

International Labour Office contribution to Part II of the report of the Secretary-General on Oceans and Law of the Sea pursuant to General Assembly resolution A/17/257, entitled “Oceans and the law of the sea”.

Contribution to Part II of the report regarding all other developments in the field of ocean affairs and the law of the sea within the scope of the activities of the Organization.

General - Ensuring decent work for seafarers and fishers to secure sustainable use of oceans

Shipping

Ensuring decent work for seafarers has always been of special concern to the International Labour Organization. It is estimated that 90 per cent of global trade is carried on ships thus making seafarers who work aboard such vessels an essential asset to international trade. The ILO has adopted, over the years, some 70 instruments aimed at the protection of the world’s seafarers and their contribution to global trade. The key document, the Maritime Labour Convention, 2006, as amended, (MLC, 2006) establishes the minimum working and living standards for all seafarers while ensuring a level playing field for shipowners. The Convention No. 188 entered into force in November 2017 after receiving the requisite ten ratifications from member States.

¹ For details on the ratification of the MLC, 2006 see http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312331

More information on the work of the ILO in Fishing is accessible on:
<http://www.ilo.ch/global/industries-and-sectors/shipping-ports-fisheries-inland-waterways/fisheries/lang--en/index.htm>

Sustainable Developments Goals

The voluntary commitments made at the Our Ocean Conference may be accessed here:
http://www.ilo.ch/wcmsp5/groups/public/---ed_dialogue/---sector/documents/newsitem/wcms_580926.pdf

The intervention by ILO Director-General, Guy Ryder on sustainable fisheries is accessible on: http://www.ilo.ch/global/docs/WCMS_580925/lang--en/index.htm

Specific developments with respect to shipping/seafarers

Shipping

Amendments to the MLC, 2006

The Code of the MLC, 2006 has been amended three times since its entry into force to address specific areas not covered by the Convention.² The 2014 amendments entered into force on 18 January 2017. Since then, a financial security system must be in place and ships flying the flag of ratifying countries must carry on board a certificate or other documentary evidence of financial security for cases of abandonment and claims for compensation in the event of death or long-term disability of seafarers due to an occupational injury, illness or hazard.

The 2016 amendments are expected to come into force on 8 January 2019. These amendments aim, on the one hand, at eliminating shipboard harassment and bullying and, on the other, at allowing, under specific circumstances, for the possibility of an extension of not more than five months of the validity of the maritime labour certificate. A third set of amendments was adopted in 2018 aiming at protecting seafarers' wages and entitlements while seafarers are held captives on or off the ship as a result of acts of piracy or armed robbery against ships. These amendments are expected to enter into force in January 2020.

More information can be accessed on the Maritime Labour Convention website:
<http://www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm>

Supervising the application of the MLC, 2006: the work of the Committee of Experts on the Application of Conventions and Recommendations (CEACR)

The application of the MLC, 2006 at the national level, both in law and in practice, is monitored by the ILO supervisory bodies and in particular by the Committee of Experts on the Application of Conventions and Recommendations, an independent body composed of legal experts. As of May 2018, the CEACR had reviewed 55 first reports submitted by ratifying member States based on article 22 of the ILO Constitution in relation to the implementation of the MLC, 2006.

Overall, the CEACR has observed impressive efforts to adopt laws and regulations giving effect to the Convention. At the same time, it has raised a number of issues that still need to be addressed. These include, among others,

² *More information on the Special Tripartite Committee, body in charge of the adoption of amendments, can be found on* http://www.ilo.org/global/standards/maritime-labour-convention/events/WCMS_550284/lang--en/index.htm

1. *Scope of application of the Convention:* (a) Definition of seafarer: A number of countries did not ensure that the protection afforded by the Convention is guaranteed to all seafarers covered by it. Some countries excluded cadets from the definition of seafarers. Some countries determined that “non-marine personnel, employed under outsourced service agreements” are not to be regarded as seafarers. The Committee recalled that the nature of the contract (outsource agreement in this case) was irrelevant

6. *Annual leave*: Some countries did not ensure by law a minimum period of annual leave. A problem regarding the prohibition to forgo annual leave was raised with respect to several countries. The Committee drew the attention of several governments to the fact that, regardless of the duration of the employment agreement, a seafarer is entitled to a minimum of 30 days of paid annual leave after 11 months of continuous service on board, except in specific cases restrictively provided for by the competent authority.

7. *Repatriation*

Subcommittee on Wages of Seafarers of the Joint Maritime Commission

This Subcommittee, composed of representatives of seafarers and shipowners, meets every two years for the purpose of updating the basic pay or wages of able seafarers, as referred to in the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187) and the MLC, 2006. This subcommittee is unique as it is the only committee within the ILO setting the basic wage for any industry. At the June 2016 Meeting, the ILO minimum monthly basic wage figure for an able seafarer remained at US\$614 as a result of the Subcommittee being unable to reach an agreement.

The Subcommittee on Wages of Seafarers of the Joint Maritime Commission will meet in June 2018.

The Report for Discussion at the Subcommittee on Wages of Seafarers of the Joint Maritime Commission can be accessed on:

http://www.ilo.org/sector/Resources/publications/WCMS_629285/lang--en/index.htm

Database on reported incidents of abandonment of seafarers

The abandoned seafarers` database is a result of the meeting of the 2002 Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers (Joint Working Group) which expressed the need for a joint database. This database contains a regularly updated list of vessels that have been reported to the ILO as abandoned in various ports of the world by appropriate organizations. The purpose of the database is to monitor the problem of abandoned seafarers in a transparent and informative manner.

The database includes all reported cases from 1 January 2004 and, as of 31 December 2017, there have been 314 incidents. Of those incidents, 154 cases are resolved, 60 cases are partially resolved (disputed cases), and 50 cases are inelvaaito26ae (a)7.3((a).(r6(,)5)e/TT s9(t)5.il6(le se)-5.u.4(a)p.

seafarers and the promotion of opportunities for women seafarers in the programme of sectoral meetings for 2018-2019. The purpose of the meeting will be to discuss the issues raised specifically in Resolution XI regarding the recruitment and retention of seafarers, and in the Resolution regarding the promotion of opportunities for women seafarers, as adopted by the 94th (Maritime) Session of the International Labour Conference. The Meeting may adopt conclusions and resolutions.

Fishing

Work in Fishing Convention, 2007 (No. 188) and Work in Fishing Recommendation, 2007 (No. 199)

The Work in Fishing Convention No.188 (2007), adopted by the International Labour Conference in 2007 by an overwhelming majority, revises and updates earlier ILO fishing Conventions. The Work in Fishing Convention, 2007 (No. 188) came into force on 16 November 2017 after receiving 10 ratifications from Angola, Argentina, Bosnia and Herzegovina, Congo, Estonia, France, Lithuania, Morocco, Norway and South Africa.

Read on the entry into force of the Convention here: http://www.ilo.ch/global/about-the-ilo/newsroom/news/WCMS_596898/lang--en/index.htm

The Convention sets out binding requirements to address the main issues concerning work on board fishing vessels such as minimum requirements for work on board, conditions of service, accommodation and food, occupational safety and health protection, medical care and social security at the same level as shore workers.

The widespread ratification and enforcement of the Convention is key to ensuring decent living and working conditions and effective protection for all fishers. It is also key to addressing global concerns such as forced labour, human trafficking and the exploitation of migrant fishers. It provides for regulation that will help prevent unacceptable forms of work and open up effective complaints mechanisms upholding the ILO's commitment to promote decent work in the fishing sector. States that ratify and give effect to the Convention commit to exercising control over fishing vessels flying their flag, through inspection, reporting, monitoring, complaint procedures, penalties and corrective measures, and may also inspect foreign fishing vessels visiting their ports and take appropriate action.

To promote the ratification and implementation of the Convention, the ILO has partnered with the European Sectoral Social Dialogue Committee for Sea Fisheries. In November 2017, the Council Directive implementing the Agreement concluded between the General Confederation of Agricultural Cooperatives in the European Union (COGECA), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises (EUROPÊCHE) of 21 May 2012 as amended on 8 May 2013 concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organization entered into force, as well as other ILO projects (including, for example, the Ship to Shore Rights project in Thailand) to assist States to undertake gap analyses and validation workshops on Convention No. 188.

Further,

The Work in Fishing Convention is available on this site:

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C188

Video on the entry into force of the Work in Fishing Convention, 2007 (No. 188):

<https://www.youtube.com/watch?v=Vxzw7XgyiPA>

Gap analyses of the Work in Fishing Convention, 2007 (No. 188)

The conduct of a comparative or “gap” analysis of national laws, regulations and other measures enables member states discern where changes are needed to bring them into line with the minimum standards set out in the Work in Fishing Convention, 2007 (No. 188). These gap analyses can help and have helped in identifying gaps in the protection of fishers and have led the changes in national law.

A gap analysis has been conducted on Thai national laws, regulations and other measures concerning conditions of work on board fishing vessels. This gap analysis of C188 was prepared by an inter-disciplinary team of the ILO, including staff of the EU-funded Ship to Shore Rights Project, following extensive consultations conducted by the ILO in partnership with the Ministry of Labour. The report examines Thailand’s existing legal framework for work

Project on Combatting Unacceptable Forms of Work in the Thai Fishing and Seafood Industry

The ILO, in partnership with Thailand's Ministry of Labour and the Delegation of the European Union to Thailand, launched the project on "Combatting Unacceptable Forms of Work in the Thai Fishing and Seafood Industry" on 17 March 2016, in Bangkok (now referred to as the ILO "Ship to Shore Rights Project). The 42-month project is funded by the European Union

On 13 March 2018, the Governing Body of the ILO authorized the Director-General to communicate the final report of the Tripartite Meeting on Issues relating to Migrant Fishers to governments, requesting them to communicate the report to the employers' and workers' organizations concerned, and to the international employers' and workers' organizations and other international organizations concerned.

More information can be accessed here: http://www.ilo.ch/sector/activities/sectoral-meetings/WCMS_552792/lang--en/index.htm

The flexibility clauses of the Work in Fishing Convention, 2007 (No. 188)

The ILO has prepared a working paper which outlines the flexibility provisions of Convention No. 188 in order to clarify their scope and limits to member States and constituents. It explains how flexibility may facilitate widespread acceptance of Convention No. 188 by permitting to adapt, where necessary and under specific conditions, the level of protection afforded by the Convention to particular national practices and circumstances.

More information can be accessed here:

http://www.ilo.ch/sector/Resources/publications/WCMS_618563/lang--en/index.htm

Ports

Portworker Development Programme

The Portworker Development Programme in Bulk Terminals (PDP II) has been developed with the long-term global goal of ensuring the safety, health, welfare and vocational training of port workers and assisting countries in establishing and/or improving their port training capability.

The main focus of PDP II is on occupational safety & health and environment issues. The training materials target port workers employed in bulk terminals handling major dry bulk cargoes, including iron ore, coal, bulk fertilizer grain and bauxite/alumina. 70 per cent of port workers engaged in handling dry bulk cargoes belong to job categories considered by terminal operators as unskilled- there is a need to increase the knowledge, skills and attitude of port workers.

The ultimate beneficiaries of the Program are the over 300,000 workers that work at more than 1,500 terminals worldwide and often do not have access to adequate training opportunities. The goal of the Program is to improve the safety and working conditions of port workers, leading to an overall increase in the cargo handling performance of ports and terminals.

More information is available on the website: http://www.ilo.ch/sector/Resources/training-materials/WCMS_549818/lang--en/index.htm

Shipbuilding and repair

Meeting of Experts to adopt a Code of Practice on Safety and Health in Shipbuilding and Ship Repair (Geneva, 22 - 26 January 2018)

Representatives of governments, including major shipbuilding states such as China, Japan and the Republic of Korea, and social partners from around the world gathered in Geneva to adopt a revised Code of Practice on safety and health in shipbuilding and ship repair. The new Code