



The Work in Fishing Convention, 2007 (No. 188): Getting on board

**Issues paper for discussion at the Global Dialogue Forum for the
promotion of the Work in Fishing Convention, 2007 (No. 188)
(15–17 May 2013)**

Geneva, 2013

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Preface

This issues paper has been prepared by the International Labour Office as a basis for discussions at the Global Dialogue Forum for the promotion of the Work in Fishing Convention, 2007 (No.188), to be held in Geneva from 15 to 17 May 2013.

At its 310th Session, in March 2011, the Governing Body of the ILO proposed to convene a Global Dialogue Forum for the promotion of the Work in Fishing Convention, 2007 (No. 188) (ILO, 2011). This was part of the follow-up to the resolution concerning promotion of the ratification of the Work in Fishing Convention, 2007 (No. 188), adopted by the International Labour Conference (ILC) at its 96th Session (2007).¹ It also contributes to the implementation of the Action Plan 2011–16 that was approved by the Governing Body at its 309th Session, in November 2010 (ILO, 2010a).

At its 316th Session, in November 2012, the Governing Body decided that the Global Dialogue Forum (GDF) would last three days and would be composed of six Employer and six Worker representatives, nominated by the respective groups of the Governing Body, and that all governments would be invited to send representatives, with those with significant fishing interests being particularly encouraged to attend (ILO, 2012a, paras 10 and 14).

The purpose of the GDF is to discuss challenges in the implementation of Convention No. 188, to report on and review promotional activities, to evaluate how the Convention can be used as a tool to address major challenges in the industry, to share good practices and experiences, and to provide some information on the status of national efforts to implement and ratify Convention No. 188 (ILO, 2012a, paras 9 and 14). The meeting will adopt points of consensus and will make recommendations on follow-up activities by the ILO and its constituents.

¹ For the text of the resolution, see ILO: *Report of the Committee on the Fishing Sector, Provisional Record* No. 12, International Labour Conference, 96th Session, Geneva, 2007 (Geneva). Available at: <http://www.ilo.org/public/english/standards/relm/ilc/ilc96/pdf/pr-12.pdf>.

Contents

	<i>Page</i>
Preface.....	iii
Acknowledgements	vii
Acronyms	ix
1. Overview of the fishing sector	1
2. Conditions of work in fishing	3
3. Convention No. 188, Recommendation No. 199 and the related ILC resolutions.....	5
3.1. Background.....	5
3.2. Work in Fishing Convention, 2007 (No. 188)	5
3.3. Work in Fishing Recommendation, 2007 (No. 199).....	6
3.4. The resolutions.....	6
3.5. The Action Plan 2011–16	7
3.6. Follow-up to the resolutions and Action Plan.....	7
3.6.1. Tools and materials.....	7
3.6.2. Promotional events	8
3.6.3. Technical cooperation	8
3.6.4. Inter-agency cooperation	9
4. Overview of the constituents' actions to promote and implement the Convention	9
4.1. Actions of ILO member States	9
4.1.1. Comparative analysis of national legislation.....	10
4.1.2. National consultations	11
4.1.3. Coordination between relevant national authorities	11
4.1.4. National labour inspection in fishing.....	12
4.2. Actions of representative organizations of employers and workers and others.....	13
5. Application of the Convention to address major challenges facing the industry	15
5.1. Improving the image of the fishing industry.....	15
5.2. Improving OSH.....	16
5.3. Addressing conditions of work on small fishing vessels	17
5.4. Eliminating forced labour in the fishing sector.....	18
5.5. Eliminating child labour in the fishing sector.....	19
5.6. Improving conditions of migrant fishers.....	19
5.7. Combating IUU fishing	20
5.8. Ensuring sustainable fisheries and food security	20

6. Lessons learned from the promotion of other ILO standards.....	21
7. Concluding remarks	21
Bibliography.....	23

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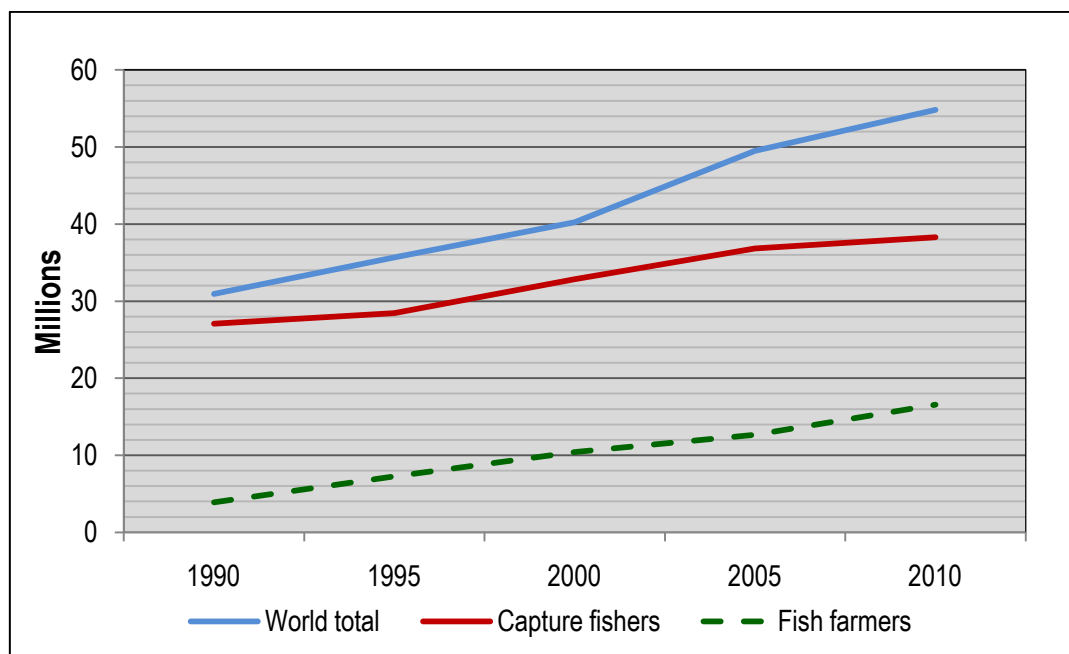
Acronyms

EU	European Union
FAO	Food and Agriculture Organization of the United Nations
GDF	Global Dialogue Forum
ICSF	International Collective in Support of Fishworkers
ILC	International Labour Conference
ILO	International Labour Organization <i>or</i> International Labour Office
IMO	International Maritime Organization
ITF	International Transport Workers' Federation
IUF	International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations
IUU	illegal, unreported and unregulated
MLC, 2006	Maritime Labour Convention, 2006
OSH	occupational safety and health
UN	United Nations

1. Overview of the fishing sector

The global fishing industry supports the livelihoods of millions, with an estimated 54.8 million people being involved in the primary production of fish (FAO, 2012). Fishing makes a vital contribution to global food security and public health.

Figure 1. Employment in the fisheries sector for the period 1990–2010

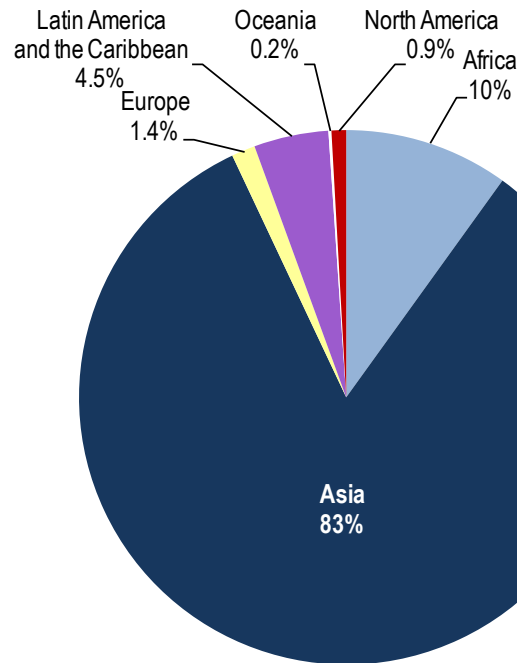


Source: FAO, 2012.

The number of workers employed in aquaculture (fish farming) is increasing more rapidly than the number of those working in capture fisheries (see figure 1), in particular in developing countries. It is estimated that there were 38.3 million fishers working in marine and inland capture fisheries across the world in 2010 (see figure 2 for a breakdown by region). This issues paper will focus on fishers working on commercial fishing vessels engaged in capture fisheries, as these are the focus of Convention No. 188.¹

¹ According to Convention No. 188, “fisher” means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers (Article 1(e)). “Fishing vessel” or “vessel” means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing (Article 1(g)).

Figure 2. Capture fishers by region in 2010



Source: FAO, 2012.

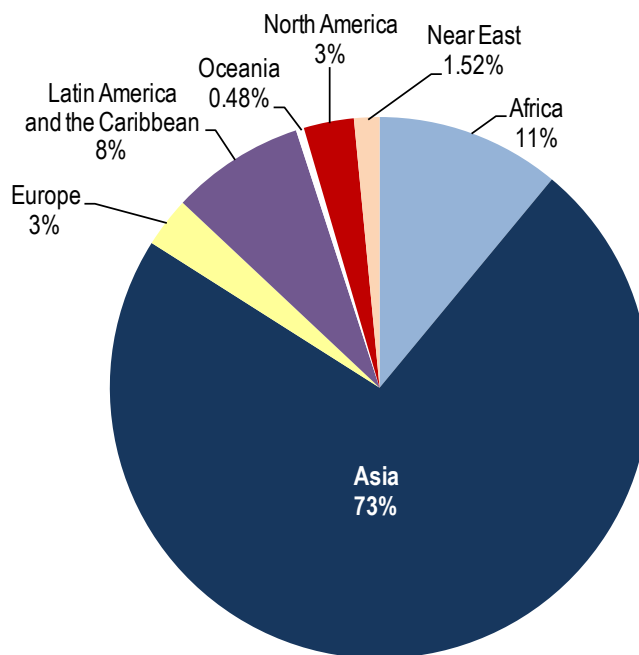
While global fish production in capture fisheries has been relatively constant over time, aquaculture production has grown in recent years. Provisional data show that capture fisheries produced 90.4 million tonnes of fish in 2011. Of these, 78.9 million tonnes were produced from marine fisheries. Inland capture fisheries production has increased over the last five years, with provisional estimates showing that 11.5 million tonnes were produced in 2011 (FAO, 2012).

One of the consequences of the increasing globalization of the fisheries value chain is that international retailers are exercising more control over the distribution of fish products. The globalization of the industry has also contributed to the globalization of the workforce, including through the regular use of migrant workers. These developments have created new challenges with regard to the regulation of conditions of work in the sector.

During the recent economic and financial crisis, international trade in fish dropped by 6 per cent. Trade began to rebound in terms of both value and volume in 2010. In 2011, higher prices and demand for fish in developing countries led to the highest reported trade in fish. However, the fishing industry continues to be subject to the same risks and fragility of recent years (FAO, 2012).

There are an estimated 4.36 million fishing vessels in the world. Of these, 74 per cent operate in marine waters. In 2010, the fishing fleet in Asia was by far the largest, accounting for 73 per cent of the world fishing fleet, followed by Africa with 11 per cent (see figure 3).

Figure 3. World fishing fleet in 2010 by region



Source: FAO, 2012.

Changes in national fleets and technological developments relating to motorization and mechanization have had an impact on the efficiency and productivity of all types of fishing operations. Fishing vessels can now operate further from shore and remain at sea for longer periods of time than ever before. All these factors affect fishers; for example, they can lead to reductions in crew size, new skill requirements and changes in working conditions.

2. Conditions of work in fishing

Difficult working conditions are common in fishing, regardless of the type of commercial fishing operation. Fishing involves long hours and strenuous activity in an often challenging marine environment. Fishers may be using simple or complex dangerous machinery to catch, sort and store fish. Injury and fatality rates are much higher in the fishing sector than national averages for all workers in many countries. Even the voyage to reach fishing grounds can be perilous. In the event of injury or illness at sea, fishers may be far from professional medical care and must rely on others on board for such care; medical evacuation services vary considerably among countries and regions. Fishing vessels may be at sea for long periods, operating in distant fishing grounds, and in such cases the standard of the accommodation and food provided on board is particularly important. Fishing vessels engaged in long-distance fishing operations may refuel, resupply, change crew and offload catch in foreign ports or at sea using resupply vessels and fish carriers. However, fishers often face difficulty in taking shore leave in foreign ports and problems obtaining visas allowing them to join or leave the vessel in foreign countries.²

² The Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), may be applied by the competent authority to commercial maritime fishing after consulting the representative organizations of fishing-vessel owners and persons working on board fishing vessels.

Relationships between employers (often fishing-vessel owners) and fishers in the fishing sector are diverse. Oral agreements are used in some fishing operations. Fishers may work on a casual basis or derive only a portion of their income from fishing, having another occupation as well. At the other end of the spectrum, there are more formal arrangements, often in larger scale industrial fishing. Work agreements are important for fishers as a means of ensuring their remuneration and access to social security, and of formalizing their conditions of service and their recruitment and placement (ILO, 2004).

There are two main types of payment system in the sector: the flat wage and the share system. A flat wage is a fixed salary per pay period. Under a share system contract, fishers earn a percentage of the gross revenue or profit of the particular fishing trip. Under this system, proceeds from the catch are used first to cover expenses for the operation of the vessel and then the net proceeds are shared among the fishing-vessel owner and the fishers based on a pre-arranged, often hierarchical, formula. Sometimes fishers may be paid a low minimum wage, the rest of their pay being based on a share of the catch or on bonuses (for example, for sighting fish), in what is a combination of the two systems. In many countries, these arrangements place fishers in the category of “self-employed”.

Unlike for able seafarers, there is no ILO minimum basic wage figure specifically for fishers.³ However, some fisheries partnership agreements negotiated between coastal States and the European Community provide that wage conditions for fishers “shall under no circumstances be below ILO standards”⁴ and that the figure for seafarers may be used by the social partners when negotiating wages for fishers.

Employers (often fishing-vessel owners) and fishers have formed representative organizations in order to organize labour relations and engage in social dialogue at the local, national, regional and international levels. However, the percentage of fishers that are members of trade unions is low.⁵ There is no single organization of fishing-vessel owners (employers) that represents the sector, as a whole, at the international level,⁶ although there are representative organizations of fishing-vessel owners at other levels.⁷

³ The Seafarers’ Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187), provides that, to the extent it deems practicable, after consulting the representative organizations of fishing-vessel owners and fishermen, the competent authority should apply the provisions of the Recommendation, as periodically updated by the ILO’s Subcommittee on Wages of Seafarers of the Joint Maritime Commission, to commercial maritime fishing.

⁴ For example, see the Fisheries Partnership Agreement of 17 December 2007 between the Republic of Madagascar and the European Community, in the *Official Journal of the European Union*, L331/7. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:331:0007:0030:EN:PDF>.

⁵ According to the International Transport Workers’ Federation (ITF), 73 fishers’ unions are currently affiliated to the ITF, accounting for a total combined membership of 77,117 fishers.

⁶ The International Shipping Federation represents shipowners in relation to labour issues in the merchant shipping sector.

⁷ For example, the Association of National Organisations of Fishery Enterprises in the European Union (Europêche) represents fishing sector employers’ organizations in Europe.

3. Convention No. 188, Recommendation No. 199 and the related ILC resolutions

3.1. Background

The ILO has always given special consideration to the maritime sector. In 1920, 1959 and 1966 it adopted international labour standards specific to the fishing sector.⁸ By 2000, it had adopted over 60 Conventions and Recommendations for seafarers, several of which applied, or could be applied under certain circumstances, to fishers.

In March 2002, the Governing Body of the ILO decided to place on the agenda of the 92nd Session (2004) of the ILC an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector (ILO, 2002). During the development of the Maritime Labour Convention, 2006 (MLC, 2006), which focuses on seafarers on merchant ships, it was decided that fishing vessels would be excluded from that Convention.⁹

At its 96th Session (2007), the ILC adopted the Work in Fishing Convention, 2007 (No. 188), and the Work in Fishing Recommendation, 2007 (No. 199). These new international labour standards were adopted by an overwhelming majority of votes. They revised and replaced five of the earlier ILO instruments concerning the fishing sector.¹⁰

3.2. Work in Fishing Convention, 2007 (No. 188)¹¹

The objective of Convention No. 188 is to ensure that fishers have decent conditions of work on board fishing vessels that meet minimum requirements with regard to work on board, conditions of service, accommodation and food, occupational safety and health (OSH) protection, medical care and social security. Its provisions address all these areas.

Convention No. 188 also includes specific provisions concerning enforcement and compliance by flag States and port States. For example, Article 40 provides that flag States are to effectively exercise their jurisdiction and control over vessels that fly their flag by establishing a system for ensuring compliance with the requirements of the Convention. Article 43(2) provides that port States may prepare a report addressed to the government of the flag State of the vessel and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

⁸ The Hours of Work (Fishing) Recommendation, 1920 (No. 7); the Minimum Age (Fishermen) Convention, 1959 (No. 112); the Medical Examination (Fishermen) Convention, 1959 (No. 113); the Fishermen's Articles of Agreement Convention, 1959 (No. 114); the Fishermen's Competency Certificates Convention, 1966 (No. 125); the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126); and the Vocational Training (Fishermen) Recommendation, 1966 (No. 126).

⁹ MLC, 2006, Article II(4).

¹⁰ They did not revise the Fishermen's Competency Certificates Convention, 1966 (No. 125), or the Vocational Training (Fishermen) Recommendation, 1966 (No. 126).

¹¹ For the full text of the Convention, see: http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C188.

When Convention No. 188 was being developed, it was acknowledged that some States might face problems in applying it, or some of its provisions, to all fishers and fishing vessels. Convention No. 188 therefore provides States with some flexibility, including by allowing for possible exclusions of limited categories of fishers and vessels (Article 3) and the progressive implementation of certain provisions to the categories of fishers and vessels concerned (Article 4). These mechanisms were designed to facilitate widespread ratification. Implementation can be achieved through national laws and regulations, or through other measures such as collective agreements.

3.3. Work in Fishing Recommendation, 2007 (No. 199)¹²

Convention No. 188 is accompanied by Recommendation No. 199, which gives guidance on how the provisions of Convention No. 188 can be implemented. It also covers conditions of work on board fishing vessels, conditions of service, accommodation and medical care, health protection and social security. In its Paragraph 55, it provides that a State, in its capacity as a coastal State and when granting licences for fishing in its exclusive economic zone, may require that fishing vessels comply with the requirements of Convention No. 188.

3.4. The resolutions

At its 96th Session, the ILC adopted not only Convention No. 188 and Recommendation No. 199, but also four resolutions to support the promotion, ratification and effective implementation of Convention No. 188.¹³

In the resolution concerning promotion of the ratification of the Work in Fishing Convention, 2007 (No. 188), the ILO was invited to give due priority to conducting tripartite work to develop guidelines for flag State implementation and to develop guidelines to establish national action plans for progressive implementation of relevant provisions of the Convention. It was also invited to give due consideration in the programme and budget for technical cooperation programmes to promote the ratification of the Convention and to assist States with its implementation.

In the resolution concerning port State control, the ILO was invited to convene a tripartite meeting of experts of the fishing sector to develop suitable guidance for port State control officers concerning the relevant provisions of the Convention.

In the resolution concerning tonnage measurement and accommodation, the ILO was invited to monitor work at the International Maritime Organization (IMO) concerning possible changes to the International Convention on Tonnage Measurement of Ships, 1969, and to report on any related developments which may have an impact on Convention No. 188, especially on Annex III. The ILO was also invited to act on such a report by giving due priority, if required, to convening a tripartite meeting of experts, as provided for

¹² For the full text of the Recommendation, see: http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:R199.

¹³ For the full text of the resolutions, see ILO: *Report of the Committee on the Fishing Sector, Provisional Record No. 12*, International Labour Conference, 96th Session, Geneva, 2007 (Geneva). Available at: <http://www.ilo.org/public/english/standards/relm/ilc/ilc96/pdf/pr-12.pdf>.

in Article 45 of Convention No. 188, to address the matter with a view to maintaining the relevance of Annex III of that Convention.

In the resolution concerning promotion of welfare for the fishers, the ILO was invited to consider several social issues in the fishing sector.

3.5. The Action Plan 2011–16¹⁴

An Action Plan to improve the conditions of work of fishers through the widespread ratification and effective implementation of the Work in Fishing Convention, 2007 (No. 188), and the effect given to the Work in Fishing Recommendation, 2007 (No. 199), was adopted by the Governing Body at its 309th Session, in November 2010 (ILO, 2010a). It sets out the activities that the ILO is planning to undertake during the period 2011–16, subject to available resources. The four ILC resolutions mentioned above were used to determine the priorities and define the follow-up activities to be taken with regard to the promotion of Convention No. 188.

3.6. Follow-up to the resolutions and Action Plan

3.6.1. Tools and materials

In line with the four resolutions and the Action Plan, a number of materials and tools have been produced by the ILO to provide information and support for the implementation and ratification of Convention No. 188. These are described below.¹⁵

- *Decent working conditions, safety and social protection – Work in Fishing Convention No. 188 and Recommendation No. 199* is a brochure that provides basic information to a wide audience on the importance of the Convention, the background to its development, its scope and key provisions and information about implementation, ratification and enforcement.
- The *Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188)*, were adopted by a tripartite meeting of experts in 2010. They promote the harmonization of inspections of foreign fishing vessels to monitor compliance with the Convention, with the aim of complementing existing industry practices where possible and stimulating action to put in place a more effective inspection regime.
- The *Handbook for improving living and working conditions on board fishing vessels* aims to help competent authorities, representative organizations of employers and workers (in particular, representative organizations of fishing-vessel owners and fishers) and other stakeholders with an interest in the sector gain a better understanding of the provisions of the Convention and Recommendation.

¹⁴ For the full text of the Action Plan 2011–16, see: http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_161220.pdf.

¹⁵ All the materials and tools can be found on the ILO website, at: <http://www.ilo.org/fishing>.

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- The *Training manual on the implementation of the Work in Fishing Convention, 2007 (No. 188)*, provides a comprehensive training course on the Convention and is aimed in particular at those persons responsible for carrying out flag State inspections to monitor compliance with national laws, regulations and other measures to implement the Convention and at those persons who will carry out port State control inspections of foreign vessels.¹⁶
 - The *Guideline to undertake a comparative analysis of the Work in Fishing Convention, 2007 (No. 188), and national laws, regulations or other measures* is a tool to help structure an assessment of what legal protection exists for fishers under a State's current national legislation and to help determine the extent to which laws, regulations and other measures would need to be adjusted to meet the requirements of the Convention, also taking into account the Recommendation where appropriate.
 - *Frequently asked questions: Work in Fishing Convention, 2007 (No. 188)*, sets out often-asked questions and the corresponding answers regarding Convention No. 188.

In a submission to the 317th Session (March 2013) of the Governing Body concerning proposed activities for the Sectoral Activities Programme for the 2014–15 biennium, the ILO has proposed the convening of a tripartite meeting of experts to adopt guidelines for flag State inspections under the Work in Fishing Convention, 2007 (No. 188) (ILO, 2013).

3.6.2. Promotional events

The ILO has promoted Convention No. 188 through tripartite seminars, meetings, training activities and workshops. These activities serve to bring together the important stakeholders and tripartite constituents in a region or country to discuss the Convention.¹⁷ Regional seminars have been held in the Republic of Korea (Seoul, September 2008) and Brazil (Rio de Janeiro, August 2009). The ILO has also supported national seminars dedicated to Convention No. 188 in several countries, including India and Thailand. The Convention has also been discussed at national events focusing primarily on the MLC, 2006. Support has also been provided for events such as trade union seminars and workshops held by other organizations.

3.6.3. Technical cooperation

External funding has also allowed the ILO to undertake technical assistance and promotional activities. For example, through a project funded by the Ministry of the Environment and Rural and Marine Affairs of Spain, the ILO was able to carry out activities to improve conditions of fishers in general and promote Convention No. 188 in particular. The project focused on four countries in Africa (Guinea-Bissau, Mauritania, Morocco and Senegal) and two in Latin America (Ecuador and Peru). The main activities included training courses, workshops and seminars. The project has contributed to

¹⁶ The training manual is not, at the time of writing, yet available in French.

¹⁷ Events have been held in Ecuador, Guinea-Bissau, India, Mauritania, Peru, Senegal and Thailand.

improving social dialogue in the fishing sector in the countries covered and to the preparation of comparative studies of national laws and regulations.¹⁸

The Government of Norway provided funding for the Enhancing labour inspection effectiveness project, which contributed to the development of the aforementioned *Handbook for improving living and working conditions on board fishing vessels* and *Training manual on the implementation of the Work in Fishing Convention, 2007 (No. 188)*.

The Tripartite action to protect migrant workers from labour exploitation (TRIANGLE) project is a technical cooperation project supported by Australian Aid. It operates in Cambodia, the Lao People's Democratic Republic, Malaysia, Thailand and Viet Nam. One of the focus areas has been addressing recruitment and labour protection policies and practices in the Thai fishing sector.¹⁹

3.6.4. Inter-agency cooperation

The ILO, with the help of its constituents, has raised the profile of Convention No. 188 among other United Nations (UN) agencies, including the Food and Agriculture Organization of the United Nations (FAO), the IMO and the United Nations Office on Drugs and Crime. The importance of Convention No. 188 as a tool to contribute to addressing issues such as safety and health, child labour, forced labour and illegal, unregulated and unreported (IUU) fishing, has, as a result, been noted in other international forums and reports. This has helped raise awareness of the Convention not only within ministries responsible for labour, but also within those and other government entities responsible for maritime safety, fisheries and other issues.

Following up on the ILC resolution concerning tonnage measurement and accommodation, the ILO has participated in relevant IMO committees, subcommittees and correspondence groups working on the tonnage issue. At the end of 2012, a paper was submitted to the IMO Sub-committee on Stability and Load Lines and on Fishing Vessels Safety proposing a draft IMO Assembly resolution on reduced gross tonnage for accommodation spaces. If eventually adopted by the IMO Assembly, the resolution could help reduce the financial disincentive that leads shipowners and fishing-vessel owners to limit crew accommodation space on fishing vessels.

4. Overview of the constituents' actions to promote and implement the Convention

4.1. Actions of ILO member States

Convention No. 188 has been open for ratification by ILO member States since its adoption in 2007. Each ILO member State follows a number of processes and procedures to prepare, if it chooses to do so, for the implementation and ratification of an ILO

¹⁸ For more information on the project, see: http://www.ilo.org/public/spanish/region/eurpro/madrid/eventos/index_pesca.htm.

¹⁹ For a detailed brief on the TRIANGLE project activities in the fishing sector, see: http://www.ilo.org/asia/whatwedo/publications/WCMS_191768/lang--en/index.htm.

Convention.²⁰ This section will focus on the comparative analysis of national legislation, national consultations, coordination between relevant national authorities and national labour inspection in relation to fishing. The ILO has undertaken to collect information about national efforts to prepare for the implementation and ratification of Convention No. 188.²¹

Under the Constitution of the ILO, a State's instrument of ratification is an undertaking to apply a Convention in good faith, to ensure that national laws and practice comply with its requirements and to accept international supervision. At the time of writing, the Convention has been ratified by Argentina (15 September 2011) and Bosnia and Herzegovina (4 February 2010). According to Article 48(2) of the Convention, it shall come into force 12 months after the date on which the ratifications of ten Members, eight of which are coastal States, have been registered with the Director-General. The ILO has developed a report form for the purposes of regular reporting on the application of the Convention, as prescribed by article 22 of the ILO Constitution.²² As Convention No. 188 is not yet in force, no such reports have been required or submitted.

In a related development, the Committee of Experts on the Application of Conventions and Recommendations – which examines the article 22 reports on ratified ILO Conventions – in its general observations in December 2012 drew attention to the possible relationship between work to implement the MLC, 2006, and work at the national level to implement Convention No. 188, by stating:

The Committee also understands that many countries are in the process of revising their maritime legislation for the purpose of implementing the provisions of the Maritime Labour Convention, 2006. In this connection, and bearing in mind that the MLC, 2006, does not apply to the fishing sector, the Committee considers it important to draw attention to the Work in Fishing Convention, 2007 (No. 188), and strongly encourages the governments concerned to consider the possibility of regulating the working and living conditions of fishers as part of the same revision exercise, as may be appropriate, with a view to avoiding the duplication of a lengthy and complex legislative process.²³

4.1.1. Comparative analysis of national legislation

A comparative analysis of national legislation provides the basis for discussions on what legal protection exists for fishers under a state's existing legislation. Such analysis helps determine the extent to which laws, regulations and other measures should be adjusted to meet the requirements of the Convention and the Recommendation where appropriate. It is closely linked to, and should inform, national consultations.

²⁰ See article 19 of the ILO Constitution concerning specific steps to be taken by the International Labour Office and member States following the adoption by the ILC of Conventions and Recommendations.

²¹ The ILO used several means to obtain country-level information on efforts to implement Convention No. 188 in member States, including expertise in field offices and contacts within governments. The information obtained has not been independently verified.

²² The report form can be found at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_090569.pdf.

²³ This text is final but will not be published for citation until 2013.

The ILO has supported the undertaking of comparative analyses of the Convention and national legislation in several countries, including Benin, Côte d'Ivoire, Guinea-Bissau, India, Senegal and Togo (ILO, 2012b). The *Guideline to undertake a comparative analysis of the Work in Fishing Convention, 2007 (No. 188), and national laws, regulations or other measures* is available to assist States in performing this task.²⁴

4.1.2. National consultations

“Consultation” is defined in Article 1(c) of Convention No. 188 as “consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist”.

The majority of member States from which information was obtained have held consultations with the social partners from the fishing sector. Box 1 provides an example of such consultation in South Africa.

Box 1
Process of consultations on the Convention in South Africa

The South African Maritime Safety Authority (SAMSA), an executive agency of the Department of Transport, is responsible for conditions of work on board fishing vessels, a responsibility that is derived from the Merchant Shipping Act.

The adoption of the Convention at the ILO was communicated to the South African fishing sector through a Marine Notice issued by SAMSA and articles in the trade press. The communications mentioned the intention of South Africa to make progress towards ratification of the Convention and invited the social partners and industry stakeholders to participate in a working group.

A comparative analysis was undertaken of relevant South African legislation and the provisions of the Convention to assess where there were gaps in the legislation. Amendments to cover the identified gaps were drafted and the working group consultations continued. The social partners and stakeholders were involved through a number of initiatives at the high level. Any contentious issues were examined by working groups and tripartite negotiation was used.

The proposed amendments to the legislation were presented in the trade press and to fishing communities to keep them informed of the process and to advise them of the forthcoming changes in their rights. These amendments were also published in the *Government Gazette* for public comment, and following this final stage in the consultative process, the legal process commenced with no negotiated exemptions to the Convention being necessary. The relevant legislation and regulatory amendments were then presented to the South African Government for enactment.

Source: ILO case study on South Africa's actions to implement Convention No. 188, as prepared by Captain Nigel Campbell.

4.1.3. Coordination between relevant national authorities

National authorities with responsibilities relevant to the provisions of Convention No. 188 may include those responsible for labour, employment, social security, agriculture, fisheries or maritime safety. Article 7 of the Convention provides that “each Member shall designate the competent authority or authorities; and establish mechanisms for coordination among relevant authorities for the fishing sector at the national and local levels, as appropriate, and define their functions and responsibilities, taking into account their complementarities and national conditions and practice”.

²⁴ Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_161223.pdf.

Most of the member States about which information was provided stated that the ministry responsible for labour is, or would be, designated as the competent authority for the implementation of Convention No. 188. The ministry responsible for fishing was also cited as one of the key authorities responsible for the implementation of the Convention. Box 2 illustrates the situation in Thailand.

Box 2
Authorities relevant to the implementation of the Convention in Thailand

- Ministry of Foreign Affairs, Department of Consular Affairs – Responsible for Thai citizens in difficulty abroad.
- Ministry of Transportation, Marine Department – Responsible for registering vessels, collecting data on the category, size and weight of vessels, and inspecting safety and conditions for seafarers on board.
- Ministry of Agriculture and Cooperatives, Department of Fisheries – Responsible for inspecting fishing vessels that fish in unauthorized fishing areas or use illegal fishing practices.
- Ministry of Labour, Department of Labour Protection and Welfare – Responsible for protecting the labour rights of both Thai and migrant workers in the country.
- Ministry of Labour, Department of Employment Services – Responsible for migrant workers who need to be registered to work in Thailand.
- Department of Defence, Navy – Responsible for the suppression of illegal acts at sea and for inspecting vessels that may be transporting illegal goods or illegal workers.
- Royal Thai Police, Marine Police – Responsible for keeping the peace and for the prevention of criminal acts in Thai waters and in Thai ports, including export processing zones.

In recognition of the need to coordinate these authorities in Thailand, in April 2012, a National Fisheries Policy Committee chaired by the Deputy Prime Minister launched three crucial activities at the policy level to hasten the Government's efforts to address labour issues in the fishing industry. Responsibilities have been delegated to the agencies concerned, including: the establishment of operational guidelines on investigations of fishing vessels operated in international waters; the development of good labour practices for the fishing and processing industry; and the setting up of the Labour Coordination Centre.

Source: Government of Thailand, Department of Fisheries, "Promoting better works in Thai fisheries industry: Initiative of the Royal Thai Government and the industry", at: <http://www.fisheries.go.th/thgfip/index.php/en/> [accessed 14 Jan. 2013].

4.1.4. National labour inspection in fishing

Article 40 of Convention No. 188 provides that each Member shall effectively exercise its jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the requirements of the Convention including, as appropriate, inspections, reporting, monitoring, complaint procedures, appropriate penalties and corrective measures, in accordance with national laws or regulations. Article 41 provides that fishing vessels that fall under its scope shall carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of the Convention concerning living and working conditions.

For half the member States about which information was provided, the authority responsible for labour inspection is responsible for the labour inspection of fishing vessels. Some member States have specialized authorities for such inspections. Box 3 provides information about the labour inspection of fishing vessels in Brazil.

Box 3
Labour inspection of fishing vessels in Brazil

The diversity of the fishing sector in Brazil, encompassing sizable industrial-scale fishing and small-scale commercial fishing fleets, poses numerous challenges for the inspection of the living and working conditions of fishers on vessels. To address this situation, the strategy used to establish the effective labour inspection of fishing vessels is based on increasing and strengthening coordination among government agencies and authorities and on careful planning and specific approaches to different fishing operations.

The starting point for coordination between authorities is the cooperation agreement signed in 2002 between the Ministry of Labour and Employment and the Ministry of Defence (Interministerial Ordinance MTE/MD No. 80, 16 December 2002). This agreement formalized a resolution between the two agencies to optimize inspections to verify compliance with regulations related to the protection of living and working conditions aboard national vessels. It created a relationship whereby the Ministry of Labour and Employment would inform the Maritime Authority (Ministry of Defence) of any irregularities noted that would affect the safety of navigation and have an impact on environmental protection, and the Maritime Authority (Ministry of Defence) would in turn inform the Ministry of Labour and Employment of any irregularities noted that suggest labour law infractions.

The Brazilian system for the inspection of fishing vessels is divided into two parts, with one part focused on industrial fishing and the other on small-scale commercial fishing. Industrial vessels are subject to inspections of minimum conditions and health and safety, whereas small fishing-vessel inspections focus on minimum conditions. However, for both parts of the system, inspections are based on planning and mapping to generate databases on the fishing fleets. In these exercises, the Ministry of Labour and Employment coordinates and exchanges information with the Ministry of Defence, the Ministry of Fisheries and the Ministry of the Environment, and also with trade unions and non-governmental organizations.

The need for specific approaches to different operations is exemplified by the small-scale commercial fishing sector. Labour inspectors are often required to assess whether a case involves an employment relationship or a subsistence or self-employment situation that would not be subject to national labour standards.

Between 2006 and 2010, labour inspectors carried out the inspection of 936 fishing vessels. There is evidence that the established system of fishing-vessel labour inspections contributed to the eradication of child labour from the Brazilian fishing sector. Good practices of fishing-vessel labour inspection in Brazil are based on cooperation and coordination with other agencies with interests in the fishing sector, careful planning and intelligence gathering, and specific approaches to certain issues in the sector.

Source: ILO, 2010b.

4.2. Actions of representative organizations of employers and workers and others

The social partners were central to the development of Convention No. 188 and continue to promote and support its implementation and ratification. The existence of representative organizations of fishing-vessel owners and of fishers in member States is important for the implementation of the Convention. In the European Union (EU), the social partners negotiated an agreement to implement the Convention (see box 4) in the light of an EU Council Decision of 7 June 2010 authorizing Member States to ratify the Convention.²⁵

²⁵ Council of the European Union, Decision 2010/321/EU, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:145:0012:0012:EN:PDF> [accessed 11 Dec. 2012].

Box 4
EU social partners' agreement on the Convention

Article 139 of the consolidated version of the Treaty establishing the European Community provides that the social partners may negotiate agreements on certain issues. Such an agreement, between representatives of European shipowners and representatives of seafarers, was negotiated in 2008 regarding the implementation of the MLC, 2006.

This valuable opportunity in EU law was seized by the social partners in the fishing sector in the EU with encouragement and support from the ILO. A social partners' agreement was signed by representatives of employers and trade unions from the fishing sector in the EU at the European Maritime Day Conference in Gothenburg, Sweden, on 21 May 2012. The Association of National Organisations of Fishery Enterprises in the European Union (Europêche) and the Committee of Professional Agricultural Organisations in the European Union (COPA) together with the General Confederation of Agricultural Cooperatives in the European Union (COGECA) signed on behalf of employers and the European Transport Workers' Federation signed on behalf of the trade unions. The European Commission has now been asked to present the agreement to the EU's Council of Ministers in order to implement it through an EU Directive, in accordance with Article 155 of the Treaty on the Functioning of the European Union, making it legally binding in the EU.

Source: European Commission, 2012.

The International Transport Workers' Federation (ITF) is the primary Global Union federation concerned with conditions of work on board fishing vessels.²⁶ It has developed a guide on Convention No. 188 for unions (ITF, 2012) and a model collective bargaining agreement for the crew of fishing vessels.²⁷ As noted in box 5, the ITF has initiated a campaign aimed at both fishers and fishworkers, in collaboration with the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), that includes promotion of Convention No. 188.

Box 5
"From catcher to counter"

"From catcher to counter" is a pilot programme organized through collaboration between the ITF and the IUF. The programme is aimed at addressing the unique and hazardous work of fishers and fishworkers along the supply chain in the fishing sector. It has the following objectives:

- increase union membership and power;
- standardize conditions across multinational companies;
- work to improve terms and conditions;
- put workers at the centre of the campaign; and
- establish processes to insure that fishing is not illegal, unregulated and unreported.

This programme is an example of the representative organizations of fishers and fishworkers working together at the international level. The campaign will form the basis of efforts to bring living and working conditions into line with international minimum standards, including by promoting the ratification of the Work in Fishing Convention, 2007 (No. 188).

Source: ITF website, at: <http://www.itfglobal.org/fish/> [accessed 14 Jan. 2013].

²⁶ See ITF website (fisheries section) at: <http://www.itfglobal.org/fisheries/index.cfm> [accessed 14 Jan. 2013].

²⁷ Available at: <http://www.itfglobal.org/files/extranet/-1/33627/ITF%20Model%20CBA%20for%20Fishing%20Vessels%20Crew.pdf> [accessed 14 Jan. 2013].

The European Transport Workers' Federation has held several seminars on Convention No. 188. The "Development of cooperation in the Mediterranean fishery sector: The world of labour, producers' organizations, consumers' associations and training" (PESCAMED) project has gathered reports on labour and fishery associations in the Mediterranean States, providing valuable information on the situation in the countries concerned and on how Convention No. 188 may be used to improve the conditions of fishers (Marashi and de Pascale, 2012).

Non-governmental organizations have also developed campaigns and publications concerning Convention No. 188 and many are working primarily in the interest of fishers employed in small-scale fisheries. The International Collective in Support of Fishworkers (ICSF), for example, has produced the *ICSF Guidebook: Understanding the Work in Fishing Convention, 2007*, which is specifically aimed at fishworkers (ICSF, 2008). The ICSF has also published several articles on Convention No. 188 in its triannual *Samudra Report*.²⁸ In 2012, the XXIII World Congress of the Apostleship of the Sea adopted a declaration in which it, inter alia, undertook to renew efforts to ensure the ratification of Convention No. 188.²⁹ Other organizations have also worked to promote the Convention.

5. Application of the Convention to address major challenges facing the industry

The fishing industry is faced with numerous challenges. Greater recognition of the wider application of Convention No. 188 as a tool to address many of these challenges will increase support for its promotion. Many of the member States about which information was provided prioritized similar issues: the public image of the fishing industry; OSH; conditions on small fishing vessels; forced labour; child labour; migrant fishers; IUU fishing; and food security.

5.1. Improving the image of the fishing industry

Public perception of the fishing industry is affected by human interest stories portrayed in the media. Such coverage often focuses on either the best or the worst aspects of the industry. Negative publicity has featured forced labour, child labour and a range of poor environmental practices. This image can contribute to the difficulties faced in recruiting and retaining fishers, despite the industry's positive role in providing employment and food. See box 6 for a case study concerning the recruitment and retention of fishers.

Box 6
Recruitment and retention issues in the EU

An EU study of select European fishing communities revealed that fishing fleets were struggling to hire local workers and often had to hire third-country nationals to crew vessels. It was suggested that this was due partly to declining catches, the lack of clear entry points into the sector, issues relating to income levels and stability and uncertain career paths. The study discovered that, in small-scale EU fisheries, the sector was retaining older fishers, and in some cases attracted older workers to the sector.

Source: European Commission, 2011.

²⁸ Reports are available at: <http://www.icsf.net/en/samudra.html> [accessed 14 Jan. 2013].

²⁹ See <http://icma.as/index.php/2012/12/28/aos-greets-the-people-of-the-sea-in-the-spirit-of-solidarity> [accessed 14 Jan. 2013].

There is also growing public concern with regard to holding companies accountable for the social and environmental impacts of fishing industry operations.

The implementation of all or part of Convention No. 188 can reinforce the existing legal framework regulating the fishing sector and protecting the rights of fishers in a country and thus send an important signal to fishers that their rights are respected and valued. A more socially responsible fishing sector would be attractive to workers and more sustainable.

5.2. Improving OSH

The safety of fishing is a serious issue for the fishing industry (Håvold, 2010). It has been over a decade since the Tripartite Meeting on Safety and Health in the Fishing Industry, held at the headquarters of the ILO in December 1999, concluded that sustained efforts were needed at all levels and by all parties to improve the safety and health of fishermen (ILO, 2000). In the report prepared for that meeting, the ILO had estimated a worldwide fatality rate of 80 per 100,000 workers, which is several times that experienced in the general workforce. Recent data suggest that fatality rates in fishing have not improved.³⁰

In recent years, international organizations have devoted more attention to improving the safety and health of fishers. IMO Conventions address the issue of the safety of vessels and equipment, as well as the issue of training to promote safe navigation in particular. The FAO has developed many tools and has carried out significant technical cooperation in the fishing sector. The ILO, the FAO and the IMO have produced several joint publications aimed at promoting the safety of fishing vessels and fishers.³¹

The added value of Convention No. 188 is that it requires the adoption of laws, regulations or other measures concerning the OSH of fishers, including a requirement to undertake risk assessments on board vessels. The implementation of other provisions on working conditions would also contribute to the promotion of safety and health. Discussions on these provisions should stimulate national level, fishing sector-specific solutions to encourage a safety culture in fishing. These improvements should also reduce the costs associated with occupational accidents.³²

³⁰ Some figures for countries with significant fishing interests can be found in Windle et al. (2008); for the latest United States commercial fishing figures, see the Commercial Fishing Incident Database, as maintained by the National Institute for Occupational Safety and Health, at: <http://www.cdc.gov/niosh/topics/fishing/> [accessed 14 Jan. 2013]. The latter notes that during 2000–10, an annual average of 46 deaths occurred (124 deaths per 100,000 workers) for fishers, compared with an average of 5,466 deaths (four per 100,000 workers) among all United States workers.

³¹ The most recent publication is the *Guidelines to assist competent authorities in the implementation of Part B of the Code of Safety for Fishermen and Fishing Vessels, the Voluntary guidelines for the design, construction and equipment of small fishing vessels, and the Safety recommendations for decked fishing vessels of less than 12 metres in length and undecked fishing vessels*. It includes specific references to the accommodations' provisions of Convention No. 188.

³² See Convention No. 188, Part VI; and Recommendation No. 199, Part IV.

5.3. Addressing conditions of work on small fishing vessels

The majority of the world's fishers work on small fishing vessels. The technological improvements in fishing fleets have permitted these small vessels to fish further from shore and for longer periods of time. Given the size of the vessels and the lengths of time that they may stay at sea, standards with regard to accommodation, food, water and sanitary facilities are particularly important. Similarly, medical supplies, the care available on board and pre-sea medical examinations are issues that become more relevant the further from shore these vessels are and the longer the periods they are at sea (ICSF, 2011).

There may be a misunderstanding about the application of Convention No. 188 to vessels under 24 metres in length. Article 2(3) provides that "any Member, after consultation, may extend, in whole or in part, to fishers working on smaller vessels the protection provided in this Convention for fishers working on vessels of 24 metres in length and over".

Small fishing vessels are covered by Convention No. 188, as it applies to all fishers engaged in commercial fishing operations, including on rivers, lakes and canals (Article 1(a)). Only fishers engaged in subsistence fishing and recreational fishing are specifically excluded.³³

Box 7 highlights one of the potential issues associated with the application of Convention No. 188 to small fishing vessels. The flexibility mechanisms in Convention No. 188 could be used to overcome specific problems relating to the application to small fishing vessels. For example, States may progressively implement certain requirements, such as the requirement for written work agreements, while still requiring that these small vessels carry basic first aid kits and meet many other requirements of the Convention.

Box 7

Issues surrounding small fishing vessels for the Republic of Korea

Fishers in the Republic of Korea are, in principle, covered by the Seafarers Act, which applies to any person working on board a vessel of more than 20 gross tonnage (gt). However, fishing vessels of less than 20 gt make up nearly 97 per cent of the Korean fishing fleet. Although the Labour Standard Act is the major piece of legislation controlling the welfare and safety of the fishers on board fishing vessels, the fishing sector is unique in terms of its customs and traditions regarding employment contracts. Consequently, the Labour Standard Act is not able to address and regulate the employment issues in the fishing sector properly, despite containing relevant areas of regulation such as hours of rest and work agreements.

The small-scale fishing industry in the Republic of Korea is currently faced with declining marine resources, higher operating costs and global competition. Of the 90 per cent of Korean fishing vessels which are less than 5 gt, most are operated as family businesses. When non-family crews are hired, the contract usually follows *gitgarym*. This is a traditional contract among fishers, where the fishing-vessel owner provides the vessel and experience in exchange for the crew's labour. With mostly verbal or tacit agreement, the parties secure themselves a type of partnership during the fishing period and the earnings are distributed in proportion to a fisher's level of contribution after the amount of the initial investment of the owner is subtracted from the total earnings. The duration of agreement is only as long as the fishing period. Some believe that *gitgarym* should be seen as subsistence fishing rather than commercial fishing.

Source: Jeon, 2008; Korean Ministry of Land, Transport and Maritime Affairs, 2009.

³³ Subsistence fishing is not defined by Convention No. 188; however, it is understood to refer to fishing operations where the catch is aimed at satisfying the subsistence needs of the families and kin of the fishers and not at obtaining economic gain.

5.4. Eliminating forced labour in the fishing sector

The ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up is an expression of the commitment by ILO member States to respect and promote principles and rights in four categories, irrespective of whether they have ratified the core ILO Conventions.³⁴ One of these categories is the elimination of all forms of forced or compulsory labour. The relevant fundamental ILO Conventions pertaining to forced labour are the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105). Convention No. 188 refers to the Declaration and to these Conventions in its Preamble.

Other UN agencies, intergovernmental organizations and non-governmental organizations have already documented the problem of forced labour in some parts of the fishing industry. Several of these reports acknowledge that the promotion and implementation of ILO labour standards, specifically Convention No. 188, could tackle forced labour in the fishing sector (United Nations Office on Drugs and Crime, 2011; United Nations Inter-Agency Project on Human Trafficking, 2007 and 2009; International Organization for Migration, 2011; Environmental Justice Foundation, 2010; and Gianni and Simpson, 2005). A forthcoming ILO desk review on forced labour and human trafficking in the fishing sector will strengthen the knowledge base on forced labour in the fishing sector and further develop the link with Convention No. 188.³⁵

While the ILO fundamental Conventions regarding forced labour have received widespread ratification, Convention No. 188 has been ratified by only a few member States. However, key provisions of Convention No. 188 could be implemented through national legislation and would then become preventative measures against forced labour in the fishing sector. Requiring a crew list (Article 15), a copy of which would be available on board and provided to authorized persons ashore, could help the relevant authorities keep track of fishers for the purposes of monitoring whether all fishers are accounted for, issuing work permits or controlling the employment of migrant workers. Requiring medical examinations and certificates (Article 10), with a specified duration, would ensure that workers received health checks at regular intervals. Fishers' work agreements (Article 16) would help ensure that there is formal and clear agreement on conditions of service and provide further information and documentation on the fisher. Repatriation provisions (Article 21) would help ensure that the fisher can return home, and payment provisions (Articles 23 and 24) would help ensure that the fisher or the fisher's family are paid. Provisions regarding the recruitment and placement of fishers and the use of private employment agencies (Article 22) would facilitate the proper regulation of such agencies and would help prevent possible abuses by unregulated manning agents and other parties that could contribute to forced labour situations.

While the Convention has primarily a preventative role to play in addressing the issue of forced labour, the provisions on complaints procedures (Article 43) and communication facilities (Annex III, paragraph 71) could help reveal cases of forced labour on fishing vessels.

The issues surrounding forced labour in fishing were discussed by an ILO tripartite consultation on forced labour and human trafficking in the fisheries sector, held in September 2012 (ILO, 2012c). The ILO is looking to develop a strategy to prevent and combat forced labour and human trafficking in the fishing sector.

³⁴ For more on the ILO Declaration, see <http://www.ilo.org/declaration/lang--en/index.htm>.

³⁵ At the time of writing, the desk review is proposed to be published in early 2013.

5.5. Eliminating child labour in the fishing sector

The ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up also identifies the abolition of child labour as a main priority of the ILO. The fundamental ILO Conventions relating to child labour are the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182). According to Convention No. 182, the worst forms of child labour can be divided into four categories, the last of which is “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children”. The types of work that fall into this category in a country are to be determined through consultation with the social partners.

Under Convention No. 188 (Article 9(1) and (2)), the minimum age for fishers working on board fishing vessels is 16 (which can be lowered to 15 under certain circumstances and meeting certain conditions), a higher age than that provided in Convention No. 138. Other provisions in Convention No. 188 are in accordance with the relevant ILO instruments pertaining to child labour. The consultation provisions of Convention No. 188 should encourage member States to consult with the social partners in the fishing sector when making determinations about what is hazardous work for young persons on board fishing vessels.

Promotion of Convention No. 188’s minimum age provisions led directly to the convening of the FAO Workshop on Child Labour in Fisheries and Aquaculture, organized in cooperation with the ILO in 2010. The participants at the workshop, among other things, noted the importance of promoting the ratification of ILO Conventions Nos 138, 182 and 188 with the support and assistance of the ILO and the FAO (FAO, 2010). Following the workshop, the ILO and the FAO produced guidance on the issue of child labour in the fishing sector aimed at strengthening the knowledge base on child labour in the fishing and aquaculture sectors and to provide assistance to ILO constituents, in particular those that make policy decisions (FAO–ILO, 2011).

5.6. Improving conditions of migrant fishers

An increasing number of fishers work on foreign vessels, which is a form of migrant labour. The Preamble of Convention No. 188 recognizes the profound impact of globalization on the fishing sector, of which the rise in migrant fishers is a consequence.

Although migrant fishers may benefit from increased work opportunities abroad, they are also particularly vulnerable to exploitation. Some migrant fishers may not be fully aware of their rights on foreign vessels and may find it difficult to seek help when faced with poor working and living conditions. They may not have acceptable written work agreements or medical care, may be owed wages or may experience unsafe and unhealthy living and working conditions. Their situation may go unaddressed if vessels are inspected by the flag States and are not checked during visits to foreign ports.

Convention No. 188 establishes minimum standards that fishers should expect and that fishing-vessel owners should follow. Its implementation would establish a minimum level of standards for decent work in the fishing sector. The ILO TRIANGLE project, mentioned earlier, provides an example of how the problem of migrant workers is being addressed, with ILO support, in a member State (see box 8).

Box 8
TRIANGLE project activities in the fishing sector

The ILO TRIANGLE project aims to strengthen the development and implementation of recruitment and labour protection policies and practices. The project's activities in the fishing sector focus on Thailand and entail collaboration with the tripartite constituents and other stakeholders on a variety of interventions to improve conditions for fishers on Thai fishing vessels. The project has hosted two multi-stakeholder forums to discuss measures to strengthen protection in the fishing sector and has provided technical comments on a draft ministerial regulation on work in fishing to ensure its accordance with Convention No. 188, Recommendation No. 199 and other international labour standards. Work carried out under the project follows up on the ILC resolution concerning promotion of the ratification of the Work in Fishing Convention, 2007 (No. 188), and the ILC resolution concerning promotion of welfare for the fishers.

Source: ILO TRIANGLE project, at: <https://www.ilo.org/asia/triangle>.

5.7. Combating IUU fishing

The definition of IUU fishing is provided in the *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* (FAO, 2001) and by reference to the Plan of Action in the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (FAO, 2009). It is estimated that the total value of IUU fishing losses worldwide falls between US\$10 billion and US\$23.5 billion annually, which amounts to between 11 and 26 million tonnes of illegal catches (Agnew et al., 2009).

Although the FAO definition of IUU fishing does not refer to labour conditions, it could be argued that the concept of illegal fishing should be broadened to include labour conditions that are unacceptable under international law, including conditions that are inconsistent with the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up and the related Conventions. When Convention No. 188 enters into force and becomes a widely accepted standard, it will define further what are considered to be the minimum acceptable legal standards for living and working conditions on fishing vessels within the illegal fishing concept.

Regardless of how IUU fishing is defined, efforts to address IUU fishing and to improve safety and labour standards should be coordinated. This could include, where appropriate, exchanges of information among the relevant flag and port State authorities. Procedures could be established whereby, for example, those checking for IUU fishing could alert the appropriate authorities when suspected serious violations of labour standards are discovered. The reverse situation may also apply, where evidence or complaints concerning working conditions could lead to the discovery of IUU fishing, as currently defined.

5.8. Ensuring sustainable fisheries and food security

Convention No. 188 could be part of a framework that will promote sustainable fisheries and ensure food security by establishing comprehensive labour rights that encompass social justice, protection and sustainable livelihoods. The final report of the recent United Nations Conference on Sustainable Development (Rio +20) stresses the importance of fishing in relation to global food security (UN, 2012a). In a recent interim report, the UN Special Rapporteur on the right to food recognized the need for the implementation and ratification of Convention No. 188 (UN, 2012b).

6. Lessons learned from the promotion of other ILO standards

Recent activities to promote other international labour standards may provide useful lessons on how to organize future work to promote Convention No. 188. The Action Plan 2006–11 to promote the MLC, 2006, for example, led to the development of an array of tools to build the capacity of the maritime labour inspection systems of flag and port States. This was possible in part thanks to financial support from external donors. In addition, member States requested assistance, including in the form of model national provisions, in order to undertake the legal procedures necessary for ratification. The International Training Centre of the ILO (Turin Centre) offers training courses that teach national officials how to use and apply the relevant tools.

The *Plan of action (2010–16) to achieve widespread ratification and effective implementation of the occupational safety and health instruments (Convention No. 155, its 2002 Protocol and Convention No. 187)*, adopted by the Governing Body at its 307th Session, in March 2010 (ILO, 2010c), has encouraged the development of national OSH policies and programmes at many international and regional conferences, meetings and workshops. Projects supported by the Government of Sweden and the EU have led to the preparation of training and guidance materials on the implementation of national OSH programmes, and the Turin Centre has provided training on risk assessment to at least one member State.

7. Concluding remarks

Even though Convention No. 188 has not yet been widely ratified, it is acknowledged that its implementation would be advantageous to ILO member States. For example, Article 6(2) contains the principle of no more favourable treatment, which would secure fair competition for their fishing industries. In addition to the experiences and good practices referred to in this issues paper, it might be useful for member States and the ILO to draw on lessons learned from the implementation and ratification of other ILO Conventions, including the MLC, 2006.

For fishing-vessel owners, the Convention promotes fair competition by marginalizing substandard fishing operations. Improvements to the health and safety of fishers can lead to a reduction in the costs associated with occupational accidents. A more socially responsible fishing sector would attract more fishers. Implementation of the Convention would strengthen social dialogue and improve the status and position of fishing-vessel owners and their representative organizations.

For fishers, the Convention provides a comprehensive set of principles and rights that address the important aspects of their living and working conditions. It confirms that fishing-vessel owners and skippers are recognized as being responsible for their safety.

For the sector as a whole, the existence of opportunities to engage in social dialogue, as explicitly provided for in Convention No. 188, is vital to addressing employment relationships and conditions of work in the fishing sector.

The fishing sector is faced with a number of challenges that demonstrate the value and importance of Convention No. 188. The benefits of the implementation of Convention No. 188 for all fishing industry stakeholders could be seen through comparative analyses of national legislation, the organization of national consultations, coordination between relevant national authorities and the development of national labour inspection systems for fishing vessels. Convention No. 188 will not only ensure the minimum living and working conditions of fishers on fishing vessels, but will also help address such issues as the image of the fishing industry, OSH, conditions on small fishing vessels, forced labour, child labour, migrant fishers, IUU fishing and global food security.

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