

Original: English

Explanatory Note on Draft Resolution by ICCAT on Core Principles on Labour Standards in ICCAT Fisheries

(submitted by the Chair of the Ad Hoc Working Group on Labour Standards (LSWG))

The Chair of the Ad Hoc Working Group on Labour Standards (LSWG) first introduced a “Draft Resolution on Core Principles on Labour Standards in ICCAT Fisheries” in advance of the virtual LSWG meeting, held on 31 May 2023. Working Group members provided feedback on the draft resolution, which resulted in an A and B version of the document. Working Group members agreed to further refine the text by offering edits through an intersessional correspondence process, leading to a C version of the document. Several CPCs submitted further edits in writing on the C version of the resolution. The below version of the draft resolution accepts all the previous edits between the B and C version of the resolution, and notes in track changes only those edits provided by CPCs in the most recent round of review.

For transparency, combined texts that cumulatively reflect all edits submitted by CPCs in each round of review are available in the Background documents section of the LSWG NextCloud folder. These combined texts also include annotations from the Chair explaining how edits were resolved and the rationale for which suggestions were accepted and which were not accepted.

**Draft Resolution by ICCAT on Core Principles on Labour Standards
in ICCAT Fisheries**

(submitted by the Chair of the Ad Hoc Working Group on Labour Standards (LSWG))

DESIRING to uphold the safety of life at sea;

RECOGNIZING the challenges faced by fishers with respect to health, safety, and welfare due to the inherent dangers of working at sea;

NOTING the increasing global attention to instances of poor labour conditions and mistreatment of crews including forced labour and child labour on board fishing vessels;

RECALLING that the United Nations Food and Agriculture Organization's (FAO's) Code of Conduct for Responsible Fisheries provides that "States should ensure that fishing facilities and equipment as well as all fisheries activities allow for safe, healthy and fair working and living conditions and meet internationally agreed standards adopted by relevant international organizations";

FURTHER RECALLING the International Labour Organization's (ILO) five Fundamental Principles and Rights at Work: freedom of association; elimination of forced or compulsory labour; abolition of child labour; elimination of discrimination in employment; and safe and healthy working environment;

MINDFUL OF the ILO's Work in Fishing Convention No. 188, which describes global labour standards relevant to all fishers;

TAKING INTO ACCOUNT the Recommendation by ICCAT on Protecting the Health and Safety of Observers in ICCAT's Regional Observer Programs (Rec. 19-10), the Resolution by ICCAT on Harmonization and Improved Observer Safety (Res. 19-16), and the Resolution by ICCAT Establishing a Process to Address Labor Standards in ICCAT Fisheries (Rec. 21-23);

AWARE OF efforts to address the issue of labour standards in the seafood sector in other relevant international organizations and fora, such as the ILO; and

EMPHASISING the important work of ICCAT's Working Group on Labour Standards and supportive of the implementation of its workplan;

**THE INTERNATIONAL COMMISSION FOR THE CONSERVATION
OF ATLANTIC TUNAS (ICCAT) RESOLVES THAT**

1. CPCs are encouraged to ratify relevant international instruments and to address the issue of labour standards in the seafood sector in the relevant international organizations and fora, such as ILO. CPCs are encouraged to make every effort to ensure that their policies for the seafood sector address labour standards.

1.2. CPCs are encouraged to make every effort to ensure ~~that their domestic laws and policies addressing labour standards~~ and workplace safety and health extend to all crew, including migrant workers, working on vessels flying their flag [and engaged in fishing or fishing related activity managed by ICCAT] [in the ICCAT Convention area]. In addition, where appropriate and applicable, CPCs are encouraged to adopt and implement measures to establish minimum standards regulating crew labour conditions. CPCs are further encouraged to ensure the adequate enforcement of all relevant laws and policies, and applicable international labour standards, including by identifying and prosecuting violations of relevant national laws and policies relating to the treatment of crew by vessel operators that their ports or operate in their waters.

~~2-4~~3. Where a vessel described in paragraph 1 enters the port of a CPC, the port CPC is encouraged to ~~inspect these vessels to~~ detect possible labour rights violations ~~in these vessels during port inspections~~, including forced labour, ~~and violations of relevant national laws relating to the treatment of crew~~. In those inspection efforts, CPCs can use relevant International Labour Organisation detection tools. Port CPCs are encouraged to notify the flag CPC of relevant evidence or support investigation and, where appropriate, prosecution by the flag CPC, and to take other appropriate action with respect to the vessel and its master consistent with applicable laws.

3.4. CPCs are encouraged to adopt and implement measures, consistent with applicable international labour minimum standards for crew on fishing vessels, where applicable, to ensure fair and decent working conditions on board for all crew working on vessels flying their flag and operating in fisheries [under the competence of ICCAT] [in the ICCAT Convention area], including, *inter alia*:

- a. The absence of forced, trafficking in persons, or any other form of involuntary or compulsory labour;
- b. A safe and secure working environment with minimum risk to health and, to the extent possible, wellbeing;
- c. Fair terms of employment, including the prohibition of recruitment fees and related costs being charged to crew members, that are enshrined in a written work agreement (or other evidence of contractual or similar arrangements); this is made available to the employee, in a form and language that facilitates the employee's understanding of the terms, and is agreed by the employee. [The ~~respective rights and obligations under Performance of~~ employment contracts are the responsibility of the parties to those contracts];
- d. Decent working and living conditions on board vessels, including access to sufficient potable water and food, vessel and operational safety protections, medical care, adequate periods of rest, and acceptable standards of sanitary hygiene;
- e. Access to appropriate safety equipment onboard vessels and ~~requiring~~ adequate safety training ~~be~~ provided by the CPC or a CPC designated or approved third party before first deployment on a vessel and at appropriate intervals thereafter; such training ~~[is encouraged to]~~ ~~should~~ be in line with the International Maritime Organization (IMO) safety training standards and ILO safety and health standards on fishing;
- f. Access to a communication device at no cost or at a reasonable cost not exceeding the full cost to the fishing vessel's owner and a designated point of contact in case of concerns related to safety or labour abuses;
- g. ~~Decent~~ and regular remuneration, in accordance with the flag CPCs domestic laws and regulations, for the crew;
- h. [Appropriate unemployment, accident, and other worker compensation allowances in case of work related sickness, injury or death in accordance with the flag CPC's domestic laws and regulations;]
- i. The opportunity to disembark, to access their identity documents, to terminate the contract of employment, to communicate with an organization that can render assistance to crew, to submit complaints regarding vessel working conditions, and to seek repatriation.

4.5. CPCs are encouraged to work with any entities involved in recruitment of crew to implement the provisions of this Resolution.

5.6. CPCs are strongly encouraged to develop and implement an emergency action plan (EAP) to be followed in the event a crew member dies, is missing or presumed fallen overboard, or suffers from a serious illness or injury. Such EAPs are encouraged to include, *inter alia*, the elements in the **Annex** to this Resolution.

6.7. CPCs are encouraged to apply and, where appropriate, strengthen, effective jurisdiction and control over vessels flying their flag and to exercise due diligence to improve and enforce requirements regarding labour conditions and crew safety on board vessels.

- ~~7.8.~~ CPCs are encouraged to report on the implementation of this Resolution as part of their Annual Report to the Commission. In addition, in order to assist in determining the scope of this issue in ICCAT fisheries and to further the work of the ILO in identifying indicators of forced labour in ICCAT fisheries, CPCs are encouraged to share information related to indications of potential labour abuses, subject to applicable confidentiality requirements, including or port inspection reports, having occurred on vessels operating in fisheries [under the competence of ICCAT][in the ICCAT Convention area].
- ~~8.9.~~ To assist in the implementation of this Resolution, developed CPCs are encouraged to make concerted efforts and consider innovative options to assist, where needed, developing CPCs in the development and strengthening of relevant domestic laws and in their enforcement, including working with local industries and worker organizations to help them meet the core principles and minimum elements set out in this Resolution.
10. This Resolution [should] [may] be reviewed three years after its adoption, taking into account, *inter alia*, reports by CPCs referred to in paragraph 7 above, and any relevant guidance or standards developed by the relevant international organisations, including, FAO, the ILO, or the IMO or RFMOs, [such as the 1995 FAO Code of Conduct for Responsible Fisheries, the ILO Work in Fishing Convention, 1997 \(No. 188\), the ILO Work in Fishing Recommendation \(No. 199\), and the 2012 Cape Town Agreement](#).

Elements of Crew Member Emergency Action Plan (EAP)

1. In the event that a crew member dies, is missing or presumed fallen overboard, the CPC to which the fishing vessel is flagged should take necessary measures to require that the fishing vessel:
 - a. immediately ceases all fishing operations;
 - b. immediately notifies the appropriate Maritime Rescue Coordination Center (MRCC) and flag CPC;
 - c. immediately commences search and rescue if the crew member is missing or presumed fallen overboard, and assists the MRCC efforts until the crew member is found or the MRCC actively suspends search efforts, or unless instructed by the flag CPC to continue searching;¹
 - d. immediately alerts other vessels in the vicinity by using all available means of communication;
 - e. cooperates fully in any search and rescue operation;
 - f. whether or not the search is successful, promptly returns to the nearest port for further investigation, as agreed by the flag CPC;
 - g. promptly provides a report on the incident to the appropriate flag State authorities; and
 - h. cooperates fully in any and all official investigations, and preserves any potential evidence and the personal effects and quarters of the deceased or missing crew member.
2. In addition, in the event that a crew member dies while onboard, the flag CPC should require that the fishing vessel ensure that the body is well-preserved for the purposes of an autopsy, investigation and repatriation[, except for the limited cases ~~for which~~where the flag CPC's law allows burial at sea and the flag CPC has the consent of the crew member's country of repatriation].
3. In the event that a crew member suffers from a serious illness or injury that threatens his or her health or safety, the flag CPC should take necessary measures to require that its fishing vessel:
 - a. immediately ceases fishing operations;
 - b. immediately notifies the flag CPC and relevant MRCC to advise if a medical evacuation is warranted;
 - c. takes all reasonable actions to care for the crew member and provide any medical treatment available and possible on board the vessel;
 - d. where necessary and appropriate, if not already directed by the flag CPC, facilitates the disembarkation and transport of the crew member to a medical facility equipped to provide the required care, as soon as practicable; and
 - e. cooperates fully in any and all official investigations into the cause of the illness or injury.
4. For the purposes of paragraphs 1 through 3, the flag CPC should ensure that the appropriate MRCC is immediately notified of the incident, actions taken or underway to address the situation, and any assistance that may be required.
5. CPCs should encourage vessels flying their flag to participate, to the greatest extent possible, in any search and rescue operations being conducted by the vessels of other CPCs in the area[, in accordance with the flag CPC's relevant law].
6. Relevant CPCs should, if so requested by a flag CPC, cooperate in investigations being conducted by that flag CPC of incidents indicated in paragraphs 1 through 3 above.

¹ In the event of force majeure, CPCs may allow their vessels to cease search and rescue operations before 72 hours have elapsed.