

May 27, 2022

HUMAN RIGHTS, FORCED LABOUR AND SUSTAINABILITY IN GLOBAL FISHERIES: A POTENTIAL CANADIAN CONTRIBUTION TO ENHANCING DECENT WORK IN FISHING

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Human Rights, Forced Labour and Sustainability in Global Fisheries: A Potential Canadian Contribution to Enhancing Decent Work in Fishing

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Preamble

As Canada continues to accelerate into post-pandemic recovery mode, concerns around the presence of forced labour or unacceptable work conditions in many of its global supply chains have taken on new prominence. Four Private Members Bills currently before Parliament (C-243, 262, 263 and S-211) independently address elements of the problem. The Prime Minister's most recent mandate letters direct the Ministers of Labour, Trade and Public Safety to collaborate in bringing forward new legislation to eradicate forced labour from Canada's global supply chains (See Appendix A).

Both globally and domestically, well-documented instances of labour abuse and human rights violations in the mining and textile sectors have generated attention to these issues and continue to positively drive many efforts to eradicate forced labour from global supply chains. At the same time, high-profile journalism, coupled with ongoing academic research, has dramatically underscored the reality that forced labour, unacceptable working conditions and human rights violations are prevalent in the seafood sector. Moreover, research has also demonstrated that these human rights violations are often associated with unsustainable fishing or fishing that is illegal, unreported and unregulated (IUU).

Seafood is routinely harvested and processed by workers in conditions that are unacceptable by international standards in multiple fisheries around the world. It is certain that products from such fisheries are imported into Canada (see below). What is missing, however, are systems for specifically connecting these two realities. As Oceana Canada has [carefully documented](#), Canada lacks a "boat-to-plate" traceability system to ensure seafood imported to Canada is accurately labeled and is not caught using IUU fishing practices. Similarly, Canada lacks any mechanisms that require seafood importers to prove that their products were not harvested or processed using forced labour. It is therefore difficult to prove or disprove that seafood imported to Canada is caught via IUU fisheries or caught and processed under unacceptable working conditions, or conversely that the opposite is true.

The balance of probabilities strongly suggests that at least some portion of the seafood imported into Canada originates in fisheries using forced labour or is characterized by other kinds of unacceptable working conditions and that Canadian seafood consumers are unwittingly complicit in these labour abuses. Eradicating these abuses is a massive undertaking requiring myriad global actions for poverty alleviation, ensuring human rights are respected and fisheries

management reforms. If Canada is to shoulder its share of this burden, it must contribute to eroding the economic viability of fisheries that are not sustainable and rely on underpaid or mistreated workers by blocking the import of all seafood products that cannot be certified as being harvested and processed free of IUU fisheries and as free of unacceptable working conditions. Seafood traceability systems, as well as human rights and environmental due diligence legislation, are the twin pillars of a strategy for doing so.

The Canadian government has already adopted a mandate letter commitment to developing a “boat-to-plate” seafood traceability regime. As noted above, traceability system needs have been explored in detail by Oceana Canada elsewhere. The current paper turns attention to an exploration of forced labour and unacceptable working conditions in the seafood sector, how the government’s contemplated forced labour legislation could effectively address these matters as part of its overall legislative approach, as well as a longer-term strategy for requiring corporate due diligence for their international supply chains.

Finally, Canada’s actions to address human rights violations and unacceptable working conditions in global fisheries will be poorly received if Canada does not do the same for fisheries based in Canada. In addition, working conditions in Canadian fisheries and seafood processing will be subject to scrutiny by seafood importing countries that are tightening standards for traceability and working conditions in seafood supply chains. Canada is lagging other countries in that it has so far not moved to adopt new international standards for employment conditions in Canadian fishing.

It is time for action.

Introduction

The Government of Canada has committed to efforts to eliminate forced labour in Canada’s global supply chains as a significant priority for its work in 2022 and beyond. This priority follows in part from international treaty obligations: for example, [The Canada-United States-Mexico Agreement \(CUSMA\)](#) commits all three countries to prohibit the import of goods produced through forced labour. As such, the Prime Minister’s mandate letters have directed the Minister of Labour, supported by the Minister of International Trade, Export Promotion, Small Business and Economic Development and the Minister of Public Safety to introduce legislation specifically designed to address this matter head-on (*see Appendix A*).

The purpose of this report is to contribute to the policy dialogue surrounding these legislative proposals by reviewing international policies that aim to increase supply chain transparency and hold companies responsible for addressing human rights violations, forced labour and environmental degradation in their supply chains. We do so through specific attention to global fisheries.

Global fisheries are often criticized for their contributions to degrading [ocean ecosystems](#) and for working conditions that are often abusive, dangerous and exploitative. In response,

international policy is being developed that aims to enhance working conditions at sea. In this report, we will refer to policy standards included in the International Labour Organization (ILO) [Decent Work Agenda](#), which is under the United Nations Sustainable Development Goal 8, to which Canada has committed. These standards include [forced labour](#). While forced labour or unacceptable working conditions are often presented as a problem of lawlessness or criminality on the part of some operators, we emphasize the need to consider the broader enabling conditions for abusive employer actions, including government laws and policies that increase worker vulnerability to employers and work supervisors. We further examine the key international instrument for setting minimum standards for work in fishing, ILO C-188, the Work in Fishing Convention, which Canada, to date, has made no move toward ratifying.

As part of the global response to evidence concerning unacceptable working conditions on commercial fishing vessels, the U.S. and many countries in Europe have initiated policies that create requirements for imported seafood concerning these working conditions. These policies often rely on the traceability systems that are increasingly required by importing countries and seafood corporations to ensure that seafood is caught legally and sustainably. In comparison, Canada has done very little to address these problems in seafood supply chains for seafood imported into Canada, despite being a major seafood importer and exporter.

We thus return to the unmet 2019 mandate letter directing the Ministers of Health and Fisheries and Oceans to develop a boat-to-plate traceability system for Canadian fish and seafood products. It is crucial that these systems are built, both to do our part in contributing to global efforts to increase sustainability in fishing and to join emerging efforts to improve working conditions in fishing. Indeed, it is crucial that policies designed to stop IUU or unsustainable fishing proactively address how these programs impact working conditions, as these policies can also unwittingly cause problems for the hired workers in these fisheries. Workers might [find themselves arrested](#) and detained in foreign countries, facing job losses or having resultant economic pressures passed onto them in the form of intensified work and reduced income.

We begin by outlining the importance of global seafood imports to Canadian consumers, before summarizing relevant evidence on the presence of forced labour and unacceptable working conditions in global fisheries. The emphasis is on industrial fisheries and areas with a likelihood of linkages into Canadian supply chains, although unacceptable work is pervasive across many fisheries. We then canvass the key legislative and regulatory regimes that other nations have put in place to combat work at sea abuses to identify international best practices to increase supply chain transparency and corporate accountability in seafood. We conclude by identifying a series of fisheries-related policies that are necessary for a comprehensive regime for preventing human rights abuses, unacceptable working conditions and environmental degradation in seafood supply chains. Immediate action includes creating a traceability system, comprehensive mandatory human rights and environment due diligence legislation and ratifying ILO C188. A longer-term program includes supporting the decent work in fisheries agenda.

Canadian Seafood Imports and Exports

Forced labour can often be connected to specific products, particularly after an intensive media investigation or non-governmental organization (NGO) campaign. For example, these sorts of campaigns have created awareness that [cotton](#) and tomato imports from China are produced by Uyghurs and other ethnic minorities who cultivate these products under [oppressive working conditions](#). Fisheries, too, have seen a spotlight on forced labour and terribly abusive working conditions. A key moment in the growing awareness of these problems was during 2014 and 2015 when [The Guardian](#) shone a spotlight on Thai fisheries and violence at sea, and the [Associated Press](#) won a Pulitzer Prize for its *Seafood From Slaves* reporting. Since then, international and national efforts have been stepped up to improve working conditions for workers in fishing. The most recent efforts have broadened this agenda to include not just so-called “modern slavery” or forced labour, but also human rights and basic employment standards for workers in fisheries and seafood processing and identifying how working conditions are linked to sustainability in fisheries.

Canada relies heavily on fresh and farmed seafood imports, with half of all seafood imports coming from the Global South, including Thailand, Vietnam, China, Chile and Ecuador. Some of the more important imported species commonly consumed in Canada include tuna, shrimp, squid, salmon, scallops, pangasius (basa), and tilapia.¹ Asia remains a major aquaculture producer (i.e., shrimp, pangasius, tilapia, crabs and scallops), and is home to four of the five largest global fishing fleets (China, Taiwan, Korea, Japan and Spain) in addition to major processing facilities (deep sea ports and processing factories that transform marine species into canned tuna, frozen shrimp, fish filets, pet food, farmed animal feed, aquaculture feed and many other seafood-based products). Seafood products move from boats and farms to factories in ways that are often difficult to trace. Workers along these supply chains are often migrant workers, many from Southeast Asian countries, including the Philippines, Indonesia, Myanmar, Cambodia and Vietnam. Their working conditions are often difficult and precarious.² This is especially true of workers in industrial fisheries, described in the next section.

While Canada does not currently employ temporary migrant workers in fisheries (to our knowledge), migrant workers in [Canada’s seafood processing sector also experience poor working conditions](#), vulnerability and precarity. Canadian seafood — lobster, crab and salmon, to name just a few species — are exported to the U.S., China, Japan, Hong Kong and the UK. Some Canadian companies are now facing reporting requirements on traceability and forced labour when sending seafood products abroad, particularly into the European Union, Japan and the UK. This is not matched by human rights and environment due diligence requirements in Canadian policy, while workers in fisheries in most Canadian provinces are exempt from many basic employment standards (see details below).

¹ See Government of Canada, [Trade Data Online](#)

² See: Marschke, M. & Vandergeest, P. (2016). Slavery scandals: Unpacking labour challenges and policy responses within the offshore fisheries sector, *Marine Policy*. 68: 39-46. and Vandergeest, P. & Marschke, M. (2021). Beyond slavery scandals: Explaining working conditions among fish workers in Taiwan and Thailand, *Marine Policy*. 132.

Working Conditions in Global Fisheries: Unacceptably Dangerous and Exploitative

Work in industrial fisheries has been ranked as the most dangerous of all occupations, including here in Canada, where a 2017 *Globe and Mail* investigation found that fishing was Canada's deadliest job.³ This includes the danger of dying due to major accidents, as seen in the [fatalities on the Spanish fishing vessel](#) that sank off Newfoundland's coast in February 2022, but also in the many everyday accidents that are less widely publicized. Accidents at sea result from and are compounded by storms, vessels colliding, slipping on decks, gear that can cut, puncture, and crush, bites from handling aquatic life, falling into the sea, and sheer physical fatigue. Food and drinking water are often of poor quality, lack sufficient nutrition, or fail to account for religious and cultural requirements, while living quarters are cramped, infested with pests and lack ventilation. The daily ecological rhythms that dictate the timing and pace of work render it difficult to place clear limits on working hours.

Fisheries observers are also workers and have reported significant challenges of their work on board vessels, including long working hours, difficult living conditions and being pressured to misreport data. Female observers have additionally been subjected to sexual harassment [and violence](#).

On the high seas, fish workers in distant water fisheries (DWF) often work 18 to 20 hours per day when in fishing grounds, resulting in extreme physical and mental fatigue, which increases the likelihood of accidents. Mental and physical abuse are common as work supervisors seek to push workers into working longer hours and more intense work. Some workers are at sea for many months or even years, enabled by transshipment vessels that offload catch and resupply the fishing vessels. Fishing companies often hire from countries where wages are low, and workers are vulnerable due to a pressing need to provide for their families. This situation enables companies to pay workers very low wages and make many salary deductions against often exaggerated expenses (e.g., agency fees, documentation, travel costs). Indonesia and the Philippines are currently the primary sources of migrant workers for DWF vessels owned and operated from Asian countries, and also contribute large numbers of workers to national fisheries in many other jurisdictions including [the United Kingdom](#), [Ireland](#) and [Hawai'i](#). In jurisdictions that are increasingly turning to migrant workers, there is growing evidence that [working conditions are worsening](#).

In the Distant Water Fisheries (DWF), working conditions are particularly difficult to monitor because of the lengthy periods at sea without port visits, leaving workers highly vulnerable to their work supervisors and potential abuse. According to the UN [Convention on the Law of the Sea](#), the flag state (the state where a vessel is registered) is responsible for employment standards for fishing vessels in international waters, including vessels located inside EEZs of countries other than the flag state. However, many flag states make little effort to monitor working conditions. When DWF fishing vessels visit ports outside of their flag state for vessel maintenance, to offload product and resupply, port states that have not ratified ILO C188 have

³ See Grant, T. 2017. It can now be called the deadliest industry in Canada. *The Globe and Mail*, October 27.

no jurisdiction regarding working conditions on foreign flagged fishing vessels with some rare exceptions. This contrasts with foreign flagged shipping vessels whose workers are covered by the widely ratified Maritime Labour Convention (MLC), from which fisheries are explicitly excluded. The MLC gives port states authority in this area and also gives inspection rights to the umbrella union for seafarers, the International Transport Workers' Federation (ITF), which runs a network of some 140 inspectors in [120 ports in 57 countries](#).⁴

Tuna fishing is an important example: extremely poor working conditions have been documented on distant water tuna vessels, including both the purse seiners that catch most of the tuna destined for the global canned and pouched tuna market and the long liners that focus on catching tuna for fresh or sushi-grade markets. Attention (through private sector initiatives) is now being directed to the situation of workers in tuna supply chains, but many other species are caught by vessels where working conditions are equally unacceptable. For example, the supply chain for squid caught by DWF squid jiggers is much less documented than it is for more charismatic species like tuna, but research has shown that sometimes extremely poor working conditions that meet the indicators of forced labour are common. This is repeated across many fisheries globally, including fisheries in the Global North. As noted above, fishing companies in Hawaii, Ireland and the United Kingdom are also recruiting low-paid migrant workers from Southeast Asia as well as Africa, with racism and worker abuse on vessels subsequently becoming a problem in these fisheries as well. A human rights group has recently asked the U.S. Customs and Border Protection Service to exclude seafood caught by [forced labour in Ireland's fisheries](#).

We generally lack good information about working conditions in certain key DWF fishing nations, most prominently [China](#), which is home to the world's largest DWF fleet. However, there is considerable evidence that working conditions on DWF vessels are often unacceptable, with workers unable to report abuses or to seek support due to their vulnerability to captains and work supervisors while isolated at sea. Of further concern are [fishing vessels](#) operating with Flags of convenience and operated by sometimes-dubious fishing companies, some of which are reportedly owned by [Russia](#), according to ITF reports. We also know little about working conditions in fisheries in the West African region. However, currently available information shows that Guinea-Bissau receives the highest number of [distant water fisheries vessels](#) in its exclusive economic zone, while ports in Mauritania, Senegal and Guinea are important for offloading fish, processing fish into fish meal, changing crew and resupplying. There is a significant presence of both [Chinese](#) and [European](#) distant water fleets in African EEZs.

In short, working conditions in many fisheries continue to fall far short of international standards across multiple metrics, including those specified in the MLC, and even in the more limited ILO C188. In the absence of seafood traceability and due diligence requirements for seafood

⁴ [Three international treaties](#) under UN agencies that are relevant to port state action in relation to fishing include the FAO-administered Agreement on Port State Measures, which allows ratifying states to bar vessels engaged in IUU fishing from using their ports; the International Maritime Organization's Cape Town Agreement which includes provisions concerning the safety of crews and observers, and the ILO's Work in Fishing Convention. In 2019, Canada was the 61st country to ratify the Port State Measures Agreement, but Canada has not ratified the other two agreements.

imported into Canada, it is almost certain that Canadian seafood consumers are unknowingly supporting these unacceptable working conditions.

A recent [lawsuit](#) filed in the U.S. by the non-profit Global Labour Justice-International illustrates that even major brands whose products are marketed in Canada, and who would be expected to have relatively robust supply chain requirements for products that are potentially controversial cannot shield themselves from being associated with unacceptable labour practices. The lawsuit alleges Bumble Bee Seafood, owned by the Taiwan-based seafood conglomerate FCF Company, falsely advertises that it sources its tuna through a fair and safe supply chain, despite evidence of forced labour and worker safety violations on Taiwan-based tuna fishing vessels. Bumble Bee is a major supplier of canned tuna and salmon that is marketed in Canada by Clover Leaf Seafoods.

The violations mentioned in the lawsuit include 34-hour periods of work, inadequate sleep and food, withheld wages and some cases of worker deaths, in addition to evidence of IUU fishing. The company has responded to the lawsuit by arguing that it has placed significant effort into tracking labour conditions in its supply chain, including creating a code of conduct process for suppliers, an audit program and joining with other international organizations in participating in the Seafood Taskforce. Bumble Bee further argues that it is complex to monitor the thousands of fishing vessels that they supply from, noting that neither Bumblebee nor FCF actually owns most of these vessels. This case speaks not only to the challenge of addressing unacceptable working conditions in seafood supply chains but also how seafood consumed in Canada is being produced under conditions that Canadian consumers would find unacceptable.

Addressing the Causes of the Unacceptable Working Conditions in Global Fisheries

Many accounts present unacceptable working conditions at sea as a problem of criminality, lack of the application of laws or a lack of rule of law. However, it is also important to address the broader enabling conditions, which include laws and regulations that create worker vulnerability and precarity. Three types of government laws and regulations often contribute to creating this vulnerability.

First, many countries exempt commercial fishing from key employment standards such as working hours, rest periods, overtime and more. These exemptions are replicated internationally by the way that the fishing sector is excluded from the MLC, as mentioned above. ILO C188, the Work in Fishing Convention, is intended to compensate for this exclusion while accounting for the specific nature of work in fishing: it specifies [employment standards that are more flexible but also much more limited than those in the MLC](#).

Second, these exemptions are compounded by the way that most workers in distant water fisheries are [migrant workers](#) with precarious status, performing work that few others will do at prevailing wage rates that are often less than \$500 USD per month. For workers in national or EEZ fisheries, such as Thai and United Kingdom fisheries, migration laws often tie the legal status of temporary migrant workers to continued employment with specific employers, so that

workers cannot leave an abusive employer without losing legal status. Third, in many countries, migrant workers, or workers in fishing and seafood processing, are not permitted to unionize or bargain collectively.

These three types of laws and regulations create vulnerability and precarity for workers in fishing and seafood processing. Notably, all are also present in Canada, with some variation across provinces that have primary jurisdiction for labour laws and regulations. These exemptions arguably contradict basic standards in the Federal Canada Labour Code, as this code applies to [federally regulated businesses](#) that currently do not include fishing and seafood processing (but it does include shipping and port services).

Some accounts describe labour abuse at sea as a form of modern [slavery](#),⁵ particularly in the media and among NGOs with an anti-human trafficking agenda, since such terminology garners attention to what can be horrendous work conditions. At the same time, academic research has shown that unacceptable working conditions are a sectoral problem that is widespread and often poorly captured by terms like “modern slavery.” Specifically, there is no precise legal definition for modern slavery, and in practice, it is usually defined through indicators of forced labour or human trafficking, as these have been elaborated by the ILO and other organizations. Human trafficking is defined through criminal laws (in the UN, the [Protocol on Human Trafficking](#) supplements the [UN Convention Against Transnational Organized Crime](#); in Canada, human trafficking is a [Criminal Code offence](#)) and is suppressed through policing. A policing response under criminal law is appropriate in extreme cases. At the same time, a very broad definition of human trafficking can misrepresent how most fish workers enter this work voluntarily and are concerned with improved working conditions (and pay), [not with being rescued](#). In addition, criminal law does not provide a guide for improving working conditions for migrant workers. Finally, a focus on eliminating extreme cases can draw attention away from sectoral issues that need to be addressed through labour and migration policy.

Forced labour has become the most common way of describing unacceptable working conditions. This term has the advantage of being backed by UN conventions and a set of indicators formulated by the ILO and incorporated into government policies that seek to eradicate this practice. The [ILO indicators](#) capture many of the problems faced by fish workers – for example, abuse of vulnerability, deception, isolation, violence, intimidation and threats, retention of identity documents, withholding wages, abusive working and living conditions and excessive overtime. The basic definition for forced labour is contained in the [CO29 Forced Labour Convention, 1930 \(No. 29\)](#), namely, “all work or service which is exacted from any person

⁵ We strongly suggest avoiding the term modern slavery, which is the basis of the UK *Modern Slavery Act* and similar legislation elsewhere. Although this term has the advantage of being dramatic and catching people’s attention, there are many downsides. The UN definition of slavery under the relevant convention specifies legal ownership, which does not exist today in any state legal code. In practice, most organizations define it as forced labour or human trafficking. Thus, it is more precise to use the terms by which these practices are defined. In addition, we note many of the reports and publications on modern slavery in fishing are not based on careful research, and they often fail to account for changes over the past 5 to 10 years (especially in Thailand). In addition, the concept of “modern slavery” does not account for how most workers do not want to be rescued, but rather, want better working conditions including higher wages. In other words, it fails to take a labour approach. Finally, many people (including the authors) are not comfortable with the way that the term inappropriately invokes the horror of real historical slavery in the British Empire, the United States, the Caribbean, Latin America, and other jurisdictions.

under menace of any penalty and for which the said person has not offered himself *[sic]* voluntarily.”

While actions that seek to eradicate forced labour have been effective in leveraging positive change for workers, the term has some limits in how it does not capture the full breadth of what is unacceptable about working conditions in fisheries. Our research reveals that most workers in commercial fisheries are not directly forced into work in fishing by labour brokers or employers, but actively seek out this work, and often continue working additional contracts after they have experienced poor working conditions. The compulsion to work in fisheries is more often due to poor employment prospects in hometowns, and family income needs, which are not included among the ILO indicators of forced labour. There are also many other aspects of unacceptable working conditions that are poorly covered by the term forced labour.

Thus, we include in our discussion not just the term forced labour, but also unacceptable working conditions. The indicators of decent work [specific to fishing](#) as developed by a team of experts in this area is a useful starting point for exploring what standards for acceptable working conditions might include. This considers how recent campaigns and policies to mandate corporate accountability for working conditions in supply chains are based on broad definitions of human rights that include the right to decent work. Finally, we draw attention to employment standards specified in the Maritime Labour Convention (MLC) that could be applied to workers in fisheries (e.g., access to shore services, maximum periods at sea), which are not generally included in approaches that rely only on the eradication of forced labour.

International Best Practices for Addressing Forced Labour in Fisheries

In recent years, governments, the seafood industry and the international community have initiated programs and policies that aim to address working conditions in commercial fishing. We review five government programs that leverage seafood imports to push for improved working conditions in industrial fisheries, one UN Convention that outlines minimum conditions for work at sea, and another that is based on the application of the decent work agenda. They are:

1. EU IUU fishing program
2. U.S. actions to prevent imports of merchandise produced by forced labour
3. U.S. Trafficking in Persons (TIP) reports
4. The UK and other “modern slavery” laws
5. EU Mandatory Human Rights and Due Diligence Laws
6. ILO C188, Work at Sea
7. ILO Decent Work Agenda, SDG 8

1. EU IUU Fishing Program

The EU is the world's largest import market for fisheries products and has designed a policy that aims to prevent products stemming from IUU fishing activities from accessing the EU single market. Since 2010, this [EU IUU policy has used a carding system](#), in which a yellow card is a warning that indicates that a country is not fully cooperating in the fight against IUU fishing.

When a yellow card is issued, the EU works closely with the government of that country on changes that aim to reduce IUU fishing. Should a country receive a red card, fisheries products are banned from import into the EU. Such trade sanctions serve as a powerful mechanism to improve fisheries management for many countries. A recent study on the impact of IUU policy in Belize, Guinea, the Solomon Islands and Thailand found that IUU policy was particularly effective at [improving legislative arrangements](#), including participation in relevant international agreements, as well as monitoring, enforcement and overall fisheries management. The study also found that the policy's effectiveness was in good part due to the EU's technical assistance programs provided to states under the yellow card, which helped them build capacity to improve fisheries governance.

While labour issues are not formally included in the IUU carding policy, in practice the EU has sometimes included improvements in working conditions as an informal requirement for lifting a yellow card. This was crucial in Thailand, where [research](#) has demonstrated how the EU's emphasis on working conditions in fisheries significantly improved labour policies as well as fishing management, which eventually enabled Thailand to ratify ILO C188 in 2019. The Thai case also illustrates how creating a fishery monitoring and regulatory infrastructure – including port-based inspection stations that inspect fishing vessels when they both leave and enter ports – can facilitate improved enforcement of labour standards as well as fisheries regulations. In other words, while the EU's IUU policy was initiated and remains oriented primarily to improving fisheries management, it can also be leveraged to improve working conditions. To have this positive effect, these programs must account for the potential negative impacts on workers of stopping IUU fisheries and incorporate labour into their definition of fisheries governance.

2. U.S. Actions to Prevent Imports of Merchandise Produced by Forced Labour

The U.S. is a major player in combating forced labour in supply chains for imported products, including seafood. One way that it has acted is through Customs and Border Protection (CBP) banning seafood imports from individual vessels or entire fleets with known cases of forced labour. The [Withhold Release Order](#) policy mandates CPB personnel to detain products at ports of entry if there is reasonable evidence of forced labour in the supply chain, based on the ILO indicators. CBP blocks these imports through the application of the U.S. [Tariff Act of 1930](#), which is linked to the 1930 UN [Forced Labour Convention](#) (and uses the same definition of forced labour).

In 2020 and 2021 CBP banned imports of seafood produced by [four tuna fishing vessels](#) owned and operated in Taiwan, and in 2021, it further [issued a Withhold Release Order](#) against seafood products originating from 32 vessels operated by the [Dalian Ocean Fishing](#) company, which is based out of the port of Dalian in northern China. These actions came after CBP investigations found indications of forced labour on these vessels. The indications included isolating workers, withholding wages, using intimidation and retaining worker identification documents. Many of the migrant workers on both the Taiwanese and Chinese vessels were from Indonesia. The current Taiwanese policy reforms that aim to improve protections for DWF fish workers are in part a response to the CBP actions (based on our research). Importantly, this U.S. policy also

forces importers to require supply chain traceability as a way of demonstrating that the product was not caught by one of the designated vessels.

3. US Trafficking in Persons Reports

The annual U.S. Department of State [Trafficking in Persons](#) (TIP) report, published since 2001 following the adoption of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, creates a list that shames countries that this report concludes are taking insufficient action to suppress human trafficking. Over the past decade, work in fishing has become a key sector of concern in this report. For countries where reputation matters, a downgrade can serve as an incentive to reform policy. As an example, Thailand was downgraded to Tier 2 ‘watch’ status in the 2021 TIP report. The reasons cited in the report included evidence of forced overtime in fishing and seafood processing due to increased demand for shelf-stable seafood products during the pandemic; failures to identify any victims of labour trafficking in fishing vessel inspections; and laws preventing migrant workers from forming unions. The Thai government responded in part by reportedly enhancing its inspection practices concerning compliance with labour standards on fishing vessels. Globally, the 2021 TIP reports mentioned fish or fishing in relation to forced labour or human trafficking across 54 countries (of 187). These reports need to be read cautiously as they are often influenced by political considerations – thus Taiwan has always received the top grade, despite considerable evidence of labour abuse in fishing and other sectors. Even so, the TIP reporting process has been indirectly influential in pushing some governments to improve working conditions in fishing.

4. The UK and Other “Modern Slavery” Laws

The UK has a significant focus on modern slavery and adopted the [Modern Slavery Act](#) in 2015. This *Act* contains a series of provisions that consolidates and tightens the prosecution of what the *Act* defines as modern slavery and human trafficking in England and Wales. Internationally, its most consequential provisions are the transparency in supply chain requirements, which mandates UK businesses with a turnover greater than 36 million pounds in to publish an annual statement documenting what they are doing to ensure there is no slavery or human trafficking in their supply chains.

An independent review of the *Modern Slavery Act* conducted in 2019 listed [recommendations to](#) strengthen the *Act*, including ensuring that companies: examine their entire supply chains, create an enforcement body for non-compliance, and consider how consumer attitudes to modern slavery can be influenced. An important [takeaway](#) is how this *Act* is narrow in focus, due to its focus on modern slavery as a criminal practice. The *Act*’s orientation to criminal law, abusive employers and labour brokers does not directly address how labour and migration law enable poor and abusive working conditions, especially for migrant workers.

Legislation in other countries has also mandated transparency in supply chains regarding human trafficking and modern slavery. This includes [Australia’s Modern Slavery Act](#) 2018, the [California Transparency in Supply Chains Act](#) 2012 and the [National Action Plan to Combat Human Trafficking](#) released by the U.S. Department of State in December 2021. The latter two policies include a focus on labour issues in the global seafood industry.

5. EU Mandatory Human Rights and Environment Due Diligence Laws

The [EU](#) and member countries are at the forefront of mandatory human rights and environmental due diligence (mHREDD), with some member countries having approved or being in the process of [approving country-based mHREDD policies](#) in addition to proposed EU-wide mHREDD legislation. Key aspects of this legislation include: (a) establishing a corporate duty for companies to prevent human rights abuse and environmental harms; (b) requiring companies to conduct due diligence and publicly report steps taken to prevent human rights and environmental harm; and (c) ensuring significant consequences for companies that cause harm and/or fail to conduct due diligence. These policies will require companies to prevent human rights and environmental harm throughout their global operations and supply chains, drawing on key UN human rights and environmental conventions for the standards that will be applied to companies. For fisheries, this kind of integrated environment-labour policy is critical, and thus constitutes an example of current international best practices in policies mandating supply chain traceability and accountability.

6. ILO C188, Work in Fishing

The most important guide and international instrument for reform in labour law as applied to fisheries has been the Work in Fishing Convention, ILO C188. While C188 has been ratified by only 20 countries to date (see Figure 1), it has also provided a template for what constitutes acceptable working conditions among governments and intergovernmental bodies (such as the Pacific Islands Forum Fisheries Agency) that have not formally ratified this convention.

Number

Country	Date	Status	Note
Angola	11 Oct 2016	In Force	
Antigua and Barbuda	28 Jul 2021	Not in force	The Convention will enter into force for Antigua and Barbuda on 28 Jul 2022.
Argentina	15 Sep 2011	In Force	
Bosnia and Herzegovina	04 Feb 2010	In Force	
Congo	14 May 2014	In Force	
Denmark	03 Feb 2020	In Force	
Estonia	03 May 2016	In Force	
France	28 Oct 2015	In Force	
Kenya	04 Feb 2022	Not in force	The Convention will enter into force for Kenya on 04 Feb 2023.
Lithuania	16 Nov 2016	In Force	
Morocco	16 May 2013	In Force	
Namibia	20 Sep 2018	In Force	
Netherlands	19 Dec 2019	In Force	
Norway	08 Jan 2016	In Force	
Poland	17 Dec 2019	In Force	
Portugal	26 Nov 2019	In Force	
Senegal	21 Sep 2018	In Force	
South Africa	20 Jun 2013	In Force	
Thailand	30 Jan 2019	In Force	
United Kingdom of Great Britain and Northern Ireland	11 Jan 2019	In Force	

Figure 1: Countries that have ratified C188 - Work in Fishing Convention, 2007 (No. 188)

Date of entry into force: November 16, 2017. Note that Taiwan cannot ratify the convention but is using it as a guide for policy reform for its DWF fisheries.

C188 was intended to fill the gap created by the exclusion of fishing from the MLC. Among other provisions, it commits the parties to ensure that workers in fishing are over 16 years of age, have a medical certificate of health, have sufficient and appropriate food and accommodation arrangements aboard fishing vessels and are engaged under the terms of a voluntarily concluded work agreement and work a maximum of 14 hours per day. It also commits ratifying states to enforcing these measures through documented inspections of vessels carrying their flags, conducted every five years for larger vessels, and provides for non-mandatory but encouraged inspections for working conditions on foreign fishing vessels entering the ports of ratifying states by authorized and competent port state control officers. The [guidelines](#) for these port state inspections allow the port state to detain fishing vessels if they find conditions that are hazardous to the safety and health of the crew. If these labour inspections become as common as they are for shipping, this could become an important tool for improved monitoring of working conditions at sea.

Once a State ratifies C188, it has a binding treaty obligation and is subject to the ILO supervisory system, including submitting periodic reports. These reports are reviewed by the ILO's Committee of Experts on Application of Conventions and Recommendations, which works with the ratifying State to help move the State toward full compliance.

7. ILO Decent Work Agenda for Fisheries

The ILO Decent Work Agenda is included in Sustainable Development Goal ([SDG 8](#)), which is one of 17 SDGs in the 2030 Agenda that Canada adopted along with other UN member states in 2015. The ILO has elaborated the Decent Work Agenda through the following [10 indicators](#): employment opportunities; adequate earnings and productive work; decent working time; combining work, family and personal life; work that should be abolished; stability and security of work; equal opportunity and treatment in employment; safe work environment; social security; and social dialogue and employers' and workers' representation. This agenda is useful because of how it broadens the definition of what constitutes acceptable working conditions beyond forced labour (or modern slavery and human trafficking), and the relatively limited standards in ILO C188.

The inclusion of family relations in the Decent Work Agenda is important in that families are central to the reasons that most migrant workers in fisheries seek out this work. Other important indicators for workers in fisheries include adequate earnings, decent working time, stability and security of work, safe work environments, social security and workers' representation. Canada's commitment to the [2030 SDGs](#) means that the government has committed to decent work for workers in fisheries based on these indicators, both in Canada and in the supply chains for seafood consumed in Canada.

Canadian Forced Labour, Due Diligence and Traceability Policy, as Linked to Work in Fishing

To date, Canada has no legislation on forced labour or human rights and environmental due diligence, although four Private Members Bills touching on some dimensions of these issues are currently before Parliament for consideration.

The Modern Slavery Act, [Bill S-211](#), was tabled in February 2020 and re-tabled in early 2022 as Bill S-216. This is in addition to the Private Members [Bill C-243](#). However, as [noted by the Canadian Network on Corporate Accountability \(CNCA\)](#), these two proposed Bills will be largely ineffective at addressing serious human rights abuses, since too many businesses would be exempt, the bills are too narrow in scope and companies are only required to report on steps taken to prevent forced or child labour in their supply chains, rather than conducting human rights and environment due diligence. Importantly, the Bills do not provide for liability for harm. Nor do they provide access to remedy for impacted people.

Two additional Private Members [Bills](#) were tabled in the House of Commons in late March 2022: [Bill C-262](#) and [Bill C-263](#). Bill C-262, *Corporate Responsibility to Protect Human Rights Act*, focuses on human rights due diligence in supply chains, requires companies to review all

business activities, identify real and potential risks to human rights, take steps to mitigate risk and ensure remedy for those harmed. Moreover, C-262 is linked to a set of core international human rights treaties. Bill C-263, *Responsible Business Conduct Abroad Act*, focuses on strengthening the existing Canadian Ombudsperson for Responsible Enterprise (CORE) office, including powers to order the production of documents and to compel witnesses under oath. Both bills cover important aspects of human rights in global supply chains, and the CNCA is calling for all political parties to endorse these two bills.

Within these promising policy developments, further thinking is required as to how and where environmental harm is included, especially for fisheries where sustainability will remain a central concern. In the [EU](#), mHREDD legislation explicitly includes and integrates environment and human rights, while in Canada, the 'E' is relatively absent in the proposed mHRDD legislation and the other proposed bills, except regarding how environmental degradation affects human rights. In many situations, the link between environmental degradation and human rights is indirect or very difficult to prove. The exclusion of environmental degradation in and of itself from proposed legislation in Canada also means that these bills do not mention core environmental treaties and conventions.

Canada has become more active in blocking the importation of goods produced with forced labour, through the [Canada's Custom Tariff Act](#). It was used in 2021 to [prevent the import of clothes made with forced labour](#) from China. To date, this *Act* has not been applied to seafood, unlike in the U.S. which has made seafood a key sector of concern for imports potentially produced through forced labour.

Canada does not have a traceability policy for seafood. In the Canadian seafood industry, a traceability system would follow the movement of wild-caught and farmed seafood from point of harvest in Canada, through the processing sector and on to the purchase point for a Canadian consumer or to an export point for shipment abroad. The labour component of such a traceability system can include working conditions for migrant workers in seafood processing, particularly in Atlantic Canada. Equally, it could ensure that fish and seafood products imported into Canada can be traced back through the supply chain to their point of origin, where they were caught or produced on farms, and take into account working conditions in these enterprises. Such systems would contribute dramatically to greater integrity in Canadian fisheries management, to Canadian efforts to combat IUU fishing, and to Canadian food security and consumer safety. In summary, seafood traceability systems and forced labour prevention mechanisms are in many ways, two sides of the same coin.

A Potential Path Forward for Canada

The analysis in this report gives rise to four key conclusions concerning the unacceptable working conditions in fishing and its potential links to unsustainable or IUU fishing, from a Canadian perspective.

1. Unacceptable workplace conditions, including forced labour, are common in the fishing industry globally. They are especially prevalent among the vessels operating as the Distant Water Fisheries (DWF) around the world, and for national fisheries that employ migrant workers. There is evidence that IUU fishing can overlap with unacceptable workplace conditions.
2. Canadian fish supply chains can be clearly traced back to fisheries in which these conditions are common, in a manner that makes Canadians unwittingly complicit in unacceptable working conditions and forced labour in a range of global fisheries.
3. Canada's legislative and policy regime for fisheries traceability and human rights and environment due diligence is non-existent. As a result, Canada is dramatically behind the programs being created by many other OECD nations to combat and eventually eradicate unacceptable working conditions and forced labour in global fisheries. Actions that address unacceptable working conditions often overlap with those that would address unsustainable and IUU fishing.
4. Even as the number of countries ratifying ILO C188 increases, and as more governments seek to demonstrate their commitment to improving working conditions on fishing fleets owned and operated from their ports, Canada has made no moves to do the same. This could place the Canadian fishing industry in a difficult situation for seafood exports to countries who are requiring that seafood producers meet ILO C188 or related standards. It also will create the appearance of a double standard if the Canadian government does pass legislation concerning human rights in international seafood (and other) supply chains while failing to ensure the same standards for workers in the seafood industry in Canada.

Canada is a nation that prides itself on having an enduring commitment to principles of fairness, human rights and just labour conditions. The Canadian public is largely unaware of Canada's lack of action on these issues, but would not be comfortable with this status quo if they were more aware. To be sure, eradicating global labour abuse generally, and in fisheries in particular is a highly complex problem implicating poverty alleviation, global economic policy and socio-political factors. But this complexity is no excuse for inaction in the immediate term. As this report shows, actions in key areas can lead to improvements.

The four Private Members Bills in Parliament in 2022 collectively offer an important starting point for discussing impactful human rights due diligence legislation. Similarly, the 2019 mandate letters to the Ministers of Health, Fisheries and Oceans and Agriculture and Agri-Food directing them to develop a boat-to-plate traceability system was cause for optimism, although these letters did not lead to governmental action. The subsequent 2022 mandate letters directing several Ministers to bring forward legislation to eradicate forced labour from Canadian supply chains offer a tremendous opportunity to build on these initial forays into the issue, particularly in the case of fisheries where there is an opportunity to think about environment and labour in global supply chain and contribute to greater fisheries sustainability.

This Report underscores the complexities involved in seizing this opportunity and developing the comprehensive and effective legislation needed to meet the Prime Minister's call. The authors make no pretensions to having a ready-made recipe for doing so. But our research and

lived experiences strongly suggest that several attributes of such a regime for Canada can be readily identified.

Short-Term Actions

1. Act on the Government's 2019 mandate letter directive to the Ministers of Health, Fisheries and Oceans and Agriculture and Agri-Food to establish a Boat-To-Plate fisheries traceability system
2. Enact mHREDD legislation that holds businesses active in Canada and abroad accountable for human rights and environmental impacts throughout their supply chains.
3. Ratify ILO C188

Long-Term Objectives

Support the Decent Work Agenda for work in fishing and seafood processing.

In Detail:

1. **Implement seafood traceability.** Oceana Canada's 2020 boat-to-plate report offered insights and advice for government consideration in designing a system that would meet its mandate letter directive. This Report firmly advocates for establishing a system that is:
 - mandated in law;
 - fully interoperable with mechanisms in place or in development in other countries;
 - traces all imported fish and seafood products to their point of origin;
 - applies equally to tracing all fish and seafood produced in Canada for domestic consumption or export; and
 - includes comprehensive labeling to ensure that Canadians know where the fish and seafood Canadians consume truly originates, how it was caught, and that it is what the packaging says it is.

To date, these recommendations have not been acted upon. Oceana Canada has recently appeared before the Standing Committee on Fisheries and Oceans to reiterate these points and the urgent need for action on them. Notably, since the government's 2019 mandate letter commitment was released, [several other countries](#) have moved assertively to deepen and expand the coverage of their seafood traceability systems, which means that Canada's inaction puts it further and further behind market trends on the global scale with each passing day. Traceability is also necessary for corporate accountability for human rights and environmental impacts in their international supply chains.

2. **Create and enact mHREDD legislation.** Integrated policy that includes human rights, working conditions and the environment is critical in the face of fisheries management challenges and unacceptable work conditions in fisheries. Effective laws that address these concerns must include provisions that create legally compelling requirements for companies importing goods to Canada to formally demonstrate that they have exercised due diligence to ensure that producers in their supply chains do not violate the human

rights of workers, as well as protect the rights of other affected human and ecological communities.

A new Canadian regime must address importers of all sizes and scales, but also all commercial fish species. Many fish importing enterprises operate at a relatively small scale, often in highly targeted market niches. Others are major market retailers, especially in the frozen fish product line. Given the nature of the fishing sector, an mHREDD regime must embrace both ends of this continuum and all points in between.

This policy area encompasses multiple sectors in which human rights, working conditions and environmental impacts in international supply chains are of concern, including mining and textiles. Advocates for corporate accountability in seafood supply chains will thus need to engage with these broader efforts to push for expanded corporate accountability that accounts for the interaction between the protection of human rights and environment.

3. Ratifying ILO C188 (Work in Fishing) is a basic first step for ensuring that working conditions in the seafood sector in Canada (fishing, processing and transportation) are acceptable by emerging international standards and anticipates emerging requirements for export to the EU and potentially more broadly. Ratification would also enable port authorities in Canada to inspect visiting fishing vessels and act if there is evidence of labour abuse on these vessels, as port authorities currently do for cargo vessels enabled by provisions in the MLC.

We are not aware of any initiative in the Canadian government to consider ratification of ILO C188, although the Canadian government [claims](#) a leading role in the MLC and international port state control measures, as well as a broad commitment to ILO labour standards and [decent work for seafarers](#). The DFO website does not refer to the convention or the issues it addresses, and there is no reference to it on the Labour Canada site. Ratification of ILO C188 in Canada would be complicated because the Canada Labour Code does not currently apply to fishing and seafood processing: labour regulations in these industries fall under provincial jurisdiction. Many provinces have exempted work in fishing and seafood processing from employment standards that are included in ILO C188. Ratification would also require the involvement of the Indigenous governing bodies for fisheries. That said, the relatively limited labour standards found in ILO C188 should make compliance feasible even in Canada's complex policy environment for labour relations. The apparent lack of interest in ratifying ILO C188 reflects poorly on Canada, as it positions it as a follower and laggard in improving working conditions in fishing.

Longer-term:

4. The analysis in this report finds that the Decent Work Agenda is a best practice for defining what constitutes acceptable work in fisheries and the seafood sector. This agenda can be merged with the mHREDD approach to holding corporations accountable

for their supply chains. It can also be applied in Canada to build on the more limited standards in C188, by addressing employment standards for workers in fishing and seafood processing, such as the lack of collective bargaining rights in some provinces, and precarious migration status. More specific to maritime work, providing workers in fishing and seafood the same protections as those provided for other seafarers under the MLC would be an important step toward meeting the standards in the Decent Work Agenda for work in fisheries.

Closing Remarks

Consideration of forced labour and unacceptable working conditions is a highly complex and often emotionally charged undertaking. For many, the entry point into the discussion is an abiding concern about social justice, human rights and basic human dignity. For others, it is a deep-seated concern about ecological integrity, fair and equitable resource management and long-term environmental sustainability. As this report demonstrates, for us, it is clearly a combination of both. But regardless of one's starting point or wherever one is "coming from," it is the destination that matters far more.

Canada needs new, progressive and comprehensive legislation that drives and supports efforts to eradicate forced labour and unacceptable working conditions in all of Canada's global supply chains, including fisheries. Canada needs a modern, purpose-built boat-to-plate traceability system rooted in law to ensure it does its part to eradicate IUU fishing and guarantee Canadians that the seafood products they eat are what the product label says they are.

These systems are urgently needed now, not at some point in the distant future. We know that building these twin systems is a complex and challenging undertaking. But we also know that Canada is more than capable of meeting this challenge. This report is respectfully offered as a contribution to doing so.

Appendix A = Mandate Letter Content

2021

Minister of Labour

- With the support of the Minister of Public Safety, the Minister of Public Services and Procurement and the Minister of International Trade, Export Promotion, Small Business and Economic Development, introduce legislation to eradicate forced labour from Canadian supply chains and ensure that Canadian businesses operating abroad do not contribute to human rights abuses.

Minister of International Trade, Export Promotion, Small Business and Economic Development

- To ensure that a whole-of-government approach is taken, support the Minister of Labour in introducing legislation to eradicate forced labour from Canadian supply chains and ensure that Canadian businesses operating abroad do not contribute to human rights abuses.

Minister of Public Safety

- To ensure that a whole-of-government approach is taken, support the Minister of Labour in introducing legislation to eradicate forced labour from Canadian supply chains and ensure that Canadian businesses operating abroad do not contribute to human rights abuses.

Minister of Agriculture and Agri-Food

- Support the Minister of International Trade, Export Promotion, Small Business and Economic Development and the Minister of Innovation, Science and Industry and secure supply chains.

Minister of Innovation, Science and Industry

- With the Minister of International Trade, Export Promotion, Small Business and Economic Development, work to strengthen and secure supply chains and support the Minister of Transport to reduce and prevent bottlenecks in Canada's transportation networks.

2019

- Prime Minister Trudeau has directed The Honourable Patty Hajdu, Minister of Health, to work:
"With the Minister of Fisheries, Oceans and the Canadian Coast Guard and the Minister of Agriculture and Agri-Food, in your role as the Minister responsible for the Canadian Food Inspection Agency, develop a boat-to-plate traceability program to help Canadian fishers to better market their high-quality products."