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KGV/172/2023

The Permanent Mission of the Republic of Korea to the United Nations and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights (OHCHR) and has the honour to submit, as enclosed, the response of the Government of the Republic of Korea to the joint communication from Special Procedures, dated 27 September 2023 (AL KOR 6/2023).

The Permanent Mission of the Republic of Korea to the United Nations and other international organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights (OHCHR) the assurances of its highest consideration.

16 July 2024

Enclosed : as stated



Office of the United Nations High Commissioner for Human Rights (OHCHR)

The Government of the Republic of Korea’s Response
to the Joint Communication from
United Nations Human Rights Council Special Procedures

(July 16, 2024)

1. **Please provide any information and/or comment(s) you may have on the above-mentioned allegations.**

Further Information regarding the Allegations

- i. *Regarding the allegation that “there was no stakeholder consultation in the formulation of the Implementation Plan for Migrant Fishers on Distant Water Fishing Vessels” and that “responsibility for inspecting the implementation status of the Implementation Plan was formally delegated to the Korea Overseas Fisheries Association.”*

The Ministry of Oceans and Fisheries (MOF), the competent authority of the Government of the Republic of Korea (“the Korean Government”) responsible for governing the seafarer affairs, held several rounds of Tripartite Council meetings and, through these meetings, developed the Improvement Plan for Migrant Fishers’ Human Rights and Governance Policy in June 2020, and the Implementation Plan for Working Conditions of Migrant Fishers on Distant Water Fishing Vessels (“the Plan”) in December 2020. The Tripartite Council is composed of the representatives of the Federation of Korean Seafarers’ Unions, the Overseas Fisheries Labor Unions, the Korea Overseas Fisheries Association (KOFA), and the MOF. The tripartite body has jointly monitored the implementation of the Plan on a quarterly basis, contrary to the allegation that responsibility for inspecting the implementation status of the Plan was formally delegated to the Korea Overseas Fisheries Association.

A variety of measures have been introduced to protect migrant fishers from human rights abuse and discriminatory treatment at operational and policy levels. The measures include banning the confiscation of identity documents and the charging of manning fees, ensuring minimum wages, using standard employment contract forms, and providing mandatory educational sessions to stakeholders on human rights protection. Those schemes are placed under periodic monitoring and review processes, resulting in continued improvement of the situation in many areas. Additional measures, developed and announced in March 2024 in collaboration with civil society organizations and outlined in this response (pp. 4-7), are being continuously taken to further improve the working conditions of fishers.

- ii. *Regarding the allegation that “migrant workers face excessively long working hours of more than 14 hours per day, with some reportedly working more than 18 hours straight without rest.”*

Since 2021, migrant fishers have been provided with a minimum of 10 rest hours per day and a minimum of 77 rest hours per week, as stipulated in the ILO Convention.

Given the unique characteristics of the fishery that are affected by unpredictable weather conditions or working environment at sea, however, work and rest hours are applied flexibly on a monthly basis. Vessels that cannot give the mandatory minimum rest hours, while, for example, working in the main fishing period, are obliged to provide fishers with compensatory leave in the following month. This policy applies equally to Korean and migrant fishers. They are all reasonably entitled to sufficient rest hours to make up for the overtime they worked when traveling to another fishing ground or finding no fish to catch.

Since 2021, all vessels have kept their work logs for fishers, who record their working schedules and sign them after verification. The logs confirm that most vessels have complied with the requirements for minimum rest hours according to ILO C.188.

From June 2024, the MOF includes inquiries regarding compliance with minimum rest periods (10 hours per day, with at least 6 consecutive hours) in disembarkation surveys.

Migrant fishers on tuna long-liners, often involved in long-term (18 to 24 months) fishing operations, are allowed to disembark after 10 months of service, should they indicate their wishes to do so through a survey.

iii. *Regarding the allegation of “payment discrimination, withholding or deduction of wages of migrant fishers.”*

The full amount of salary has been paid with no commission or any kinds of fees deducted. The standards on annual pay raise set by the ITF (\$554 in 2023) as well as the ILO/ITF Wage Scale (basic pay, leave pay, etc.) are applied. While the ILO/ITF Wage Scale is intended to apply only to seafarers on merchant ships in principle, it was agreed through the bilateral agreement between laborers and the management that the basic pay for “OS (Ordinary Seaman)” and “AB (ABLE Seamen)” positions shall be paid to migrant workers as their minimum wages. The MOF confirmed that in other fishing states the wages based on ILO/ITF basic pay standards are paid to migrant fishers on distant water fishing vessels.

Overall, migrant fishers are guaranteed a wage of at least \$554 per month, with additional pay or allowances at the end of a fishing season, in addition to their minimum wages earned during the fishing season.

Recent investigations into all the vessels suspected of human rights abuse have found no cases of wrongdoing regarding wage deduction or sub-standard payment (below the level of ILO/ITF standards). Those investigations were conducted through the examination of evidence, such as labor contracts and receipts for wage remittance. It was also confirmed that all expenses incurred in the employment of migrant fishers on distant water fishing vessels are borne by the distant water fishing companies.

On 27 July 2023, the MOF conducted an onboard inspection and interviewed migrant fishers about their experiences of commission deduction. Four fishers claimed that their money had been deducted. However, a further investigation into their payment details revealed that the full amount of their wages had been properly paid, contrary to their claims.

In January 2022, the labor and management reached an agreement on a plan for gradually increasing minimum wages until 2026 for migrant fishers residing in Korea to reach the same level as the minimum wages of national fishers¹. While this step-by-step policy does not apply to migrant fishers who do not reside in Korea (those without work permits), they are paid in accordance with the standards on ILO/ITF basic pay.

The MOF took a measure of strictly banning the withholding or deducting of a portion of wages under any pretext, including for the purpose of savings.

Through collaboration with civil society organizations and industry stakeholders, the MOF has significantly strengthened the enforcement of the prohibition on wage deductions under any pretext, including savings and recruitment-related fees, since November 2023. The Ministry will also develop a plan for improving wage standards by comparing and reviewing wage levels and payment methods in countries with advanced fishing industries by December 2024.

iv. *Regarding the allegation that "migrant fishers are prone to pay commission illegally."*

All expenses incurred in the employment of migrant fishers are borne by the distant water fishing companies (employers). The expenses may include a commission for the local manning agency, airfares from/to the fishers' country, bank wiring fees, the cost of a short-term stay in Korea and other associated costs. Recent investigation into manning agencies and fishers involved in the vessels suspected of human rights abuse found that no single vessel violated the principle that the fishing companies should bear all fees for employment of fishers.

No one was found to have been forced to pay commission or employment fees to recruitment agencies in the September 2023 surveys of the migrant fishers (4,965 in total).

Since the second quarter of 2024, Korean recruitment agencies have been required to terminate contracts with local recruitment agencies that collect recruitment-related fees and deposits in the event of runaway, etc, or deduct wages. Korean recruitment agencies are also required to suspend business with uncertified agencies.

v. *Regarding the allegation that "migrant fishers are unfairly provided with food and water on board."*

¹ In January 2022, labor and management agreed to pay migrant fishers of coastal fishing vessels the same minimum wage as Korean fishers starting from 2026. To achieve this goal, MOF has been incrementally raising the minimum wage for migrant fishers since 2023 as follows: 85% of Korean fishers' minimum wage in 2023, 90% in 2024, 95% in 2025, and 100% in 2026.

In 2023, the monthly minimum wage for migrant fishers was KRW 2,114,494, which is 85% of the minimum wage for Korean fishers (KRW 2,487,640). In 2024, the monthly minimum wage for migrant fishers is KRW 2,304,927, which is 90% of the minimum wage for Korean fishers (KRW 2,561,030). In 2025, the percentage will increase to 95%, and in 2026, migrant fishers and Korean fishers will be paid the same minimum wage.

Distant water fishing vessels are equipped with freshwater generators and water purifiers to ensure all fishers, regardless of their nationality, have equal access to drinking water. Both foreign and domestic workers also have the option to purchase bottled water. Meals, often prepared by foreign cooks, may vary among workers to accommodate different dietary cultures and religious practices. However, the budget for providing meals for fishers is equally allocated for all types of meals. Given such circumstances, there is no basis for assuming that there are discriminatory treatments in the supply of food and water against migrant fishers on board. The MOF has implemented a zero-tolerance policy against any violations or abuse onboard to maintain decent work conditions.

- vi. *Regarding the allegation that “tuna longliners do not allow migrant fishers to leave the vessel as promised.”*

The eastern part of the Pacific Ocean, the main fishing area for tuna longlines, has few proper calling ports, which results in fishing operations often involving extended periods (18 to 24 months) at sea. Therefore, vessels make arrangements to let any fisher who wishes to disembark upon 10 months of service to leave the vessels by using carriers or other appropriate means at sea. This helps alleviate fishers’ potential distress from long-term voyage. Recent records show that during the fishing period in 2021, 2022, and 2023, 5, 26, and 2 fishers respectively chose to disembark from their vessels.

The surveys conducted upon migrant fishers’ disembarkation showed that 98% (2,965) of respondents expressed their intention to re-board similar types of vessels in the future. The surveys of 3,012 migrant workers in total (including 78% having previous re-embarkation experience), were conducted before the workers’ return to their home countries, allowing them to answer anonymously in their native languages.

Furthermore, to improve working condition and address the challenges faced by migrant fishers in tuna long-liners, the MOF and fishing companies agreed to make it mandatory for the ships to enter a nearby port within one year of departure starting from January 2024, and companies failing to comply will face restrictions on catch quotas effective from 2025.

Additional Measures to enhance the effectiveness of the Implementation Plan for Migrant Fishers on Distant Water Fishing Vessels

- i. In March 2024, the MOF announced its *Plan for Further Enhancements for Working Conditions of Migrant Fishers on Distant Water Fishing Vessels* in collaboration with civil society organizations and industry stakeholders². This initiative aims to elevate working conditions of migrant fishers aboard distant water fishing vessels.
- **(Improvements in Passport Storage Methods)** Given the challenges of verifying

² For further information, please consult the MOF Press Release (Link: <https://www.mof.go.kr/doc/en/selectDoc.do?docSeq=56395&bbsSeq=90&menuSeq=485>).

whether migrant fishers retain their own IDs, individual lockers for storing IDs will be installed in common areas such as cafeterias and lounges, so that fishers can manage their own IDs with their keys. The installation will be completed by the end of 2024 as most ships are currently in operation.

- **(Enhancements in Internet Accessibility)** To ensure internet access for migrant fishers, mandatory internet usage times have been designated for each ship to increase Wi-Fi accessibility, starting in June 2024.
- **(Operation of Online Anonymous Platform)** In March 27th, 2024, the MOF established a public-led online platform allowing migrant fishers in distant water fishing vessels to freely and anonymously report grievances and seek consultation. Access QR codes are distributed through all migrant fishers' private social media accounts. In response to requests by civil society organizations, a dedicated page outlining seafarer's rights was established, enabling migrant fishers to familiarize themselves with their rights.

< Online Reporting and Consultation Platform operational since March 27th, 2024 >

<p>▲ Information on the use of online human rights counselling</p>	<p>▲ The rights of the seafarers</p>

- ii. To ensure the effectiveness and successful implementation of the *Plan*, the MOF formulated a detailed *2024 Implementation Plan* comprising specific tasks in April 2024 and established a management system to limit catch quotas for companies found in violation. Starting from June, Implementation Monitoring Council³ will be held in cooperation with civil society organizations on a quarterly

³ Government (Ministry of Oceans and Fisheries (Seafarers Policy Division and Distant Water Fisheries

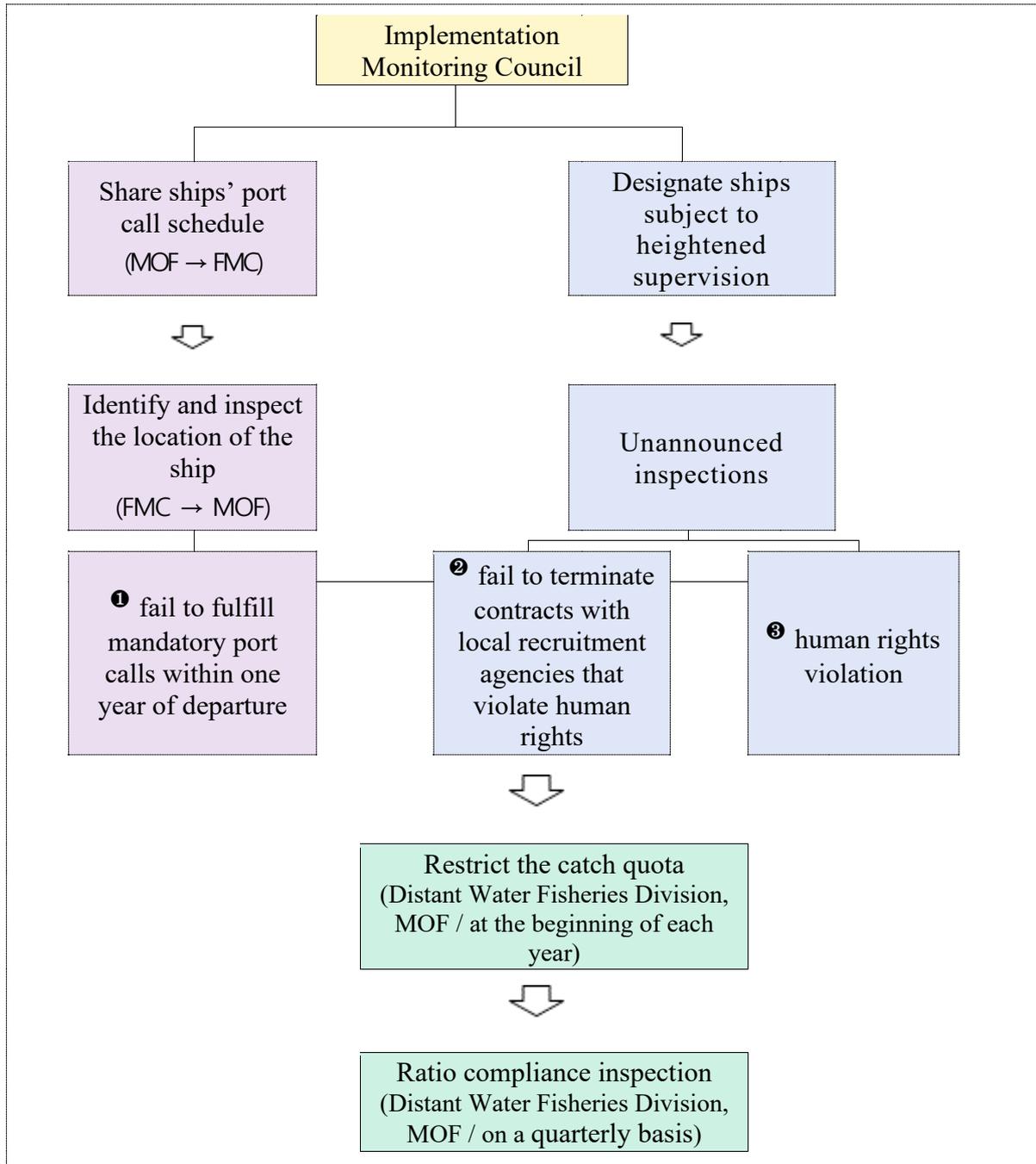
basis to monitor the implementation.

- **(Implementation Monitoring)** the MOF has made a list of ships subject to heightened supervision and will conduct unannounced inspections on these vessels in collaboration with civil society organizations from July to November 2024.
- **(Sanctions against Violators)** A system has been established to restrict catch quota based on the number of violations⁴ over the previous three years. Additionally, measures have been put in place to continuously monitor and inspect the location of the ship through the Fisheries Monitoring Center (FMC) at all times.
- **(Punishment Records)** Seafarer labor inspectors discovered distant water fishing companies retaining migrant fishers' passport through social media consultation and imposed fines on March 12th and on April 3rd, 2024. The MOF also required distant water fishing companies and Korean recruitment agencies to terminate business with an uncertified Indonesian recruitment agency that had not obtained permission from the local government on March 27th, 2024.

< Implementation Monitoring and Management System >

Division), Busan Regional Office of Oceans and Fisheries), civil society organizations (APIL, EJF), Korea Overseas Fisheries Association, labor union, etc.

⁴ ① fail to fulfill mandatory port calls within one year of departure, ② fail to terminate contracts with local recruitment agencies that violate human rights ③ 3 times or more of repeated human rights violation



2. Please highlight the steps that your Excellency's Government has taken, or is considering taking, to protect all migrant workers – without discrimination – against human rights abuses, including forced or bonded labour by employers and/or recruitment agencies. Please state if the protective measures refer to law or practice.

Protection of Victims of Human Trafficking

Article 3 of the *Act on the Prevention of Human Trafficking and Protection of Victims* (“the *Prevention of Human Trafficking Act*”) stipulates that those who suffer damage from human trafficking, including foreigners who stay in Korea, shall be protected and supported without discrimination.

General Protection of Migrant Workers

The Korean Government has prepared “Guidelines on the Operation of the Council for the Protection and Promotion of Human Rights of Foreigners.” The Council is composed of various stakeholders with expertise and experience in the relevant field and remains operational since July 2008.

Through the work of the Council, the Korean Government makes efforts to prevent human rights abuses and discrimination against foreigners by providing settlement support, remedial actions against human rights violations, and grievance settlements for foreigners residing in Korea

When human rights violations such as passport confiscation are committed by an employer against migrant workers, the *Immigration Act* can be invoked for criminal punishment or disposition of notice.

Depending on the severity of violation of the relevant provisions of *Immigration Act*, Article 33-3(1), perpetrators could face up to three years’ imprisonment or a fine not exceeding KRW 30 million (approx. USD 23,000) (criminal punishment), or a fine ranging from KRW 10 million to 30 million (approx. USD 7,700 and 23,000) (disposition of notice).⁵

In addition, with regard to foreigners under remedy procedures as potential victims of labor exploitation or other forms of human trafficking, legislation regulates the enhanced protection of their rights through the extension of their period of stay in Korea, suspension of execution of deportation order, or temporary release from detention.⁶

Protection of Migrant Seafarers

⁵ *The Immigration Act*, Article 33-3 (prohibition of the use of foreign residence certification as means to secure fulfillment of debt obligation), ‘No person shall engage in any of the following conduct: (1) Having a foreigner provide his or her passport or registration certificate to a third person, coercing a foreigner into providing his or her passport or registration certificate to a third person, or arranging to have a foreigner provide his or her passport or registration certificate to a third person, as security for an employment agreement or the fulfillment of an obligation. ... *the rest omitted.*’

⁶ *The Act on Prevention of Human Trafficking and Protection of Victims*, Article 43 (Special cases concerning foreign victims), ‘Regarding foreign victims, Articles 25-2 (Special rules for marriage migrants) and 46-2 (Special rules for enforcement of deportation) of the *Immigration Act* shall apply to suspension of execution of deportation order, temporary release from detention, and an extension of the period of stay.’

i. Enactment of ban on forced labor

Article 5 of *the Seafarers Act* stipulates that it is illegal to discriminate against seafarers on the grounds of their nationality, race, or other positions in all aspects of the employment procedure. Article 25-2 of the same Act prohibits forced labor against fishers' own free-will. Anyone who violates the forced labor provisions is subject to up to five years in prison or a fine not exceeding KRW 50 million (approx. USD 38,500).

ii. Amendment to *the Seafarers Act*

The amended *Seafarers Act* bans passport confiscation (effective from June 2021) and introduces mandatory educational sessions aimed at raising awareness of labor rights and human rights protection (effective from January 2023). These sessions are to be provided on a mandatory basis to seafarers, vessel owners, and officials in charge of seafarers' personnel affairs

iii. Amendment to *the Ship Officers Act*

The amended *Ship Officers Act* stipulates that ship officers are subject to the revocation of their Certificates of Competency (CoCs) if they receive a criminal penalty for serious assault or sexual harassment (effective from October 2022).

iv. Unified form of labor contract

The standard form of employment contracts has been introduced to ensure that all migrant fishers are well-informed of the detailed conditions, including how and when they receive their wages, the prohibition on wage deduction, and guaranteed rest hours during work. No other types of contracts have been found on-site so far.

v. Enhanced ombudsman system

An upgraded system is in place to supervise and intervene in potential human rights abuse of migrant fishers on distant water fishing vessels. Continuous efforts have been made to address any gaps in fishers' working conditions, including regular and random inspections by seafarers' labor inspectors and tripartite-joint inspections (four times per year). Additionally, all distant water vessels (188 vessels owned by 33 fishing companies) are fully equipped with devices for onboard internet connection, enabling migrant fishers to voluntarily report potential incidents of violence. The counseling organization, the Korea Seafarer's Welfare and Employment Center, operates five regional centers⁷ with nine native-speaking counselors available for consultation at any time on human rights abuse or any distress fishers experience during the work (Tel. +82 1566 3151/Email: 1566-3151@koswec.or.kr).

vi. Social Media Monitoring

⁷ Located in Busan, Pohang, Boryeong, Jeju, and Mokpo

From 2024, the MOF monitors the working conditions of migrant fishers using their social media as a complementary measure to on-site inspection for long-term fishing vessels on the high seas, as they are in difficult situations to be inspected. Any suspicious or wrong cases found by the inspection will be subject to the detailed examination and its follow-up measures.

vii. Strengthening in-depth investigation

Vessels suspected of repeated human rights violations will be blacklisted from the first half of 2024, resulting in random inspections conducted jointly by the MOF and NGOs from the second half of 2024.

Employment Permit System (EPS)

The Employment Permit System (E-9, H-2) is based on the MOUs between the government of the Republic of Korea and the governments of 16 sending countries. The fairness and transparency of the entire process of selection, placement, referral, and employment have been improved by authorizing government institutions and government-designated public institutions to implement the processes.

The Act on the Employment of Foreign Workers prohibits⁸ (Article 8, Paragraph 6) interference regarding the selection, referral, and other matters related to employment by a party that is not an employment service agency in Korea, which effectively prevents potential interference by job brokers.

Human Resources Development Service of Korea, which is a public institution, manages the selection and placement processes for E-9 workers, and regional employment and labor offices of the Ministry of Employment and Labor handle tasks such as application, receipt, issuance of employment permits, workplace management, and sojourn support services.

EPS workers decide independently whether to sign a contract, based on their thorough understanding of the employment contract, with support from local sending agencies in their home countries. The sending agencies also provide education on Korean culture, laws, and procedures for addressing violation of rights, etc. before their entry into Korea.

The Employment Permit System has been viewed positively by the international community for its fairness and transparency.

- (UN) The Employment Permit System received the UN Public Service Award, the highest public service award selected and presented by the UN, in the “preventing and combating corruption in the public service” category (in 2011);

⁸ Those who violate this will be subject to imprisonment for not more than one year or a fine of not exceeding KRW 10 million (approx. USD 7,700) (Article 29, Paragraph 1)

- (OECD) The ‘Migrant Worker Policy Report’ evaluated that the Employment Permit System addressed many of the issues commonly seen in migrant labor systems and successfully supplied labor to areas with labor shortages (in 2019);
- (ILO-IOM) The Employment Permit System’s EPS Platform (online and mobile) was evaluated to have improved transparency of recruitment, enhanced the quality and speed of job placement and referral, reduced the cost of sending, and contributed to addressing issues such as overdue wages and work-related injuries (in 2021).

3. Please provide information as to any investigation, judicial or other inquiries, into the alleged human rights and labour rights violations and their outcome, including any examples of the prosecution of perpetrators, including private individuals and business enterprises within your territory and/or jurisdiction.

The Ministry of Oceans and Fisheries (MOF) is continuously investigating labor conditions of migrant fishers and any possibility of human trafficking against migrant fishers, including through social media consultation. As a result, cases involving captains or other fishers retaining migrant fishers' passport were caught through social media consultation and the MOF imposed fines two times accordingly on March 12th and April 3rd, 2024. Additionally, the MOF required distant water fishing companies and Korean recruitment agencies to terminate business with an uncertified Indonesian recruitment agency that had not obtained permission from the local government on March 27th, 2024.

4. Please indicate what measures your Excellency’s Government has undertaken or is considering taking to proactively screen, identify, assist, and protect migrant workers who are victims of trafficking and labour exploitation, including forced or bonded labour. Please also provide information on measures your Excellency’s Government has taken to ensure migrant workers’ effective access to justice.

Measures on Victims of Human Trafficking

As per Article 13 (Victim Identification Indicators, etc.) of *the Prevention of Human Trafficking Act*, the Ministry of Gender Equality and Family (MOGEF) is mandated to detect, protect, and support victims of human trafficking. The MOGEF developed and publicly notified indicators for identification and protection of trafficking victims ("victim identification indicators") on March 27, 2023, after a number of consultations with relevant government agencies, civil society organizations, and related specialists. The MOGEF recommends the use of such indicators to the heads of agencies, to which prosecutors,

judicial police officers, immigration control officials, and relevant public officials belong. The MOGEF published and distributed an indicator guidebook in January 2024. The head of relevant government agencies are required to submit records of such utilization to the MOGEF by January 31 of the following year.

In accordance with Article 15 (Establishment of Agencies for Protection of Rights and Interests of Victims of Human Trafficking) of the above-mentioned *Act*, the Central Agency for Protection of Rights and Interests of Victims of Human Trafficking is to (i) support local agencies for the protection of rights and interests of victims of human trafficking, (ii) conduct surveys, research, education, and publicity campaigns, (iii) develop and disseminate policies, (iv) train professionals, (v) establish domestic and foreign cooperative systems, (vi) conduct exchange activities, (vii) receive reports on human trafficking, and (viii) operate a committee for adjudication on cases of human trafficking. (“adjudication committee”)

The Agency also operates a helpline (1600-8248) and cooperates with victims support facilities of relevant ministries to refer victims to the necessary services, such as education, employment, medical assistance, and support in returning to one’s home country. When there is a request for the issuance of victim certificates, the adjudication committee deliberates and decides on the issuance of a certificate so that victims can be provided with necessary assistance, including the extension of stay permits.

Measures on Forced Labor

In accordance with Article 7 (Prohibition of Forced Labor) and Article 107 (Penal Provisions) of *the Labor Standards Act*, forced labor at domestic workplaces is prohibited regardless of nationality. There will be punishment of imprisonment for not more than five years or a fine of not exceeding KRW 50 million (approx. USD 38,500) upon violation of the law.

In particular, as the crime of violating Article 7 (Prohibition of Forced Labor) is considered as human trafficking crime under *the Prevention of Human Trafficking Act* (effective from January 2023), the Guidelines for Labor Inspectors on Human Trafficking and Related Matters was newly developed in August 2023.

In accordance with relevant laws and guidelines, the Korean Government plans to rigorously investigate and prosecute forced labor and human trafficking through early identification of violations and collaborative investigations among law enforcement agencies.

Measures under Employment Permit System

The number of businesses hiring foreign workers (E-9, H-2) under the Employment Permit System that are subject to regular semi-annual guidance and inspections has increased significantly from 5,500 business sites in 2023 to 9,000 business sites in 2024.

Guidance and inspections primarily focus on agricultural and fisheries workplaces (which account for over 40% of the inspections). These sectors have been identified as potentially

vulnerable to human rights abuses, based on previous guidance or inspection results.

Upon guidance and inspections, non-compliance with *the Labor Standards Act* and the illegal practices of employers retaining the passports of foreign workers, making threats, and imposing forced labor and exploitation are prosecuted if violations are discovered.

In an effort to effectively identify cases of violations of foreign workers' rights, officials conducting workplace guidance and inspections are accompanied with interpreters who help interview workers, investigate instances of violation, and assist the workers in seeking legal remedies for issues such as overdue wages.

Measures on Migrant Seafarers

i. Application of victim identification indicators

The victim identification indicators are applied to a number of inspection schemes to help identify and protect the victims of human trafficking. These schemes primarily include labor supervision, tripartite-joint inspection, and survey of victims conducted by seafarers' labor inspectors, counselors, vessel owners, and human resources managers.

The MOF updated the guidelines for seafarers' labor inspectors to mandate the use of trafficking victim identification indicators in February 2024.

ii. Human trafficking awareness training

Semiannual job training sessions are provided (in April and November) for responsible persons, including seafarers' labor inspectors and counselors, to help them understand *the Prevention of Human Trafficking Act* and recognize the signs of trafficking situations using the indicators. Informational sessions were held on November 14, 2023 on topics such as how to use the indicators and how to investigate human rights violations involving migrant seafarers. These sessions are delivered by the National Human Rights Commission of Korea and human rights groups.

Informative video clips have been shared with vessel owners' associations and other stakeholders to alert them to potential trafficking situations that should be reported. The clips, created by the Ministry of Gender Equality and Family, address *the Prevention of Human Trafficking Act* and victim identification indicators.

The amended *Seafarers Act* mandates the implementation of awareness-raising educational programs on human rights protection, for fishers, vessel owners, human resources managers, and other related persons. In 2023, 52,382 persons (including 28,775 foreigners) have completed such programs.

iii. Victims support programs

Victims support programs help exploited victims immediately leave the situation when a case of human trafficking is identified. Once separated from perpetrators, the victims are provided with temporary housing for detailed investigation, assistance in finding a new workplace, and necessary legal services.

A more detailed support scheme will soon be organized with the agencies concerned to provide victims with stay extension, damage treatment, and compensation.

- 5. Please indicate the measures that your Excellency's Government may adopt to ensure that the migrant workers access to effective remedy, including payment of salary and other benefits promised orally. Please indicate how related potential barriers faced by migrants to use the established mechanism have been identified and addressed.**

Measures regarding distant water fishing vessels

- i. More effective relief procedure

Migrant fishers who experienced any exploitation are entitled to receive counseling to cope with their distress, primarily at the Korea Seafarer's Welfare and Employment Center ("the Center"), consisting of five regional agencies with nine native-speaking counselors. The cases then, depending on their gravity, are referred to the Regional Offices of Oceans & Fisheries ("the Offices"), MOF-affiliated organizations located in 11 different areas, for detailed investigation by labor inspectors in each of the Offices, e.g., delayed payment of wages, deduction of commission or recruitment fee, and physical abuse.

All distant water fishing vessels (188 vessels owned by 33 businesses) are fully equipped with devices for onboard internet connection to allow migrant fishers to report potential incidents of violence during their work.

Detailed contact information of the Center (phone number and email address) is specified in the standard employment contract to ensure migrant fishers can easily access it. Information on the reporting process and contact details for human rights abuse is also posted in common areas onboard, such as the cafeteria and lounge. The notice, written in multiple languages, helps migrant fishers understand the details.

- ii. Ban on deduction of commission fees

The businesses bear all expenses entailed in the employment procedure, such as a commission for the manning agency, airfares from/to the fishers' country, and the cost of a short-term stay in Korea. This scheme aims to prevent migrant fishers from falling into financial entrapment, potentially resulting in debt bondage. A survey on forced cost-bearing of migrant fishers is conducted before their embarkation. Any business that violates the principle will have its employment contract canceled.

- iii. Mandatory insurance for wage claims

All vessel owners are required to maintain insurance to guarantee the payment of claims, protecting fishers from outstanding wages which may result from owners' operational difficulties such as bankruptcy. The protection scheme equally applies to all fishers regardless of their nationality.

Measures under the Employment Permit System

If wages are not paid, in violation of Article 36 (Settlement of Payments) and Article 43 (Payment of Wages) of *the Labor Standards Act*, regardless of nationality, a report can be made to labor inspectors and overdue wages will be paid in accordance with the law.

In order to strengthen the protection of the rights of migrant workers (E-9, H-2 visa holders) under the Employment Permit System, grievance and remedy support services are available for migrant workers through the Employment Center⁹ and Interpretation Service¹⁰.

In addition, through vocational education provided before and after entry, foreign workers are informed of their rights and obligations, as well as remedies that are available in case of violation of their rights.

Before entering Korea, 45 hours of vocational education on *the Labor Standards Act*, *Occupational Safety and Health Act*, sexual harassment prevention training, etc., are provided at the institutions designated by the sending agency under the Employment Permit System MOU.

After their entry into Korea, foreign workers immediately move to an industry-specific vocational education institution¹¹ and receive 16 hours of vocational training, including on *the Labor Standards Act*.

Employers of migrant workers (E-9, H-2 visa holders) under the Employment Permit System are also provided with education on *the Labor Standards Act* and the prohibition of forced labor.

With the relevant law¹² revised in April 2021, it became mandatory for employers hiring E-9 foreign workers for the first time after receiving the employment permit to receive education on *the Labor Standards Act* and *Occupational Safety and Health Act*, sexual harassment prevention, and human rights protection of workers (effective from October 2021).

Employers and personnel managers who are not mandated to complete such education are also encouraged to do so voluntarily. If employers and personnel managers who currently hire or wish to hire foreign workers complete employers' education on a voluntary basis,

⁹ Counseling and interpretation services in the languages of the 16 sending countries are provided 365 days a year.

¹⁰ Provision of interpretation services by 158 interpreters at 51 Employment Centers across Korea

¹¹ ▲ Manufacturing·Service Industry: Korea Federation of Small and Medium Businesses, Korea Labor and Employment Service ▲ Agricultural and Livestock Industry: Nonghyup ▲ Fisheries Industry: Suhyup
▲ Construction Industry: Construction Association of Korea

¹² *The Act on the Employment of Foreign Workers*

an additional score is given to them the following year in the assessment of their entitlement to employ migrant workers under the Employment Permit System.

Support for Victims of Human Trafficking

The Central Agency for Protection of Rights and Interests of Victims of Human Trafficking receives reports on human trafficking and issues victim certificates. In addition, it works with relevant agencies to provide support, such as education, employment, medical assistance, and support in returning home, via victims' support facilities.

- 6. Please indicate whether there is a labour inspection system in place which extends to the Korean Distant Water Fishing industry and whether it has been used to properly identify victims of debt bondage, trafficking for purposes of forced labour, and other human rights and labour rights violations. In addition, please provide information on the existing practice of mandatory port-calling and pro-longed stays on vessels, as well as what measures are in place to ensure migrant crew members' rights to physical and mental health, adequate work and living conditions, and freedom of movement.**

- i. Labor inspection

Seafarers' labor inspectors regularly and randomly carry out their duty on distant water fishing vessels, recently addressing 10 infringement cases on wages in arrears for migrant fishers amounting to KRW 505 million in total (approx. USD 388,000).

- ii. Joint inspection by labor, industry and government

The tripartite parties collectively participate in the quarterly joint inspection scheme aimed at identifying hazards and preventing unsafe working conditions. The joint efforts also include monitoring the detailed aspects of the working environment, including on-time payment of wages, use of the standard form of labor contracts, fishers' equal access to drinking water, and ban on the confiscation of identity documents, physical or verbal abuse, and any other human rights violation.

- iii. Marine telemedicine service

The MOF has supported telemedicine services since 2015 to safeguard fishers' access to healthcare and identify medical blind spots onboard. A research center for marine telemedicine, established in Busan National University Hospital, provides fishers or healthcare administrators onboard with medical, diagnostic, and treatment services using satellite and remote healthcare devices installed on vessels.

Several rounds of pilot projects since 2015 have produced meaningful results both in quality and quantity as follows: 160 vessels equipped with telemedicine devices, 4,910 recipients of first aid, 74,086 cases of healthcare counseling, and 3,584 beneficiaries of online medical advice on the vessels without the telemedicine devices.

iv. Measures to address demerits from long-term fishing activity

Long-liners usually involve a relatively longer fishing operations (18 months on average), compared to most other tuna fisheries (7 to 11 months). Some geological characteristics, such as the lack of proper calling ports in the central, western, and eastern Pacific Ocean where long-liners operate, prevent fishers from leaving the vessels during the season. All fishers are informed in advance of the prolonged working period in the standard form of labor contracts described in both languages (Korean and migrant fisher's native language).

Migrant fishers working on tuna long-liners can indicate their decision to disembark after 10 months of the service through surveys. Since 2021, 33 migrant fishers have disembarked from their ships during their working period as they desired. The surveys carried out upon the completion of the contract showed that 98% (2,965) of respondents expressed their preference to re-board similar vessels in the future. The surveys of 3,012 migrant workers (including 78% having previous re-embarkation experience), were conducted in a supportive environment so that they feel free to answer anonymously using their native languages before returning to their home countries.

To address the challenges faced by tuna longline fishermen who work for long periods of time on board, the MOF has made it mandatory for ships to enter the port of call within one year of departure since the first half of 2024. Companies failing to comply will face restrictions on catch quotas effective from 2025.

7. Please indicate whether your Excellency's Government intends to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW): P029 – Protocol of 2014 to the Forced Labour Convention, 1930; and C188 – 2007 Work in Fishing Convention (No. 188).

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)

The Government of Korea has been discreet about signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. This is because the Convention includes some elements that seem to be in conflict with the current domestic legal framework, including but not limited to obligations regarding the protection and promotion of family union of migrant workers, regularization of the irregular status of migrants, and conditions under which migrant workers may

engage in self-employment.

Regardless of whether the Convention is formally ratified, however, the Korean Government will continue its efforts to protect the rights of migrant seafarers and strengthen humanitarian support.

P029 – Protocol of 2014 to the Forced Labour Convention

The Korean Government ratified the ILO’s Fundamental Convention No. 29 on Forced Labor through amendments to the relevant laws in April 2021.

In addition, the Korean government has been striving to effectively abolish forced labor, including human trafficking, through the enactment of *the Prevention of Human Trafficking Act* and continuous improvement of the Employment Permit System (EPS).

Regarding the Protocol of 2014 to Convention 29, however, the Korean Government believes that before the ratification of the Protocol, it is necessary to conduct an analysis of the content of the Protocol, as well as a thorough review of its compatibility with domestic laws and systems upon ratification.

The ratification of the Protocol is subject to continuous examination through consultation of experts and collection of opinions from relevant stakeholders.

C188 – 2007 Work in Fishing Convention

The Korean Government has maintained its position to support the purpose and commitment of C188 - 2007 Work in Fishing Convention (“the Convention”) for creating decent working conditions to protect fishers’ rights. Some provisions of the Convention are already implemented under the national law, such as *the Seafarers Act*, including the prevention of occupational accidents, diseases, and work-related risks onboard fishing vessels.

The Korean Government remains committed to complying with the provisions of the Convention under the national law, while addressing potential challenges regarding the ratification of the Convention in cooperation with the fishing industry and other stakeholders.

- 8. Please provide information on the existing complaint mechanisms for migrant workers who wish to report labour abuse or exploitation and how these channels or mechanisms can be accessed from abroad.**

Labor Inspection System

In case of forced labor, labor exploitation, etc., at domestic workplaces in violation of

Article 7 (Prohibition of Forced Labor) of *the Labor Standards Act*, etc., regardless of nationality, there is a system in place where such cases are to be reported to labor inspectors.

In addition, migrant workers who received unfair treatment in violation of *the Labor Standards Act*, such as overdue wages and forced labor, can report and file their case through a legal representative in Korea even after they return to their home country.

Mechanism for Migrant Seafarers

The Korea Seafarer's Welfare and Employment Center (the Center) operates in five different cities¹³. Dedicated to addressing the distress of migrant fishers, the Center provides consultation services at any time on human rights abuse or any exploitation the fishers might experience during their work (Tel. +82 1566 3151/Email: 1566-3151@koswec.or.kr). The Center's contact information, as well as multilingual explanation of the reporting process, is posted in public places on board, such as the cafeteria and lounge. The contact information is also included in the standard form of employment contract, so that migrant fishers are well-informed.

Fishers are always connected to the outside world via their social media and other communication platforms using the internet connection devices installed on all distant water fishing vessels. The MOF was informed that migrant fishers reported two cases of physical violence to the ITF through online platforms in May and August 2022. The cases, which occurred on Korean distant water fishing vessels during their fishing operations in the Falkland Islands waters, were referred to the Islands' fishery supervisors to be addressed. Migrant fishers responsible for the acts were returned to their country, with their travel expenses paid by the shipping companies.

From 2024, the MOF monitors the working conditions of migrant fishers using their social media as a complementary measure to on-site inspection for long-term fishing vessels on the high seas, as they are in difficult situations to be inspected. Any suspicious or wrong cases found by the inspection will be subject to the detailed examination and its follow-up measures. The MOF will monitor the potential confiscation of fishers' passports, physical or verbal abuse, delayed wages, payment of recruitment fees, and others.

An easily accessible online platform that provides an anonymous bulletin board for fisherman to freely and anonymously report grievances and seek consultation was established at a public agency (Korea Seafarers' Welfare & Employment Center) in May 2024.

Mechanism for Victims of Human Trafficking

The Central Agency for Protection of Rights and Interests of Victims of Human Trafficking

¹³ Located in Busan, Pohang, Boryeong, Jeju, and Mokpo

provides counseling services via a helpline (1600-8248) and makes referrals to the police hotline 112 for reporting.

9. Please provide information on the measures taken or to be taken, if any, by the new Department of Rights and Rescue within the Ministry of Gender Equality and Family pertaining to migrant crew members on Korean-owned and Korean-flagged vessels.

The Ministry of Gender Equality and Family recommended that relevant agencies and local government bodies, among others, utilize victim identification indicators (March 2023), and the head of the agencies and local government bodies¹⁴ submit their records of indicator use (May and October 2023).

The Central Agency for Protection of Rights and Interests of Victims of Human Trafficking operates a committee for adjudication on cases of human trafficking to deliberate and decide on the issuance of a victim certificate. When there is a request for the issuance of victim certificates, the adjudication committee deliberates and decides on the issuance of a certificate so that victims can be provided with necessary assistance, including the extension of stay permits.

10. Please provide information about steps taken to address discrimination, particularly against migrant workers, in line with relevant international standards, including the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the General Recommendation No. 30 of the Committee on the Elimination of Racial Discrimination on “Discrimination Against Non-Citizens.” Please include information about the relevant human rights training on anti-discrimination, as well as whether your Excellency’s Government intends to amend the Seafarers Act to ensure equal protection and treatment for national and migrant crew members.

Training on Anti-discrimination

In 2007, the Korean Government enacted the *Framework Act on Treatment of Foreigners Residing in the Republic of Korea* to prevent unjustified discrimination against foreigners in Korea and safeguard human rights. The *Act* stipulates the duty of the Government and

¹⁴ Agencies recommended to use the indicators: Ministry of Justice, Ministry of Labor, Ministry of Oceans and Fisheries, Korean National Police Agency, Korea Coast Guard, local government bodies, etc.

local governments to conduct relevant educational programs and public campaigns.¹⁵

Accordingly, the Korean Government publicizes good examples of immigrant settlement, launches awareness campaigns, and offers education on mutual cultural understanding to understand the immigrants better and embrace cultural diversity.

In order to prevent human trafficking, including labor exploitation, and protect and support victims, the Korean Government provides training on victim identification to immigration officials who are in charge of granting extensions of stay and suspending enforcement of deportation orders pursuant to *the Prevention of Human Trafficking Act*.¹⁶

As per Article 11 of *the Prevention of Human Trafficking Act*, labor inspectors under *the Labor Standards Act* and seafarers' labor inspectors under *the Seafarers Act* must complete at least one hour of education¹⁷ every year on human trafficking prevention and victim protection and support.

Measures on Migrant Seafarers

i. Ban on forced labor and discrimination

*The Seafarers Act*¹⁸ prohibits any form of discrimination against fishers on the grounds of their nationality, race, and any other status. The Act also stipulates that no forced or compulsory labor shall be imposed on fishers against their own free will. Anyone who fails to comply with this provision on forced labor is subject to up to five years in prison or a fine not exceeding KRW 50 million (approx. USD 38,500).

¹⁵ *The Framework Act on Treatment of Foreigners Residing in the Republic of Korea*, Article 10 (Safeguarding human rights of foreigners in Korea), 'The State and local governments shall endeavor to take necessary measures, such as education and publicity activities, to prevent unreasonable discrimination against foreigners in Korea and their children and to safeguard their human rights.'

¹⁶ *The Act on Prevention of Human Trafficking and Protection of Victims*, Article 11 (Education, etc.), '1. The State and local governments shall provide education on the identification of victims of human trafficking, etc., and other matters to any of the following persons in order to prevent human trafficking, etc., and protect and support victims. They shall submit the results of such education to the Minister of Gender Equality and Family. ... paragraphs (1)-(3) omitted, (4) An immigration control official in charge of the duties prescribed in Articles 25(2) (Special rules for marriage migrants) and 46(2) (Special rules for enforcement of deportation) of the *Immigration Act*. ... the rest omitted.'

¹⁷ In this regard, education videos for mandatory reporters were made and disseminated to relevant agencies and used for online and in-person education.

¹⁸ Article 5 (Application of other-related acts) (1) Matters on seafarers' labor are applied by *the Labor Standards Act*. Detailed provisions for each application lay on Article 2.1 to 3, Article 3 to 6 of the Act.

Article 25-2 (Ban on forced labor) A vessel owner and fisher shall not compel fishers to perform forced or compulsory labor against their free will in the manner of assault, intimidation, confinement, and other mental or physical restraint of their liberty.

The Labor Standards Act, Article 6 (Fair treatment) An employer shall not discriminate against an employee in working conditions on the grounds of sex, nationality, social position, and other social status he or she has.

ii. Ban on passport confiscation

While the amended *Seafarers Act* prohibits vessel owners from confiscating migrant fishers' passports (effective from June 2021), an additional amendment is underway to extend the prohibition to ship's skipper and other related persons.

iii. Revocation of license of guilty ship officer

The amended *Ship Officers Act* stipulates that ship officers are subject to the revocation of their Certificates of Competency (CoCs) if they receive criminal penalties for serious assault or sexual harassment (effective from October 2022).

iv. Education on human rights protection

The amended *Seafarers Act* has introduced educational sessions to raise awareness of labor rights and human rights protection in which seafarers, vessel owners, and officials in charge of seafarers' personnel affairs are required to participate (effective from January 2023).

v. Prohibition of harassment on board

A recent amendment to *the Seafarers Act* (in October 2023) includes a provision to prohibit any harassment potentially occurring on board. A perpetrator is liable to an administrative fine of up to KRW 10 million (approx. USD 7,700).

/End/