

Attachment

Contribution from the International Labour Organization to the Report of the Secretary-General on Oceans and the Law of the Sea, to the Sixty-fifth Session of the General Assembly

Contribution to Part I: Recent activities of the ILO in connection with capacity building in ocean affairs and law of the sea.

1. The ILO's mandate is directed to achieving "decent work", which, if effectively implemented, will help to assure what has been called "fair globalization" and sustainable economic development. In June 2008 the International Labour Conference (ILC) adopted, by acclamation, the *Declaration on Social Justice for a Fair Globalization*, which is based on the belief that the fundamental values of freedom, human dignity, social justice, security, and non-discrimination are essential for sustainable economic and social development.
2. ILO activities have focused on promoting national capacity for social dialogue as an important aspect of its many programmes aimed at alleviating the root causes of social threats and harms to human security broadly defined (including for example, responding to the impact of climate change) and, at the same time, specifically addressing the impacts of these threats, and the regulatory responses to them, on workers rights and also on employers. This is achieved in part through the international tripartite negotiation development of international labour Conventions and other instruments. It also involves extensive efforts to support effective implementation of these international standards, through capacity building and other technical cooperation activities to assist States to move forward to achieve decent work and with it, the related reduction of poverty and other causes of unrest and threats to human security.
3. Since 1920, the ILO has been especially active in ocean affairs and law of the sea through the elaboration of international standards for the working and living conditions for seafarers and for fishers as well as in connection with occupational safety and health

- protection of workers in related maritime sector activities such as ship breaking/recycling and port work.
4. With the adoption by the 94th International Labour Conference (94th ILC) of the Maritime Labour Convention, 2006 (MLC, 2006) in February 2006, 37 existing ILO maritime labour Conventions and the related Recommendations, which establish seafarers' working and living conditions, were consolidated and updated in a single modern and globally applicable instrument.¹ The MLC, 2006 is specifically designed to help achieve the twin goals of ensuring a "level playing-field" for quality shipowners and at the same time providing concrete measures that would secure "Decent Work" for the world's more than 1.2 million seafarers. It is also an aspect of implementing State obligations under Article 94 of the 1982 *United Nations Convention on the Law of the Sea*
 5. A key feature of the MLC, 2006 is the establishment of a strong compliance and enforcement mechanism that is based on flag State inspection and certification of seafarers' working and living conditions. However, to achieve the Convention's objectives it is essential that it is both widely ratified and effectively implemented by all countries with a maritime interest (flag States, port States and States from which the majority of the world's seafarers are drawn). This means that all countries with an interest must engaged and the development of institutional and operational capacity in each country supported.
 6. In 2006, the International Labour Office developed a strategic five-year *Action Plan to achieve rapid and widespread ratification and effective implementation of the Maritime Labour Convention, 2006*. The *Action Plan* has as its overall objective, ensuring the rapid entry into force of the Convention, with widespread ratification by countries with major maritime interests. Simultaneously, the aim is to lay a firm foundation for ensuring effective national implementation and enforcement of the Convention by ratifying countries.² Effective national implementation will make a vital contribution to achieving rights-based decent employment and social conditions for seafarers, and will ultimately help alleviate poverty for seafarers and their families. In addition, a number of the areas

¹ See, in particular, International Labour Conference, 94th (Maritime) Session, 2006, Report I (1A), *Adoption of an instrument to consolidate maritime labour standards*.

² The *Action Plan*'s specific goal is to achieve sufficient ratifications by the end of 2010 for the MLC, 2006 to enter into force 12 months later in 2011. To date the tonnage requirements for entry in force been more than met with ratifications by flag States responsible for more than 44% (33% is required) of the world fleet. It is expected that the remaining number of ratifications needed (25) to meet the entry into force formula (30 States) will be received as expected in the *Action Plan*'s five-year period.

- under the MLC,2006 - particularly in connection with capacity-building for labour inspection, development of social security arrangements and promotion of occupational safety and health protection - will have a potentially significant spin off effect on other sectors to help improve conditions for all workers.
7. In many of the countries the political will to ratify and implement the MLC,2006 exists but there is a significant lack of capacity and resources to enable progress in the ratification and effective implementation of obligations, particularly in connection with undertaking legislative reviews and tripartite consultations and, especially for flag States, in establishing the mandatory maritime labour inspection and certification system. In addition, a number of obligations under the MLC, 2006 are “new ground” for all countries, and particularly for developing economies. There is also an urgent need to develop guidance and help build capacity with respect to the social protection requirements (social security, medical care, including shipowner liability for illness and injury, and occupational safety and health).
 8. The ILO has already responded to a number of these issues, particularly by developing further guidance to help countries implement the enforcement and compliance obligations (flag State inspection and also certification of ships and port State control) under the MLC,2006³. The International Labour Office has also, in partnership with the ILO’s International Training Centre in Turin, Italy (ITC – Turin) and interested governments and organizations, developed training materials and an intensive two-week residential courses to train national trainers (“Training of Trainers”) of inspectors to carry out flag State inspections and port State control under the MLC,2006. As of [February 2010] [January 2010] training will have been provided to over 100 trainers and maritime specialists drawn from all regions of the world. These trainers are now developing and delivering training in their countries. Four two-week courses are planned for 2010, as well as other capacity building workshops in several regions and country to support the training of maritime labour inspectors.
 9. Building capacity in connection with legal implementation is also needed in many countries. The focus of the *Action Plan* activities is now on providing targeted assistance in connection with supporting locally based legislative gap analysis and national implementation reviews. As of January 2010 these reviews, often in association with

³ ILO (2009) *Guidelines for flag State inspections under the Maritime Labour Convention,2006*; ILO (2009) *Guidelines for port State control officers carrying out inspection under the Maritime Labour Convention,2006*.

tripartite regional or national workshops, have been undertaken in more than 30 countries, including countries in Africa, Latin America, South America, the Caribbean, South East Asia and the Pacific Island States. Regional legal implementation workshops and the development of model laws are also planned for 2010.

10. To further achieve comprehensiveness of the MLC, 2006, questions of liability and compensation in connection with crew claims were proposed for future insertion into the MLC, 2006 by a Joint IMO/ILO Ad Hoc Expert Working Group. This Group was established in 1998 with the mandate to ensure the rights of seafarers to adequate compensation in cases of abandonment, personal injury or death. At its Ninth Session, held at the ILO from 2 - 6 March 2009, the Joint Working Group agreed on two proposed amendments to the MLC, 2006: one on the provision of financial security in case of abandonment of seafarers and the other on the treatment of contractual claims. The Group's proposals will be submitted to a future Special Tripartite Committee to be established under Article XIII of the MLC, 2006.

Fishing-related paragraphs for the Attachment

1. With respect to the fishing sector, in 2007 the International Labour Conference adopted the Work in Fishing Convention (No. 188) and Work in Fishing Recommendation (No. 199). These instruments revised, updated and consolidated several existing ILO Conventions concerned with the conditions of work in the fishing sector. The objective of the Convention, as stated in its Preamble, is “to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security”.
2. The ILO is promoting the widespread ratification and implementation of these two instruments. In this regard, it is developing promotional and training material for flag State implementation. This will include a handbook for Government officials, for representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, and others concerned with conditions of work in the sector. Furthermore, in February 2010 the ILO will convene a Tripartite Meeting of Experts to Adopt Port State Control for Implementation of the Work in Fishing Convention, 2007 (No. 188). Together, these materials and guidelines are being provided as tools to develop training courses for flag and port State inspectors concerned with the inspection of fishing vessels. This is being coordinated with efforts to build capacity not only of Government officials but also of representative organizations of fishing vessel owners and fishers. Early courses and training activities sponsored by the Government of Spain have already been held at the ILO’s International Training Centre in Turin, Italy, at the Institute de Social de Marina’s training centre in Bamio, Spain, and in several African countries and Latin American countries.
3. Since adoption of the Convention and Recommendation, two regional seminars have been held for the purpose of developing knowledge of the Convention and stimulating regional and national promotional and implementation activities. The first regional seminar, for the Asian region, was held in the Republic of Korea in 2008. A second regional event, for the Americas, was held in Brazil in 2009. Several sub-regional and national seminars have been and or will be held shortly.

4. In conjunction with work to promote implementation of the MLC, 2006, the ILO is also supporting locally-based legislative gap analysis and national implementation reviews of Convention No.188.
5. Capacity building with respect to the implementation of Convention No. 188 and Recommendation No. 199 will necessarily involve not only the development of national laws and regulations, but all the strengthening of competent authorities responsible for conditions of work of fishers (which could involve several agencies or departments in some States). It will also necessitate strengthening of representative organizations of fishing vessel owners and fishers, as these play an important role in the implementation of these instruments. Emphasis is being placed on those countries with large fleets and large numbers of fishers.