

## A REVIEW OF EFFORTS TO UPHOLD CREW MEMBER RIGHTS IN THE HAWAII-BASED LONGLINE FLEET<sup>1</sup>

**The Response:** When allegations were raised by the media about the status of foreign crew employed in the Hawaii longline fleet, a response was mounted by the Hawaii Longline Association (HLA), comprised of vessel owners, and fishing industry stakeholders to effectively address risks of harm, implement fundamental rights at work and ensure access to justice.

**The Strategy:** HLA's overall response has been guided by a multi-stakeholder effort. The first task was learning about labor concerns from crew members in their own words. The second was implementing the protections and standards identified by human rights authorities.

**Background to the Strategy:** This strategy was designed, foremost, to be responsive to crew members. It sets out to implement the protections for crew which were advised by the US Departments of Labor and Honolulu-based justice groups, and in a sequence informed by [United Nations](#) principles and the [OECD](#) framework for "risk-based due diligence".

The strategy also complies with US law and the substantive criteria in internationally-agreed instruments and standards clearly relevant to work in the fish sector:

- The International Bill of Human Rights of the Universal Declaration of Human Rights
- Declaration on the Fundamental Principles and Rights at Work (ILO)
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons (UN)
- The Guiding Principles on Business and Human Rights (UN)
- The Corporate Responsibility to Respect Human Rights-an interpretive guide (UN)
- General Principles and Operational Guidelines for Fair Recruitment (ILO)
- The United Nations Convention on the Law of the Sea (UNCLOS)
- The Work in Fishing Convention 2007 (No. 188), International Labour Organization (ILO)
- The Guidelines for Responsible Business Conduct by the Organisation for Economic Co-operation and Development (OECD)
- Interpol Public Notice on Human Trafficking and Forced Labour: The deceptive and coercive practices undertaken within the recruitment process to work in the fisheries sector
- Draft guidance for Social Responsibility in the Fish Sector, FAO Fisheries

**Status of Foreign Crew in the Fleet:** Around 600 foreign crew are working on board 150 longline fishing vessels in the Hawaii fleet and include nationals from the Philippines (200), Indonesia (180), Vietnam (180) and Pacific Islanders (27). Their contracts state a monthly wage, a fishing share, a 2-3-year term, and provision of medical coverage, insurance, transit to/from Hawaii, food, lodging, and access to community services like a Consul or the medical visits (e.g. dentist). Crew members' legal status permits fishing onboard US vessels (see [citizenship waivers](#)) but not entry into community beyond the Honolulu Harbor area (Piers 16/17 and 36-

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<sup>1</sup> Sustainability Incubator, Inc. for the Hawaii Longline Association

38) and their whereabouts are overseen by US Homeland Security Customs and Border Protection (CBP). CBP documents each foreign crew person prior to arrival, maintains lists of all crew and vessels, conducts crew musters and welfare checks, and regularly communicate with vessel owners. Foreign crew have been employed in the Hawaii longline fishery for 30 years and within this time there has never been confirmed human trafficking or forced labor in the Hawaii longline fishery.

**HLA Code of Conduct:** A primary component of the strategy was the implementation of HLA’s Code of Conduct and development and distribution of the Crew Handbook. Together, the documents add new capabilities to the fleet’s management system which are consistent with pertinent international standards. The code acknowledges universal rights in fish work and contains substantive criteria for fair recruitment and safety in hazardous conditions. For example, individual rights to associate and to bargain collectively are upheld and facilitated, deductions from pay for costs of work are prohibited, work other than fishing (vessel maintenance) is prohibited, and working hours and rest conform to the international Work in Fishing Convention. By signing off on the code, vessel owners are agreeing to conform to the criteria. By providing crew with its elements in a handbook accessible 24/7 and in their language, they also making themselves accountable.

**2020 Update:** The following outcomes have been accomplished to date:

<u><a href="#">Steps for responsible business conduct:</a></u>	Outcomes:	Stakeholders involved:
<i>1-Assess risks to crew at work</i>	<ul style="list-style-type: none"> <li>•independent assessment of crew recruitment, payment structures, and conditions on vessels.</li> <li>•Completed in multiple rounds 2016-18 of one-to-one interviews with 207 crew members on vessels representing 75% of the fleet.</li> </ul>	<ul style="list-style-type: none"> <li>•Amy Gough of <a href="#">Independent Social Research</a></li> <li>•Translators for Tagalog, Bahasa Indonesian, Vietnamese and Kiribas languages</li> </ul>
<i>2-Add protections for foreign crew into the management systems of the fleet</i>	<ul style="list-style-type: none"> <li>•Multi-stakeholder task force</li> <li>•Standard universal crew contract (translated)</li> <li>•Crew handbook (translated) including points of contact</li> <li>•Employer’s code of conduct based on international and domestic fair labor guidance</li> </ul>	<ul style="list-style-type: none"> <li>•Department of Labor-ILAB</li> <li>•Department of Homeland Security</li> <li>•Coast Guard</li> <li>•Honolulu justice groups</li> <li>•Hawaii Longline Association</li> <li>•Hawaii Seafood Council</li> <li>•Honolulu Fish Auction</li> <li>•Sustainability Incubator/Labor Safe Screen</li> </ul>
<i>3-Prevent &amp; mitigate adverse impacts for crew at work</i>	<ul style="list-style-type: none"> <li>•Rights training for new recruits</li> <li>•A crew grievance mechanism</li> </ul>	<ul style="list-style-type: none"> <li>•Seafarers Ministry</li> <li>•Medical mission</li> <li>•Vietnamese volunteers from the community</li> </ul>

		<ul style="list-style-type: none"> <li>• Indonesian volunteers from the community</li> <li>• Filipino volunteers from the community</li> </ul>
<i>4-Track &amp; verify results</i>	<ul style="list-style-type: none"> <li>• Signed Letters of Assurance from vessel owners and captains</li> <li>• External audit</li> </ul>	<ul style="list-style-type: none"> <li>• Honolulu Fish Auction</li> <li>• Hawaii Seafood Council</li> <li>• Independent Social Research</li> <li>• Sustainability Incubator</li> <li>• Underwriters Laboratory</li> <li>Hawaii Longline Association</li> </ul>
<i>5-Communicate how impacts are addressed</i>	<ul style="list-style-type: none"> <li>• Website</li> <li>• One-to-one conversations with Congressional leaders, researchers, &amp; enforcement officials</li> </ul>	<ul style="list-style-type: none"> <li>• Hawaii Longline Association</li> <li>• Hawaii Seafood Council</li> <li>• US Customs and Border Protection</li> </ul>
<i>6-Cooperate in remedies, where appropriate</i>	<ul style="list-style-type: none"> <li>• Review of terms with labor brokers</li> <li>• Brokers are prohibited from taking monthly deductions from crew</li> <li>• Rec center plan for crew members</li> </ul>	<ul style="list-style-type: none"> <li>• Hawaii Seafood Council</li> <li>• US Customs and Boarder Protection</li> </ul>

**Ongoing Involvement:** Several organizations are involved in bringing crew items forward to the grievance mechanism, where they are addressed, including the Seafarers Ministry and volunteer representatives of Filipino, Indonesian and Vietnamese crew members.

**Verification of Conditions:** In the absence of available certifications for social responsibility on fishing vessels, a variety of stakeholders have been involved in verifying the conditions for crew members and in a number of ways. Implementation of a standard contract has been overseen by HLA and the United Fishing Agency (daily auction), for example, and also the vessel code of conduct and crew handbook. An audit of conditions was performed twice by Underwriters Laboratory for Costco.

**Next Steps:** Work by vessel owners and fishery stakeholders continues to effectively address risks of harm and to enforce all crew members’ fundamental rights at work and access to justice. The grievance mechanism will continue, and the crew respite/recreation center will advance. Looking further, the fleet supports initiatives to: (1) resolve foreign crew members’ legal status, (2) clarify regulatory jurisdictions and responsibilities, and (3) establish the vessels’ human rights responsibilities. Crew members could fly into Honolulu to begin work prior to 9/11, for example, and the fleet supports the reinstatement of that privilege or a D3 visa for temporary work. For many years, CBP and the Coast Guard have been involved positively in the fishery and the fleet is supportive of formalizing their oversight functions for foreign crew members.