



# COMMITTEE ON FISHERIES

## SUB-COMMITTEE ON FISH TRADE

### Nineteenth Session

11-15 September 2023

## FAO GUIDANCE ON SOCIAL RESPONSIBILITY IN THE FISHERIES AND AQUACULTURE VALUE CHAINS: INDUSTRIAL FISHING

### Executive Summary

This document outlines the process FAO has undertaken to develop the first section of the FAO Guidance on Social Responsibility in the Fisheries and Aquaculture Value Chains (FAO Guidance), covering industrial fishing. This work builds upon the FAO mandate on social sustainability conferred by Members in 2017 and their support during the 18th Session of the COFI Sub-Committee on Fish Trade (COFI:FT).

### Suggested action by the Sub-Committee

- Note the critical role the FAO Guidance may have in promoting decent working conditions within the context of social issues in the fisheries and aquaculture sector, as called for in the 2021 COFI Declaration for Sustainable Fisheries and Aquaculture, and emphasized by the Committee on Fisheries (COFI) and COFI:FT.
- Provide guidance for continuing the development of the FAO Guidance, including subsequent steps in the context of the necessary broad stakeholder involvement.
- Invite partners to provide support to FAO to continue the development of the FAO Guidance, in particular, given its relevance for gender and small-scale fisheries (SSF).

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## INTRODUCTION

1. As the International Labour Organization (ILO) reported, the fisheries sector is one of the three most hazardous occupations.<sup>1</sup> Decent working conditions along the fisheries and aquaculture value chains are a critical step to mitigate risks and reduce hazards for the numerous individuals relying on the sector for their income, livelihood, or employment.
2. Human and labour rights abuses throughout the value chains remain challenging in the fisheries and aquaculture sector, particularly in the fishing, fish harvesting, farming, and processing phases.<sup>2</sup> At various stages of the fisheries and aquaculture value chains, unsustainable practices may cause numerous social problems, particularly for vulnerable people such as migrant workers, women and children. Migrant workers are indeed more susceptible to modern slavery, bondage, forced labour and other abuses, particularly when illegal, unreported and unregulated (IUU) fishing activities occur. The absence of adequate social protection, social security or healthcare, the lack of formal working relationships, and inadequate working conditions are structural problems that persist throughout many areas of the fisheries and aquaculture value chains. In many countries, the absence of enforcement of pertinent labour legislation remains a significant problem in the sector.<sup>3</sup>
3. Various international instruments address labour rights to ensure equitable social practices. However, stakeholders in the fisheries and aquaculture sector face implementation challenges due to the complexity and diversity of these instruments. In addition, some instruments are cross-sectoral and do not address the particular circumstances or context of the fisheries and aquaculture sector.

## BACKGROUND

4. Members welcomed the inclusion of social sustainability on the agenda for the first time at the 16th Session of COFI:FT.<sup>4</sup> The Sub-Committee acknowledged the importance of addressing social issues by protecting and promoting human and labour rights. In this regard, FAO was requested to develop practical guidance on social responsibility along the fisheries and aquaculture value chains to ensure decent working conditions, consistent with the 2021 COFI Declaration for Sustainable Fisheries and Aquaculture.<sup>5</sup>
5. The FAO Guidance should be voluntary, non-binding, practical, complementary, written in simple language, supportive, and based on the wide variety of existing international conventions, agreements and standards, as agreed by the Sub-Committee. It should also consider different national realities and capacities, especially in developing countries and SSF.<sup>6</sup>
6. FAO has been developing the FAO Guidance since the mandate on social sustainability was given in 2017. Several multi-stakeholder consultations were conducted worldwide to identify the limitations and requirements of the sector. These consultations were attended by representatives from the industry, governments, UN agencies, non-governmental organizations (NGOs), trade unions, international organizations, and academia, among others. The consultations were critical for FAO in preparing a draft guidance proposal for the 17<sup>th</sup> Session of COFI:FT.<sup>7</sup>

<sup>1</sup> [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_071324/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_071324/lang--en/index.htm)

<sup>2</sup> <https://doi.org/10.4060/cb5009en>

<sup>3</sup> <https://doi.org/10.4060/cc0461en>

<sup>4</sup> <https://www.fao.org/3/i8157t/i8157t.pdf#page=16>

<sup>5</sup> <https://www.fao.org/3/cb3767en/cb3767en.pdf>

<sup>6</sup> <https://www.fao.org/documents/card/en/c/cc1513t>

<sup>7</sup> <https://www.fao.org/3/nb389en/nb389en.pdf>

7. In 2021, FAO held a series of informal virtual regional consultations with Members to discuss the ongoing work on the FAO Guidance. FAO organized eight informal regional consultations encompassing Europe, Central Asia, Africa, Near East and North Africa, South and North America, the Caribbean, and Asia and Oceania. More than 140 experts and representatives from 66 Members, including the ILO, International Maritime Organization (IMO), and United Nations Conference on Trade and Development (UNCTAD), participated in these informal consultations. It was emphasized that the FAO Guidance could be a valuable tool for the private sector and a supporting tool for governments in improving and ensuring decent working conditions in the industry.

### **PROCESS OF DEVELOPMENT OF THE FIRST SECTION OF THE FAO GUIDANCE: INDUSTRIAL FISHING**

8. After the 35th Session of COFI in September 2022, during which Members endorsed the continuation of FAO Guidance work, the first section on industrial fishing began to be developed. As recommended by Members at the 18th Session of COFI:FT, the FAO Guidance will address labour rights, decent working conditions and social protection based on the wide range of existing international conventions and agreements.

9. The FAO Guidance will consist of a general part addressing the nature and scope of the Guidance, including its emphasis on the private sector, internationally agreed principles, and cross-cutting aspects such as gender and child labour, and six specific sections covering industrial fishing, SSF, aquaculture production, processing, distribution, and retailing.

10. FAO will begin by developing the six sections of the fisheries and aquaculture value chains. The general section of the FAO Guidance will be developed after the six-section process in order to produce a comprehensive, inclusive, and robust guidance, allowing the incorporation of pertinent cross-cutting aspects from different perspectives and under different realities.

11. For the development of the industrial fishing section of the FAO Guidance, FAO created a technical working group (TWG) of 15 experts with backgrounds in industrial fishing, international law, labour law and decent working conditions to discuss its structure and content. The TWG consisted of representatives from the industry, trade unions, regional bodies, academia, and NGOs, among others. Other international organizations participated in this process, such as ILO, IMO, the Organisation for Economic Co-operation and Development (OECD), and UNCTAD.

12. To produce a complete draft of the industrial fishing section, multiple virtual consultations with the TWG and international organizations were organised by FAO, leading to a first draft and publishing it on an online platform that enabled and facilitated the sharing of comments and feedback. Following this process, FAO developed a revised first draft.

13. To achieve a more inclusive and transparent process, the revised first draft of the industrial fishing section of the FAO Guidance was submitted to public consultation to receive comments. FAO disseminated the public consultation through the GLOBEFISH website,<sup>8</sup> Twitter, LinkedIn and e-mail.

14. The multiple consultations with stakeholders, including the online public consultation, with more than 400 comments, contributed to producing a more practical, solid, and comprehensive second revised draft.

15. Members are presented with the second revised draft of the industrial fishing section of the FAO Guidance in Annex I. It has been developed using the international instruments, conventions, and standards outlined in the working document presented at the 18th session of the COFI:FT.<sup>9</sup> The industrial fishing section of the FAO Guidance presented herein focuses solely on industrial fishing

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<sup>8</sup> <https://www.fao.org/in-action/globefish/globefish-home/en/>

<sup>9</sup> <https://www.fao.org/3/cb9931en/cb9931en.pdf>

activities. In contrast, the general section of the FAO Guidance will provide the primary framework applicable to each of the six sections.

### **FURTHER STEPS AND DEVELOPMENTS**

16. Following a comprehensive and inclusive consultation process of the industrial fishing section of the FAO Guidance with various stakeholders involved in the fisheries and aquaculture value chains, Members will now have the opportunity to make their comments and provide feedback through a specific online platform until December 2023. In principle, FAO will submit a final version of the industrial fishing section of the FAO Guidance at the 20th Session of COFI:FT in 2025, based on comments and feedback.

17. Concurrently with the consultation with Members, FAO will continue developing the other five sections of the FAO Guidance, as proposed at the 18th Session of COFI:FT (SSF, aquaculture production, processing, distribution, and retailing)<sup>10</sup>, using the same inclusive and transparent process used for the industrial fishing section.

18. During the continued development of the FAO Guidance, FAO will keep Members informed of progress and any pertinent issues through the COFI:FT Bureau Meetings and any future supporting online mechanism developed for intersessional communication between Members.

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<sup>10</sup> <https://www.fao.org/3/cb9931en/cb9931en.pdf>

**Annex I****FAO Guidance on Social Responsibility in the Fisheries and Aquaculture Value Chains****Industrial Fishing Section****Table of Contents**

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## 1. IMPLEMENTATION, MONITORING AND REVISION

- 1.1. All intended stakeholders involved in the fisheries and aquaculture value chains should collaborate in order to accomplish and implement the objectives and principles outlined in this Section of the FAO Guidance on Social Responsibility in the Fisheries and Aquaculture Value Chains (hereafter referred to as the FAO Guidance).<sup>1</sup>
- 1.2. States and international organizations, whether governmental or non-governmental, should promote the understanding of this Section of the FAO Guidance among those involved in the fisheries and aquaculture value chains, including, where feasible, by encouraging voluntary acceptance of the FAO Guidance and its effective application.
- 1.3. Under its role within the United Nations system, FAO should monitor the implementation of this Section of the FAO Guidance and its effects on industrial fishing, in cooperation with all relevant international organizations and stakeholders involved in the fisheries and aquaculture value chains. FAO will report any analysis to the Committee on Fisheries (COFI).
- 1.4. FAO, through its competent bodies, may revise this Section of the FAO Guidance, in light of the developments in the fisheries and aquaculture value chains, provided that an inclusive revision process involving all relevant stakeholders and FAO Members is undertaken.

## 2. RESPECT HUMAN RIGHTS

- 2.1. Respecting the existing framework of internationally recognised human rights as well as relevant national laws and regulations by all stakeholders is an essential step towards achieving socially sustainable fisheries and aquaculture value chains and decent working and living conditions on board fishing vessels. The identification of a risk with the potential of causing adverse human rights' impacts should be followed by the adoption of all necessary steps to cease or prevent, mitigate or remedy that impact, including using a stakeholder's leverage to effectively change the wrongful practices of another stakeholder that causes the adverse impact.
- 2.2. All stakeholders involved in the fisheries and aquaculture value chains should assess, prevent, mitigate, end, and remedy any adverse human rights impacts in respect to their own operations and, where feasible, in respect of operations carried out by other stakeholders with whom they have a business relationship. To this end, they should carry out human rights due diligence by adopting policies and programmes to:
  - a) identify and evaluate actual or potential impacts with an adverse effect on human and labour rights as a result of either their operations or those of others with whom they have a business relationship in their fisheries and aquaculture value chain;
  - b) integrate findings from impact assessments across their activities and take appropriate action in view of their involvement in the impact;

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<sup>1</sup> This guidance section does not provide any definition of industrial fishing or stakeholders in the fisheries and aquaculture value chains, consistent with internationally recognised standards and applicable law. However, in practical terms, stakeholders refer to all business actors in the value chain, such as support providers, fish processors, retailers, wholesalers, financiers, etc. Stakeholders also include owners of fishing vessels or any other person, legal or natural, who has assumed the responsibility for the vessel's operation from the owner, such as a manager, agent, or bareboat charterer. Recruitment and placement services, in particular private employment agencies, are among the most prominent addressees considering their role as labour providers, but also fishing vessel owners if they take upon the crewing management. Skippers are fishers in command of a fishing vessel and thus workers whose rights have to be respected, but they can also be in charge of complying with the recommendations in this section such as any other stakeholder. In general, fishers should also be considered stakeholders within the coverage of this section to the extent that every person, natural or legal, involved in the fisheries and aquaculture value chains is expected to respect human, and labour rights. Fishers' and fishing vessel owners' organizations are to be included in the definition of stakeholders as well.

- c) monitor the effectiveness of actions taken to address adverse human rights impacts in order to learn from their degree of success; and
- d) inform all relevant stakeholders and, where appropriate, the public in general about the measures adopted to address impacts and how the policies and programmes in place are adequate.

2.3. In carrying out human rights due diligences, the impact of industrial fishing operations on traditional communities, artisanal and small-scale fishers, indigenous peoples, racial or ethnic minorities, religions or beliefs, should be included in respect of their cultural, social, and economic rights.

### **3. ABOLISHING FORCED LABOUR**

3.1. All stakeholders in the fisheries and aquaculture value chains should collaborate to eradicate any forms of forced or compulsory labour. The isolated nature of many fishing operations makes collaboration more compelling and urgent.

3.2 All stakeholders involved in the fisheries and aquaculture value chains, in particular fishing vessel owners, and recruitment and placement services, including private employment agencies, should take the necessary precautions to ensure that forced or compulsory labour does not exist in their operations or with whom they have a business relationship. These precautions encompass respecting legal obligations and following the existing international voluntary standards on responsible business conduct, including human rights due diligence.

### **4. ADDRESSING CHILD LABOUR<sup>2</sup>**

4.1. Any fishing operations should include efforts to eradicate child labour, particularly considering their nature of jeopardizing their health and safety.

4.2. All stakeholders involved in the fisheries and aquaculture value chains, in particular owners of fishing vessels, and recruitment and placement services, including private employment agencies, should contribute to the effective abolition of child labour, including adopting immediate and effective actions to ensure the ban and eradication of its worst forms, such as:

- a) labour below the national minimum age of employment, which should be above 16 years of age;
- b) any activity that endangers the health safety, and morals of fishers below 18 years of age who are to be considered young fishers; and
- c) work at night of young fishers.

### **5. ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION**

5.1. Rapid globalization of the fishing sector has led to an increase in the complexity of working relationships on board fishing vessels. In this regard, all stakeholders involved in the fisheries and aquaculture value chains, in particular fishing vessel owners and recruitment and placement services, including private employment agencies, should increase their efforts in adhering to the principles of equal opportunity and treatment in employment and non-discrimination against fishers based on their age, ethnic group, race, colour, nationality,

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<sup>2</sup> According to the ILO, "child labour" is often defined as employment that deprives children of their childhood, their potential, and their dignity, as well as work detrimental to their physical and mental development.

gender, sexual orientation, gender identity, gender expression, religion, political opinion, national extraction or social origin, or any other as prescribed by national law.

- 5.2. Fishing vessels owners and recruitment and placement services, including private employment agencies, should contribute to the elimination of discrimination against all, in particular against women, minorities or other vulnerable groups on board fishing vessels, by enhancing their access to employment, professional advancement, and participation in decision-making and leadership positions. The use of equal standards for employment, compensation, and promotion should be in place, including the prohibition of discrimination or contract termination based on marriage, pregnancy, or parenthood.
- 5.3. Fishing vessel owners and recruitment and placement services, including private employment agencies, should eliminate all forms of discrimination against migrant workers. Decent working and living conditions on fishing vessels and other employment-related settings should be ensured and consistent across all workers regardless of status.
- 5.4. All stakeholders involved in the fisheries and aquaculture value chains should recognise and respect traditional forms of organization, local knowledge, and associated practices, especially those involving traditional communities, artisanal and small-scale fishers, indigenous peoples, racial or ethnic minorities, and religions or beliefs.

## **6. INDUSTRIAL RELATIONS**

- 6.1. The promotion of a robust labour governance is critical to achieve decent employment in the fisheries and aquaculture value chains. Freedom of association and collective bargaining should be respected in the fishing industry. Therefore, there should be organisations of fishers and organisations of fishing vessel owners that are solid and autonomous, and capable of engaging in social dialogue and substantive negotiations on labour problems, such as compensation and working time arrangements, with a view to achieving decent working and living conditions on board.
- 6.2. According to international and national labour regulations, fishing vessel owners, and recruitment and placement agencies, including private employment agencies, should:
  - a) Respect the right of fishers to form or join trade unions and other representative organizations of their choice;
  - b) Respect the right of fishers to have trade unions or representative organizations of their choosing recognised for collective bargaining;
  - c) Engage in constructive negotiations with fishers' representatives to reach agreements on working and living conditions on board fishing vessels;
  - d) Ensure that fishers' representatives have the right to properly negotiate, formulate, and oversee collective agreements;
  - e) Grant fishers' representatives with the necessary information to engage in fruitful discussions about working and living conditions aboard fishing vessels, including social dialogue;
  - f) Provide fishers and fishers' representatives with accurate and impartial information about the business operation of the fishing vessel owner;
  - g) Encourage consultation and collaboration on areas of mutual concern between employers, fishers, and fishers' representatives, including social dialogue;
  - h) Recognise, facilitate and protect the activity of trade unions or representative organizations in addressing human and labour rights' violations and in engaging in their remediation, on their own accord or at a fisher's request. In particular, access on board fishing vessels and their facilities as well as communication with



workers on board should be granted in compliance with the international legal framework.

## **7. RECRUITMENT AND PLACEMENT SERVICES, INCLUDING PRIVATE EMPLOYMENT AGENCIES**

- 7.1. Recruitment and placement services, including private employment agencies, have played a significant role in the fast globalization of the fishing sector, and they should be key contributors to the improvement of working and living conditions on board fishing vessels. Recruitment and placement services, including private employment agencies, are uniquely positioned to assess, prevent, mitigate, end, and remedy any adverse human rights impacts considering their intermediary role, particularly regarding fishing vessel owners.
- 7.2. Fishing vessel owners should utilize their leverage to assess, prevent, mitigate, end, and remedy any adverse human rights impacts by recruitment and placement services' operations, including private employment agencies.
- 7.3. Recruitment and placement services, including private employment agencies should:
  - a) be fair, transparent, and non-discriminatory;
  - b) refrain from employing strategies, methods, or listings that restrict or dissuade qualified fishers from seeking employment;
  - c) certify that the work agreements comply with all applicable laws and regulations, including any relevant collective bargaining agreement;
  - d) ensure that fishers are informed of their rights and responsibilities under their work agreements before or during the engagement process;
  - e) assure that fishers have the opportunity to review their work agreements before and after they are signed, and that they get a copy of them;
  - f) verify that fishers they recruit or place are qualified and, where applicable, in possession of the required valid documents for the relevant job, including a medical certificate;
  - g) ensure that fishing vessel owners have the capacity to safeguard fishers from exploitation or being stranded at a foreign port;
  - h) have insurance to financially compensate fishers for loss incurred due to their failure to meet its obligations under the fisher's work agreement, including the obligations of the relevant fishing vessel owner;
  - i) ensure that fishers have access to a social security system, that timely payment of contributions are made to this system, and that support is provided to enjoy social benefits.
- 7.4. No fees or other costs related with the recruitment and placement of fishers should be borne directly or indirectly by the fisher, in whole or in part. Visa costs should be covered by the owner of the fishing vessel or by the recruitment and placement service. Nonetheless, fishers may incur expenses for obtaining a valid medical certificate, service book, passport, or other travel documents. These expenses should be made public and transparent, and the fisher should be informed in advance.
- 7.5. If the recruitment and placement service fail to comply their obligations, fishing vessel owners should accept all responsibilities under the fisher's work agreement, even if they are the user enterprise.
- 7.6. Recruitment and placement services, including private employment agencies, should keep an accurate registration of all fishers they recruit or place while respecting the right to

privacy and the need for confidentiality. Fishing vessel owners should keep and make public a record of the recruitment and placement services with which they conduct business.

## 8. WORK AGREEMENT

- 8.1. The complexity, variety, and sometimes informality of work agreements in fishing makes it difficult to ensure that fishers enjoy decent working and living conditions. The promotion of transparent, easily understandable, legally enforceable, and fair work agreements should be at the core of human rights due diligence.
- 8.2. Fishing vessel owners and, where applicable, recruitment and placement services, including private employment agencies, should provide fishers with work agreements written in simple understandable language, and written in their primary language, containing all information about their working and living conditions. Instead of referencing to rules and regulations, the work agreement of the fisher should reflect the specificities of the work. When applicable, collective bargaining agreements should be mentioned in the work agreement of the fisher.
- 8.3. The work agreement of the fisher should include the following information:
  - a) the family name and other names, date of birth or age, and the birthplace of the fisher;
  - b) location and date of the agreement's completion;
  - c) the name and registration number of the fishing vessel or vessels on which the fisher will work;
  - d) the name of the employer, fishing vessel owner, or any parties to the agreement with the fisher;
  - e) the voyage or voyages to be undertaken as well as their duration, if known at the time of agreement establishment;
  - f) the nature of the employment or engagement of the fisher;
  - g) the location and date where the fisher is expected to report for duty, if possible;
  - h) the provisions that will be provided for the fishers;
  - i) the wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, as well as all deductions to be made from the total revenues obtained from the catch by the fishing vessel owner. The amount of the wage and share, as well as the method for calculating it, if the remuneration is to be calculated on a combined basis. Any minimum pay agreed upon;
  - j) the termination of the agreement and its terms, including (i) if the agreement has a specified duration, the date set for its expiration; (ii) if the agreement is for a voyage, the port of destination and the time that must elapse after arrival before the fisher can be discharged must be specified.; (iii) if the agreement is for an indefinite period, the conditions under which either party may rescind it, as well as the required period of notice for rescinding, provided the rescinding period shall not be less for the employer, fishing vessel owner, or other parties to the agreement with the fisher;
  - k) the protection afforded to the fisher and their family in the event of illness, injury, or death arising from service;
  - l) the amount of paid annual leave or the formula used to calculate leave, where applicable;

- m) the health insurance and social security coverage and benefits that will be supplied to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's employment agreement, as applicable;
- n) the health insurance and social security coverage and benefits that will be supplied to the fisher by a national legal body and all related relevant information, such as statutory deductions from the fishers' wages and fishing vessel owners' contributions. This should be made in accordance with the requirements of identified authorised bodies pursuant to relevant national social security schemes;
- o) the right of fishers to repatriation;
- p) a reference to the collective bargaining agreement, where applicable;
- q) the minimum rest periods required by national laws, regulations, or other measures; and
- r) any other details required by national laws or regulations.

8.4. In concluding the work agreement, fishing vessel owners and recruitment and placement services, including private employment agencies, should:

- a) provide the intended fisher with ample opportunity to seek legal counsel from a third party, such as a trade union, before signing the work agreement;
- b) in a timely manner, advise the fisher of any change to the work agreement and provide them with the opportunity to seek legal counsel from a third party;
- c) give the fisher a copy of the signed work agreement. Another copy should be retained on board for the fisher's reference and any other associated documents, such as catch registrations, hours of work or rest, and pay slips.

8.5. Fishing vessel owners should maintain a crew list and deliver it upon request to the appropriate authorities or any other interested party.

8.6. Fishing vessel owners and recruitment and placement services, including private employment agencies, should guarantee that fishers have a valid passport and, if required for passage to and from the vessel, pay for a visa. During service, fishers should maintain custody of their personal documents, at all times.

8.7. When their work agreement expires, fishers should have a service record in their service's books or alike. Any remark about the quality of the fisher or their pay and remuneration system should be avoided. Relevant information should be included to facilitate the obtaining of any further employment or to satisfy sea-service promotion requirements.

8.8. A work agreement should remain in effect as long as a fisher is held captive on or off the fishing vessel as a result of acts of piracy and armed robbery against fishing vessels, regardless of whether its expiration date has passed or either party has given the notice to suspend or terminate the agreement.

## **9. FAIR AND REGULAR PAYMENT**

9.1. The complexity of work agreements in the fishing industry is exacerbated by the compensation system. Although some fishers are compensated with salaries, a long-standing worldwide practice is payment by a portion of the catch. In industrial fishing, this tradition should be updated to take account of fishers' and their families or dependants' needs by ensuring regular advances against their final earnings combined with a minimum wage. The

principles of accountability and transparency should inform the application of the share system from hiring, catching, selling, to paying fishers.

- 9.2. Fishing vessel owners and, where applicable, recruitment and placement services, including private employment agencies, should:
- a) pay fishers fairly, monthly, and following their work agreements. Fishers should get a monthly payment statement detailing amounts owed and received, including wages, additional payments, and the applicable exchange rate of the payment day;
  - b) apply the share remuneration system in a transparent manner by keeping records of the catch and providing them, along with information on the overall income and expenses, to the fishers or their representatives. Lodging and documentation should not be deducted from fisher's revenues;
  - c) ensure that all fishers get a minimum wage regardless of the outcome of the share remuneration policy;
  - d) advance payments to fishers against their earnings under stipulated conditions;
  - e) establish steps to permit fishers to send a portion of their earnings to their dependents or legal beneficiaries at no cost. When applicable, the exchange rate should be in line with the published official rate of the day;
  - f) continue to pay wages and other entitlements under the fisher's work agreement, including the remittance of earnings where agreed, if a fisher is held captive on or off the fishing vessel as a result of acts of piracy or armed robbery against fishing vessels, and for the entire period of captivity and until the fisher is released and duly repatriated, or until the date of their death if this happens in captivity.

## **10. MEDICAL CARE ON BOARD AND ASHORE**

### **Protection in the case of work-related sickness, injury or death**

- 10.1. Fishing is one of the most dangerous occupations, requiring perilous manoeuvres in a frequently difficult marine environment. In this sense, health protection and the prevention of accidents would not always be possible. Thus, it is vital to promote a safety culture on board and to ensure, to the greatest extent possible, access to medical treatment on board the fishing vessel and ashore. Additional remedies should include the protection of fishers against the financial consequences of occupational illness, injury, or death.
- 10.2. Fishing vessel owners should:
- a) guarantee sufficient medical equipment and supplies on board, considering the number of fishers on board, the region of operations, and the duration of the voyage. They should be adequately stocktaken, maintained and inspected at regular intervals by the skipper or a designated responsible person in compliance with international law;
  - b) ensure that at least one fisher on board is qualified or trained in first aid and other forms of medical care and has the knowledge to use the medical equipment and supplies for the vessel in question, which must be accompanied by instructions and other forms of information in a language and format that they can understand;
  - c) guarantee that the newest edition of the International Medical Guide for vessels or any other medical guide certified by a competent authority is on board;
  - d) ensure that vessels have access to a prearranged system of medical advice at sea via radio or satellite communication, including specialist advice available at all times, and provide a list of radio or satellite stations through which medical advice can be obtained;

- e) ensure that fishers receive prompt medical treatment in the event of a severe injury or illness, including mental health care, ashore;
- f) ensure that all fishers on board are entitled to health protection and medical and dental care, free of charge, in the absence of compulsory insurance, fishers' compensation, or other schemes. This protection and care should be applicable until the sick or injured fisher has recovered, or until the illness or incapacity is declared to be permanent, provided that fishers are employed, engaged or working on a vessel at sea or in a foreign port;
- g) purchase insurance to cover the costs of medical and dental care; compensation for death or long-term disability resulting from an occupational injury, illness, or hazard; board, lodging, and repatriation of sick or injured fishers. In the absence of national social security programmes, compulsory insurance, fishers' compensation, or other schemes the cost of burial expenses should be covered. The insurance policy details must be communicated to all fishers on board;
- h) continue to pay full wages to sick or injured fishers while onboard or until they have been repatriated, and to pay wages in whole or in part as indicated by the relevant national laws or collective agreements from the time the fisher has been repatriated until their recovery or, if earlier, until they are entitled to cash benefits in accordance with the relevant social security system;
- i) compensate the fisher or their legal heirs, when illness or injury results in death or incapacity for work under the work agreement, the collective agreement, or the international legal framework;
- j) repatriate the fisher's body in the event of death and cover the cost of burial in the event of death happening on board or onshore during the period of engagement;
- k) should take precautions to secure and return items left on board by ill, injured, or deceased to the fisher or their next of kin.

## **11. OCCUPATIONAL HEALTH AND SAFETY ON BOARD**

- 11.1. Fishers, whose occupation is recognised as one of the most dangerous in the world, have the same right to a safe and healthy workplace as any other person. The adoption of numerous international treaties on occupational health and safety onboard contributes to the realization of these rights and should be supported by all stakeholders in the fisheries and aquaculture value chains.
- 11.2. Fishing vessel owners and, where applicable, recruitment and placement services, including private employment agencies, should:
  - a) ensure that their vessels are designed, constructed, outfitted, and operational following the international legal framework, taking into account the need to provide and maintain decent accommodation for fishers working or living on board, or both, in a manner that protects the health of the fishers;
  - b) should carry and serve fresh or preserved food of sufficient nutritional value and potable water, both of adequate quality and quantity, at no cost to the fisher, unless otherwise stipulated in a collective agreement, and taking into account the diversity of cultures and religions;
  - c) adopt, effectively implement, and promote occupational safety and health policies and programs on board, including safety assessment, while taking into account relevant international codes, guidelines, and standards and addressing all matters pertinent to the prevention of occupational accidents, injuries, and diseases that may apply to the work of fishers;

- d) ensure that all fishers have a valid medical certificate attesting their fitness to perform the duties on board, signed by a duly qualified medical practitioner and approved by a competent maritime authority, where possible;
  - e) recognise the skipper's responsibility for the safety of the fishers on board, as well as the safe operation of the vessel, and refrain from limiting the skipper's professional judgment;
  - f) include the skipper and fishers' representatives and all other persons concerned in implementing, adopting, and revising occupational safety, and health policies and programs on board;
  - g) set up a joint committee on occupational safety and health on board fishing vessels on which there are five or more fishers;
  - h) establish and facilitate onboard occupational safety and health awareness training and onboard instruction of fishers, in conjunction with the skipper, prior to the use of the equipment or participation in the fishing operations;
  - i) provide suitable personal protection equipment at no cost to every fisher on board;
  - j) create and effectively implement policies and programs to prevent onboard harassment and bullying, including specific programs for sexual harassment.
- 11.3. The physical and occupational health consequences should be considered by relevant stakeholders when designing or effectively implementing occupational safety and health programs and policies addressing risk assessment and exposure to hazards on board fishing vessels.
- 11.4. Adequate recreational facilities, amenities, and services, including social connectivity, should be offered to fishers who work and reside on fishing vessels, with occupational health and safety prevention and protection in mind. All fishers should have free access to good vessel-to-shore phone connections and onboard internet access.
- 11.5. Occupational safety and health policies and programmes on fishing vessels should include measures to protect young fishers' health and prevent accidents. Specially, fishing vessel owners should not give young fishers jobs that harm or risk their health or physical development, or require a specific level of maturity, experience, or skill to do it effectively and safely.

## **12. MANNING AND HOURS OF REST**

- 12.1. The type and circumstances of fishing activities influence the organisation of working time on board fishing vessels and usually much less attention is paid to respect the necessary rest time to avoid fatigue and protect fishers' health and safety. The difficulties in achieving such a balance cannot be used as an excuse to disregard the importance of healthy and safe working time agreements when conducting human rights due diligence.
- 12.2. Fishing vessel owners and recruitment and placement services, including private employment agencies, should verify that the crew number and qualifications are adequate to safely navigate and operate the vessel under the supervision of a qualified skipper.
- 12.3. Work and rest time should be organized following consultation with fishers' associations to limit fatigue and prevent accidents. Regular working hours and overtime, rest time between working days, and work on public and customary holidays should all be agreed upon. This agreement also includes work necessary for the immediate safety of the vessel, its crew, or its catch, or to assist other boats, ships, or individuals in difficulty at sea.

- 12.4. In accordance with the international legal framework, the minimum hours of rest should not be less than: (i) ten hours in any 24 hour-period; and (ii) 77 hours in any seven-day period. Any working time agreement should ensure the abovementioned parameters considering that fatigue seriously endangers fishers' health and safety and fishing operations.

### **13. ENTITLEMENT TO LEAVE**

- 13.1. Technological advances in industrial fishing have made it possible to spend long time periods at sea and reduce visits to ports to the minimum. Fishers' health and safety are also dependent on shore leave and annual leave and this should be taken into account by all stakeholders in the fisheries and aquaculture value chains while undertaking human rights due diligence.
- 13.2. Fishers should be entitled to be paid annual leave that cannot be exchanged for compensation to reduce weariness and prevent accidents. Agreements should be achieved on the appropriate method of computation, which includes the unique demands of fishers, the level of compensation during annual leave, and the location where it should be taken, which should be a region with which they have a significant connection. The annual leave associated payment should not be less than the fisher's typical income level and should be taken at the appropriate time and not exceeding the agreed time at sea. Public and customary holidays, periods of incapacity for work, temporary shore leave, or compensating leave of any sort should not be considered for determining annual leave with pay.

### **14. REPATRIATION**

- 14.1. The possibility of fishers becoming stranded in a foreign country has increased dramatically over the last decades due mainly to the exponential expansion of distant water fishing. In addition to being a necessity of service, repatriation of fishers is required to fulfil their other rights, such as the right to leave, health protection, and accident prevention. To avoid fisher abandonment, all stakeholders in the fisheries and aquaculture value chains should contribute to this goal as part of their human rights due diligence.
- 14.2. Fishing vessel owners and, where appropriate, recruitment and placement services, including private employment agencies, should:
- a) repatriate fishers under any circumstances, regardless of their right to recover repatriation costs under third-party contractual agreements or, according to national laws, regulations, or other measures, from the fisher who is found by national authorities in serious breach of their work agreement obligations. The cost of repatriation shall include travel by appropriate and reasonable methods, necessary medical care, and passage and carriage of personal effects, as well as accommodation and food from when the fisher departs the vessel until arriving at their home;
  - b) closely adhere to the maximum duration of service periods on board when complying with the fisher's right to repatriation, which should be shorter than one year;
  - c) ensure the availability of a rapid and effective financial security system that can facilitate repatriation and other types of assistance, such as payment of wages and other entitlements payable by the owner to the fisher in accordance with the work agreement. Insurance can be obtained in lieu of other types of financial security, provided that policy information is conveyed to all fishers on board.

- 14.3. The right to repatriation should not be exchanged for lodging and time off onboard the fishing vessel in ports unless this time is considered work time and accordingly paid.
- 14.4. The right to repatriation should not lapse if the fisher is held captive on or off the fishing vessel due to acts of piracy or armed robbery against fishing vessels.

## **15. CASUALTIES AND ACCIDENTS**

- 15.1. The accident rate in fishing is much higher than in any other industrial sector making it more important to learn about accidents and incidents in order to increase safety in the sector. Marine casualty investigation is a critical part to safety of life at sea to which all stakeholder involved in the fisheries and aquaculture value chains should be committed to.
- 15.2. Fishing vessel owners should report any serious marine casualty leading to injury or loss of life that occurred on board or in relation to the work of the fisher to the relevant administrations, and fully cooperate with any investigation carried out following the international legal framework or the laws or regulations of the flag state.

## **16. CAPACITY BUILDING AND PROFESSIONAL QUALIFICATIONS**

- 16.1. All stakeholders in the fisheries and aquaculture value chains should recognise the significance of having trained personnel on board as essential to ensuring safety on board fishing vessels and enhancing productivity. In contrast with the merchant shipping sector, capacity-building programmes and competencies are not yet harmonised worldwide in the fishing sector. Fisher formation is not only a benefit for the concerned individual but also for local communities, and comprises hiring practices, which should be non-discriminatory, training and further career development.
- 16.2. In compliance with the international legal framework, fishing vessels should be crewed by trained and certified personnel. Every fisher on board should be supplied with basic safety training. Alternatively, fishing vessel owners should offer their crews education and training programs that adhere to international training norms and rules. Such training should help them develop useful skills and competencies and, to the extent possible, promote career opportunities and lifelong learning. To this end, it should be certified and recorded in the fisher's service book or alike.
- 16.3. All stakeholders, in particular fishers, their representatives, and fishing vessel owners, should learn the international human rights and labour framework applicable to the fisheries and aquaculture value chains, and be trained in their rights and how to implement and claim them.

## **17. SOCIAL SECURITY**

- 17.1. Social security protection is a basic human right whose realisation also depends on employers ensuring the inclusion of fishers in a social security system and informing them of their potential benefits.
- 17.2. Fishing vessel owners and, where applicable, recruitment and placement services, including private employment agencies, should ensure the payment of contributions to the country responsible for the social security of the fisher, whether it is the home country or the flag state. The work agreement of the fisher should include specific information regarding the country to which these contributions should be made and the social security branches to which the fisher and their dependents are entitled.



- 17.3. Particular consideration should be given to distant-water fishing operations considering the associated challenges in accessing social security systems.

## **18. GRIEVANCE MECHANISMS, ALTERNATIVE DISPUTE RESOLUTION METHODS AND ACCESS TO JUSTICE**

- 18.1. Protection against human and labour rights' infringements requires fishers to have access to effective remedy. All stakeholders involved in the fisheries and aquaculture value chains should contribute to this end by empowering fishers to claim for their rights either through internal grievance mechanisms or through other dispute resolution methods.
- 18.2. All stakeholders involved in the fisheries and aquaculture value chains, in particular fishing vessel owners and recruitment and placement services, including private employment agencies, should establish protocols for the fair, efficient, and prompt treatment of fisher complaints alleging violations of their working and living conditions. Specifically, these procedures should:
- a) be addressed within a reasonable period in consultation with the affected fisher or their representative;
  - b) Be readily accessible to fishers who should have been advised of their existence and guarantees beforehand, in particular during their initial training before operations begin;
  - c) keep a record of the complaint and the decision taken, and a copy should be given to the fisher;
  - d) prevent the persecution of fishers who protest about their living and working conditions on board fishing vessels;
  - e) strive to settle issues at the lowest level feasible. Nonetheless, in all circumstances, fishers should have the right to lodge complaints directly with the skipper and, if necessary, with the corporate headquarters of the relevant fishing vessel owner or with the appropriate legal body;
  - f) make available voluntary mediation or arbitration services provided by independent, impartial, and knowledgeable professionals to resolve disputes regarding the working and living conditions of fishers.
- 18.3. Fishers and fishing vessel owners, like all other individuals, are entitled to equal protection under the law and should not be subject to discrimination in their access to courts, tribunals, or other dispute resolution mechanisms such as mediation, arbitration, or other conciliatory measures.
- 18.4. Fishers should be informed of the available dispute resolution mechanisms and of their right to make use of that of their choosing. The inclusion of an arbitration clause on a work agreement should not be used to preclude the fisher's access to a court of justice in any case or under any legislation.
- 18.5. Fishers should not be prevented from asserting a right to a lien, regardless of the allocation of obligations arising between the fisher work agreement and the recruitment and placement service or the fishing vessel owner.

## **19. TRANSPARENCY**

- 19.1. Transparency is an important instrument for improving understanding of the operations of stakeholders involved in the fisheries and aquaculture value chains. Transparency builds confidence between employers, fishers, and other stakeholders while also increasing employers' accountability in attaining sustainable development.

- 19.2. Clear and complete information about stakeholders in the fisheries and aquaculture value chains is not only important for fishers, but also for other stakeholders, such as consumers, local communities, and society at large. In addition to disclosing their labour practices, stakeholders should also disclose information on the activities of their subcontractors, suppliers, or any other stakeholder with whom they have a business relationship.
- 19.3. All stakeholders in the fisheries and aquaculture value chains should guarantee that timely and accurate information is published on all foreseen risk factors and their response, including mitigation plans, that adversely affect human, social, and labour rights in their value chains. This information should be reported for the stakeholder and, when applicable, along business lines or geographic regions.
- 19.4. To prevent corruption and other fraudulent practices, all stakeholders in the fisheries and aquaculture value chains should transparently conduct their operations and maintain clear and detailed accounting records system that allows traceability. In this regard, it is critical the use of high-quality standards for accounting, financial, and non-financial disclosure that are based on publicly available rules or regulations that govern the collection and dissemination of information.
- 19.5. Fishing vessel owners should guarantee that timely and accurate information on all labour-related aspects of their activities, structure, financial status, performance, ownership, and governance is reported. Recruiting and placement services, including private employment agencies should guarantee that fishers could access timely and accurate information on these subjects.