



Human Rights Abuses in the Global Seafood Industry and Its Links to Japan

This report summarizes major human rights abuses involved in the global seafood industry and their links to Japanese companies, following the incident on Chinese fishing vessel Longxing 629 which was discovered in May 2020. The global fisheries industry is beset by major illegal activities and abuses including pirate fishing, conflicts over fishing grounds, child and forced labor, and human trafficking, resulting in serious human rights violations against workers. Despite limited progress on some fronts, however, the mechanisms for labor protections remain inadequate or unenforced by the Japanese government and around the world. In this report, Human Rights Now (HRN), a Tokyo-based international human rights NGO, clarifies the actual situation of human rights violations in the global fishing industry and the involvement of Japanese companies, and it makes the following recommendations to the Japanese government and the Japanese fishing industry to eliminate human rights violations in the industry and to ensure transparency and greater enforcement of sustainable fishing practices.

1. Outline of the case (Chinese fishing vessel Longxing 629 incident)

(1) Background of the case¹

This case of abuses against the Indonesian crew of fishing vessel Longxing 629, perpetrated by the Chinese company Dalian Marine Fisheries Co., Ltd, is representative of widespread human rights violations in the fishing industry. On 26 April 2020, while in quarantine in Pusan, South Korea, the crew was interviewed by a representative of the NGO Advocates for Public Interest Law (APIL) and reported the serious abuses they had been subjected to over 13 months at sea aboard Longxing 629.

Longxing 629 was at sea for 13 months without entering port and was instructed to conduct illegal shark fin fishing in the West Pacific region, a clear case of illegal, unreported, and unregulated (IUU) fishing. Longxing 629 was staffed by Indonesian fishermen who reported being subjected to numerous labor and human rights violations, including violations of their right to life.

The Indonesian crew were recruited by several recruitment agencies, which they later reported as using exploitative practices, including lying about the type of fishing, the working

¹ HRN (Statement) “HRN Co-signs Letter Calling for the Fishing Vessel Longxing 629 to be Added to IUU List for Abuses”, 27 July 2020, <https://hrn.or.jp/eng/news/2020/07/27/hrn-co-signs-letter-on-iuu-fishing/>.

conditions, and level of compensation. For example, they were forced to pay high fees before their work even began that were deducted from their salary. Much of their salaries was deducted for such fraudulent fees. Many did not receive a regular wage, and the lowest and average salaries for 13 months of work (after deductions) were \$120 and \$500 USD, respectively, 3% and 11% of the promised amount.

(2) The reality of human rights violations

The crew's working hours were consistently up to 18 hours a day or more and the working conditions were intolerable, including a diet that led to malnourishment and vitamin deficiency and having one toilet for 27 crewmembers and no shower for the Indonesian crew. The crew faced verbal and physical abuse at the hands of the vice-captain and other Chinese crew. When the Indonesian crew boarded the vessel, their passports were confiscated, and they were at sea for over a year making it impossible for them to leave despite the terrible conditions.

The most shocking part of the case which drew widespread public outcry was the treatment of four crew members who had gotten ill while at sea and eventually died. When the vessel ran out of drinking water, the Indonesian crew could only drink diluted seawater, while the Chinese crew drank bottled water. One of the Indonesian crew reported that it was after some of the Indonesian crew drank diluted seawater that they subsequently caught an unknown disease. Four of the crew members eventually died of the illness, and the bodies of three of them were thrown into the sea without consent and disregarding the crew's strong opposition rather than sent back to their family as required under their contract.

(3) Relevance of IUU fishing to human rights violations

In the wake of these events, HRN has paid particular attention to the connection between the human rights abuses aboard the vessel and its practice of IUU fishing. Longxing 629 was legally licensed to fish for tuna. However, it was also involved in shark finning, which is illegal around the world. Vessels conducting IUU fishing like Longxing 629 regularly stay at sea for long periods without visiting ports, among other reasons, to avoid customs authorities discovering the IUU fishing. Transshipments by supply vessels allow them to do this. However this isolates the ship and crew, preventing the outside world from realizing the situation and facilitating labor and human rights violations against the crew.

The confiscation of the crew's passports, their debt bondage, and their inability to leave the vessel for over a year appear to meet the elements of forced labor under Article 8(3) of the ICCPR, and the combination of their fraudulent recruitment, numerous forms of exploitation, and international movement appear to meet the elements of human trafficking, both serious human rights violations.

HRN impresses upon the Japanese government, businesses and civil society the significance of recognizing the reality of the international seafood industry as revealed by this case, namely that forced labor and human trafficking are widespread. As one of the largest seafood importing countries in the world, it should be of great concern to the Japanese government, businesses, and public that this case has exposed the prevalence of forced labor and human trafficking in the global fishing industry. It is likely that a great amount of seafood is entering the Japanese seafood market caught under such exploitative conditions. It is urgent that the Japanese government enact legislation to identify and prohibit the importation of IUU fishing and that Japanese businesses ensure that their supply chains are free of IUU fishing and respect labor and human rights through adequate due diligence investigations, the results of which

should be publicly released to ensure transparency and accountability. If a risk of violations is identified, Japanese businesses should not simply drop their seafood suppliers unless necessary, which only allows violations to continue, but they should use their strong market leverage to pressure the suppliers to prevent violations and work with their suppliers, with the assistance of the government and civil society groups, to ensure that human rights violations are identified, prevented, and remedied.

2. The Prevalence of IUU Fishing Internationally in Today's Fishing Industry

The most significant problem in the seafood industry, from which many other problems emanate, is the widespread practice of illegal, unreported, and unregulated (IUU) fishing. Examples of IUU fishing include violations of regional or international regulations and use of explosives or electro-fishing that can harm the marine ecosystem. IUU fishing can lead to overfishing and decline of fish stocks and biodiversity.

IUU fishing practices also substantially increase the risks of serious human rights abuses. A 2019 report on human rights abuses related to IUU fishing in nine countries found that crews of fishing vessels connected to IUU fishing, by the nature and remote location of their work and facilitated by IUU fishing practices, are vulnerable to human trafficking, forced labor, exploitative working conditions, wage reductions, and labor abuses which pass unnoticed by authorities and regulatory agencies. The report documents human rights abuses across multiple vessels, flag states, and regions, including periods of over a year at sea, illegally long hours, low or no pay, squalid living quarters, extreme violence, physical and sexual assault, and murder.² In addition, overfishing can also lead to increased poverty and malnutrition for millions of people who rely on the oceans as their sources of food and livelihood. Importing states and businesses thus have a critical responsibility to ensure their seafood suppliers do not engage in IUU fishing or labor and human rights violations, and they must conduct surveys to identify and manage such violations.

3. IUU Fishing in the Supply Chains of Seafood Imported to Japan

A huge amount of IUU seafood products make their way to the Japanese seafood market. In 2019, Japan was the third largest importer of seafood in the world after the European Union and the United States.³ Together the markets of the EU, US and Japan account for 64% of the total value of the world's trade in seafood.⁴ In 2018, China was the largest exporter of seafood to Japan, and the other principal exporters were the US, Chile, Russia, Vietnam, and Thailand.⁵

² Environmental Justice Foundation, "Blood and Water: Human rights abuse in the global seafood industry", 2019 <https://reliefweb.int/sites/reliefweb.int/files/resources/Blood-water-06-2019-final.pdf>. (The points in the remainder of this subsection are taken from this report.)

³ Jess Mackie, "Japan has an Illegal Seafood Problem", Hakai Magazine, 18 Oct. 2019, <https://www.hakaimagazine.com/news/japan-has-an-illegal-seafood-problem/>.

⁴ IUUWatch, "New Report Compares Import Control Schemes Aimed at Tackling Illegal, Unreported and Unregulated Fishing in the Top Three Seafood Market States", 8 Jan. 2020, <http://www.iuuwatch.eu/2020/01/new-report-compares-import-control-schemes-aimed-at-tackling-illegal-unreported-and-unregulated-fishing-in-the-top-three-seafood-market-states/>.

⁵ Fisheries Agency, "(4) *Suisanbutsu Bōeki no Dōkō* [Seafood trade trends]", https://www.jfa.maff.go.jp/j/kikaku/wpaper/h30_h/trend/1/t1_3_4_4.html (in Japanese).

A study shows that in 2015, of the 27 country-product groupings imported to Japan examined, squid and cuttlefish from China had the highest estimated volume of illegal and unreported origin (26,950 t to more than 42,350 t, representing 35–55% of total squid imports from China). Alaska Pollock from the US was second with a volume of more than 26,000 t (15–22% of Pollock imports from the US). Wild caught salmon from Russia was the next highest illegally imported product by volume (13,000 t, denoting 30–40% of salmon imports from Russia).⁶

This is not surprising given the history of the fishing industry. For example, crab from Russia has been associated with illegal fishing for decades. Even after Japan and Russia reached an agreement in 2014 to curtail IUU crab, the study shows that poached crab from Russia still made its way into Japan, albeit at a reduced level.⁷

Alaska pollock exemplifies the risks inherent in global supply chains. One report notes that only two or three percent of Alaska pollock is caught illegally by US vessels, close to the lowest amount reasonably attainable. But that pollock goes to other countries, primarily China and Vietnam, for processing, where it gets mixed with illegally sourced pollock from Russia. In this way, through post-processing, Alaska pollock enters Japan with an elevated IUU content.⁸ Therefore, despite the effort to curtail the IUU fishing, the IUU sea products still make their way to the Japanese seafood market.

4. Challenges with the Legal Framework and Human Rights Guarantee for Japanese Fishing

(1) Lack of IUU Fishing Regulations in Japan

The seafood industry in Japan is far behind the global standards for regulation on IUU fishing. However, of the three largest seafood markets in the world, the EU and US have existing regulations on the import of marine products from IUU fishing. This exposes the Japanese market, which does not have any regulations in place, to a high risk of the inflow of illegally sourced fish.⁹ In 2015, about 24 to 36 percent of all the wild-caught seafood imported into Japan was caught by illegal fishing, with a value ranging from \$1.6 to \$2.4 billion USD.¹⁰

Weakly framed import regulations and outdated fishing policies appear to be driving an inadvertent trade of illegal and unreported seafood products into the Japanese market.¹¹ In 2018, Japan significantly amended its fishing laws for the first time in 70 years, which came into effect in December 2020. The changes reflect a growing effort to protect overfished species in domestic waters by increasing penalties, imposing individual quotas on fishing vessels, and introducing a

⁶ Ganapathiraju Pramod, et al, “Estimates of illegal and unreported seafood imports to Japan”, *Marine Policy* 84 (2017), p. 46, <http://stopcrabmafia.ru/wp-content/uploads/2017/07/Estimates-of-illegal-and-unreported-seafood-imports-to-Japan.pdf>.

⁷ Mackie, above, note 3.

⁸ Id.

⁹ Sustainable Seafood Now, “Tokyo Sustainable Seafood Symposium 2019”, <https://sustainableseafoodnow.com/archive/en/report/tsss2019/1588/>.

¹⁰ Id., “Tokyo Sustainable Seafood Symposium 2019: Sustainable Seafood”, <https://sustainableseafoodnow.com/archive/report/tsss2019/1409/> (in Japanese).

¹¹ Pramod, *et al*, above, note 6, p. 42

science-based total allowable catch system. Yet the country still lags behind the EU and the US when it comes to traceability standards which are essential to enforcement.¹²

(2) The Importance of Ensuring Traceability—EU and US Laws and Regulations

The EU and US are global leaders in traceability requirements and regulations for the seafood industry. Improving traceability is essential for preventing abuses and holding perpetrators accountable. The EU has passed multiple regulations including EU IUU Regulation 1005/2008, EU Control Regulation 1010/2009, and EU Control Regulation 1224/2009, that aim at ensuring full traceability of all marine fishery products from the time the fish are caught to the time they arrive on the plate. They also focus on sustainability and reducing IUU fishing, including a specific provision that requires countries wishing to import seafood to the EU to register with authorities and to guarantee that the quality and processing of fish products are controlled at least to standards equivalent to those of the EU.¹³ At every point along supply chains, information must be provided that proves the legality of the catch. For example, fishing vessels and aquaculture facilities must have a unique ID code and must have one-up-one-down product traceability at a minimum.

The European Commission issues “yellow cards” or “red cards” to states that have not taken sufficient action to control IUU activity in their waters. These regulations have had particular success in the case of Thailand which, after being issued a “yellow card” by the Commission in April 2015, has since taken significant steps to amend its fishing legal framework in line with international law.¹⁴ As of 2019, the Commission lifted its “yellow card” from Thailand, acknowledging that the country successfully addressed IUU issues in its fishing.

In 2018 the US’s National Ocean and Atmospheric Administration (NOAA) implemented the Seafood Import Monitoring Program (SIMP), which was designed to improve the traceability of seafood. It requires documentation from across the seafood supply chain, from point of catch to point of entry into the US market, and focuses on 13 species that the NOAA deemed most at risk of IUU fishing. While traceability standards have improved under SIMP, a number of NGOs including WWF, Greenpeace, NRDC, Oceana, and the Center for Biological Diversity have called on NOAA to expand SIMP to close key implementation gaps and to include all imported seafood species.¹⁵

Japan has signed a statement separately with the EU, the US, and Russia to work together to fight IUU fishing and to encourage countries to promote management measures that strengthen control monitoring and enforcement mechanisms and to ratify the Port State Measures Agreement.¹⁶ Yet Japan still lags behind the EU and the US when it comes to traceability standards, with no government mandated traceability requirements for seafood products nor a law that specifically aims for human rights protection in seafood supply chains in place. The revised fishing laws do not include prevention of human rights violations, which should be included to improve the accuracy of traceability. Japan and the world’s top seafood

¹² Mackie, above, note 3.

¹³ FishWise, “Advancing Traceability in the Seafood Industry”, Feb. 2018,

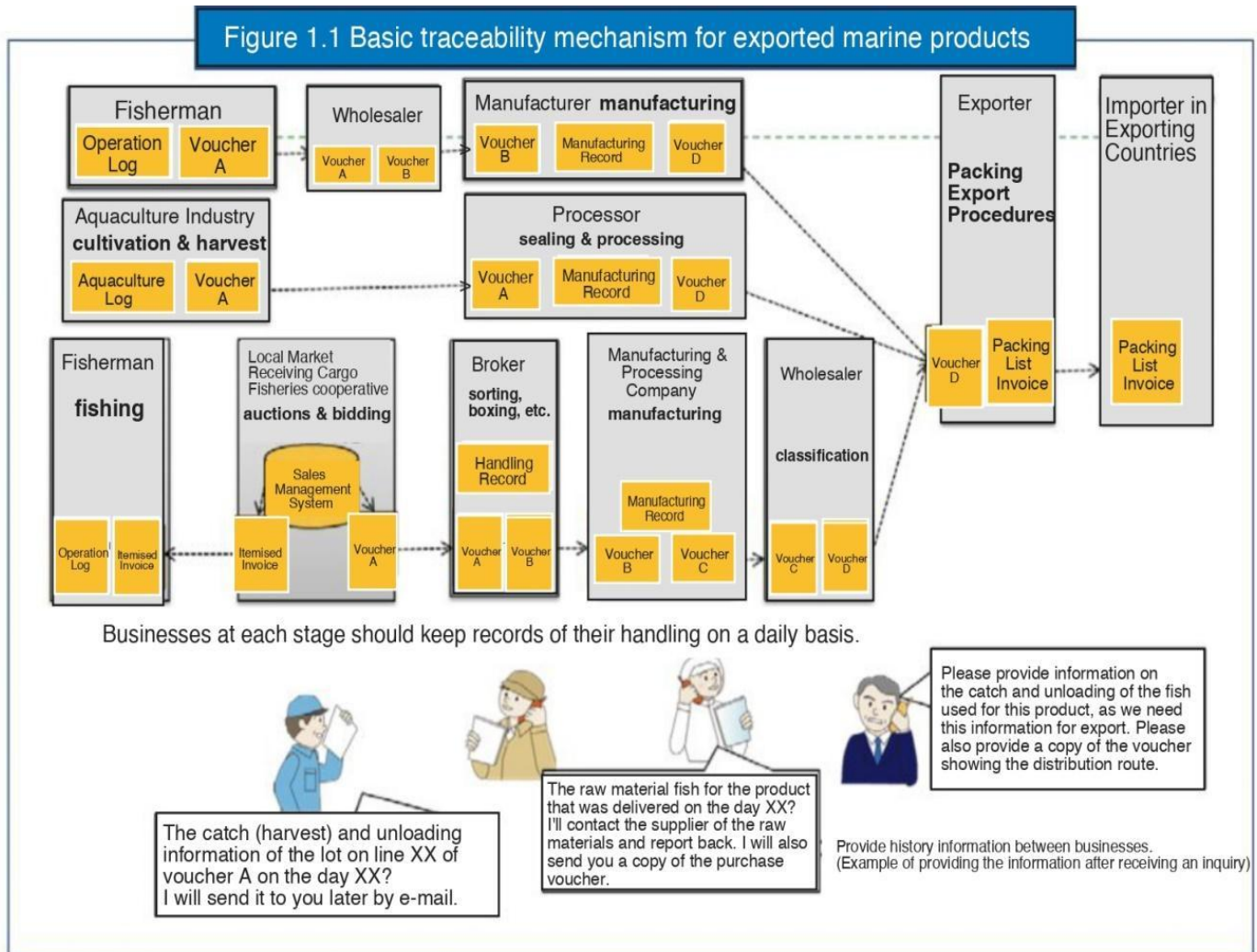
http://fishwise.org/wp-content/uploads/2018/03/2018.02.22_Trace-WP_February-2018-Update.pdf.

¹⁴ Enrico Brivio, “Commission lifts ‘yellow card’ from Thailand for its actions against illegal fishing”, European Commission, https://ec.europa.eu/commission/presscorner/detail/en/IP_19_61.

¹⁵ Sandy Aylesworth, “NGOs Call for NOAA to Strengthen Seafood Import Standards”, NRDC, <https://www.nrdc.org/experts/sandy-aylesworth/ngos-call-noaa-strengthen-seafood-import-standards>.

¹⁶ Mackie, above, note 3.

importers—the EU, the US, China, and South Korea—must all require full traceability across the entire seafood supply chain to avoid strict measures in one country simply diverting IUU products to another, less regulated country.



Source: Fisheries Agency "Guidelines for introducing marine product traceability for export" revised in April 2019 (3rd edition)

5. International legal framework and government and corporate responsibility for human rights issues in the fishing industry

(1) International legal framework and its challenges

To effectively combat IUU and related human rights abuses in the global fishing industry, states and businesses must adopt and enforce international laws and standards. As mentioned above, states around the world have been developing and improving laws to increase traceability, improve due diligence, and provide sufficient grievance mechanisms to address human rights violations, and similar efforts are needed in Japan. There are however challenges with current

international standards on IUU fishing as well. Under these standards, port authorities, ship owners, and captains have a duty to identify and eradicate IUU fishing and ensure the rights of fishing vessel crews, but there are challenges in implementing labor protection standards.

One major international source for standards for combatting and eliminating IUU fishing is the Food and Agriculture Organization's (FAO) Port State Measures Agreement (PSMA), which currently has 66 parties, including Japan, the EU, and the US. Under the PSMA, port authorities must be given strong powers to inspect fishing vessels, which are often linked to cases of trafficking, labor abuses and slavery, while captains are required to provide licenses, data on catches, and vessel registration. While it takes a step towards combating IUU fishing, it remains inadequate due to its lack of a specific traceability requirement and lack of enforcement and grievance mechanisms.¹⁷

While the International Labor Organization (ILO)'s Work in Fishing Convention, 2007 (No. 188) offers greater protections by applying to all vessels engaged in commercial fishing and creating duties for vessel owners and skippers to ensure crew health and safety, only twelve countries have ratified it. This convention includes regulations on age limits, as well as sufficient hours of rest, wages, food, and medical care for crew.

There are a number of international anti-slavery laws and agreements that apply to trafficking on fishing vessels. The United Nations Convention against Transnational Organized Crime (UNTOC) includes specific language regarding trafficking and smuggling aboard fishing vessels and has 190 Parties, including Japan. Moreover, the Slavery Convention (1926), ILO Forced Labor Convention (1930), UDHR (1948), UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), International Convention on Civil and Political Rights (ICCPR) (1966), and other laws prohibit all forms of forced or compulsory labor. However, their effectiveness remains a challenge.

(2) Accountability by the State

In November 2016, Japan began to develop a National Action Plan (NAP) on Business and Human Rights which was launched on 16 October 2020. The stated objective of the NAP is to promote and protect human rights for the international community and to enhance business values by expecting business enterprises to identify risks to human rights in their operations, and to take measures to manage them.¹⁸

Currently there is a lack of domestic law making it a legal obligation to conduct human rights due diligence, including the disclosure of non-financial information such as the results of human rights due diligence and providing effective relief to victims of human rights violations in supply chains, which hamper corporate social responsibility.

In order for companies to discover human rights violations among their suppliers, national law must require them to implement appropriate due diligence, codes of conduct (CoC), and fair recruitment practices. It is necessary to establish a mechanism to clarify the responsibilities of suppliers, such as the obligation to ensure purchase contracts guaranteeing labor and human rights compliance of the supplier. Companies should also be required to disclose supplier information, activities, and audit results to ensure accountability and transparency.

¹⁷ FishWise, above, note 15.

¹⁸ The Inter-Ministerial Committee on Japan's NAP on Business and Human Rights, "Towards formulating the National Action Plan (NAP) on Business and Human Rights", July 2019, <https://www.mofa.go.jp/files/000515902.pdf>.

Under the NAP, there is an obligation for the government of Japan to consider and implement improvements in the accuracy of traceability of companies' entire supply chains in accordance with international human rights standards, as well as obligations for companies' due diligence and establishing mechanisms for addressing human rights violations.

(3) Corporate responsibility

Many large businesses in the fishing industry have integrated corporate social responsibility standards into their strategic planning; however, they must also meet their corporate responsibilities towards human rights risks in their supply chains as required by international standards such as the UN Guiding Principles. The Guiding Principles emphasize the international human rights duties of states and companies to respect, protect, and fulfill the human rights of individuals affected by companies' business activities and to effectively identify human rights risks and violations in their supply chains, and it provides standards for establishing a human rights due diligence system to address, prevent, and mitigate violations. In addition, it is also necessary for companies to establish a dialogue and relief (grievance) mechanism in line with UN Guiding Principles so that human rights violations related to their business activities can be dealt with at an early stage.

Moreover, there are major industry-led alliances and initiatives aimed at tackling human rights issues in the seafood industry including the Seafood Task Force, the International Seafood Sustainability Foundation, Seafood Business for Ocean Stewardship, and the Global Sustainable Seafood Initiative (GSSI). However, in June 2019, Human Rights Now co-signed a statement with 12 other NGOs criticizing the Marine Stewardship Council's new system for Chain of Custody Certification as ineffective in identifying labor rights violations in seafood operations and unable to provide seafood buyers assurances that child and forced labor are not present in their supply chains.¹⁹ Among other problems, the statement criticized the system for exempting audits for companies that operate in "low risk" countries according to broad country-level criteria (like Japan where there are known indications of risk); its audit findings are not disclosed; there is not a credible complaint mechanism; there is not an enforceable mechanism for remediation; and seafood operations are not required to conduct proper due diligence.

In accordance with the UN Guiding Principles, companies should take responsibility for human rights violations related to their business activities, recognizing that it is difficult to ascertain the human rights violations of crews, especially in the fisheries industry, and that there is a serious gap between the current domestic legal system and international human rights standards.

6. Recommendations

In the wake of the horrific human rights violations against the Indonesian crew members of Longxing 629, Human Rights Now calls on the government and companies to permanently end the practice of IUU fishing and its related human rights violations, and we offer the following recommendations.

¹⁹ HRN, "HRN has Co-signed a Statement Criticizing the Marine Seafood Council's New Chain of Custody Certification System", 17 June 2019, <https://hrn.or.jp/eng/news/2019/06/17/public-statement-on-msc-certification/>.

(1) To the government of Japan:

- Take necessary measures in accordance with the National Action Plan, including the development of domestic laws, so that the responsibility of companies to respect human rights can be fulfilled.
- Enact legislation requiring domestic businesses to enact traceability standards for all seafood products they bring into the state which requires documentation from all parts of the product's supply chain, to release lists of their seafood suppliers, and to conduct adequate due diligence investigations of their seafood suppliers and publicly release the results.
- Enact effective legislation to identify and prevent IUU fishing including import regulations and fishery policies to establish monitoring, traceability, grievances mechanisms, and greater enforcement of international standards for activities and working conditions on fishing vessels and fish carriers that fly their flag.
- Adopt and enforce international conventions related to IUU fishing and working conditions on fishing vessels including, if not already ratified, UNCLOS, relevant RFMOs, PSMA, UNTOC, and relevant ILO conventions including Work in Fishing Convention, 2007 (No. 188).

(2) To the private sector:

- In consultation with civil society, adopt a strong human rights policy consistent with the UN Guiding Principles on Business and Human Rights as well as explicit due diligence standards specifically targeted at identifying and preventing IUU fishing and labor and human rights abuses of the fishing crews of the business and/or of its seafood suppliers.
- Ensure transparency by releasing a list of seafood suppliers, results of due diligence investigations of seafood suppliers, and measures taken to ensure accountability and prevention for any violations identified.
- Use your market leverage to pressure seafood suppliers to avoid labor and human rights violations and work with the seafood suppliers, in consultation with civil society and all relevant stakeholders, to ensure that human rights violations are identified, prevented, and remedied.
- Join industry alliances requiring members to commit to preventing IUU and to strong labor and human rights protections for fishing crews, and within the alliance press for greater commitments to labor and human rights standards, including effective due diligence.