

From Genoa to Geneva: The Making of the ILO Work in Fishing Convention 2007 and the Relevance of its Provisions

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Introduction

The interest of the International Labour Organisation (ILO) in improving labour conditions in the fishing sector dates to 1920, when the 2nd Session of the ILC in Genoa adopted a Recommendation concerning limiting the hours of work in the fishing industry. It proposed an 8-hour day or a 48-hour week as the standard to be aimed for, where it has not already been attained.

In 1959, three fishing-related conventions were adopted at the ILC, namely, The Minimum Age (Fishermen) Convention 1959 (No. 112); The Medical Examination (Fishermen) Convention 1959 (No. 113); and The Fishermen's Articles of Agreement Convention 1959 (No. 114). In 1966, the last of the fishing conventions to pre-date the present Work in Fishing Convention 2007 were adopted. These were The Fishermen's Competency Certificates Convention 1966 (No. 125), The Accommodation of Crew Convention 1966 (No. 126) and The Vocational Training (Fishermen) Recommendation 1966 (No. 126). The last focused on the general training of fishermen in various areas such as navigation, fishing, repair and maintenance of fishing vessels and safety at sea. These conventions were poorly ratified and the last two conventions excluded smaller vessels from their scope.

The Work in Fishing Convention 2007

More than 40 years later, The Work in Fishing Convention 2007 was adopted at the 96th session of the ILC held in Geneva in June 2007. It revises the Conventions related to fishing mentioned above. The objective of the new Convention is “to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security.” New issues that were not hitherto covered by existing instruments, including repatriation, recruitment, medical care at sea, occupational safety and health, social security protection and compliance and enforcement are addressed in the new Convention. The Convention also attempts to “reach a greater number of the world's fishers, particularly those working on board smaller vessels” and to make up-to-date the ILO legal instruments for fishing adopted in the past. The Convention will 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 ILO.

The scope of The Work in Fishing Convention 2007 extends to all fishing operations, including those in rivers, lakes or canals, with the exception of subsistence and recreational fishing. It has, however, provisions to exclude inland fishing operations and certain limited categories of fishers or fishing vessels.

Main Provisions of the Convention

The countries that ratify the new Convention will have to specify the requirements for sufficiently and safely manning fishing vessels for their safe navigation and operation. It will be necessary for ILO members to develop standards regarding: (i) minimum age for assignment on board fishing vessels so as not to jeopardise the health, safety or morals of young persons; (ii) medical examination to make sure that fishers are fit to perform their duties on board a fishing vessel; (iii) safe manning to ensure safe navigation and operation of the fishing vessel; (iv) regular periods of rest to fishers on board to guarantee their safety and health; (v) carrying crew list on fishing vessels and providing a copy of it to the authorities prior to departure of the vessel; (vi) preparation of fishers' work agreement and its minimum particulars to guarantee decent work and living conditions to fishers on a fishing vessel; (vii) entitlement of fishers for repatriation from a foreign port; (viii) recruitment and placement of fishers; (ix) mechanisms to ensure regular payment of wages to fishers; (x) provisions on board fishing vessels with respect to accommodation, food and potable water on board; (xi) medical care and right to medical treatment ashore and the right to be taken ashore in a timely manner in the event of serious injury or illness; (xii) prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management; (xiii) training for fishers in the handling of types of fishing gear and in the knowledge of fishing operations, (xiv) reporting and investigating accidents on board fishing vessels; (xv) ensuring that fishers and their dependents are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers, achieving comprehensive social security protection for all fishers and to ensure the maintenance of social security rights; (xvi) protection for work-related sickness, injury and death and to ensure that fishing vessel owners are responsible for the provision of health protection and medical care to fishers; and (xvii) effective exercise of jurisdiction and control over vessels by establishing a system to guarantee compliance with the requirements of the Convention. All these provisions would apply to: (a) fishing vessels of 24 m in length and over; (b) fishing vessels that normally remain at sea more than seven days; or (c) fishing vessels that undertake distant water fishing operations.

Most of the provisions of The Work in Fishing Convention 2007 have a two-tier structure: a prescriptive standard for vessels of 24 m in length and over and a general, non-prescriptive standard for smaller fishing vessels and fishers on board such vessels, especially if they are confined to fishing within the exclusive economic zone (EEZ) of the flag state. Member states may adopt laws, regulations or other measures to implement the above provisions. Member states will need to decide on the type of fishing vessels, including artisanal and small-scale, that should benefit from these labour standards.

As far as compliance with the requirements of the new Convention is concerned, flag states are required to undertake inspections, reporting, monitoring, complaint procedures, and to impose appropriate penalties and to resort to corrective measures. There are, for the first time, port-state provisions to report to the flag state, about non-conformation with the requirements of the Convention by a fishing vessel that calls at its port, and even to take measures to rectify any conditions on board such a vessel that are hazardous to the safety or the health of fishers.

Progressive Implementation Approach

The Convention provides that countries 'progressively implement' certain provisions of the Convention to: (i) vessels below 24 m in length; (ii) vessels undertaking voyages of shorter duration, often less than seven days; or (iii) vessels that do not undertake distant water fishing operations. These provisions are: (a) the requirement to hold a valid medical certificate attesting to fitness on board vessels that belong to the above three categories, as well as on board fishing vessels of 24 m and above, that remain at sea less than seven days; (b) the requirement to carry a crew list on fishing vessels; (c) the requirement to ensure that each fisher has a written work agreement signed by both the fisher and the fishing vessel owner; (d) the requirement to conduct risk evaluation with the participation of fishers; and (e) the requirement to provide fishers with protection for work-related sickness, injury or death. Countries are permitted to implement these provisions of the Convention over a protracted period of time. The progressive implementation approach is expected to contribute to widespread ratification of the Convention since it addresses infrastructural and institutional deficits in some countries, especially developing ones, towards implementing the Convention.

Relevance of the Work in Fishing Convention 2007

Considering that both the small- and large-scale fishing vessels from many developing countries remain in their EEZ for a period exceeding seven days, and further considering that several of them are currently fishing not only in the EEZ of the flag State, but also in other EEZs, the new Convention would help improve work and living conditions, particularly, on board such vessels. At the other end of the spectrum, it can also contribute to ensuring social security benefits, and extending protection to all fishers from work-related sickness, injury or death to all marine fishers in the long run.

Initiatives at the national level are important to help identify, through a consultative process, categories of fishers and fishing vessels that should be brought within the scope of the new Convention upon its ratification. It is necessary, for instance, to identify all fishing vessels, regardless of size, that undertake fishing trips of more than seven days' duration, and that fish beyond the continental shelf or beyond 200 nautical miles from the shoreline. For other vessels, too, it is important to identify categories that should be brought under or exempted from different provisions of the Convention.

National campaigns should be undertaken to draw the attention of governments, trade unions and employers' groups to full-time fishers, such as divers, gleaners of shellfish and shore-seine fishers, as well as women involved in fisheries-related work in shore-based fishing. This is to ensure that shore-based fishers, who are excluded from the scope of the Convention, also benefit from relevant provisions of the new Convention such as minimum requirements for work, conditions of service, occupational safety and health protection, medical care and social security, at the national or provincial levels.

How many fishers would actually benefit from the new Convention will depend on national governments, employers' groups and trade unions, and the manner in which they will consider categories of fishers and fishing vessels to benefit from the provisions of the Convention. The Work in Fishing Convention 2007 provides the key elements of a labour standard in the fishing sector with regard to recruitment of fishers, improving living and working conditions on board fishing vessels, and providing social security to fishers and their dependents. It can help improve the working and living conditions of fishers, both in large- and small-scale fishing operations, all around the world.