taiwanese-flagged vessel had been involved in IUU fishing in the Indian and Atlantic Oceans in 2000, 2011 and 2012.<sup>96</sup>

### At the time of publishing the vessel was licensed to fish in the Atlantic Ocean and at the end of February its AIS track indicated it was fishing in the Atlantic Ocean between Brazil and West Africa.

Given the vessel is Taiwanese-flagged, Taiwanese authorities have the jurisdiction, and the obligation, to investigate both the recruitment and unexpected death of Eri.

Under the Taiwanese Criminal Code, authorities have the power to investigate offences committed within the territory of Taiwan - a Taiwanese vessel on the high seas meets this definition – yet there is no evidence that any such investigation has taken place.

### Conclusion

The cases cited in this chapter illustrate an industry where life is cheap, operating in a virtual enforcement vacuum. With perhaps 1000 or more victims, the Giant Ocean case should have been the case that rocked Taiwan's fishing industry and regulatory authorities. Instead, it appears the authorities have done very little.<sup>97</sup>

Eri Andrade may have been just one victim, yet his death tells a story of an isolated and immune industry, enabled by official indifference in Taiwan and elsewhere.

These stories are variations on a theme - many migrant fishers are, at best, exploited, and at worst, die at sea. As long as the industry players weather the short attention span of the international media, they can be confident there will be no rigorous investigation or sanctions that properly deter. In Taiwan's fisheries, it appears, as long as the victim is a migrant worker, they can be exploited or die at sea and no one will care enough to investigate.

### Who ate the fish?

Which tuna brand supply chains did the fish caught by trafficked fishers enter, which supermarkets, which shopping trolleys? Who ate the fish that Giant Ocean recruited fishers were forced to catch? How many of us have become unwittingly complicit in human trafficking and the death of Eri Andrade because the supply chains of the fish we buy are so poorly regulated that we could have eaten the fish caught by any of these boats, and we would never know.



# Murder at Sea



On 17 August 2014 video footage of up to five men being shot and killed at sea surfaced on the social media website Youtube.<sup>98</sup> The video was quickly reported by mainstream media, and for several days it featured extensively around the world. The footage is grainy and unsteady, but what is recorded cannot be mistaken. Up to five men are systematically executed while they attempt to stay afloat in the ocean, clinging to the debris of what appears to be a relatively small wooden vessel.

The images are disturbing and grotesque and despite unquestionably exposing mass murder and identifying several witnesses, no arrests have been made to date.

While the video was found on a cellphone in Fiji, media focus quickly shifted from the Pacific region to the Indian Ocean. The geographic detail became relatively easy to establish as one of the four vessels captured in the video is identified in the footage – Taiwan-flagged *Chun I No.217*. Its owner has since confirmed it was present, and in the Indian Ocean, at the time of the shooting. ‘A close viewing of the video shows one vessel leaving what appears to be the small boat’s wreckage in its wake.



*Chun I No.217* is not the only identifiable feature from the video. Whilst the identity and nationality of the victims have never been confirmed, the identity of some crewmembers celebrating their certain deaths is obvious. A case that has several identifiable witnesses to a filmed execution should, in relative terms, have been quickly resolved.

Crime at sea, whether murder, assault, IUU, or the smuggling of humans and drugs, is a massive problem in DW fisheries. To make genuine progress towards combating these issues requires both:

- a global effort
- the demonstration of good faith global citizenship by nations and other entities that profit from the ocean commons.

In contrast, the well-publicised case of the systematic and coldblooded shooting of up to five men clinging to wreckage in the open ocean highlights the lawlessness of the high seas and the apparent disregard for human rights, and indeed human life, held by Taiwan’s fishing industry, as well as the relevant government departments. Taiwan’s apparent unwillingness to vigorously pursue justice in a timely way in this case shows they have a long way to go.



Video shows wreckage of small boat



Victim 4



Survivors are then systematically shot

Victim 1



Victim 5



Victim 2



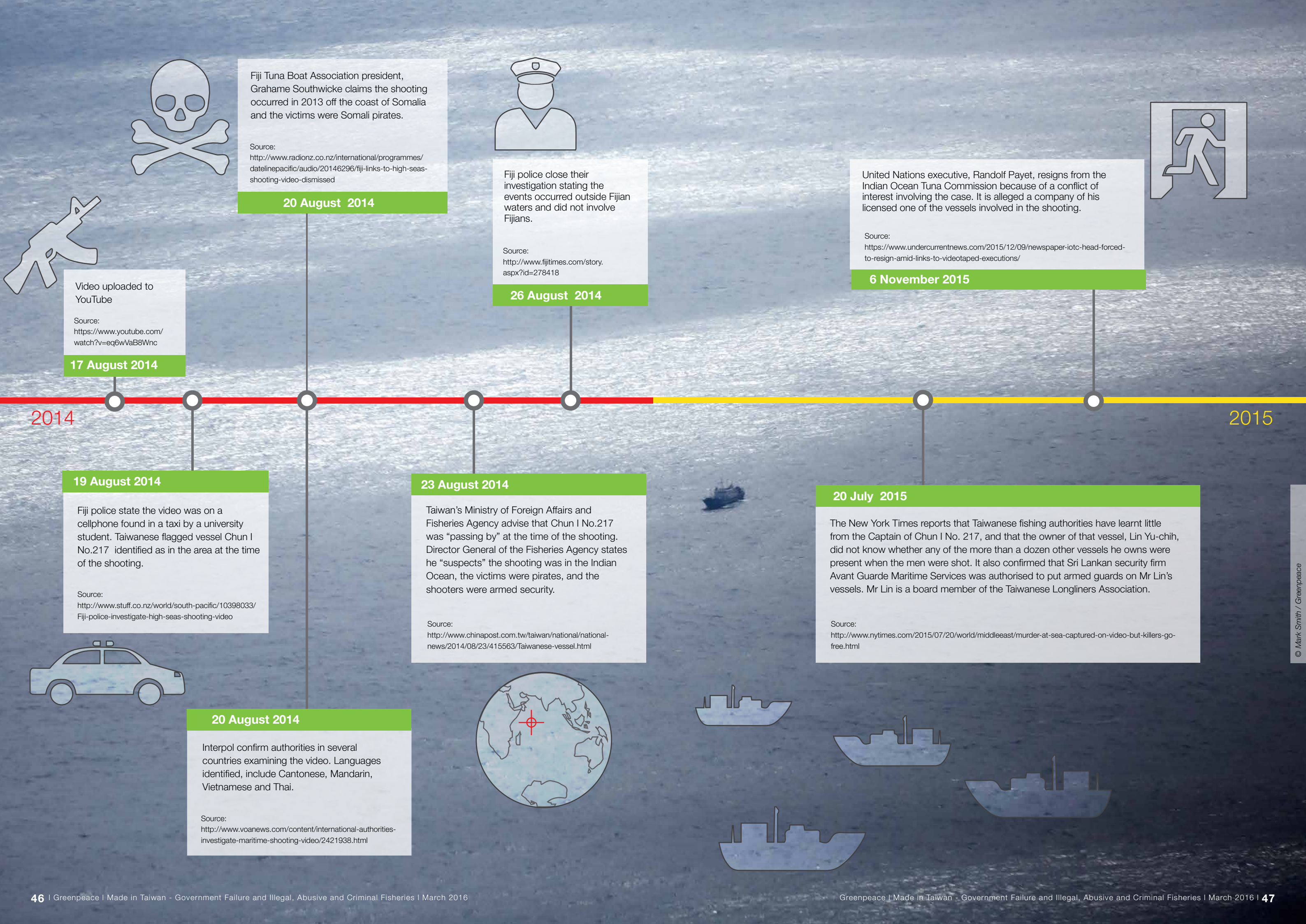
Crew then celebrate by taking selfies



Victim 3







Fiji Tuna Boat Association president, Grahame Southwicke claims the shooting occurred in 2013 off the coast of Somalia and the victims were Somali pirates.

Source:  
<http://www.radionz.co.nz/international/programmes/datalinepacific/audio/20146296/fiji-links-to-high-seas-shooting-video-dismissed>

**20 August 2014**



Fiji police close their investigation stating the events occurred outside Fijian waters and did not involve Fijians.

Source:  
<http://www.fijitimes.com/story.aspx?id=278418>

**26 August 2014**

United Nations executive, Randolph Payet, resigns from the Indian Ocean Tuna Commission because of a conflict of interest involving the case. It is alleged a company of his licensed one of the vessels involved in the shooting.

Source:  
<https://www.undercurrentnews.com/2015/12/09/newspaper-iotc-head-forced-to-resign-amid-links-to-videotaped-executions/>

**6 November 2015**



Video uploaded to YouTube

Source:  
<https://www.youtube.com/watch?v=eq6wVaB8Wnc>

**17 August 2014**

2014

2015

**19 August 2014**

Fiji police state the video was on a cellphone found in a taxi by a university student. Taiwanese flagged vessel Chun I No.217 identified as in the area at the time of the shooting.

Source:  
<http://www.stuff.co.nz/world/south-pacific/10398033/Fiji-police-investigate-high-seas-shooting-video>



**23 August 2014**

Taiwan's Ministry of Foreign Affairs and Fisheries Agency advise that Chun I No.217 was "passing by" at the time of the shooting. Director General of the Fisheries Agency states he "suspects" the shooting was in the Indian Ocean, the victims were pirates, and the shooters were armed security.

Source:  
<http://www.chinapost.com.tw/taiwan/national/national-news/2014/08/23/415563/Taiwanese-vessel.html>

**20 July 2015**

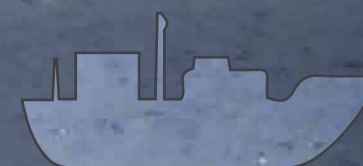
The New York Times reports that Taiwanese fishing authorities have learnt little from the Captain of Chun I No. 217, and that the owner of that vessel, Lin Yu-chih, did not know whether any of the more than a dozen other vessels he owns were present when the men were shot. It also confirmed that Sri Lankan security firm Avant Garde Maritime Services was authorised to put armed guards on Mr Lin's vessels. Mr Lin is a board member of the Taiwanese Longliners Association.

Source:  
<http://www.nytimes.com/2015/07/20/world/middleeast/murder-at-sea-captured-on-video-but-killers-go-free.html>

**20 August 2014**

Interpol confirm authorities in several countries examining the video. Languages identified, include Cantonese, Mandarin, Vietnamese and Thai.

Source:  
<http://www.voanews.com/content/international-authorities-investigate-maritime-shooting-video/2421938.html>





## The Law

Generally, and in this case specifically, there are two issues that tend to contribute to lawlessness at sea:

- difficulties that arise in the collection of evidence – not only in relation to which individuals might be culpable, but also whether a crime occurred at all
- the question of jurisdiction – which country’s law applies and what investigative powers exist.

The question of jurisdiction for crimes at sea is a complex one that can result in competing claims for jurisdiction, as international law recognises that a number of different states’ jurisdictions may exist concurrently. Under international law, a ship’s operations are always subject to the laws of the flag state, which also has jurisdiction to prosecute for crimes committed on board. However, she may also be subject to the laws of the state in whose waters she sails, as well as the state of the citizens she carries on board.

If the shooting occurred on the high seas, the flag state will have exclusive jurisdiction and an obligation to assume jurisdiction over its captain and crew for social matters occurring on board (including labour conditions).<sup>99</sup> This position is likely to be the same in another state’s EEZ.<sup>100</sup> However, if it occurred in territorial waters, the domestic laws of the coastal state will also be a consideration.

### Article 98 United Nations Convention on the Law of the Sea

1. Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers:

(a) to render assistance to any person found at sea in danger of being lost;

(b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(c) after a collision, to render assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call.

As well as this, if a citizen of another country is involved in the crime, either as an alleged perpetrator or a victim, their country of citizenship may also have jurisdiction to investigate and prosecute the crime<sup>101</sup>

If we accept the theory that the other ships at the scene were associated with one another, it seems likely that the shooting vessel, like the *Chun I No.217*, was flagged in Taiwan. If this is so, Taiwan ought to have assumed jurisdiction to investigate.<sup>102</sup>

In addition to the application of the relevant nation’s criminal law and procedures, Article 98 of the United Nations Law of the Sea (UNCLOS) provides a further avenue of inquiry for the responsible authorities to investigate. Although Taiwan is not a signatory to UNCLOS, under customary international law its articles will apply both in theory and in practice.

## The Greenpeace Investigation

Like many other concerned groups and individuals, Greenpeace began to make its own inquiries into the incident. In late August 2014, with the confirmed connections to Taiwan, Greenpeace East Asia made direct inquiries to the Ministry of Foreign Affairs (MoFA) and the lead fisheries investigative agency in Taiwan, the FA.

MoFA confirmed that *Chun I No.217* was in the Indian Ocean at the relevant time but indicated the appropriate agency for inquiries was the FA. MoFA also confirmed Interpol was involved in the investigation.

Inquiries with the FA revealed they had obtained the VMS data for *Chun I No.217* and confirmed the vessel was in the Indian Ocean during the relevant period and that its VMS system was operational.

During the following months telephone calls and letters to the FA yielded little additional information other than the fact that the FA had interviewed *Chun I No.217*’s captain.<sup>103</sup> A press release issued by the FA on 22 August 2014 indicated the incident involved a failed piracy attempt.<sup>104</sup> The FA had also told the *New York Times* in early 2015 that the nationality of the vessel involved in the shooting was “not clear”.

The clustering of vessels at the time of the shootings was a distinguishing feature in the video evidence. As a result, Greenpeace began to collate data relating to vessels that may have had ownership or operational connections to *Chun I No.217*, on the assumption that one or more related vessels may have been the shooting vessel, or at least in the vicinity at the time.

Data was collected from a variety of publicly available databases, particularly the RFMO websites where fishing vessels are required to be registered to allow them to fish. In total, 19 vessels were identified from RFMO websites as likely to have some form of ownership or operational connection to *Chun I No.217*.

Of those 19 vessels, ten recorded a common address, specific to a room number in a particular building in Kaohsiung, Taiwan’s largest port city.

RFMO Register	Vessel Name	Owner Name	Owner Address	Operator Name	Operator Address
CCSBT 2011	Chun I 217	Lin I Chih	No.1, Shauchuan St., Gushan Dist., Kaohsiung City	Tching Ye Fishery	Room. 307, No.3, Yugang E. 2nd Rd., Qianzhen Dist., Kaohsiung City
	Chun I 236	Chen Mei Shu	No.1, Shauchuan St., Gushan Dist., Kaohsiung City	Chun Fuh Fishery Co., Ltd.	Room. 307, No.3, Yugang E. 2nd Rd., Cianjhen Dist., Kaohsiung City
	Yuan Tai	Lee Ching Tai	No.24, LN. 223, Yugang Central 2nd Rd., Cianjhen Dist., Kaohsiung City	Chien Jia Marine Products Co., Ltd.	Room. 307, No.3, Yugang E. 2nd Rd., Qianzhen Dist., Kaohsiung City 806
	Chun I 206	Lin Yu Chih	No.1, Shauchuan St., Gushan Dist., Kaohsiung City 804 (R. O. C.)	Chun Ting Fishery Co., Ltd.	Room 307, 3F., No.3, Yugang E. 2nd Rd., Cianjhen Dist., Kaohsiung City 806 (R. O. C.)
WCPFC 2014	Ta Ching No. 21	Lin Yu Chin	Room 307, 3F., No.3, Yugang E. 2nd Rd., Cianjhen District, Kaohsiung City 806, Taiwan		
	Chin Zuei Yin	Chun Shing Fishery Co. Ltd	Room 307, 3F., No.3, Yugang E. 2nd Rd., Cianjhen District, Kaohsiung City 806, Taiwan		
	Chun I No. 218	Sung Weng Marine Products Co. Ltd	Room.307, No.3, Yu Kang E.2nd Rd.,Chien Chen Dist., Kaohsiung City 806, Taiwan		
	Hai Zean No. 31	Chun Sheng Fishery Co. Ltd	Room 307, No.3, Yugang E. 2nd Rd., Cianjhen District, Kaohsiung City 80672, Taiwan		
	Hsin I Hsiang No. 11	Chun Huang Fishery Co. Ltd	Room 307, No.3, Yu Kung Dung 2nd Rd, Chien Chen Dist., Kaohsiung, Taiwan		
	Li Chyun no. 2	Rich Fishery Co. Ltd	Room 307, No.3, Yu Kung East 2nd Rd, Chien Chen Dist., Kaohsiung, Taiwan		
IATTC 2013	Ping Chieh No. 101				Room 307, No. 3 Yu-kang East 2nd Road Chien Jehn District, Kaohsiung City, Taiwan

Table 5. *Chun I No.217* Vessel Links. Source: IATTC, WCPFC, CCSBT registers



## New Developments

Following two weeks of intense media attention, with little in the way of developments, the case drifted from public consciousness. Other than a *New York Times* story by Ian Urbina in July 2015, lamenting the fact that the victim's killers had not been caught,<sup>105</sup> there was little media interest in the case until November 2015, when Randolph Payet's resignation was reported.

However, the case had not been forgotten entirely, as organisations like Trygg Mat Tracking (TMT), and the United Nations Food and Agriculture Organisation (FAO), continued to investigate aspects of the case.

### Further Analysis

TMT is an organisation that specialises in tracking, intelligence and analysis in the global fishing industry in support of enforcement and improvements in fishing governance. The organisation has a particular focus on cooperating with coastal African states to support enforcement efforts to address fisheries crime in their national and regional waters.<sup>106</sup>

On 12 October 2015 Duncan Copeland, chief analyst, presented some of TMT's work on the shooting case at the global FishCRIME conference in Cape Town, South Africa.<sup>107</sup>

He detailed TMT's extensive analysis and examination of the evidence available in the case, particularly the forensic examination of the video footage that had been posted on Youtube. By careful examination TMT was able to compare the various features of the vessel where the shooting and filming took place, with other vessels in TMT's vessel database that were known to operate in the region. Over 3000 photos of more than 300 similar vessels were compared during the analysis.

Mr Copeland concluded that one vessel in particular, *Ping Chieh No. 101*, had remarkably similar features to the shooting vessel. He told the conference that while the analysis was not 100% conclusive, TMT was unable to exclude *Ping Chieh No. 101* (also known as the *Ping Shin No. 101*) as the vessel from which the shooting and filming occurred.

During his presentation, Mr Copeland robustly dismissed the idea that suspicion that the murdered men may have been Somali pirates should be a mitigating factor or a reason not to thoroughly investigate.

Greenpeace also rejects any such suggestion. It is clear from the video footage that the men who were shot and killed were unarmed and in grave danger of drowning when they were repeatedly fired upon, and that the shooting of these men warrants both further investigation and accountability.

### The case against the "Pirates" argument

*On the evidence, the argument that the murdered men were pirates is unconvincing. A Greenpeace analyst with 48 years' experience of shipping and vessel tracking and analysis reviewed the shooting video, paying particular attention to the debris in the water and other evidence related to a likely collision at sea. He concluded that the debris in the water was more likely to be from a relatively small, slow-moving, wooden fishing vessel with a pole and possibly a flag rather than the faster type of vessel typically used by pirates. Greenpeace vessel the Rainbow Warrior has come across several similar vessels in previous ship tours in the Indian Ocean.<sup>108</sup>*

*An analyst consulted by the New York Times took a similar view. Noting the wooden appearance, long flag pole and possible flag colours of green, white and red (consistent with the flags of Iran and Somaliland), the analyst concluded that the most likely scenario was that the vessel was an Iranian or Yemini fishing vessel.<sup>109</sup>*

*Close examination of the video also suggests that Chun I No.217 was in close proximity during the early stages of the incident that led to the shooting. The vessel appears to steam through another vessel's wreckage.*

*Neither scenario is consistent with the theory that the vessel was a pirate vessel.*

### Promising Leads

According to the FAO, *Ping Chieh No. 101* is a Taiwanese-flagged longliner.<sup>110</sup> Both the IATTC and WCPFC vessel registers record the vessel as a 54.85 metre longline vessel, flagged to Taiwan.<sup>111 112</sup>

The RFMO vessel registers indicate (see Table \*) that *Chun I No.217* and *Ping Chieh No. 101* have the same address for operations, a room in an office building in Kaohsiung, Taiwan; Room 307 No. 3 Yu-kang East 2nd Road Chien Jehn District.

By examining RFMO databases Greenpeace identified ten further vessels listing the same owner or operator address.

In February 2016, because the address links to *Ping Cheih No.101*, Greenpeace visited Room 307 No. 3 Yu-kang East 2nd Road Chien Jehn District, to establish its size and the ease with which inquiries could be made.



Room 307 is a relatively small office, with seating for around a dozen people. Access is readily available and staff could be spoken to by any visitors. It is the address of the Kaohsiung Fishery Association.

Looking through the companies using Room 307 as their registered address for business, one name started to stand out: Lin Yu-chih. Lin Yu-chih is the owner of *Chun I No.217* and two other vessels in the schedule above registered to Room 307, as well as being the chairman or board member of seven other companies registered to Room 307, each owning one fishing vessel.<sup>113</sup> Lin Yu-chih is also the Executive Director of the Taiwan Tuna Association and the Taiwan Deep Sea Tuna Fishery Development Foundation, an association with an approximate membership of 400 longliners.<sup>114</sup>

While we cannot infer anything from ownership structures or registered business addresses, given Lin Yu-chih's use of Room 307, his wide involvement in the fishing industry, and the fact that one of his vessels was apparently at the scene of the crime, this would have been an obvious place to focus an official investigation.

Although Lin Yu-chih told the *New York Times* in a 2015 interview that he did not know if any of the more than a dozen vessels he owned or operated were present during the shooting, he ought at least to have had access to information that might shed more light on the horrific events and particularly, on whether *Ping Chieh No. 101* could have been the shooting vessel.<sup>115</sup>

## The United Nations Investigation

Following an investigation by the UN office of the Food and Agriculture Organisation (FAO), the Seychelles newspaper *Le Seychellois* printed a front-page report of the resignation of Randolph Raymond Payet, Executive Secretary of the Indian Ocean Tuna Commission (IOTC).

The report (December 6, 2015) claimed that Mr Payet was a principal in International Fishing Agency and Shipping (Pty), the company that licensed "the longliner in question" in the shooting incident, and that this gave rise to a conflict of interest as he was both a director of a company that was a licence holder of a vessel subject to regulation by the IOTC and Executive Secretary of that organisation.<sup>116</sup> The important part of this story (one also covered by *Undercurrent News* on 9 December 2015) was that Interpol investigations had apparently identified the shooting vessel. The vessel was not named and no further details were reported.<sup>117</sup>

Following these reports, Greenpeace wrote once more to the FA seeking clarification on the status of their investigation. Their response, almost a year and a half after the video publicly surfaced, was that they were continuing to investigate the matter. No further information was provided by the FA.

**“Summary execution, vigilantism, overzealous defence, call it what you will said Klaus Luhta, a lawyer with the International Organization of Masters, Mates and Pilots, a seafarers’ union...  
“This boils down just the same to a case of murder at sea and a question of why it’s allowed to happen.**

**New York Times - [http://www.nytimes.com/2015/07/20/world/middleeast/murder-at-sea-captured-on-video-but-killers-go-free.html?\\_r=1](http://www.nytimes.com/2015/07/20/world/middleeast/murder-at-sea-captured-on-video-but-killers-go-free.html?_r=1)**



## Further Evidence Emerges

In late January 2016 *New York Times* journalist Ian Urbina released a document online providing new details about the shooting.<sup>118</sup> Key information in that document can be summarised as follows:

1. VMS data that is key to solving the case is likely to be held by both Taiwanese and Seychelles authorities.
2. Key superstructure features of the shooting vessel are mostly consistent with *Ping Cheih No. 101* (also known as *Ping Shin No. 101*).
3. The Taiwanese longline fleet has vessel ownership structures whereby a single company often only owns one vessel.
4. Several companies of interest in the shooting are connected to Room 307, 3 Yugang E 2<sup>nd</sup> Road, Kaohsiung City.
5. Indications suggest Avant Garde Maritime Services provided security services to the shooting vessel.
6. A Taiwanese national with extensive links to *Chun I No. 217* was also linked to the dual licensing of longliners in the Indian Ocean and with Avant Garde Maritime Services.

## Weighing the Evidence

The most compelling and important evidence in this investigation, aside from the video itself, will be data from the Vessel Monitoring System (VMS). The FA has previously confirmed that they had obtained that data in full.<sup>119</sup> VMS is a satellite-based system that enables authorities to identify a vessel's location at a specific moment in time.<sup>120</sup>

Because of the distinguishing cluster of vessels at the time of the shooting, and the presence of *Chun I No. 217*, VMS data is likely to have provided the FA with the approximate time, date and location of the shooting.

The VMS data will have enabled the FA to determine the appropriate jurisdiction for investigations into the shooting, whether it took place on the high seas or in a specific country's EEZ. It will have revealed a short list of vessels in the immediate vicinity at the time of the shooting. Analysis, similar to that completed by Trygg Mat, is likely to have identified, with some certainty, the vessel from where the shootings took place. Once the time, date, location and likely vessel identity were established, evidence as to the identity of the captain, crew and any security personnel on board would have been readily available.

In Greenpeace's assessment, a competent investigative body should have collected a substantial body of evidence relating to the shooting, and ought to have identified the person shooting the men in the sea.

*David Hammond, founder of the non-governmental organization Human Rights at Sea and a veteran maritime lawyer, has reviewed the video. He calls what he witnessed...*

**“An entirely unlawful summary execution of (up to) five men. There is no doubt in my mind that the footage is real said Hammond...**

**“The context and the time, as in when the footage was taken, actually is secondary to the issue that there have been criminal acts of homicide that have taken place from a registered commercial fishing vessel in international waters.**

<http://www.voanews.com/content/international-authorities-investigate-maritime-shooting-video/2421938.html>

The type of evidence collected should include:

**Identification Evidence:** *The phone footage provides relatively good quality images of both those on board the shooting vessel, apparently celebrating the murders, and to a lesser extent, the victims.*

**Crew photographs:** *Attempting to establish the identity of the victims using crew photographs will be a necessary line of inquiry. Who were these men? Who were their families? When did they go missing? Whilst the images are less clear, the footage may provide some indication of their identity, particularly from those who knew the men. The location of the shooting and the apparently small size of the destroyed vessel may provide clues to where the men came from.*

**Vessel Examination:** *Once a likely vessel is identified and located, a proper and full investigation should provide evidence linking (or excluding) the vessel to the shooting. There is a possibility that superficial or minor structural alterations have been made to conceal the identity of the vessel.*

**Witness Interviews:** *Those on board the shooting vessel and potentially surrounding vessels should have been identified and interviewed.*

**Forensic Phone Analysis:** *The footage on the phone found in a taxi in Fiji may be the original footage or it could be a forwarded copy. Regardless, a full forensic examination of the found phone has the potential to confirm the date and time of the shooting through metadata. It may also be useful in identifying further witnesses and suspects.*

*A further notable feature of the Youtube material is that there appears to be a number of other phones filming the shooting and aftermath. They, too, could be available for forensic examination.*

**Business Records:** *Documentary evidence will be available from regulatory authorities, the vessel and its owners, including documents relating to catches, general vessel movements, crew identity, security guard identity (if any) and possibly even communications about the shooting itself.*

## Conclusion

Watching helpless men shot to death is shocking and confrontational, and the easily identified fishing vessel and smiling selfies at the end make it difficult to understand why, more than a year and a half on, there have been no arrests. This is an extreme example of lawlessness at sea, considering the rich sources of evidence available.

The absolute lack of transparency in investigations around these shootings, and Taiwan's apparent unwillingness to vigorously pursue justice in a timely way, is suggestive of a deeper problem. With four deaths captured on video, the identifying features of the victims, the surrounding fishing vessels, the faces of many of the people on board the shooter's vessel, and access to ship's logs and VMS data, this case should have been quickly and efficiently investigated and resolved, with clear answers provided to media and a concerned public.

Video evidence of mass murder in any industry should trigger a crisis response by that industry and its regulatory bodies, yet both industry and officials have hidden behind 'they were probably pirates' public relations lines. This is not an acceptable explanation, and the international community, fishing nations, and companies purchasing goods from this industry must demand a full, transparent, and accountable investigation.

If ever there was evidence that life is cheap in Taiwan's fisheries, this is it. Taiwan's failure to adequately answer questions around this case demonstrates that Taiwan's fisheries have a long way to go.



## Shark Finning Goes On



The shark fin trade is a key driver behind the slaughter of an estimated 100 million sharks every year.<sup>121</sup> In tuna longlining alone, sharks regularly make up 25% of the catch (Box 1) and, whether targeted specifically or landed as by-catch, many of these critical apex predators are being depleted at a rate faster than they can reproduce.

Shark fins are considered a delicacy for Chinese high society, and the fins are usually eaten on special occasions, such as weddings, important dinners or birthdays.<sup>122</sup>

An increasing number of sharks and rays appear on the IUCN Red List of Threatened Species each year, with a recent study estimating that one in four shark species are now threatened. Commercial fishing is the main driver of the declines.<sup>123</sup> If we don't change the way we catch our tuna, not only could some shark species become extinct, but the fragile stability of the ocean ecosystem could be under threat.

In 2012, following mounting international pressure, Taiwan became the first country in Asia to place a total ban on live shark finning (Box 2).<sup>124</sup> It was a striking headline. With its massive tuna fleets, Taiwan was ranked fourth in the world for its shark catches, and the ban was received as a positive step. Practically, the ban is a series of legislative directions governing *how* shark finning should be conducted.

While the banning of live finning was encouraging, there is concern that little appears to have changed at sea. Greenpeace has found evidence that the new laws are being flouted. Shark finning by Taiwanese fishing vessels appears to continue at a significant level, contrary to the legislative directions and, at times, right under the noses of the authorities charged with enforcing the new rules. Greenpeace has also collected evidence that illegal transshipment of shark fins at sea is continuing.

**1** In the Western and Central Pacific, the 13 shark species most at risk from longlines are: blue; oceanic whitetip; silky; shortfin and longfin mako; common, pelagic and bigeye threshers; porbeagle; and winghead, scalloped, great and smooth hammerhead sharks.<sup>125</sup>

In the Indian Ocean, the 10 shark species most at risk from longlines are: shortfin mako, bigeye and pelagic threshers, silky, oceanic whitetip, smooth hammerhead, porbeagle, longfin mako, great hammerhead and blue shark.<sup>126</sup>



**2** It is a breach of the WCPFC regulations to land certain protected species of shark, including oceanic whitetip and silky shark.<sup>127,128</sup> Shark finning is generally restricted under the regulations by requiring boats to transport shark bodies alongside fins (expressed as a weight ratio). As shark bodies are worth very little and take up valuable space in the hold, this is meant to disincentivize targeting sharks for their fins.





**CMM 2010-07, clauses 7 and 9** state that:

7. CMMs shall require their vessels to have on board fins that total no more than 5% of the weight of sharks on board up to the first point of landing. CMMs that currently do not require fins and carcasses to be offloaded together at the first point of landing shall take the necessary measures to ensure compliance with the 5% ratio through certification, monitoring by an observer, or other appropriate measures. CMMs may alternatively require that their vessels land sharks with fins attached to the carcass or that fins not be landed without the corresponding carcass.

9. CMMs shall take measures necessary to prohibit their fishing vessels from retaining on board, transshipping, landing or trading any fins harvested in contravention of this CMM.<sup>129</sup>

Shark finning is also restricted under Taiwanese domestic law. The Taiwanese Council of Agriculture's (COA) *Directions on the Disposal of the Fins of the Shark Catches of Fishing Vessels* expressly stipulate that shark fins should remain naturally attached to the carcass of the shark or, if the vessel is less than 100 tons, be tied to the carcass.<sup>130</sup>

### Articles from The Taiwanese Council of Agriculture's (COA) Directions on the Disposal of the Fins of the Shark Catches of Fishing Vessels.

#### Article 1

*For the purpose of conservation and sustainable utilization of shark resources, the fins of sharks shall be disposed of in such a way that the fins are not fully cut off and naturally attached to the carcass of shark (hereinafter referred to as "fins naturally attached")...*

#### Article 3

*For fishing vessels over 100 tons employing freezing method to preserve their catches of shark, the shark they have caught and retained shall be disposed of in accordance with the following requirements:*

3. *From 1 January 2013, the fins shall be naturally attached.*

#### Article 4

*For fishing vessels under 100 tons which employ freezing methods to preserve their catches of shark, the shark they have caught and retained shall be disposed of in accordance with the following requirements:*

2. *From 1 January 2013, for shark catches carried back by their catching vessels, the fins shall be naturally attached, or alternatively the pectoral fins, dorsal fins and caudal fin shall be tied to the corresponding carcass.*
3. *For shark catches referred to in the preceding subparagraph shipped back on consignment by carrier vessels, cargo vessels or aircraft, the fins shall be naturally attached or alternatively the dorsal fins and pectoral fins shall be tied to the corresponding carcass, while the caudal fins may be stored separately. The caudal fins and carcasses shall be transshipped and offloaded concurrently; in addition, the number of caudal fins shall be consistent with that of carcasses.*

Under Articles 6 and 7 of the Directions on the Disposal of the Fins of the Shark Catches of Fishing Vessels, **penalties** for violations include:<sup>131</sup>

- fines for the fishery operator and captain of the fishing vessel of between NTD \$30,000 (<US\$1,000) and \$150,000 (<US\$5,000), and/or
- suspension or revocation of the:
  - fishery operator's fishery licence, and
  - Certificate of the Fishing Vessel Officer or the Fishing Vessel Crew Identification.



Greenpeace has witnessed numerous incidents of live sharks having their fins sliced off and being tossed overboard to die a horrible death.

## Greenpeace Investigations

In 2014 Greenpeace launched an investigation to assess whether the monitoring and enforcement set out in the COA Directions was reducing shark finning practices in the Taiwanese fleet.

The investigation was conducted in two phases. In the first 'scouting' phase, researchers interviewed academic and professional sources and conducted preliminary inspections in several ports to identify places of interest to conduct more detailed research.

The second phase placed an investigator in one port<sup>132</sup> for a period of three months. The investigator conducted interviews with industry experts, unions, vessel captains, vessel crew, Coast Guard employees and fishing company owners. Evidence indicative of illegal shark finning was collected in the form of photographs and video footage.

Over the course of the investigation, at least 16 cases of shark finning that Greenpeace suspects contravened Taiwan's finning laws were identified.

## Greenpeace Findings

### 1. In-Port Inspections

Under Article 5 of the *Directions on the Disposal of the Fins of the Shark Catches of Fishing Vessels*, the competent authority, the Coast Guard, is charged with boarding and inspecting incoming vessels and reporting any illegal shark finning cases to the FA for a ruling.<sup>133</sup>

Intuitively, the effectiveness of this process is reliant upon the quality of the initial inspections.

During the investigation, Coast Guard staff told Greenpeace that the two key processes required for vessel inspections upon arrival in port were:

1. a comprehensive search of the vessel prior to docking
2. continued observation throughout the offloading process.

Greenpeace observed that when fishing vessels were at a Coast Guard checkpoint, the inspector would open the vessel's hatch, visually check inside the fish bin from above, and then allow the fishing boat to proceed with docking.

Such a cursory inspection is unlikely to uncover any illegal shark finning activity. Fishing vessels docked and offloaded their stock, at the pier next to the Coast Guard checkpoint. Despite a typical 24-metre longliner taking four to eight hours to offload, it was rare to see inspectors from either the FA or the Coast Guard present at any point of the process.

It is accepted that, if properly implemented, the two-pronged approach described by Coast Guard officials would be sufficient to expose any illegal activity. However, the typical process observed by Greenpeace was superficial and inconsistent with the approach described.

### 2. Evidence of shark fins being offloaded

In the course of the investigations, Greenpeace gathered evidence of shark fins, not attached to shark bodies, being offloaded from 16 different vessels in Taiwan. The evidence is summarized in Table 1.



Date		Vessel Name (Chinese)	Vessel Name (English)	Registration Number	IRCS	Licensed to fish in	Fishing area stated
August 2015	1	興鑑昇 63	Sheng I Hsing No. 63	CT4 2907	BJ4907	WCPFC	NG
	2	明滿祥	Ming Maan Shyang	CT3 5467	BK7467	WCPFC, IOTC	NG
	3	達有發	Dar Yeou Fa	CT3 5424	BK7424	WCPFC, IOTC	NG
September 2015	4	吉財28號	JYI TSAIR No.28	CT4 2460	BJ4460	WCPFC, IOTC	NG
	5	富翔183號	FU SHYANG No.183	CT4 2801	BJ4801	WCPFC, IOTC	High Seas
	6	滿福財5號	MAN FU TSAI No.5	CT4 3110	BJ5110	WCPFC, IOTC	Guam
	7	進吉群 178	JINN JYI CHYUN NO.178	CT4-2700	BJ4700	IOTC	Indian Ocean
October 2015	8	金吉祥36	Jin Ji Siang NO.36	CT4-2682	BJ4682	WCPFC	NG
	9	福連財	Fu Lien Tsai	CT4-2576	BJ4576	WCPFC	NG
	10	進豐財168	Jinn Feng Tsai No.168	CT4-1588	BJ3588	WCPFC, IOTC	NG
	11	永振昇	Yeong Jenn Sheng	CT4 2520	unknown	WCPFC	East of pacific, close to Guam
	12	年勝 168	NIAN SHENG NO.168	CT4 3065	BJ 5065	WCPFC	High Sea near East of Pacific
October 2015	13	金展祥貳號	JIN JAAN SHYAN NO.2	CT3 5145	BK7145	WCPFC, IOTC	High Seas
	14	聖易財33號	SHENG YI CAI NO.33	CT4 2637	BJ4637	WCPFC	NG
	15	瑞進發	RUI JIN FA	CT4 2690	BJ4690	WCPFC, IOTC	NG
	16	昇豐168號	SHENG FENG NO.168	CT4 2597	BJ 4597	WCPFC	NG

Table 6. Vessels identified unloading shark fins illegally in Taiwanese ports during a three-month period in 2015.

Key: IRCS: International Radio Call Sign; IOTC: Indian Ocean Tuna Commission; WCPFC: Western and Central Pacific Commission; NG: Not given.



Interviews established that some vessels had taken shark and shark fins as by-catch while targeting species such as tuna, swordfish and marlin. Others had exclusively targeted shark and fins.

While ship captains would reveal where they had been fishing, most refused to answer any questions about the location or quantity of any sharks caught.

Management is further complicated by vessels registering with more than one name. One of the longliners offloading illegal shark fins, Ming Maan Shyang, was found to have been registered as the Jenn Shenq No.158 on the WCPFC Register of Fishing Vessels.

### 3. Ineffective Enforcement

To assess the extent of the government's enforcement efforts, Greenpeace made enquiries with both Taiwan's FA and Coast Guard to establish how many illegal shark fin offloading cases had been identified and sanctioned in 2015. The results were then compared to Greenpeace's findings. The agencies responded as follows:

- The Coast Guard identified the name, location, month, weight and vessel type of 18 offending vessels for the 2015 calendar year (12 cases from January to July, and six cases from August to December).<sup>134 135</sup>
- The FA reported a total of 15 cases from January to December 2015 with no additional information provided.<sup>136137</sup>



Greenpeace established that almost all of the cases prosecuted by the FA received a one-month suspension of either their operator's fishery licence or the certificate of the vessel's officer, meaning each vessel was able to return to fishing within a month. Greenpeace believes all cases identified and apprehended by the Coast Guard should be forwarded to the FA for prosecution.

Interestingly, although the Directions on the Disposal of the Fins of the Shark Catches of Fishing Vessels was established in 2012, the *Shuen De Ching No.888* is the only vessel to have been sanctioned with the heaviest penalty which, despite being the upper end of available fines, was still less than \$US5,000, a figure too low to deter offenders (see chapter 5).

The following two figures highlight the disparity caused by inadequate penalties, cursory inspections and the systemic failure whereby Coast Guard investigations are not being followed up by the Fisheries Agency:

- A three-month Greenpeace investigation in one port, with a single investigator devoid of any formal inspection powers, identified and documented 16 illegal shark finning cases.
- In the entire 2015 calendar year, the government agencies, with coercive state powers to inspect vessels, identified no more than 18 cases throughout Taiwan.

### Economic Drivers of Shark Finning

The economic incentive for shark finning appears to be strong. Taiwanese fishermen told Greenpeace that in the 20 years prior to the 2012 laws, vessels would land shark fins alone because it was the only way they could make a profit.

The cost of each fishing trip for gasoline and crew hire is about 2.6 million NTD.<sup>138</sup> Fishermen claim that if they could only catch and offload whole sharks with fins attached, they would make a loss each time they went fishing.

Although fishermen are legally required to have the fins attached/tied to the body, whole shark carcasses take up valuable hold space. For vessels targeting more valuable tuna and billfish, it is only worth keeping the valuable shark fins. For vessels targeting sharks, fishermen only want those that are a marketable species and in good condition. It is easier to hide fins than a whole shark.

## Conclusion

The Greenpeace investigation identified at least 16 illegal shark finning cases in a three-month period, approximately five cases per month in one port. The Coast Guard and the FA identified a maximum of 18 cases across Taiwan over a period of a year, an average of one and a half cases per month.

Unfortunately, these figures suggest that the low number of Taiwanese vessels caught illegally shark finning is indicative of lackluster enforcement, rather than reduced levels of shark finning.

In practice, shark finning should be one of the more easily detectable forms of illegal fishing, especially given Taiwan's new shark finning laws. Evidence from the Greenpeace investigation suggests that Taiwan's authorities are inadequately enforcing the new legislation. Regulations are useful in providing a framework to monitor and sanction those who flout the rules, but are of little or no value if not regularly and consistently enforced by authorities.

As the first fishing entity in Asia to enact legislation specific to shark finning, Taiwan now needs to ensure that it pays more than just lip service to the regulations it purports to uphold.

Greenpeace acknowledges the FA's willingness to improve the sustainability of marine resources, but for properly managed shark stocks to become a reality there needs to be a fundamental shift in attitude right across Taiwan's fisheries.

## Conclusion



Given the scale of its tuna interests, Taiwan has a responsibility to ensure its fisheries abide by international law, multilateral agreements and its own laws. As a DW fishing power, Taiwan has a lot to lose, and should be leading the way with a sustainable vision for fisheries. Yet media reports, in both Taiwan and internationally, surface with sufficient frequency to suggest that all is not well in the Taiwanese industry. Whether stories involve the death of a fisherman or a ship's captain, a vessel caught IUU fishing in someone else's ocean, or a small group of operators flouting international laws using a flag of convenience, they occur with sufficient frequency to suggest Taiwan's fishing industry is behaving badly. As these cases have emerged, authorities in Taiwan have typically dismissed them as anomalies, as rogue vessels, or as isolated cases that do not reflect on the wider industry. As this report demonstrates, the opposite is true.

Environmental and human rights abuses in Taiwan's fishing industry are egregious, systemic and global. This report presents a body of evidence that paints a troubling picture of the Taiwanese fishing industry. There is evidence that IUU fishing is widespread and frequently occurring on Taiwanese flagged vessels around the world. Catch reconstruction data, industry expert interviews, interviews with fishers, and the cases involving *Sheun De Ching No.888* and *Hung Yu No.211* suggest not just endemic IUU fishing activity, but draw a strong link between IUU fishing and wider human rights and labour abuses.

The Giant Ocean and Eril Andrade cases were globally reported stories involving Taiwanese individuals and vessels, yet there do not appear to have been any substantive investigations in Taiwan leading to arrests, prosecutions or even formal findings. Worse still, the *Chun I No.217* witnessed shooting case is perhaps the most grotesque example of a crime at sea involving Taiwanese flagged vessels that has not been properly or transparently investigated by Taiwanese authorities.

Advocates, academics and fishers describe the unfathomable treatment of migrant fishers on Taiwanese vessels. Non- or under-payment, violent assault, lack of food, and up to 22-hour work days, all appear to be regular occurrences on Taiwanese vessels. Yet there appears to be little official appetite to acknowledge the extent of the problem, let alone any effort to begin to address these issues.

Evidence collected in the Greenpeace shark finning investigation shows that merely adjusting or enhancing the legislative framework is not enough to ensure industry compliance. On the evidence collected to date, the shark finning directions have failed to eliminate illegal shark finning in Taiwan. Change must be accompanied by adequate monitoring and enforcement activity to have any real hope of succeeding.

Reacting to international pressure and the EU yellow card, Taiwan is once again proposing new DW fishing legislation. It is a positive step, but as this report highlights time and again, well intended legislation is meaningless if offenders and authorities are not held to account.

It is also clear that the drivers of both IUU fishing and human rights abuses are largely socio-political and economic. Under-regulation and inadequate controls by government, and cost pressures arising from overcapacity, all encourage and enable fishing companies to break laws, exploit workers and destroy fisheries. Without adequate seafood traceability from capture to plate, and proper detailed labelling on end products, consumers have little chance to avoid tainted seafood.

Problems in Taiwan's fisheries are clearly systemic, and without urgent political action Taiwan's industry will continue to behave in ways that exploit both the environment and people.

The evidence outlined in this report shows the Taiwanese government is failing to properly police an out of control industry. If Taiwan is failing, the onus must be on the international community to insist that Taiwan acts. The ocean and the fishers working on Taiwanese vessels are depending on that.



## Recommendations



If Taiwan wishes to be seen as a respectable, law-abiding participant in global tuna fisheries, urgent steps must be taken to:

- Develop a vision for sustainability
- Manage its fishing capacity to reduce tuna take to be in line with precautionary fishing limits
- Improve and properly resource enforcement
- Adopt 100% independent human or electronic catch monitoring
- Protect marine ecosystems and vulnerable species, including sharks
- Ban transshipping at sea
- Comply with, and ensure the effective implementation of, international agreements and instruments
- Implement third party chain of custody verification

- Ensure all information related to fishing operations is reported to the relevant regulatory bodies, as required, in an accurate and timely manner
- Ensure transparency and civil society participation
- Support the global fight against IUU fishing
- Address human rights issues, manage conflicts at sea, and ensure all operations meet ILO standards for fair treatment of labour
- Fish legally and not trade with vessels or companies identified as IUU offenders

Taiwan's trading partners, customers and consumers have a right and obligation to demand Taiwan follows international laws and regulations, and puts systems in place to ensure it meets its responsibilities.

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## Glossary

- AIS – Automatic Identification System
- CCM – Conservation and Management Measures
- CITES – Convention on International Trade in Endangered Species
- COA – Council of Agriculture
- DWF – Distant Water Fishing
- EEZ – Exclusive Economic Zone
- EJF – Environmental Justice Foundation
- EU – European Union
- FA – Fisheries Agency
- FAO – United Nations Food and Agriculture Organisation
- FCF – Fong Chun Formosa Fisher Company Ltd
- FFA – Pacific Island Forum Fisheries Agency
- FOC – Flag of Convenience
- IATTC – Inter American Tropical Tuna Commission
- ILO – International Labour Organisation
- IOTC – India Ocean Tuna Commission
- IUCN Red List – International Union for Conservation of Natures Red List of Threatened Species
- IUU – Illegal, Unregulated and Unreported fishing
- LSCW – Legal Support for Children and Women
- LSA – Labour Standards Act
- MCS – Monitoring Control and Surveillance
- MoFA – Ministry of Foreign Affairs
- NGO – Non Governmental Organisation
- OECD – Organisation of Economic Co-operation and Development
- PNG – Papua New Guinea
- RFMO – Regional Fisheries Management Organisation
- SDC 888 – Fishing Vessel Sheun De Ching No.888
- TIP – Trafficking in Persons Report
- TMT – Trygg Matt Tracking
- UK – United Kingdom
- UN – United Nations
- UNCLOS – United Nations Law of the Sea
- UNODC – United Nations Office of Drugs and Crime
- US – United States of America
- USAID – United States Agency for International Aid
- VMS – Vessel Monitoring System
- WCPFC – Western and Central Pacific Fishing Commission

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# GREENPEACE

Greenpeace is an independent global campaigning organisation that acts to change attitudes and behaviour, to protect and conserve the environment and to promote peace.

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***“This timely report demonstrates the links between overfishing and the low road development model in Taiwan’s fishing supply chain. It’s of critical importance to see the link between IUU fishing and labor exploitation in distant water fisheries substantiated. It’s clear, that the fight to stop IUU fishing and stamp out labor abuse and slavery at sea must go hand in hand. This report gives Greenpeace’s environmental mission a human face. We cannot expect the greedy businessmen who sabotage ocean ecosystems for profit to respect humane treatment and rights at work. We need to tackle both problems globally, using international cooperation between NGOs, academics, interest groups, workers and stakeholders to stop this race-to-the-bottom model in distant water fishing*”**

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