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International Labour Organization

## **Report of the UN Secretary-General on Oceans and Law of the Sea, 2014**

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## Executive Summary

The world's oceans and seas play a significant role in international trade and food security – an estimated 90 per cent of world trade by volume goes by sea, and fish and fish products are among the most traded commodities, vital sources of food and nutrition. However, this is dependent on the labour of those who work on the world's merchant ships and commercial fishing vessels. There are over 1.5 million seafarers and nearly 40 million fishers that make their livelihoods at sea.

The ILO has always recognized the unique working conditions of seafarers, fishers and portworkers. The maritime activities of the ILO bring together representatives of governments, and employers and workers from the maritime industry to develop international standards and policies that promote decent work for those who make their living from the world's oceans and seas.

The ILO cooperates with other United Nations agencies with a common interest in the maritime field, including the International Maritime Organization (IMO) and the Food and Agriculture Organization of the United Nations (FAO).

The focus of the maritime programme is the promotion of maritime labour standards and guidelines for the shipping, fishing and port industries. Three ILO Conventions are of particular importance to the law of the sea in this regard – the Maritime Labour Convention, 2006 (MLC, 2006), the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and the Work in Fishing Convention, 2007 (No. 188). The ILO also has expanded its efforts to ensure the promotion of fundamental principles and rights at work for those working at or in connection with the sea. This includes greater emphasis on eliminating forced labour and trafficking, on addressing child labour and on improving the conditions of migrant workers.



## **PART I Work relating to fisheries**

### **Work in Fishing Convention, 2007 (No. 188)**

The harvesting of fish and marine resources occurs in a challenging marine environment, making it the most hazardous occupation in many countries. The 40 million fishers worldwide, of which more than 15 million work full-time on fishing vessels, are in need of special protection that accounts for the diversity of their industry, the long-standing traditions that shape it, and the effect of globalization on the complex working relationships. The Convention demonstrates the resolve of the fishing industry and a commitment by the ILO to ensure decent work for fishers. It contains provisions on the minimum requirements for work on a fishing vessel, conditions of service, accommodation and food, occupational safety and health (OSH) protection, medical care and social security.

The ILO is seeking widespread implementation and ratification of the Convention. This instrument will come into force 12 months after the date on which the ratifications of ten member States have been deposited, where eight are coastal States and have been registered with the ILO. To date, the Work in Fishing Convention, 2007 (No. 188) has been ratified by only four ILO member States; Argentina (15 September 2011), Bosnia and Herzegovina (4 February 2010), Morocco (16 May 2013), and South Africa (20 June 2013). Comparative ‘gap’ analyses of the Convention and national legislation have been undertaken in several countries, including Benin, Côte d’Ivoire, Guinea-Bissau, Senegal, and Togo. It is critically important that other States undertake such gap analyses, followed by national consultations, to clarify the legal protection provided to fishers and to identify gaps in that protection to be filled by changes to national laws, regulations or other legally binding measures. Frequently Asked Questions on C.188 and a model format for such gap analyses are available on the ILO website at: [http://www.ilo.org/sector/activities/sectoral-meetings/WCMS\\_204806/lang--en/index.htm](http://www.ilo.org/sector/activities/sectoral-meetings/WCMS_204806/lang--en/index.htm)

The ILO expects that further ratifications will be deposited following the development of social partner agreements, capacity-building activities, and other necessary national processes. The support of the United Nations system, and its coordinating mechanisms focused on work relevant to the oceans (UNICPO, UN OCEANS), are essential to achieving

ratification and implementation of the Convention. This will contribute to decent work in the maritime sphere which in turn will contribute to a sustainable marine environment.

### **Inspection of labour conditions on fishing vessels**

An *Action Plan* sets out the activities the ILO is planning to deliver in the period 2011-16. A series of materials and tools have been produced by the ILO to provide information and support for the implementation and ratification of Convention No. 188. Activities aimed at promotion and providing support for its implementation have been held at international, regional and national levels. To support implementation and national capacity building, *Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188)*, were developed in 2010. They serve as an important international resource for the implementation of port State control responsibilities and for the harmonization of inspections of foreign fishing vessels under the Work in Fishing Convention, 2007 (No. 188). Related training materials on flag and port State inspections of fishing vessels have also been prepared.

A meeting of experts to review and adopt guidelines for flag State inspections under the Work in Fishing Convention, 2007 (No. 188) will be convened in early 2015. This most recent work would benefit from the involvement of other UN system specialized agencies, notably FAO and IMO. Much can be learned from the coordination at the international level (by IMO and ILO), at the regional level (through regional port State control arrangements) and at the national level (through coordination amongst maritime authorities, labour inspections services and other national entities) of inspection of merchant ships.

### **Global Dialogue Forum for the promotion of the Work in Fishing Convention, 2007 (No. 188) (15-17 May 2013)**

A *Global Dialogue Forum for the promotion of the Work in Fishing Convention, 2007 (No. 188)* was held in May 2013 and attended by representatives of governments, employers' and workers' organizations and observers. The *Forum* discussed social and labour issues in the fishing sector and how the Convention could address these issues. Experiences

and challenges faced in implementation and ratification were also shared by the participants and recommendations were made for future actions for the promotion of the Convention. The report prepared for the meeting and the final report of the discussion for the meeting, including points of consensus adopted by the participants, are available on the ILO website. See: [http://www.ilo.org/sector/activities/sectoral-meetings/WCMS\\_204806/lang--en/index.htm](http://www.ilo.org/sector/activities/sectoral-meetings/WCMS_204806/lang--en/index.htm)

### **Safety Recommendations for Decked Fishing Vessels of Less than 12 metres in Length and Undecked Fishing Vessels**

To address concerns about safety and work on board small fishing vessels, *Safety Recommendations for Decked Fishing Vessels of Less than 12 metres in Length and Undecked Fishing Vessels* were developed through a cooperative effort by the IMO, FAO and ILO. The *Safety Recommendations* provide information on the design, construction, equipment, training and protection of the crews of small fishing vessels with a view to promoting the safety of vessels and the safety and health of crews. *Implementation Guidelines on Part B of the Code, the Voluntary Guidelines and the Safety Recommendations* have also been finalized by FAO, ILO and IMO.

### **Child labour in the fishing industry**

Child labour is a concern in fisheries and aquaculture. Children engage in a wide variety of work: both in direct production (fishing and harvesting) and in associated activities such as fish processing and marketing, boatbuilding and net mending. However, not all activities carried out by children are child labour. Certain activities can be an acceptable and even beneficial for children as skills development for the future. The ILO and the FAO have developed *Guidance on child labour in fisheries and aquaculture*. This document provides an overview of information on child labour in the fisheries and aquaculture sector and of the international legal and policy frameworks. The report makes recommendations on important considerations and actions needed to effectively address child labour.

## Forced labour in the fishing industry

The ILO contributed to a United Nations Office on Drugs and Crime (UNODC) report on the fishing industry produced in 2011. Officials from the ILO were part of the expert consultations held in the preparation of ‘Transnational Organized Crime in the Fishing Industry: Trafficking in Persons, Smuggling of Migrants, and Illicit Drugs Trafficking’.

From 19 to 20 September 2012, the ILO held a tripartite consultation on forced labour and trafficking in the fisheries sector at its International Training Centre in Turin, Italy. The meeting was convened to obtain comments and inputs from ILO tripartite constituents, other intergovernmental organizations, non-governmental organizations and experts on (a) the development of a broad ILO strategy to prevent and combat forced labour and human trafficking in the fisheries sector and (b) a draft desk review on the issue. The revised desk review is distributed separately. Following this consultation, the ILO published *Caught at Sea: Forced labour and trafficking in fisheries*, which examines recent literature and consolidates existing knowledge about forced labour and human trafficking in fisheries, focusing on fishing vessels engaged in commercial marine fisheries. It considers institutional and legal frameworks as well as multi-stakeholder initiatives that have the potential to ensure safety and decent living and working conditions for fishers.

## Migrant labour in the fishing sector

A Regional Meeting on Work in Fishing: Increased Knowledge Base and Sharing Good Practices for the Protection of Migrant Workers was held from 12 to 13 September 2013, in Makassar, Indonesia. The two-day regional workshop discussed international standards on work in fishing, shared national policy and legislative frameworks among ASEAN Member States and States employing ASEAN workers, and shared experience of the protection of migrant workers in this sector, in the region and around the world. A recommendations and conclusions document based on recommendations made by the participants during group work was adopted at the end of the meeting. For further information, see: [http://www.ilo.org/asia/whatwedo/events/WCMS\\_234293/lang--en/index.htm](http://www.ilo.org/asia/whatwedo/events/WCMS_234293/lang--en/index.htm)

The ILO has also recently produced the report *Employment practices and working conditions in Thailand's fishing sector*. For this report, the ILO's Tripartite Action to Protect the Rights of Migrant Workers within and from the Greater Mekong Subregion (the GMS TRIANGLE project) partnered with the Asian Research Center for Migration at Chulalongkorn University's Institute of Asian Studies to conduct a large-scale survey of employment practices and working conditions within the commercial fishing sector in four major port areas of Thailand. Carried out in close consultation with the Ministry of Labour, the Department of Fisheries, the National Fisheries Association of Thailand, the Thailand Overseas Fishing Association, and other relevant government and civil society stakeholders, the study benefited greatly from strong support provided by the ILO's tripartite constituency. The report may be found at: [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_220596.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_220596.pdf)

## **PART II Overview of all other relevant activities**

### **Shipping**

#### **Maritime Labour Convention, 2006 (MLC)**

Article 94 of UNCLOS establishes the duties and obligations of the flag State with regard to, inter alia, labour conditions, crewing and social matters on ships that fly its flag. The MLC, 2006 is an important addition to the international maritime regulatory regime alongside the IMO Conventions on safety and security at sea, protection of the marine environment, and the training of seafarers. The MLC, 2006 sets out comprehensive rights and protection at work for the world's more than 1.5 million seafarers, who are indispensable to the carriage of 90% of international trade. It aims to ensure decent work for seafarers and to secure economic interests in fair competition for shipowners.<sup>1</sup> The MLC entered into force on 20 August 2013. As at 28 January 2014, it had been ratified by 56 ILO member States, representing more than 90 per cent of the world gross tonnage of ships.

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<sup>1</sup> <http://www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm>

The ILO and its International Training Centre (ITC) in Turin launched the [ILO Maritime Labour Academy](#) in 2011 in order to provide a comprehensive set of training activities on the MLC. The Academy covers a wide range of courses aimed at building capacities at national level with regard to the implementation of the MLC, and in order to provide a unified approach to the Convention both in terms of interpretation and implementation.<sup>2</sup>

The ILO has carried out numerous activities aimed at promoting the Convention and providing support for its implementation in member States. In addition to the organization of conferences, seminars and workshops at regional and national levels, gap analyses of national legislation have been undertaken. These are aimed at encouraging social dialogue, identifying obstacles to ratification, providing technical advice, and facilitating effective implementation and ratification. New gap analyses were completed in several member States, including Bangladesh, Barbados, Egypt, Saint Kitts and Nevis, and Seychelles.

The ILO developed additional publications in 2011 to complement existing materials and tools on the MLC. A handbook has been published containing guidance on the MLC, 2006 and social security for seafarers and, in response to requests from member States, model national provisions have been developed. The guidance was piloted at a workshop attended by personnel from many legal systems.

## Guidelines

An *Action Plan* was implemented to achieve rapid and widespread ratification and effective implementation of the MLC, 2006. To support the capacity building process, *Guidelines for flag State inspections under the Maritime Labour Convention, 2006*, and *Guidelines for port State control officers carrying out inspections under the Maritime Labour Convention, 2006*, were developed in 2008. Most regions have signed memoranda of understanding on port State control inspections, and these regional arrangements are being amended to include the Maritime Labour Convention, 2006 as a "relevant instrument",

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<sup>2</sup> [http://www.ilo.org/global/standards/maritime-labour-convention/WCMS\\_154969/lang-en/index.htm](http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_154969/lang-en/index.htm)

meaning that nearly all ships engaged on international voyages will be subject to inspection of their compliance with the Convention in the near future

Seafarers undergo medical examinations to ensure that they are medically fit to perform their routine and emergency duties at sea in a manner that does not endanger other seafarers or the safe operation of the vessel. In collaboration with the IMO, *Guidelines on the medical examinations of seafarers* have been developed to harmonize standards for medical examinations of seafarers and improving the quality and effectiveness of the medical care provided to them.

The issue of fair treatment of seafarers in the event of a maritime accident continues to be a matter of concern in the maritime industry. *Guidelines on the fair treatment of seafarers in the event of a maritime accident* were developed by the ILO and the IMO in 2006 to address the issue. The IMO and ILO continue to keep the problem under review and periodically assess its scale.

### **Special Tripartite Committee (STC)**

The first meeting of the Special Tripartite Committee (STC), established under Article XIII of the MLC, 2006, will be held in April 2014 to discuss amendments to the MLC. For information on the STC, see: [http://www.ilo.org/global/standards/maritime-labour-convention/WCMS\\_228789/lang--en/index.htm](http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_228789/lang--en/index.htm).

### **Joint Maritime Commission Subcommittee on Wages of Seafarers**

The Joint Maritime Commission (JMC) is a bipartite standing body that provides advice to the ILO Governing Body on maritime questions, including standard setting for the shipping industry. Among the terms of reference of the JMC is the updating of the minimum basic wage figure for able seafarers in accordance with the Seafarers' Wages, Hours of Work and Manning of Ships Recommendation, 1996 (No. 187). It is the only existing statutory international wage-fixing mechanism. The Subcommittee on Wages of Seafarers has been established to regularly update the wage figure. The Subcommittee adopted a resolution in 2011 which updates the ILO minimum monthly basic pay or wage figure for able seafarers from US\$545 to US\$555 from 1 January 2012, US\$568 from 1 January 2013, and US\$585

from 31 December 2013. The subcommittee will meet again from 26 to 27 February 2014 to consider the updating of the wage figure.

### **Meeting of Experts on Maritime Occupational Safety and Health**

In late 2014 the ILO will convene a meeting of experts to adopt guidance on maritime occupational safety and health aimed at assisting States with implementation of the related provisions of the Maritime Labour Convention, 2006.

### **Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)**

The Seafarers' Identity Documents Convention (Revised), 2003 (No. 185) has been in force since 9 February 2005, and has been ratified by 24 ILO member States. The objective is to facilitate entry by seafarers into the territory of member States for the purposes of shore leave, transit, transfer or repatriation. It is recognized that identity documents will improve maritime security as well as access to shore facilities and shore leave, which are vital elements of seafarers' general well-being. A paper concerning international cooperation relating to the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185) will be considered by the Governing Body of the ILO in March 2014.

## **Ports**

### **Portworker Development Programme**

The purpose of the Portworker Development Programme (PDP) is to enable governments, port authorities, private port operators, and training institutes to establish effective and systematic portworker training schemes for container ports. It is designed to improve cargo-handling performance, safety and health, and the status of portworkers. The training materials are centrally-prepared, properly tested and validated. They are presented by specially trained instructors working within a carefully established organizational framework,

extending from the national to port level.<sup>3</sup> A third revision of the PDP materials was completed in 2011.

### **Tripartite Meeting of Experts for the Development and Adoption of ILO Guidelines on Training in the Port Sector (21-25 November 2011)**

Improvements in the efficiency, competitiveness and safety of port operations are dependent on implementing appropriate training programmes for portworkers. This Meeting reviewed and finalized guidelines on training in the port sector. The guidelines serve as the first ever international guidelines on port sector training. They account for new industry requirements for safety and performance and new job profiles, and can facilitate mutual recognition of qualifications that would enhance portworkers' mobility.

### **Other developments**

Other relevant recent publications by the ILO include:

*Living and working conditions in inland navigation in Europe:*

[http://www.ilo.org/sector/Resources/publications/WCMS\\_234892/lang--en/index.htm](http://www.ilo.org/sector/Resources/publications/WCMS_234892/lang--en/index.htm)

*Promoting the employment of women in the transport sector:*

[http://www.ilo.org/sector/Resources/publications/WCMS\\_234880/lang--en/index.htm](http://www.ilo.org/sector/Resources/publications/WCMS_234880/lang--en/index.htm)

### **Further information**

Further information on ILO publications concerning decent work for fishers and the Work in Fishing Convention, 2007 (No. 188) can be found at: [www.ilo.org/fishing](http://www.ilo.org/fishing)

Further information on ILO publications concerning decent work for seafarers and on the Maritime Labour Convention, 2006, can be found at: [www.ilo.org/mlc](http://www.ilo.org/mlc)

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<sup>3</sup> [http://www.ilo.org/sector/Resources/training-materials/WCMS\\_161227/lang--en/index.htm](http://www.ilo.org/sector/Resources/training-materials/WCMS_161227/lang--en/index.htm)

ILO, Geneva, February 2014.