



International  
Labour  
Organization

THE GOOD PRACTICES OF **LABOUR INSPECTION** IN BRAZIL:

# The Maritime Sector

Secretariat of  
Labour Inspection  
  
Ministry of  
Labour and Employment

ILO Office  
in Brazil  
Labour Administration  
and Inspection Programme



# THE GOOD PRACTICES OF LABOUR INSPECTION IN BRAZIL:

## The Maritime Sector

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## PREFACE

The existence of an efficient labour inspection system, capable of facing the challenges of an increasingly complex and changing society and productive system is a central element for the promotion of decent work. A properly functioning inspection system is vital for guaranteeing the effective enforcement of labour legislation and the protection of workers. Labour inspection increases the effectiveness of labour and employment policies, contributing to social inclusion through work and, consequently, broadening citizenship. Labour inspectors are agents of the State who work with the concrete and quotidian reality of labour relations and conditions, directly contributing to the promotion of decent work for all.

The creation and strengthening of labour inspection as a fundamental instrument for guaranteeing labour rights has been a constant concern for the International Labour Organisation (ILO) since its inception in 1919. In 1947, the ILO adopted Convention No. 81 concerning Labour Inspection and, in 1969, Convention No. 129 concerning Labour Inspection in Agriculture. In 2008, with the Declaration on Social Justice for a Fair Globalization, these conventions became a priority and were acknowledged as some of the most significant International Labour Standards from a governance point of view. This process culminated in 2009 with the launching of the Labour Administration and Inspection Programme (LAB/ADMIN).

The Decent Work Hemispheric Agenda (DWHA) and the Brazilian Decent Work National Agenda (ANTD), both launched in 2006, as well as the National Plan for Employment and Decent Work (2010), and the state-level agendas for decent work (in the states of Bahia and Mato Grosso), acknowledge that the role of labour inspection is essential to improve labour conditions and relations.

The Brazilian Federal Government, through the Ministry of Labour and Employment (MTE) and the Secretariat of Labour Inspection (SIT), acknowledge the crucial role of labour inspection services and, throughout the years, has worked to constantly strengthen it, adapting its services to new realities and providing solutions to new challenges with vigour and determination.

The ILO acknowledges that Brazil is well-suited to share its good practices with other inspection services. A good practice is every experience that, in its totality or in part, is proven to work with a positive impact. The good practices of labour inspectors' interventions reflect not only the enforcement of the law, but also practices, often creative and innovative, capable of providing legal and technical solutions that also work as positive incentives for companies to comply with the law.

In this context, with the objective of contributing to the production and diffusion of acquired knowledge concerning labour inspection, the ILO and the SIT established a partnership within the technical cooperation project "Strengthening of Labour Inspection Services," sponsored by the Norwegian Government, to systematise some good labour inspection practices in Brazil that can be replicated due to their proven relevance, impact, and sustainability.

This partnership is embodied in the collection "The Good Practices of Labour Inspection in Brazil," comprised of four publications on the labour inspection system in Brazil and the Brazilian labour inspection experiences in the following areas: eradication of child labour; combating forced labour; and the maritime sector.

The areas selected for this systematisation reflect some of the intervention priorities for both the MTE and the ILO, and contribute to making themes that have recently and constantly been in the country's political agenda be understood with a approach centered on labour inspection. Many of the measures adopted are creative and unique and reflect the evolutionary and modernisation process of labour inspection in Brazil. This series also provides an opportunity to reflect on the advances, lessons learned, and necessary improvements for inspection activities and, in a direct and practical manner, contributes to broaden the knowledge base about the issue already existent in the country.

Based on these good practices, some common points can be identified, indicating some characteristics that could be replicated and adapted to other realities:

1. One fundamental aspect for improving inspection procedures is being able to count on **reliable databases**, suitable for an effective “intelligence” system for identifying which enterprises are to be inspected, as well as for collecting and systematising information on completed inspections. The importance of relying on these sources of information stands out in all the good practices analysed. This is the case of the Federal System of Labour Inspection (SFIT), the Information System on Child Labor Hotspots (SITI), and the Slave Labour Monitoring System (SISACTE).
2. The **adaptation** of the Special Group of Mobile Inspection model used in combating forced labor to the maritime sector, with the creation of the National Mobile Group for the harmonisation of procedures in different Brazilian states, shows how certain tools or processes can be successful in other inspection areas, when implemented with the necessary modifications.
3. The **coordination with other government entities** and the State can significantly boost inspection results, especially in countries where resources are scarce and the number of inspectors may not be ideal. This is the case of the experiences in combating child labour, combating forced labour, and fishery inspection, just to cite a few examples.
4. On the other hand, an **inspection coordinated with social partners**, especially worker and employer organizations, augments the efforts to improve work conditions and business competitiveness. The experience of the Naval Industry Tripartite Commission and the National Commission for the Eradication of Child Labour (which also includes civil society organisations) are platforms where these issues are exemplified.

We hope that these publications will be useful not only in disseminating the Brazilian experience, but will also contribute significantly to the strengthening and modernisation of inspection services and

the exchange of labour inspection experiences that Brazil has been developing with other Latin American countries and other regions of the world. We also hope it will stimulate reflection, within and outside Brazil, on how to implement innovative responses to the current challenges of the world of work.

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Ministry of Labour and Employment

## List of Abbreviations

|         |                                                                                                                                             |
|---------|---------------------------------------------------------------------------------------------------------------------------------------------|
| AJB     | Brazilian Jurisdictional Waters ( <i>Águas Jurisdicionais Brasileiras</i> )                                                                 |
| ANVISA  | National Sanitary Vigilance Agency ( <i>Agência Nacional de Vigilância Sanitária</i> )                                                      |
| CAGED   | General Registry of Admitted and Laid-Off Workers ( <i>Cadastro Geral de Empregados e Desempregados</i> )                                   |
| CGASAT  | General-Coordination of Food Security at Work Actions ( <i>Coordenação-Geral de Ações de Segurança Alimentar no Trabalho</i> )              |
| CIPA    | Internal Commissions for the Prevention of Accidents ( <i>Comissões Internas de Prevenção de Acidentes</i> )                                |
| CNIg    | National Immigration Council ( <i>Conselho Nacional de Imigração</i> )                                                                      |
| CONITPA | National Coordination of Port and Waterway Labour Inspection ( <i>Coordenação Nacional da Inspeção do Trabalho Portuário e Aquaviário</i> ) |
| CORITPA | Regional Coordination of Port and Waterway Labour Inspection ( <i>Coordenação Regional da Inspeção do Trabalho Portuário e Aquaviário</i> ) |
| CLT     | Consolidation of Labour Laws ( <i>Consolidação das Leis do Trabalho</i> )                                                                   |
| CTPP    | Permanent Tripartite Parity Commission ( <i>Comissão Tripartite Paritária Permanente</i> )                                                  |
| DEFIT   | Department of Labour Inspection ( <i>Departamento de Fiscalização do Trabalho</i> )                                                         |
| DSST    | Department of Occupational Safety and Health ( <i>Departamento de Segurança e Saúde no Trabalho</i> )                                       |
| DTM     | Maritime Labour Precinct ( <i>Delegacia do Trabalho Marítimo</i> )                                                                          |
| GRTE    | Regional Labour and Inspection Management Office ( <i>Gerência Regional de Trabalho e Emprego</i> )                                         |
| GT      | Technical Group ( <i>Grupo Técnico</i> )                                                                                                    |
| GTON    | Gross Tonnage                                                                                                                               |
| GTT     | Tripartite Technical Group ( <i>Grupo Técnico Tripartite</i> )                                                                              |
| MD      | Ministry of Defence ( <i>Ministério da Defesa</i> )                                                                                         |
| MMA     | Ministry of Environment ( <i>Ministério do Meio Ambiente</i> )                                                                              |
| MP      | Ministry of Fisheries ( <i>Ministério da Pesca</i> )                                                                                        |
| MPT     | Labour Prosecutions Office ( <i>Ministério Público do Trabalho</i> )                                                                        |
| MTE     | Ministry of Labour and Employment ( <i>Ministério do Trabalho e Emprego</i> )                                                               |
| ILO     | <i>International Labour Organization</i>                                                                                                    |
| PAT     | Workers' Meal Program ( <i>Programa de Alimentação do Trabalhador</i> )                                                                     |
| PPA     | Multi-Year Plan ( <i>Plano Plurianual</i> )                                                                                                 |
| PNAD    | National Sample Survey of Households ( <i>Pesquisa Nacional por Amostragem de Domicílios</i> )                                              |
| RAIS    | Annual Social Information Report ( <i>Relação Anual de Informações Sociais</i> )                                                            |
| RIT     | Labour Inspection Regulation ( <i>Regulamento de Inspeção do Trabalho</i> )                                                                 |
| SFIT    | Federal System of Labour Inspection ( <i>Sistema Federal de Inspeção do Trabalho</i> )                                                      |
| SINAIT  | National Union of Labour Inspectors ( <i>Sindicato Nacional dos Auditores-Fiscais do Trabalho</i> )                                         |
| SIT     | Secretariat of Labour Inspection ( <i>Secretaria de Inspeção do Trabalho</i> )                                                              |
| SRTE    | Regional Superintendency of Labour and Employment ( <i>Superintendência Regional do Trabalho e Emprego</i> )                                |
| SST     | Occupational Safety and Health ( <i>Segurança e Saúde do Trabalho</i> )                                                                     |

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# PART I:

## Labour Inspection in the Maritime Sector

### 1. Introduction

This document aims to describe the good practices developed by the Brazilian Ministry of Labour and Employment (MTE), through the actions carried out by its Secretariat of Labour Inspection (SIT), so as to ensure improved working conditions in the maritime sector. These actions encompass initiatives to bring workers into formal labour relations and also the elevation of occupational safety and health standards in accordance to those stipulated by the International Labour Organization (ILO).

To this end, the MTE relies on a specific institutional structure under the auspices of the National Coordination of Port and Waterway Labour Inspection (CONITPA) which coordinates the actions of specially trained labour inspectors.<sup>1</sup> In addition to the tools that are common to all inspection activities, labour inspection in Brazil has developed good practices tailored to the specificities of each field of activity.

The description of these good practices is divided into different parts. In this first part, a general outlook of the labour inspection in maritime labour in Brazil will be provided. Next, specific good practices in each of the following fields will be presented:

- i. The merchant shipping** sector and the national mobile group experience;
- ii. The fishing** sector and the importance of coordination with other actors; and
- iii. Naval construction** and the naval tripartite commission.<sup>2</sup>

---

<sup>1</sup> In Brazil, labour inspectors are referred to as “labour fiscal auditors” (*auditor-fiscal do trabalho*).

<sup>2</sup> Although naval construction is not originally among the activities listed as belonging to the maritime sector, its specific traits and its close interaction with merchant shipping, fishing and ports justify its inclusion. This is also the reason why, in Brazil, the naval construction sector has also been a subject of maritime labour inspections.

## 2. Contextualizing the Maritime Sector in Brazil

### 2.1. BACKGROUND

Maritime labour has singular traits which sets it apart from other forms of labour, thus requiring a specific approach with respect to labour inspection. These traits have to do for the most part with its atypical working environment, which often also double as the workers' living quarters since he/she must remain there for prolonged periods of time. The physical limitations usually encountered in these working environments means that the work place also serves as a temporary residence. As a result, seafarers are often estranged from their families and must become accustomed to entirely atypical working schedules,

#### Box 1: Defining the Maritime Sector

The ILO's definition of the maritime sector comprises four distinct sub-sectors:

- shipping,
- ports,
- fishery,
- inland waterways.

**Brazil** adopts a slightly distinct categorization: the concepts **waterways** and **ports** (rather than maritime) are used and encompass, in addition to the aforementioned categories, the following:

- professional divers,
- support crew (non-seafaring workers which provide services for docked ships),
- docking and tugging crew,
- workers on oil rigs and shipyards.

which might include long term periods on board and constant trips between national and international ports. Moreover, work in ships that follow long distance routes expose workers to a wide range of climate and cultural variations, in addition to making them vulnerable to the ship's constant rolling and trepidations.<sup>3</sup>

This set of traits sets apart seafarers to the extent that the International Labour Organization (ILO) took measures to confer it distinguished treatment by approving specific conventions and recommendations. In all, there are 65 conventions concerning maritime labour, which were consolidated into a single document: the Maritime Labour Convention - *MLC, 2006*.<sup>4</sup>

<sup>3</sup> Based on the descriptions provided in the *Manual do Trabalho Aquaviário*. MTE, SIT, DEFIT, DSST, CGASAT. Brasília. 2005

<sup>4</sup> The MLC 2006 is currently in the process of being ratified in Brazil and has still not been adopted at the international level: [http://www.ilo.org/global/What\\_we\\_do/InternationalLabourStandards/MaritimeLabourConvention/lang--en/index.htm](http://www.ilo.org/global/What_we_do/InternationalLabourStandards/MaritimeLabourConvention/lang--en/index.htm)

The sectors which involve maritime labour have always had a significant share in the Brazilian economy, currently employing approximately 2.5 million workers.<sup>5</sup> However, the importance of this sector has not been attended by consistent and effective inspection practices. In this regard, the high rate of informality in some of these sectors (notably in fishery, given the precarious nature of this activity in some regions, and in naval construction, given widespread subcontracting practices) and also the inaccessibility of the work place of seafarers created an obstacle for inspection.

However, in the course of the last two decades this scenario has undergone radical transformation. The economic sectors related to maritime labour have followed the upward trend of growth of the Brazilian economy. This, in turn, has led to greater awareness concerning the need to meet international standards for working conditions not only in order to be able to compete in the market, but for social and political reasons as well. This awareness did not come only from the Brazilian government, but also from labour unions, employers' organizations, and civil society.

In the 1990s, Brazil started following more closely the guidelines outlined by the ILO. Today Brazil is signatory of 18 conventions relative to the maritime sector<sup>6</sup>, being that this commitment has gained momentum since the ratification in 1991 of ILO Convention no. 147 concerning minimum standards in merchant shipping (1976). Since then, as the following sections will describe, the MTE, acting through the SIT, has been able to create a specific maritime labour inspection structure which has taken shape and become more effective with the development of good practices and specific attributes. This document will identify three of them within three sectors of maritime work: merchant shipping, fishing, and naval construction.

## 2.2. A BRIEF HISTORY OF LABOUR INSPECTION IN THE MARITIME SECTOR IN BRAZIL

During the twentieth century, Brazilian labour inspection capacities in the maritime sector faced limitations. In the last twenty years, however, this has changed with the implementation of a structure designed specifically for maritime labour inspections. The temporal markers of this evolution are:

- **From 1941 to 1989:** the main inspection agencies were the Maritime Labour Precincts (DTMs), attached to the Brazilian Navy.

<sup>5</sup> Estimate based on the sum of the figures provided by the SIT for the number of workers in each sector: 2 million workers in fishery, 400 thousand in naval construction and 100 thousand in merchant shipping.

<sup>6</sup> See Annex 1 for a complete listing.

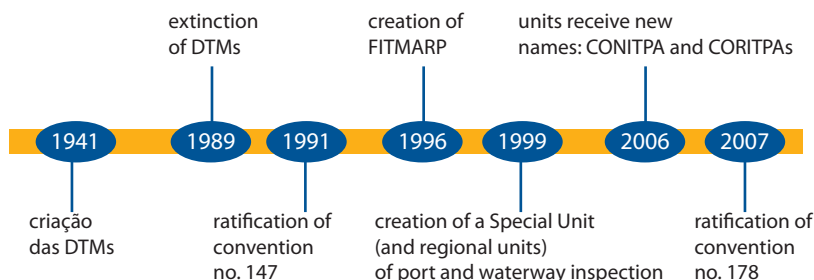
Its main responsibility was to verify compliance of employers to labour legislation in the sector. The DTMs were closed down in 1989, leading to a temporary gap in maritime labour inspection.

- **1991:** Brazil ratifies ILO Convention no. 147 concerning minimum standards for merchant shipping (1976), which creates conditions for maritime labour inspections.
- **1996:** During the second half of the 1990s, inspection capacities are given to the Maritime and Port Labour Inspection Units (*Unidade de Fiscalização do Trabalho Marítimo e Portuário - FITMARP*), in Rio de Janeiro. This marks the beginning of a specific inspection structure linked to the MTE, which starts conducting inspections based on Convention no. 147 (1976)<sup>7</sup>.
- **1999:** the consolidation process of a specific labour inspection structure reaches a new level in July with the creation of inspection units subordinated to the SIT/MTE.<sup>8</sup> Their main task was to carry out labour inspections in the maritime and port sectors. These units were comprised of specially-trained labour inspectors and thus inaugurated a new era of labour inspection in Brazil.
- **2006:** Specialized units were renamed the National Coordination of Port and Waterway Labour Inspection (CONITPA) and the Regional Coordinations of Port and Waterway Labour Inspection (CORITPAs).
- **2007:** ratification of Convention no. 178 concerning Labour Inspection (seafarers) (1996) strengthens Brazil's commitment to international norms.

<sup>7</sup> At the time of its creation its main goal was to ensure compliance to the Port Modernization Law (*Lei de Modernização dos Portos*, Law (8.8630/1993).

<sup>8</sup> This unit was created by Inter-Secretariat Normative Instruction no. 14, which established the Special Unit and the Regional Units of Port and Waterway Labour Inspection and defined their attributions. A latter Normative Instruction, IN-61/2006, modified these titles and adopted the one's that exist at present: the National Coordination and the Regional Coordinations of Port and Waterway Labour Inspection (CONITPA and CORITPAs, respectively).

*Figure 1: Events that marked the development of Labour Inspection in the Maritime Sector in Brazil*

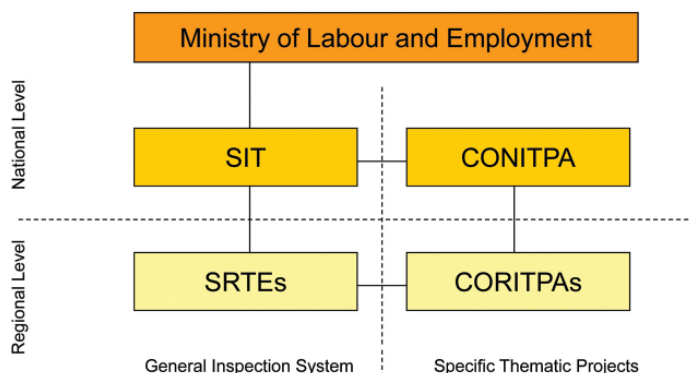


### 2.3. ORGANIZATIONAL STRUCTURE OF LABOUR INSPECTION IN THE MARITIME SECTOR

Labour inspection has become strengthened through the creation of a specialised and coordinated structure embedded within the Ministry of Labour and Employment and its Secretariat of Labour Inspection (SIT) (see Figure 2, below). The SIT is responsible for the formulation and proposal of annual planning guidelines, while the Regional Superintendencies of Labour and Employment (SRTEs), in total 27 units, one in each of the federation's 26 states and the Federal District, are in charge of the task of carrying out inspections within the parameters established by the SIT. The National Coordination of Port and Waterway Labour Inspection (CONITPA), based in Rio de Janeiro, is subordinated to the SIT. The Regional Coordinations (CORITPAs) are thematic inspection groups within the SRTEs that undertake relevant maritime activities. There are currently regional coordination units in 14 Superintendencies.<sup>9</sup>

<sup>9</sup> Regional Coordinations are located in the following states: Alagoas, Amazonas, Bahia, Ceará, Espírito Santo, Pará, Paraíba, Paraná, Pernambuco, Rio de Janeiro, Rio Grande do Sul, Rio Grande do Norte, Santa Catarina, and São Paulo.

Figure 2: Organizational chart of maritime labour inspection



The **CONITPA** is responsible for: the formulation of guidelines that ensure uniform inspections procedures; for the development of cooperation with other government bodies; for the oversight of the Regional Coordination units (CORITPAs); for submitting to the SIT a consolidated report containing a description of the activities carried out by the regional coordination offices; and for the coordination and organization of special operations, such as the National Mobile Groups (GMNs).

The **CORITPAs**<sup>10</sup> are the local inspection and occupational safety and health units; carry out inspections to verify compliance with protection and safety norms and general conditions; inspect enterprises in the sector; and work together with trade unions and enterprises in order to provide information and guidance concerning relevant legislation.<sup>11</sup>

## 2.4. THE LEGAL FRAMEWORK FOR INSPECTION IN THE MARITIME SECTOR

### 2.4.1. International agreements and conventions

The ILO has adopted 65 conventions relative to maritime labour, of which 18 have been ratified by Brazil. The most important ones for the sectors highlighted in this document are:

- **ILO Convention no. 81 concerning Labour Inspection in Industry and Commerce (1947)**, is considered the main benchmark in

<sup>10</sup> These attributions were defined by Normative Instruction no. 61, of 18 January 2006.

<sup>11</sup> Another important element within the organizational structure of labour inspection in the maritime sector is the role of consultative fora that act in conjunction with the SRTEs, such as the Commissions of Collaboration with Labour Inspection (CCIT), composed of trade union representatives who collaborate in the annual planning of inspection activities and on the identification of irregularities in each economic sector.

the definition of the modern principles of labour inspection and stipulates that the goal of inspection is to verify compliance to norms relative to working conditions and the protection of workers in addition to assisting employees and employers to comply with labour relation laws and to report abuses in issues not necessarily stipulated by legislation.

- **ILO Convention no. 147 concerning Minimum Standards in Merchant Ships (1976)**, was ratified and promulgated by Brazil in 1991, and according to its article no. 4 serves as guidance for the inspection of large ships flying foreign flags within Brazilian waters. This convention played an important role for Brazilian inspection since after its ratification it also was used as a parameter in the inspection of ships that fall beyond the scope of national legislation (see Part II, section 1).
- **ILO Convention no. 178 concerning the Inspection of Seafarers' Working and Living Conditions (1996)** stipulates the creation of maritime labour inspection system. This convention was ratified by Brazil in 2007 and came into force in national territory in 2009. However, even before its ratification Brazil carried out efforts based on national legislation, in order to conform to the convention, which included the creation of a specialized inspection system for the sector. Convention no. 178 regulates the inspection of working conditions in national ships at intervals not exceeding three years. Furthermore, the convention served as a model in the standardisation and harmonisation of inspection procedures.

**The Maritime Labour Convention (2006)**. Although it has not yet been ratified, it already constitutes a reference for labour inspection in Brazil. Unlike the case with other conventions, Brazil hopes to be in accordance with all the standards defined by the MLC by the time it is ratified and becomes effective. In addition to consolidating previous conventions, this convention introduces new minimum standards and inspection procedures.

The following are conventions that are specific to the fishing sector:

- **ILO Convention no. 113 concerning the Medical Examination of Fishermen (1959)**, ratified by Brazil in 1965.
- **ILO Convention no. 114 concerning Fishermen's Articles of Agreement (1959)**, determines the obligation of written labour relation contracts applied under national legislation.
- **ILO Convention no. 126 concerning Accommodation on Board Fishing Vessels (1966)**, ratified by Brazil in 1992.

- **ILO Convention no. 188 concerning Work in the Fishing Sector (2007)**, will consolidate all norms relative to fishing giving emphasis to tripartite processes. It is yet to be ratified by Brazil but has already been utilized to orient some of the country's activities.

#### 2.4.2. National Legislation

Brazil has a legislative framework that acknowledges the need to confer distinct treatment to seafarers. This legislation has been recently complemented by norms that establish stricter standards concerning safety and health and by instruments that ensure greater coordination between labour inspection authorities and other government bodies:

- **The 1988 Federal Constitution** states that it is the Union's responsibility to organise, maintain and execute labour inspections.
- **Consolidation of Labour Laws (CLT)** is the main law with regards to labour rights. The CLT establishes specific rights for seafarers, including those relative to vacations, work hours, supplementary work hours, resting periods, as well as collective agreements and conventions.<sup>12</sup>
- **The Waterway Traffic Safety Law (LESTA)**. Although its scope does not pertain directly to labour law – since it regulates the activities of the Maritime Authority (in Brazil exercised by the Navy Command subordinated to the Ministry of Defence) – the law establishes concepts that are relevant for labour inspection, such as the definition of waterways, vessels, and waterway workers.
- **The Maritime Authority Norms (NORMAMs)**. This set of norms guides the crew and operations of Brazilian vessels; however they are important for labour inspection capacities since often inspection operations are carried out in conjunction with and are facilitated by naval inspections undertaken by the Navy.
- **The Regulatory Norms (*Normas Regulamentadoras* – NRs)** refer to occupational safety and health norms that are mandatory for public and private enterprises and public agencies that are subordinated to the CLT. These norms are elaborated by tripartite commissions – composed of representatives of the government, workers and employers, coordinated by labour inspectors – that establish specific parameters for each sector. NR-30 concerns safety and health standards for the maritime sector (and includes

<sup>12</sup> In this regard, the main sections are Section VI, Chapter 1 of the CLT (Law-Decree i 5.452, 1942), the Special Dispositions on the Duration and Conditions of Work for the crews of the Merchant Marine, inland waterway navigations, ports and fishing.

an appendix with specific norms for the fishing sector). In naval construction the relevant legal instrument will be the NR 34, which will contain safety and health standards for the sector, once it is published.<sup>13</sup> The process of elaboration of this regulatory norm is one of the good practices and will be described in the section dedicated to the naval construction sector (Part II, section 3).

- **Normative Resolutions 72/06 and 81/08 adopted by the National Immigration Council (CNIg)** are relevant for merchant shipping and fishing. They stipulate the minimum proportion of Brazilian nationals that are mandatory on board foreign vessels, which in certain cases are chartered ships by Brazilian companies to operate in these activities within national waters.

In fishing the relative legislation includes the following:

- **The Fishing Statute** (n. 11.959/09) which establishes the general guidelines for the new fishing policy, headed by a specific ministry.
- **Law n. 9.059/59 and Decree-Law 2.302/97.** These legislative instruments, respectively, grant and regulate subsidies for the purchase of diesel fuel for fishing vessels.
- **Regulatory Norm no. 30, especially its Appendix 1,** determines the safety and health standards at work for the waterway sector, being the annex specifically for the fishing sector.

## 2.5. THE LABOUR INSPECTORS

The Brazilian labour inspection system relies upon a cadre of specially-trained labour inspectors in charge of verifying the compliance and enforcing labour law and safety and health norms in the work environment.<sup>14</sup> As agents of the State, they are conferred with working conditions which ensure that they can carry out their activities independently, within legal boundaries. There are today approximately 2,900 labour inspectors, being that 50 have been trained and are allotted to units specialized in maritime labour inspections.

Entry to the labour inspection career is conditioned to approval in a public competitive examination. This examination is remarkably competitive and has therefore proven to select highly qualified inspectors. Upon

<sup>13</sup> Once officially published the NR 34 will be found in the following link: [http://www.mte.gov.br/legislacao/normas\\_regulamentadoras/default.asp](http://www.mte.gov.br/legislacao/normas_regulamentadoras/default.asp)

<sup>14</sup> The career structure for labour inspectors was established by Law no. 10.593 published on 6 December 2002, which is in force with the modification and innovations stipulated by Law no. 10.910, 15 July 2004.

entry, inspectors participate in a training course. In addition to this general training, there are specific training programs for inspectors to be allocated to maritime labour inspection units, in accord with the provisions of Convention no. 178. The training is offered as 3-4 week courses that are complemented by practical activities that take place during onsite inspections and during the operations of the National Mobile Group (GMN). These courses are given by experienced inspectors in the field. For other inspectors who might eventually participate in maritime labour inspection activities there are specific training courses, with emphasis on practical support material for maritime inspection.

An important evolution has occurred with respect to how inspectors are evaluated. For many years, inspectors in Brazil followed a predominantly reactive approach. Inspectors tended to organise inspections based on complaints received by unions and other entities or simply conducted random inspections within their jurisdictions, following a “door-to-door” approach.

In April 2010, the SIT implemented a new evaluation methodology<sup>15</sup> based on the following principles:

- i) attributing greater value to the quality of actions;
- ii) teamwork;
- iii) predominance of project-oriented inspections;
- iv) participative planning (decentralisation); and
- v) dissemination of good practices and the exchange of experiences between inspectors.

By establishing inspection projects based on plans for specific sectors and/or thematic areas the objective is to pursue an inspection that is less guided by the need to achieve physical goals (i.e. a certain number of inspections) and more focused on the sustainable transformation of a given situation that needs to be corrected according to labour legislation.

According to the new methodology, some projects are considered mandatory (meaning that they must be implemented in each and every state) and regional projects which are to be executed only by the SRTes located in regions where the selected activity is strategically important or is particularly affected by problems: this is the case of maritime labour inspection, the responsibility of the CONITPA and the local CORITPAs.

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<sup>15</sup> Ministerial Ordinance No. 546, published 11 March 2010 which regulates inspection activities, the elaboration of inspection plans, inspector performance evaluation among other provisions.

Complaints, however, still have an important role in the organisation of actions. Any complaint entailing eminent or serious risk to health or safety or relative to payment delays are verified immediately, regardless of planning.

### 3. General Inspection Strategy

Maritime labour inspection in Brazil follows a twofold strategy: i) a set of guiding principles which outline the general activities and the goals sought by labour inspectors, complemented by ii) the practices that put these principles into action.

#### 3.1. GUIDING PRINCIPLES

Four principles guide the actions of labour inspectors:

- i) **Coordination with other government agencies** involved in the maritime sector, such as the Brazilian Navy, the National Agency for Sanitary Surveillance (ANVISA), the Federal Police and FUNDACENTRO.<sup>16</sup> Coordination with other organs is important since information is dispersed and must be unified in order to assist inspections. Partnerships are thus fundamental at all stages of inspection, but specially during planning and the mapping of irregularities, through the exchange of information and cross checking of different databases constructed by each one of these agencies.
- ii) **Balanced application of preventive action or counselling and the different repressive actions for the enforcement of legislation.** Maritime labour inspection must always be guided so as to ensure enforcement of the law and to guarantee fair working conditions. With this goal in mind, labour inspectors, must prioritize the instruments at his/her disposal in order to enforce labour standards and norms. There are several instruments to this end, they include measures such as notifications and notices of infraction and also stricter measures such as monetary fines and interdictions and, in some cases, referral to the Labour Prosecutions Office (*Ministério Público do Trabalho* - MPT), responsible for taking legal actions (see box 1). In exceptional

<sup>16</sup> ANVISA is a branch of the Ministry of Health responsible for the oversight of sanitary conditions in Brazil. FUNDACENTRO is a government entity attached to the MTE which conducts scientific and technological research related to occupational safety and health.

cases, whenever labour inspectors deem more effective, preference can be given to offering guidance and tolerance. For example, before applying harsher measures, inspectors can try to convince employers that from an economic standpoint it is worthwhile and more productive to comply with legal standards and to prevent occupational hazards.

### Box 2: The Labour Prosecutions Office (MPT)

- The MPT is responsible for the enforcement of the labour legislation and can legally pursue action based on complaints submitted by the SIT/ MTE when it is considered that administrative measures must be complemented by judicial ones.
- The complaints made by the SIT lead to the opening of a Civil Inquiry in which the object of the complaint can make a commitment to adjust its actions and correct deviations or, in case an agreement is not reached, respond to a Public Civil Action in the Labour Justice.

Source: [www.mpt.gov.br](http://www.mpt.gov.br)

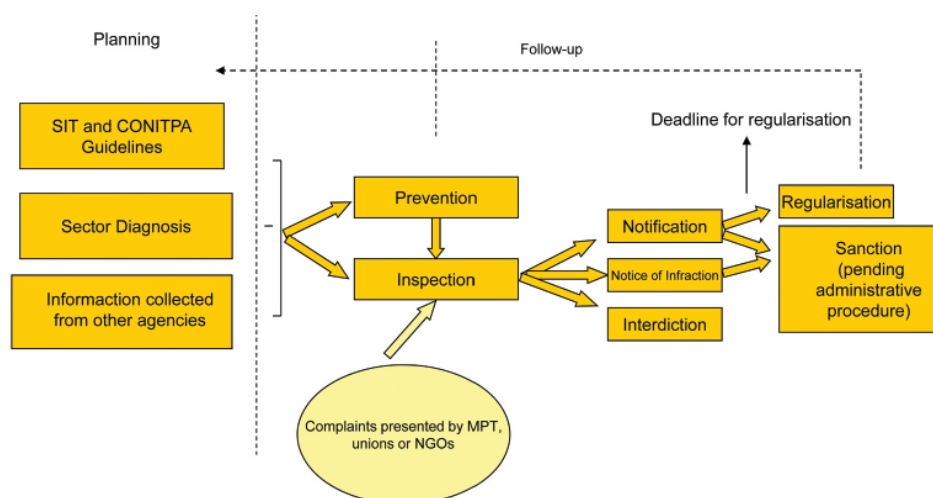
**iii) Establishing constant social dialogue with partners in the world of work.** Maritime labour inspection in Brazil has successfully employed National Tripartite Commissions, defined according to economic sectors, with aims to create an environment for the exchange of information between social partners. These commissions may deal specifically with safety and health or they may also encompass other aspects of legislation. Its main goal is to collaborate with labour authorities in the task of determining and controlling the enforcement of regulations, orders or other mandatory measures. An important aspect of the Tripartite Commissions is the possibility of elaborating regulatory norms for the promotion of safety and health in the sector.

**iv) The harmonisation of procedures in the whole country.** In view of the extent of Brazilian territory and the variety of situations dealt with in the course of maritime labour inspections, it is crucial to ensure that procedures are consistent and coherent. In order to avoid that enterprises receive different treatment in each state, which could potentially lead them to transfer to states where inspection is more lenient, there must be a minimum of consistency and predictability of adopted procedures. The harmonisation of procedures also implies in beneficial exchanges of information in which positive experiences can be disseminated

and replicated in other states and sectors. For this reason, whenever possible, simultaneous actions encompassing related sectors are carried out (for example, the inspection of fishing vessel shipyards and inspections of active fishing vessels) in order to optimise resources. The National Mobile Groups, (described in part II, section 1), are one of the principal means for promoting this principle in practice.

### 3.2. THE INSPECTION PRACTICE

Figure 3: General Inspection Strategy in Maritime Labour Inspection



#### 3.2.1. The planning of activities

The planning and establishment of guidelines is carried out by the SIT through the CONITPA. It adopts a methodology which follows the stages below:

- i) an assessment of the labour market;
- ii) the establishment of lines of action in order to deal with irregularities; and
- iii) the monitoring of the plan's execution.

Several sources of data are used in this stage: the National Sample Survey of Households (PNAD), the Annual Social Information Report (RAIS), the General Registry of Admitted and Laid-Off Workers (CAGED), the Federal Labour Inspection System (SFIT) in addition to other information collected from workers' representation entities and NGOs.

The task of executing the projects defined by the CONITPA belongs to the CORITPAs. In the course of the year, the CORITPAs must carry out the actions previously planned, but must also be prepared to act in response to complaints made by workers and to demands made by the Labour Prosecutions Office.

### **3.2.2. Preventive actions**

Preventive actions are usually adopted at the beginning of an inspection process in a given economic sector or in relation to a deficiency that needs to be corrected. An information session is organized in order to present legislation and norms involving as many employers as possible. In these collective actions enterprises are informed of the diagnosis made by the inspection authorities and are also instructed on the inspection actions to be implemented. During planning, all the larger enterprises in terms of financial capacity are identified and are approached together for inspections so as to minimize competition distortions. When possible, the entity representing employers helps in the organization of the event. In other cases, a collective Term of Notification can be issued summoning employers to the session. After this form of counselling, unannounced labour inspections will necessarily take place in order to verify if enterprises are in compliance with the aspects of legislation discussed in the information sessions.

### **3.2.3. The inspection visit**

Inspection visits can be stipulated by the annual planning or can take place prompted by complaints made by workers, trade unions, by request of the MPT or other organs or entities interested in the issue. As a general inspection strategy, priority is given to inspections carried out by teams comprised of specialists in different subject areas. When necessary, they are accompanied by police support. Labour inspectors have the right to freely enter, with no previous warning, and at any time, all the sites subject to inspection.

In activities in which working conditions are considered precarious, inspection will initially give priority to items considered minimum standards for decent work, and to situations within the work environment that characterize grave and imminent hazards and risk of accident. Once these conditions are guaranteed, the final goal always consists of total compliance to the labour legislation.

### **3.2.4. Sanctions and administrative procedures**

If in the course of an inspection an infringement of labour norms is verified, the labour inspector can draft a notification stipulating a deadline for the correction of said infraction or he/she can issue a notice of infraction describing the facts that are not in accordance with labour norms. The notice of infraction initiates an administrative procedure in which the employer is given the right to present a defence. In case the defence is not considered acceptable the legally stipulated sanctions can be imposed. The labour inspector also can, in case an eminent or serious risk is detected, immediately order the interdiction or embargo of the working site.

### **3.2.5. The Follow-up**

After a period of inspection actions, the CORITPA can, whenever considered adequate, organise information sessions for the employers of the economic sector being inspected, with as much assistance as possible, from the entities which represent them. The goal of this measure is to make inspection a collective effort by answering questions employers might have, emphasising the continuity of inspections, and seeking a pedagogical approach in relation to other employers that have not yet been inspected.

In the cases in which administrative procedures were initiated, the follow-up will be useful in determining whether employers have adopted measures to adapt their practices to the norms. In case of renewed negligence, harsher measures can be applied or the evidence can be submitted to the MPT.



# PART II: A Sector-to-Sector Description of the Good Practices

## SECTION 1: MERCHANT SHIPPING AND THE NATIONAL MOBILE GROUP EXPERIENCE

### 1. Brief Description of the Practice

In the merchant shipping sector, the good practice which stands out is the utilization of the Special Group for Mobile Inspection of Port and Waterway Labour (*Grupo Especial de Fiscalização Móvel do Trabalho Portuário e Aquaviário*), also known as the National Mobile Group (*Grupo Móvel Nacional* - GMN). This group is a tool that has its own coordination mechanisms and is subordinated to CONITPA. In it, a group of labour inspectors from across the country are mobilised and assembled temporarily in order to carry out joint inspection operations in previously determined locales. In addition to inspections, the GMNs are organised so as to provide an opportunity for the exchange of information between inspectors from different states, with different levels of experience and different kinds of expertise. With this, GMNs are intended to promote the harmonisation of procedures<sup>17</sup> and the dissemination of practices in accordance to ILO Convention no. 178 concerning the inspection of seafarers' working and living conditions. The GMNs also maximize the potential of inspection activities, since they coordinate their actions with other public authorities, such as the Federal Police, the Navy and the ANVISA.

### 2. The Beginning of the Practice

The Special Mobile Inspection Group is originally an experience which began as part of the effort to combat labour in conditions analogous to slavery in 1995. The group started being employed as a broader inspection tool in the maritime sector in 1999 subordinated to SIT and in the context

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<sup>17</sup> Protocols, Standard Notifications, Procedure Checklists, Standard Interdiction Notice

of the consolidation of maritime inspection with the creation of CONITPA and of the CORITPAs. Initially, the GMN was employed in ports due to the highly charged atmosphere generated during the implementation of the Ports Modernization Law by the MTE. Originally conceived as a mechanism that would allow inspection task-forces to operate in hostile environments in which inspectors could be violently repealed by employers and even unsatisfied workers, this model evolved to become not only a mechanism of protection, but also a model for the dissemination of information and inspection practices in different parts of the country.

### 3. Context

Brazil has a fleet comprising 147 vessels in cabotage<sup>18</sup> and also in long distance itineraries corresponding to a total tonnage of 2,929,073 according to a publication by ANTAQ – the National Agency of Maritime Transportation in 26 October 2010. The country's eight thousand kilometre long coast harbours 40 authorized ports and 500 private docking terminals. In addition, the country also has an extensive inland waterway network. Moreover, this sector has been undergoing rapid economic expansion as the discovery of significant offshore oil fields reserves has led to a surge in the demand for new vessels for transportation and exploration. Currently, the Navy's registry indicates that there are 111,067 officials and crewmembers. Moreover, in Brazilian Jurisdictional Waters (AJB), there are more than 218 vessels flying foreign flags in the maritime and port sectors, mostly in activities related to the oil extraction industry.<sup>19</sup>

The vastness of Brazilian territory, the expansion of this economic sector and the practice of cabotage between ports located along the coast are a first set of factors which contextualise the actions of the GMNs. The second set of factors has to do with the impact of the ratification of two ILO Conventions relative to this sector, significantly determining the evolution of inspection during the last decades: Convention no. 147 concerning minimum standards in merchant shipping (1976) and Convention no. 178 concerning the inspection of seafarers' working and living conditions (1996).

<sup>18</sup> In maritime jargon, the navigation between ports within the same country.

<sup>19</sup> Based on the "Diagnosis on merchant shipping in Brazil" (manuscript). SIT/MTE.

### Box 3: Women in Merchant Shipping

Until the nineteenth century, the presence of women on board ships was considered a bad omen and the low number of women employed in the merchant shipping sector during the twentieth century perhaps suggests that this superstition evolved into a form of gender exclusion. This situation has been changing rapidly. In 2002, there were only 15 women registered as crew members of merchant vessels. This number has increased to approximately 3,300 women, meaning that today approximately 3% of the total merchant shipping workforce is female. This number tends to continue increasing since 30-40% of those enrolled in training courses for merchant shipping officers are women.

Aware of this tendency, Brazilian legislation and inspection have taken specific actions in order to adapt to the presence of women in the merchant shipping sector, such as establishing new requirements for separate and private accommodations and ensuring specific women's rights. In this sense, in October 2010, a group – comprised of representatives from the Presidency's Secretariat of Policies for Women, the National Council of Women's Rights, the National Union of Merchant Shipping Officials, the International Transport Workers' Federation (ITF) and from employers' associations – was created in order to discuss and draft proposals for the protection and expansion of women's rights in the sector.

Source: SINDMAR -- <http://www.sindmar.org.br/>

By ratifying Convention no. 147 in 1991, Brazil made several commitments relative to the creation of working, social security, and safety and health norms and to the investigation of complaints concerning working conditions on board national and foreign vessels, and, in the case, of the latter, the notification of measures taken is sent to the ILO and to the diplomatic representation of the country of the ship's registry. The convention's Annex also presents several specific recommendations to be followed by national legislation.

With the extinction of the DTMs in 1989, there was an institutional void where the maritime and ports labour inspection was not undertaken. This situation ended in 1996, with the creation of an inspection unit, the FITMARP, in Rio de Janeiro, which resumed inspection activities of merchant shipping vessels, both national and foreign, based on ILO Convention no. 147, its annexes and the ILO publication "Inspection of Labour Conditions on Board Ship: Guideline for Procedures."

In 1999, the inspection of merchant shipping vessels advanced an additional step with the creation of a specialised inspection structure (known today as the CONITPA and CORITPAs) and the approval of important specific norms stipulating conditions and standards in accordance with those specified by ILO Convention no. 147 (1976). In

1999 an Ordinance issued by the MTE<sup>20</sup> reiterated the guidelines of the convention, and three years later in 2002 a Regulatory Norm, the NR-30<sup>21</sup>, determined standards and procedures concerning occupational safety and health in the sector.

Initially, the Convention no. 147 served as a reference in the inspection not only of foreign vessels, but for national vessels as well. With the creation of an inspection structure and specific norms for Brazilian vessels, Convention no. 147 today is used mainly as an instrument for the inspection of foreign ships.

#### **Box 4: The Inspection of Foreign Vessels in Accordance to ILO Convention no. 147**

- Convention no. 147 focuses particularly on substandard foreign vessels, which are usually used in the transport of low value commodities.
- Inspection can be carried out upon complaints or if there is evidence that a foreign ship temporarily harboured in Brazilian ports does not comply with the dispositions of the Convention, regardless of ratification by the country in which the ship is registered.
- Most complaints involve decent work, deplorable conditions of living on board, such as lack of food and drinking water, delayed salaries and technical problems compromising the vessel's safety, navigation, the environment, and the lives of the crew. Many complaints are communicated by the International Transport Workers' Federation (ITF).
- In inspections carried out pursuant to Convention no. 147, inspectors concentrate their efforts on solving irregularities as quickly as possible, preferably during the ship's brief stopover at the port, or according to an acceptable action plan. A ship's docking period is only extended in extreme cases. The detention of a ship must be employed with sever caution, since especially when the cargo has a low aggregate value, the flag is of convenience, and the employer is omissive, there is the possibility of the ship and its crew being abandoned.
- These actions are carried out in conjunction with the Navy and the Federal Police and a notification must be sent to the diplomatic representation of the country in which the vessel is registered.

<sup>20</sup> Ordinance 210/2010, on the inspection of norms concerning protection of working and living conditions on board vessels stipulated by Convention no. 147.

<sup>21</sup> In fact, Regulatory Norm no. 30 concerning safety and health in Waterway Labour extends required standards by establishing several detailed parameters related to food, hygiene, accommodations and other facilities. It also establishes an On Board Safety and Health Group (GSSTB), comprised of crew members, responsible for monitoring, debating and recording conformity to safety and health norms on board. It also establishes an Internal Commission for the Prevention of Accidents (CIPA) which aims to implement practices that help avoiding accidents as well as suggesting new guidelines.

In 2007, Brazil ratified ILO Convention no. 178 (1996), which established new parameters for the Brazilian labour inspection system, among which the following are the most relevant:

- the carrying out of inspections of all national vessels more than 500AB/ gross tonnage<sup>22</sup> at intervals not exceeding 3 years (Article 3, item 1) and within three months if substantial modifications are made to the vessel's construction or accommodations (Article 3, item 3);
- the formulation and submission of an inspection report of each vessel to the ship's master and another copy to the seafarers and their representatives (Article 8);
- the creation of a specific structure<sup>23</sup> for maritime labour inspections in which the inspector are empowered with independence and autonomy (Article 5).

In sum, these changes require the Brazilian inspection system to become more structured (which started being achieved with the creation of the CONITPA and the CORITPAs) and to enhance planning capacities, since inspections are no longer carried out solely based on complaints. This is the context framing the activities of the GMNs, which will be described below.

## 4. The National Mobile Group

The general mobilization strategy of the National Mobile Group is shaped by the need to manage the extension of the Brazilian coast and the practice of port-to-port cabotage. One of the priorities of the GMN is to pursue the harmonisation of inspection procedures, since it is not desirable that the same ship is inspected with different procedures and standards at each different port. During the inspections carried out by the GMNs, conformity to the ILO Convention no. 178 is verified and during the GMN's period of operation there are training sessions for inspectors with the purpose of training them how to apply the convention in other routine inspections.<sup>24</sup>

Inspections are usually carried out during one-week periods and can encompass several related subjects (Convention no. 178 and the inspection of oil rigs, for example) and the simultaneous inspection of different sectors (such as fishing and naval construction).

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<sup>22</sup> Gross tonnage (GT) refers to a vessel's volume capacity.

<sup>23</sup> In the Convention's terminology, a central coordinating authority.

<sup>24</sup> Although the inspections carried out by the GMN in the merchant shipping sector do not aim at the immediate enforcement of the disposition of ILO Convention no. 147 (given that these inspections depend on previous complaints), one of its goals includes training inspectors to conduct inspections according to the Convention's dispositions.

#### 4.1. ANNUAL PLANNING

The GMN is an inspection project linked to the SIT and submitted by CONITPA, which centralises its actions according to the criteria established by the new work methodology adopted by the Brazilian labour inspection (Ministerial Ordinance 546/2010). At the beginning of the fourth quarter of each year, the National Coordinator of Ports and Waterway Labour Inspection submits to the SIT a plan containing a schedule for inspection activities to be implemented by the GMN the following year. This plan includes the number of operations, the sites where they will be carried out, participating labour inspectors and the financial resources needed for expenses with transportation and stipends. The Group's Coordinator is in charge of turning the plan operational and indicating which inspectors will comprise the GMN.

The justification for the actions of the GMN follows the guidelines of the SIT and an assessment of the support required by the CORITPAs. In addition, the locales or the activities which require enhanced inspector training and/or greater harmonisation of procedures are identified. Annual plans usually stipulate a number of inspections per GMN, giving priority to economic sectors or regions where inspection deficits have been identified.

#### 4.2. THE CONSTITUTION OF THE GMNS

Once the necessary resources are secured, the CONITPA designates, in accordance with the GMN Coordinator, the participating inspectors, the activity schedule and the focus of the operation. The SIT informs the SRTEs beforehand which of its inspectors will comprise the GMN and also notifies the authorities of the state in which the inspection will be carried out. Exceptionally, the GMN can be constituted covertly so as to not jeopardize its success. The GMN project also stipulates that 50% of its participants must have entered the labour inspection career recently, aiming at the sustainability of the maritime labour inspection.

The composition of the mobile group usually conforms to the following parameters:

- 1 coordinator, usually a more experienced labour inspector. It is the coordinator's responsibility to conduct the coordination with other agencies, to lead the previously planned activities, to act as spokesperson for the group and to draft reports;
- 4-5 labour inspectors. This number can increase depending on the scope and complexity of the action. The origin and expertise of each inspector (labour legislation, occupational safety and health, etc)

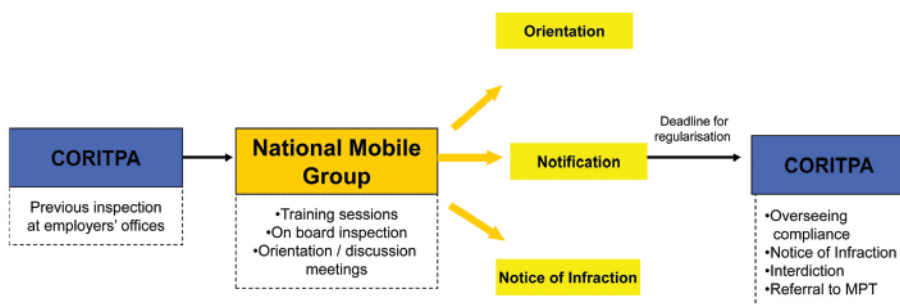
depends on the peculiarities of each operation and is evaluated on a case-to-case basis by the CONITPA and by the Group's Coordinator;

- A number of labour inspectors from local CORITPAs and of inspectors who have been recently admitted into the career. As mentioned, there is a 50% quota for less experienced inspectors;
- The Navy, the ANVISA, the Federal Police, Labour Prosecutions Office and occasionally the media, participate in GMN operations depending on their particularities.

Once the GMN is constituted, planning and inspection of the actual operation is conducted.

## 5. The GMN's Action Strategy

*Figure 4: Step-by-step of GMN operations*



### 5.1. PLANNING AND PREPARATION FOR INSPECTION ACTIVITIES

- Data collection

In the planning for the inspection of vessels subject to Convention no. 178 (all those with more than 500 gross tonnage), the inspection utilizes the listing of vessels registered by the Port Authority and all those listed by the National Agency of Waterway Transport, which comprises all enterprises with authorisations to operate within Brazilian Jurisdictional Waters organised by name of enterprise and category of navigation. Vessels with less than 500 gross tonnage are inspected solely upon complaints.

In addition, planning must take into account the itinerary being followed by each vessel. As opposed to other modalities of navigation in which vessels use only one port, national vessels in cabotage stop at ports located in different states, rendering the planning and executing of inspections a more complex task.

Another important aspect of planning concerns coordination with other public authorities which also have inspection capacities, such as the ANVISA and the Navy.

- Preliminary meetings

The GMN working schedule usually begins with a session in which theoretical knowledge and practical experiences are exchanged among labour inspectors participating in the GMN. This is also an opportunity to present and debate tools used during inspections, such as protocols, standardized notifications, etc (for an example of a protocol see Annex 2).

## 5.2. THE ON BOARD INSPECTION OPERATIONS

The standards required by Convention no. 178 are inspected in part at the offices of the enterprises which own the shipping vessels and in part within the vessels themselves. The GMN operates mainly in on board inspection, focusing on items that require on site inspection. Previous inspections are conducted by the CORITPA at the enterprise offices. This avoids unnecessary delays for the vessels being inspected.

On board the vessels, the labour inspector will conduct a physical verification of the vessel, interview seafarers, examine documents, and inspect living and working conditions in order to ascertain conformity with legislation, particularly Regulatory Norm no. 30, concerning occupational safety and health.<sup>25</sup>

At the end of the visit a notification is drafted pointing out any non-conformity to norms and containing suggestions and recommendations. The labour inspector can also immediately proceed to issuing a notice of infraction if he/she verifies that irregularities listed by previous notifications have not been corrected.

After the deadline specified in the notification, which is determined according to an estimate of the ship's return to the port of inspection, labour inspectors from the local CORITPA who participated in the GMN will verify conformity to the requirements notified. In the case of persistent irregularities, a notice of infraction can be issued or harsher

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<sup>25</sup> Another aspect observed during inspection concerns conformity to minimum percentages of Brazilian workers in foreign chartered vessels by national companies, pursuant to requirements stipulated by the National Council of Immigration (CNIg). According to its Normative Resolution no.72 oil tankers which remain within Brazilian Jurisdictional Waters for more than 90 days must be crewed by a proportion of Brazilians equivalent to two thirds. This requirement also applies to foreign fishing vessels.

measures can be adopted (submission to the MPT, interdiction of equipment, or, in extreme cases, detain the ship in cooperation with the Maritime Authority).

### 5.3. CONCLUSION OF ACTIVITIES

During the last day of activities, the Group holds a meeting to evaluate the operation and continue with the experience exchange and fact sharing. By the end of the week's work, the coordinator must also submit a brief report of the activities to the SIT, complemented subsequently by a complete report that must be submitted within 15 days of the GMN's conclusion.

## 6. Results

The Brazilian system of maritime labour inspection has set the goal of carrying out two GMN inspections per month. In 2010 this goal started being achieved in April.

The adoption of the GMNs has had three major effects:

- 1. The harmonisation of procedure:** the experience has led to the formulation of standardised protocols<sup>26</sup> which have been used in inspections in all states,
- 2. The dissemination of good practices among labour inspectors and regional units (CORITPAs):** as a consequence of the GMN actions it has been possible to provide practical training for recently admitted labour inspectors in different states of the federation effectively and at a low cost. Furthermore, the GMNs have facilitated the dissemination of successful practices carried out in states where inspection is more advanced to less developed states in the area. An example of this is the GMN operation conducted in 2009 close to the Campos offshore oil fields in the state of Rio de Janeiro, in which labour inspectors from the Northeast region directly observed the good practices developed by the local CORITPA.
- 3. Enhanced awareness of employers concerning the need to conform to norms in all parts of the country:** GMNs serve to present to employers and workers the requirements of ILO Convention no. 178 in a similar manner. This approach facilitates posterior inspections and creates an environment of cooperation.

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<sup>26</sup> This protocol has been included as Annex 2 to this document.

## 7. Innovation

One of the main innovations entailed by this practice concerns the broader perspective with relation to how inspections should be carried out. Rather than conceiving of each CORITPA as an isolated unit, subordinated uniquely to the general guidelines established by the Central Coordination, the GMNs reflect a broader and more integrated approach to inspection. In this approach, the effectiveness of an inspection depends on coordination and communication among regional units. Successful experiences are acknowledged and a mechanism for their dissemination is made available. This integrated perspective is also reflected in the possibility of one GMN operation be involved in the inspection of different correlated areas simultaneously: for example, in 2010, the GMN inspected during the same operation fishing and naval construction in the state of Pará.

Another innovation concerns the fostering of the exchange of experiences among different public authorities which oversee distinct yet related aspects of merchant shipping. As in Brazil several different government agencies inspect aspects related to maritime activities, the GMN allows for greater coordination and integration among them and also creates an effective channel of communication. This coordination includes both planning and the actual carrying out of inspections.

## 8. Lessons Learned

The GMN in the merchant shipping sector has enabled the development of standardised protocols and reporting tools that guarantee a greater internal coherence between the different components of the inspection structure. An important lesson consists of paying attention to the most frequently faced issues during inspections or the cases of most severe inobservances. The identification of these issues should guide the creation of harmonized procedures.

At the same time, tools developed through harmonization should not be too rigid or serve as an only point of reference to the inspector. Labour inspectors must always be granted a certain measure of autonomy, with such tools serving as important references. Protocols and other instruments should be complemented by the labour inspector's freedom to carry out inspections according to his/her professional judgement and the context of the inspection.

An important positive consequence of this process concerns employers. The more harmonised procedures are, the easier it is to adapt to required standards. This fosters a positive environment for compliance. Better knowledge of international standards has also led to changes in the entrepreneurial culture in the sector. Employers must be prompted to prefer conforming to international standards and to perceive this as an advantage in the international market.

## 9. Sustainability

The success of the GMNs in the dissemination of good practices and their role in the exchange of knowledge among labour inspectors of different states and with different levels of experience contributes for its consolidation as a permanent inspection tool in Brazil.

The GMN experience engenders a positive trickle-down effect of information exchanges – less experienced inspectors learn from more experienced ones; those who participate in GMNs return to their regional units and disseminate the experiences and knowledge acquired during the operation.

The sustainability of this practice is also due to the fact it the GMN has proved to create greater knowledge of ILO ratified conventions. It should also have an important role in disseminating information on other conventions – such as the Maritime Labour Convention, which consolidates previous conventions.

## 10. Replicability

The adoption of a “light” and flexible model of inspection implies low-costs, an important factor when considering the replicability of a given practice within other contexts in which the number of inspectors and the availability of resources is not always compatible with needs and territorial size. This practice, moreover, can be adapted to different contexts and put to use in different sectors.

The fact that the GMN is a model based on the Special Mobile Inspection Groups for the rescue of workers found in conditions analogous to slavery demonstrates that this is an adaptable and replicable practice according to specific necessities of a sector or a country.



## SECTION 2: FISHING – COORDINATION FOR STRATEGIC ACTION

### 1. Brief Description of the Practice

The good practice identified in the fishing sector concerns the Brazilian labour inspection system's actions aimed at increasing and improving coordination with other government agencies, such as the Ministry of Fisheries, the Ministry of Defence, the Ministry of the Environment among others capable of providing crucial information for planning as well as of providing assistance during inspections. Fishing is a diverse economic sector, in which modern enterprises using sophisticated technologies and large vessels coexist with small scale fishermen, who have been using the same techniques for centuries. On one end, there are enterprises that are highly professionalized and inserted within a globalised production chain; on the other end there are small companies whose workers straddle the borderline between work and subsistence, often in precarious work conditions. These characteristics make it impossible to adopt a single strategy and requires from the labour inspection intense planning preceded by a thorough mapping of the sector so as to allow for the specific approaches to each kind of fishing activity.

### 2. The Beginning of the Practice

This practice is the result of gradual incremental efforts and thus cannot be traced to a single date. However, it began taking shape with the creation of the CONITPA in 1999 and has been evolving ever since with the intensification of inspections in the fishing sector. An important turning point was the formalisation of a cooperation agreement between the MTE and Ministry of Defence in 2002.<sup>27</sup>

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<sup>27</sup> Inter-Ministerial Ordinance MTE/MD no. 80, 16 December 2002.

### 3. Context

Fishing may be characterized as a high-risk activity, in which hazards rates are elevated and unreported. In addition, workers are usually poorly trained for accident prevention. It is furthermore, a highly heterogeneous sector, comprising both **open-sea / industrial fishing**, which employ larger vessels equipped with several sophisticated instruments and specialised workers, and **coastal/ commercial small scale fishing**, in which there is greater informality. In this latter modality, traditional forms of working relations are often adopted, meaning that many boat-owners / small entrepreneurs do not formally register all of their employees, blurring the lines between subsistence fishing and commercial fishing.

In Brazil, the actions taken by the labour inspection have reached a higher pitch due to the economic expansion of this sector and also due to State policies aimed specifically at stimulating the fishing industry. The creation of a national Special Secretariat of Aquiculture and Fisheries, in 2003, and its transformation into a Ministry of Fisheries, in 2009, is an example. The Ministry has acted decisively as an effective galvanizer of the employers and workers in this sector.

At present, **open-sea / industrial fishing** in Brazil takes place mostly in vessels registered nationally, being that most industries are located in the state of Rio Grande do Norte. Some foreign vessels have been leased by national enterprises in order to guarantee that Brazil attains the quotas of capture established internationally. Foreign enterprises have also become involved in order to train workers and introduce fishing technologies (see box below). This increase of fishing capacity is crucial given international treaties which regulate the sector and which can put at risk exclusive fishing rights if a country does not reach certain capture quotas. For this reason, since Brazil lacked a sophisticated fishing industry, at first foreign enterprises and vessels played an important role that did not always grant the working condition on board in accordance to minimum decent work standards.<sup>28</sup> The states of Santa Catarina, Pará, Rio de Janeiro, and Espírito Santo, among other, also have significant levels of industrial fishing.

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<sup>28</sup> Diagnosis on Ocean Fishing. SIT / MTE. Brasília. (no date).

**Box 5: Training of National Workers and the Resolutions of the National Council of Immigration - CNIg**

- The National Council of Immigration – CNIg – is a tripartite body attached to the MTE and is responsible for coordination of the Brazilian immigration policy. The Council has passed specific regulation for the fishing sector (Normative Resolution no. 81, October 2004). This normative resolution requires foreign vessels operating in Brazil to contract a minimum of two thirds of Brazilian crew members – this proportion being applicable to all level and functions on board. This means that, when necessary, employers have to provide training and qualification for Brazilian workers at all levels.
- In addition to becoming an important tool in order to guarantee the training of the Brazilian work force in the fishing sector, the minimum percentage requirement facilitates and renders inspection more effective. Pursuant to Convention no. 147 labour inspectors have restricted jurisdiction over foreign seafarers. However, Brazilian nationals present in foreign vessels are subject to Brazilian norms. Therefore if foreign vessels have a majority of Brazilian nationals subject to the national legislation, the foreign crew members end up being indirectly benefited.

With respect to **commercial coastal fishing**, the main issue confronted by inspection is a deep-seated culture which insists on portraying small scale commercial fishing as subsistence or self employment fishing, which is not subject to labour norms or safety and health standards. Inspectors are often led to decide whether a specific situation in fishing is an employment relationship or a means of subsistence/self employment that is not subject to labour relation norms. Frequently, fishermen would rather not have formal contracts and prefer to remain as informal workers and cooperate with employer in ruses to avoid inspection or to disguise employment relationships so that they can receive the unemployment insurance of the closed fishing season, when the stock of some species are protected.

**Box 6: The Primacy of Reality Principle**

- Brazilian labour law is guided by the principle of the *primacy of reality*, which means that concrete situations, and not only formal aspects, must be taken into account in order to establish if a working relationship exists. This principle is particularly important in the fishing sector, in which labour relations are often disguised as different cooperation arrangements or partnership contracts.
- Articles 2 and 3 of the CLT stipulate that if the following attributes are verified – personality, non-eventuality, subordination, and rewarding – a labour relationship will be configured.
- Partnership contracts are a mode of remuneration used in the fishing sector in Brazil and in other parts of the world in which the catch is divided among fishers and the owner of the fishing vessel. Usually the owner receives the largest share. The Brazilian legal order acknowledges this practice but considers that it does not exempt employers from conforming to labour norms.

The extinction of the Maritime Labour Precincts in 1989 led to the interruption of maritime inspection which entailed the worsening of working conditions in the fishing sector. It was only in the mid 1990s that the maritime labour inspection initiated its trajectory of consolidation. This coincided with public initiatives in the sector, creating shared interests for coordination.

During this new phase, the MTE designed a policy based on the convergence of the efforts of several government agencies, private sector actors and labour representatives. It has placed great emphasis on social dialogue and resource efficiency.

## 4. The Inspection Strategy

The general strategy adopted by the Brazilian inspection system in the fishing sector is divided into two fronts.

The first one focuses on more sophisticated and larger **industrial fishing** vessels, such as those used in open-sea fishing. In these cases, inspection verifies minimum conditions of decent work and also the full extent of safety and health standards established by Annex I of Regulatory Norm no. 30.

A second front of inspection gives priority to the identification and inspection of **vessels that are not as modern**, focusing primarily

minimum decent work conditions. Smaller vessels are used in less professional fishing activities in which the culture of informality and resistance is more commonly found and where conditions tend to be precarious. For this reason a separate listing of vessels less than 20 gross tonnage (GTon) is elaborated since they are not obliged to undergo a periodic inspection by the Navy, but still carry out activities in commercial and even industrial fishing; thus most clandestine vessels are in this category. Moreover, workers eligible for the unemployment benefits during the fishing prohibition season,<sup>29</sup> those most likely to work informally, tend to be located in smaller than 20 GTon vessels.

Within each category, inspections are planned based on databases available, so as to begin usually with the vessels employing a larger amount of workers, since they are more capable of conforming to extant norms. This strategy also avoids competition distortions. These actions are complemented by on site random inspections since some vessels are entirely clandestine and cannot be located during planning and mapping.

#### 4.1 COORDINATION WITH OTHER ACTORS

As described above, inspection in the fishing sector requires coordination and information exchanges with other government agencies in order to facilitate the identification of the main employers within each category (above and below 20GTon). The most important actors are:

- The **Ministry of Defence**, through its Maritime Authority, is the actor, which among other attributes, defines the national maritime policy which aims to safe navigation and protects human life at sea. It determines the Minimum Safe Manning Certificate which informs the minimum number of crew members in order to ensure safe navigation. Larger vessels (above 20GTon) must periodically present a listing of crew members in order to fill in this certificate. This listing can be cross-checked with the MTE database and is used in the course of inspections. In addition, a formal agreement (Inter-ministerial Ordinance no. 80/2002) determines that the MTE and the Ministry of Defence must commit to exchange information of irregularities detected during inspections. This means that if a labour inspector verifies a safety or navigation irregularity which concerns the Maritime Authority he/she should notify it. If

<sup>29</sup> Unemployment benefits during the fishing off-season aim to ensure the livelihoods of artisan fishermen during the periods of fishing prohibition in order to protect the stocks of a species. This is necessary for small-scale fishermen as they have no formal working contract or fixed salaries. However, it is common to find fishermen who work informally in order to remain eligible for this benefit.

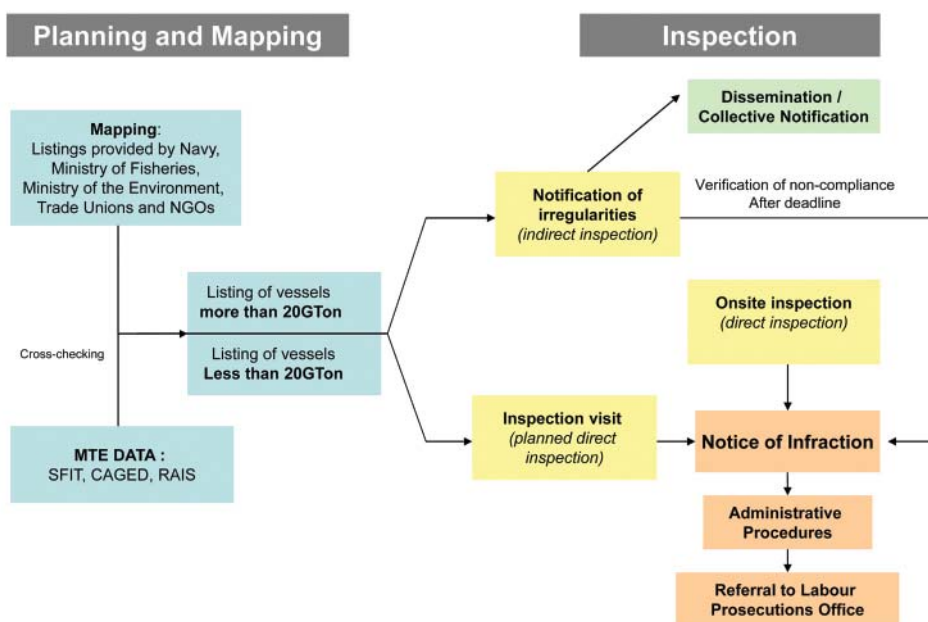
a Maritime Authority agent notices evidence that labour norms are not being followed, he/she should notify a labour inspector. Lastly and importantly, coordination with the Ministry of Defence is essential since it provides vessels used during on site inspections and also the crew to operate these vessels.

- The **Ministry of Fisheries (MP)** has the authority to regulate fishing activities and is also responsible for the government's stimulus and credit policy in the sector. Therefore it has a formidable capacity to accumulate information on the sector. One of the most important tools used by labour inspection is the general listing of all vessels with fishing authorizations issued by the Ministry of Fisheries. In addition, this ministry has a subsidy program for diesel boat fuel, one of the big costs of the operation. This listing is extremely useful since there is significant demand for financial support in the sector, especially on the part of smaller vessels which are otherwise undetectable (clandestine vessels). The MP also has a keen interest in the inspection of clandestine vessels as they are responsible for much of the predatory fishing which damages fishing stocks.
- The **Ministry of the Environment (MMA)** conducts environmental inspections in the fishing sector (the control of fishing quotas, off-season prohibitions, etc.). In this regard, the MMA has developed a sophisticated system of remote surveillance, the National Program for the Satellite Tracing of Fishing Vessels (*Programa Nacional de Rastreamento de Embarcações Pesqueiras por Satélite* - PREPS). This system allows real time location of vessels through the Global Positioning System (GPS). This makes it possible to: 1) provide greater security to fishermen on board in case of accidents, facilitating the work of rescue teams; 2) monitoring the trajectories of vessels in real time; 3) monitoring the activities of authorized boats and the use of diesel fuel subsidies; and 4) assisting the inspection of other agencies, including the MTE.<sup>30</sup> This form of monitoring, however, is limited to larger vessels in the industrial and commercial fishing.
- **Trade unions and NGOs** also contribute with crucial information and can indicate specific problematic areas that are not detected in listings and mapping. The indications of these actors are useful specially in identifying vessels in precarious conditions.

<sup>30</sup> [http://www.engecarga.com.br/v2/downloads/Programa\\_Nacional\\_de\\_Rastreamento\\_de\\_Embarcacoes\\_Pesqueiras.pdf](http://www.engecarga.com.br/v2/downloads/Programa_Nacional_de_Rastreamento_de_Embarcacoes_Pesqueiras.pdf)

The planning and inspection procedure in both fronts is essentially the same. What differs, as mentioned above, is the source of information used in order to identify vessels and the focus of the inspection. The figure below illustrates these procedures:

Figure 5: Step-by-step of inspection procedure in the fishing sector



## 4.2. PLANNING AND COLLECTION OF STRATEGIC INFORMATION.

- The identification and mapping out** of vessels based on listings provided by the Navy, the Ministry of Fisheries, the PREPS (MMA), unions and NGOs. These listings contain information concerning the size of vessels and registered crew members.<sup>31</sup> In view of the two fronts of inspection (one focusing on vessels less than 20G Ton, the other on vessels more than 20 G Ton) two separate listing spreadsheets are elaborated, ordering vessels according to size.

<sup>31</sup> The Brazilian Navy requires registration of a minimum number of crew members in order to ensure the safety navigation on every vessel.

2. **The planning** of inspection begins with the identification of largest employers within each category, since these have greater capacity to conform to norms. Inspection of larger vessels is carried out simultaneously in order to avoid interference in competition.
3. **Data is cross-checked.** The data from the listings assembled in the first step is cross-checked with databases compiled by the MTE with information on workers, employers, the fulfilment of obligations, and the history of inspections. The Federal System of Labour Inspection (SFIT) is used to access the history of inspection of each vessel or enterprise, and contains information on compliance to previous notifications and fines levied in the past. This information is complemented by the General Registry of the Admitted and Laid-Off Workers (CAGED) and the Annual Social Information Report (RAIS) in order to verify if the workers listed as crew members are identified as employees and whether their labour and social security rights are in conformity. In other words, a preliminary assessment is conducted with regards to the compliance of labour relation duties.

#### 4.3. NOTIFICATIONS (INDIRECT INSPECTION).

4. If any irregularities are verified, a **Notification of Vessels with Indication of Irregularities** can be issued and sent to the offices of vessel owners, to its accountants, or employers can be summoned to the inspection's offices. Employers must at this occasion prove that measures have been taken to correct irregular situations and that all employees listed in other agencies have been formally contracted and are in compliance with labour laws.
5. Subsequently, a **collective notification** is issued and publicised for all those in the sector reporting the problems verified. In addition, information sessions involving representative entities of employers and workers are organised in order to clarify norms and legislation. These actions are taken with aims to present a deadline for the correction of irregular situations and in order to prepare the sector for the next step of inspection consisting of on site inspection on board vessels and at ports.

#### 4.4. INSPECTION VISITS (DIRECT INSPECTION).

6. Unannounced **inspections** on board vessels previously identified and singled out due to likeliness of non-compliance are conducted.
7. In cases in which on board access is impossible, inspections are carried out at ports. Smaller vessels will be inspected in order to

verify whether minimum standards of decent work are being followed while larger vessels will be verified for compliance to all labour norms, including the Regulatory Norm no. 30 concerning safety and health standards.

8. Inspection visits require crucial **coordination with other government agencies** given the need to use support vessels, security and the ability to locate vessels through the PREPS system when needed.

#### 4.5. INSPECTION REPORTS

9. As in general inspection procedures, a report must be drafted and submitted to the Federal Labour Inspection System (SFIT) once the operation is concluded.

### 5. Result

Between 2006 and 2010, 936 fishing vessels were inspected, being that 471 notices of infraction were issued. Starting in 2010, the evaluation of inspection in the fishing sector will be based on indicators and goals that are established according to the fishing seasons.

As a significant result of coordinated inspections in states such as Pará there have been important advances in eradicating informal labour contracts such as partnership agreements. Coordination with other agencies and with other states, such as the state of Ceará, has allowed for the identification of clandestine vessels that had been registered in other states.

Another positive result achieved through coordination has to do with the eradication of child labour in the fishing sector, considered in Brazil one of the worst forms of child labour, in accordance with Convention no. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999). In 2010, the CONITPA, in coordination with the Navy, the Ministry of Fisheries, the MMA, and the Federal Police assisted by the MTE's division of child labour eradication, carried out inspections in the state of Rio de Janeiro. During the operation, in addition to taking action against the precarious working conditions found in some vessels, children were found working as divers, untangling fishing nets from motor propellers. The children were submitted to the care of social assistants and the employers were fined.

## 6. Innovation

The main innovation identified in this good practice concerns the “intelligence” work and strategic planning in coordination with other actors. This work allows for the formulation of separate lists elaborated according to the twofold approach adopted by the Brazilian inspection. As the interests of different government agencies become more aligned, the exchange of information, the use of technology and integrated action constitute an effective innovative practice.

“Intelligence” action is complemented by coordination with other agencies during inspections. The Navy has an important logistical role during operations and also in ensuring the security of labour inspectors, especially when approaching smaller vessels that could offer some resistance to the inspection.

## 7. Lessons Learned

Based on this experience the lesson to be learned is that effective strategy requires the active engagement with other agencies involved in the sector. Although a wide variety of data is originally collected for different purposes, inspectors must be able to identify and collect potentially useful data and cross check it with other sources and thereby create a detailed diagnosis of the sector to be inspected.

The “intelligence” work has other beneficial effects. By accessing a larger mass of information, the maritime labour inspection can rationalise its actions and prioritise certain segments, avoiding competition distortions and lack of cooperation by employers.

The inspection’s efficacy in the fishing sector also depends on the capacity to maintain a synchronicity between development policies, environmental control, and labour inspection. Without cohesion between the agencies responsible for each one of these aspects, there is the possibility of non-cooperation and the absence of important information.

## 8. Sustainability of the Practice

While the fishing sector expands, not necessarily followed by an increase in the number of inspectors, the “intelligence” and planning capacity becomes even more crucial to compensate for this operational gap. Therefore, the sustainability of this practice will depend greatly on the how deep the level of cooperation with other governmental agencies will be, which in turn depends on how integrated their information systems are and by their level of reliance on technology.

Finally, the sustainability of the practice can also be guaranteed to the extent in which labour inspection takes advantage of the infra-structure of other organs which tend to grow at a faster pace.

## 9. Replicability of the Practice

In Brazil, the replicability of this practice is verified by the dissemination of the “intelligence” work in the CORITPAs and in the increase of information exchange between the CORITPAs and CONITPA. The strategy to invest in “intelligence” and planning optimizes resource utilisation and rationalises the inspection of properly registered vessels leaving more time and resources for the inspection of illegal ships not detected by the information cross-checking methodology.

Internationally, this good practice offers a low-cost solution, demanding only more coordination between existing agencies and the mapping of information which is already available. Also, the “intelligence” work is adequate to deal with the more developed segments of the fishing sector as well as the less developed ones, and allows for the prioritization of more efficient actions.

Among the benefits of making the actions integrated with other organs, one is the use of infra-structure and personnel that already exists (police officers, inspectors from other sectors, approximation vessels, etc). Considering that the inspection-resistant culture is common to fishermen in other parts of the world, resorting to authorities with similar functions can facilitate the action of inspectors and improves the replicability of this practice.



(2) (3)



Photo: CONITPA/SIT/MTE

## **SECTION 3: NAVAL CONSTRUCTION – INNOVATIVE SOCIAL DIALOGUE OF THE NAVAL TRIPARTITE COMMISSION**

### **1. Brief Description of Practice**

The ILO has, for a long time, recommended the adoption of tripartite models in labour inspection structures. Tripartism, one of the fundamental pillars of the organisation, is one of the most emphasized elements by the ILO and is present in many of its conventions and recommendations,<sup>32</sup> highlighting social dialogue not only as a goal, but also as a tool. In the inspection of the naval construction, the Tripartite Commission on the Work Conditions in the Naval Industry (CT-Naval) was identified as a good practice, which incorporates this ILO recommendation and has led to significant improvements in the sector's working conditions. The dialogue process within the Commission culminated in the elaboration of the Regulatory Norm no. 34<sup>33</sup> on the environmental and work conditions in the naval construction and repair industry.<sup>34</sup>

### **2. The Beginning of the Practice**

The CT-Naval was officially created by the MTE on 31 January 2008.<sup>35</sup> Before its establishment, workers' and employers' representatives were already meeting informally with representatives from the Secretariat of Labour Inspection (SIT). Right after the creation of the CT, the members began having monthly meetings to elaborate guidelines, while additional meetings were scheduled when necessary.

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<sup>32</sup> Examples are the Convention no. 151 concerning the Protection of the Right to Organize and Procedures for Determining Conditions of Employment in the Public Service and the Convention no. 181 concerning Private Employment Agencies.

<sup>33</sup> The full text of NR-34 is available at: [http://www.mte.gov.br/legislacao/normas\\_regulamentadoras/default.asp](http://www.mte.gov.br/legislacao/normas_regulamentadoras/default.asp)

<sup>34</sup> Differently from the previous good practices, in the case of naval construction, the focus will be on the dialogue process and the elaboration of the NR conducted by the CT-Naval.

<sup>35</sup> MTE Ordinance no. 64 of 30 January 2008, published in the Diário Oficial da União on 31 January 2008.

### 3. Context

#### 3.1. THE NAVAL CONSTRUCTION SECTOR

The Naval Construction sector is undergoing rapid expansion due to the growing demand caused by the discovery of new oil reserves. Enormous sums for building ships and offshore oil rigs are being invested, reviving a sector that suffered a long period of stagnation.

As a result, more than 45,000 new jobs were created in shipyards in the last ten years: in 2000 there were around 2,000 people working in naval construction and in 2010 this number reached approximately 50,000. The speed of this expansion also led to an increase in the number of accidents: between 1997 and 2006 there was a threefold increase in the number of accidents, making the sector a priority for labour inspection<sup>36</sup>.

The repair and construction activities of vessels – which include: assembling, welding, sandblasting, painting, emery polishing among others – represent a high risk to the life of the worker. These activities combined with others factors such as the size of the structures, enormous contingent of workers involved, simultaneous services, confined spaces, high altitude, and the presence of several diverse risk factors (noise, radiation, heat, chemicals, etc), make labour inspection crucial in guaranteeing the protection of workers.

Another historically worrisome attribute of this sector is the repeated excess of overtime hours, considered by the labour inspection as a factor directly related to the occurrence of work accidents. The fatigue caused by this irregularity is frequently to blame for serious accidents with loss of human lives.

These risk factors are aggravated by the intense utilisation of subcontracting as a modality for the hiring of workers, which makes it difficult to make the shipyard accountable for maintaining safe work and health conditions. One of the main concerns of labour inspection in naval construction is, therefore, the regularisation of work relations in shipyards, since historically small companies are responsible for performing the majority of services. The small enterprises, frequently lacking proper documentation to operate, tend not to register their workers, not to uphold rights guaranteed by current legislation, and to not provide work conditions that adequately protected the workers' safety and health.

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<sup>36</sup> “Diagnóstico sobre trabalho aquaviário – estaleiros”. 2010.

This generated a considerable deterioration of work conditions and judicial security for the workers and for the shipyards as well, since they are responsible for the rights of these workers, when other smaller businesses are insolvent and thus unable to pay duties. In the cases where the inspection found unregistered workers hired by companies without proper operating licenses, the company that received an infraction notice became the party who hired their services, the shipyard itself.<sup>37</sup>

### 3.2. THE NEED FOR REGULATION

Facing this deteriorating scenario where the inspections were not effectively reducing the number of work accidents and the practice of subcontracting, the initiation of broader discussion within the sector, which included senior shipyard's managers, was acknowledged as a positive step. This was done within the framework of the tripartite social dialogue established by the MTE, and aimed at formulating a Regulatory Norm that would address the issues of the naval sector strengthening social dialogue.

Regulatory Norms (NRs) are norms on occupational safety and health and are compulsory for all public and private enterprises and public entities which have workers registered under the CLT. The NRs describe the necessary procedures to decrease the risk of accidents, diseases, and other harm in specific economic activities or in the manipulation of substances and equipment operation that pose serious risks to the health and integrity of the worker (precisely the case of the naval industry).

Currently, there are 33 NRs, covering issues that range from environmental risk prevention programmes (NR 09) and open-air work (NR 21) to occupational safety and health in specific sectors, such as the construction industry (NR 18) to waterway transportation (NR 30).

These norms are elaborated with the coordination of the Permanent Tripartite Parity Commission (CTPP), based on the tripartite model recommended by the ILO and composed of government, employers' and workers' representatives. The CTPP receives demands from the SIT and from representatives belonging to different sectors and according to what it judges necessary, begins the process of creating an NR. The NRs are used by the inspectors as a mandatory parameter to inspect a work environment.

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<sup>37</sup> The SIT elaborated a Technical Note (no. 97/2008) showing an increase of subcontracting and evaluating its negative impacts.

### 3.3. THE CTPP AND THE ELABORATION OF REGULATORY NORMS

As mentioned previously, in the Brazilian inspection system, the principle of social dialogue is present in the Permanent Tripartite Parity Commission (CTPP),<sup>38</sup> created as a channel for dialogue concerning occupational safety and health with workers' and employers' representatives. The CTPP performs several functions, including designating Technical Groups (GTs) that will contribute to the formulation of Regulatory Norms, in which specific safety and health standards are discussed and agreed upon. Once they define what areas the CTPP will address, the process of elaborating a NR is initiated:

- 1. Creation of a Technical Group (GT).** According to the usual procedure adopted by the CTPP, the GTs are composed of inspectors specialised in occupational safety and health, FUNDACENTRO representatives – an occupational safety and health research agency linked to the MTE – and members of organisations of public and private law related to the specific sector. The GT's objective is to elaborate a basic technical draft of the NR.
- 2. Public Consultation.** After finalising and publishing this text in the *Diário Oficial* (the government's official newspaper), it goes through a period of public consultation for 60 days, when the public can criticise it or make suggestions.
- 3. The Tripartite Technical Group (GTT).** After the previous stage, another working group, the GTT, is created and it includes representatives from workers' and employers' representation entities. This group discusses the text and suggests revisions. It is important to note that the GTT cannot completely reformulate the basic text, only review the points already included in the draft created by the GT.
- 4. Second Public Consultation and Final Approval.** Once the new version is revised, the text is published again in the *Diário Oficial* for public consultation. After this second round of consultation, the draft is again submitted to the CTPP for final approval before being published as a Regulatory Norm.

<sup>38</sup> The CTPP and its procedures are regulated by the Ministerial Ordinance 1.127/2003.

## 4. The CT-Naval and Elaboration Procedure of the NR-34

Compared to the usual procedure followed in the drafting and approval of NRs through the CTPP, the naval construction case was innovative in the sense that it deepened the participation of workers and employers. In the CT-Naval, the social partners started to participate in the elaboration of the basic technical draft, being able to participate with their insight and opinions from the beginning to the end of the process.

The CT-Naval and the elaboration of NR-34 utilised a unique model:

**1. Creation of the CT-Naval.** From the start, the CT-Naval was conceived as a commission independent from the CTPP. The MTE Ordinance 64/2008 that created it assigns it the following duties:

- i) "Propose to the MTE the actions deemed necessary for the evolution of labour relations and conditions in the sector."
- ii) "Elaborate directives for the promotion of occupational safety and health and proper hiring practices in the Naval Repair sector."
- iii) "Collaborate with the SIT in the elaboration of good labour practices guidelines for the sector."<sup>39</sup>

Besides the attributions also accorded to other tripartite commissions, the CT-Naval, has a unique component: the discussion and adoption of measures that not only address occupational safety and health issues, but also one of the sector's more problematic aspects, the hiring of short-term workers, generally done through subcontracting which leads to the deterioration of labour relations.

**2. Constitution of the CT-Naval.** Unlike the CTPP, which designates a GT to elaborate a basic technical draft, the CT-Naval was conceived with 3 objectives, one of them being the development of legal directives on OSH for the sector. Also unlike the CTPP, which designates a GT composed only of experts, the CT-Naval also includes employers' and workers' representatives, as listed below:

- 3 government representatives, one being from the Secretariat of Labour Inspection (SIT), one from the Secretariat of Labour Relations (SRT), and one from FUNDACENTRO;

<sup>39</sup> According to Article 3 of Ministerial Ordinance 64/2009 by the MTE

- 3 workers' representatives, nominated by the National Confederation of Metalworkers;
- 3 employers' representatives, nominated by the National Syndicate of the Naval Industry and Offshore Construction and Repair (SINAVAL).

**3. Elaboration of the basic technical text.** With this distinct structure, the drafting of the first basic technical text had the participation of workers and employers who carried out workshops and created a Tripartite Technical Group (GTT). The objective was to elaborate a streamlined text, compatible with other existent NRs. Throughout one year, during 2008-2009, monthly or bimonthly meetings were held. These meetings took place in places such as Rio de Janeiro, Ceará, Itajaí and Pernambuco, with the objective of capturing regional variations within the sector.

**4. Publication and public consultation.** The text then went through the same publication procedure in the *Diário Oficial* and public consultation as the CTPP's basic texts.

**5. Revision of basic technical text.** The GTT meets for a new round of discussion and adjustments.

**6. Publication and public consultation.** The final version is published again for a 60-day public consultation.

**7. Publication as a Regulatory Norm.** As this document was being concluded, the NR was in its final stage, awaiting publication by the MTE before coming into force as a norm. However, the NR-34 is already being used as an orientation tool for inspectors, employers, and workers.

**8. Continuation of the CT-Naval.** It is worth noting that unlike the CTPP's procedure, which dissolves the GTs and GTTs after a NR is published, the CT-Naval is a permanent institution and will continue to operate as a dialogue forum for the actors of the naval industry.

## 5. Results

The positive impact on inspection practices and on the interaction dynamics between the actors involved in this process resulted in the Regulatory Norm (NR) 34 on Environmental and Work Conditions in the Naval Construction and Repair Industry. It is worth analysing in what

way this procedural change in the NR elaboration process affected how inspectors and workers' and employers' representatives acted.

- i) According to **labour inspectors** who participated in the process, their role was not only a technical role, but also one of clarification, organisation, and assistance in elucidating the technical and legal terms contained in the norm. The participation in the elaboration of the basic technical text had a less political bent, and there was a common understanding with regards to the need to improve the sector's regulations.
- ii) The **workers'** representatives were able to contribute with technical information and insights they brought from shipyards, for example, the need to improve the procedure for building scaffoldings (item 34.11 in NR-34) to reduce the number of deaths.
- iii) On the **employers'** side, their participation was important in elaborating the norm. Some shipyards became models for the adoption of good practices.

The quantitative data concerning the positive impact of this practice is expressive. Between 2006 and 2010, 942 enterprises of the naval industry were inspected in Brazil, 29 were interdicted/temporarily shut down, and 848 infraction notices were issued. Only in Rio de Janeiro, the state with the highest number of shipyards, 429 companies were inspected, resulting in 13 interdictions and 447 infraction notices. Important targets in various areas were reached, such as regularisation of items of occupational safety and health norms, work and rest hours, social security benefits, and formalisation of worker registration.

Also, there was a significant improvement in the reduction of subcontracting. In 2006, the beginning of the naval inspection programme in the state of Rio de Janeiro, the shipyards hired only 20% of its workers while the 80% remaining were outsourced by construction companies and service providers. This was considered unacceptable by labour inspectors who had a strong presence in the shipyards. In 2010, these figures were inverted, with 80% of the workers being hired directly by the shipyard and 20% being outsourced. This scenario happened because of a stronger enforcement by labour inspectors, the improvement in the sector's economic condition, but also due to increasing awareness of employers, which can be attributed to their participation in the CT-Naval.

There was also a significant decrease in the occurrence of occupational diseases. In 2006, there were 242 occurrences and in 2008, only eighteen.

## 6. Innovation

The innovation brought about by this good practice, which will culminate in the Regulatory Norm no. 34,<sup>40</sup> was the deepening of the dialogue with employers' and workers' representative organisations as well as the broadening of the scope of themes addressed in this dialogue. The labour inspection model became not only more democratic, but also more generalist. Instead of dealing with specific subjects separately (safety and health and contracts), this process, considering the complementary relation between distinct themes (deterioration of labour conditions led to a higher number of accidents), adopted an integrated approach, focused on problems and solutions derived from participation and experience. The mechanism of social dialogue offers an effective and permanent channel for the communication and discussion of these experiences and practices.

## 7. Lessons Learned

This good practice proves the need to capitalize on a positive economic moment to foster the involvement especially of employers in the solution of a certain sector's problems. The dialogue should be used as a moment to discuss how a commitment to labour legislation and safety and health standards are beneficial for the sector and help the companies to gain a more favourable position in the market. Labour inspectors must understand that their role is not only to enforce the norms, but also to facilitate dialogue and to use their expertise to guide the process along, promoting decent work for all workers.

## 8. Sustainability of the Practice

The success of the CT-Naval model has a high potential for sustainability since both workers and employers are very interested in maintaining an open and permanent channel of dialogue. On the other hand, this engagement has not compromised the technical capacity nor made

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<sup>40</sup> The NR-34 already went through the public consultation procedure and is currently in line to be processed by the MTE's judicial department before being published and becoming law. As this document was going to press, the publication of NR-34 was scheduled for December 2010.

the process overly bureaucratic or slow. In fact, the practice confers the norm with greater legitimacy. This legitimacy, in turn, makes enforcing the norms less difficult for inspectors and creates incentives for employers to encourage their peers to adopt them. Overall, the practice has created an important positive externality, namely, the creation of an environment of cooperation between all those involved, improving the inspection's efficacy.

Also, the fact that the Regulatory Norm was elaborated with broad participation reduced the probability of complaints when changes are made in the norm's structure, creating a more stable legal environment, which makes its adoption easier from an administrative standpoint.

## 9. Replicability of the Practice

This good practice has a high potential in contexts in which there is already established a positive dialogue between well-organised actors (unions, employer organisations, etc) and a demand for regulation. This new model of Tripartite Commission is being replicated within the MTE with the constitution of the CT on the Maritime Sector <sup>41</sup> created in September 2010 with the goal of collaborating with the SIT to enforce Convention no. 178, as well as other ILO conventions ratified by Brazil applicable within the sector. This good practice is less about expending resources with new structures or inspectors and more about engaging the relevant actors in a dialogue, which can be an attractive proposition for countries with limited budgetary resources.

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<sup>41</sup> [http://www.sinait.org.br/noticias\\_ver.php?id=1903](http://www.sinait.org.br/noticias_ver.php?id=1903)



## PART III: CONCLUSION

This document described three good practices in three separate areas within the maritime sector. However, it is important to emphasise that these practices are not exclusive to any one of them. In fact, these practices are utilised in all sectors of maritime inspection to a greater or lesser extent, according to the necessities and compatibility of each with the inspection approach of each sector. The **National Mobile Groups**, for example, also play an important role in labour inspection in the fishing and naval construction sectors, two sectors that share a need for information harmonisation, transmission, and exchange. **Coordination with other actors** is also important in the merchant shipping and naval construction sectors, due to the interdependent character of these actors and the need to refine the mechanisms for information optimisation. Finally, **the deepening of the tripartite dialogue** also represents a fundamental channel capable of increasing cooperation and the sustainability of inspection in the fishing industry and the merchant marine.

Dynamism and flexibility are necessary attributes for a labour inspection that is facing a complex and ever-changing reality. The Brazilian practices described here reflect some effective ways to deal with this scenario within a framework that is common to many countries, which started with deficient inspection capabilities and today seek to reach a new level of respect for workers' rights and their safety and health conditions.

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### INTERVIEWS

**Antônio Farias** – Labour Inspector, Regional Coordinator - CORITPA – Belém, Pará

**Carlos Alberto Saliba** – Labour Inspector, Regional Coordinator – CORITPA – Rio de Janeiro. RJ

**Edson Rocha** – Director of the Union of Metallurgists of Niterói and member of the Naval Tripartite Commission (CT-Naval)

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**Luiz Fernando Duarte de Lima** – Inspector of the International Transport Workers' Federation

**Mauro Costa Cavalcante Filho** – Labour Inspector, SRTE/MTE - Rio de Janeiro

**Odilon dos Santos Braga** – Secretary Directory, National Union of Merchant Shipping Officers (Sindicato Nacional dos Oficiais da Marinha Mercante)

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# Annexes

## Annex 1: Listing of ILO Conventions related to maritime labour ratified by Brazil.

| No. of Convention | Description                                                                    | Date of Adoption by ILO | Date of Brazilian ratification |
|-------------------|--------------------------------------------------------------------------------|-------------------------|--------------------------------|
| 16                | concerning the compulsory medical examination of Young persons employed at sea | 1921                    | 08/06/1936                     |
| 21                | concerning the simplification of inspection of Emigrants on Board ship         | 1926                    | 18/06/1965                     |
| 22                | concerning seamen's articles of agreement                                      | 126                     | 18/06/1965                     |
| 113               | concerning the medical examination of fishermen                                | 1959                    | 01/03/1965                     |
| 125               | concerning fishermen's certificates of competency                              | 1966                    | 21/08/1970                     |
| 126               | concerning accommodation on board fishing vessels                              | 1966                    | 12/04/1994                     |
| 133               | concerning crew accommodation on board ship (supplementary provisions)         | 1970                    | 16/04/1992                     |
| 134               | concerning the prevention of occupation accidents to seafarers                 | 1970                    | 25/07/1996                     |
| 137               | concerning the social repercussions of new methods of cargo handling on docks  | 1973                    | 12/08/1994                     |
| 145               | concerning continuity of employment of seafarers                               | 1976                    | 18/05/1990                     |
| 146               | concerning annual leave with pay for seafarers                                 | 1976                    | 24/09/1998                     |
| 147               | concerning minimum Standards in merchant ships                                 | 1976                    | 17/01/1991                     |
| 152               | concerning occupational safety and health in dock work                         | 1979                    | 18/05/1990                     |
| 163               | concerning seafarers' well being at sea and in port                            | 1987                    | 04/03/1997                     |
| 164               | concerning health protection and medical care for seafarers                    | 1987                    | 04/03/1997                     |
| 166               | concerning the repatriation of seafarers                                       | 1987                    | 04/03/1997                     |
| 178               | concerning the inspection of seafarers' working and living conditions          | 1996                    | 21/12/2007                     |
| 185               | revising the seafarers' identity document convention                           | 2003                    | 21/01/2010                     |

# Annex 2: Example of inspection guidelines and protocol elaborated based on the experience of the National Mobile Group for the Application of ILO Convention no. 147

## ILO Convention no. 147 – Inspection of Seafarers’ Working and Living Conditions

This document serves as a working tool for labour inspectors and should be of assistance in the verification of working and living standards on board foreign ships based on the provisions of convention no. 147 and national legislation.

Labour inspectors must present at the end of each inspection a report to the Central Coordination of Labour Inspection

| ILO Convention no. 147            |                                                                                                            |                                                    |
|-----------------------------------|------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| Inspection Code                   | 1 – Preliminary procedure                                                                                  | Where, how, what to do                             |
|                                   | 1.1 Ascertain who is the seafarer in charge representing the ship-owner                                    | Port Authority, OGMO, piloting deck, on board ship |
|                                   | 1.2 Contact seafarer in charge and announce inspection                                                     |                                                    |
|                                   | 1.3 Request seafarer for, when necessary, support vessels.                                                 |                                                    |
|                                   | 1.4 If not possible, submit request for support vessel to Maritime Police Department (Federal Police)      |                                                    |
| 2 – On board procedures           |                                                                                                            |                                                    |
|                                   | 2.1 Identify yourself to gangplank officer and to member of crew responsible for identification            |                                                    |
|                                   | 2.2 Direct yourself to the commander and explain the nature of the inspection                              |                                                    |
|                                   | 2.3 Explain the need to inspect on board facilities and document, request to be accompanied by crew member |                                                    |
| 3 – Documentation to be requested |                                                                                                            |                                                    |
|                                   | 3.1 Crew list signed by the captain                                                                        |                                                    |

| ILO Convention no. 147                                                                                 |                                                                        |
|--------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| Inspection Code                                                                                        | Where, how, what to do                                                 |
| 3.2 Ship particulars                                                                                   |                                                                        |
| 3.3 Contract of employment                                                                             |                                                                        |
| 3.4 Minimum safe manning certificate                                                                   | The minimum number of crew members must also be indicated in crew list |
| 3.5 Crew payroll                                                                                       |                                                                        |
| <b>4 – Labour contracts</b>                                                                            |                                                                        |
| 4.1 Do all seafarers on board have working contracts?                                                  | During physical inspection compare to crew list                        |
| 4.2 Are the crew members required by the minimum manning certificate directly hired by the ship-owner? |                                                                        |
| 4.3 Are the working contracts still within validity dates?                                             |                                                                        |
| 4.4 In the case of expired contracts, are measures being taken for the repatriation of crew members?   | If not, communicate to Federal Police for ship detention               |
| 4.4 Are the contracts written                                                                          | ILO Con. No 22                                                         |
| 4.5 in a language crew member can understand?                                                          |                                                                        |
| 4.5 Are crew members aware of the content and implications of contract clauses?                        | ILO Con. No 22                                                         |
| 4.6 Is the contract or part of the contract posted visibly in the ship?                                |                                                                        |
| 4.7 Are contracts supported by a collective agreement?                                                 |                                                                        |
| 4.8 Are they within the standard recommended by the ITF?                                               |                                                                        |
| <b>5 – Salaries</b>                                                                                    |                                                                        |
| 5.1 Was the crew payroll presented?                                                                    |                                                                        |
| 5.2 Are salaries being paid? (cash advanced and allotments)                                            |                                                                        |
| 5.3 Are the deposit receipts for payments made to family members in country of origin?                 |                                                                        |
| 5.4 Are there receipts for the salaries paid advance?                                                  |                                                                        |

| ILO Convention no. 147                                                                                                                                                                                       |                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| Inspection Code                                                                                                                                                                                              | Where, how, what to do      |
| 5.5 Do workers confirm receipt of full salaries in interviews?                                                                                                                                               |                             |
| 5.6 Are salaries compatible to ITF recommendations?                                                                                                                                                          |                             |
| <b>6 – Work hours / Rest<br/>Check posting board with schedule and on board log, conduct interviews</b>                                                                                                      |                             |
| 6.1 Is there a schedule easily accessible visually?                                                                                                                                                          |                             |
| 6.2 Is it possible to identify through it if minimum rest hours are being respected / maximum working hours are being respected?                                                                             |                             |
| 6.3 Do documents on board (logs, etc) confirm this?                                                                                                                                                          |                             |
| 6.4 Is there significant evidence of excessive fatigue among seafarers?                                                                                                                                      |                             |
| <b>7 – Accommodations</b>                                                                                                                                                                                    |                             |
| 7.1 Are cabins protected against weather, cold, heat, moisture, and noise? (example of deficiency: mal-functioning or broken ventilation system, noisy environments – more than 60 decibels - rain in cabin) |                             |
| 7.2 Does each cabin have a table or desk, a mirror, a cabinet for personal items and grooming, book shelves, individual wardrobe with hangers, satisfactory bins?                                            |                             |
| 7.3 Does each crew member have a compatibly sized individual bed? (dimensions = 190cm X 68cm)                                                                                                                | ILO Con. 92 art. 9, item 16 |
| <b>8 – Ventilation and Heating</b>                                                                                                                                                                           |                             |
| 8.1 Is the vessel's ventilation system in satisfactory condition? (def. functioning, clean, with on/off switches)                                                                                            | Con. 92 art. 7º, item 03    |
| 8.2 Is the vessel equipped with air-conditioning, as well as satisfactory insulation?                                                                                                                        |                             |
| <b>9 – Lighting</b>                                                                                                                                                                                          |                             |
| 9.1 Are cabins properly lighted? (def. broken lamp, light bulbs?)                                                                                                                                            | Con. 92 art. 9              |

| ILO Convention no. 147                                                                                                                                                           |                               |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|--|
| Inspection Code                                                                                                                                                                  | Where, how, what to do        |  |
| 9.2 Are there individual lamps for each bunk bed?                                                                                                                                |                               |  |
| 10 – Cafeteria                                                                                                                                                                   |                               |  |
| 10.1 Are cafeterias protected from weather, cold, heat, noise? (def broken ventilation system, noisy environments, rain inside)                                                  | Con. 92                       |  |
| 10.2 Are tables and chairs in proper conditions?                                                                                                                                 |                               |  |
| 11 – Leisure Areas                                                                                                                                                               |                               |  |
| 11.1 Are recreation rooms protected?                                                                                                                                             |                               |  |
| 11.2 Does the vessel have an equipped recreation room?                                                                                                                           |                               |  |
| 12 – Sanitary facilities                                                                                                                                                         |                               |  |
| 12.1 Are sanitary facilities properly lighted, ventilated, equipped with proper draining and anti-slippage material? (def. lack of draining, accumulated water, broken lighting) |                               |  |
| 12.2 Do sinks and showers have hot and cold water?                                                                                                                               | Conv. 92 art. 13, item 6      |  |
| 12.3 Are sanitary facilities always properly cleaned and kept?                                                                                                                   |                               |  |
| 13 – Laundry                                                                                                                                                                     |                               |  |
| 13.1 Does the vessel have functioning laundry facilities (complete with washing machine and drier)?                                                                              | Conv. 92 art. 12, item 12     |  |
| 13.2 Does the laundry use regular water (not seawater)?                                                                                                                          |                               |  |
| 14 – Infirmary / Medicine Box and Medical Exams                                                                                                                                  |                               |  |
| 14.1 Is there an infirmary for member of crews with more than 15 members?                                                                                                        | Conv 164, art 11              |  |
| 14.2 Is the infirmary used for purposes other than its original one?                                                                                                             |                               |  |
| 14.3 Is there a medicine Box/cabinet on board                                                                                                                                    | Conv 164, art 5               |  |
| 14.4 Are medications within expiry dates? Are their generic names indicated?                                                                                                     | Conv 164 art 5, items 4 and 5 |  |

| ILO Convention no. 147                                                                                                                                                                   |                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| Inspection Code                                                                                                                                                                          | Where, how, what to do                                                       |
| 14.5 Have medical exams been made in the case of sicknesses?                                                                                                                             | Conv 164, art 4, c)                                                          |
| 14.6 Was repatriation or hospital services provided when recommended by medical crew?                                                                                                    | Conv 164, art.13, d), e) and f)                                              |
| 14.7 Was the absent crew member replaced?                                                                                                                                                | If not communicate to maritime authority, inquiring if vessel can leave port |
| 14.8 Do sanitary facilities have hot and cold water?                                                                                                                                     |                                                                              |
| <b>15 – Food and drinking water</b>                                                                                                                                                      |                                                                              |
| 15.1 Are there enough water provisions for the number of crew members on board considering the length of trip, nature of trip and possibility of emergency?                              |                                                                              |
| 15.2 Is there enough food for the number of crew members on board considering the length of trip, nature of trip and possibility of emergency?                                           | Physical inspection of food stock and refrigerators; exam of food receipts   |
| <b>16 – Kitchen, Refrigerators and Stock room</b>                                                                                                                                        |                                                                              |
| 16.1 Does the kitchen have a properly functioning exhaust system?                                                                                                                        |                                                                              |
| 16.2 Are gas tubes located at a safe distance?                                                                                                                                           |                                                                              |
| 16.3 Are refrigerators functioning properly?                                                                                                                                             |                                                                              |
| <b>17 – Discrepancy solution</b>                                                                                                                                                         |                                                                              |
| 17.1 If the recommendations made by inspection are not met, issue formal notification to the protecting agent or to maritime agent for sanctioning.                                      |                                                                              |
| 17.2 In case the correction of irregularities can be done next stop at [Brazilian] port communicate coordinator of closest MTE unit.                                                     |                                                                              |
| 17.3 If notification is refused and/or inspection is hindered or if there are harassments during inspection, Federal Police should be communicated in order to question the ship master. |                                                                              |

**ILO Convention no. 147**

| Inspection Code | Where, how, what to do                                                                                                                                                                                                                                                                                                                                                      |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                 | 17.4 Non-compliance of notification recommendations will lead to notice of infraction.                                                                                                                                                                                                                                                                                      |
|                 | 17.5 In case of crew strike, inspector should try to mediate conflict, guaranteeing worker rights, including right to strike.                                                                                                                                                                                                                                               |
|                 | <p>17.6 In the case irregularities concerning safety and health do not pose immediate danger or risk to crew:</p> <ul style="list-style-type: none"> <li>- communicate maritime authority with description of situation found and request detention until problems are solved</li> <li>- Communicate nearest diplomatic representative of country of ship's flag</li> </ul> |
|                 | 17.7 The detention of ships must be communicated to national coordination which will communicate country of flag and ILO.                                                                                                                                                                                                                                                   |





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and Employment**

