

Labor and Social Responsibility Policy for the Vietnam Yellowfin Tuna Handline Fishery Improvement Project (FIP)

June 30, 2023

Introduction

This Labor and Social Responsibility Policy (LSRP) for the Vietnam Tuna Handline FIP is formed by and based on “**THE NATIONAL ASSEMBLY SOCIALIST REPUBLIC OF VIETNAM Independence - Freedom - Happiness No. 45/2019/QH14 Hanoi, November 20, 2019 LABOR CODE**” (the Code). Copies of the Code in English and Vietnamese are in the links found below:

<https://vanban.chinhphu.vn/?pageid=27160&docid=198540&classid=1&typegroupid=3>
<https://www.tracuuphapluat.info/2018/04/bo-luat-lao-dong-tieng-anh-labor-code.html>

The LSRP is also supported by the “**Law No. 101/2015/QH13 of the National Assembly: Criminal Procedure Code**” (The Criminal Code) in cases where activities or the treatment of fishery workers may be considered criminal. Examples would be physical or sexual abuse, unlawful detention of a person, theft or unlawful detention of property or personal documents, bribery, withholding pay or extortion. The link to the Criminal Code is below:

<https://vanban.chinhphu.vn/?pageid=27160&docid=183217&classid=1&typegroupid=3>

This LSRP informs and forms the source document for the “**THE GRIEVANCE MECHANISM FOR The Vietnam Yellowfin Tuna Fishery June 2022**”, and is available at:

https://fisheryprogress.org/sites/default/files/Vietnam%20Yellowfin%20FIP%20Grievance%20Mechanism%20Report%202022_0.docx

Scope

This LSRP will be enacted by all FIP Participants throughout the FIP implementation period and beyond. The LSRP applies to all onboard crew members, including vessel masters, vessel owners and captains associated with the Vietnam handline fishery, and in particular to fishers and vessels related to the Vietnam handline tuna FIP.

General LSRP Policy

All FIP Participants and Administrators are required to encourage and support the efforts of the Directorate of Fisheries and local Port Authorities in raising awareness in fishers and fishery stakeholders of their rights and legal obligations under the Code. This support includes but is not limited to:

1. Supporting D-Fish and Port Authority meetings held in the fishing ports sharing information on the Code and general legal obligations with fishers and fishery stakeholders
2. Encouraging the ongoing program of public address announcements by port authorities in the fishing ports raising awareness of fishers’ rights and obligations as outlined in the Code
3. Coordinating with the Vietnam Fisheries Society (VINAFIS) in socializing knowledge of the Code and fisher’s rights to make grievances, inquiries or



complaints about issues that may be in violation in the code with VINAFIS. From the Handline Fisheries Grievance mechanism: "VINAFIS is a non-governmental organization, based on the principles of voluntary, autonomy and equality. VINAFIS members include Vietnamese fishermen, aquaculture producers, fisheries processors and organizations providing services in fisheries sector. Based on mutual supports, the Society was established in 2000 under Vietnamese Government Decision No. 33/2000/QĐ-BTCCBCP dated 5th May 2000. VINAFIS has full functions on receiving grievances and/or claims from fishers through their networks. The VINAFIS system acts as a network throughout Vietnam, with representation from national down through the district and commune levels. At the Central level, the VINAFIS head office is located in Ha Noi, with two Representative Offices located in Nha Trang and Ho Chi Minh City. These consist of four (4) professional sections, and four sub-units under VINAFIS (including Vietnam Fisheries Magazine, Fisheries training and extension Centre). At the local level there are 32 provincial VINAFIS offices with over one hundred thousand members. VINAFIS also has over 80 collective members, those are Universities, Research Institutes, fisheries vocational colleges, and companies operating in fisheries sector."

4. Placement of links to the Code, The Grievance Mechanism, VINAFIS and VINATUNA in fishing ports, on websites and in presentations/communications. Anytime any industry participant, NGO Handline Fishery Project Administrator or other non-government party conducts presentations or posts information materials in the fishing ports, information about and links to the Code, The Grievance Mechanism, VINAFIS and VINATUNA shall be included for easy access to fishers and fishery stakeholders.
5. Linking education about the code with actions in the Grievance Mechanism Work Plan. The activities in item 4, above should also be included in any further grievance Mechanism Action Plan work conducted in the future. Also included shall be training on the requirement for fishers to have valid ID and be listed on the fishing vessel manifest for each trip.

Important Articles of the Code for the Fishery

Below are listed some of the key articles of the Code that relate to work at sea and in the handline tuna fishery or Vietnam fisheries in general. Note the entire Code is relevant to work in fisheries and is based on ILO Core Principles:

Article 3 Definitions., Paragraphs 3 through 9

3. "Representative organization of employees" means an internal organization voluntarily established by employees of an employer which protects the employees' legitimate rights and interests in labor relations through collective bargaining or other methods prescribed by labor laws. Representative organizations of employees include internal trade unions and internal employee organizations.
4. Representative organization of employers means a lawfully established organization which represents and protects the employers' legitimate rights and interests in labor relations.
5. "labor relation" means a social relation which arises in respect of the employment and salary payment between an employee and an employer, their representative organizations and competent authorities. Labor relations include individual labor relation and collective labor relation.
6. "worker without labor relations" means a person who works without an employment contract.
7. "forced labor" means to the use force or threat to use force or a similar practice to force a person to work against his/her will.
8. "labor discrimination" means discrimination on the grounds of race, skin color, nationality, ethnicity, gender, age, pregnancy, marital status, religion, opinion, disability, family responsibility, HIV infection, establishment of or participation in trade union or internal employee organization in a manner that affects the equality of opportunity of employment. Positive discrimination on the grounds of professional requirements, the sustainment and employment protection for vulnerable employees will not be considered discrimination.
9. "sexual harassment" in the workplace means any sexual act of a person against another person in

the workplace against the latter's will. "workplace" means the location when an employee works under agreement or as assigned by the employer."

Article 4, Paragraphs 1 through 7

Article 4. State policies on labor

1. Guarantee the legitimate rights and interests of employees and workers without labor relations; encourage agreements providing employees with conditions more favorable than those provided by the labor laws.
2. Guarantee the legitimate rights and interests of employers, to ensure lawful, democratic, fair and civilized labor management, and to promote corporate social responsibility.
3. Facilitate job creation, self-employment and occupational training and learning to improve employability; labor-intensive businesses; application of certain regulations in this Labor code to workers without labor relations.
4. Adopt policies on the development and distribution of human resources; improve productivity; provide basic and advanced occupational training, occupational skill development; assist in sustainment and change of jobs; offer incentives for skilled employees in order to meet the requirements of national industrialization and modernization.
5. Adopt policies on labor market development and diversify types of linkage between labor supply and demand.
6. Promote dialogues, collective bargaining and establishment of harmonious, stable and progressive labor relations between employees and employers.
7. Ensure gender equality; introduce labor and social policies aimed to protect female, disabled, elderly and minor employees."

Article 8, Paragraphs 1 through 7:

Article 8. Forbidden actions

1. Labor discrimination.
2. Maltreatment of employees, forced labor.
3. Sexual harassment in the workplace.
4. Taking advantage of occupational training or apprenticeships to exploit the trainees or apprentices, or persuade or force them to act against the law.
5. Employing untrained people or people without occupational training certificates to do the jobs or works that have to be done by trained workers or holders of occupational training certificates.
6. Persuading, inciting, promising advertising or otherwise tricking employees into human trafficking, exploitation of labor or forced labor; taking advantage of employment brokerage or guest worker program to commit violations against the law.
7. Illegal employment of minors."

Article 14, Paragraphs 1 and 2

Article 14. Forms of employment contract

1. An employment contract shall be concluded in writing and made into two copies, one of which will be kept by the employee, the other by the employer, except for the case specified in Clause 2 of this Article. An employment contract in the form of electronic data conformable with electronic transaction laws shall have the same value as that of a physical contract.
2. Both parties may conclude an oral contract with a term of less than 01 month"

Article 32, Paragraphs 1 through 3

Article 32. Part-time employment

1. A part-time employee is an employee who works for less than the usual daily, weekly or monthly working hours as prescribed by labor laws, the collective bargaining agreement internal labor regulations.
2. An employee may negotiate part-time employment with the employer when enter into an employment contract.
3. The part-time employee shall be entitled to receive salary, equal rights and obligations as a full-time employee; equal opportunity and treatment, and to a safe and hygienic working environment."

Article 105, Paragraphs 1 and 2

Article 105. Normal working hours

1. Normal working hours shall not exceed 08 hours per day or 48 hours per week.
2. An employer has the right to determine the daily or weekly working hours and inform the employees accordingly. The daily working hours shall not exceed 10 hours per day and not exceed 48 hours per week where a weekly basis is applied.”

Article 109 Rest Breaks

Article 109. Rest breaks during working hours

1. An employee who works for at least 06 hours per day under Article 105 of this Code shall be given a rest break of at least 30 consecutive minutes. In case of night work, the rest break shall be at least 45 consecutive minutes. If a shift lasts at least 06 consecutive hours, the rest break will be included in the working hour.
2. In addition to the rest break prescribed in Clause 1 of this Article, the employer shall determine other short breaks and specify that in the internal labor regulations.”

Article 111 Weekly Breaks

Article 111. Weekly breaks

Each week an employee is entitled to a break of at least 24 consecutive hours. Where it is impossible for the employee to have a weekly day off due to the work cycle, the employer has the responsibility to ensure that on average the employee has at least 04 days off per month.”

Article 131, Complaints on Labor Disciplinary Regulations

Article 131. Complaints on labor disciplinary regulations and material responsibility

If the employee who is disciplined, suspended from work, or required to pay compensation is not satisfied with the decision, he/she has the right to file a complaint to the employer or a competent authority as prescribed by law, or request settlement of the labor dispute in accordance with the procedures stipulated by law.”

Article 134 Occupational Safety

Article 134. Ensuring occupational safety and health at the workplace

1. Employers shall fully implement the measures for ensuring occupational safety and health at the workplace.
2. Employees shall comply with rules and procedures for occupational safety and health, regulations of law, obtain knowledge and skills on assurance of occupational safety and health at the work place.”

Article 147 Prohibited Work for Minors, Paragraph 1 – g

“**Article 147. Prohibited works and workplaces for employees aged 15 to under 18**
g) Marine diving, offshore fishing”

Endorsement

This Labor and Social Responsibility Policy is endorsed by Vietnam Tuna Association (Vinatuna) on behalf of FIP Participants and supply chain partners



Mr. Dinh Vu Dap
Director, Vietnam Tuna Association