

**Taiwan Fisheries Agency’s response to AFP’s article
“Rampant fishing industry abuses dull Taiwan’s rights
record”**

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I. Introduction:

Continuously strengthening the protection of the rights and benefits of foreign crew employed aboard Taiwanese fishing vessels is always a clear policy of the fisheries competent authority of Taiwan, and the “Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members” (hereinafter the Regulations) have been implemented by the Council of Agriculture since January, 2017. In addition to reinforcing the protection of the rights and benefits of foreign crew employed overseas institutionally, the Council of Agriculture also endeavors to enforce relevant measures outlined in the Regulations. After reviewing the article released by the AFP, it is found that the piece is based on literature review, and the cited literature is mainly filled with subjective comments. For instance, when conducting interviews with foreign crew members, information provided by the interviewees was not further verified and the concerned vessel owners were not given opportunity to clarify. The Fisheries Agency of Taiwan (hereinafter the Agency) would like to urge media reporters to seek explanation from the involved vessel owner before citing any relevant information in the future. It is this Agency’s consistent stand that once the accused

violation is found authentic, the offenders will be punished accordingly.

II. Concerning the statistics produced by Environment Justice Foundation (EJF) cited in the article, indicating that 25%, 82% and 92% of foreign crew they interviewed had experienced physical abuse, excessive working hours and wage deduction: After this Agency received relevant-information on the 62 accused cases (3 foreign-flagged and 59 Taiwanese-flagged) provided by EJF and launched investigations, 22 cases were closed. Among them, no concrete evidence were found in 13 cases, no violation were found in eight cases, one case involving physical abuse was forwarded to the prosecutors' office for criminal investigation, and the remainders are still under investigation. For the alleged situations of wage deduction, excessive working hours, and physical abuses that may be suffered by foreign crew members aboard Taiwanese-flagged as claimed in the EJF's report, despite that those accusations need to be carefully inspected case by case, this Agency will continue improving the labor conditions of foreign crew members and increasing enforcement, monitoring and management capability. Relevant policies and measures are provided as follows:

A. Regarding wages not paid in full:

1. The Regulations have specified the items to be included in the employment contract and required the

template of the employment contract to be in accordance with that promulgated by the Council of Agriculture in 2017. Among all the required items, apart from the basic rights and obligations, the borrowings, the item, the purpose and the amount of the borrowing, and the creditor (if any) shall be explicitly specified in the contract as well. When applying for the permission to recruit foreign crew members, operators shall provide the local government with the employment contract, and only after such contract has been duly reviewed, will the operators receive the permission.

2. Additionally, when subparagraph 5, paragraph 5 of the Regulations were amended in 2019, it is required that while fulfilling the obligation of informing foreign crew members, the operators or agents (if commissioned) shall make visual and audio recordings throughout the entire process and keep the recordings for at least three years.

B. Regarding excessive working hours:

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

the sea. Generally, rest hours include the period of navigation and fish finding, unless the crew member is on duty. When a school of fish appears, the crew members are required to engage in fishing operations and catch processing immediately to maintain the freshness of the caught fish. The fishing operation lasts and cannot be interrupted until the whole process is completed. That is, intensity and continuity are the nature of fishing operation. As a result, having taken the regulations outlined in the Work in Fishing Convention of the International Labor Organization (hereinafter the ILO-C188) into consideration, it is required in the Regulations that the minimum hours of rest per day to be at least ten hours and the minimum rest days per month to be at least four days. This Agency is now developing various approaches (e.g. using time record) to ensure the implementation of such requirement.

C. Regarding maltreatment of crew members:

1. Taiwan has a zero tolerance policy on forced labor, physical violence or any abuses happened on fishing vessels. During 2017 and 2020, crew members from around 49% of distant water fishing vessels (including reported vessels) were interviewed, and it was found that, despite that few vessel owners were imposed administrative punishments due to relevant violations or their cases were forwarded to the district prosecutors' office as they involved in human

trafficking activities, no maltreatment of crew members was discovered aboard the majority of fishing vessels.

2. The “Standard Operation Procedures for Reporting and Processing Cases of Foreign Crew Members Employed Overseas Onboard Distant Water Fishing Vessels Suspicious of Violating Human Trafficking Prevention Act” is adopted as well. According to the Procedures, if a Taiwanese-flagged distant water fishing vessel involves in human trafficking activities, the person involved shall be brought to justice and be investigated right away. As of the end of May 2021, 14 cases, including two cases concerning foreign-flagged fishing vessels, have been submitted to district prosecutors’ offices.

D. In order to understand whether the protection of rights and benefits of crew is fully implemented, the crew interview mechanism was established in 2017. Ten interviewers are recruited to conduct interviews with foreign crew members returning to the domestic ports. As for in the foreign ports, six fisheries officers dispatched abroad or inspectors will be requested to conduct interviews with crew members, if appropriate, when inspecting caught fish after Taiwanese-flagged fishing vessels entering the port. If any potential violation was found during the interview, the case will be further investigated. And if any suspicious violation is confirmed, the offender will be punished accordingly.

III. Explanation about cases cited in the AFP article:

A. Crew death happened on foreign-flagged fishing vessel invested in and operated by Taiwanese nationals, DA WAN:

1. According to the vessel owner, after the local legal medical expert conducted the autopsy on the deceased, it was revealed that the cause of the death was due to acute pulmonary edema. One Filipino and two Vietnamese crew members aboard the same vessel were inquired about the then situation through interpreters, and stated that there was no maltreatment of crew members on board.
2. After receiving the report published by Greenpeace, this Agency has forwarded the case to Kaohsiung Prosecutors' Office in March, 2020. Furthermore, in April of the same year when the vessel docked in Kaohsiung Port, the case was also reported through the Standard Operation Procedures for Reporting and Processing Cases of Foreign Crew Members Employed Overseas Onboard Distant Water Fishing Vessels Suspicious of Violating Human Trafficking Prevention Act and was then under judicial procedures. According to Kaohsiung Prosecutors' Office, related crew members were summoned for further inspection when the concerned vessel entered the port. The case is still under investigation now.

B. Crew member, Supri, being locked in the freezer and electrified by the vessel master:

1. According to the vessel owner, 11 foreign crew members were on the same trip and no grievance about maltreatment of crew members was received from each of them. After the vessel arrived Taiwan, other crew members on board were also being inquired about the then-situation and could testify that what such crew member had said is not true. Additionally, the vessel owner is willing to invite that crew member to Taiwan and have face-to-face confrontation with him.
2. After this Agency interviewed with the crew members aboard and the vessel master, the crewmates all indicated that the master never beat or lock that crew member in the freezer, let alone electrify him. Also, when conducting an on-site evidence collecting, no evidence was found. In order to clear up the case, the case was forwarded to district prosecutors' office in July, 2020.
3. Recently Pintung Prosecutors' Office specified that, apart from the statement from Supri, there were no other witness or video footage of that time could testify, and thus it is no possible to convict the defendant merely with Supri's statement.

C. Regarding the cause of Supriyanto's death: The case was reported by the vessel owner via radio station in 2015 saying

that Supriyanto was found dead on board. After conducting autopsy by legal medical expert, it was presumed that the deceased was died of septic shock, resulting from the bacteremia caused by the wound on his knee. To further clear up whether Supriyanto was maltreated to death, district prosecutors' office has re-launched the investigation.

IV. Key government policy in the future- The Action Plan for Fisheries and Human Rights

To continue strengthening the protection of the rights and benefits of foreign crew, this Agency had convened a meeting on January 7, 2021, with relevant ministries/agencies to examine the concerns expressed by the external and the aspects identified to be improved. As the first step of reform, this Agency has brought about the "Action Plan for Fisheries and Human Rights," planning to develop strategies on issues including ensuring decent working conditions, strengthening living conditions and social protection, developing guidelines on charge items, enhancing capacities for monitoring and implementation, reinforcing the management of flag of convenience, establishing and deepening international cooperation, and promoting partnerships with foreign crew. To implement the Action Plan and to eventually provide systematic protection for foreign crew, budges for manpower and expenditures are requested to increase.

V. Conclusion:

To manage sustainable fisheries, apart from operating responsible fisheries and conserving the marine environment, providing fisheries practitioners and workers with a decent and safe working environment is essential as well. The great majority of Taiwanese vessel owners/masters fully recognize that foreign crew members are precious teammates, and are able to treat them as their own families. It is expected that through the reform measures implemented by this Agency, the protection on human rights and the rights and benefits of foreign crew employed aboard Taiwanese-flagged fishing vessels will be steadily improved; additionally, it is hoped that through the cooperation between various ministries and government agencies, human trafficking or forced labor activities in the fishery industry will be prevented, deterred, and eliminated.