



Human Rights and Environmental Due Diligence in the Seafood Industry



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Report of a field practicum carried out on behalf of the Fisheries Governance
Project

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Cover photo: Thai fishing vessels in Songkhla, Thailand. Credit: Judy Gearhart

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1. Introduction

Seafood plays a critical role in human wellbeing, climate health, and geopolitical relations. Growing fish consumption and depleted or collapsing fisheries continue to harm ocean ecosystems and put workers at risk. Managing this shared resource requires improvements to both public and corporate accountability.

This report analyzes how corporate accountability – done well – can help mitigate environmental harms and labor rights abuses in the industry. The research focused on how emerging laws for mandatory human rights and environmental due diligence (MHREDD) can improve workers’ access to remedy in the global seafood industry, civil society accountability demands, and how corporate approaches to supply chain due diligence and reporting are being applied in the seafood industry.¹

Ensuring workers’ access to remedy is challenging throughout the seafood industry, particularly where a high percentage of workers are migrant workers. Despite steady and resilient increases in global demand for seafood,² the industry’s growth rate has not been good for workers. The more depleted fish stocks become, the more vessel operators are driven to exploit their crews, cutting costs from wages, time at port, and other worker protections (ILRF 2018). Meanwhile, larger socio-economic trends are adding to the ranks of migrant workers, who are vulnerable to exploitation and desperate enough to take high risk jobs at sea. Fishers on vessels engaged in illegal, unreported, and unregulated (IUU) fishing are particularly vulnerable. Cases of bonded labor and slavery at sea surface regularly and the 2021 US Trafficking in Persons Report documents the challenges governments face to improve enforcement and legal protections for fishers at risk (US DOS 2021). Although a growing number of groups seek to rescue victims, preventive measures and support for legal reforms to enable migrant workers’ organizing continue to lag behind (ILRF 2020).

Given the mobile nature of the industry, national regulations require agreements on international regulatory policies as one country’s port may be inspecting a vessel flying the flag from another country. This dynamic complicates enforcement efforts and industry actors must understand multiple layers of regulations and the risks of noncompliance. This means there are many places where bad actors can slip through the cracks, creating a regulatory matrix that requires strategies to ensure both public and private accountability. Greater transparency and collaboration can increase the effectiveness of all actors involved, whether from government, corporations, or civil society organizations (CSOs).

¹ The report reviews trends in national laws governing responsible business conduct and in keeping with recent advocacy momentum demanding and securing a broader scope of due diligence in recent laws (e.g. France and Germany). It will give preference to the concept of human rights *and environmental* due diligence (HREDD), unless a specific example is framed otherwise.

² Although seafood industry growth has slowed in recent years, OECD projections indicate that growth has been steady and will continue: <https://www.oecd-ilibrary.org/sites/4dd9b3d0-en/index.html?itemId=/content/component/4dd9b3d0-en>

Environmental experts, over years of advocacy, have carved out both industry and government commitments to certain reforms, such as catch documentation and traceability, which could also be leveraged to increase transparency on working conditions. For this transparency to be useful in changing industry practice, however, rights holders and environmental advocates must be able to use that data to assist workers in accessing remedy and to hold government and industry to account.

The UN Guiding Principles on Business and Human Rights (UNGPs) have created opportunities by providing guidance and spurring national legislation on responsible business conduct (RBC). A growing number of transparency and MHREDD laws passed by consumer countries like France, Germany, Australia, and others require large companies operating in those countries to know the human rights risks in their supply chains and to take steps to mitigate those risks. Although some laws still define a narrow scope, focused on child labor or forced labor, experts increasingly advocate for holistic human rights risk assessments, including of the impacts of environmental damage on local communities. Unless otherwise noted, this report refers to the more comprehensive concept of MHREDD.

Although MHREDD laws cannot replace effective national government enforcement and the ability of community-based CSOs to monitor that enforcement, corporate due diligence reporting, if done well, may encourage corporations to go beyond monitoring their direct suppliers and seek to identify flaws in the rights-enabling environment all along their supply chain. To this end, the research covers both the human rights violations at risk, such as forced labor and human trafficking, and the processes in place to prevent violations and enable workers to seek remedy. The core assumption underlying this analysis is that more corporate reporting will only create change if potential victims and national advocates can advance reforms that hold both employers and their buyers accountable for mitigating the risks identified. Even the most transparent due diligence reporting will have limited utility if there are no accessible pathways to remedy for workers and affected communities.

2. Methodology

This report summarizes a collaborative research practicum that included ten master's candidates at American University's School of International Service who provided input to the Fishery Governance Project (FGP) and its review of the current uptake and future trends in MHREDD.³ The research utilized three distinct lenses to analyze how HREDD can help improve workers' access to remedy in the seafood industry. The first lens was governmental, analyzing trends in MHREDD laws and the international treaties providing guidance for labor rights standards in the seafood industry. The second lens was corporate, covering a broad survey of seafood processors, buyers, and retailers to understand current

³ The Fishery Governance Project (FGP) is a funder-practitioner working group started exploring the intersections of environmental policy and labor rights. It is guided by a steering committee, which includes the David and Lucile Packard Foundation, Pew Charitable Trusts (PEW), Global Labor Justice-International Labor Rights Forum (GLJ-ILRF), Environmental Justice Foundation (EJF), Greenpeace, United States Agency for International Development (USAID), Accountability Research Center (ARC), and Oak Foundation.

practices in supply chain due diligence policies and reporting. The third lens considered the demands and recommendations generated by CSOs, building on a survey of more than 20 NGOs and trade unions conducted by the Fisheries Governance Project (FGP) to identify recommendations on the issues and policies needed for corporations' due diligence practices to help advance workers' access to remedy. The research team conducted a broad literature review and then developed in-depth research agendas for each lens. The corporate research was based solely on publicly available information, procured through in-depth reviews of company websites and other public references to corporate efforts.

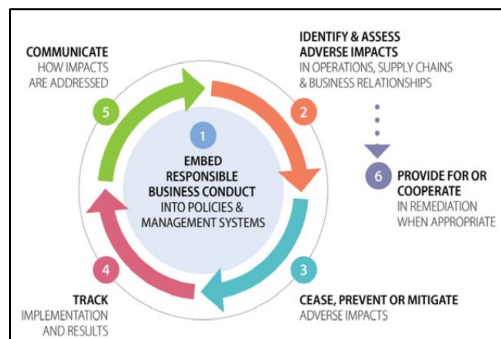
3. Legal Framework

a. Trends in Due Diligence Laws

The UN Guiding Principles on Business and Human Rights (UNGPs) make clear that governments have a duty to *protect* human rights; businesses are obliged to *respect* these rights; both are responsible for enabling victims' to access *remedy* (OHCHR 2011). Since the UNGPs launched in 2011, several countries have passed laws intended to drive responsible business conduct (RBC). Increasingly those laws have required companies to conduct human rights and environmental due diligence (HREDD) to identify the potential risks or negative impacts throughout their supply chains. These new legal requirements governing RBC are positively affecting markets across the globe with MHREDD systems emerging across many jurisdictions in the global north, especially Europe. In addition, recent laws in France and Germany that require companies to consider how environmental impacts compromise or violate human rights have increased momentum behind demands for a broad scope of due diligence to identify the full scope of risks to those impacted by corporate supply chains.

The UNGPs and the Due Diligence Guidance for Responsible Business Conduct from the Organization for Economic Cooperation and Development (OECD) provide essential guidelines for due diligence (OECD 2018). The OECD guidance promotes a common understanding among both governments and stakeholders on the intersections of responsible business practices and human rights protections, outlining a six-step process, with steps three to six relating directly or indirectly to remedy, including: preventing or mitigating impacts; monitoring implementation; communicating about steps taken; and cooperating in remediation (see Figure 1).

Figure 1. Due Diligence Process and Supporting Measures



Source: OECD 2018

The first type of national RBC laws focused on transparency but, as in the case of the UK and Australian Modern Slavery Acts, lacked enforcement mechanisms and pathways to remedy. This limited their utility for workers or affected communities. In 2017, France passed the Law on the Duty of Vigilance, which requires companies to develop, publish, and enact human rights and environmental risk mitigation plans and provides a pathway to remedy for victims in the French courts, a critical step in moving past transparency laws (ECCJ 2022). The French law is cited as one of the strongest MHREDD laws to date. In 2021 Germany enacted the Supply Chain Due Diligence Act which is similar to the French law in many regards, but does not allow victims to file a civil claim for damages. The adoption of the French and German laws marks a paradigm shift away from the voluntary standards and self-regulation principles which prevailed in the UK and the Australian Modern Slavery Acts. These newer laws are more comprehensive and include more protections for victims than previous transparency laws.

MHREDD laws are proliferating and strengthening. In 2022, the European Commission issued a draft directive for mandatory due diligence, which is currently being negotiated within the European Parliament. Advocates for human rights and environmental due diligence are promoting the usage of stronger wording and significant repercussions for violators. Additionally, advocates are pushing for a shift away from transparency-only laws or voluntary social auditing towards legally binding laws with access to remedy and court-supported accountability. Advocates and analysts have argued that strong MHREDD legislation is critical to ensure companies effectively identify, prevent, mitigate and account for potential risks in their supply chains (LeBaron, Lister and Dauvergne 2017). The purposeful development of these policies should alleviate the impact of business operations on workers, communities, and the environment affected by their operations and those of their suppliers.

Table 1 below provides a brief summary and comparative framework for analyzing various RBC laws, based on many of the priorities identified through a broad literature review. The table reviews each law's objective, scope of coverage (e.g., size and number of companies covered); transparency requirements; pathways to remedy for victims; how difficult the burden of proof is; what repercussions there are for negligent or noncompliant companies; and the extent to which corporations are actively made to comply with the reporting requirements.

Table 1: Summary of HREDD Laws

Legislation	Goal	Coverage	Transparency	Remedy	Burden of Proof	Repercussions	Compliance
USA National Action Plan (multiple laws) (2016)	Reinforces and strengthens USG role in advancing RBC.	The US government and US companies that operate abroad.	No defined reporting requirements for companies	Most pathways to remedy are indirect or have not held up in court.	N/A	Goods held or seized at port primarily affects importers.	Compliance is mentioned but not specified.
UK Modern Slavery Act (2015)	Large orgs should prepare slavery & human trafficking statement each year.	Companies doing business in the UK with > £36 million annual turnover.	Due diligence efforts should be published on the Modern Slavery Registry.	Remedy for victims is not specified.	N/A	N/A	There are no penalties for non-compliance.
Australian Modern Slavery Act (2018)	Companies publish annual statement on slavery risks in their ops & steps to reduce risks.	Australian businesses with an annual turnover of AUD \$100 million or more.	Created a Modern Slavery Statement Registry that is accessible to the public.	Remedy is not offered to victims.	N/A	Failure to comply may lead to the release of information to the public.	There are no penalties for non-compliance.
German Supply Chain Due Diligence Act (2021)	Ensures German cops not profiting from weak / poorly enforced HREDD regulations	Any company operating in Germany with more than 3,000 employees.	Requires companies to submit an annual risk analysis and publicly report.	Victims can report violations at the direct and indirect levels.	Burden of proof on plaintiff.	Fed Office for Econ & Export Control - penalties up to 2% of revenue.	Companies are required to report or face penalties.
French Duty of Vigilance Law (2017)	Ensure vigilance is accounted for in supply chain through corporate vigilance plans.	French corps with 1) 5,000 employees in France or 2) 10,000 employees worldwide.	Companies are required to publish their vigilance plan with annual reports.	Anyone with legal interest can sue for damages from breach of duty of vigilance.	Burden of proof on plaintiff.	2 mechanisms: 1) formal notice to comply and 2) injunction with penalty payment.	Companies are required to develop and publish their "Plan"

While no MHREDD law is ideal, the French law is currently considered the strongest because it includes the possibility for victims to file a civil claim for damages through the French courts and for companies found at fault to pay damages that ‘the execution of these obligations could have prevented’ (Savourey and Brabant, 2021: 151). Unfortunately, the burden of proof is challenging and companies are only required to take all steps in their power to prevent abuses, not to actually prevent the harm. Additionally, since its implementation four years ago, many French companies still refuse to publish vigilance plans that meet the objective of the law (BHRRC, 2021). There are many critiques of this law, ranging from the triviality of published “Vigilance Plans” contradicting the seriousness of the law to the law’s insufficient coverage of only large French companies (Sherpa, 2019). Nevertheless, several cases are currently in the French courts, which will hopefully secure remedy for the victims or, at minimum, raise the profile of each case and put French companies on the alert that they need to conduct more effective HREDD.

The German Supply Chain Due Diligence Act of 2020 expressly does not allow for victims to file a civil claim for damages. Yet the potential fines are quite high (up to 9 million Euros) and it can potentially be applied further down the supply chain, whereas the French law only allows for application where there is ‘an established commercial relationship.’ Both the German and the French law cover a broad scope of human rights, including those caused by environmental damages. (see Annex A for a summary of laws and policies reviewed.)

In the US, MHREDD legislation with binding access to remedy for victims is unlikely to pass. Although the US does not have a comparable MHREDD law, it is in the process of updating its National Action Plan (NAP) on Business and Human Rights. Since the NAP was first issued in 2016, a number of laws came into effect, which create a constellation of incentives for corporate due diligence and risk mitigation. Reforms to the US Tariff Act under the Trade Facilitation and Trade Enforcement Act increased the ability of Customs and Border Protection (CBP) to hold up goods at port if they had information that “reasonably but not conclusively” indicated the goods were made with forced labor (US CBP 2016). The Tariff Act marks a growing shift in US trade policy, which increasingly takes action directly against corporations, rather than applying indirect pressure on governments to reform policies and laws.⁴ CBP has the ability to self-initiate investigations, take civil enforcement action, and hold up goods at port until the importer proves no forced labor was used in the production of the goods. In cases of indisputable evidence, the agency may issue a finding and seize goods at port. CBP has on occasion issued fines (US CBP 2020a) or spurred companies to make remediation payments to workers to clear the withhold release order (WRO) blocking its sales (US CBP 2020b).

Two other US laws building on the Tariff Act include: the US-Mexico-Canada (USMCA) trade agreement extends elements of the Tariff Act prohibiting the importation of goods made with forced labor in all three countries;⁵ and the Uyghur Forced Labor Prevention Act (UFLPA), Section 4b of which places the

⁴ For example, the US-Mexico-Canada Agreement (USMCA) has a Rapid Response Mechanism (RRM) and the Uyghur Forced Labor Prevention Act (UFLPA) both enable cases to be brought directly against corporations.

⁵ See second ‘key achievement’ under Labor in the USTR [fact sheet](#).

burden of proof on companies buying from Xinjiang, China to proactively prove the goods were not made with forced labor. Although these laws are narrowly focused on forced labor, companies serious about prevention will consider the full scope of workers' rights, which when compromised are a red flag for the harder to find cases of forced labor and human trafficking. Additionally, the US General System of Preferences, managed by the office of the US Trade Representative, covers the full scope of internationally recognized labor rights and allows for the USTR to self-initiate investigations, which can lead to a suspension of trade benefits for the country in question if workers' rights are systematically violated (USTR 2020). The US revision of its National Action Plan (NAP) on Business and Human Rights, provides additional opportunities for rights advocates to highlight how the US government could be more proactive on enforcing the laws it already has. A new US NAP could help drive better enforcement of US trade laws and thereby incentivize more effective HREDD in US corporate supply chains, but it does not proactively require corporate due diligence and reporting. Some experts, however, question the utility of more reporting by companies; something this paper explores in Section 4.

b. Defining Standards for the Seafood Industry:

Notably, the trend in RBC laws shifting from HRDD to HREDD is particularly vital in the seafood industry, where it is essential to protect both the rights of workers and the environment where fishers work. Workers' livelihoods are at risk if overfishing continues, particularly where industrial fishing impacts artisanal fishers and coastal communities. To that end, guiding HREDD in the seafood industry requires additional knowledge of what risks are common in the industry and the international standards that are designed to safeguard fishers' welfare. In addition to the OECD guidelines, there are several key treaties and agreements which form a normative scaffolding for understanding the issues impacting HREDD reporting for the seafood industry. These treaties are critical because there are no OECD guidelines explicitly related to seafood.

The lack of OECD guidelines specific to the seafood industry, which would highlight key considerations for conducting HREDD in the sector, means that corporations will need to directly consider key treaties and agreements covering fishers' rights and IUU fishing. Drawing on an analysis produced by Pew Charitable Trusts for the Fisheries Governance Project (Pew Charitable Trusts, 2022), and a broader literature review, the team focused on four treaties with relevant guidance for due diligence in the seafood sector. The content of these internationally agreed upon instruments provides a wealth of guidance for the social and safety standards that should be upheld in the seafood industry, which in turn makes them important content for guiding HREDD in the sector:

- The 2012 Cape Town Agreement (CTA) outlines fishing vessel safety standards and regulations to protect the safety of fishing crews and provide a level playing field in the industry. Thus far, 13 countries have ratified the CTA, and 48 countries have signed a public declaration to bring the CTA into force by October 2022.
- The 2007 International Labour Organization Work in Fishing Convention (C188) sets international standards for: safety on board fishing vessels; food, accommodation, and medical

care at sea; and employment practices, insurance, and liability. Twenty countries have ratified ILO C188.

- The Agreement on Port State Measures (PSMA) is the first binding agreement to prevent and deter IUU fishing by allowing countries to prevent vessels suspected of IUU fishing from coming to port or using port services. In addition, Article II.2.a. allows certain exceptions to protect the crew; even if a vessel is denied certain port services, the port state cannot deny services that are: “essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven.” Created by the FAO, 70 countries have ratified the PSMA to date.
- The 1982 United Nations Convention on the Law of the Sea (UNCLOS) establishes the key principles for fisheries governance. This convention has been signed by 167 parties.

c. Conclusions

There is growing momentum worldwide, especially in Western states, towards improving human rights and environmental due diligence through MHREDD laws in the seafood industry. Early laws on RBC, such as the UK and the Australian Modern Day Slavery Act focused on increasing transparency and reporting requirements for businesses, but lacked meaningful enforcement and remedy provisions.

The second wave of MHREDD laws seeks to address implementation gaps. Legislation such as the French Duty of Vigilance Law and the German Supply Chain Due Diligence Act transcend disclosure and incorporate HREDD requirements into laws with potentially meaningful repercussions for noncompliance. But the implementation and effectiveness of MHREDD laws will require continued monitoring and evaluation of how the laws are administered. Although MHREDD laws are driving changes in global supply chains, there is not enough guidance specific to the complexities of the seafood industry. Guidelines tailored to the seafood industry, building on key treaties and agreements specific to the sector, as well as CSO asks of industry covered in Section 5 below, could help improve corporate due diligence in the sector. Currently, as the following section illustrates, corporations still face steep challenges in monitoring their seafood supply chains and MHREDD laws have not yet translated into more rigorous supply chain management practices.

4. Corporate Practices

a. Due Diligence Challenges in the Seafood Industry

Seafood is a massive industry with unique challenges compared to other major food and agriculture industries. With over 179 million metric tons of seafood extracted annually from oceans, seafood is one of the largest sources of food for global markets (Holland 2020). With an estimated 60 million people employed in aquaculture and fisheries worldwide, this industry holds great importance to the economic and nutritional wellbeing of people around the world (FAO 2020).

Seafood is also an important player in the global economy. More than 10 percent of the world's annual seafood production is controlled by only 13 companies, the top three of which are based in Japan and Thailand (Murphy 2015). In addition, the European Union, China, Norway, Vietnam, and Chile were the world's leading exporting countries of fish and fishery products worldwide in 2020 while the European Union, United States, China, and Japan dominated the market for seafood importing countries (Shahbandeh 2021a & 2021b).

While all industries should meet international standards for human rights and environmental sustainability set by instruments like the UNGPs and the conventions defined by the ILO, monitoring seafood supply chains presents additional challenges and concerns. The seafood industry largely operates through individual vessels and fleets fishing on open oceans, often for months at a time without making landfall. Crew members recruited for these jobs often face unsafe working conditions, lack of access to medical attention, the inability to freely leave the vessel, and limited access to communication tools for contacting those on land. These conditions can lead to labor exploitation where crew members are forced to work long hours in unsafe conditions, face threat of violence, hunger, or death for failing to comply with the skipper's orders, coercion to conduct Illegal, Unreported, and Unregulated (IUU) fishing, and wage withholding.

The conditions of labor in the seafood industry add further complexity to the issue. It is difficult to verify working conditions on vessels at sea. Additionally, exploited workers often do not have the rights to freedom of association and collective bargaining (ILRF 2020). For migrant workers, remediation and reporting mechanisms are not always supplied in their native language. Furthermore, tracking vessels engaged in exploitative labor practices and IUU fishing is difficult as automatic identification system (AIS) tracking of vessel activity can be intentionally manipulated and flags of convenience can obfuscate vessel ownership.⁶

As these issues have come to light, industry leaders have responded with increased monitoring of their

⁶ Flags of convenience refers to flags authorized by certain countries that are known to have lax regulations and enforcement over the vessels flying them.

supply chains. This monitoring often comes in the form of industry standard certifications enforced through social auditing programs. While useful in theory, social auditing has serious shortcomings, particularly for the seafood industry where surprise audits and confidential worker interviews are nearly impossible given the confined, mobile space. Notably, human rights due diligence (HRDD) did not grow as quickly as environmental due diligence in the sector. The Marine Stewardship Council made some initial additions of social criteria in 2019 which were heavily criticized by the Thai Seafood Working Group (TSWG 2018) and the International Seafood Sustainability Foundation (ISSF) only recently added minor HRDD checks into its auditing schemes in 2021. In addition to the lack of HRDD in these schemes, social auditing processes have other faults. Social audits are often at the sole expense and discretion of the company. This conflict of interest leads to corruption, like falsifying auditing reports, favoring business relationships over accurate reporting, and refusing to publish audit results (LeBaron 2020). Additionally, the voluntary, confidential nature of these systems serves to protect the buyers and retailers, which means there's little incentive for them to invest in vessel improvements.

b. HREDD and Corporate Practices

In analyzing what uptake there is in the seafood industry with regards to HREDD policies and reporting, the team examined 40 companies based in North America, South America, Europe, and Asia.⁷ Of the companies examined, seven are seafood retailers, nine are seafood processors, 11 are seafood companies, 10 are seafood processors and seafood companies, and 3 are fishing companies (see Figure 2). See Annex a for a complete list of the 40 companies examined.

Figure 2: Characteristics of companies examined in this report



Source: Report authors

⁷ For a full list of companies examined, see Annex a. Due to limitations associated with evaluating companies in China, the group instead chose companies based in Japan, South Korea, and Taiwan to understand the seafood industry in Asia.

The list of companies examined in this report primarily originates from common certification bodies and membership organizations like the International Seafood Sustainability Foundation (ISSF), Marine Stewardship Council (MSC), SeaBOS, the Seafood Task Force, and Seafood Ethics Action Alliance (SEA Alliance). In addition, this report covers global grocery chains' corporate commitments to sustainability and human rights. The goal was to look at the self-identified 'good actors' in the industry.

The underlying assumption behind the selection criteria is that companies that advertise certifications and join membership organizations might be more likely to provide sufficient publicly-available information on their sustainability, supply chain transparency, and human rights policies. In addition, such companies might be more likely to have the resources and tools available to them to investigate their supply chains for evidence of human rights violations and IUU fishing. Finally, such companies theoretically have increased public scrutiny and are more likely to fall under pressure from the public and CSOs for not having public information on sustainability and human rights.

The team evaluated the selected companies based solely on publicly-available information gathered from company websites, media, NGO reports, and third-party auditing reports. The team then identified a subset of 11 companies that appeared to possess the most robust HREDD uptake and further examined them to form a more nuanced understanding of HREDD uptake among seafood companies. Drawing on an analysis of relevant due diligence laws, the CSO asks of the industry, and industry literature on HREDD, the group designed an evaluation tool to understand how companies advertise their engagement on 16 issues that should be covered by HREDD in the seafood industry and to identify which of those issues are being prioritized.⁸ The tool uses a basic scoring, giving a zero (0) for no statement on the issue; a one (1) for having a statement; and a two (2) if the company provides evidence of implementation. Table 2 summarizes the scores.

⁸ The list of criteria used to review company efforts builds from the elements called for in the CSO demands outlined in Section 5, but it does not fully line up given the information available in corporate reporting.

Table 2: Corporate Uptake of MHREDD Elements

Company	Transparency	Remedy	Engagement	Forced Labor	Child Labor	Freedom of Assoc.	Collective Bargaining	Recruitment	Safe Working	Migrant Rights	Discrimination	Remuneration	Sustainability	Reporting	Traceability	Transshipment
Bumble Bee	0	0	1	1	1	1	1	0	2	1	1	1	2	0	2	0
StarKist	0	0	0	1	1	1	1	1	1	0	1	1	1	0	2	0
Thai Union	2	2	2	2	1	1	2	1	2	2	1	0	2	2	1.5	0
Tri Marine	0	1	0	1	1	1	1	1	1	1	1	1	2	0	1	0
Sapmer	0	0	0	1	1	1	1	1	1	0	1	1	1	0	1.5	0
Walmart	2	1	2	1	1	1	0	2	1	1	1	1	2	0	1.5	0
Tesco	2	2	1	1	1	1	1	2	2	1	2	1	2	0	1	0
Carrefour	1	1	2	1	1	0	1	1	2	1	1	1	2	1	1.5	0
Migros	1	1	2	1	1	1	1	1	2	1	1	1	1	0	1	0
Nestle	2	1	2	2	2	1	1	2	2	1	2	2	2	2	1	1
Maruha Nichiro	2	1	1	2	2	2	2	1	2	1	2	2	2	2	1	0
Total Uptake:	12	10	13	14	13	11	12	13	18	10	14	12	19	7	15	1

The tool is especially useful for analyzing the issues prioritized across the industry, but should not be used for ranking companies. There is not enough publicly available, objective information to understand companies' true uptake and compliance with HREDD because what they publicize on their websites and what media and CSOs report about them often conflict. Further investigation of each company is needed to build out a more robust evaluation tool. For example, companies like Bumble Bee Seafoods and Thai Union, which have been sued and investigated for false advertising and forced labor, respectively, appear to have more robust programs compared to other companies because they proactively make statements and advertise policies that suggest HREDD uptake and compliance. By contrast, another company may simply not advertise such policies on its website. In light of these challenges, the scoring table above does not tally totals by company, but only by issue.

c. Findings

Corporate statements give the impression that companies are performing well with regardsto HREDD, but many of those examined have been accused of some form of illegal activity related to human rights or

the environment. Given the limitations of the matrix as described above as well as cases of proven or alleged illegal activities carried out by some of the companies examined, it is necessary to read the matrix results with caution, mainly to get a sense of the trends in corporate policies and engagement on the issues.

In addition, companies that scored a (2) on any given metric should also be viewed critically. For example, while five companies scored a (2) for engagement with NGOs, the programs and policies they advertise are neither systematized across the company nor necessarily in adherence to the demands of worker organizations. While no company covered all elements perfectly, two companies, Nestlé and Japanese seafood company Maruha Nichiro, came closest. However, it is unclear how many of Nestlé's advertised policies are directed at its seafood operations instead of its palm oil and cocoa-related branches, which take up the majority of its business. Furthermore, despite Maruha Nichiro's apparently robust program, Japanese NGOs have documented human rights violations within its supply chain from foreign vessels, particularly in China (HRN 2021). Despite acknowledgement from Maruha Nichiro and six other Japanese seafood conglomerates of human rights violations within their supply chains, Japanese NGOs rarely sue these companies to force change, a trend which allows continued impunity in the industry.

The French company, Sapmer, appears to have a much less robust program than some of the larger companies. While Sapmer had statements on most of human rights categories as well as sustainability and supply chain traceability, it did not appear to have any publicly-available policies in place to ensure its human rights and environmental statements were upheld. The company also did not have explicit statements on human rights transparency, remedy or remediation, engagement, or migrant rights. It is possible that such a score is typical for a company of Sapmer's size and market share. Larger companies like Bumble Bee and Walmart are subject to greater CSO, consumer, and media scrutiny, making it likely that they feel the need to advertise their HREDD policies more so than Sapmer.

All but one company, Nestlé, scored a (0) on transshipment. Companies that scored a (0) on transshipment either confirmed their use of transshipment or failed to issue any statement regarding transshipment on their websites. All three US-based seafood companies (Bumble Bee Seafoods, StarKist, and Tri Marine) scored a (0) for human rights transparency, meaning that none had publicly-issued statements of policies and processes on HREDD plans and implementation available for the public. Only three companies scored a (2) on forced labor: Thai Union, Nestlé, and Maruha Nichiro. Interestingly, Walmart was the only company to score a (0) on collective bargaining, meaning that all of the other companies at least mentioned, if not had an international policy on, collective bargaining on their websites (Walmart 2021).

The human rights category with the most uptake is a safe working environment. All 11 companies had some statement and six companies had explicit policies on their websites concerning safe working environments. The environment and supply chain category with the most uptake is sustainability; all but three companies had specific policies concerning environmental sustainability on their websites.

Certifications act as a placeholder for transparency

All companies advertised general statements on sustainability and human rights. However, there are varying degrees to which companies transparently report on their supply chains or the degree of adherence to conventions and treaties, apart from noting the certification programs used (ISSF, MSC, Dolphin Safe, etc.).

It thus appears that certifications are currently serving as a placeholder for detailed information on issues like sustainability, supply chain transparency, and human rights. Companies that supplied more than vague or general information on commitments to human rights or data on their supply chains were in the minority. This may change as MHREDD laws multiply, but the certifications referenced do not align with the OECD's 2018 guidelines on due diligence referenced above.

For example, of the 25 company compliance reports covered in ISSF's April 2022 annual report, only three companies had any indicators below the highest grade: two of them were considered "minor" non-compliances and one was considered "major" - for transshipment (ISSF 2022). Notably, these audits now include a measure of company compliance with human rights due diligence. According to ISSF, all 25 member companies were in compliance with this new metric on social and labor standards, though it does not include collective bargaining rights. ISSF only measures if the company has a "public policy on social and labor standards," meaning that the companies in question are not audited for their labor and social standards in practice, but only if they have a publicly-stated policy (ISSF 2022). This potentially enables companies to continue to hide behind certifications instead of taking specific actions towards maintaining social and labor standards. The requirements also neglect to include the right to collective bargaining, which is one of the eight Conventions cited in the ILO's 1998 Declaration of Fundamental Principles and Rights at Work.

All global grocery retailers examined in this project provided corporate statements on their commitment to human rights and sustainability, with a majority referencing certifications and compliance with standards. Because retailers defaulted to the standards set by major certifications, MSC being the most popular, it allows them to not disclose the details of their due diligence processes. Reliance on certifications to advertise uptake and compliance with HREDD is problematic: companies hide behind certification bodies' general requirements, third-party audits, and minimal reporting while avoiding meaningful commitments to HREDD.

Surface-level statements related to HREDD and lack of formal commitment to international law

Most companies will make minimal statements about their commitment to human rights and environmental protection. However, very few companies reference applicable HREDD conventions or laws. For example, StarKist states that it makes efforts with regards to The California Transparency in Supply Chains Act of 2010 (StarKist 2022a). Sapmer states that it "pay[s] particular attention to" the Universal Declaration of Human Rights and the ILO Conventions (Sapmer 2022a). Bolton Group states that it says it adheres to OECD Guidelines for Multinational Enterprises, the ISO 26000 Guidelines (on social

responsibility), and ILO Conventions (Bolton Group 2016). Three Japanese companies within SeaBOS have formal statements on human rights due diligence with intention to follow the ILO Declaration of Fundamental Principles and Rights at Work, UNGPs, and the International Bill of Human Rights (Kyokuyo 2022; Maruha Nichiro 2022; Nissui 2022).

While several of the retailers examined include statements of support for fair labor practices and human rights, there is no evidence they are committed to practices that adhere to international laws. Most of the human rights due diligence appears to take place at a smaller level, that does not appear to cover the whole of corporate operations. Examples of this are Walmart's relationship with Human Rights Working Groups, partnerships with monitoring NGOs like Issara Institute, and involvement with the OECD Forum (Walmart 2021). Tesco uses its own "Ethical Trade" requirements but claims it has a zero-tolerance policy toward IUU fishing (Tesco 2021). Migros asserts that there is no evidence of forced labor or child labor throughout its supply chain and has made bold commitments to combating corruption (Federation of Migros Cooperatives 2019).

Companies use certifications as a catch-all for their commitment to HREDD conventions or laws. However, the haphazard nature by which companies reference such laws and conventions indicates that there is no widespread corporate commitment to the laws and conventions meant to govern the seafood industry. Stakeholder engagement and transparency create similar challenges, due to the patchwork approach and vague definitions used by most companies. Public commitments ranged from transitions to ecosystem-based fisheries management and partnerships with NGOs such as FishWise and Issara Institute, to investments in technology, to increased transparency in supply chain labor practices (Walmart 2021).

Greater focus on environmental sustainability or supply chain transparency than on human rights

Of the companies surveyed, most had detailed pages and policies on environmental sustainability while spending only a couple of sentences, if any, making statements on human rights issues. For example, on Bumble Bee's "Impact" page, it discusses sustaining fisheries, large-scale MSC longline assessments, oceans regeneration, and reducing plastic marine debris and bycatch before mentioning fair labor practices (The Bumble Bee Seafood Company 2022a). In a more extreme example, Thai seafood company Thammachart Seafood makes no mention of human rights on its website, stating only that it "endeavors to source its fish from sustainable well-managed fisheries and responsibly farmed aquaculture operations" (Thammachart Seafood 2022).

Every retailer included a statement of support or commitment to sustainability, which, based on language used on their websites, is interchangeable for environmental protections. The difference between statements on human rights and environmental sustainability is the company's direct goals and measurable successes. For example, Carrefour committed to sell 50% of its fishing products that come from sustainable fishing as of 2020 (Carrefour 2020). Walmart also set the goal of all suppliers to be third-party certified as "sustainable" or in Fisheries Improvement Projects (FIPS) by 2025 (Walmart 2020). Each retailer has more information available to explain the quality of their fisheries and commitment to avoid fishing protected species. And most rely on several certifications (e.g., Aquaculture Stewardship

Council, Global Declaration on Tuna, MSC) that have some sort of traceability or accountability that far exceeds any human rights language included.

Lack of company-supplied, publicly-available documentation reporting on human rights and/or supply chain transparency

While companies often release general statements on their supply chain transparency and human rights reporting, few provide concrete, traceable information on either. The level of details in public reporting varied by company with some having detailed risk assessments available on their company websites. For example, while Japanese company Nissui has a detailed explanation of their HREDD and human rights risk assessment on their website in both Japanese and English, the majority of companies issued no detailed documents on human rights due diligence in their supply chains (Nissui 2022).

Few of the retailers provided publicly-available information on their seafood supply chains or publicly described in detail the manner in which they followed through with their commitments. Companies, such as Nestlé, which have experienced media scrutiny for alleged human rights abuses in their supply chain, included reference to efforts to improve transparency and vetting of their suppliers (Nestlé 2019). Additionally, auditors were mentioned primarily as “third-party” without listing their information, therefore not directly providing access to the auditor’s processes or reputation and further obfuscating their supply chains.

Companies that do have information on their supply chain transparency explain how their supply chains work but only provide general information. For example, both Bumble Bee and StarKist have Trace My Catch features where consumers can input the product or manufacturing code of the product they purchase to see where their seafood originates from (StarKist 2022b; The Bumble Bee Seafood Company 2022b). StarKist’s tool, Trace My Starkist, gives a general location of where the seafood was sourced (for example: “Eastern Atlantic”) and Bumble Bee’s Trace my Catch tool provides the general location of the seafood, fishing method, possible vessels the seafood was caught by, and the general geographic locations of the processing and canning facilities. In contrast, companies that fish and process their seafood like Sapmer and TriMarine state that they have the ability to trace their products from the vessel to the can, but do not provide publicly-available programs for consumers to be able to trace the products they purchase (Samper 2022b; Tri Marine Group 2021).

Publicly-available supply chain traceability programs are especially important for consumers to understand the origins of their seafood and for regulators and companies to ensure that the seafood being sold to consumers is not sourced illegally. This issue is conspicuously salient in 2022 as seafood companies attempt to determine if their seafood is sourced from sanctioned Russian fishing companies.

Disconnect between what companies advertise and what CSOs and media report

While seafood companies often provide and publicize multiple statements related to supply chain transparency and their commitments to human rights, CSOs, and media often report on their lack of commitment to such statements. In March 2022, Global Labor Justice-International Labor Rights Forum

(GLJ-ILRF) sued Bumble Bee “over its false and deceptive marketing claims that it sources its tuna through a ‘fair and safe supply chain.’” Despite the company’s claim of “ensuring the safe and fair treatment of all who are connected to our business,” the GLJ-ILRF provides evidence that Bumble Bee is complicit in forced labor and other unsafe working conditions.

Several retailers have made significant improvements after being reported on publicly for alleged human rights abuses or illegal fishing in their supply chains. One benefit to this very public reporting is that it holds these companies accountable and forces them to attempt to remedy their damages by adopting progressive policies, partnering with CSOs, and changing the culture around approaching their supply chains. Tesco was called out for human rights and environmental malpractice in 2021, driving them to adopt the new Seascope policies and direction (Hill 2021). Similarly, there were reports in 2014 that Carrefour was purchasing shrimp and prawns that used Asian slave labor, and after a lengthy legal battle of trying to clear their name and supply chain, Carrefour blocked all purchases from that supplier (Lawrence 2014). Nevertheless, it is important to note that this goes against OECD guidelines of not cutting off suppliers but trying to work with them to develop better practices.

Furthermore, survey results reported from the NGO Human Rights Now showed that the 11 major Japanese seafood conglomerates are taking action to improve HREDD in their supply chains but fail to find human rights violations from individual vessels that are part of suppliers in other countries (HRN 2021). For example, the Longxing 629, owned by Liaoyu Group’s Dalian-based seafood company, supplied to all 11 Japanese companies and has committed severe human rights abuses (McVeigh and Firdaus 2020). In the HRN report, Nissui, one of Japan’s three largest seafood companies, reported it does not actively buy from the Longxing 629, but then noted it is unable to confirm if Longxing 629 contributed fish to their purchases from Liaoyu Group. In the same report, Mahura Nichiro and Kyokoyu similarly could not confirm or deny if they had purchased from the Longxing 629. This suggests a failure in the self-assessment and third-party auditing processes in actively preventing human rights violations and removing human rights abusers from supply chains.

d. Conclusions and Future Research Agendas

Summary

While companies will likely continue to come under pressure to further comply with HREDD guidelines, this review of corporate trends indicates that such compliance will remain piecemeal at best without stricter laws at the national level to govern company policies and reporting. CSOs are thus likely to continue uncovering practices going against official corporate policies, especially regarding human rights and IUU fishing, indicating the need for ongoing monitoring and collaboration on prevention and remediation. Despite this skepticism, there is great room for improvement in the industry. The uptick in attention from governments, CSOs, and individuals alike creates pressure on companies to comply with recommended HREDD guidelines. As CSOs’ asks of companies become stronger and more aligned, companies will have clear guidelines to follow even where legal reforms are not yet in place. As more companies seek to comply, they can also be engaged in pressing for more effective national laws and the implementation of international treaties and agreements.

More detailed evaluation

The team proposes that future projects evaluate companies in the seafood industry, utilizing more detailed evaluation criteria to provide a more nuanced understanding of policies and programs designed to advance HREDD policies. This research could benefit from more detailed scoring as it will help identify areas where companies are already doing well in compliance and taking initiative to advance human rights. A more detailed evaluation could also incorporate negative media and CSO reporting to more accurately portray the disconnect between company reports and evidence of illegal activity. Possibly the best evaluation criteria, however, would be based on a more detailed set of evaluation criteria drawn from what the trade unions and NGOs working for seafood workers' rights have recommended and which are featured in the following section. This evaluation tool could simply track which companies have taken up specific CSO demands. Such a tracking tool, combined with a review of CSO reporting could be systematized to provide a combination of quantitative and qualitative analysis on companies' uptake of HREDD. As noted, the criteria identified for the evaluation matrix above still require more detailed guidance to clarify what is expected of companies, particularly in terms of more process-focused company policies such as those on engagement with CSOs, transparency, and grievance and remediation systems. These elements are discussed in the following section.

5. Civil Society Asks of Corporations

a. Context

Environmental organizations have led the effort in the seafood industry to address issues of illegal, unreported, and unregulated fishing (IUU) and its harmful impacts on oceans and marine life. Their research has shown that IUU fishing activities intersect with labor abuses. Many CSOs have shown how rapid industrialization and poor fisheries management has resulted in vessels using destructive and unsustainable fishing methods which deplete fish stocks and harm coastal livelihoods (ILRF 2018). As coastal fisheries become increasingly exploited, vessels have ventured into other nations' exclusive economic zones and previously unreachable high seas fisheries, sometimes to fish illegally. Longer timeframes at sea coupled with lower rates of return on catch and pressure to reduce costs has created an industry reliant on trafficked and forced labor, particularly in Asia where the flow of migrant workers in the industry is high (Greenpeace 2020a).

The correlation between IUU and forced labor has created new alliances among environmental groups and those focused on forced labor and human trafficking in the seafood industry. To specifically address corporations and their role in reducing labor abuses throughout their supply chains, CSOs have articulated asks detailing actions corporations should take to end exploitative practices. Given their close engagement with the fishers and communities affected, CSOs have developed a robust analysis of the legal and policy changes needed and what corporations need to do. The team started with a review of a summary of survey findings put together by the Fishery Governance Project, based on a survey of CSOs working in the seafood space, to which 12 CSOs responded. Building on the FGP analysis of CSOs asks,

the team conducted an extensive literature review, focusing on the CSOs working on labor rights in the space, drawing recommendations from their research and policy recommendations.

Analyzing the CSO asks of companies and recommendations in more than a dozen analytic reports, the team found there were not significant contradictions among the CSO asks. Some focused on more social issues than others, but overall it was possible to identify a core set of shared asks, with some providing more specific recommendations for implementation than others. Drawing from these existing CSO asks, the team created an analytic tool to evaluate human rights and environmental due diligence reporting to advance workers' access to remedy throughout the seafood industry, which considers two different types of reporting categories:

- content elements – basic human rights standards or requirements that all fishers possess; and
- process elements – actions or commitments that safeguard fishers' human rights.

The content elements target key labor rights issues that are prevalent in the seafood industry. In contrast, the process elements focus on preventive measures and fishers' access to remedy. These elements are key to the protection of workers' welfare and access to remedy and to transparency and accountability in the corporate supply chain. For more detail, see Table 3 below.

To translate the CSO asks into potential HREDD guidance, the analysis also considered how these elements are reflected in PAS 1550 and key ILO conventions, particularly ILO C188. Annex B provides a comparative summary of how both tools compare to the key content and process elements identified. PAS 1550 is a comprehensive and collaborative effort by four CSOs, which sets out HREDD guidance for the industry, creating a tool that begins to collate some CSO asks of corporations. Two of the sponsoring organizations briefed the research team and welcomed the review of its labor rights content (recommendations to the PAS 1550 team are summarized in Annex C).⁹ ILO convention 188 is the ultimate standard for the seafood industry because it was negotiated by governments, employers, and unions to define government duties to protect fishers. Although C188 is written for governments, the standards defined in C188 provide important guidance on what constitutes decent working conditions in the fishing industry.

Corporations are more likely to adhere to international standards than to specific CSO asks because there is greater capacity to ensure business competitors are held to the same standard. Additionally, in many cases, CSO asks go well beyond those of PAS 1550 and the various ILO conventions because these documents do not fully address the processes needed to ensure workers' rights and the contributing practices such as transshipment and extended time at sea. PAS 1550 and ILO C188 aim to protect workers from initial human rights violations. Thus, content elements are strongly represented. Notably, several process elements deserve more analysis and clearer or more public alignment of CSO

⁹ PAS 1550 was created by Pew Charitable Trusts, the Environmental Justice Fund, the World Wildlife Fund, and Oceana. Interviews were conducted with Kristine Beran, Pew Charitable Trusts, and Max Schmid, Environmental Justice Foundation.

recommendations to enable their full implementation and integration into corporate HREDD policies.

b. Analysis

Content elements

Remuneration, which is covered in the ILO's Charter, is a priority in six of the nine NGOs analyzed. The culmination of high oil prices, reduced fish stocks due to overfishing, and financial pressures from global markets have led to vessel operators cutting or at times withholding workers' wages (EJF 2015). In this context, fair remuneration and maximum working hours must be established in tandem. For workers at sea, establishing a maximum standard of *working hours* in their contract is necessary since they have little opportunity to negotiate it while at sea. Working hours can be exhausting on vessels when the crew is inexperienced or inefficient; it is common for workers to sleep only three to four hours per night. The Issara Institute notes, "a major challenge for the fisheries industry is regarding overtime hours and perceptions about what constitutes paid work. The view of many employers is that tasks performed during down periods, such as mending nets or cleaning, should not count towards overtime" (Issara Institute 2019 p. 18). Without explicit company policies or fisher work agreements, workers have few choices other than to accept the company's terms.

Similar to the way remuneration and working hours are twined, the other six 'content' elements are equally interdependent, and each is covered by the ILO's Declaration of Fundamental Principles and Rights at Work. *Discrimination* based on social status, for example, can make fishers more vulnerable to *forced labor* and other abuses. EJF has uncovered instances of *child labor* with children as young as 11 years old working on Vietnamese vessels. The children explained that they stopped attending school to help support their families by working on a fishing vessel. ILO C 188 (article 9) calls for a minimum age of 15 and only during school holidays. There are also reports of children being trafficked, forced, and threatened to work on commercial vessels as a way of supplementing the labor force (EJF 2015). Other social differences such as religion, gender, and nationality put various workers at risk for discrimination as well. Migrant workers are particularly vulnerable to discrimination throughout the industry due to language barriers, socioeconomic status, and cultural differences.

Ensuring a *safe working environment* is challenging at sea. Based on international treaties and standards, vessel operators should provide fishers with access to safe and healthy accommodations such as potable drinking water, nutritious food, comfortable sleeping areas, or the time and resources to

Table 3: CSO Asks—Categories

Content Elements	Process Elements
Remuneration	Workers' Compensation
Working Hours	Engagement
Safe Environment	Recruitment
Discrimination	Time at Sea
Forced Labor	Transparency
Child Labor	Transshipment
Freedom of Association	Grievance Redress
Collective Bargaining	Support Legal Reforms

maintain proper personal hygiene (ILO C 188 and Cape Town Agreement). Ian Urbina's comprehensive book, *The Outlaw Ocean*, describes the extent to which these basic necessities are often lacking and how the lack of safety measures and poorly maintained equipment give rise to severe accidents on an alarmingly frequent basis. Appropriate health and sanitation tools such as medical and first aid kits are not available on most vessels, leaving workers prone to infection, disease, and malnutrition (Urbina 2019).



Fishers put on life jackets just before pulling into port in Songkhla, Thailand. Credit: Judy Gearhart

Freedom of association and collective bargaining rights are often restricted for migrant workers and corporate HREDD should consider how those restrictions undermine workers' rights and access to remedy (ILRF 2020). Isolation, fear, and inability to access information keep fishers from raising concerns or demanding their rights. The ability to organize and seek support from trade unions could provide critical protection and increase accountability for ship captains and vessel owners. To that end, buyers and retailers could take steps to advocate for such rights and to negotiate agreements with worker organizations, which is a model promoted by the Migrant Worker Rights Network (MWRN) in Thailand (Kyaw and Gearhart, 2022). Negotiations between fisher organizations and the employer should be enshrined in a written, legally-enforceable contract — ideally, a collective bargaining agreement if workers are able to organize. Unions allow workers to negotiate for better working conditions on an equal footing with employers, help vulnerable workers protect themselves, and enable workers to influence the laws and policies that impact them. Without such rights, forced labor, human trafficking, and other abuses will remain prevalent. Notably, even when employers uphold the right to freedom of association, they may resist negotiating or upholding collective bargaining rights (EJF 2020). For this reason, these two core rights are each listed as one of the eight content elements recommended.

Process elements

Worker Compensation: Workers' compensation provides fishers with livelihood protection in the event of injury or illness and should be part of a national policy that also provides compensation to families if workers are killed on the job. When workers are injured, however, they often receive little or no compensation. ILO C188 notes that a worker shall receive "corresponding compensation in accordance with national laws and regulations" of the member state (C188, art 38). Leaving workers' compensation to member states can make migrants and other marginalized demographic groups particularly vulnerable when faced with an occupational injury, particularly if their migration status is challenged. For example, Han Lin Maung, a Burmese migrant worker, severely injured his hand on a Thai vessel but was not able to return to Thailand for a month. "When he arrived, his fingers had become putrefied and required amputation. The company paid for the procedure, but no other compensation." (HRW, 2018 p. 72-27) Han Lin Maung's situation highlights the need for a high-risk profession such as commercial fishing to have more explicit policies regarding workers' compensation.

Engagement: Corporate engagement with all stakeholders can create a platform for workers to raise concerns about policies and practices that do not protect their livelihood. CSOs have the expertise to partner with companies that want to eliminate forced labor in their supply chains, but companies must first recognize the need for improvement and engagement with all affected stakeholders. Based on the corporate research above, eight out of eleven of the companies researched talk about engagement with CSOs as part of their program. Five of the eleven companies also mentioned a specific program. Yet none of the companies indicated an engagement strategy that went across their supply chain or defined clearly what levels of engagement they aim to meet.

Most CSOs have asks targeting engagement but there is little agreement with respect to how companies can integrate the subject into policies and processes throughout the supply chain. The OECD's Due Diligence Guidance from 2018 emphasizes the importance that stakeholder engagement be ongoing and not a one-off encounter (OECD Watch and Amnesty International 2018). PAS 1550 recommends consultation with all actors in the supply chain to ensure transparency and regulatory compliance (PAS 1550, Section 3.5). However, companies often do not adequately engage with all affected stakeholders. Buyers rarely commit to engaging with civil society actors to improve working conditions (Oxfam 2018 p.7). In the absence of effective engagement with the company and insufficient resources to follow legal avenues in pressing for accountability, migrant workers and their CSO representatives are often unable to participate in consultations in a meaningful way. In Thailand, for instance, the Department of Labor Protection and Welfare encourages resolving complaints without use of the legal system, leaving many workers no other choice than to engage their employer directly, which usually ends in them having to accept an "out-of-court settlement that is less significant than what they expected" (ILRF 2020 p.29). Consistent and constructive engagement with workers and worker representatives requires an ongoing platform for concerns to be heard and ideally an agreement to ensure reforms and prevent reprisals. This allows stakeholders to raise questions about potentially harmful business practices and take corrective actions to limit negative consequences.

Recruitment: Many organizations advocate for – and corporations have adopted – the “employer pays” principle, which requires employers to pay recruitment fees to minimize worker indebtedness. Yet, this does not always address worker debts incurred before leaving home, wage theft, and other causes of indebtedness to which migrant fishers are vulnerable. For example, Vannak Anan Prum, a fisher from Cambodia, was forced to live on a vessel in unsafe conditions for five years and was often only allowed to sleep four hours per day (Dow 2019). Prum was a migrant worker sold into slavery in the Thai seafood industry. Recruitment brokers often target people like Prum and coerce or deceive migrants into accepting commercial fishing jobs by offering false promises and charging exorbitant recruitment fees that force workers into debt bondage. An Issara Institute survey examining the topic in Thailand revealed that 76% of fishers had been in debt bondage to a vessel owner or broker (Issara Institute 2019 p.17).

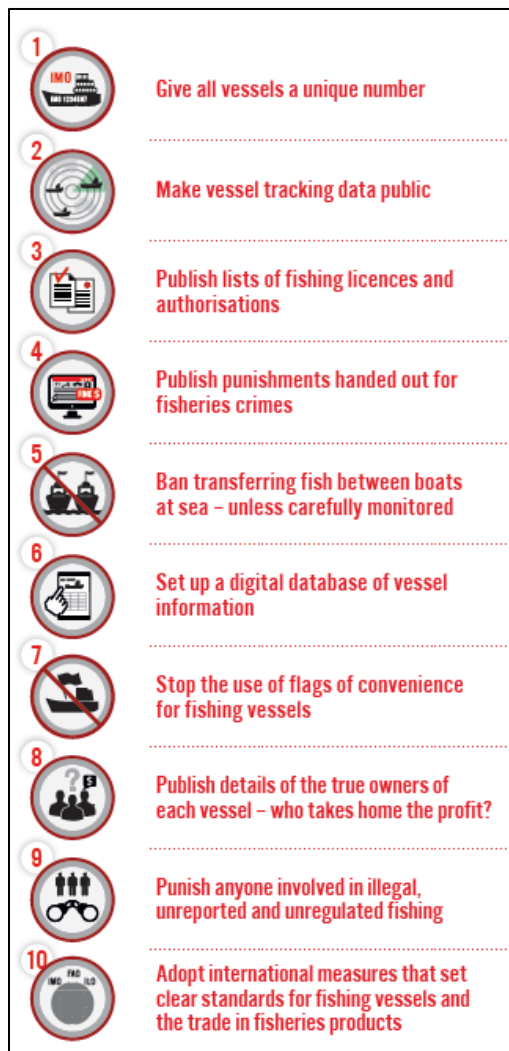
Grievance redress mechanisms establish an avenue for workers to file an anonymous complaint without fear of retribution from the employer. However, many companies do not have a method for workers to safely submit a complaint or have a system in place that is inefficient and not well-publicized. In addition, without communication channels that specifically accommodate the unique conditions of working on a commercial fishing vessel, workers cannot utilize existing grievance redress mechanisms (Elevate, et al 2021 p. 18). For example, transshipment at sea allows vessels to stay away from port for longer periods of time. This activity adds to fishers’ isolation, which facilitates recurring human rights abuses and deprives fishers of access to CSO representatives on land (ILO 2016).

There are no binding international instruments that codify a worker’s right to a safe, anonymous worker complaint mechanism (ILRF 2020). PAS 1550 (section 5.23) recognizes the right for workers to have access to a mechanism in which they can anonymously report complaints and for an independent investigation that includes trade union or worker representatives. The Thai CSO Coalition insists that buyers establish company-wide policies and commit to prioritizing business partners that devote attention to solving worker issues, which includes avenues for worker voices to be heard (Thai CSO Coalition 2020). GLJ-ILRF in particular has outlined specific and comprehensive actions that companies must take to ensure workers are given a safe avenue to submit complaints (ILRF 2020). Greenpeace raises the concern that workers should be able to file a complaint with the buyer if the supplier does not provide sufficient remediation (Greenpeace 2021a). EJF and FishWise push for vessel owners and captains to be referred to the appropriate criminal justice system in the event that a worker’s rights are found to be violated (Fishwise 2021a). As discussed in Section 3 above, advocates for MHREDD laws are making progress with laws in France and Germany that provide some form of binding grievance mechanism. Yet, ideally grievance redress would be more immediately accessible to all workers, not only those with a case that goes to the home country courts of the buyer.

Transparency in seafood supply chains can prevent bad actors from covering up unethical practices from public and regulatory scrutiny. In the absence of regulations that require traceability of seafood from vessel to consumer, corporations frequently cannot clarify the source of their own products. This limits the effectiveness of HREDD for preventing abuse. Supply chain transparency is thus important as it can drive more robust corporate accountability and compliance with government regulations (Greenpeace

2021a). There are no binding international instruments that address transparency in the corporate supply chain, though EJF's ten principles provide a helpful outline of the government policies needed, which also provide guidance for corporate policies and engagement (EJF 2018a; see Figure 3). Few asks among other CSOs deviate from EJF's Charter. As such, these principles could provide a foundational framework laying out necessary steps for greater industry transparency. In addition, a lack of communication channels for workers hinders the transparency process and prevents workers from seeking redress for human rights violations. Without more public information concerning a vessel's activities, establishing safe worker communication channels with those on land will continue to be an onerous pursuit.

Figure 3: Ten principles for global transparency



Source: This graphic was produced by the Environmental Justice Foundation (EJF 2018b) to highlight corporate transparency demands

Transshipment, if limited or effectively monitored, could be a key element for enabling traceability and preventing greater abuse of fishers being stranded at sea. The ILO does not address transshipment in any conventions or recommendations. And there is a noticeable divide in the CSO community: environmental organizations favor the elimination or regulation of the practice and labor rights groups make few comments on it. Among CSOs, only EIJ and Greenpeace make explicit demands regarding transshipment: both call for a ban on the practice unless subject to strict monitoring. Notably, transshipment saves fuel by allowing vessels to stay at sea for longer periods of time and some groups like Fishwise and Pew Charitable Trusts have focused on calling for stronger vessel monitoring systems to regulate the practice but not an outright ban.

As other organizations have not published detailed asks related to transshipment, there is no consensus in the international CSO community as to whether a ban on transshipment will result in fewer cases of labor abuse or greater access to remedy for fishers. Ultimately, PAS 1550 is the only entity that has laid out comprehensive guidelines as to how a company should conduct transshipment. Specifically, there are three components to what companies should do: 1) require transshipment to be recorded and monitored by an independent third-party, 2) check the relevant register of fish carriers to ensure the vessel is authorized to conduct transshipment activities, and 3) instruct transshipment vessel operators to always keep vessel tracking devices on (PAS 1550 2017, section 4.5). This guidance is important because a company may not have the ability or desire to immediately end transshipment in their supply chain so a commitment to PAS's guidelines would at least be more effective than current practices.

Time at sea for fishers is significantly under regulated and a key contributing factor to fishers' isolation and inability to access support or remedy. Few organizations have defined this among their asks, but Greenpeace, after consulting with unions affiliated with the International Transport Federation (ITF) advocate the length of time at sea be limited to three months, with 10 days of unfettered access to port services in between (Greenpeace 2020b). ILO C188 does not specify a maximum time, but does indicate that national laws should specify a "maximum duration of service periods" by which fishers can seek repatriation (C188, art 21).

Supporting legal reforms is another way corporations can help mitigate the risks to fishers' rights at sea. As noted in the above legal review, there are a number of treaties covering fishers' rights and welfare at sea, which corporations can be more proactive in supporting. These treaties can also form the backbone of corporate MHREDD and guide their risk mitigation strategies. Government ratification and enforcement of international standards is also in the interest of ethical corporations as it can improve worker protections by creating a level playing field in which all business competitors are held to the same standard. While calling for treaty ratification may appear to be straightforward, it remains to be seen whether companies are committed to legal requirements that may result in decreased profits. For this reason, corporate promotion of these treaties and related legal reforms should be done in a transparent manner, ideally as part of a corporation's CSO engagement strategies.



Migrant fishers meet organizers at the Fishers' Rights Network. Credit: FRN



Burmese fishers speak with Port In/Port Out inspector, Songkhla, Thailand. Credit: Judy Gearhart

c. Conclusions and Future Research Agenda

Corporations often point to CSOs and claim that asks are disparate and incoherent, delaying changes in their supply chains to safeguard fishers' rights. However, this research revealed there are significant overlaps and agreement on many issues, with environmental and human rights organizations both providing valuable perspectives to improving human rights and environmental due diligence. In the seafood industry, there are substantial loopholes in international instruments' ability to protect against labor rights violations. In this absence, CSOs have stepped up and issued clear and specific guidelines for greater transparency in corporate supply chains and worker involvement in the design, implementation, and maintenance of anonymous grievance redress mechanisms. Greater collaboration between labor rights and environmental organizations will establish a stronger voice in uniting CSO asks.

This does not, however, detract from the need for more effective binding domestic and international MHREDD laws. Without mandatory due diligence and repercussions for failing to identify and adequately mitigate risks, corporations will continue to utilize voluntary compliance programs. In this sense, effective grievance mechanisms can hardly exist without corporate scrutiny from government and civil society. Transparency and access to remediation must work in tandem to ensure fishers and their CSO representatives are afforded the space to push for corporate compliance with international standards. Advocating for a stronger collective worker voice will lead to a reduction in instances of labor rights violations in the corporate supply chain, but CSOs need to advocate for more robust legal safeguards that guarantee remediation and accountability for the infringement of workers' human rights.

Future research should prioritize an examination of corporate engagement initiatives and fishers' work agreements. The definition of "engagement" used throughout this research is a broad term which can encompass various stakeholders across the seafood industry. Key stakeholders that corporations should engage with are CSOs, regional fisheries management organizations, trade unions, processors, and distributors within the supply chain. With stakeholders each holding distinct perspectives toward corporations, the definition of engagement should be expanded and disaggregated to include an understanding of corporate relationships with all stakeholders.

Future research should also consider fishers' work agreements with conditions that guarantee a working environment consistent with established international human rights. Corporations often do not ensure suppliers will follow terms of employment, which has led to unsafe working conditions and unfair wages. Employees have every right to understand the terms of employment and refer to them when conditions are not met. ILO C188 outlines details that should be included in work agreements (art. 16-20), but only EIJ expressly advocates that companies enter into a written agreement with fishers (EIJ 2020). In addition, the agreements should include provisions that facilitate greater engagement between employers and employees. Such an agreement is imperative in defining terms and conditions of employment. In this regard, the agreement should be easy to understand, and a personal copy should be given to every fisher in their language for their reference.

6. Recommendations

a. Legal

1. The OECD should develop specific HREDD guidance for the seafood industry.
2. All countries should enact MHREDD legislation, which obliges global corporations to transparently identify and mitigate human rights and environmental risks in their supply chains and to guarantee effective access to remedy and robust remediation for victims.
3. States will benefit from including environmental protection elements to promote supply chain due diligence, particularly in the seafood industry where harms in both areas are correlated.

b. Corporate

1. **Transparency:** Companies should commit to supplying publicly-available documentation reporting on their supply chains including human rights activities. With open reporting, it is also recommended that companies include records of human rights violations at the vessel level, share that information publicly, and abstain from purchasing catch from vessels with known records of human rights violations.
2. **More Robust and Transparent Auditing:** While corporate MHREDD policies and practices still need to catch up with CSO asks, auditors' and certification organizations' current practices should not be assumed to meet the core elements of robust MHREDD as defined by the OECD guidelines. At the least, these initiatives should build more robust HREDD practices, including language from an improved and expanded PAS 1550 into their schema. This would be an opportunity for companies to address shortcomings in their supply chains, open more opportunities for engagement with CSOs, and improve their existing human rights policies. Currently, the findings from audits are publicly available and there is little transparency or accountability of the auditors. Auditors should work with CSOs to establish appropriate standards that comply with HREDD in their criteria.
3. **Freedom of Association and Collective Bargaining:** Companies should encourage workers' rights to freedom of association and collective bargaining and not hinder their abilities to do so. Through collective bargaining, workers will be able to voice any wrongdoings and work alongside NGOs and trade unions to develop frameworks in which their rights and needs are being met on an ongoing basis. While some companies have partnered with NGOs to allow grievance mechanisms, this engagement should include trade unions and become a standard amongst companies and individual fishing vessels.

c. Civil Society

1. Human rights and environmental NGOs and trade unions working on the seafood industry should come together to compare, analyze, and unite around a core set of asks for corporations' policies

and HREDD practices.

2. Due diligence and risk mitigation guidelines should include both core content elements defining a comprehensive set of fishers' rights and process elements to address the causal and preventive measures that need to be in place to protect fishers' rights on an ongoing basis.
3. Deeper analysis, discussion, and definitions need to be agreed upon among CSOs, particularly with regards to the process elements identified and examples of effective implementation or uptake of such elements should be documented and disseminated.
4. PAS 1550 should conduct a broader consultation with human rights NGOs and trade unions and strengthen key worker rights protections in future versions.



Migrant workers in Ranong, Thailand. Credit: Fishers' Rights Network

7. Annexes

a. Companies Reviewed

Company	Country (HQ)	Sector/Role	Certifications and Memberships
Bolton Food	Italy	Seafood Company	ISSF, MSC
Bumble Bee Seafoods	United States	Seafood Company	ISSF, Seafood Task Force, MSC
Princes Group	United Kingdom	Seafood Company	ISSF, MSC, Dolphin Safe, FIP
Sea Value	Thailand	Seafood Processor	ISSF, MSC, Dolphin Safe, Friend of the Sea
StarKist	United States	Seafood Company	ISSF, Dolphin Safe, MSC
Thai Union	Thailand	Seafood Company	ISSF, Friends of the Sea
Thammachart Seafood	Thailand	Seafood Company	ISSF
Tri Marine	United States	Seafood Processor AND Fishing Company	ISSF, MSC, Seafood Watch, Seafood Task Force
Frinsa del Noroeste, SA	Spain	Seafood Processor	ISSF, MSC, Friend of the Sea
Nirsa	Ecuador	Seafood Processor AND Fishing Company	ISSF, MSC
Pataya	Thailand	Seafood Processor	ISSF
PT Aneka Tuna Indonesia	Indonesia	Seafood Processor	ISSF, Dolphin Safe, MSC
RS Cannery Company Limited	Thailand	Seafood Processor	ISSF
Salica	Spain	Seafood Processor	ISSF, MSC, ISO 14001
South Seas Tuna	Papua New Guinea	Seafood Processor	ISSF, MSC, Dolphin Safe
Pompon Rouge	France	Seafood Company	ISSF
FoodTech	Vietnam	Seafood Processor	ISSF (associate member), MSC, Dolphin Safe
Lovering Foods	United Kingdom	Seafood Processor	ISSF, MSC
Sapmer	France	Seafood Processor AND Fishing Company	ISSF, MSC, Dolphin Safe

Walmart	United States	Seafood Retailer	MSC, ISSF, FAO Guidelines, Seafood Task Force, Responsible Business Alliance Code of Conduct, Ethical Charter on Responsible Labor Practices, FishWise.
Costco	United States	Seafood Retailer	MSC, Fisheries Improvement Projects, Compliance with ISSF, founders of Seafood Taskforce.
Tesco	United Kingdom	Seafood Retailer	MSC, FIP
Kroger	United States	Seafood Retailer	Partners with WWF. Suppliers are MSC Cert or FIP, or recog. By GSSI
Carrefour	France	Seafood Retailer	Sells MSC certified products, FIP. Partners with Seafood Watch.
Migros	Switzerland	Seafood Retailer	Member of WWF Seafood Group, ASC Certified, Migros Bio,
Nestlé	Switzerland	Seafood Company	Sustainable Fisheries Partnership (SFP), MSC, Verite, Issara Institute
CenSea, Inc	United States	Seafood Company	GSSI, Nat. Fisheries Institute, Better Seafood Board, Global Seafood Alliance, Seafood Nutrition Partnership, Seafood Industry Research Fund
Santa Monica Seafood	United States	Seafood Company	1 st US corp w/FSSC22000 & ISO 140001 & BAP & MSC certifications
North Atlantic Inc	United States	Seafood Company	Sust Fisheries Partnership, GFSI, FIP, HACCP, Sedex (SMETA audits), Sust & Conservation Top 25

			2020
Slade Gorton & Co	United States	Company & Processor	HACCP
Gorton's (of Gloucester)	United States	Company & Processor	MSC, ASC, FIP, self reported Trusted Catch
Nissui (Nippon Suisan Kaisha Ltd)	Japan	Company & Processor	SeaBOS
Maruha Nichiro	Japan	Company & Processor	SeaBOS, MSC
Kyokuyo Group Ltd	Japan	Company & Processor	SeaBOS
Mowi ASA	Norway	Company & Processor	SeaBOS
Dongwon Industries	South Korea	Company & Processor	SeaBOS
Nutreco (Skretting)	Denmark	Company & Processor	SeaBOS
Cargill	United States	Company & Processor	SeaBOS
Charoen Pokphand	Thailand	Company & Processor	SeaBOS

b. CSO Asks Compared with PAS 1550 and ILO Conventions

Content Elements	PAS 1550	ILO Conventions
Remuneration	- Equal remuneration should be explicitly addressed in a company's policies and processes, in line with the ILO C100.	C188: articles 1(f); 6(2); 16-20; 23 & 24; and annex II C100: articles 1(a-b) & 2 (a-d)
Working Hours	- Long working hours are part of working on a fishing vessel but a collective bargaining agreement negotiated by a representative of the crew is an effective way for crew requests to be discussed.	C188: article 13 (b) & 14 (a-b)
Safe Environment	<ul style="list-style-type: none"> - Workers should have access to confidential reporting of unfair working conditions and any review should eliminate the issue. - Companies should request evidence that fishing vessels provide safe working conditions and stop sourcing from suppliers that do not provide safe and legal working conditions. - Good practice states that, for a vessel to be considered low-risk, the working environment can be physically inspected to ensure applicable coastal State laws are followed or have a published and defined system that places responsibility on the flag State. 	C188: articles 10-12, 31-33 & annex IIIC155
Discrimination		C188: article 34 & annex III (78) C111: article 1
Child Labor	- Company policies should explicitly address child labor, in line with ILO C182.	C182: articles 1 & 3
Freedom of Association	<ul style="list-style-type: none"> - The company should promote legislative frameworks with respective governments that support the rights to freedom of association and collective bargaining for all workers, local and migrant. - Company policies should explicitly address freedom of association, in line with ILO C087 and C098. 	C087: articles 2-5, 10-11 C098: articles 1-4
Collective Bargaining	- The company should promote legislative frameworks with respective governments that support the rights to freedom of association and collective bargaining for all workers, local and migrant.	C098: articles 1-4
Forced Labor	- Company policies should explicitly address forced labor, in line with ILO C029 and C105.	C029: articles 2 & 25

Process Elements	PAS 1550	ILO Conventions
Workers Compensation	<ul style="list-style-type: none"> - Where applicable, retrospective financial compensation should be provided to the worker in the event that her/his rights have been violated. 	C188: article 38
Engagement	<ul style="list-style-type: none"> - Companies should work with all actors in the supply chain to ensure transparency and regulatory compliance. Employers must engage with all who are potentially affected, including workers. 	N/A: Conventions do not address company policies.
Time at Sea		C 188: Articles 16-20 on fishers' work agreement; article 21 on repatriation
Support Legal Reforms	<ul style="list-style-type: none"> - The company should demonstrate its support for the ratification of ILO C188 by requiring all suppliers to address the major issues set forth within it. - Ensure all actors in the supply chain comply with the eight fundamental ILO conventions. 	C188: article 6
Recruitment	<ul style="list-style-type: none"> - Translation services should be provided to migrant workers to facilitate good communication. - The company should promote legislative frameworks with respective governments that support the rights to freedom of association and collective bargaining for all workers, local and migrant. - Information about the methods used to recruit crew can be requested by the company as an indicator of crew welfare and protection. 	C188: articles 22 & 36 C097: article 11(2) specifically excludes workers at sea from application of the convention.
Transparency	<ul style="list-style-type: none"> - Ensure company's level of transparency complies with applicable regulatory standards. - First-, second- and third-party verification of information should be allowed at all parts of the supply chain. Random checks and unannounced audits should be permitted. 	C188: article 43(4)
Grievance Redress Mechanisms	<ul style="list-style-type: none"> - All crew able to report labor infringements. - Inspections of vessels in port are to consider crew welfare (opportunity for complaints) 	C 188: Articles 16-20 re: fisher's work agreement; Art 17, c. requires a means of settling disputes re: work agreement/s.
Transshipment	<ul style="list-style-type: none"> - Discouraged, but if transshipment happens it must be recorded, licensed, monitored, with uninterrupted vessel tracking turned on. 	

c. Recommendations for Strengthening PAS 1550

PAS 1550 is co-authored by four organizations: EJF, Oceana, Pew Charitable Trusts, and World Wildlife Fund. Based on an in-depth review of labor rights protections called for by more than a dozen CSOs, the team identified four recommendations for improvement to future versions of PAS 1550:

Grievance Redress Mechanisms: There is no requirement for worker involvement in grievance redress mechanisms, only for “engagement with those potentially affected” by human rights violations.⁷⁸ This language is unclear and implies passivity on the part of the worker. When companies create a complaint mechanism without worker consultation, a valuable perspective is absent. This is in line with Lisa Rende Taylor and Elena Shih’s finding that “there are significant differences in the ways that due diligence tools versus remediation-oriented tools interact with workers.” (Taylor and Shih 2019 p 151) For remediation to be effective, workers must have a seat at the table. In this regard, GLJ-ILRF provides salient insight for integrating worker involvement into the design, implementation, and maintenance of grievance mechanisms (ILRF 2020). An improved PAS 1550 should include a recommendation that companies engage in meaningful dialogue with workers and their CSO representatives to incorporate stakeholder perspectives into company policy.

On-Vessel Communication: PAS 1550 does not recommend workers (or vessels in general) have radio or satellite communication with people on shore. C188 only refers to requirements for radio or satellite communication at sea to contact people on shore who can provide medical advice (C188, art 29, 30). On the other hand, GLJ-ILRF pushes to expand radio or satellite communication to representatives on land to report a human rights violation and to access state judicial mechanisms (ILRF 2018). Future codes of practice should cover access to these communication channels at sea to allow workers to report detailed observations of their situation to CSOs, government bodies, or trade unions in real time.

Discrimination Policies: There is not an explicit demand to ban discriminatory policies or refer to the ILO’s discrimination convention (C111). This has an outsized effect on women, migrants and other vulnerable demographic groups in the industry. Future versions should include a proactive policy to assess these risks and how they may facilitate or coincide with other abuses.

Time at Sea: There is no established international standard for length of time at sea. However, Greenpeace advocates for only sourcing from vessels that restrict the length of time a fisher is on a vessel to three months or less (Greenpeace 2021a). FishWise, on the other hand, recommends no more than 11 months at sea (Fishwise 2021b). Ultimately, safeguarding PAS 1550 to include an established restriction could prove to be critical in ensuring fishers’ access to remedy.

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