



**COMMISSION
EIGHTEENTH REGULAR SESSION**
Electronic Meeting
1 – 7 December 2021

**KMI AND ANCORS WORKSHOP ON DISTANT WATER FISHING CREW LABOUR
STANDARDS**

**WCPFC18-2021-OP04
4 November 2021**

Submitted by ANCORS

Workshop on Distant Water Fishing Crew Labour Standards

24-25 August, 2021.

Report



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Executive summary

On 24 – 25 August, the Korean Maritime Institute (KMI) and the Australian National Centre for Ocean Resources and Security (ANCORS) co-hosted a workshop on distant water fishing crew labour standards. Around 50 participants from industry, government, and Non-Governmental Organizations (NGOs) attended and discussed this topic. The authors of this report presented on the labour regulations of the Distant Water Fishing Nations that are active in the Western and Central Pacific Ocean, including: Korea, Japan, China, Chinese Taipei, the EU, and the USA. Labour regulations from four selected Pacific Island States, with interests as both coastal States and flag States, were also presented. Key industry leaders were invited to talk about industry initiatives.

The results of this workshop highlighted that there are already several industry initiatives underway, however, regulatory frameworks are lagging. The Western and Central Pacific region is well-positioned to establish region-wide labour standards, which would improve fishing crew conditions and potentially provide market advantages. Regional minimum standards have also been suggested. Workplace requirements that are universally in force were introduced by the International Labour Organization's (ILO) representative, and then participants learned about the relevant domestic regulations in force in Western and Central Pacific Fisheries Commission (WCPFC). Industry leaders repeatedly stressed that there is no one-size-fits-all approach and vessel characteristics need to be taken into account when drafting new regulatory measures.

As the WCPFC is currently drafting a conservation and management measure (CMM) on labour standards, the workshop agreed that it is important to ensure that this measure and other guidelines and regulations are conforming to pertinent international law and complement industry initiatives and do not disrupt progress in the private sector. Moreover, the WCPFC was encouraged to support the implementation of ILO Work in Fisheries Convention (C-188) standards, including through the new measure.

Discussions noted the importance of auditing programs and the establishment of credible standards that are consistent with existing law and ensure necessary monitoring for vessels operating in the WCPFC. Participants encouraged further steps such as real-time assurance programs that use real-time data to monitor and report on labour conditions. These programs would not only provide much-needed data and information but also ensure the credibility of existing standards and audits.

In summary, the workshop noted the importance of recent industry initiatives and discussed opportunities to develop mechanisms to help deliver services at WCPFC ports, to crew in their vessel workplace, with a focus on at-risk vessels. The common goal is to raise awareness of crew member rights that are legally established and to draw in fleets or actors who may not currently follow this spirit.

1. Introduction

In 2018, the Food and Agriculture Organization (FAO) estimated that almost 39 million people work on fishing vessels¹. Global estimates from the International Labour Organization (ILO) show that up to 2 million workers in agriculture, aquaculture, and fisheries are subjected to forced labour². While most of the information to date has been provided by journalists and Non-Governmental Organizations (NGOs)³, this issue has received increasing global attention. The occurrence of forced labour in the seafood industry is not geographically bounded, but occurs globally, in Exclusive Economic Zones (EEZs) and High Seas areas and throughout the whole supply chains⁴.

While there might be different definitions concerning forced labour or modern slavery in place, in this report we define these concepts as follows. We use the definition provided by the ILO Forced Labour Convention, 1930 to define forced labour as “all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily”⁵. While there is no globally agreed definition for the term ‘modern slavery’ we refer to it as “situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power” as used by the United Nations (UN)⁶. Contract and debt bondage slavery are prevalent in the fishing industry and can be hard for supply chain managers to recognize as slaveholders use commonly occurring business mechanisms (e.g., loans and contracts) to hide the enslavement⁷. Individuals that belong to marginalized groups (e.g., indigenous peoples, tribal groups, refugees, migrants) are at high risk for forced labour.

This report focuses on States with vessels that are active in the tuna fisheries of the Western and Central Pacific Ocean, which are managed by the Western and Central Pacific Fisheries Commission (WCPFC). So far, the WCPFC is the only regional fisheries management organization (RFMO), which has started to address the issue of crew welfare⁸. In 2018, the WCPFC adopted a non-binding resolution on Labour Standards for Crew on Fishing Vessels⁹ and at the 2020 Commission meeting, member States agreed to work inter-sessionally on developing a binding conservation and management measure (CMM) concerning this topic^{10,11}.

On 24 - 25 August, the Korean Maritime Institute (KMI) and the Australian National Centre for Ocean Resources and Security (ANCORS) co-hosted a workshop on distant water fishing crew labour standards. The workshop focused on Distant Water Fishing Nation (DWFN), Korea, Japan, China, Chinese Taipei, the USA, and the EU. Since these are important fishing States in the WCPFC area, it is relevant to understand the national regulations of these States and their applicability in high seas areas. This work also looked at Pacific Island States that have increasingly emerged as flag States for vessels owned by traditional DWFN (e.g., Vanuatu). Vessel owners that flag their vessels under the registries of another State have to comply with the national regulations and requirements of the flag state. These open registries are sometimes described as flags of convenience and are often characterised by less strict regulations and requirements. Even though we do not specifically address flags of convenience in this report, it is important to note that this practice has implications for labour standards. The workshop aimed to identify synergies and priority gaps in existing governance, through a review and analysis of the existing legislation, regulations, and initiatives that regulate the working conditions and safety of distant water fishing crews. The workshop focused on the longline and purse seine distant water fishing fleets that operate in the Western and Central Pacific Ocean and are registered on the WCPFC Record of Fishing Vessels.

The first section of this workshop report presents the *status quo* of global, regional, and national labour laws, as well as industry initiatives. The second section identifies issues that were frequently mentioned during workshop discussions. In the final section, we propose several research questions and themes to further progress this important work.

2. Existing law and policy

The aim of this section is to present the current status of government rules and regulations as well as industry initiatives. There are already numerous global, national, and regional workplace requirements in force, and these workplace laws need to be respected when addressing labour issues in the fishing industry.

2.1. Global initiatives

The United Nations Convention on the Law of the Sea (UNCLOS) provides the jurisdictional framework for all activities at sea, including the regulation of labour conditions on fishing vessels. It confers important rights and responsibilities on flag States, port States, and coastal States. In particular, the UNCLOS attributes responsibility for working conditions onboard vessels to flag States. Article 94 requires a flag State to “effectively exercise its jurisdiction and control”, including through the enactment of any measures that are necessary to ensure safety at sea including labour conditions. In this regard, the Convention requires States to take account of “applicable international instruments”¹².

Applicable international instruments include those that address human rights issues generally, as well as those that more specifically address the employment conditions of crew on fishing vessels. Despite scope and scale of abuses, the seafood sector is behind other sectors/supply chains in the adoption and realization of human rights and labour rights standards. The key document identifying fundamental human rights which must be universally protected is the United Nations Universal Declaration of Human Rights (UNDHR) (1948)¹³. The UNDHR provides the foundation of many subsequent initiatives, including the International Bill of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work¹⁴. Generally, businesses have the duty to protect human rights under the voluntary UN Guiding Principles on Business and Human Rights¹⁵, which calls on its member States to protect against human rights abuses and obliges business enterprises to respect human rights, and the UN “Protect, Respect and Remedy” Framework for Business and Human Rights¹⁶

Alongside these broader human rights initiatives, the ILO has been the key proponent of important international law and policy documents that specifically target labour conditions. A key agreement is the Forced Labour Convention of 1930 (C-29), which requires members to “suppress the use of forced or compulsory labour in all its forms” (Art 1)¹⁷. The 1930 Convention was updated and strengthened in 2014 by the Protocol to the Forced Labour Convention of 2014¹⁸. While States are only formally bound by Conventions to which they are parties, the ILO Declaration on Fundamental Principles and Rights at Work (1988) recognises that certain obligations arise by virtue simply of membership of the ILO, regardless of ratification of respective conventions, including the elimination of forced or compulsory labour and the abolition of child labour¹⁹.

In the context of the fishing industry one of the key instruments is the C188 – Work in Fishing Convention²⁰, which has been accompanied by the Work in Fishing Recommendation (No.199) and guidelines for flag and port States. The C188 expands on the earlier Maritime Labour Convention (2006) (the ‘Seafarer’s Bill of Rights’) which sets global standards for decent working conditions for seafarers but does not apply to the fishing sector. C188 applies to all commercial fishers and fishing vessels and sets down minimum requirements for working conditions. The skipper is designated as responsible for the safety of fishers on board and the safe operation of the vessel, while the fishing vessel owner is responsible for ensuring that the skipper has the necessary resources to comply with obligations under the Convention. C188 sets standards for minimum age, medical fitness, manning

and hours of rest, comprehensible written work agreements, crew lists, recruitment, payment, repatriation amongst other matters. In particular, it sets down requirements for the use of private employment agencies. However, unlike the Maritime Labour Convention, which had been ratified by 98 States, the C188 has been only ratified by 19 States.

2.2. Regional initiatives

The geographical scope of this work is the Western and Central Pacific Ocean. This region is characterised by a strong collaboration among the different Pacific Island States, via the Pacific Islands Forum Fisheries Agency (FFA) and the Parties to the Nauru Agreement (PNA). The members of the PNA and FFA have established Minimum Terms and Conditions (MTCs), which are a key tool to regulate fishing access, and prescribe minimum standards that are implemented domestically and apply in all FFA members' EEZs²¹. These MTCs apply to foreign fishing vessels that are licensed to fish in the EEZ of FFA members. The MTCs, for example, banned transshipment at sea by purse seine vessels and require all vessels to have a Vessel Monitoring System (VMS) in place. In 2019, the FFA members agreed to include crew employment conditions based on the ILO C188, recognizing the need to protect human rights standards in fisheries. This MTC applies to foreign vessels and domestic vessels and (among other matters) requires vessels to have a written contract in a language each crew member can understand, provide protection for the basic human rights of the crew in accordance with accepted international human rights, and prescribes standards and procedures covering the death of a crew member and for advising next of kin in the event of an emergency.

2.3. National initiatives

This section presents the national regulations of Korea, Japan, China, Chinese Taipei, the USA, and the EU, as well as, of four Pacific Island States, Papua New Guinea (PNG), Nauru, Vanuatu, and Fiji.

The four selected Pacific Island countries are all FFA members. They generally have comprehensive workplace conditions legislation, addressing important issues such as wage, working hours, provisions of leave, working conditions, medical treatment, or contracts. However, some are quite dated and are generally drafted for land-based workplaces. Conditions apply to vessels, but it is not clear whether this includes vessels flagged by the country operating outside waters under the flag state's jurisdiction. While vessels are typically subject to all "applicable law" of the flag state, greater clarity as to the applicability of employment laws to fishing vessels within and beyond its waters would aid the interpretation of references in fisheries legislation to the enforceability of such laws. Fisheries legislation nevertheless generally provides extensive powers to regulate and impose conditions on licenses and authorisations, including those permitting vessels to operate on the high seas. Regulations and/or license conditions may give effect to regional minimum terms and conditions, such as the FFA MTCs, and international Conservation and Management Measures (CMMs) by which the State is bound, and these are accompanied by corresponding inspection powers. However, the ambiguous applicability of domestic employment law means that powers to inspect for compliance with those laws are unclear. This situation could be expected to improve once each state has given domestic effect under fisheries legislation to the MTCs or once the WCPFC has adopted a binding CMM setting standards for crew conditions.

Except for France, none of these States has signed the ILO-C188, although all of them prohibit human trafficking and forced labour. All these States have regulations in place that allow the implementation

of international obligations as well as have established policies on crew conditions, targeting vessels in all geographical areas (i.e., domestic EEZ, foreign EEZ, high seas) and most cases also include foreign crew. The following section summarizes the main employment regulations of the studied countries.

Korea

The main employment legislation concerning fishing crew of distant fisheries are the Seafarer's Act, the Fishing Vessels Act, the Act on Accident Compensation Insurance for Fishers and Fishing Vessels, and the Labour Standard Act. When it comes to distant water fishing vessels, they are subject to Seafarers' Act and partially subject to Labour Standard Act. Regarding the safety measures, the Enforcement Decree of the Distant Water Fisheries Development Act defines the matters that should be contained in the safety management guidelines to be created by all vessels in order to secure safety of distant water fishing vessels. It defines the details regarding the qualifications of safety management director and the number of people necessary for the establishment and implementation of the safety management guidelines and the safe navigation of distant water. Furthermore, the rules on the safety and hygiene of seafarers stipulate matters to be observed by shipowners and seafarers in order to prevent dangers during seafarers' work onboard and to maintain hygiene on board. In addition to this, the Ministry of Oceans and Fisheries has been supporting the systematic health management and emergency response of seafarers through telemedicine between the Marine Medical Research Center and ships equipped with satellite communication and telemedicine equipment through the 'Marine Telemedicine Support Pilot Project' since 2015.

Japan

In Japan, the main employment legislation concerning fishing crew is the Mariners Act (Act No. 100 of 1947, 船員法). However, some rules and regulations do not apply to fishing vessels and in that case, these vessels are covered by the Labour Standards Act (Act No.49 of 1947, 労働基準法). For example, fishing vessels under 30t shall be excluded from the application of Mariners Act (Article 1 Clause 1 Item 3, and Ordinance No. 54 of 1963 (船員法第一条第二項第三号の漁船の範囲を定める政令) and, thus, are covered by the Labour Standards Act. Generally, the application of this employment legislation depends on the weight of the vessels, but not the geographical area, thus are applying to vessels in port, territorial seas, EEZs, as well as high seas.

Additional laws and regulations, which specifically apply to fishing crew are for example the Mariners Health and Safety Ordinance (Ministry of Transportation Ordinance No. 53 of 1964, 船員安全衛生規則), addressing working safety conditions on fishing vessels. Further, relating to vessels' facilities and equipment requirements which would relate to vessels' safety, there are laws and ordinance, including Vessels Safety Act (Act No.11 of 1933, 船舶安全法), Vessels Safety Act Enforcement Ordinance (Ministry of Transportation Ordinance No. 41 of 1963, 船舶安全法施行規則), Vessels Equipment Ordinance (Ministry of Communication Ordinance No.6 of 1934, 船舶設備規則), Fishing Vessels Special Ordinance (Ministry of Communication, Ministry of Forestry Ordinance of 1934, 漁船特殊規則), Small Fishing Vessels Safety Ordinance (Ministry of Agriculture and Forestry, Ministry of Transportation Ordinance No. 1 of 1974, 小型漁船安全規則), Small Vessels Safety Ordinance (Ministry of Transportation Ordinance No. 36 of 1974, 小型船舶安全規則). Among these laws and ordinances, Fishing Vessels Special Ordinance and Small Fishing Vessels Safety Ordinance shall be

mainly applicable to fishing vessels; however, other laws and ordinances will be referred by these ordinances and will be applicable.

By these and related laws and ordinances, working hours, provision of leave, vessel safety, insurance, medical examination, and other employment conditions are broadly regulated.

China

The main employment legislation applicable for crew are the 2014 Measures for the Administration of Fisheries Crews of the People's Republic of China (年《中华人民共和国渔业船员管理办法》²² and the 2020 Regulations of the People's Republic of China on Crews as amended (年修订的《中华人民共和国船员条例》²³. These employment legislations apply to vessels in port, territorial sea, Chinese EEZ, and outside its EEZ.

Additional regulations include Articles 13 to 16 of the Maritime Traffic Safety Law, which protects the rights and interests of seafarers.

Chinese Taipei

The fishing crews employed in Chinese Taipei's jurisdiction are managed under the Employment Service Act, and those employed outside Chinese Taipei's jurisdiction are managed under the Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members, a sub-law of the Act for Distant Water Fisheries, regardless of where the vessels are. Both types of employments are managed under the Labor Safety and Health Act, Occupational Safety and Health Act, and Ship and Boat Equipment Regulations (part of the Regulations are under amendment) for workplace safety. Additionally, the Law of Ships and its sub-law of the Regulation on Inspection of Vessels regulates the requirements of safety equipment.

USA

The main employment legislation applicable to fishing crew in the US is the Commercial Fishing Industry Vessel Safety Act of 1988, the Commercial Fishing Industry Vessel Regulations, the regulations on Uninspected Vessels, and regulations on Commercial Diving Operations. These legislations cover coastal and offshore vessels, and while the crew working on onshore fishing vessels are entitled to minimum wage and overtime, there are some exemptions of overtime eligibility for crew involved in packing and distribution as laid out in § 783.51 Seamen on a fishing vessel. Exemptions are further stipulated under the Nicholson Act (46 U.S.C.A. App. 251 (West Supp. 1991)). All persons in the United States, including fishing crew members working without a visa, are protected by and subject to U.S. laws. For example, the US Code (Section 1581 of Title 18) makes it unlawful to hold a person in debt servitude with penalties of a fine or imprisonment up to 20 years. Victims of human trafficking will be protected, given a safe haven, and referred for medical assistance by the Department of Homeland Security with federal partners.

EU

The European Union implemented several employment legislations which apply to all its member States. The two most important ones are the working time directive and the work-life balance directive targeting parents and carers. While the work-life balance directive applies to all workers, the working time directives exempt fisheries from three articles, covering daily rest, maximum weekly working time, length of night work. However, article 21 explicitly addresses fishing vessels, ensuring that member States take measures to ensure that workers on fishing vessels are entitled to adequate rest and limiting the number of overall working hours. Another relevant directive is the directive on transparent and predictable working conditions, although fisheries are excluded from chapter 1 due to the specific employment conditions. Chapter 2 of this directive deals with the provision of information concerning employment relationships. Generally, these directives apply to all vessels independently of their geographical position.

Nauru

Nauru has ratified SOLAS and PSMA, and while it has not ratified the Capetown Agreement, it has declared it to be a scheduled treaty under the Shipping (Registration of Foreign Vessels) Act 2018. Nauru prohibits vessels from being used for human trafficking. Nauru's legislative framework governing crew conditions on vessels flying its flag outside waters under its national jurisdiction appears to be fragmented. General labour conditions under the [Workers \(Contracts of Service\) Act 1922](#) are reasonably comprehensive but appear to have been drafted with terrestrial application in mind. Cabinet may declare that crew on its fishing vessels and crew on Nauru-flagged vessels "outside Nauru" are covered by the Act but it is not known whether it has done so. Wholly Nauru-owned vessels may be registered under the Shipping Registration Act 1968, which does not contain any crew conditions standards, other than construction of accommodation (Third Schedule). However, the [Shipping \(Registration of Foreign Vessels\) Act 2018](#) does, and these appear to apply to all crew on foreign-owned Nauru-flagged vessels registered under that Act. Such vessels are also required to comply with all applicable Nauru law. It remains to be seen whether the Workers (Contracts of Service) Act is such applicable law. Explicit application of domestic employment laws to Nauru-flagged vessels outside Nauru territorial waters, including the EEZ and high seas, would improve clarity as to which standards apply to crew. The [Fisheries Act 1997](#) effectively prohibits vessels from being authorised to fish within Nauru waters or beyond if there is a reasonable belief that it has been involved in, inter alia, the mistreatment of crew. Similarly, if the vessel is fishing under the rules imposed by an international CMM on crew conditions or treaty then it must comply and, where there is a breach, will have its authorisation canceled.

PNG

In PNG, the two main pieces of legislation applying to fishing vessels are the Employment Act 1978 and the Fisheries Management Act 1998 (amended in 2012, February 2015, and June 2015). While PNG's [Employment Act 1978](#) applies to vessels, it is not clear whether this extends to PNG-flagged vessels operating beyond waters under PNG's jurisdiction. However, the [Fisheries Management Act 1998](#) requires that all vessels licensed under the Act "[comply] with all laws of Papua New Guinea, the terms and conditions of any applicable license and any applicable access agreement". This would appear to ensure the Employment Act applies to PNG vessels authorised to fish on the high seas or in other States' waters would also be subject to the conditions set out in the Employment Act.

Importantly, the Employment Act applies to contracts made outside PNG, which suggests that it would extend to contracts entered into by foreign crew, through foreign crewing agents to work on PNG vessels. However, the Employment Act generally appears to be drafted with terrestrial workplaces in mind, particularly the “housing” provisions. License conditions could be adopted to give domestic effect to agreed FFA minimum terms and conditions or compliance with regional CMMs.

Vanuatu

The main employment legislation in Vanuatu is the Employment Act, as amended up to 2019. The amendments in 2010 established a Tripartite Labour Advisory Council, which has broad powers to make recommendations to the government on employment, including ILO conventions and the Port Vila Statement on Decent Work. Vanuatu has acceded to or ratified the International Convention for the Safety of Life at Sea (SOLAS) and the Port State Measure Agreement (PSMA) and these are given effect by the Maritime (Conventions) Act 2017, the Maritime Regulations, and, with respect to the PSMA, the [Fisheries Act 2014](#). The [Employment Act](#) contains comprehensive employment conditions in Vanuatu workplaces. Vanuatu workplaces are not defined but the Act’s applicability to fishing vessels is implicit in the Act’s inspection powers, which extend to vessels. It is unclear if this only refers to vessels within Vanuatu’s territorial waters or ports, or beyond. Another important legislation concerning fishing crew is the Maritime Act 1981 (amended in 2009). This legislation addresses issues such as written contracts provided before the voyage, wages, minimum age of crew, time management, or measures to take in case of death. The workshop indicated that two separate registers are managed for Vanuatu-owned vessels and foreign vessels.

Conditions attached to authorisations under the Fisheries Act 2014 provide broad scope to impose crew conditions on authorising vessels within and beyond waters under Vanuatu national jurisdiction, either through regulations or licence conditions. Authorised vessels must comply with international and domestic CMMs, including any on crew conditions should they be adopted in the future. Authorisations to fish beyond Vanuatu’s fishery waters (i.e., beyond the EEZ) may only be issued to vessels that have a history of illegal, unregulated, and unreported fishing (IUU) or crew abuse due to change of beneficial ownership. Further, the Fisheries Act requires vessels on Vanuatu’s International Shipping Register to comply with international CMMs and to not have conducted IUU fishing or related activity. Amendments in 2001 applying to the licensing of employment agents in Vanuatu do not appear to establish sufficient powers to regulate agents, although the need to do this is noted in Vanuatu’s National Fisheries Sector Policy 2016-2031

Fiji

Fiji prohibits forced labour and has legislated a range of labour standards for workplaces in Fiji. Workplaces include vessels but it is not clear whether “in Fiji” applies to fishing vessels flying Fiji’s flag in its EEZ or on the high seas. However, a reasonable case could be made that it does, given flag state jurisdiction. Commercial fishing vessels in Fiji waters (including Fiji’s EEZ) and Fiji fishing vessels anywhere are obliged to comply with “applicable” Fiji law and licence conditions. Fisheries authorities have broad powers to set licence conditions and therefore could, through an administrative measure, incorporate compliance with employment legislation or FFA crew conditions MTCs into licence conditions to remove any doubt. Fiji-flagged fishing vessels are also required to comply with applicable international conservation and management measures for RFMOs of which Fiji is a member. Should

the WCPFC adopt a binding measure on crew conditions, Fiji law would automatically require that its vessels comply with those standards on the high seas when active in WCPFC fisheries.

2.4. NGO initiatives

Even though this report focuses on government and industry initiatives, it is important to acknowledge NGO initiatives, as they have been early drivers in raising the awareness of labour concerns on fishing vessels. Key NGOs include the International Labour Rights Forum, Humanity United, FishWise, Conservation International, OceanMind, Fishery Progress, Greenpeace, Environmental Justice Foundation, and Human Rights at Sea. All these NGOs have developed campaigns and outreach programs on crew labour concerns. For example, environmental practitioners, human and labour rights advocates, academics, and industry representatives co-developed a definition of socially responsible seafood, the 2017 Monterey Framework. The Monterey Framework defines three areas for social responsibility in fisheries: (1) basic human rights, dignity, and access to resources; (2) equality and equal opportunity to benefit; (3) livelihoods and food security²⁴.

Alongside NGOs, investigative journalists such as Ian Urbina, play an important role in increasing the awareness of human rights issues on sea. With the project Outlaw Ocean Project, Ian Urbina, documents human rights and labour abuses offshore ^{25,26}.

2.5. Industry initiatives

The seafood industry has already taken important steps towards addressing human rights and labour abuse on fishing vessels and along the supply chains. For example, the industry members of the International Seafood Sustainability Foundation (ISSF) agreed on a conservation measure on social and labour standards²⁷. This measure requires the different actors to develop a policy related to social and labour standards throughout the supply chain.

As part of the workshop, six industry representatives were invited to present their work and to talk about how they are addressing labour issues on fishing vessels. The following paragraphs are summaries of their presentations.

Labour standards in the Hawaii Longline Fishery

The Hawaii longline fleet consists of 145 active vessels, which land premium high-quality ice-chilled products, thus their trips are generally shorter than three weeks, and do not involve at-sea transshipments. The majority of the crew are from Indonesia, the Philippines, Vietnam, or a Pacific Island. Vessel owners pay for entry and exit transport, and the salary (typically \$800 - \$1200/month) is paid in cash.

In 2018, the Hawaii Longline Association (HLA)²⁸ established the Code of Conduct for Decent Work in Fishing, consistent with global initiatives from the ILO. The objective of this code is to ensure that workers have decent work, are treated fairly, humanely, and are safe from forced labour and human trafficking. Core standards address, for example, health and safety, payment and benefits, contracts, work and rest periods, and workplace equality. Moreover, a committee on crew matters has been established, including seafarers' ministry, medical clinic, community contacts, vessel owners, the HLA,

and advisors. This Committee addresses existing and emerging crew issues, but also organizes medical treatments and COVID-19 vaccinations.

Chinese Taipei industry initiatives

The second presentation was by the Taiwan Tuna Association (TTA) and FCF Co., Ltd²⁹. In 2017, the TTA implemented a social responsibility policy, which includes for example collaboration with external experts to revise the labour contract. The TTA also cooperates with the National Kaohsiung University of Science and Technology and provides educational courses, with pay during the training period, for foreign crew members to give them the opportunities to be qualified and promoted as vessel officials. Together with the National Chung Chen University, TTA also implemented a Labour Plan for Distant Water Fishing from 2021 – 2023. This plan is divided into four blocks addressing the safe entry and repatriation of foreign crew, the use of blockchain technology, and increased data collections on working hours. So far, the work done by the TTA includes the translation of daily and weekly timesheets into the local crews' language, revision, and enhancement of employment contracts, increased measures to reduce by-catch, and an electronic observer experiment.

FCF established policies on corporate social responsibility, due to external expectations, market access, and NGO reports. These forces have led to supply chain assessments, policy developments, capacity building, and a social program pilot. The FCF's social program is structured into two main areas, a social risk evaluation, done by social audits, and remediations and prevention initiatives, including initiatives on worker's voice and responsible recruitment.

Labour standards: Tri Marine Views, Policies, and Concerns

In 2016, Tri Marine³⁰ rolled out an auditable Ethical Sourcing Policy for all vessels. Tri Marine is heavily involved in the Seafood Task Force (STF) Tuna Subgroup and contributed to the STF Code of Conduct and Auditable Vessel Standards and updated its internal policies to be consistent with the STF. The STF was established in 2014 to address slave labour allegations in the Thai shrimp supply chain and since then has expanded to cover the global tuna supply chain. The STF includes 35 commercial members from the whole supply chain, as well as NGO partners.

The Tri Marine Ethical Sourcing Policy requires suppliers to undergo audits upon requests. The key 2021 goals include auditing 52 vessels, establishing a standardized crew contract, implementing the longline preferred supplier program, and offering a pre-audit training program. Audit results so far, have indicated that non-conformities are mostly related to crew recruitment agencies and are largely administrative.

In summary, Tri Marines concerns and observations related to the following topics:

- To date, industry/market forces are stronger than regulatory forces
- Major brands/retailers are including social accountability commitments in sourcing policies
- There is currently a labour standards 'race' – a rapidly growing number of competing NGO, industry, and government programs.
- One size will not fit all (i.e., distant water longliners vs. artisanal vessels; shore-based vs. high seas)
- Bottom-up worker outreach needs to go hand-in-hand with top-down regulations
- Crew recruitment agencies require the highest level of attention.

SeaBOS initiative

SeaBOS³¹ (i.e., Seafood Business for Ocean Stewardship) is a collaboration between scientists and leading seafood companies to address important marine issues, such as IUU fishing, endangered species, and forced labour; working with governments, reducing ocean plastic; or climate resilience. The ten SeaBOS keystone actors (i.e., CBF, Maruha Nichiro, Cermaq, Nissui, Mowi, Nutreco, Kyokuyo, Dongwon, Cargill, and Thai Union) catch almost 10% of the global catch and control almost 20% of the world's most valuable fisheries. These keystone actors have committed to ensuring that no IUU fishery products or modern slavery are present in their seafood operations, and to put science-based measures in place that reduce the risk of having IUU fishery products or modern slavery in their supply chain.

PNG-FIA: Responsible Sourcing Policy including labour requirements at Sea and at Land

The PNG Fishing Industry Association (FIA)³² includes land-based and seafood associated operators in PNG. The associated vessels only fish in PNG's EEZ and adjacent waters and the target species are Skipjack tuna, Yellowfin tuna, and Bigeye tuna. PNG FIA is the third-largest MSC certified tuna company, after Dongwon (second) and the Parties of the Nauru Agreement (PNA; first). In 2018, FIA launched its responsible sourcing policy (RSP) and obtained MSC certification in 2020. Besides having a standard recognizing their effort, FIA also committed to an assurance model, a fisheries information management system (iFIMS), that collects data in almost real-time. The responsible sourcing policy calls for social responsibility and human rights onboard and addresses, for example, worker voice, contracts, crew lists, medical treatment, remuneration of fishers, and crew living conditions. With a fleet of 56 tuna purse seiner; until today, 70% of the fleet has undergone an initial assessment or internal audit of the Responsible Sourcing and Human Rights requirements that aligned with international standards, guidance, and regulations

PNA Parties (Pacifical)

The last presentation talks about the work done by the PNA members³³, which are the largest MSC certified tuna suppliers. The PNA Pacifical has had social accountability guidelines for purse-seiners since 2016 and has worked with processors since 2012. The PNA Pacifical requires 100% observer coverage, and the observers monitor crew details and social issues at sea. Moreover, all PNA members are also members of the FFA and thus have to comply with the FFA MTCs on labour conditions.

In summary, the workshop discussed a number of industry initiatives recently underway, that address labour issues and crew welfare. As presented in these presentations, there are universally enforced workplace requirements in place, as well as national workplace laws, which need to be respected. Moreover, there is no one-size-fits-all approach, and different fleet and regional characteristics need to be taken into account when discussing industry and government initiatives. For example, initiatives in Thailand have worked to provide workers with a voice and opportunity to express their concerns. However, there are ongoing structural barriers to workers' organizations in Thailand, as foreign crew members are not allowed to join a union. In the Philippines, for example, an MoU was signed between the different departments to enhance collaboration, and the labour department (DOLE) has started to train safety officers for working on large vessels. In addition to Philippine civil society, which reports issues on behalf of crew members, DOLE also provides an online 24/7 chat.

In conclusion, throughout the presentations and discussions, several concerns were repeatedly raised. These issues will be discussed in more detail in the following section.

3. Main concerns

First steps regarding crew and labour conditions onboard of fishing vessels have been taken, but all workshop participants agreed that this topic is imperative and more needs to be done. In the following section, we will draw on several concerns discussed during the workshop.

The gap between government and industry initiatives

One of the main issues which had been highlighted was the gap between industry and regulatory frameworks. So far, industry and NGOs are the main drivers for change concerning labour issues in the fishing industry. There seem to be problems with inter-, and intra-governmental coordination and consultation. As already previously mentioned, there are already several global, regional, and national initiatives in place. Even though none of these DWFN and Pacific Island States, except France, have ratified the ILO C-188, these States are still obligated to protect human rights issues under initiatives such as the UN Declaration of Human Rights. Intergovernmental organizations such as RFMOs, have been highlighted as being well-positioned to address labour issues and to encourage members to ratify the ILO-C188. The WCPFC is currently discussing a new CMM, and it was highlighted that this measure needs to acknowledge and utilize tools that are already in place, such as globally agreed workplace regulations or vessels standards. However, progress in the WCPFC requires political will from all members and is challenged by international and domestic jurisdictional problems. Furthermore, successful measures and legislation require effective enforcement and compliance monitoring. The effectiveness of a WCPFC CMM on labour will depend on its national implementation and its inclusion in the compliance monitoring scheme.

Moreover, there are areas that could be addressed by governments, such as the provision of a standardized contract; agreement on the enforcement country of the respective countries (i.e., receiving or sending county); and implementing measures which would release the crew from any fees except their legal fees. Generally, it was noted that it is important that future work builds on pertinent international law and existing initiatives from the private sector and that new government initiatives do not hinder industry progress, but rather encourage vessels and companies which have currently not addressed this issue, to do so (e.g., via licensing agreements).

Jurisdictional issues

The information provided in the previous section suggests that many countries have adequate protection for fishing crew is in place. However, implementing and enforcing these legislation is often complicated due to the involvement of different government agencies and due to jurisdictional issues. The lack of understanding and awareness of jurisdictional aspects and legal complexity has been highlighted as hindering the government's progress on labour concerns. For example, preventing or addressing forced labour in the fishing industry can involve the following States:

- Flag State for vessel registry
- Coastal State for fishing ground

- Port State for vessel inspections and landings
- Market State for seafood sales and consumption
- Multiple States for the nationalities of the crew – these States may be unaware that their citizens are on any vessel in question
- Multiple States for the nationalities of the officers – also unaware of their citizen's activities
- Multiple States for the ownership of the vessel – in some circumstances, the beneficial owner will reside in one State, while their subsidiary company may reside in potential multiple States depending on corporate structure
- Multiple States for the crewing agency and logistics arrangements
- Multiple States who are cooperative members of a relevant RFMO with reciprocal high seas boarding and inspection programs

This international complexity is then further complicated by the domestic jurisdiction which will likely involve numerous ministries, agencies, and regulations, with weak or non-existent coordination.

Auditing programmes

Several concerns regarding the practice of vessel audits have been raised, which are currently the main mechanism to demonstrate social responsibility. However, neither the ILO, as the authority on legally-established workplace rights, nor the UN Guiding Principles for Business and Human Rights, are asking for private standards and generally encourage seafood companies to address labour problems internally. The UN Guiding Principles expects all States to protect human rights against business-related abuse and in most cases, States are legally obligated through their ratification of international human rights treaties.

Discussions noted the importance of establishing credible standards that are consistent with existing law. As mentioned, there is an increasing number of certification programs, which are mainly driven by market forces. Many of these standards have been established in western countries and, thus, do not include regional differences or fleet characteristics. Moreover, there are increasing concerns about self-certifications, which have also been observed in the context of sustainability certificates. For example, in other sectors, social certifications have produced a false sense of security and led to veils for human rights abuses, or the failure of social audits to prevent abuses such as forced labour. In some cases, retailers appear to be less concerned about the credibility of their preferred certification, and more concerned with “ticking a box”. Thus, a standardized approach, which includes existing regulations, would help to address the credibility and validity of vessel audits, and which is still flexible enough to consider fleet and regional characteristics.

There are numerous views on auditing programs, and their effectiveness and mandate. While there is a role for auditing and certification programs to confirm change, it is important to acknowledge that they are only one part of the picture and ‘outsourcing’ the problems and solutions is discouraged by global regulations and initiatives. For example, to add further value to the auditing report, companies should consider applying an assurance approach, including real-time data collection. Vessel audits can also be expensive and may result in costs passed down the supply chain. It is imperative to ensure that these costs are not pushed on to producer’s workers.

Crewing and recruitment agencies

Throughout the presentations and reviews of national employment legislations, the need to address crewing/recruitment agencies was emphasized. Regulations for crewing agencies hardly exist and are jurisdictionally complex. To address this aspect, companies are working on establishing lists with trustworthy crewing agencies and the Seafood Task Force has some procedures in place to control and “filter” crewing agencies³⁴. However, many crew are recruited in villages through their family network. For example, in Indonesia, the majority of the crew does not go through official crew brokers due to the costs. Overall, it is important that costs regarding crewing agencies are not carried by the workers themselves and a good way to start would be to prohibit ongoing fees by labour agents to lower the debt risks for crew members from agents.

COVID19 – a current and urgent issue

The current pandemic seriously threatens the safety of crew and port States. Some countries have started to prioritize vaccination for fisheries, foreign and national (e.g., Fiji) and industries also launched vaccination programmes for their crew (e.g., Hawaii Longline Association). However, questions regarding the treatment of foreign crew remain, as vaccinating crew often raises a responsibility issue, as the responsibility is neither on the flag nor on the coastal state, but on the crewing country. Moreover, it is important to ensure that costs for vaccinations are not passed down to the workers, but also to acknowledge that getting vaccinated should be a choice.

4. How to move forward

The last section proposes research questions and themes, based on the issues identified in the previous section.

As highlighted in the first section, there are already numerous global, national, and regional workplace requirements in force, however, gaps remain. It would be of great value to conduct a study on operational and legal scenarios for DWF vessels and crew, to better understand these gaps and to understand and define operations, jurisdictions, and responsibilities. These findings would support the identification of chains of responsibilities for implementing labour standards, labour recruitment, wages, contracts; but also, for monitoring, auditing, and enforcement.

More research is required to examine the minimum levels of policy reform needed, at domestic levels (for coastal, port, and flag States) and regional policy (e.g., MTCs) to meet international norms and standards of practice. It is also important to study what enforcement, surveillance, and accountability systems are needed in order to ensure the mandated practices are adhered to in practice, including key technologies, crew registries, or inter-agency coordination mechanisms. Lastly, a study that assesses the adherence of the industry to existing policy regimes and their weak points would lead to a more coherent crew protection.

5. Summary

The aim of the workshop was to review existing regulatory mechanisms and discuss how they might align with industry initiatives. As presented in this report, there are numerous global, regional, and national initiatives in place. However, their implementation is lacking. Furthermore, industry examples demonstrated that industry and civil society have been the driving forces to increase labour standards and improve crew welfare. Therefore, future measures, legislations, and policies need to ensure that they are built on existing regulatory and industry/civil society initiatives and are not hindering further industry progress. Generally, it is important to keep in mind that there is no one-size-fits-all approach and the different fleet characteristics need to be taken into account, as well as relevant international law when discussing aspects such as minimum standards or conservation and management measures.

Furthermore, other issues include for example auditing programs and as highlighted in this report, there is a need to establish a standardized auditing mechanism, based on globally agreed workplace regulations, to assure credibility and validity, and prevent meaningless self-certifications. However, auditing programs are only one way to address social responsibility and under the UN Guiding Principles on Business and Human Rights, companies have a well-defined duty to prevent human rights abuse.

While there are important industry and civil society initiatives underway, it is important that governments and inter-government organisations such as RFMOs catch up and work cohesively with industry and civil society to ensure that crew member rights are protected, monitored, and applied everywhere.

Acknowledgment

We would like to thank Professor Glenn Hurry for chairing this workshop and Dr Mi Zhou from the ILO for her keynote presentation. Furthermore, we would like to thank the industry representatives for presenting their initiatives, namely, Dr Eric Kingma, Mr Fong Lee, Ms Amanda Hamilton, Ms Christa Svensson, Mr Martin Exel, Mr Marcelo Hidalgo, and Mr Maurice Brownjohn. Lastly, we would like to thank all the participants for participating in this workshop and for their engagement in the discussions.

We further would like to thank KMI for their generous funding for this workshop.

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Appendix 1 – Participant list

| Name | Affiliation | Country |
|-------------------------|--|------------------|
| Jieun An | KMI | Korea |
| Thomas Auger | Conservation International | New Caledonia |
| Hilary Ayrton | MPI International Fisheries Management | New Zealand |
| Kamal Azmi | ANCORS | Australia |
| Maurice Brownjohn | Parties of the Nauru Agreement | Marshall Island |
| Shui-Kai (Eric) Chang | National Sun Yat-sen University | Chinese Taipei |
| Jung Hee Cho | KMI | Korea |
| Alexa Cole | Office of International Affairs and Seafood Inspection/ NOAA | USA |
| Bubba Cook | WWF | New Zealand |
| Ruth Davis | ANCORS | Australia |
| Vivien Deloge | Pew Charitable Trusts | UK |
| Mere Lakeba | Conservation International | Fiji |
| Alejandro Garcia Lozano | Arizona States University, Conservation International | USA |
| Martin Exel | SeBOS | Australia/Japan |
| Juno Fitzpatrick | Conservation International | USA |
| Bianca Haas | ANCORS | Australia |
| Amanda Hamilton | Tri marine | Singapore |
| David Hammond | Human Rights at Sea | UK |
| Quentin Hanich | ANCORS | Australia |
| Katherine Hanly | Pew Charitable Trusts | UK |
| Nathalie Hanley | International Organisation of Migration | |
| Marcelo Hidalgo | Fishing Industry Association PNG | Papua New Guinea |
| Emma Hodder | New Zealand Ministry of Foreign Affairs and Trade and Co-Chair of the WCPFC Inter-sessional working group on fishing crew labour standards | New Zealand |
| Glen Hurry | | Australia |
| Young Tae Jang | KMI | Korea |
| Myeong Hwa Jung | KMI | Korea |
| Prad Kerdpaioj | Thai Union | |
| Eric Kingma | Hawaiian Longline Industry Association | USA |
| Jack Kittinger | Arizona States University, Conservation International | USA |
| Radhika Kuma | Solander | Fiji |
| Fong Lee | FCF Co., Ltd | Chinese Taipei |
| Han-Yu Lin | Taiwan Tuna Association | Chinese Taipei |
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| Hoki Lo | Global Fishing Watch | Chinese Taipei |
| John Maefiti | Global Fishing Watch | Fiji |
| Lara Manarangi-Trott | WCPFC | Pohnpei |

| | | |
|---------------------|--|------------------|
| Hiroaki Matsui | AI-El Law Firm / Shinshu University | Japan |
| Katrina Nakamura | Sustainability Incubator | USA |
| Pablo Obregon | Conservation International | USA |
| Seoyeon OH | KMI | Korea |
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| Garry Preston | Adviser for Vanuatu Fisheries Department | Vanuatu |
| Anare Raiwalui | FIA | Fiji |
| Penelope Ridings | WCPFC | New Zealand |
| Len Rodwell | FFA | Solomon Islands |
| Joshua Anthony See | Frabelle Fishing Group | PNG |
| Eidre Sharp | WCPFC | Pohnpei |
| Hyun-Ai Shin | Korea Overseas Fisheries Association | Korea |
| Christa Svensson | Tri marine | Singapore |
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| Guifang (Julia) Xue | Shanghai Jiao Tong University | China |
| Sihyun Yoo | KMI | Korea |
| MiKyung Yoon | KMI | Korea |
| Mi Zhou | ILO | Thailand |

Appendix 2 – Workshop agenda

Tuesday 24th August 2021 – All times are Busan, Korea

Session 1: 830am – 845am – Welcome and Introductions

- Welcome by KMI President
- Introductions and workshop agenda by chair, Prof. Glenn Hurry

Session 2: 845am – 915am – Keynote by the International Labour Organisation (TBC)

- Presentation by Dr Mi Zhou, ILO
- Questions and discussion

Session 3: 915am – 1045am – Existing regulations and policies for crew conditions and safety;

- Overview, table summary of legislation and relevant government Ministries with jurisdiction over fishing crew labour, safety and working conditions by Dr Bianca Haas, ANCORS – includes brief example of EU.
- Korean national regulations and policies by Seoyeon OH, KMI
 - o Response
- Pacific by Kamal Azmi, ANCORS
 - o Response
- USA by Dr Katrina Nakamura, Sustainability Incubator
 - o Response
- Chinese Taipei by Prof. Shui-Kai Chang, National Sun Yat-sen University
 - o Response
- China by Prof. XUE Guifang, Shanghai Jiao Tong University
 - o Response
- Japan by Prof. Hiroaki Matsui, Shinshu University
 - o Response
- Pacific Islands Harmonised Minimum Terms and Conditions by Len Rodwell, FFA
 - o Response

Morning Tea: 1045am – 11am

Session 4: 11am – 12pm: Ground truthing national regulations, policies, and coordination

- Group discussion and feedback

Wednesday 25th August 2021 – All times are Busan, Korea

Session 1: 830am – 845am – Summary of Regulations and Policies

- Summary by chair, Prof. Glenn Hurry

Session 2: 845am – 1030am – Industry initiatives and comments

- Dr Eric Kingma, Hawaiian Longline Industry Association
- Fong Lee, FCF
- Amanda Hamilton, Tri Marine
- Martin Exel, SEABOS
- Marcelo Hidalgo Zambrano, FIA PNG
- Maurice Brownjohn, PNA/Pacific

Morning Tea: 1030am – 1045am

Session 3: 1045am – 11:45am: Priorities, precedents and pathways

- Group discussion and feedback on priorities, precedents and pathways for protecting DWF crews from labour abuses and improving their safety

Meeting close: 1145am – 12pm: Discussion summary and next steps

- Summary by chair, Prof. Glenn Hurry