

The proposed ILO fishing standards and their relevance to small-scale fisheries

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A majority of the world's fishers are from artisanal and small-scale fisheries. Small-scale fishing vessels now go out further into the sea than before and even employ labour on wages. The author outlines the proposed ILO labour standards for fisheries (which will come up at an ILO Conference in 2007) and argues that these are capable of addressing critical issues concerning small-scale fisheries – such as safety, health, social security and working conditions.

Fisheries is one of the main sources of income and food security in several developing countries, particularly in Asia and Africa. An estimated 28 million people, including some 15 to 20 million small-scale fishers, depend on marine capture fisheries for employment and income.

About 45 per cent of the marine fish production for direct human consumption originates from small-scale fisheries.

Most fishers work onboard vessels less than 24 m length overall (LOA) or 100 gross tons (GT). In fact, a majority of fishing vessels, both in developed and developing countries, are below 12 m LOA. Large marine fishing vessels (above 100 GT or 24 m LOA) number about 24 000 and employ about 200 000 people.

This article is based on a presentation made by Mr Sebastian Mathew at the Third International Conference on Fishing Industry Safety and Health, Mahabalipuram, Chennai, 1-4 February 2006.

Under the 1982 U N Convention on the Law of the Sea, small-scale fishing vessels no longer confine themselves to the littoral waters. They are now found all over the exclusive economic zones (EEZ) and even beyond, including the waters of other coastal States. Some significant technological adaptations have made this possible. Those on board include not just fishers and family members but hired labour, even migrant workers. Distinct work categories are emerging in small-scale fisheries – of worker, skipper and owner. Employer-employee relations are a fact of life.

Proposed ILO labour standards for the fishing sector

The proposed Work in Fishing Convention, 2005, was to be adopted at the 93rd Session of the International Labour Conference in

June 2005 at Geneva. Since the required quorum was not attained, the proposed Convention will once again come up for voting at the 96th Session of the International Labour Conference in 2007.

The proposed ILO labour standards for the fishing sector intend to reach more of the world's fishers, particularly those working on board smaller vessels, than before. The Convention, *inter alia*, has proposed for adoption a set of general principles, plus minimum requirements for work on board fishing vessels, conditions of service, accommodation and food, medical care, health protection and social security, and compliance and enforcement.

The definition of “commercial fishing” has been broadened to include all but subsistence and

Royapuram fishing harbour, Chennai, India – Young fishers at work



recreational fishing in marine and inland waters. The term “fisher” has been broadened to include persons working on board who are paid on the basis of a share of the catch. Protection provided for fishers working on vessels 24 m and over may be extended to fishers working on smaller vessels as well.

On the other hand, provisions have been proposed to exclude fishing vessels operating in rivers, lakes and canals from the requirements of the Convention. A decision on these provisions will be taken in consultation with representatives of employers and fishers.

The proposed Convention is thus more flexible. It moves from larger to smaller fishing vessels, and from fishers aboard larger vessels to those on smaller ones. The Convention and its standards are capable of responding more meaningfully to the safety requirements of small-scale fishing vessels.

(i) “General Principles” of the proposed Convention: While the fishing vessel **owner** must ensure that the skipper has the resources and facilities to comply with the obligations of the Convention, the **skipper** is responsible for the safety of fishers on board and the safe operation of the vessel. The skipper has to ensure that fishers perform their work in the best conditions of safety and health.

(ii) Minimum requirements to work on board fishing vessels: These are attainment of a minimum age and passing of a medical examination. Minimum age provisions will apply to fishers on board all types of fishing vessels; the medical certificate requirement is proposed mainly for fishers on board vessels 24 m in length or longer, or for fishers of vessels that stay at sea more than three days.

The minimum age for work on board a fishing vessel will be 16 years. This could be reduced to 15 years for persons who are no longer subject to compulsory schooling. But the minimum age for activities on board fishing vessels

that are likely to jeopardize the health, safety or morals of young persons will be not less than 18 years. The engagement of fishers under the age of 18 for work at night is prohibited on health grounds.

Fishers who work on board fishing vessels are expected to hold a medical certificate of fitness to perform their duties. However, exemptions could be made for fishers aboard fishing vessels that are less than 24 metres length.

For vessels 24 m in length and over, or vessels that normally remain at sea more than three days, a medical certificate must attest that the fisher’s sight and hearing are satisfactory for vessel duty. Also, that he/ she has no medical condition that will endanger the health of other persons on board, or that will get aggravated by service at sea.

(iii) Conditions of service

These describe provisions for manning and rest hours, a crew list, a fisher’s work agreement, placement and repatriation of fishers, and payment of fishers. Owners of fishing vessels are to ensure that the vessels are sufficiently and safely manned with at least the minimum crew necessary for the safe navigation and operation of the vessel. The owners are also to ensure that fishers are given enough regular rest to ensure their health and safety.

It may be difficult to apply this standard to small-scale fishing vessels that are operated by owner-operators, especially to those engaged in near shore operations. However, the requirement is relevant to small-scale fishing operations of longer duration. It is particularly applicable to fishing vessels with separate categories of owner, skipper and worker. Example: the multi-day fishing vessels of Sri Lanka or India.

There are additional requirements for minimum manpower levels for the safe navigation of vessels 24 m in length and over. Minimum rest

periods are stipulated for fishers in vessels – regardless of size – that remain at sea more than three days.

Every fishing vessel is required to carry a crew list and give a copy to the competent authority ashore. This requirement will help the authorities to identify and rescue someone who is lost at sea, or provide benefits to the right people in the event of death at sea. This crew list requirement is difficult to implement for beach-based fisheries, but is very relevant for multi-day fishing operations – especially those undertaken in distant waters.

It is proposed that ILO member-states should pass a law helping fishers – they should be protected by a work agreement they can understand. But it seems as if this law would apply mainly to international fishing vessels. How it would apply to small-scale fishing vessels that do not have distinct owner-skipper-worker categories is not clear.

A fishing vessel owner must repatriate a fisher at his/ her (the owner’s) expense if the fisher’s work agreement has expired, or if the fisher can no longer carry out his/ her duties on entering a foreign port. If the owner fails to repatriate the fisher, his/ her country must do so and recover the cost from the owner. Workers on small-scale vessels that fish in the EEZs of other countries could benefit from this regulation. But no such work agreements exist in practice.

Any private agency that recruits fishers should comply with a standard system of licensing. The State must regulate the system to ensure that fishers are not prevented from working, and that they are not charged any fees for recruitment. If such regulations are violated, the private agency must be suspended or its licence withdrawn. Such a law will benefit migrant small-scale fishers, especially those from South Asia working on fishing vessels in the Middle East, including small-scale vessels.

ILO member-countries must ensure that fishers are paid regularly and are able to send money to their families at no cost. This provision will benefit fishers on small-scale fishing vessels too, especially those working abroad, or those using foreign ports to land fish or change crew.

(iv) Accommodation and food

The draft Convention proposes that accommodation on board fishing vessels should be appropriate – in size, quality and equipment – for the vessel's duties and for the length of time fishers live on board. Some of the points would apply to small-scale fishing vessels that go out on 3-day fishing trips or longer, and will have the effect of reducing fatigue and disease among fishers. The provisions for adequate supply of nutritional food and potable water are particularly relevant to fishers of small-scale fishing vessels that undertake multi-day fishing.

(v) Medical care, health protection, and social security

It is envisaged that fishing vessels will carry medical equipment and supplies that are sufficient for the number of fishers on board the vessels, the area of operation and the length of the voyage. At least one person on board must be qualified or trained in first aid and must be capable of using the medical equipment.

Fishing vessels should be equipped for radio or satellite communication with services ashore that provide medical advice. Fishers are entitled to medical treatment ashore and to be taken ashore promptly for treatment in the event of serious injury or illness. There are mandatory measures for medical care of fishers on fishing vessels of 24 m in length and over.

Some measures relate to occupational safety and health and accident prevention. The emphasis is on developing legal regimes that seek to prevent occupational accidents and diseases. Work-related risks on board fishing vessels must be reduced as well, through

management and training and onboard instruction of fishers.

Fishers must be trained to handle the fishing gear they will use, and comprehend the fishing operations they will engage in. It is proposed that for fishers under the age of 18, fishing vessel owners, fishers and others will be jointly responsible for their safety and health.

Accidents on board fishing vessels must be investigated and reported. Under informal regimes to recruit and employ fishers on fishing vessels, it may be difficult to introduce risk evaluation and management. The recruitment system for fishers would have to change to bring in new perspectives on occupational safety, health and accident prevention.

Some additional measures are proposed for vessels larger than 24 m that normally remain at sea more than three days. These relate to owner responsibility for onboard procedures to prevent occupational accidents, injuries and diseases. The fishing vessel's owner, skipper and fishers must be given guidance and training on how to assess and manage risks to safety and health on board fishing vessels.

The member-country must extend social security protection to fishers ordinarily resident in its territory. The conditions for such security must be comparable to those applicable to other workers. Comprehensive social security protection for all fishers is proposed as a long-term goal. Bilateral and multilateral agreements are proposed to progressively achieve this goal for fishers. Unions of small-scale fishers in several developing countries are demanding social security for fishers working on smaller vessels.

The member-country must ensure that fishers are protected against work-related sickness, injury or death, through a system of compulsory insurance, worker compensation or other schemes that impose certain obligations on fishing vessel owners. Fishers

should have access to medical care and compensation in the event of injury due to occupational accident or disease.

In the absence of national provisions for fishers, each member-country must ensure that fishing vessel owners are responsible for health protection and medical care for fishers. Vessel owners should defray the expenses of medical care during treatment in a foreign country until the fisher has been repatriated.

(vi) Compliance and enforcement

Member-countries are required to exercise effective jurisdiction and control over vessels that fly their flag. They must do this by establishing systems for compliance with the standards of the Convention – including inspection, reporting, monitoring, complaints procedures, appropriate penalties and corrective measures.

The port State is required to inform the government of the vessel's flag if it receives a complaint – from a fisher, an association or a trade union — that a particular vessel does not conform to the standards of the proposed Convention.

In conclusion, the ILO developed standards for the fishing sector some 40 years ago. The proposed Fishing Convention reflects changes in the sector during the past 40 years. It broadens the scope of fishing standards to benefit fishers on smaller fishing vessels. It addresses critical issues such as safety and health in fisheries, and the social security of fishers.

The ILO Convention is therefore relevant for small-scale fisheries. As the sector transforms further, the Convention – once adopted – will be even more relevant and useful in improving labour standards even for smaller vessels.

References:

FAO. 2004. The State of World Fisheries and Aquaculture 2004. FAO, Rome.

ILO. 2005. Provisional Record 19. 93rd Session, ILO, Geneva. Pp: 96-121.