

Labour

Fishing for labour standards

The International Labour Organization is seeking views of revising standards on work in the fishing sector

At its 283rd Session, held in March 2002, the Governing Body of the International Labour Organization (ILO) placed on the agenda of the 92nd Session of the International Labour Conference in June 2004 at Geneva, an item concerning a comprehensive standard on work in the fishing sector.

This is within the context of revising ILO Conventions (binding for countries that ratify them) and Recommendations (not binding, but providing guidance) adopted before 1985, in order to update and strengthen the standards-setting system of ILO. The ILO Conventions of relevance to fishing were adopted in 1959 and 1966, while the Recommendations pertinent to fishing were adopted in 1920 and 1966.

The 93rd Session of the International Labour Conference in 2005 is expected to adopt the revised standards in the fishing sector. It is proposed that the new standard(s) would revise the existing seven ILO instruments—five Conventions and two Recommendations that apply to persons working on fishing vessels. The existing Conventions concern minimum age, medical examination, articles of agreement, accommodation and competency certificates, while the existing Recommendations relate to vocational training and hours of work.

As a comprehensive standard, issues hitherto not addressed in relation to persons working on board fishing vessels would be taken up, namely, occupational safety and health, and social security. The ILO also intends to provide protection for persons working on both large and small fishing vessels. The ILO believes that the objectives of the new instruments should be to extend coverage to reach as many

persons working on board fishing vessels as possible; minimize obstacles to ratification; provide a better chance for wide ratification; enable the provisions to be implemented into practice; and minimize the risk of the Convention becoming outdated in a short period of time.

The new standard would take into account the provisions of the 1995 FAO Code of Conduct for Responsible Fisheries and it would try to integrate the work of the ILO with that of other international organizations concerned with fisheries and the operation of fishing vessels. This, the ILO believes, would result in the standard being clearly understood and to be found more acceptable not only by ministries responsible for labour issues but also by those responsible for fisheries management and vessel safety, as well as fishing vessel owners and those working on fishing vessels.

The ILO is circulating a questionnaire among member countries to elicit views on the content of a comprehensive standard. Governments have been requested to consult with the most representative organizations of employers and workers before finalizing their replies to the questionnaire. They have been especially asked to contribute to an internationally shared sense of what should or should not be addressed in the proposed new Convention and Recommendation.

Maritime fishing

According to ILO, the seven existing ILO instruments concerning work on board fishing vessels set out their scope in different ways. Generally, they provide that they apply to vessels engaged in maritime fishing in salt waters. Several



provide exceptions or exemptions for certain categories of fishing vessels (those engaged in whaling or recreational fishing, or those primarily propelled by sail) or for fishing vessels operating in certain areas (like ports, harbours and estuaries of rivers). Some provide that the instrument applies, in whole or in part, to fishing vessels of a certain size (measured as vessel length in feet and metres, or tonnage) or engine power.

For the purpose of the proposed Convention, the term 'fishing vessel' is defined as any vessel used or intended for use in the commercial exploitation of living marine resources, including mother ships and any other vessels directly engaged in fishing operations.

Many States regulate some aspects of conditions of work on board fishing vessels according to the area of operation of the vessel. Rather than depend on nebulous categories like 'coastal', 'inshore', 'offshore', 'small-scale' and 'artisanal' to delimit the area of operations, the ILO is trying to improve clarity in the use of terms concerning the area of operation. In its questionnaire it proposes five areas of operation: (a) vessels engaged in fishing operations in the high seas and in waters other than those of the flag State; (b) vessels engaged in fishing operations up to the limits of the exclusive economic zone (EEZ) of the flag

State; (c) vessels engaged in fishing operations up to the limits of the territorial waters of the flag State; (d) vessels engaged in fishing operations up to three miles from the baseline; and (e) vessels engaged in fishing operations in rivers and inland waters. It then seeks to know if the Convention should apply to fishing vessels in all these areas of operation or whether it should consider the possibility of excluding fishing vessels within, and below, the territorial limits.

If 'areas of operation' would not be an appropriate method of delimiting the scope of the Convention, the questionnaire seeks the views on using different categories such as 'fishing vessel length', 'tonnage', and 'time fishing vessel spends at sea'. It also includes questions on whether the Convention should apply to all persons working on board fishing vessels, irrespective of nationality.

Views sought

The questionnaire seeks views on provisions concerning the minimum age for work on board fishing vessels and whether or not there should be exemptions. It also seeks to know if certain fishing vessels and certain types and conditions of work on fishing vessels should be prohibited for persons under the age of 18 years. Under the category of 'medical examination', the questionnaire seeks to know if the Convention should

provide that persons working on board fishing vessels should undergo initial and subsequent periodic medical examinations, and whether the Convention should provide for exemptions from this requirement.

If medical examination is required, it seeks to know if a person should hold a medical certificate attesting to fitness for the work for which he or she is to be employed at sea.

The questionnaire section on medical care at sea seeks to know if fishing vessels should be required to carry appropriate medical supplies and whether the fishing vessel should have on board a person qualified or trained in first aid or other forms of medical care. It also asks if certain fishing vessels should be excluded from this requirement.

Under 'contracts for work', the questionnaire seeks to know if every person working on board a fishing vessel should have a written contract or articles of agreement. It seeks to clarify the categories of persons working on board fishing vessels who could be exempted from the provisions concerning written contracts. It also seeks to know whether or not persons working on board a fishing vessel should have access to appropriate mechanisms for the settlement of disputes concerning their contract or article of agreement.

Under 'accommodation and provisions on board fishing vessels', the questionnaire seeks to know if all fishing vessels should have appropriate accommodation and sufficient food and drinking water for the service of the fishing vessel and if there is any need for exemptions. Under 'crewing of fishing vessels', it seeks to know if States should take measures to ensure that fishing vessels have sufficient and competent crew for safe navigation and fishing operations in accordance with international standards.

The views on the need for a provision for minimum periods of rest on board fishing vessels, in accordance with national laws and regulations, is also sought. The questionnaire asks whether occupational safety and health provisions should cover persons working on board fishing vessels. More specifically, it seeks to know if it should be an extension of general occupational safety and health provisions, or an extension of maritime occupational safety and health provisions, or specific provisions for work on board fishing vessels, or a combination of any of these.

Social security

Under 'social security', the questionnaire seeks to know if all persons working on board fishing vessels should be entitled to the social security benefits applicable to other workers, and if the Convention should provide for the possible exemption

of certain categories of persons working on board fishing vessels.

The questionnaire seeks to know if the Convention should provide that persons working on board the high seas and distant-water fishing vessels should have labour conditions which are no less favourable than those provided to seafarers engaged in commercial maritime transport, and if such provision should cover persons working on board other fishing vessels. It also seeks to obtain views on having provisions for recruitment and placement, identity documents and repatriation.

Regarding 'enforcement', the questionnaire seeks to know if the Convention should provide that States should adopt measures to verify compliance with the provisions of the Convention and whether or not any category of fishing vessels should be exempted from this requirement. Views of representative organizations are also sought on including a provision on port State control. The questionnaire also seeks the views of respondents on the need for including a provision in the Convention for consultation with representative employers and workers organizations, as well as representative organizations of persons working on board fishing vessels in the development and implementation of national laws and regulations concerning conditions of work on board fishing vessels.

The questionnaire seeks to know if the proposed Recommendation should provide guidance on (a) the types of work or fishing vessels that should not be employing persons under the age of 18; (b) the content of the medical certificate and the medical procedures to be followed for issuing it; (c) the content of the medicine chest and the type of medical equipment or first-aid kit required to be carried on board fishing vessels; (d) the content of contracts or articles of agreement for work on board fishing vessels; (e) specification of insurance coverage for persons working on board fishing vessels in the event of injury, illness or death; (f) contracts or articles of agreements for work on board fishing vessels; and (g) systems of remuneration, including those based on a share of the catch.

The questionnaire also seeks to know if the Recommendation should provide that States should have national laws and regulations concerning planning and control of crew accommodation on board fishing vessels; on providing guidance concerning standards of accommodation, food and drinking water. It also seeks to know if the guidance on accommodation and provisions on board fishing vessels should make distinctions based on fishing vessel length, operating area, tonnage and time spent at sea. Views on guidance concerning hours of work or rest periods are sought, including the limits of working hours or provisions for minimum rest periods.

Regarding 'occupational safety and health', the questionnaire asks if the Recommendation should address the inclusion of fishing occupational safety and health issues in an integrated national policy on occupational safety and health. The questionnaire also seeks to know if the Recommendation should include guidance on social security provisions for persons working on board fishing vessels.

Views are sought on the Recommendation including provisions concerning maintenance by the competent authority of a register of persons working on board fishing vessels. Lastly, the questionnaire seeks to know if the Recommendation should provide that coastal States should require, when they grant licences for fishing in their EEZs, that fishing vessels conform with the standards of this Convention.

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