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Introduction and summary

Over the past decade, the self-governing island of Taiwan has emerged as one of East Asia's most vibrant and open democracies. Since 2008, Taiwan has seen three peaceful and democratic transfers of power among rival political parties; elected the first female head of state in East Asia not directly related to a former president or prime minister; and managed a mass student protest movement and the rise of a new political party in a largely peaceful manner.¹ Taiwan's legislature has a higher share of female members than those of the United States, the United Kingdom, or France, and its government recently established a Cabinet post for digital transparency, the current occupant of which is transgender.² Taiwanese media operates with relatively few restrictions, and Taiwanese citizens enjoy a wide range of political and social freedoms.³ Most recently, Taiwan's Supreme Court issued a ruling in favor of same-sex marriage, the first of its kind in East Asia.⁴

For all these achievements, however, one aspect of Taiwan's governance remains in urgent need of reform: oversight of the Taiwanese fishing fleet, which has a long history of environmental and labor abuses, including overfishing, seafood fraud, and use of forced labor. Over the past year, President Tsai Ing-wen and her allies in Taiwan's legislature have instituted much-needed measures to curb these abuses, but it is uncertain whether the political will exists in Taipei to ensure effective implementation. There is much at stake in this reform program. At a time when Taiwan's international identity is increasingly linked to its democratic values and commitment to rule of law, the malfeasance of the Taiwanese fleet detracts from Taipei's standing as a responsible global citizen.

This report examines the governance challenges facing the Taiwanese fishing industry in the context of U.S.-Taiwanese relations. It provides background on the Taiwanese fishing industry before looking specifically at the Taiwanese fleet's history of abusive practice and the Tsai administration's reform efforts. The report contends that reform of the Taiwanese fishing sector is an important undertaking that will strengthen bilateral ties between Taipei and Washington and enhance global perceptions of Taiwanese democracy. To that end, the report offers recommendations on how the United States can encourage and support Taiwan's efforts to bring its fishing fleet into compliance with domestic and international law.

Background

Fishing has long been an important part of Taiwan's economy, and the island is a major player in the global seafood industry despite its relatively small population of 24 million.⁵ In 2016, Taiwan exported approximately \$1.6 billion in fish, the majority of which is attributable to wild seafood caught outside Taiwanese waters.⁶ Around 2,000 vessels flying the Taiwanese flag fish on the high seas and in the exclusive economic zones (EEZs) of more than 30 countries across the Pacific and Indian Oceans.⁷ The most recent Taiwanese government data show that there are around 317,000 employees in the Taiwanese fishing industry, a figure that likely excludes tens of thousands of migrant laborers recruited abroad.⁸ Taiwan is a member of eight regional fisheries management organizations (RMFOs), international bodies that coordinate and monitor fishing activities on the high seas. RMFOs are one type of a small number of international institutions in which Taiwan can participate in a quasi-governmental capacity, for reasons discussed below.⁹

The Taiwanese fleet occupies an especially prominent market position with respect to migratory tuna, which includes species that are at high risk for overfishing and remains a major focus of international conservation efforts.¹⁰ According to the U.N. Food and Agriculture Organization (FAO), Taiwanese-flagged vessels account for more than one-third of the global longline tuna fleet, more than any other flag state.¹¹ Taiwanese-caught tuna supplies many of the largest actors in the canned tuna industry, particularly Thai Union Group, by far the biggest canned tuna company in the world and the owner of the “Chicken of the Sea” brand in the United States.¹² In addition, Taiwanese longliners are one of the two major suppliers of sashimi-grade tuna to the global market. The other major supplier is the Japanese fleet.¹³

Taiwan's presence in the international fishing space is likely greater than even these facts and figures suggest. As the EU and numerous media and civil society groups have observed, a substantial number of Taiwanese citizens and Taiwanese companies operate vessels registered, and by extension under the jurisdiction of, a foreign country—an arrangement commonly referred to as using “flags of convenience” (FOC).¹⁴

Vessels that choose to fly FOCs usually do so to avoid the more stringent regulations of the country where the vessel's owner or operator resides. In response to international pressure, the Taiwanese government recently instituted a requirement that Taiwanese-operated vessels flying FOCs register with the island's Fisheries Agency, in theory making their activities easier to monitor and control.¹⁵ Around 250 FOC-flagged vessels have been registered so far, most of which fly the flags of impoverished Pacific-island countries with little capacity to oversee or regulate distant-water fishing activities.¹⁶

Taiwan's rise as a global fishing powerhouse has occurred against the backdrop of its ambiguous geopolitical status and sustained Chinese opposition to any international recognition of Taiwan as an independent political entity. This context has created unique challenges in integrating the Taiwanese fleet into global fisheries management regimes. For example, Taiwan participates in several RMFOs as a "fishing entity," a special status that allows it to contribute to the work of the RMFO without being recognized as a sovereign state.¹⁷ The United States cooperates with Taiwan on fisheries issues via a memorandum of understanding between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in Washington.¹⁸ Under that memorandum, Taiwan's government agreed to abide by rules for sustainable fishing set out in various international instruments—notably the 1995 FAO Code of Conduct for Responsible Fisheries—in exchange for U.S. assistance in enabling Taiwan to participate in global fisheries organizations.¹⁹

As Taiwan's fishing industry continues to expand, it will need to address human rights issues and the problem of illegal, unreported, and unregulated (IUU) fishing. These are discussed in detail in the next section.

Taiwan's enduring problems of IUU fishing and human trafficking

For more than a decade, Taiwanese-flagged or Taiwanese-owned fishing vessels have been dogged by allegations—often based on credible evidence—of illegal and ecologically harmful fishing practices.²⁰ These alleged practices include fishing in the territorial waters of other countries without authorization; exceeding catch limits for species at risk of overfishing; and engaging in inhumane and internationally prohibited harvest practices such as shark finning, in which the vessel crew cuts off the fin of a shark and throws the rest of the fish back into the sea while it is still alive. Taiwanese vessels have also been accused of operating without proper identification or documentation as required under international law; of making unauthorized use of the flags of other nations; and of other acts of IUU fishing.²¹

IUU fishing

In 2012, the European Commission began an evaluation of Taiwanese fishing practices to determine Taiwanese compliance with an EU regulation prohibiting seafood imports into the EU from countries that fail to take certain steps to prevent IUU fishing.²² In 2015, the EU issued a so-called “yellow card” finding to Taiwan. The yellow card put Taiwanese authorities on notice that they will likely be subject to an import ban, or a “red card,” if they do not improve oversight of their fleet.²³

Critical to this finding was an assessment that the Taiwanese government had enforced existing counter-IUU laws in an inconsistent and ineffective manner; imposed inadequate penalties in connection with IUU-related violations; and failed to develop a coherent plan for monitoring its long distance fleet or for detecting and sanctioning IUU fishing.²⁴ In reaching this determination, the European Commission expressly rejected any suggestion that Taiwan lacked the capacity or requisite economic development to correct these shortcomings and “discharge its duties under international law.”²⁵

Human trafficking

In addition to ecologically harmful practices, Taiwanese-flagged and Taiwanese-operated vessels are also widely reported to use forced labor and to engage in a range of other labor abuses against migrant laborers. Official Taiwanese sources place the number of foreign laborers in Taiwan's fishing sector at around 18,000.²⁶ However, the U.S. State Department, Greenpeace, and labor rights groups have estimated that around 160,000 non-Taiwanese fishermen work in Taiwan's fishing fleet, mostly citizens of Indonesia, Vietnam, and the Philippines.²⁷ More recently, reports have emerged of North Korean crews working aboard Taiwanese ships off the coast of South America, an arrangement that likely enriches the regime in Pyongyang with little or no compensation going directly to the crews themselves.²⁸

A range of media outlets and nongovernmental organizations have documented grotesque abuses inflicted on foreign laborers on Taiwanese boats, including execution, brutal beatings, and forced starvation. They have also drawn attention to alarming clauses in employment contracts, such as a provision entitling a vessel's captain to dispose of the body of a laborer who dies at sea without first reporting the death to law enforcement authorities.²⁹ Until this year, investigations of violence against migrant workers aboard Taiwanese vessels were extremely rare.³⁰

Current state of reforms

Since President Tsai's election in May 2016, the Taiwanese government has responded proactively to international criticism of Taiwan's fishing fleet, most notably through the passage of legislation that specifically addresses distant water fishing and FOC-flagged vessels.³¹ These new laws restrict problematic practices such as transshipment at sea—the transfer of fish from one vessel to another while at sea, which makes fish harvests harder to trace. The laws also impose higher penalties on IUU fishing activities and require vessel operators seeking to hire migrant laborers abroad to employ standard contract terms and obtain permission from Taiwanese authorities.³² In addition, the laws call on Taiwanese officials to develop a more comprehensive set of regulations relating to the management of fishing vessels, including rules for collection and management of data relating to fishing vessels' activities.³³ At the level of executive action, the Tsai administration convened a high-level counter-IUU task force at the end of 2016, and the Fisheries Agency has released a new plan of action to combat IUU fishing, which calls for improved traceability of seafood products.³⁴

Whether these initiatives will lead to meaningful reduction in abuses remains to be seen. Much of the effect of the new legislation will depend on the specific character of implementing regulations and the perennial challenge of enforcement. To date, there is some reason for optimism. Taiwanese authorities have recently begun to investigate trafficking violations involving foreign laborers aboard Taiwanese ships (as of this writing there have been no convictions).³⁵ In addition, Taipei has expanded cooperation on IUU matters with a number of countries with shared fishing interests and opened a 24-hour fisheries monitoring center.³⁶

But challenges remain: The Taiwanese Coast Guard still appears focused on incursions of non-Taiwanese vessels into Taiwanese waters, and there has been little to no action taken against violations committed by Taiwanese-owned or -operated vessels flying FOCs.³⁷ Furthermore, laborers recruited onto Taiwanese vessels outside Taiwan still possess almost none of the protections enjoyed by those who pass through Taiwanese territory.³⁸ Reports of IUU fishing and human trafficking involving Taiwanese vessels and operators continue into 2017, and many environmental and labor activists remain skeptical that reform of the fishing industry is a priority for the Tsai administration.³⁹

Implications for U.S.- Taiwanese relations

In recent years, Thailand has received the lion's share of media coverage and international pressure relating to environmental and labor abuses in the seafood industry.⁴⁰ Yet there is a compelling case that Taiwan's fishing fleet deserves equal attention. Unlike with the Thai seafood industry, most of the abuses associated with the Taiwanese industry occur on the high seas or in other states' EEZs. Not only are such abuses harder to detect and expose than those occurring in seafood processing plants and nearshore fisheries, but they are also an affront to the norms of international law and reflect a conscious predation on the limited governance capacity of weak and impoverished states.

Furthermore, while Taiwan is not typically associated with seafood exports in the minds of ordinary consumers, the fruits of its longline catch enter virtually all major international supply chains that reach North America, Europe, and Northeast Asia, often under the labels of other countries such as Thailand.⁴¹ And Taiwan's generally high administrative capacity and robust rule of law in domestic contexts make tolerance of abuses in its fishing fleet less excusable than those of middle- and low-income countries. While many countries' fishing fleets engage in IUU and questionable labor practices—including the mainland Chinese and Korean fleets—the scale and persistence of the abuses of the Taiwanese fleet and Taiwanese authorities' historical tolerance of these abuses make oversight of the island's fishing sector especially urgent.⁴²

If current efforts to reform the Taiwanese fishing fleet fall short, that failure could prove a hindrance to effective U.S.-Taiwanese relations. As Taiwan's international profile and diplomacy continue to evolve beyond a Cold War model, the discussion surrounding Taiwan's de facto political autonomy from mainland China has centered on the island's democratic and pluralistic values. This trend has intensified in recent years, as watershed developments in Taiwanese politics, such as the emergence of a new youth-focused political party, the New Power Party; the election of President Tsai; and the recent marriage equality ruling have occurred alongside Beijing's successful campaign to persuade the small number of governments that still formally recognize Taipei to sever diplomatic ties.⁴³ Should Taipei appear to be tolerating violations of domestic

and international law committed under its own flag, it would detract from Taiwan's emerging status as a responsible global citizen that respects the rule of law and human dignity. That deficiency would undermine the argument advanced by many in the U.S. policy community that Taiwan's cultural and political achievements should be supported amid East Asia's shifting geopolitical landscape. Should Taiwan receive an EU red card or suffer a downgrade in the annual State Department Trafficking in Persons (TIP) report, such a position would become harder to defend.

Washington enjoys a unique relationship with Taiwanese authorities and arguably carries greater influence in Taipei than any other international actor. In light of that relationship, U.S. policymakers should emphasize the urgency of effective follow-through on reforms to oversight of the Taiwanese fishing fleet in conversations with senior Taiwanese officials. Such conversations should include the message that Taiwan's current "Tier 1" ranking in the TIP report will be harder to justify in the future should Taiwanese authorities fail to follow through on promises to thoroughly investigate and punish labor abuses aboard Taiwanese vessels. U.S. officials should also emphasize that IUU fishing in Southeast Asian EEZs and exploitation of Southeast Asian migrants employed in the Taiwanese fishing industry will complicate Taipei's efforts to build stronger ties with Southeast Asian countries—a signature foreign policy goal of President Tsai, which the United States supports.⁴⁴ Recent friction between Taiwanese and Indonesian authorities over alleged "poaching" in Indonesian waters underscores the challenge that Taiwanese fishing activities pose to Taipei's external relations.⁴⁵

In addition to encouraging Taiwanese authorities to make fisheries oversight a priority, the United States should promote and foster greater Taiwanese involvement in international fisheries management. To date, Taiwan has not been able to join the Indian Ocean Tuna Commission (IOTC)—an important RMFO that manages tuna stocks in waters where Taiwanese vessels are highly active—because the body was established by the FAO, a U.N. entity that excludes Taiwan.⁴⁶ Taiwan's absence from the IOTC limits Taipei's ability to ensure that its fishing fleet complies with IOTC decisions and undermines the IOTC's effectiveness in controlling tuna harvest in the Indian Ocean. If Taiwan is going to play a constructive role in managing global seafood resources, it needs to participate in fisheries management processes relating to waters where its fleet is present in significant numbers. As a leading actor in the fisheries space, the United States should work with its international partners to identify ways Taipei can exercise participatory rights in the IOTC—and if possible, in fishing-related FAO fora—ideally in the same fishing entity capacity as in other RMFOs.

The United States should also seek to strengthen and facilitate Taiwanese participation in the fight against IUU fishing. This could entail organizing multinational law enforcement exercises focused on illegal fishing that include Taiwan's coast guard in an observer capacity. It could also include periodic joint fisheries patrols modeled on an operation that the United States and Taiwan conducted in 2014 under an informal cooperation agreement known as the Lan Hai Charter.⁴⁷ At present, Taiwan does not engage in counter-IUU drills or patrols with international partners. However, recent collaboration among the maritime forces of Japan, Vietnam, and Thailand to address rogue fishing practices suggests that there is growing regional interest in East Asia in bilateral and multilateral cooperation on IUU issues.⁴⁸ With U.S. support, Taiwan could contribute to these collaborative efforts.

Conclusion

Taipei's efforts to define a role for itself in the international arena are at a pivotal juncture as Cold War rivalries fade from view and a new generation of political voices seeks to bring a distinctly Taiwanese identity to the island's external relations. Curbing impunity in the Taiwanese fishing fleet would send a strong signal to the rest of the world that Taiwan is a responsible international actor willing to make good-faith efforts to confront pressing global challenges even where they require difficult adjustments at home. To that end, the United States should encourage Taipei to continue down the path of reform that it embarked on following President's Tsai's election last year.

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And we believe an effective government can earn the trust of the American people, champion the common good over narrow self-interest, and harness the strength of our diversity.

Our Approach

We develop new policy ideas, challenge the media to cover the issues that truly matter, and shape the national debate. With policy teams in major issue areas, American Progress can think creatively at the cross-section of traditional boundaries to develop ideas for policymakers that lead to real change. By employing an extensive communications and outreach effort that we adapt to a rapidly changing media landscape, we move our ideas aggressively in the national policy debate.

