

Submission by the Environmental Justice Foundation to the US Department of Labor for the 2022 List of Goods Produced by Child Labor or Forced Labor

People's Republic of China

The Environmental Justice Foundation (EJF) is an international organization with offices in multiple countries including the UK, Germany, Indonesia, Thailand, S. Korea and Taiwan working to protect the natural environment and the people and wildlife that depend upon it. EJF promotes and encourages international information sharing to enhance transparency in the fisheries sector and combat illegal, unreported and unregulated (IUU) fishing alongside closely associated instances of serious human rights abuses, which include forced labor.

Summary

In recent years EJF has been gathering and analysing information on human rights conditions and illegal, unreported and unregulated (IUU) fishing in the Chinese distant water fishing (DWF) fleet. The detailed findings of these investigations can be found in EJF's most recent report "[The ever-widening net: Mapping the scale, nature and corporate structures of illegal, unreported and unregulated fishing by the Chinese Distant-Water Fleet](#)". This submission provides a summary of the information retrieved, presented through a case study of the 'Liao Dong Yu' fleet operating in the Indian Ocean and an overview of data collected by EJF from Indonesian crew who have been on board Chinese vessels between July 2021 and January 2022. EJF has uncovered and documented serious human rights abuses at a systemic level amongst the Chinese DWF fleet, including key indicators of forced labor. The Chinese fishing operations documented regularly deceive migrant fishers with false information about wages and working conditions and require them to pay 'guarantee money' that creates conditions of debt bondage.¹ Once workers are trapped on such vessels, they are then subject to physical violence, verbal threats and unsafe conditions.

China has the world's largest DWF fleet, with estimates ranging between from 2,710² to an astounding 16,966³ vessels. There are also an unknown number of vessels owned or invested in by Chinese companies and registered under foreign flags, known as flag of convenience (FoC) vessels. EJF's investigators have found such vessels registered in West African countries such as Ghana, Guinea and Sierra Leone. In Ghana, it is suspected that over 90% of the trawl sector is owned by Chinese interests, and a preliminary analysis by EJF suggests that for Guinea and Sierra Leone the figures are thought to be at least 64% and 73% respectively⁴.

¹ An upfront payment or deduction from their wage and withheld by the recruitment agency or employers to ensure workers finish their contracts.

² Bureau of Statistics (统计局). (2020). China Fishery Statistical Yearbook (中国渔业统计年鉴 2020). Available at: <https://www.yearbookchina.com/naviBooklist-n3020013079-1.html>.

³ ODI. (2020). China's distant-water fishing fleet, scale, impact and governance. Available at: https://cdn.odi.org/media/documents/chinesedistantwaterfishing_web.pdf.

⁴ These figures are as a percentage of non-tuna targeting vessels, including in the case of Sierra Leone a small number of support vessels.

In 2021 the US Department of Labor made explicit reference to abusive practices on DWF vessels including wage deductions, coercion, debt-bondage and excessive working hours. Furthermore, the 2021 Trafficking in Persons⁵ report listed China in Tier 3, and identifies the Chinese government as one of twelve governments to have a documented “policy or pattern” of trafficking.

Methodology and findings

Since 2020, EJF has conducted interviews with migrant crew, primarily from Indonesia, in order to understand human rights conditions on Chinese fishing vessels. EJF’s investigators worked alongside local and international NGOs, local authorities and fishers associations to meet and identify fishers that previously worked on Chinese fishing vessels and have since returned home. Upon receiving written and informed consent from fishers, EJF investigators then conduct an audio-recorded and/or filmed interview with the fisher to gather testimony according to a standardised open-ended interview format. In order to validate interviewee reports, EJF always seeks to corroborates findings through interviews with additional crew members from the same vessel. EJF also connects testimony to available historic vessel positional data from satellite monitoring facilities ExactEarth⁶ and Global Fishing Watch⁷.

Between September 2020 and December 2021 EJF investigators interviewed 133 Indonesian crew members who had been employed across 104 Chinese fishing vessels. High instances of a wide-range of human rights abuses, many of which are indicators of human trafficking, were reported - reflecting continued systemic issues amongst China’s DWF fleet. Nearly all crew interviewed had experienced wages being withheld and/or deducted (99%), and 96% were subject to the confiscation of guarantee money and/or documents. The full list of findings can be found in **Table 1**. A number of IUU fishing offences were also reported, including shark finning and the killing of dolphins, false killer whales and other protected species including seals and turtles.

Table 1 - Summary of human rights abuses reported by Indonesian crew employed on China’s DWF fleet between September 2020 and December 2021

Human rights abuse	Number	Frequency
Physical abuse	81	61%
Intimidation and threats	90	68%

⁵ Trafficking in Persons Report: China (2021) <https://www.state.gov/reports/2021-trafficking-in-persons-report/china/>

⁶ Spire – ExactEarth website, <https://spire.com/maritime/>

⁷ Global Fishing Watch website, <https://globalfishingwatch.org>



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Withheld wages and deductions	131	99%
Debt bondage and guarantee money/documents confiscation	128	96%
Unsafe or unhealthy working and living conditions	113	85%
Excessive overtime	123	92%

These findings reflect patterns of human rights abuses and trafficking that have been observed elsewhere amongst Chinese owned vessels. In EJF's 2021 report to inform the Trafficking in Persons Report, Ghanaian crew on board Chinese trawlers were subject to salary deductions, physical abuse, intimidation, excessive overtime and unsafe working conditions - summarised in EJF's report 'Fear, Hunger and Violence'.⁸

Chinese recruitment of foreign fishers

Lack of legal protection is one of the major factors in foreign fishers being subject to human rights abuses. Currently, there is no official route for a Chinese distant water fishery company to legally employ foreign fishers on board Chinese vessels. EJF's interview data shows that the recruitment of fishers onto Chinese vessels is often conducted via several layers of intermediary manning agencies (or labour dispatching agencies) at home and abroad.

The manning agencies are the actual employers of the workers by law since the contracts were often signed between these two parties. These agencies employ fishers in their name, before "dispatching" fishers to the respective Chinese fishing company. Theoretically, the manning agencies are in charge of all human resource-related issues of the crew, including training and documentation, and payment of crew salaries. This labour dispatching system has many weaknesses: it does not provide for social insurance or other benefits for the employed fisher, and a fisher can easily be rejected by the vessel operators/companies and sent back to the agency without justification. The number of manning agencies operating across different countries also guarantees that communication is flawed and responsibilities are unclear when any dispute takes place.

Foreign fishers usually do not have the appropriate visas to work legally in China and thus on Chinese vessels which are regarded as an extension of Chinese territory. Under the Measures for Crew Management, foreign crew onboard a vessel flagged to China or a Chinese-owned vessel flagged to a third country may be examined for eligibility and compliance with relevant legal requirements.⁹ Since law enforcement authorities may inspect crew certificates at the Chinese port of registry,¹⁰ companies often arrange foreign fishers to board the vessels at third-country ports while the vessels are there for fuelling, thereby evading controls.¹¹ These third-country ports include South Korea and Singapore, depending on the target fishing ground of the vessel.

The South Korean port of Busan is a common third-country port for vessels fishing in the north Pacific. The manning agencies in Southeast Asia recruit and send fishers to South Korea, while South Korean manning agencies help the fishers to obtain South Korean visas. It is currently unclear to EJF the identities of the Chinese manning agencies which cooperate with their Southeast Asian and South Korean counterparts, as these relationships are often concealed.

⁸ EJF. (2020). Fear, hunger, and violence: Human rights abuses in Ghana's industrial trawl fleet. Available at: <https://ejfoundation.org/reports/fear-hunger-and-violence-human-rights-in-ghanas-industrial-trawl-fleet>

⁹ Art. 15, Measures for Crew Management of PRC, 2020.

¹⁰ Ningde Ocean and Fishery Bureau (2020) Penalty of a DWF company for employing crew members without certificates.

¹¹ Zhang Rui and Liu Ningxiao (2015) [Research on the use of foreign crew workers in companies](#)

However, through discussions with some Taiwanese service centres for migrant fishers that assist fishers in resolving salary disputes, EJF now understands that some Taiwanese manning agencies also supply Chinese vessels with foreign fishers. The fact that embarkation takes place in a third-country port increases the vulnerability of migrant fishers, as the involvement of the local agency is only temporary and it will be unable to assist with salary issues or other complaints that subsequently arise. Local law enforcement may also be unable to crack down on illegal recruitment due to a lack of jurisdiction over Chinese vessels while visiting the third-country port.

Since 2013, the Chinese government has started a trial programme attempting to resolve the issue of illegal employment of foreign fishers. There are currently around 3,600 foreign crew members from Indonesia, the Philippines, Vietnam, and Myanmar using ports in Zhoushan, Zhejiang province to launch their journeys as well as to disembark in order to return home following their shift onboard.¹² The programme also aims to improve the crew training before relocating fishers onboard the vessels. However, after two iterations in 2013 and 2017, the plan has not yet been promoted in other cities or provinces.¹³ The lack of a legal framework for employment of foreign fishers remains a grey area in Chinese national law, which deeply affects the welfare and legal rights of these workers. As salaries of Chinese fishers rise, there is increasing demand for foreign fishers on Chinese vessels, this topic therefore needs to be urgently addressed by the Chinese government.

The Liao Dong Yu fleet


Since September 2020, the Liao Dong Yu (LDY) fleet of Chinese flagged fishing vessels and a fish carrier vessel (**Table 2**) owned by the Liaoning Daping Fishery Group Co. Ltd. were observed to be operating in the waters of Somalia. In June 2021, reports made to the fishers welfare organisation 'Destructive Fishing Watch' alerted them that 13 Indonesian crewmembers working on one of the vessels were stranded in Somalia since January 2021. These crew members had originally worked on the LDY vessels listed below, before being

transferred against their will to the LDY 535 between June and August 2021. Some of the crew only had a working contract for a year (ending in December 2020) whilst some of them had two year contracts. Despite many of their contracts having finished in December 2020, the crew were reportedly forced to continue working and vessel operators refused to repatriate them.

Vessel name	Vessel flag	MMSI/IMO	Owner
Liao Dong Yu 535*	Chinese	Unknown	Liaoning Daping Fishery Group Co. Ltd
Liao Dong Yu 571			

¹² Zhoushan Offshore Fishery Association (2021) [Foreign crew members spending Chinese New Year in Zhoushan](#).

¹³ Zhoushan Ocean and Fishery Bureau (2013) Implementation Rules for the Introduction of Foreign Offshore Fishing Crew.

Liao Dong Yu 572			
Liao Dong Yu 575			
Liao Dong Yu 577			

***Indicates the carrier vessel that crewmembers were most recently onboard before being transferred to land**

A series of tragedies occurred on board the vessel upon which they were stranded. In June 2021 a large wave hit the vessel, forcing open a heavy trawl door - killing one fisher on impact and throwing another to sea, presumed dead. A further crew member lost his life in August 2021, as one of four fishermen attempting to flee the vessel for shore. Whilst three were found and brought back onto the vessel, one who could not swim was lost-at-sea. Crew were eventually repatriated with the assistance of a range of local and international NGOs, including EJF. Before they jumped into the sea, one of the fishermen contacted a Somali volunteer for help when they reached the shore. The Somali volunteer tried to convince them to not swim because it is very dangerous, however the four fishers insisted that they were willing to try or die trying.

The conditions on board the vessel provide some context as to why some crew find themselves willing to risk their life to reach shore. Reports from those on board indicate that they were subject to physical abuse when they asked for information about repatriation, and should they refuse to work would be denied breakfast for days as punishment. Some of the crew fell ill, reporting symptoms similar to those exhibited by those suffering from beriberi disease or thiamine deficiency - with symptoms including difficulty breathing and swollen legs, leaving some struggling to walk. Injury and sickness on the vessels was unsurprising, given that

crew were not provided sufficient safety equipment, were forced to drink unfiltered tap water and if not willing to pay for vegetables, had to subsist on a diet of porridge and anchovies.

Alongside this abuse, the vessels were fishing in Somali waters without authorisation, using prohibited fishing gear including trawl nets, and fishing in zones reserved for local Somali fishers. These practices cause irreversible damage to marine life and threaten the livelihoods and food security of Somali fishing communities.

Photo evidence and crew testimony showed the vessels also caught protected, often endangered, species, including whale sharks, dolphins, turtles, and even what is thought to be a megamouth shark – an extremely elusive shark species with less than 100 specimens ever observed.

Recommendations for the Status of China on the list of US Department of Labor for the 2022 List of Goods Produced by Child Labor or Forced Labor

In November 2020 the Chinese government published a white paper¹⁴ setting out its efforts to end IUU fishing and promote sustainable fisheries. It was encouraging to see the Chinese government acknowledge those issues and propose reforms. However, it is yet to give sufficient attention to the associated human rights abuses that take place on many of the same vessels. China urgently needs to update the legislative framework governing its DWF fleet to address human rights issues, and this needs to be matched with appropriate enforcement efforts.

In light of the above findings, EJF recommends that China remains on the List of Goods Produced by Child Labor or Forced Labor. Furthermore, EJF recommends that the Chinese government:

- Ratify the International Labor Organization's Work in Fishing Convention (ILO C188) and allocate sufficient resources to properly implement. This should include port inspection and labour inspection at ports in China and overseas;
- Conduct comprehensive, victim-centred interviews of a sample of crewmembers during inspections to identify potential human rights abuses;
- Investigate vessels belonging to Liaoning Daping Fishery Group Co. Ltd. regarding the allegations made by crewmembers and, where appropriate, prosecute vessel owners, captains and other responsible persons;
- Adopt electronic monitoring including robust vessel tracking, digital logbooks and CCTV;
- Improve transparency in the seafood sector. Improving transparency is the most effective, efficient and affordable way to help the government prevent both illegal fishing and human right abuses. EJF's Charter for Transparency¹⁵ lays out detailed recommendations for countries such as China to adopt;
- Launch investigations into fishing vessels that illegally register in other countries such as Ghana. Where appropriate, sanction the vessel's owners and operators;
- Introduce systems that provide appropriate shelter for victims of forced labor or human trafficking.
- Regulate the recruitment process for migrant fishers including banning illegal and unlicensed recruitment agencies and brokers, only allowing registered and legal manning agencies to conduct recruitment proceedings for migrant fishers and obligate them to report migrant fisher data along with the names of manning agencies they work with from sending countries;

¹⁴ 中国远洋渔业履约白皮书(2020), http://www.yyj.moa.gov.cn/gzdt/202011/t20201120_6356632.htm

¹⁵ EJF (2018) Out of the shadows. Improving transparency in global fisheries to stop illegal, unreported and unregulated fishing, <https://ejfoundation.org/resources/downloads/Transparency-report-final.pdf>



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- Create a specific offence in its legal framework for the use of forced or bonded labour by operators;
- Establish mechanisms for monitoring and reporting of human rights violations of workers on fishing vessels, including the introduction of a Standard Operating Protocol across the fleet that ensures workers are given the facility to report securely and anonymously on abuses, as well as establishing a system for labour inspections on the DWF fleet outside of Chinese ports.