International Labour Organization



ILO training package on inspection of labour conditions on board fishing vessels

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ILO Sectoral Polices Department
Geneva

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▶ Foreword

Commercial fishing provides one of the world's most essential sources of food. Yet work on board fishing vessels is often associated with hazardous conditions of work, and it has many characteristics that set it apart from other types of work and livelihoods. In many countries, fishers seem to fall, at least in part, through gaps in the system of laws, regulations and other measures established to protect other workers. The monitoring and enforcement of laws and regulations on board fishing vessels often presents a challenge as vessels are, by the nature of their work, usually at sea and not easily available for inspection. Furthermore, various aspects of working and living conditions may also come under the jurisdiction of several different government ministries and agencies, requiring careful coordination and collaboration.

In June 2007, the International Labour Conference voted overwhelmingly in favour of adopting the Work in Fishing Convention, 2007 (No. 188) and the accompanying Work in Fishing Recommendation, 2007 (No. 199). The Convention, which entered into force in November 2017, addresses a wide range of issues that are essential to ensuring decent work on board fishing vessels. These include provisions on minimum age, medical certification/examination, on-board food and accommodation, fishers' work agreements and hours of rest. In addition, these instruments cover such issues as occupational safety and health, repatriation, recruitment and placement of fishers, fishing vessel owners' liability in cases of sickness, injury or death, and social security.

When the Convention and Recommendation were adopted, the International Labour Conference, through resolutions, requested the ILO to develop guidelines for flag State implementation and guidance for port State control officers concerning the relevant provisions of Convention No. 188, and to develop training materials for inspectors and other staff.

Following decisions taken by the Governing Body of the ILO, a tripartite meeting of experts met in Geneva in 2010, and adopted *Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188)*. In 2015, following further decisions by the Governing Body, a second tripartite meeting of experts met to adopt Guidelines on flag State inspection of working and living conditions on board fishing vessels. The Office promoted these two sets of Guidelines, often accompanied by ILO training material, worldwide.

Over the years, there have been increased calls by governments, fishers' organizations and fishing vessel organizations, and others, for the Office for assistance in establishing, or improving, national inspection systems and in training inspectors. This need was expressed in international meetings of the ILO's sectoral policies programme, at regional seminars and workshops, and at national events that discussed Convention No. 188 and inspection of fishing vessels.

In the past decade, valuable experiences have been gained concerning the implementation of Convention No. 188, including inspection. This includes:

- the ongoing work of the ILO Sectoral Policies Department; International Labour Standards Department; the Labour Administration, Labour Inspection and Occupational Safety and Health Branch (LABADMIN/OSH); the ILO's Fundamentals Principles and Rights at Work Branch and ILO field offices;
- the EU-funded ILO Ship to Shore Rights (Combatting Unacceptable Forms of Work in the Thai Fishing and Seafood Industry), which aimed to prevent and reduce forced labour, child labour and other unacceptable forms of work, and progressively eliminate the exploitation of workers, particularly migrant workers, in the Thai fishing and seafood processing sectors by cooperating with the Ministry of Labour, other government agencies, and social partners;

- the US-funded SEA Fisheries Project (Strengthened Coordination to Combat Trafficking in Fisheries in South East Asia) The Project aims to reduce human trafficking in the fishing sector by strengthening coordination and increasing the efficiency and effectiveness of existing national and regional level anti-trafficking efforts in South East Asia; and
- the work of individual governments, fishers' representative organizations, fishing vessel owners' organizations and others.

This package aims respond to the needs for training material while being consistent with the requirements of Convention No. 188 and taking into account the wealth of practical experiences gained in recent years. In particular, it seeks to promote cooperation and coordination among the many authorities that may have a role in the inspection of labour issues on fishing vessels, with the aim of ensuring decent work for all fishers.

Alette van Leur, Director, Sectoral Policies Department

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Abbreviations

EEZ	exclusive economic zone
ILO	International Labour Organization
IMO	International Maritime Organization
IUU	illegal, unreported and unregulated
MCA	Maritime and Coastguard Agency
NGO	non-governmental organization
OSH	occupational safety and health
PSCO	port State control officer
PSMA	Port State Measures Agreement
SAMSA	South African Maritime Safety Authority
UNODC	United Nations Office on Drugs and Crime

1

Introduction and objectives

This training package aims to assist directors, managers and inspectors of competent authorities responsible for regulating and inspecting labour conditions on board commercial fishing vessels and enforcing standards for work in fishing. The package can be used to train officials who are building or improving comprehensive and coordinated inspection services for fishers.



photo © ILO

1.1 Objectives

1. Strengthen the competences of **inspection directors and managers** responsible for labour conditions in fishing to plan, organize, coordinate and manage inspection services. After training with this package, participants should be able to:

- identify the features and challenges of inspecting labour conditions on board fishing vessels specific to the national fishing industry, as well as those described in the International Labour Organization (ILO) Work in Fishing Convention, 2007 (No. 188) and the ILO fundamental labour conventions;
- target vessels (as workplaces), vulnerable groups of fishers, and the labour issues to be inspected on board fishing vessels, and select appropriate policies, strategies and programmes to tackle these issues;
- develop policies, procedures and tools for inspecting labour conditions on fishing vessels;
- organize the resources of the inspection services, and plan, control, coordinate, monitor and evaluate an inspection programme in fishing; and
- identify ways forward and opportunities for developing alliances and partnerships with appropriate ministries, agencies and other actors.

2. Strengthen the knowledge and competences of inspectors of conditions of fishers working on board fishing vessels. At the end of the training, participants will be able to:

- detect violations of national laws, regulations or other measures implementing international labour standards concerning labour conditions on fishing vessels;
- identify the main labour issues, vulnerable groups and risks to be inspected in fishing;
- use appropriate tools and methodologies for inspection visits to check and ensure compliance with labour regulations; and
- advise fishing vessel owners, skippers, and – in particular – fishers and workers' organizations plus other relevant stakeholders on the best way to comply with the labour regulations and promote decent working and living conditions on fishing vessels.

1.2 How to use the training package

The training package is designed for wide use by ILO member State inspectorates. It addresses inspectorates that are building (or re-building) inspection and enforcement regimes for work in fishing. The material is designed to be useful for officials from fisheries and maritime authorities who may have roles in labour inspection and enforcement – not just for labour inspectors.

The training package is divided into five parts.

Chapter 1: Introduction and objectives introduces the objectives and uses of the materials.

Chapter 2: Overview provides an overview of the global industry with a focus on the industry's size and scope, types of fishing, government authorities involved in fishing regulation and the types of inspection and enforcement they employ.

Chapter 3: Managers' planning programme outlines training for directors and managers of authorities responsible for regulating, inspecting and enforcing labour standards on board commercial fishing vessels. This section contains 11 sessions or modules designed to help inspection managers and trainers develop or revisit inspection strategies and prepare training sessions for field inspectors, with a focus on:

- mapping the national fishing industry;
- legal frameworks for work in fishing;
- inspection of working and living conditions on board fishing vessels;
- inspection for forced labour and trafficking (and other ILO core labour convention issues) in fishing;
- inspection planning and strategic enforcement in commercial fishing; and
- partners, consultation and policy-making in commercial fishing.

Chapter 4: Inspectors' field-level training programme comprises 22 sections and 19 exercises on inspection issues based on the Work in Fishing Convention, 2007 (No. 188) as well as enforcement challenges common in commercial fishing around the world. It is designed for classroom and field use with inspectors – regardless of which agency they represent – who carry out inspections of labour conditions on board fishing vessels.

Chapter 5: Inspection of violations of ILO fundamental principles and rights at work addresses the relationship between inspections related to national laws and regulations implementing Convention No. 188 and inspections concerning fundamental principles and rights at work, in particular the eight ILO core Conventions.

Chapter 6: Pre-training mapping exercise leads with a crucial research exercise to help authorities map the national industry, the legal framework and state of enforcement and compliance.

1.3 Prerequisites, including mapping

First, directors, managers and trainers using this package should know and understand Convention No. 188 (but ratification of the Convention is not a prerequisite). Managers and trainers should first read these ILO publications: the Work in Fishing Convention, 2007 (No. 188); the Work in Fishing Recommendation, 2007 (No. 199); and the *Guidelines on flag State inspection of working and living conditions on board fishing vessels*.[1] These documents provide advice and direction for users of this training package; the training programmes that follow will refer to them. (Both Convention No. 188 and the guidelines on flag State inspection should be translated, if necessary, along with this package, and circulated before a planning workshop is organized).[2]

The ILO encourages ratification of the Work in Fishing Convention, 2007 (No. 188), and encourages all governments to build (or re-build) and launch effective inspection and enforcement regimes for work in fishing. While this package follows the definitions and scope of the Convention, the format of the package makes it easy for inspection managers and trainers to build a curriculum that works within the limits of existing national law and adopted instruments like the Port State Measures Agreement.

1 ILO: *Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188)* (Geneva, 2011), https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/normativeinstrument/wcms_177245.pdf [accessed 18 Apr. 2020]; ILO: *Guidelines on flag State inspection of working and living conditions on board fishing vessels* (Geneva, 2017), https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/normativeinstrument/wcms_428592.pdf [accessed 18 Apr. 2020].

2 Convention No. 188 is available in English, French, Arabic, German, Russian, and Chinese. The ILO *Guidelines on flag State inspection* is available in English, French, and Spanish.

Second, directors, managers and trainers using this package should complete the mapping exercise included here. It will help authorities organize vital information for designing inspection strategy and training programs. However, a warning about the mapping exercise: a government authority may bog down in analysis of gaps in the legal framework for its map. For fishing industries in dire need of inspection and enforcement regimes, the cost of bogging down can be very high for workers. Governments should resist the temptation to postpone setting up of basic inspection and enforcement regimes while exploring and filling gaps in the legal framework, as this process can take years.

1.4 Methodology

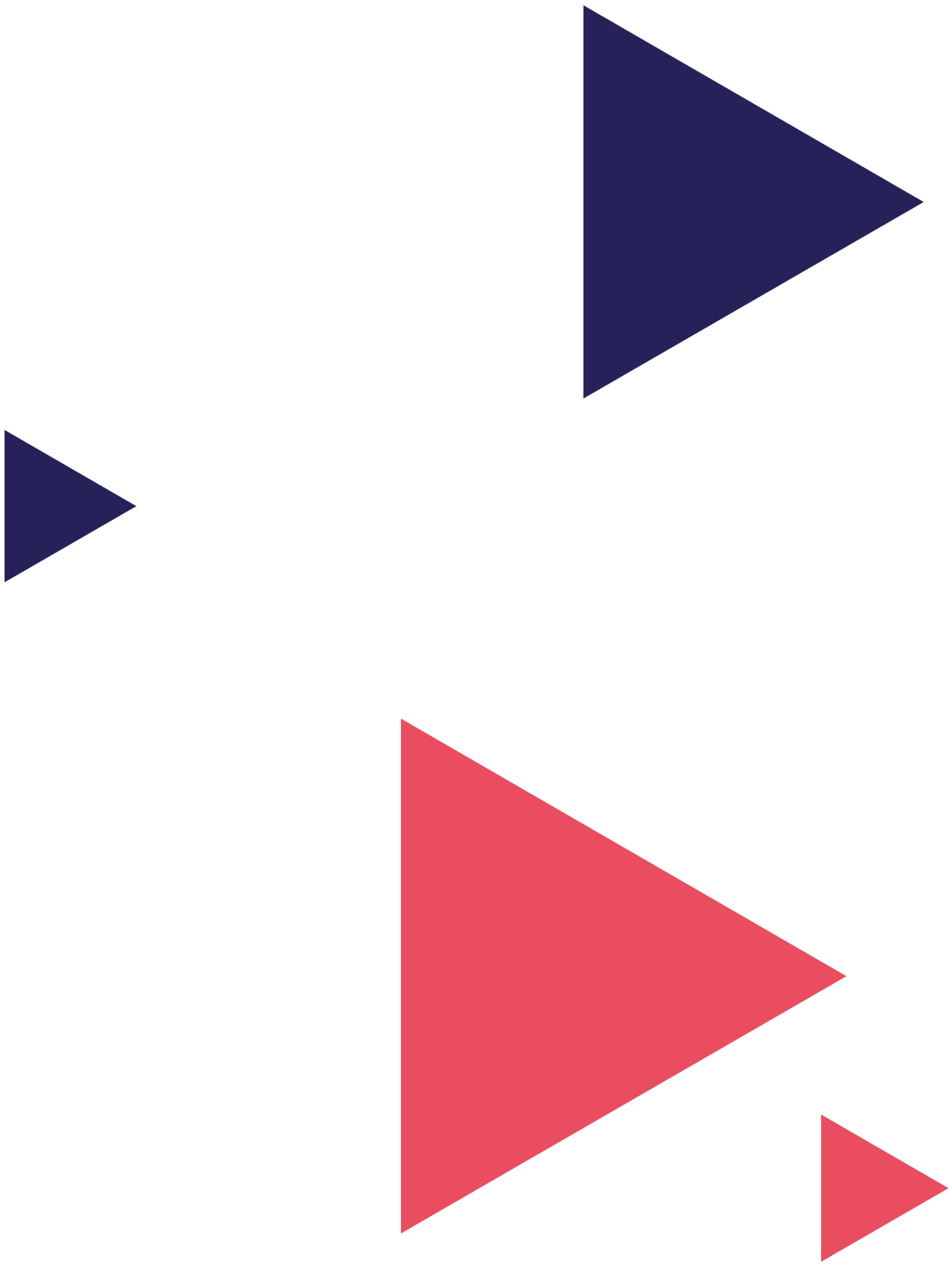
The material encourages trainers to use visuals and interactive learning – videos, role playing, and images using familiar characters – in their sessions rather than lectures and text. More than 30 activities will help managers and inspectors cement key lessons and build confidence as they explore approaches to the problems.

The sessions in the field inspectors' programme – for example, on wage payments, contracts and safety equipment – are modular. They can be mixed and adapted to match the contours of the national legal frameworks. Each session or module includes brief overviews of:

- legal and workplace issues;
- challenges for inspectors, workers, fishing vessel owners and regulators;
- inspection techniques; and
- real-life examples and tools from fishing inspection work in Brazil, Indonesia, South Africa, Thailand and the United Kingdom.

Trainers should balance time spent lecturing with active participation by managers and inspectors. A reasonable balance is 40 per cent lecture and 60 per cent active participation for inspectors who have already worked in fishing, and the inverse – about 60 per cent lecture and 40 per cent participation – for inspectors new to fishing. (Annex I, Tips for Training, includes more advice on training methodology).

Each session should include a brief recap and short break. Each day of training should end with a recap on key lessons and reactions from participants. A full- or half-day field visit to a fishing port for a mock (or actual) labour inspection of vessels is highly recommended.





2

Overview



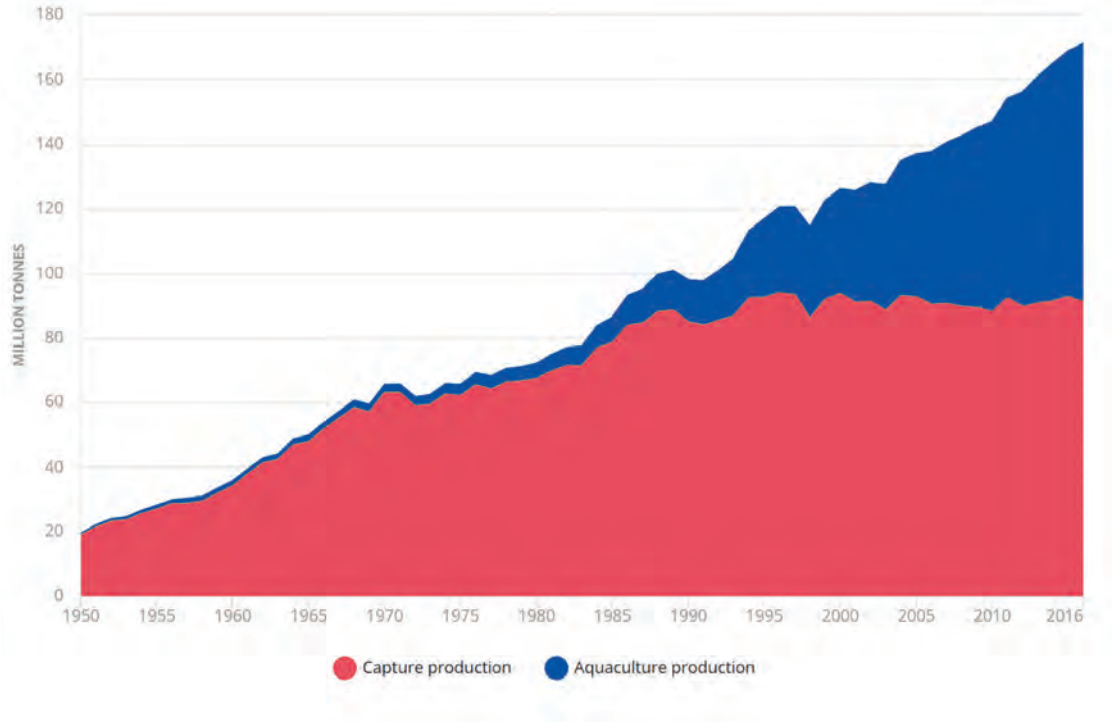
photo © ILO

2.1 Industry scope and figures

Over 56.6 million people are engaged in fisheries and aquaculture, 38 million of whom are engaged in capture fisheries.[3] Of these, about 36 per cent are engaged full time, 23 per cent part time, and the remainder are either occasional fishers or of unspecified status. Over 15 million are working full-time on board fishing vessels.[4] Fishing and aquaculture provide livelihoods for an estimated 10–12 per cent of the world's population.[5]

Two graphs from the Food and Agriculture Organization (FAO) 2018 *State of World Fisheries and Aquaculture* in figures 2.1 and 2.2 help to capture the radical growth of commercial fishing (and aquaculture) globally over the last half-century, and the toll this growth has taken on fish, oceans, and – by extension – on the fishers who work to find and land a commodity in decline.

▶ Figure 2.1. World capture fisheries and aquaculture production, 1950–2017



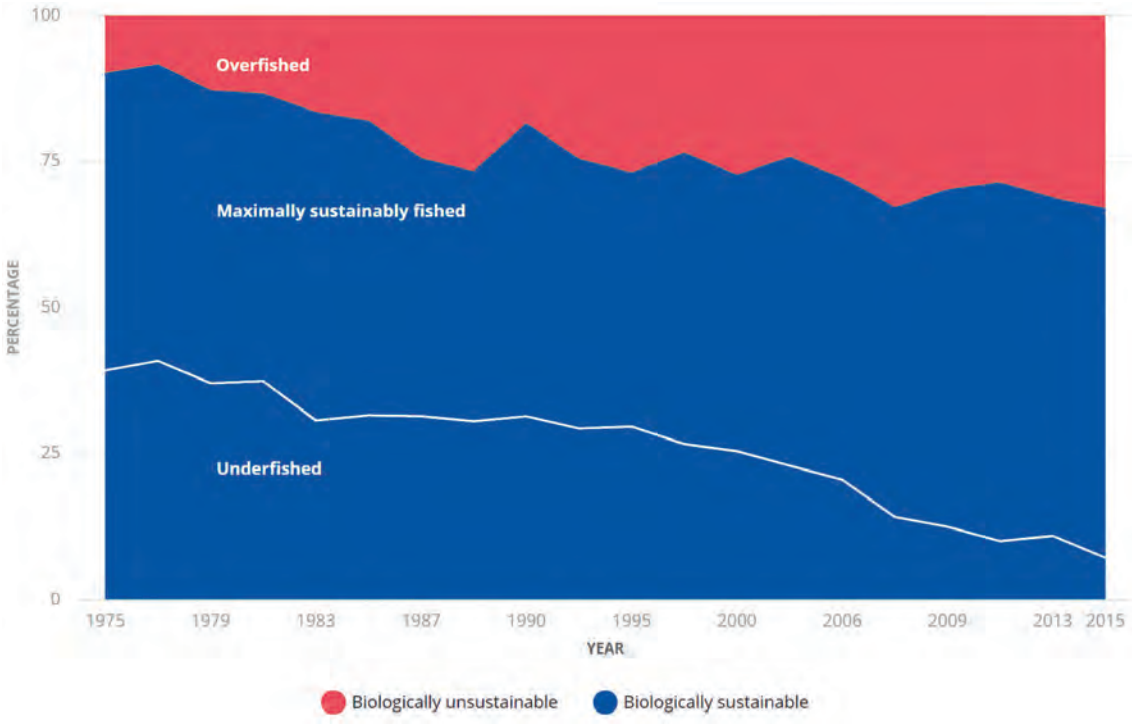
Source: United Nations Food and Agriculture Organization: *The State of World Fisheries and Aquaculture 2018* (Rome, FAO, 2018).

3 FAO: *The State of World Fisheries and Aquaculture 2018* (Rome, 2018), http://www.fao.org/state-of-fisheries-aquaculture [accessed 18 Apr. 2020].

4 *Fisheries*, ILO; http://www.ilo.ch/global/industries-and-sectors/shipping-ports-fisheries-inland-waterways/fisheries/lang--en/index.htm [accessed 18 Apr. 2020].

5 FAO: *The State of World Fisheries and Aquaculture 2016* (Rome, 2016), http://www.fao.org/3/a-i5555e.pdf [accessed 18 Apr. 2020].

▶ Figure 2.2. Global trends in the state of the world's marine fish stocks, 1974–2015



Source: United Nations Food and Agriculture Organization: *The State of World Fisheries and Aquaculture 2018* (Rome, FAO, 2018).

Globally, fish is a highly traded and valuable commodity, with about 200 countries exporting fish and fishery products. Fish and fish products are particularly important for many developing nations, where the fish trade accounts for more than half of the total value of traded commodities. Developing economies saw their share of total fishery exports (by value) rise to 54 per cent in 2012.[6]

Fishing is a diverse sector, in which modern enterprises using sophisticated technologies and large vessels coexist with traditional or artisanal fisheries which have used the same techniques for centuries. On one hand, **industrial fishing** enterprises are commercial, highly professionalized, export oriented and part of a globalized production chain. This part of the industry fishes in both coastal waters and on the high seas. These vessels often operate at great distances from their home ports and remain at sea for extended periods of time. On the other hand, **small commercial** enterprises often fish in coastal waters and often serve only domestic markets, but in some cases also produce fish for exports.

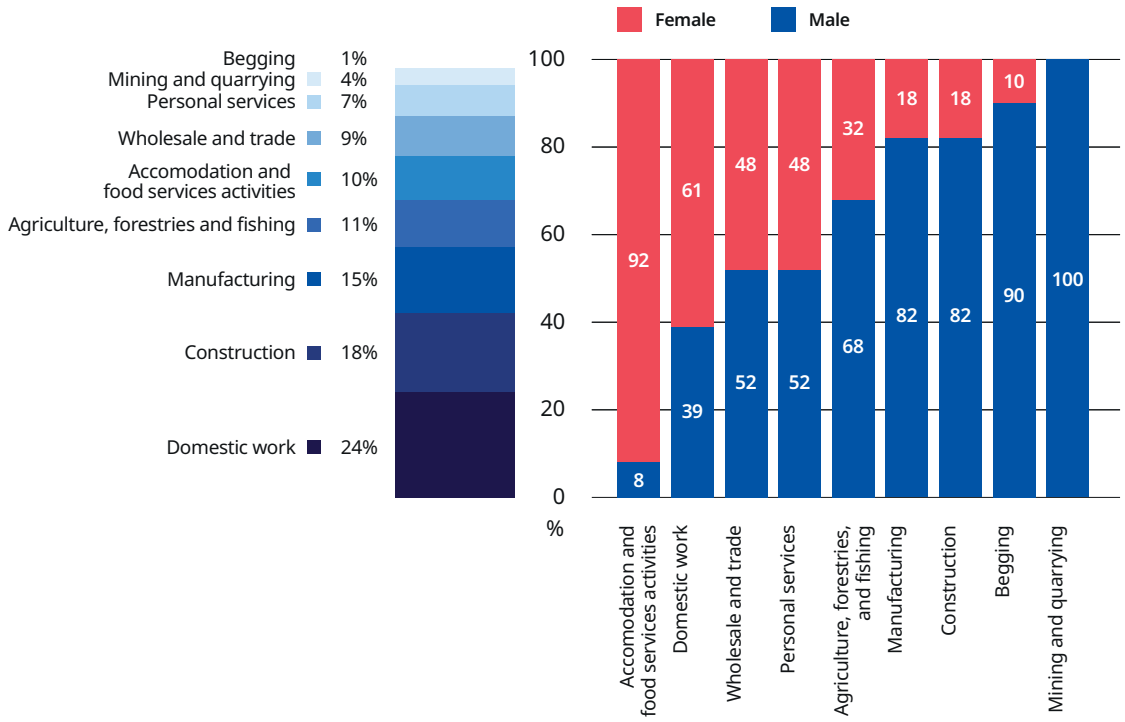
Most fishers work in **small-scale fisheries**. These include self-employed fishers, the employees of very small fishing enterprises employing one or two fishers on either a regular or casual basis, and fishers who have no formal employment relationship with their fishing vessel owner. In **artisanal fishing**, a fisher may be the boat owner or a member of the same household as the boat owner, may have some other long-term traditional arrangement with the boat owner, or may be a casual labourer without any particularly strong links to the boat owner. Many fishers are engaged only partly in fishing and derive the rest of their income from agricultural or other occupations. In high-, middle-, and low-income countries,

6 FAO: *The State of World Fisheries and Aquaculture 2014* (Rome, 2014), http://www.fao.org/3/a-i3720e/i3720e01.pdf [accessed 18 Apr. 2020].

fishers are also employed in the small-scale fishing sector and may work under informal or non-standard employment arrangements.

Due to the challenges of work at sea and low wages, fishing vessel owners in many countries find it difficult to attract and/or retain fishers. Fishing vessel owners often employ migrant workers from a foreign country, who are often vulnerable to labour exploitation. The ILO *Global Estimates of Modern Slavery* (2017) reveals that 11 per cent of the estimated 24.9 million workers in forced labour conditions – found in low, middle and high-income countries – are in fishing or agriculture.[7] Figure 2.3 shows forced labour by sector, including fishing in combination with agriculture and forestry.

▶Figure 2.3. Forced labour by sector, 2018



Source: ILO: *Global Estimate of Forced Labour* (Geneva, 2018).

2.2 Inspection and enforcement challenges

Fishers often fall through gaps in the laws, regulations and measures that countries have established to protect workers – for example, fishers are sometimes considered by law to be "seafarers" and sometimes not. The "decent work deficits" in fishing catalogued by the ILO include lack of freedom of association and collective bargaining, low wages, long hours of work and poor working time arrangements, poor occupational safety and health standards, poor general working and living conditions on board vessels, lack of social security, discrimination, gender inequality, weak social dialogue, and in some instances,

7 ILO and Walk Free Foundation: *Global estimates of modern slavery: forced labour and forced marriage* (Geneva, 2017), p. 32, https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf [accessed 18 Apr. 2020].

forced labour, human trafficking and child labour. In some countries, work in fishing is effectively unregulated.[8]

Fishing around the world is a high-risk activity, and considered – along with sectors like mining and logging – to be among the most hazardous industries to work in. Fishers' fatality and injury rates are much higher than the national averages for workers in many countries. Globally, fishing is ranked as one of the four most dangerous occupations in which to work, in terms of loss of life, serious injuries, and occupational disease.

Fishing involves long hours and strenuous activity in a marine environment where weather and sea conditions can rapidly change. Fishing involves many hazards, including long periods at sea in distant fishing waters, long and continuous working hours, heavy and strenuous work, dangerous machinery, and the risk of drowning.[9] Even the voyages to reach and return from fishing grounds can be perilous. In the event of injury or illness at sea, fishers may be far from professional medical care and must rely on others on board for such care. Medical evacuation services vary considerably among countries and regions.

Fishing vessels may be at sea for long periods and operate in distant fishing grounds. In such cases, the standard of the accommodation and food and potable water provided on board is particularly important. Sanitary, hygiene and living/sleeping conditions on board fishing vessels can vary widely but can be very basic and inadequate.

Fishing vessels engaged in long-distance fishing operations may refuel, resupply, change crew and offload catch in foreign ports or at sea using resupply vessels and fish carriers. However, fishers often face difficulty in taking shore leave in foreign ports and problems obtaining visas that allow them to join or leave the vessel in foreign countries.[10]

These conditions and the nature of fishing work pose serious challenges for government authorities and inspectors charged with protecting fishers and ensuring compliance with legal standards. And in many States, protecting fishers is complicated by a lack of laws, regulations or inspection services for regulating work in fishing. This may be particularly true of inspections on board smaller vessels, but it also applies to larger vessels in most low- and middle-income countries. And even where the law provides for such inspections, some States or local authorities within States may only inspect a small percentage of the fishing fleet due to limited resources and the remote location of many fishing communities.11

Compared to those working in other sectors, many fishers are poorly protected by national labour or maritime law. For example, fishers may be excluded from laws protecting "employees" because a "share of the catch" pay arrangement defines fishers as "partners" in an enterprise. In some countries, fishers may not have clear legal status as employees or workers, which can lead to lack of entitlement to and/or difficulties in obtaining basic legal protections, organizing rights, unemployment insurance, health care, and other benefits enjoyed by many shoreside workers. For some small-scale fishers, oral contracts are the norm and may make it difficult to seek redress for pay-related problems. Widespread and growing use of migrant workers in many commercial fishing fleets – and particularly in long-distance fishing fleets

8 *ILO Work in Fishing Convention No.188 (2007) enters into force*, ILO, Nov. 2017, https://www.ilo.org/global/about-the-ilo/news-room/news/WCMS_596898/lang--en/index.htm [accessed 18 Apr. 2020].

9 Point 1.3, Points of consensus. Global Dialogue Forum for the Promotion of the Work in Fishing Convention, 2007 (No. 188). ILO Geneva, 15–17 May 2013.

10 ILO: *The Work in Fishing Convention, 2007* (No. 188): Getting on board, Issues paper for discussion at the Global Dialogue Forum for the promotion of the Work in Fishing Convention, 2007 (No. 188) (15–17 May 2013), p. 3.

11 ILO: *Conditions of work in the fishing sector:* A comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector. ILO ILC 92nd session 2004, Report V (i) plus associated papers, 2003; http://www.ilo.org/public/portugue/region/eurpro/lisbon/pdf/rep-v-1.pdf

– also raises issues of equal treatment and discrimination. In some instances, migrant fishers are working in highly exploitative labour conditions such as forced labour and human trafficking.

A 2013 ILO meeting on fishing concluded that "In some countries, there is a lack of clarity on terms of employment, fundamental rights are not being respected and there is a lack of a systematic approach to occupational safety and health."[12]

The risks are compounded for migrant fishers. A 2017 meeting on migrant fishers described their predicament:

- [D]ue to their status as migrants, migrant fishers may face challenges not experienced by other fishers, and are vulnerable to discrimination and other decent work deficits... Migrant fishers may face a number of challenges during the recruitment and placement process, such as with regard to the payment of fees and taking out of loans; obtaining appropriate training or recognition of training certificates; finding a fishing vessel owner/employer; obtaining the appropriate travel or identity documents; obtaining a certificate of medical fitness; arranging transportation from their home country across international borders and to the vessel; reviewing and signing an employment contract or other type of work agreement; participating in a social security scheme...13

To avoid controls, some fishing operators use secret jurisdictions and register their vessels in open international registers. Some frequently change flags to evade regulation and inspection. Many of these vessels do not comply with laws and standards, including applicable labour laws.

So, the challenge for competent authorities in fishing and their inspectors is how to build (or extend) inspection services that overcome the obstacles described above. The goal is to cover working and living conditions on board fishing vessels so that fishers have similar levels of labour protection to workers in industry, commerce and services.

2.3 Work in Fishing Convention, 2007 (No. 188) and related instruments

The **Work in Fishing Convention, 2007 (No. 188)** consolidates and updates earlier ILO standards for the fishing sector in order to provide a comprehensive instrument concerning labour issues on fishing vessels. It came into force in 2017 and to date (2020) nearly 20 member States have ratified it.[14] The Convention is required reading for managers, directors and trainers using this package. However it is not necessary to await ratification before starting the work to build or improve an effective system of inspection and enforcement.

The Convention is accompanied by a set of **Recommendations** (No. 199) that provide guidance for regulators as they apply the Convention No. 188 standards in national law. More recently, the ILO has published two guides for inspection in commercial fishing mentioned above: *Guidelines for Port State Control Officers Carrying out Inspections under the Work in Fishing Convention, 2007 (No.188) and*

12 Outcomes of the ILO's Global Dialogue Forum for the Promotion of the Work in Fishing Convention, 2007 (No. 188).

13 ILO: *Decent work for migrant fishers* (2017). https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_569895.pdf [accessed 18 Apr. 2020].

14 ILO Director General Guy Ryder stated: "The Work in Fishing Convention sets the basic standards of decent work in the fishing industry. Our commitment is to work to make this Convention one that provides effective protection for all of the people who work in this sector. We have a long way to go, but we believe that we can do that." *ILO Work in Fishing Convention No. 188 (2007) enters into force,* ILO, https://www.ilo.org/washington/WCMS_596898/lang--en/index.htm [accessed 18 Apr. 2020]. See the current list of Convention No. 188 ratifications at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312333.

Guidelines on flag State inspection of working and living conditions on board fishing vessels (2017).[15] Both provide advice and direction for users of this training package; the training programmes that follow will refer to them.

Convention No. 188 is part of a trio of United Nations instruments adopted by International Maritime Organization (IMO) – the **Cape Town Agreement** on fishing vessel safety – and the FAO's **Port State Measures Agreement** (PSMA) to combat illegal and unregulated fishing around the world.[16] Another key instrument is the IMO's International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995.

2.4 Definitions

In Convention No 188 and in this training package, **fisher** means "every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers." (See Convention No. 188, Article 1(e).)

Commercial fishing means "all fishing operations, including fishing operations on rivers, lakes or canals, with the exception of subsistence fishing and recreational fishing". (See Convention No. 188, Article 1(a).)

Labour inspection and "labour inspectorate" have precise meanings that comes from two ILO Conventions: the Labour Inspection in Commerce and Industry Convention, 1947 (No. 81) and the Labour Inspection (Agriculture) Convention, 1969 (No. 129). This training package uses the term "inspection of labour conditions" on board fishing vessels, recognizing the reality that labour inspection may be done by non-labour authorities.

Inspector in this training package means any person working for or on behalf of a competent authority and having legal powers and appropriate training to seek compliance with, and enforce regulations and standards on, labour conditions on board fishing vessels. Inspectors could include coastguard, fisheries officers, navy, and marine/transport police carrying out inspections and searches as well labour inspectors (as per the definitions in ILO Conventions No. 81 and No. 129), depending on national laws and practices. With respect to flag State inspection of fishing vessels, Convention No. 188 provides for the possibility of the competent authority to use a "recognized organization" to carry out flag State inspections.[17] However, in all cases, the competent authority of the State shall remain *fully responsible* for the inspection and issuance of the related documents concerning the living and working conditions of the fishers on fishing vessels that fly its flag.

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15 Guidelines for Port State Control Officers Carrying out Inspections under the Work in Fishing Convention, 2007 (No.188) https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/normativeinstrument/wcms_177245.pdf (2011); Guidelines on flag State inspection of working and living conditions on board fishing vessels https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/normativeinstrument/wcms_428592.pdf (2017)

16 IMO Cape Town Agreement: http://www.imo.org/en/MediaCentre/PressBriefings/Pages/44-SFV-conf-ends.aspx#.XaY9g0ZKj3Q. FAO PSMA: http://www.fao.org/port-state-measures/en/.

17 See Convention No. 188 Article 42: "In establishing an effective system for the inspection of living and working conditions on board fishing vessels, a Member, where appropriate, may authorize public institutions or other organizations that it recognizes as competent and independent to carry out inspections and issue documents. In all cases, the Member shall remain fully responsible for the inspection and issuance of the related documents concerning the living and working conditions of the fishers on fishing vessels that fly its flag.

Labour conditions covers working and living conditions on board fishing vessels. Inspections of labour conditions may also deal with forced labour and trafficking, or at least recognize such violations of fundamental principles and rights at work and – where they themselves do not have a mandate to intervene – to alert those authorities who have the mandate and authority to intervene.

Decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income; security in the workplace and social protection for families; better prospects for personal development and social integration; freedom for people to express their concerns, organize and participate in the decisions that affect their lives; and equality of opportunity and treatment for all women and men.[18] For work in fishing, decent work includes access to fundamental rights at work, social protection and social dialogue.

Migrant workers who are not citizens or residents of the flag State under which they are working generally face larger decent work deficits. Some migrant fishers may not be fully aware of their rights on foreign vessels and may find it difficult to seek help when faced with poor working and living conditions.[19] Migrant workers are particularly vulnerable to becoming victims of forced labour and trafficking in persons.

According to the ILO Committee of Experts on the Application of Conventions and Recommendations, migrant workers are workers just like all others and are entitled to equal protection. The labour inspection system should not deny them this protection on the basis of their status as migrant workers. The committee has called for protection of freedom of association and the right to occupational safety and health for all workers, including migrant workers.[20]

2.5 Competent authorities inspecting work in fishing

Having framed labour inspection for work in fishing, the materials turn here to the types of inspections and the government authorities that conduct them:

- maritime authorities;
- fisheries authorities;
- transport authorities;
- coastguard and navy (and maritime police); and
- labour authorities.

18 *Decent Work,* ILO, 2011, http://www.ilo.org/global/topics/decent-work/lang--en/index.htm [accessed 18 Apr. 2020].

19 ILO: *Guidelines on flag State inspection of working and living conditions on board fishing vessels* (Geneva 2017).

20 In the General Survey, Labour Inspection, 2006, the Committee of Experts on the Application of Conventions and Recommendations noted that, in view of the growing numbers of foreign and migrant workers in many countries, the labour inspectorate is often being asked to cooperate with immigration authorities. The Committee pointed out that such cooperation should be carried out cautiously, keeping in mind that the main objective of the labour inspection system is to protect the rights and interests of all workers and to improve their working conditions. Page 54, para. 161.

2.5.1 Flag State and port State competent authorities

Inspection of fishing issues – whether labour or catch-related – is divided between "flag State" and "port State".

The **flag State** is the country where a ship or a fishing vessel is registered and/or the country whose flag the vessel is flying. The United Nations Convention on the Law of the Sea provides that every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.[21]

Fishing vessels and ships are generally governed by the laws of the country in which they are registered, or their flag State.[22] Convention No. 188, Article 40, requires that

Each Member shall effectively exercise its jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention including, as appropriate, inspections, reporting, monitoring, complaint procedures, appropriate penalties and corrective measures, in accordance with national laws or regulations.

Inside a nation's **exclusive economic zone** (EEZ) – the maximum 200-mile strip of ocean adjacent to the shoreline, minus the 12-mile territorial sea – the state has sovereign rights on specific matters. These matters include exploration, exploitation, conservation, and management of marine natural resources, and are subject to the rights of flag States.

It is also the responsibility of the flag State to ensure compliance with national laws and standards on board the vessel wherever the vessel is operating. So, on the high seas, the flag State has prescriptive and enforcement jurisdiction and should control fishers' working and living conditions. The port State may exercise regulatory control over foreign ships or fishing vessels that come into its ports. Port State control is the right of a port State to inspect foreign and national ships entering into its port to inspect the vessel, and to ensure that they meet international safety, pollution and other requirements. These rights include inspection for safety of life and property onboard as well as on-board living and working conditions once it has arrived in port.

Articles 43 and 44 in Convention No. 188 confirm the right of a State to exercise port State control on foreign fishing vessels in its ports. Further guidance is provided in ILO Recommendation No. 199 (Paragraphs 53 and 54) and in ILO *Guidelines for port State control officers.*

Responsibilities for inspection of labour conditions on board fishing vessels in port and/or at sea are divided first between the national competent authorities of flag States and port States. Authority is then assigned for inspection of labour conditions on board fishing vessels (as defined in national legislation).[23]

Who makes this assignment of authority? The **competent authority** is defined in Convention No. 188, Article 1(b) as "the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned".

Regulation of fishing can cut across many agencies. It is not unusual for authority for aspects of fishing – vessel registration, vessel safety, fishing licenses, catch documentation, worker safety, wages and working conditions – to be spread across half-a-dozen or more agencies. These agencies are described below.

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21 See United Nations Convention on the Law of the Sea, *Duties of the flag State,* Article 94.

22 *Overview of the Fishing and Aquaculture Sector,* Verité; https://www.verite.org/wp-content/uploads/2016/12/Fishing-and-Aquaculture-Overview.pdf [accessed 18 Apr. 2020].

23 ILO: *Guidelines on flag State inspection of working and living conditions on board fishing vessels, 2017,* Section 2.3.1, paragraph 51, http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/normativeinstrument/wcms_428592.pdf [accessed 18 Apr. 2020].

Table 2.1 gives examples from two flag States with fishing inspection and enforcement regimes. South African labour inspection in fishing is largely centralized in the Maritime Safety Authority, whereas the Thai government shares roles between five and more agencies, overseen by a cross-ministerial coordinating body, the Thai Maritime Enforcement Command Centre.

▶Table 2.1: How South Africa and Thailand share fishing inspection authority

Issue, Authority	South Africa	Thailand
Vessel safety/ seaworthiness	South African Maritime Safety Authority (SAMSA)	Marine Department (Min. of Transportation)
Fishing gear	Department of Environment, Forestry and Fisheries (DEFF)	Fisheries (Min. of Agriculture)
Worker credentials	Maritime Safety Authority (SAMSA)	Employment Department (Min. of Labour, MOL)
Worker safety	Maritime Safety Authority (SAMSA)	Labour Protection (MOL)
Wages, hours	Maritime Safety Authority (SAMSA)	Labour Protection (MOL)
Forced labour, trafficking	Maritime Safety Authority (SAMSA)	Labour Protection (MOL), Police, Min. of Social Development (MSDHS)

2.5.2 Maritime authorities

Maritime authorities typically have the mandate for vessel safety in the fisheries sector and safety at sea. The mandate generally covers all vessels but in some States may focus primarily on large vessels – e.g., 24 metres (m) in length and over, or capacity of 50 gross tonnage (gt) and over.

Fisheries agencies or transport agencies may be responsible for the safety of small-scale fishing vessels in some places. In some cases, fisheries agencies do not necessarily consider safety their mandate, so one of the first steps to improve safety for fishers is to ensure that maritime and fisheries authorities collaborate to regulate the safety of fishers.[24]

In such cases – and as required in Convention No. 188 – flag States will need to:

- clarify what legislation these agencies should apply to working and living conditions on board fishing vessels, which may vary between different types of fishing vessel, and determine which inspection methods and procedures of inspection to employ;
- ensure that maritime, fisheries or other inspectors are knowledgeable about the protection and standards provided by national labour legislation, and have been appropriately trained and given appropriate authority.

2.5.3 Transport and maritime authorities

Maritime authorities often have the mandate for safety at sea and responsibility for vessel quality, boat yard quality and certification, safety guidelines and vessel design criteria for fishing vessels. Smaller vessels of less than 24 m in length and undecked (open) vessels may receive less scrutiny or even fall

24 FAO: *Safety for Fishermen: The Way Forward. Safety at Sea for Small-scale Fisheries in Developing Countries*. FAO/Government Cooperative Programme. GCP/GLO/200/MUL September 2010. Field Document No. 10, Section 2.2, p. 11; http://www.fao.org/docrep/014/al960e/al960e.pdf [accessed 18 Apr. 2020].

outside the maritime authorities' mandate. In many countries, the maritime authority falls under a ministry of transport or the national transport authorities.[25]

2.5.4 Coastguard and navy

In general, the coastguard and/or the navy is responsible for surveillance of territorial waters and the exclusive economic zone (EEZ)[26] and for search and rescue activities.[27] They generally have a broad mandate to enforce national law at sea. They may also have authority for compliance and enforcement actions for national vessels, and for foreign vessels flying the flag of a country with which a treaty is made providing for such enforcement actions, on the high seas.

2.5.5 Fisheries authorities

Fishing authorities – typically a ministry or department of fisheries – have the mandate and responsibility to ensure sustainable management and development of the fisheries' resources. Fisheries management systems are developed to manage and sustain resources, but these systems also affect labour conditions and fishers. For example, a short legal fishing season – intended to help preserve fish stocks – can cause fishers to work at undue speed and cut corners, increasing the risks of injury and/or ill health.[28]

Historically, fisheries agencies have not dealt with labour conditions on board fishing vessels. It is common for fisheries inspectors to observe substandard conditions on board fishing vessels during their inspections, but fail to report them because it is not part of their mandate and/or training. This is another example of the need for coordination between the competent authorities responsible for fisheries and those responsible for fishers' safety, health and decent working conditions.

2.5.6 Labour inspectorates and labour inspectors

According to the ILO Labour Inspection Convention, 1947 (No. 81), labour inspectorates are the competent authorities established to secure enforcement of national labour laws and regulations. Labour inspectorates often have (a) general labour inspectors who deal with labour issues such as hours of work and rest, wages and contracts of employment, and (b) specialized occupational safety and health inspectors. Nationally, labour inspectorates are often part of a ministry or department of labour or employment.

In some countries, the mandate of the labour inspectorate only applies to land-based activities and does not extend to cover work in fishing, including activities offshore or in the sea or ocean. Labour inspectors might therefore have the mandate to inspect fish processing factories on shore but not fishing vessels

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25 FAO: *Safety for Fishermen: The Way Forward. Safety at Sea for Small-scale Fisheries in Developing Countries.* FAO/Government Cooperative Programme. GCP/GLO/200/MUL September 2010. Field Document No. 10; http://www.fao.org/docrep/014/al960e/al960e.pdf [accessed 18 Apr. 2020].

26 An exclusive economic zone (EEZ) is a sea zone prescribed by the United Nations Convention on the Law of the Sea over which a state has special rights regarding the exploration and use of marine resources, including energy production from water and wind. It stretches from the baseline out to 200 nautical miles from its coast (one nautical mile is 1,852 m). In colloquial usage, the term may include the continental shelf; see https://en.wikipedia.org/wiki/Exclusive_economic_zone.

27 The coastguard means the maritime agency, including the regular and formally named coast guards, carrying out functions of law enforcement and service in the waters of an entity in its interest as its agency under a definite charter that may or may not include national naval defence, but not an exclusive combat naval force whose purpose is documented under military indulgence of warfighting. *Coast guards of the world and emerging maritime threats.* Paleri, P. Ocean Policy Research Foundation (ship and ocean foundation), Tokyo, Japan, 2009, p. 51; http://www.sof.or.jp/en/report/pdf/200903_issn1880-0017.pdf

28 FAO: *Safety for Fishermen: The Way Forward. Safety at Sea for Small-scale Fisheries in Developing Countries.* FAO/Government Cooperative Programme. GCP/GLO/200/MUL September 2010. Field Document No. 10; http://www.fao.org/docrep/014/al960e/al960e.pdf [accessed 18 Apr. 2020].

in ports. Or an authority might be responsible for inspecting working conditions on vessels in ports, but not on fishing vessels at sea. The responsibility of labour inspections at sea will more likely be designated to the navy, coastguard and/or department of fisheries.

States should clarify whether the general mandate of the labour inspectorate extends to inspecting living and working conditions on board fishing vessels (domestic and/or foreign), and other labour issues in fishing, and determine the methods and procedures of inspection to be employed.

Where labour inspectors have responsibilities for inspections on board fishing vessels, flag States should ensure that both general labour inspectors and specialized safety and health labour inspectors are knowledgeable about maritime and fisheries issues and related legislation and have been appropriately trained on these matters.[29] In addition, governments should ensure that non-labour authorities responsible for inspecting and enforcing labour standards have been trained on these issues.

2.5.7 Other government agencies

Other agencies, such as general health departments and immigration authorities, may have responsibilities for specific aspects of inspecting working and living conditions on board vessels, and perhaps even other labour issues in fishing. Local authorities or other entities may also be responsible, under law, for the inspecting some aspects of living and working conditions.

The health authorities, for example, play a vital role in improving safety and health for fishers. The living conditions on board fishing vessels are very basic and there are often health problems. Issues may vary between larger and smaller vessels. A cause of death at sea in some countries is from diarrhoea, caused by bad hygiene on board the vessels.[30]

As above, the flag State should ensure that inspectors of these government agencies, or local authorities, are knowledgeable about the protection and standards provided by national labour legislation and have been appropriately trained.

2.5.8 Recognized organizations

In some countries, the national competent authority or authorities may have authorized certain public institutions or private companies to carry out inspections of labour conditions and to issue documents on their behalf.

29 ILO: *Guidelines on flag State inspection of working and living conditions on board fishing vessels, 2017*, Section 2.3.2, paragraphs 52–55.

30 *Safety for Fishermen: The Way Forward. Safety at Sea for Small-scale Fisheries in Developing Countries.* FAO/Government Cooperative Programme. GCP/GLO/200/MUL September 2010. Field Document No. 10; http://www.fao.org/docrep/014/al960e/al960e.pdf

Recognized organizations are often classification societies, whose inspections previously concentrated on vessel safety aspects but are now being extended to cover the inspection of working and living conditions on larger vessels.[31] Recognized organizations are more prevalent in the shipping sector but sometimes carry out inspections and issue documents in the fishing sector, particularly for larger vessels.

2.5.9 Port State control authorities

The flag State holds the primary government responsibility for ensuring that a ship or fishing vessel maintains a standard that meets national laws and regulations that implement international conventions ratified by the State. However, some flag States fail to fulfil their international obligations in practice. Port State control inspections were originally intended to be a back-up to flag State implementation but in practice port State control provides a "safety net" to catch substandard ships.

Port State control can be extremely effective, especially if organized regionally, as experience has shown. A ship going to a port in one country will normally visit other countries in the region before embarking on its return voyage. States benefit from closely coordinating inspections, e.g., by exchanging inspection reports. Sharing reports helps ensure that as many ships or vessels as possible are inspected and prevents ships being delayed by unnecessary inspections.

The port State control officer (PSCO) is the person authorized by the competent authority in the port State to carry out port state control inspections.[32] They should carry official credentials issued by the port State: a document or identity card with the holder's photograph, authorizing the holder to carry out port State control, which the holder can show to fishing vessel skippers and crew. Port State control should be carried out only by authorized PSCOs with the qualifications and training necessary for them to carry out their duties under Convention No. 188.[33] Where possible, port States should coordinate control and inspection of fishing vessels with their other activities (for example, inspections for compliance with requirements related to fisheries resource management (e.g. PSMA), maritime safety, customs and immigration).

PSCOs may inspect fishers' conditions on foreign fishing vessels (depending on national legislation) whenever they obtain evidence, for example during a routine inspection, that such vessels do not conform to the requirements of Convention No. 188. PSCOs may also inspect when a complaint is received that such vessels do not conform to the requirements of Convention No. 188. Complaints might

31 Flag States, through the competent authority or authorities, set the criteria by which such organizations inspect and report; set requirements for the qualifications and competence of the staff of such organizations; and monitor and ensure the quality of inspections carried out by them. The inspection and issuance of any related documents concerning the living and working conditions of the fishers on fishing vessels that fly the Member's flag is ultimately the responsibility of the competent authority or authorities. Competent authorities using recognized organizations may wish to draw upon experiences of authorities that that have used such organizations when implementing the Maritime Labour Convention, 2006, as amended (see Regulation 5.1.2 – Authorization of recognized organizations and Guideline B5.1.2).

32 ILO: *Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188)* (Geneva, 2011), p. 17.

33 Important opportunities for control of fishing vessels could be used when such vessels are in port via port State control authorities. However, there is a need to strengthen and improve port State control of labour conditions and safety matters on fishing vessels. Existing memoranda of understanding (MOUs) such as the Paris MOU on port State control may be appropriate forums to coordinate port State control of these issues on fishing vessels. *Summary of discussions. Tripartite consultation on forced labour and human trafficking in the fisheries sector.* ITC-ILO, Turin, Italy, 19–20 September 2012. Special Action Programme to Combat Forced Labour (SAP-FL) Sectoral Activities Department (SECTOR)

be received from fishers, trade unions or any person or organization having an interest in the safety of fishing vessels, and safety and health of its fishers.[34]

The SAMSA labour inspection reporting tool, introduced in 2018, shows the possible scope of port State control inspection. Excerpts are in figure 2.4 and the full tool is reproduced in this document as Annex II.

▶ Figure 2.4. SAMSA port State control Inspection tool, 2018

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SECTION A – INITIAL INSPECTION

AREA 1 - RESPONSIBILITIES (Article 8)	**INSPECTION ITEMS**	
Work under supervision	Adequate supervision	☐
Occupational Health and Safety awareness practices	Fishers aware of safety, Drills	☐
Skipper provided with necessary resources	Adequate watchkeeping, Protective clothing	☐
AREA 2 - MINIMUM AGE (Article 9)	**INSPECTION ITEMS**	
16 years	Crew list, Identity Documents, Passports	☐
Protection of under 18 years	Work Schedules	☐
Skipper provided with necessary resources	Adequate watch keeping, Protective clothing,	☐
AREA 3 - MEDICAL EXAMINATIONS (Articles 10,11,12)	**INSPECTION ITEMS**	
Safely Manned	Crew list, SMD and correct qualifications	☐
Minimum hours of rest	10 hours rest in 24 hour period, work schedule	☐
Safely Manned	Crew list, SMD and correct qualifications	☐
Rest periods reflect actual hours worked	Schedules	☐
Watch keepers sufficiently rested	Watch keeping schedules	☐
AREA 5 - FISHER'S WORK AGREEMENT (Articles 6,17,18,19,20)	**INSPECTION ITEMS**	
Work agreements	Crew list, signed copies of all agreements	☐
Format of agreements	Annex II	☐
Records of work under such agreements	Work Schedules, Catch Particulars	☐
Records of payments	Crew list, signed copies of all agreements	☐
AREA 6 - REPATRIATION and RECRUITMENT (Articles 21,22)	**INSPECTION ITEMS**	
Right to repatriation	Reflected in workers agreements or document	☐
Cost of repatriation	Reflected in documentation	☐
Fishers subject to recruitment services	Recruitment services licensed or certified	☐
No charge for employment, no black listing	Documentation	☐
		☐
AREA 7 - PAYMENTS (Articles 23,24)	**INSPECTION ITEMS**	
Work agreements	Crew list, signed copies of all agreements	☐
Format of agreements	Annex II	☐
Records of work under such agreements	Work Schedules, Catch Particulars	☐
Records of payments	Crew list, signed copies of all agreements	☐

34 ILO: *Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188)* (Geneva, 2011), p 20.

AREA 8 - ACCOMMODATION and FOOD (Articles 25,26,28)	INSPECTION ITEMS	
Approval of plans	General arrangements	☐
Accommodation location, sufficient size and quality	Visual observations, measurements	☐
Maintenance of accommodation and galley spaces	Visual observations, safe, healthy and comfortable	☐
Sufficient sanitary facilities including toilet and washing	Visual observations	☐
Ventilation, heating, cooling	Annex III, satisfactory air supply, appropriate conditions	☐
Mitigation of excessive noise, vibration	Annex III, limit by way of standards	☐
Food sufficient, nutritional value	Visual observation, menu, menu plans, trained cooks	☐
Sufficient potable water	Litres per fisher per day for the voyage	☐
Head room	190 cm to 200 cm	☐
Direct access to sleeping rooms	No direct access from fish rooms or engine spaces	☐
Adequate insulation	Panelling, sheeting	☐
Emergency escapes	Access from all crew accommodation spaces	☐
Lighting	Adequate lighting, reading lights, emergency lights	☐
Sickbay (vessels >45mtrs or >950GT)	Separate Sickbay, Adequately equipped	☐
Skipper Inspections (vessels >24mtrs or 300GT)	Documentation, Logbooks	☐

Source: SAMSA, 2018

3

Managers' planning programme

This section guides managers and trainers as they:

- review and revise a map of the national fishing industry, its legal framework and existing inspection and enforcement regimes;
- develop (or revise) inspection and enforcement guidance using ILO guidelines and examples from other countries;
- develop (or revise) strategic inspection and compliance plans in fishing;
- prepare to manage inspection and enforcement of working conditions; and
- prepare training for field inspectors.



photo © Mi Zhou

This planning section can be organized as a multi-day training or workshop for inspection managers and trainers. Unlike the field inspector training, it is not designed to be modular (or a "buffet") and managers and trainers should plan to work together through all the issues in the map and below.

Some of the exercises offered below may require more information, time, or authority than the participants have. If that is the case, organizers can feel free to use the exercises that suit their purposes. As noted in the Introduction, the package helps managers build a curriculum that works within the limits of existing national law, and is not designed to guide policy-makers through a lengthy Convention No. 188 gap analysis and revisions of national law.[35]

The materials in this section therefore refer to Convention No. 188 but do not assume that the government has ratified the Convention. Ratification of the Convention is a vital step towards setting and raising standards in national law. But it is enough for this planning exercise that the government has a baseline set of rules applicable to work in fishing and a commitment from the competent authorities to build and run an inspection and enforcement regime in the industry.

The final expectation for this section is that beginning, managers and trainers will read (or re-read) the

- results of the mapping exercise;
- the Work in Fishing Convention (Convention No. 188); and
- ILO Guidelines on flag State inspection (2017).

3.1 National industry overview (map)

Participants should complete a mapping exercise I before starting a training or workshop using this section. It may take one to two weeks to collect and organize the information for a thorough mapping. The resulting map will help managers and trainers develop a clearer picture of the national industry and its workforce before designing training. For agencies that are relatively new to labour inspection and enforcement in fishing, the exercise helps pin down which rules and agencies are involved and – if the data exists – determine how well their inspection systems are working. This knowledge is a prerequisite for inspection and enforcement planning in fishing, and for effective training of field inspectors.

The ILO recommends that managers dedicate at least one half-day to reviewing and discussing the findings in the industry overview from its mapping exercise, including:

- key industry measures (including domestic and export markets);
- types of fishing;
- fleet types, size, and geographic distribution;
- owners and concentration;
- workforce, manning; and
- working conditions and living conditions.

35 To assist in this work, reference is made to the text of Convention No. 188 and Recommendation No. 188, to the ILO guidelines for undertaking comparative or gap analysis of national legislation and Convention No. 188, and the working paper on the flexibility clauses of the Work in Fishing Convention, 2007 (No. 188), all available at www.ilo.org/fishing.



Exercise.

A participatory exercise could combine two or more of the above issues (e.g., combining types of fishing, fleet types and size, and owners and concentration, and combining workforce with working conditions) for small-group discussions for managers and trainers to test the findings in the map for accuracy and completeness. Reporting and plenary discussion could focus on how specific findings in the map might affect the development (or revision) of a strategy for effective inspection and enforcement in fishing.

By the end of the session, the participants will mark up the map with changes or (limited) areas for further research. A revised (and simplified) overview of the industry is required for the Field inspectors training programme.

3.2 Legal framework, competent authorities and typical gaps

In this session, planners and managers should review the legal framework and competent authorities described in those sections of the map (and in the Part 2 overview above). The goal here is an understanding of the existing definitions, standards, and mandates in work-in-fishing regulation. Like the review of the industry overview above, this fundamental session could last one half-day or more.

The UK Maritime and Coastguard Agency (MCA) lists in its Merchant Shipping Notice 1885 the regulations for working and living conditions and the corresponding sections in Convention No. 188, excerpted here:[36]

36 The list is contained in Annex III. The MCA Notice is available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/753738/MSN_1885__F__ILO_work_in_fishing_convention_survey_and_inspection.pdf

▶ **Figure 3.1. MCA list of Convention No. 188 standards**

Annex A

The United Kingdom Work in Fishing Convention Standards

Instrument	*Provision*	*Merchant Shipping Notice (where applicable)*
A. Minimum age		
The Merchant Shipping (Work in Fishing Convention) Regulations 2018(**1**)	Part 2	MSN 1882 (F)
B. Medical examination		
The Merchant Shipping (Work in Fishing Convention) (Medical Certification) Regulations 2018(**2**)		MSN 1883 (F) MSN 1815 (M) Amendment 1
C. Manning and Hours of Rest		
The Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004, as amended (**3**)		MSN 1884 (M)
D. Crew List		
The Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) (Fishing Vessels) Regulations 1972, as amended (**4**)	Part II	
E. Fishermen's work agreements		
The Merchant Shipping (Work in Fishing Convention) Regulations 2018	Part 3	
F. Repatriation		
The Merchant Shipping (Work in Fishing Convention) Regulations 2018	Part 4	
G. Payment of fishermen		
The Merchant Shipping (Work in Fishing Convention) Regulations 2018	Part 3	
H. Accommodation and food		
The Merchant Shipping (Work in Fishing Convention) Regulations 2018	Part 5	MSN 1871 (F) Amendment 1 MSN 1872 (F) Amendment 1 MSN 1872 (F) Amendment 1
I. Medical care		
The Merchant Shipping (Work in Fishing Convention) Regulations 2018	Part 6	
The Merchant Shipping (Medical Stores) Regulations 1995(**5**)	Regulations 4 to 11	MSN 1768 (M+F)
J. Health and safety		
The Merchant Shipping and Fishing Vessels (Health and Safety) (Employment of Young Persons) Regulations 1998(**6**)	Regs 5, 6(1) – (5)	MSN 1882 (F)

Source: MCA, 2018

For governments working with a rudimentary framework, the gaps between existing rules and the functions and standards required by Convention No. 188 will be easy to see. It is enough for this workshop to outline the known gaps in law and its application. The discussion and exercises in this session should focus on how the existing rules and mandates are or can be used to produce effective inspections and enforcement actions in fishing. The Royal Thai Government, for example, quickly designed and launched a labour inspection function in 2015 to combat grave abuses in the industry, and worked on a separate track to evaluate gaps and a plan for ratification of Convention No. 188 in 2019.

By the end of the session, the participants will mark up the legal framework map with changes and/or outstanding questions. The participants should produce a revised (and simplified) overview of the legal framework and competent authorities, as it is required for the Field inspectors training programme.



Exercise 3.1

TITLE	Legal Framework: Evaluating social security provision
AIMS	To help inspectors to ensure that fishers have access to appropriate medical care and the corresponding compensation.
TASK	In many countries, fishers do not have access to social security. The nine components of social security identified by the ILO are: medical care, sickness benefit, unemployment benefit, old age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit, and survivors' benefit.[37] In small groups, discuss: • What are the nine components that make up social security? What are the gaps in provisions that need to be addressed? • Should there be different social security schemes for employed and self-employed persons? For nationals and migrant workers? • What social security coverage can commercial fishers access? Build a checklist comparing ILO requirements with existing coverage for commercial fishers and report back.
TIME	20–30 minutes for discussion and checklist; 4–5 minutes per group to report.
RESOURCES/ SOURCES OF INFORMATION	ILO Convention No. 188, Articles 34–37. ILO Guidelines on flag State inspection of working and living conditions on board fishing vessels, Section 3.2.19. Paragraphs 50–52 of Recommendation No. 199 provide additional guidance on social security (on coverage of migrants)
OUTPUT	Inspectors have improved their capacity to verify social security for fishers within the national context.

37 ILO: *International Labour Standards on Social security;* http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/social-security/lang--en/index.htm [accessed 18 Apr. 2020].

3.3 Risk analysis and resources

Having gained a clearer view of the makeup of the industry, its labour practices, and the government's role in it, the workshop turns to strategic planning – How do we use our limited resources to improve compliance with working conditions requirements and protection of workers' rights in fishing?

First, the government is expected to assess labour risk in the industry. Fisheries authorities are likely to have metrics that help them measures risk that vessels are engaged illegal fishing. A Vessel Monitoring System is a common example. These metrics can serve as rough proxies for the risk of illegal labour practices. But meaningful measures of labour risk – the likelihood and severity of abuses, by port and by vessel size and type – is an important goal because these measures allow managers to plan how to best use their resources.

Second in assessing risk is a frank evaluation of how well the government's efforts to improve working conditions in fishing are working. The central question is: "Is our inspection and enforcement regime – whatever its stage of development – reducing, increasing, or having no effect on labour risk in fishing?" The answer to this should come from the results of the mapping exercise.

Here are four central questions that may help authorities struggling to assess the impact of their existing regimes.

1. Does the government lack data on labour violations in fishing, or report that there are no labour violations in fishing?
2. Do a significant number (e.g., 10 per cent or more) of small- and medium-size employers based on land (e.g., small-scale agro-processing) commonly commit contracting, wage, hour, and/or safety violations?
3. Are inspections in fishing driven largely by complaints from workers (or their advocates)?
4. Does reporting on labour in fishing by independent organizations contain credible evidence of labour abuses in fishing?

If the answer to any of the above questions is yes, it is likely that the inspection and enforcement regime is having little impact on labour risk for fishers, or is increasing risk by signaling to fishing vessel owners a lack of interest in the problem.

In this risk session are two examples – one from South Africa regarding vessel safety and one from ILO advice to a government in Asia on data to be used to measure risk of labour abuses.

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In this risk session are two examples – one from South Africa regarding vessel safety and one from ILO advice to a government in Asia on data to be used to measure risk of labour abuses.

▶Fishing Labour Risk Analysis

Governments may use analysis of ship tracking data to help determine risk. To tailor risk assessments to labour practices, the ILO Ship to Shore Rights Project, in consultation with the Royal Thai Government, developed these indicators to allow officials to use easily and routinely collect figures to improve their risk ratings of vessels:

1. **Manning/crew size and ratio of vessel crew size to government manning requirements.** Crew minimums vary by vessel size and type. A lower ratio of actual crew size to the manning requirement indicates higher risk.
2. **Days at sea.** Seven days is the median in the ILO Baseline Report on Working and Living Conditions. More than seven days indicates higher risk.
3. **Crew list.** A mismatch between crew list numbers and actual crew count at port inspection, or a mismatch between registered biometric data and actual crew iris scan, indicates high risk.
4. **Hours.** Repetitive/uniform hours records (e.g., records show same hours and times each day for all workers) indicate high risk.
5. **Ports used to leave and land fish.** Different in/out ports indicate higher risk.
6. **Pay records.** Bank books should have up-to-date (most recent month) entries for wage payments. Out-of-date entries indicate higher risk.
7. **Crew turnover.** The turnover is the percentage of crew that has left in three months. A high percentage indicates higher risk.
8. **Licensing, documents, taxes.** Complete documents and required payments to the government are measures of overall management. Missing or incomplete documents indicate higher risk.

An important reminder: these risk data may not by themselves be evidence of violations under national law. These calculations are therefore not intended for use as substitutes for inspections by the government.



Exercise.

For governments developing new inspection regimes, participants should use data on labour violations in fishing and industry overview data from the map to develop a risk ranking for labour abuses by port, types of fishing, types of vessels, and vessel sizes. Governments in need of proxy measures of labour risk can use those in the Thai example above.

For more advanced regimes, managers and trainers in small groups should devise new quantitative measures of specific risks (e.g. forced labour, wage theft) and/or decide which of the risk measures in the example above can be adopted in their system. Participants will rank these issues (or weigh and build into a simple risk table, as illustrated in the table below) according to importance as indicators of labour risk and the availability of good data.

▶Figure 3.2. Risk assessment chart

Likelihood	Potential Consequence				
	Negligible	Minor	Moderate	Major	Extreme
Almost Certain	Medium	High	High	Very high	Very high
Likely	Medium	Medium	High	High	Very high
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Medium	Medium	Medium	High
Rare	Low	Low	Low	Medium	Medium

Source: Scottish Government, 2008[38]

3.4 Goals and strategic compliance planning

Based on their understanding of labour risk in commercial fishing, managers should develop (or review) goals and action plans for strategic compliance with the existing standards for work in fishing.

A strategy for strategic compliance in commercial fishing can be built around the following criteria:

- prioritization;
- deterrence;
- sustainability; and
- system-wide impact.

Prioritizing and using resources should depend on the results of the risk evaluation above, and leads to choices about where and when to make financial and political investments. Participants can set inspection and enforcement priorities by port, season, types of inspection, types of fishing, vessel size, and types of labour abuses.

Deterrence is strategically important for compliance in an industry with relatively few controls on labour practices, and for fishing fleets spread widely along the coast and the seas. Penalties are a central element of deterrence, but employer behaviour is unlikely to change if there is a low probability of consequences for violations or a low cost if caught, as evidence suggests.

Deterrence not only provides a remedy for affected fishers, but also a ripple effect among fishing vessel owners engaged in similar behaviour (*Guidelines on flag State inspection of working and living conditions on board fishing vessels*, section 2.4.12). Examples from New Zealand and South Africa (below) show how strategic use of local and national media can change industry behaviour.

38 "The risk management of HAI: A Methodology for NHS Scotland" (2008). Accessed on 4 September 2020 at https://www.gov.scot/publications/risk-management-hai-methodology-nhsscotland/pages/3/2008

Deterrence measures also include regulatory incentives and disincentives specific to fishing, including:

- detaining a vessel or the catch until violations are remedied;
- business licensing and renewal;
- export licensing;
- migrant worker permits; and
- access to credit.

Consistent deterrence using the instruments above can lead to **sustainable** and **system-wide** changes in industry behaviour. Use of the media to broadcast enforcement actions can amplify the impact of a single enforcement action, and single-issue enforcement campaigns in a single industry can lead to improvements by employers on related issues.

Managing vessel owner/employer reactions and inspector discretion. A new approach to labour enforcement in fishing, or even the start of a compliance campaign in a long-established regime, can produce tension with some fishing vessel owners. When a fishing industry accustomed to a light touch on labour regulation is confronted with a new approach by the competent authorities, it can react badly. Three tactics can help authorities deal with this reaction. One, draw the line on zero tolerance issues so that inspectors and fishing vessel owners both are clear about expectations for them. Two, educate vessel owners and their industry associations about the law and enforcement strategy. This can amount to a grace period for fishing vessel owners who are not complying with the law. Three, train or remind inspectors about use of discretion on priority enforcement issues.

Here is recent ILO guidance on inspector discretion provided via training sessions with labour inspectors in an ILO member State in South-East Asia:

The ILO Convention on Labour Inspection (No. 81, 1947) states in Article 17(2) that "[i]t shall be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending proceedings."

The first step is determining that, based on the facts, a violation exists under the rules. This includes decisions about:

- severity of the violations;
- wilfulness of violations on the employer's part;
- serious violations with automatic enforcement; and
- scale of violation relative to other vessels.

Discretion is difficult to exercise if an inspector does not have sufficient factual evidence. This comes from:

- interviews with fishers (including private interviews), unions and civil society organizations;
- following up on complaints;
- on-board visual inspections; and
- reviewing all the relevant documents and cross-checking against worker testimony.

Finally, for specific violations the law may require automatic criminal enforcement. That is, no inspector discretion is permitted. Or, by policy – a zero tolerance campaign, for example – discretion may be ruled out (e.g. to enforce monthly payment requirements).

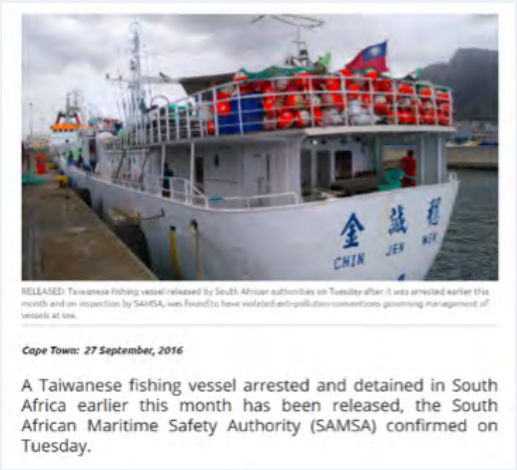
Exercise.

Using sli.do or another online quiz app, ask managers and trainers to respond to possible violations of labour standards for work in fishing by choosing the appropriate enforcement action, e.g., verbal warning, written warning, written order or detention of vessel. This exercise can reveal (anonymously) any confusion or biases regarding about inspectors' use of discretion in fishing and generate "teachable moments". This exercise is useful for both managers and field inspectors.

▶Box 3.1. Deterring violations through media campaigns

Media campaigns by authorities can help deter violations by other vessels owners and other sectors. The New Zealand labour inspectorate aggressively and consistently promotes its enforcement actions. The inspectorate widely signalled its intention to prioritize and prosecute non-compliant businesses in a newspaper article on its case against a prominent employer, Pizza Hut. SAMSA, too, publicized its arrest and detention of a vessel, signalling its use of port State controls to rein in labour abuses.

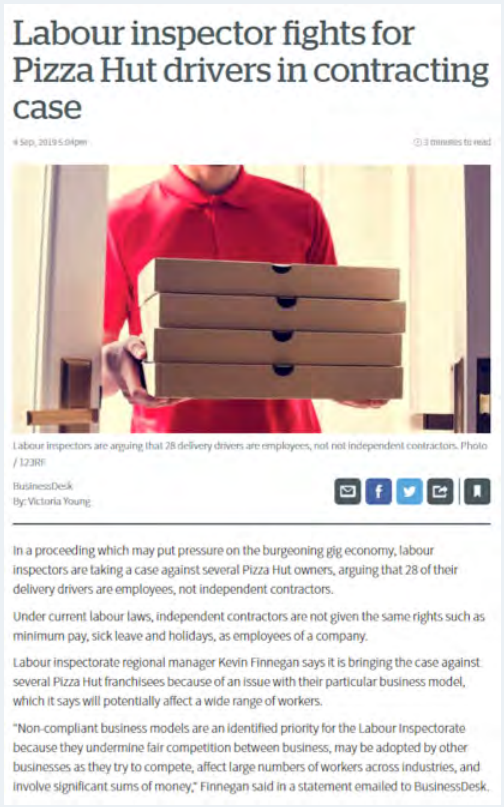




RELEASED: Taiwanese fishing vessel released by South African authorities on Tuesday after it was arrested earlier this month and on inspection by SAMSA, was found to have violated anti-pollution conventions governing management of vessels at sea.

Cape Town: 27 September, 2016

A Taiwanese fishing vessel arrested and detained in South Africa earlier this month has been released, the South African Maritime Safety Authority (SAMSA) confirmed on Tuesday.



Labour inspector fights for Pizza Hut drivers in contracting case

4 Sep, 2019 5:04pm ② 3 minutes to read

Labour inspectors are arguing that 28 delivery drivers are employees, not not independent contractors. Photo / 123RF

BusinessDesk
By: Victoria Young

In a proceeding which may put pressure on the burgeoning gig economy, labour inspectors are taking a case against several Pizza Hut owners, arguing that 28 of their delivery drivers are employees, not independent contractors.

Under current labour laws, independent contractors are not given the same rights such as minimum pay, sick leave and holidays, as employees of a company.

Labour inspectorate regional manager Kevin Finnegan says it is bringing the case against several Pizza Hut franchisees because of an issue with their particular business model, which it says will potentially affect a wide range of workers.

"Non-compliant business models are an identified priority for the Labour Inspectorate because they undermine fair competition between business, may be adopted by other businesses as they try to compete, affect large numbers of workers across industries, and involve significant sums of money," Finnegan said in a statement emailed to BusinessDesk.

Sources: *New Zealand Herald*, SAMSA

Exercise 3.2

TITLE	Outlining Strategic Compliance Priorities
AIMS	Determining key priorities and how best to communicate these to decision-makers in government.
TASK	In small groups, discuss: • Given the risks for fishers, what are appropriate goals for numbers of inspections and enforcement actions in fishing in the coming 12 months? • Where should inspections be made and why? • Which vessel/fishing types will be priorities? • Which labour issues will be priorities? Which agencies will be involved? • What is the argument for additional authority and/or resources? Where will they come from? • What specific actions will increase: - Deterrence? - Sustainability? - Industry-wide impact?
TIME	45–60 minutes for discussion and planning; 10 minutes per group for reporting
RESOURCES	*Guidelines on flag State inspection of working and living conditions on board fishing vessels* on types of inspection 2.4.4., *ILO Approach to Strategic Compliance: Planning for Labour Inspectorates Strategic Compliance introduction*[39]
OUTPUT	Using the risk analysis and industry overview, participants produce a strategic compliance outline that deals with strategic compliance challenges, including identifying priorities for inspection and enforcement and strategies for long-term, industry-wide impacts.

3.5 Inspection planning and tools

The next step for managers and trainers is to establish or review inspection planning based on the risks identified and the priorities and parameters outlined above. This requires decisions about:

- types of inspection (periodic, targeted, spot checks, responses to complaints; see *ILO Guidelines on flag State inspection of working and living conditions on board fishing vessels,* section 2.4.4);
- sites of inspection (on-board, port-in/port-out, remote/document-only); and
- tools for inspection, enforcement actions, and reporting.

Types and sites of inspection. In this session, a discussion of types and sites of labour inspection should look at compliance goals and relative costs and impact of types of inspection. **At-sea** inspections may be preferred for distant-water flag state vessels allowed to spend months at sea or where transhipment of catch and crew are common. **Port** inspections may be more cost-effective for fleets required to return to flag State ports more regularly. **Document-only** inspections may be appropriate for verified low-risk vessels but not for medium- or high-risk vessels, or for inspection regimes that have a tradition of "hands-off" regulation of commercial fishing.

Tools. Inspection protocols vary widely, but tools should correspond to existing law and emphasize the importance of engaging not just with fishing vessel owners and supervisors but also workers. Fishers are more vulnerable to isolation, injury and other labour risks than other workers because of the nature of the occupation. For this reason, inspection protocols must make extra "space" for fishers to discuss labour practices and working conditions privately and discreetly. Inspection and reporting tools should encourage inspectors to dig beneath the surface to understand work on board. This kind of intensive inspection may require visits to fishing vessel owner/employer offices to inspect other documents, including alternative or "double" records regarding recruitment, contracting, wages and safety records. It may also include regular engagement by government officials with advocacy organizations and community leaders, especially where migrant workers are part of the fishing workforce.

39 ILO Approach to Strategic Compliance: Planning for Labour Inspectorates, 2017.

▶Box 3.2. MCA report on working and living conditions

The United Kingdom's Maritime and Coastguard Agency (MCA) is responsible for inspecting and enforcing labour standards in commercial fishing. The MCA's Merchant Shipping Notice 1885 (F) spells out arrangements for surveying, inspecting and documenting compliance for fishers' living and working conditions on UK fishing vessels in accordance with the Work in Fishing Convention, 2007 (No. 188). The notice includes an inspection notice with MCA findings on working and living conditions that vessel owners must post on-board for fishers to see.

Annex C

The Master should arrange for a copy of this form to be posted on the notice board for the information of fishermen

MSF 1335 Rev 1018 Form A

Maritime & Coastguard Agency

REPORT OF INSPECTION OF FISHERMEN'S WORKING AND LIVING CONDITIONS

1. Maritime and Coastguard Agency, HQ [Branch] 105 Commercial Road, Southampton SO15 1EG UK; Tel: 020 3817 2xxx

2. Name of fishing vessel		3. Port of Registry
4. IMO Number	5. Official (RSS) Number	6. Fishing number
7. Registered length		8. Overall length
9. Date on which keel was laid		10. Date of Inspection
11. Place of inspection		12. Usual pattern of operation

12. Scope of inspection

No.	Area examined (x)	Conditions	Deficiency (Y/N)	Remarks
1.		Minimum age		
2.		Medical examination		
3.		Manning		
4.		Hours of rest		
5.		List of crew		

Source: MCA: *Merchant Shipping Notice 1885* (Southampton, 2018).

Annex III includes the MCA Merchant Shipping Notice 1885 and a draft tool designed by the ILO with the Indonesian Ministry of Manpower in 2018 as a possible model that draws on examples from other States.

As with inspection tools and protocols, inspection reporting must strive to record and preserve discrepancies in testimony from workers, supervisors, skippers, and fishing vessel owners. Detailed records of pay practices, for example, from worker interviews and employer records may lead to findings (and remedies) that shallow or perfunctory questions and reporting of wage payments may miss.



Exercise.

Review in small groups the attached inspection tools (UK and/or Indonesian) and compare them against tools and protocols in use or proposed for use in fishing. Outline how inspection practices can improve the quality and flow of information from fishers with special attention to more vulnerable fishers – e.g. migrant fishers who do not speak the local language, young fishers and distant-water fleet crews. Reports to the plenary can choose three indispensable topics, questions, or protocol steps from the UK and Indonesian examples.

3.6 Coordination among agencies

The mandates of authorities in fishing may be ill-defined, with overlapping jurisdictions and poor coordination and cooperation between them. Regulations for fishers on board fishing vessels may even be, in some cases, made under maritime laws, with fishers classified as "seafarers".

As a result, this session on coordination among authorities may require considerable time for discussion, but trainers can reduce the time and focus the discussion by leading with results from the mapping exercise. A well-drawn map (this can be a literal map or graph) that outlines the inspection and enforcement functions in fishing, and the authorities assigned to each, can save time and confusion.

The workshop can then turn to planning **joint inspections**, because these can significantly boost inspection results, especially in countries where resources are scarce and the number of inspectors may not be adequate.

Harmonizing the timing of these inspections between the different authorities can be complicated. Joint inspections should be well planned and clear procedures should be in place to avoid situations that could arise when too many people are trying to inspect a vessel at the same time, resulting in the skipper or fishers being unduly stressed. In some countries, the authority for many aspects of fishing inspection is concentrated in a single agency – SAMSA of South Africa is an example – or inter-agency teams are built and housed together at or near ports as they were in the Thai port-in/port-out inspection system. Where joint inspections occur, it is important that there is clear communication and assertion of powers and jurisdictional roles (Guidelines on flag State inspection of working and living conditions on board fishing vessels. (*Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 2.4.7).

Also, flag States should consider how to avoid any potential conflict of interest resulting from a government department having responsibility for promoting commercial fishing, and licensing and regulating fishing (e.g., a fisheries department) while at the same time being the competent authority responsible for inspecting living and working conditions on board fishing vessels. To protect against such conflicts of interest, some States have separated the functions of commercial fishing promotion, licensing and regulation from inspection and enforcement of labour standards in fishing (*Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 2.3.5).

Where overall political and technical authority for coordinated inspections belongs to an agency (e.g., a ministry of transportation) that does not have a tradition of labour enforcement, it is perhaps natural that a new or "additional" mandate suffers. It is important that regular training and oversight of those officials – whether managers or field inspectors – helps to ensure that labour inspection and enforcement is not discounted.



Exercise.

This session includes several weighty issues including political and administrative hierarchies as well as conflicts of interest. Small group discussions and reports on how these roles are distributed on paper and in practice, and how potential conflicts of interest are dealt with, can be very productive. Key questions include:

1. If authorized or planned, what changes would make joint inspection more effective?

2. How should the competent authority deal, at the port level, with:

a. differences of opinion among officials?

b. conflicting facts regarding labour conditions?

c. agency conflicts of interest?

Remember that it is important to keep the discussion in the "realm of the possible" – relying on existing rules and mandates. A discussion of a re-organization of mandates and/or new legislation should be taken up in legal framework workshops, perhaps as part of the Convention No. 188 ratification discussions.

3.7 Establishing complaints procedures

Complaints can come to authorities from fishers, workers' organizations, associations, and any persons with an interest in the safety of the vessel and/or fishers (*Guidelines on flag State inspection of working and living conditions on board fishing vessels,* section 2.4.13). Inspectors should bear in mind three important points about complaint mechanisms. One, fishing industries with vulnerable workforces – migrant fishers, for example – may need inspectors and other authorities to seek out complaints and, more generally, build relationships with workers, their organizations, or advocates to get reliable and actionable information about working conditions in fishing; this is one of the key points in the above session on inspection planning. Inspectors and other authorities may find it hard to obtain information about vessels and workers on distant-water fleets and should develop and promote other sources of face-to-face information (as well as remote sources such as complaint apps).

Two, inspectors should generally err on the side of vulnerable workers making complaints by recognizing the complaints, writing them down, and conducting thorough investigations. In some regimes, inspectors have sometimes re-routed workers' complaints about labour violations or told vulnerable fishers to resolve their complaints with fishing vessel owners. This kind of action undermines the rule of law and can lead to further abuses, including retaliation by fishing vessel owners, skippers, supervisors, or even other fishers. It can also lead to "resolutions" that do not meet the minimum standards required by law.

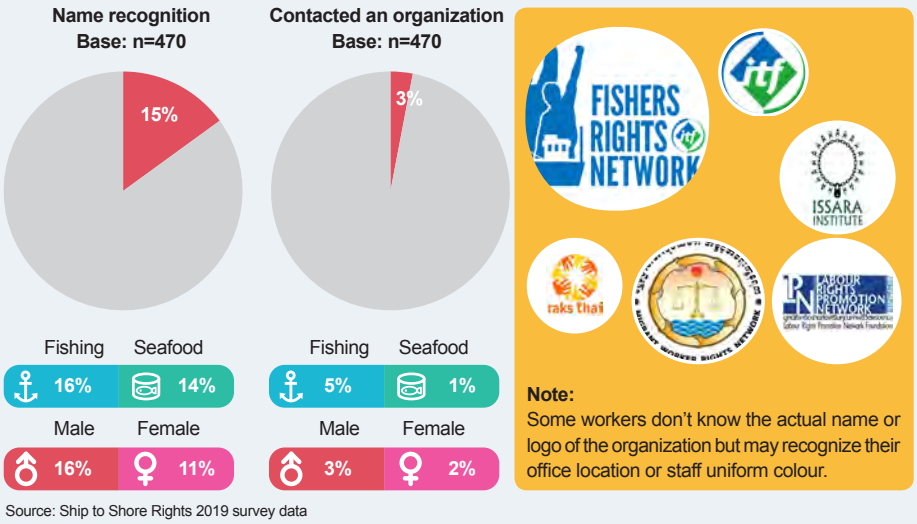
Three, fishing inspection regimes should not treat complaint mechanisms as substitutes for an inspection and enforcement regime. This is doubly true where the inspection and enforcement systems in place in the wide economy are not well-developed or effective, or where fishers include vulnerable workers such as migrants. A system that puts the burden of identifying violations and converting them to formal complaints on fishers is certain to miss violations. Complaint-driven systems in fishing send a signal to fishing vessel owners that the government is willing to tolerate labour abuses and encourages a "catch-me-if-you-can" attitude among some fishing vessel owners.

Exercise 3.3

TITLE	Establishment of a complaints procedure(s)
AIMS	To develop a robust and timely complaints procedure for use by fishers, trade unions, non-governmental organizations (NGOs) and others, including methods to record the information and outcomes. To establish criteria to help inspectors to distinguish genuine complaints from manifestly unfounded ones, and to provide training for inspectors on how to handle complaints. To promote awareness of the complaints procedures and how to make a complaint.
TASK	What are the main elements of a complaints procedure? In small groups, outline: • criteria for establishing what is a good-faith complaint, and what is a manifestly unfounded one; • protocol for inspectors to deal with complaints in a robust and timely manner; • measures to ensure confidentiality; • measures to avoid retaliation against workers (including blacklisting); • use of the internet, email or a hotline to register complaints; • how to promote awareness of the complaint procedure to fishers and their organizations, unions, civil society organizations, and vessel owners; • if the complaint received does not fall within remit of your competent authority, how to refer cases to the appropriate competent authority or authorities; and • how to report the results of the investigation and to whom. Reports back to the plenary could focus on the three changes needed to improve use of complaint procedures by workers and their advocates, and three changes needed in authorities' handling of complaints.
TIME	30 minutes for discussion and outlines; 5 minutes per group to report needed changes

▶Box 3.3. Where workers go for assistance

Fishing vessel owners are often the first stop for fishers with problems, but not all issues can or should be brought first to fishing vessel owners. In those case, friends and family are the most trusted by fishers and hear their complaints first. In the Thai example shown below, workers clearly favour bringing complaints to people and organizations they know. The data suggests that phone apps are a poor substitute for relationships with people and organizations able to provide support.



Source: Ship to Shore Rights 2019 survey data

Did you go to anyone for help with your problems?

The survey also asked workers about how, when, and from whom they sought help. For a subset of labour abuses, respondents (11 per cent overall) were asked whether someone had taken a complaint – formally or informally – to their employer or others for help.

Of the 50 workers in this subset, roughly three-quarters asked for help and nearly all of them took the problem(s) – by themselves or, more commonly, through someone else – to the employer to be addressed. (Some complaints were taken to both employers and others). The remaining quarter of workers did not take their problems to anyone. Fishers were a little more likely than seafood workers to act on a problem at work.

Although the number of workers in this subset is small – 50 people – it is remarkable that comparable responses from workers surveyed for the 2017 report show the inverse – that one quarter sought help with a problem and three-quarters did not. This may be in response to efforts by the [Royal Thai] Government, unions, and civil society organizations to improve fisher and vessel owners' understandings of legal requirements and labour rights. The 2019 Praxis Lab research noted that 81 per cent of fishers surveyed reported learning about labour rights from a workers' organization or civil society organization.

Sources: ILO: *Endline research: Findings on fishers and seafood workers in Thailand* (Bangkok, 2020); H. Boles: *Tracking progress: Assessing business responses to forced labour and human trafficking in the Thai seafood industry* (Praxis Labs, 2019), p. 54.

▶Box 3.4. Abuses and reforms in the Irish fishing industry

Abuse of migrant fishers in the Irish commercial fishing industry appeared in media and the International Transport Workers Federation (ITF) reports.



The Guardian

Non-EEA migrants on Irish trawlers gain new immigration rights

Move comes after union took Irish government to court for facilitating modern slavery



REUTERS

Business Markets World Politics TV More

BIG STORY 10

'We hide': Abused migrants say Irish fishing reforms will fail

Ruairi Casey

DUBLIN (Thomson Reuters Foundation) - After three years working illegally on Irish fishing boats, Egyptian migrant Karim was left with a crushed finger and thousands of euros in unpaid wages, but he hoped things would improve when the government offered him a proper contract.

However, the 2016 scheme - intended to bring non-European migrants out of the shadows to work legally on Irish fishing vessels - only made things worse, he said, as his work permit was sponsored by his employer who exploited that power.

Sources: *The Guardian* (2019), Reuters (2019)[40]

40 F. Lawrence and E. McSweeney: "Non-EEA migrants on Irish trawlers gain new immigration rights", in *The Guardian*, 22 Apr. 2019, https://www.theguardian.com/world/2019/apr/22/non-eea-migrants-on-irish-trawlers-gain-new-immigration-rights; R. Casey, "'We hide': Abused migrants say Irish fishing reforms will fail", in Reuters, 12 June 2019, https://www.reuters.com/article/us-ireland-labour-fish/we-hide-abused-migrants-say-irish-fishing-reforms-will-fail-idUSKCN1TD2VH.

3.8 Reporting and data

Whether via routine, targeted, or complaint-driven inspection, careful reporting of inspection findings and enforcement actions is crucial to an effective compliance regime.

Reliable databases on inspections are needed to help make the following actions systematic:

- recording inspections, actions taken, follow up and outcomes;
- collecting, recording, managing and analyzing data; and
- recycling analysis as inputs for improved targeting of vessels and ports.

▶Box 3.5. Databases, metrics and information sharing

According to the Brazilian labour inspectorate and its analysis of good practices on inspection in the maritime sector, one fundamental aspect for improving inspection procedures is a reliable database that enables an effective intelligence system to identify which enterprises to inspect and to collect and systematize information on completed inspections. Sharing information with other relevant agencies involved in vessels inspection and control is also important. The importance of relying on these sources of information stands out in all the good practices analyzed in the report.

Dashboard information or reports to inspection managers should help reveal patterns in industry behaviour and drive decisions about smart use of inspection and enforcement resources. One important metric is number of enforcement actions. One Asian government focused on this metric in their attempt to shift their effort from activity – the number of inspections conducted – to results, i.e., the number of enforcement actions taken. This shift from efforts to results is particularly important in an industry (and an inspectorate) that has been measured according to quantity instead of quality (impact) of inspection and is accustomed to informal warnings and a lack of interest or support for systemic remedies.

Source: ILO: *Good practices in Brazilian labour inspection: The Maritime Sector* (Brasília, 2010).[41]

Exercise 3.4

TITLE	Building reliable databases on inspections
AIMS	Develop the outlines of an intelligence and reporting system that turns inspectors' and managers' attention to results – that is, effective remedies and systemic improvements in compliance.
TASK	In small groups, choose metrics for a monthly management intelligence report: eight key findings from the existing inspection reporting tool; • four key metrics of inspection and enforcement performance; • key policy-level information based on findings, actions; and • key datapoints/intelligence from other agencies and non-workplace sources (unions, apps), and discuss how they should be incorporated in labour inspection reporting.
TIME	30 minutes for drafting; 5–8 minutes per group for reporting

41 http://www.oit.org.br/sites/default/files/topic/labour_inspection/pub/maritime_282.pdf.

3.9 Consulting with fishing vessel owners, workers' representatives, and providing technical guidance

Competent authorities responsible for inspection should hold regular consultations with fishing vessel owners and with fishers' representative organizations,[42] where they exist, and should regularly inform and communicate with the fishing sector which will also help promote and strengthen social dialogue in the sector (*Guidelines on flag State inspection of working and living conditions on board fishing vessels,* section 2.4.11).[43] Tripartism – dialogue between government, labour and management – is fundamental for the ILO and many governments.

Convention No. 188 takes this practice further. Governments are expected to consult with social partners regarding application of the Convention in the country – the requirement to consult is noted 30 times in the Convention. But Convention No. 188 also requires that, "[i]n the reports submitted under article 22 of the Constitution, the Member shall communicate the reasons for the decision taken under this Article and any comments arising from the consultation." Noting in reports the responses of employers' and workers' organizations to proposed application of the standards is not typical of ILO Conventions. Implicit here is the notion that consensus is welcome *but is not a requirement* when drafting and implementing minimum legal standards for work in fishing.

Tripartite consultation should also take place outside of ritual meetings or policy debates at the national level. States and their industries have different bargaining and consultation traditions. In South Africa, sectoral bargaining between fishers' organizations and vessel owners' is now routine. In Thailand, there is no such bilateral bargaining arrangement, and tripartite discussion occurs on a largely ad hoc basis at the national level and in some coastal provinces.

Authorities are also responsible for drawing up, communicating, and periodically updating legal and technical guidance for the commercial fishing industry to help fishing vessel owners, skippers, fishers, fishers' representatives and others ensure compliance with legal requirements (*Guidelines on flag State inspection of working and living conditions on board fishing vessels,* section 2.4.10).

This engagement and education function is important in an inspection and enforcement regime – it improves understanding of standards and compliance. But there is a tendency among agencies busy with dozens of priorities to underinvest in this, and to count instead on employers and front-line authorities to reach an accommodation. Engagement and education for fishing vessel owners and workers are doubly important in fishing where the industry is coming under systematic scrutiny for labour practices for the first time. In these cases, the inspectorate is wise to include fishing vessel owners and workers and their organizations in the development and rollout of new policies (see the discussion of tripartite consultations below).

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42 ILO Convention No. 188, article 1(c) "consultation means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist".

43 Social dialogue is defined by the ILO to include all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy. It can exist as a tripartite process, with the government as an official party to the dialogue or it may consist of bipartite relations only between labour and management (or trade unions and employers' organizations), with or without indirect government involvement. Social dialogue processes can be informal or institutionalized, and often they are a combination of the two. Dialogue can take place at the national, regional or at enterprise level. It can be inter-professional, sectoral or a combination of these. The main goal of social dialogue is to promote consensus-building and democratic involvement among the main stakeholders in the world of work. Successful social dialogue structures and processes have the potential to resolve important economic and social issues, encourage good governance, advance social and industrial peace and stability and boost economic progress. Source: Geneva, ILO Industrial and Employment Relations Department, 2011; http://www.ilo.org/public/english/dialogue/ifpdial/areas/social.htm.

It is not uncommon for vessel owners operating under newly-launched regimes to resist some measures and/or seek workarounds that create the appearance of compliance while continuing old practices. If authorities do not deal with this reaction effectively, it can become the "new normal" (the "accommodation" mentioned above), and this undermines efforts to improve working and living conditions.

When engaging with fishing vessel owners, authorities should seek to avoid this dynamic by making clear what the standards are and how fishing vessel owners are expected to meet them. This can include technical advice and tools that are developed through consultation with fishing vessel owners and workers as both of these constituencies bring practical advice on compliance. Authorities can also signal and set expectations for fishing vessel owners by demonstrating the authorities' commitment to look beyond documents to and solicit testimony from workers (as well as fishing vessel owners, skippers, and supervisors) about actual practices in hiring, working conditions, payment and payroll records, respect for labour rights, and more.

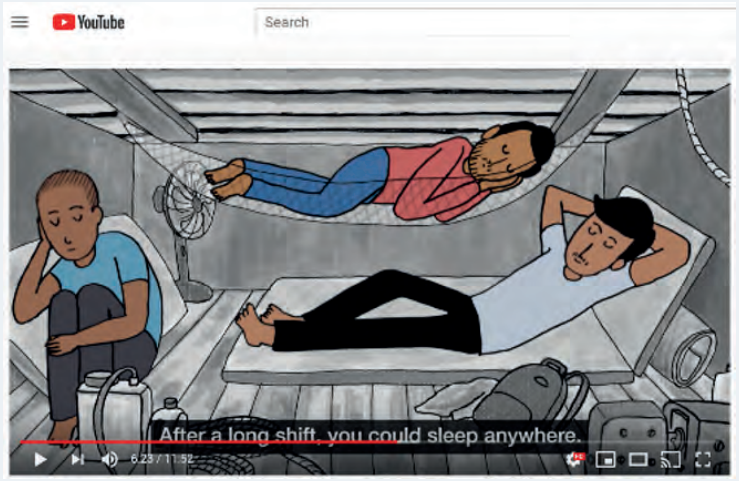
Authorities with relatively weak regimes should be selective about their priorities, as noted in the discussion of deterrence above. An attempt to apply a comprehensive inspection and enforcement regime all at once (a "shock and awe" approach) where none existed before is not likely to be taken seriously by employers and, crucially, by front-line officials as well. This is likely even in crises. The emergency responses of the Royal Thai Government to the "seafood slavery" crisis beginning in 2014 produced mixed results, and were most successful where the rules were simple and clear, verification was straightforward, enforcement was consistent, sanctions were scalable and serious, and officials had (relatively) little discretion. Introducing or tightening up fishing vessel licensing regimes is a good example of such a response. Enforcing hours of rest/hours of work on board vessels is an example of a more complicated problem.

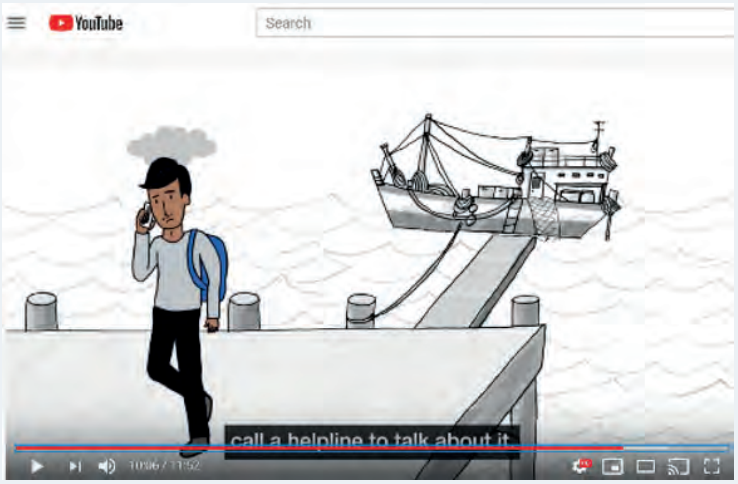
The goal is to build a culture of compliance in the industry, and this is achieved not by a legal framework alone, but by its application through effective and consistent inspection and enforcement actions. To build and sustain such a culture, inspection and enforcement regimes require:

- strategic planning by managers;
- clear instructions (both technical and political) to front-line authorities and their managers;
- engagement with and education for fishing vessel owners, skippers, supervisors and workers; and
- consistent application of rules and penalties.

▶Box 3.6. Education for migrant fishers

Education for workers, not just fishing vessel owners, can lead to marked improvements in compliance. The ILO's Ship to Shore Rights Project developed (with the IOM X Project) pre-departure orientation for migrant fishers coming to Thailand from Myanmar. The one-day curriculum is taught by a team of unions (ITF), ILO, and Myanmar Ministry of Labour officials. The focus is on safe recruitment, Thai labour law, safety and health for fishers, and getting help. Materials are simple and backed up with videos to improve learning and sharing.





Source: ILO Ship to Shore Rights Project website, 2018.

Exercise 3.5

TITLE	Providing legal and technical guidance for the fishing sector on labour issues, conditions and standards.
AIMS	To ensure the regular provision of good quality legal and technical guidance to the fishing sector.
TASK	Organize role plays in which one group of participants as fishing vessel owners attempt to "stump" officials (the other group) with questions about application of key regulations for work in fishing. Doing this exercise four or five times will help officials identify and acknowledge the thorniest compliance issues for fishing vessel owners and improve their responses and advice. After role plays, groups should briefly outline materials and/or a half-day curriculum for vessel owners, and one more for workers designed to improve culture of compliance.
TIME	30 minutes for role plays and outline of materials; 10 minutes to re-play best exchanges in plenary and compare outlines
RESOURCES	ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* section 2.4.10.

3.10 Social partners

Officials should maintain conversations with stakeholders, as noted in the discussion of deterrence above. They can provide vital intelligence on recruitment practices, forced labour indicators, as well as more routine issues in fishing that fishing vessel owners and officials may miss in their course of their operations. These organizations can engage workers in way – and operate in places – that officials cannot.

Some of these partners, like groups working on minority and human rights, women's rights, child rights, and social activists, may be less familiar to competent authorities and their inspectors.

Officials should not assume that a lack of outreach from these organizations means that there are no pressing issues among their members connected to fishing. An invitation from authorities to meet – in particular if the meeting takes place at the organization as opposed to government offices – can signal genuine interest in building relationships. Recognition by authorities of compliance problems in the industry can signal to these organizations a willingness for frank discussion. Regular meetings may be required to build mutual trust and open lines of communication. The industry map should include a list of organizations with which officials can work to gather intelligence on working conditions and labour practices. These organizations can also be part of joint inspections with officials (and fishing vessel owners).

Exercise 3.6

TITLE	Building new relationships to support inspection and enforcement
AIMS	To strengthen and broaden inspection of working and living conditions on board fishing vessels by identifying opportunities for inspection services to build and sustain relationships with workers' organizations and advocates, and vessels owners' organizations.
TASK	In plenary or in groups, list organizations already engaged or willing to support effective inspection and enforcement. Here are suggested categories: • fishers' or fishing trade unions (national and global unions); • fishers' organizations (fishers' producer organizations); • fishing cooperatives and/or marketing organizations; • fishing vessel owners' organizations (including seafood industry groups); • seafood retailers or buyers (national and international); • fishery extension officers; • consumer groups; • civil society organizations; • research groups (including academics); • religious groups; and • other UN agencies (including the IMO, FAO, and International Organization for Migration). How could inspection authorities make better use of information technology to help build new alliances and partnerships? Group discussion on possible new alliances and partnerships and the benefits.
TIME	To be determined by the facilitator/trainer.
RESOURCES	Industry map

3.11 Port State control inspection

Governments that have assigned a competent authority for port State inspections are making (or contemplating) labour inspections of foreign-flagged fishing vessels.

As noted earlier, "port State" is used to describe the authority under international law for a country to exercise regulatory control over foreign ships or fishing vessels that come into its ports. Port State control is the right of a port State to inspect foreign and national ships entering into its port to inspect the vessel to ensure that it meets international safety, pollution and other requirements.

Under Convention No. 188 (Article 43), a State may exercise "port State control" of foreign fishing vessels in its ports:

- If a Member, in whose port a fishing vessel calls in the normal course of its business or for operational reasons, receives a complaint or obtains evidence that such vessel does not conform to the requirements of this Convention, it may prepare a report addressed to the government of the flag State of the vessel, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

In this session, managers are asked to revise or develop an inspection protocol – including how inspections will be initiated, their scope, inter-agency coordination and translation support – and reporting tools for port state inspections. In developing or revising its port state inspection plan, the authority should be sure to clearly define its communications protocol with other agencies (including the foreign affairs ministry).

Another key question for competent authorities is which types of violations – whether observed or described in a complaint – will prompt inspections and which conditions onboard meet the authority's standard for "clearly hazardous to safety or health". Fishing is an inherently dangerous occupation and hazards to safety can be understood broadly to include general state of the vessel, its gear, housekeeping, and systems as well as living quarters. Quantities and quality of food and drinking water as well as rest hours and days at sea affect safety and health and can be the basis for an inspection and action by port State authorities.

The following field inspection training revisits port State inspection with examples of South Africa's tools for inspecting labour practices on foreign-flagged vessels. The ILO *Guidelines for Port State Control Officers Carrying out Inspections under the Work in Fishing Convention, 2007 (No.188)* includes guidance for inspectorates planning their inspections, and is available online at the ILO website.



Exercise.

Participants read media and government reporting (see Box 3.2 above) on the detention of a foreign-owned fishing vessel by South African port State authorities. In small groups, they should develop (or revise) a short version of their flag State inspection reporting tool for use in port State interventions.

3.12 Planning field inspector training

Finally, managers and trainers should design and deliver training for field inspectors (and field managers) responsible for inspecting working and living conditions on board fishing vessels, and for enforcement actions. This training should draw on the materials above, including the industry ma, and sessions proposed in the field inspector programme in this training package.

The ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels* (section 2.4.2.2) details elements of this training:

- Inspectors should receive proper and continuing training. The training should take into account the background of the inspector and the specialized knowledge and skills needed to undertake inspections of living and working conditions on fishing vessels (issues addressed in Convention No. 188). The following points should be taken into account:
- (a) Inspectors should be trained on Convention No. 188 and on national laws, regulations or other measures implementing the Convention. Inspectors should be trained, as appropriate, on other relevant labour inspection laws and procedures (for example, how to inspect pay records and what to do when faced with violations of fundamental principles and rights at work).
- (b) Inspectors should be trained on relevant fishing sector practices and techniques, associated hazards and risks, and payment systems, and, as appropriate, fishing vessel safety and other requirements, as the understanding of such matters will enable them to undertake effectively inspections of living and working conditions on board fishing vessels.
- (c) Inspectors should be trained on the need to be sensitive to the work operations of fishing vessels and related pressures, including recognition that such vessels serve as homes and often spend only limited periods in ports.
- (d) Training for both maritime and fisheries-related agencies and labour inspectors should include an understanding of each other's mandates and of when to call for assistance from another agency.
- (e) The training of inspectors can be undertaken at the national level, while the training of trainers of inspectors can be undertaken at the regional or international levels.
- (f) Inspectors may need to be trained on how to remain free from bribery and corruption.

- (g) Training should cover how to verify documents through interviews with stakeholders. This should include learning different and effective ways to deal, in a confidential way, with fishers, who may not readily provide information due to mistrust, fear or communication issues. Traditional methods of inspecting documents to determine compliance may not be sufficient to ensure that the documents are genuine.
- (h) Training should include how to board vessels safely (including at sea), how to walk safely around a fishing vessel and how to properly use appropriate protective equipment (for example safety helmets and personal flotation devices).
- (i) Training should include how to recognize the different types of fishers' work agreements, including employment agreements, agreement for services and partnership agreements.

Training on fishing inspection and enforcement can be combined with more general labour inspection training, or can also stand alone. Training can also be adapted for use with any agencies with responsibility for fishing and for use with inter-agency teams.



Exercise 3.7

TITLE	Developing training programmes for inspectors
AIMS	To help the competent authority or authorities develop basic, refresher, and specialist training programmes for inspectors for (i) inspecting working and living conditions on board fishing vessels; and (ii) inspecting forced labour and trafficking (and other ILO core labour convention issues) in fishing.
TASK	In your small groups, discuss issues in such training programmes, including: • the main training needs for inspectors in terms of basic, refresher and specialist training; • how to ensure that inspectors are fully consulted in developing, setting up and evaluating training programmes; and • where there is more than one competent authority involved, how to coordinate and integrate training programmes between competent authorities. Elect a spokesperson to report back, with the main points from your group's discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* section 2.4.2.2.

4

Inspectors' field-level training programme

The inspection training materials in this section are based primarily on the requirements of ILO Convention No. 188 and are designed to help States to apply the technical inspection guidance found in the ILO *Guidelines on flag State inspection of work and living conditions on board fishing vessels and Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention 2007 (No. 188).*



photo © Mi Zhou

The inspection training materials in this section are based primarily on the requirements of ILO Convention No. 188 and are designed to help States to apply the technical inspection guidance found in the ILO Guidelines on flag State inspection of work and living conditions on board fishing vessels and *Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention 2007 (No. 188).*

- general considerations for inspections in fishing;
- fishing inspection and enforcement for vulnerable workers;
- legal responsibilities of fishing vessel owners, skippers and fishers;
- key documents including crew list;
- fishers' work agreements;
- determination of employment or working relationships;
- minimum age;
- medical requirements and examination;
- compensation in fishing;
- manning;
- hours of rest;
- occupational safety and health, accident prevention, safety committees;
- medical care on board and in port;
- food and potable water;
- accommodation; and
- recruitment and placement of fishers and use of private agencies or brokers.

4.1 How to use these training materials

These materials are necessarily generic because national law regarding work in fishing and inspection practices vary widely around the world. Managers and trainers are therefore expected to work through Sections 2 and 3 (Planning/managers) above to build training sessions around existing national standards for work in fishing, pulling from the materials above and below to shape training programmes appropriate to the mandate and strategic goals of their inspectorate.

For this reason, the training sessions outlined below are not designed to be an off-the-shelf package of materials. Governments that have ratified Convention No. 188 and adopted those standards in national law will find the technical materials below closer to what is needed, but for governments that are building inspection regimes for work in fishing (or have made extensive use of "flexibility provisions" in applying Convention No. 188), some careful tailoring is in order. A training programme pulled wholesale from the materials below without benefit of the mapping and planning above can lead to long debates and confusion among inspectors over the scope and application of national law to work in fishing. (These are crucial debates, but they are best had by managers and trainers in the planning sessions).

Specifically, the technical training outlined below should be accompanied by an introduction to the results of the government's mapping exercise: the existing national legal framework for work in fishing and the industry overview. An introduction to the inspectorate's strategic compliance plan is also recommended as inspectors are nonetheless almost certainly involved in strategic choices – inspection targets and decisions regarding enforcement actions, for example.

Trainers and managers should adapt other sessions from the planning/managers materials above (including exercises) on key inspection and enforcement topics:

- competent authorities inspecting work in fishing;
- categories of inspection of work in fishing;
- inspection planning and tools;
- coordination among agencies;
- reporting and data;
- providing technical guidance;
- social partners; and
- port State inspection powers.

In addition to these topics, trainers and managers should use the technical sections below. Most of these sections describe the labour issue or inspection function as it presents in commercial fishing, treatment of the issue or inspection function in the Convention, information needed and/or available to inspectors, and relevant exercises to apply the principle and develop the practice.

Finally, fishing is anomalous as an industry and an occupation. So, in addition to the classroom training, any multi-day training programme for inspectors new to fishing should include a visit to a fishing port and (simulated) labour inspections.

▶ Figure 4.1. SAMSA uses a legal knowledge evaluation in training inspectors

REF NO	TRAINING			CRITERIA FOR EVALUATION	COMPETENCE DEMONSTRATED	
4	Competence: Basic knowledge of the merchant shipping act and other acts					
4.1	LEGISLATION - GENERAL KNOWLEDGE	DATE	INITIAL	ADVICE ON AREAS FOR IMPROVEMENT	DATE	INITIAL
.1	Demonstrate a basic knowledge of all Acts and Regulations, as well as show the ability to find and access these Acts and Regulations					
.2	Demonstrate a basic knowledge of legislative drafting and amendment processes and how international conventions are incorporated into domestic legislation					
.3	Demonstrate a basic knowledge of the purpose of Marine Notices and Marine Circulars, as well as where to find these notices					
.4	Demonstrate a basic knowledge of how to find out which conventions South Africa has acceded to on the IMO Website					
.5	Thorough knowledge of certificates, prescribed forms and other documents, issued in terms of the Act and Regulations					
.6	Understand how to make determinations and interpretation of all Acts and Regulations					
.7	Ability to give guidance on the application of South African Acts and Regulations, including relevant international instruments					
.8	Be able to give guidance on the application of South African Acts and Regulations, including relevant international instruments					
.9	Be able to communicate effectively - orally and verbally - in a clear and unambiguous manner, internally and externally, on legal matters					
.10	Demonstrate a basic knowledge of the importance of collecting proper evidence and understand the custodial procedure to preserve the chain of evidence					
.11	Can interpret the Determination of Charges and Levies Regulations in order to invoice correctly					
.12	Familiar with Reorganised Organisations and the agreement between SAMSA and the RO in terms of surveys					

Source: SAMSA Fishing Surveyor Training Program, 2019.

4.2 General considerations for inspections

The *Guidelines on flag State inspection of working and living conditions on board fishing vessels* cover considerations for inspections in section 3.1.

The competent authority or authorities should provide training on safety training at sea for their inspectors who must go on board fishing vessels at sea. The safety at sea training should be carried out by a professional body with trained, experienced and competent staff.

Before going on board the fishing vessel, the inspector should take account of the following general considerations, and make some initial preparations for the visit.

First, if the fishing/maritime agency, labour inspectorate or other competent authority provides inspection guidelines for inspectors, the inspector should consult these beforehand and follow the procedures laid down in them.

What ILO Convention No. 188 refers to as "general consideration", or preparations, includes:

- Inspectors may consult previous inspection reports.
- Inspectors should consider measures to ensure confidentiality.
- Private interviews with fishers may be conducted by inspectors: Interviews should be conducted in private unless the presence of witnesses is required under national law, and in any case not with the presence of the employer, skipper, managers, or supervisors. See Convention No 81, Article 12(1)(c)(i).
- Vessels may be in port for a limited time so time for inspections including interviews may also be limited.
- The vessel is the home of the fishers so inspectors should take this into consideration when preparing to inspect sleeping and living areas on board.
- Inspectors may provide advice as part of enforcement. According to *ILO: Labour inspection: What it is and what it does. A guide for workers:*

  [E]nforcement has a dual nature: it includes an advisory as well as an inspectorial function. Labour inspection services give necessary information and advice to fishing vessel owners, workers and others, through workplace visits – a function that is vital to the effective working of the organization – as well as media, seminars, call centres, brochures or campaigns. Where necessary, inspectors may use their injunction powers and, as a last resort, take formal enforcement action in order to achieve compliance with the law.

- On board, certain documentation should be available to inspectors for scrutiny such as valid documents, crew lists, fishers' work agreements, medical certificates, logbooks, risk evaluations and assessments. If not, these documents may be requested from vessels owners or agents (in the case of foreign-flagged vessels).

4.3 Legal responsibilities of fishing vessel owners, skippers and fishers

Clarity about the legal obligations of the vessel owner, skipper, and management/supervisory staff is crucial for inspectors. These will vary by flag State. See ILO Convention No. 188, Article 8, plus the other references to Articles in Convention No. 188 as indicated, and the ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* section 3.2.2.

4.3.1 Fishing vessel owners

"**Fishing vessel owner** means the owner of the fishing vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner" (Article 1(d)).

The inspector should verify that the fishing vessel owner is aware of and has fulfilled these legal obligations:

- The skipper appointed is competent (Article 13(a)).
- The vessel owner has provided the skipper with the necessary resources and facilities to comply with the obligations of Convention 188 (Article 8.1).
- Each fisher on board has a current, written fisher's work agreement signed by both the fisher and the fishing vessel owner or by an authorized representative of the fishing vessel owner (Article 20). (Or, where fishers are engaged in a partnership-type agreement, she/he shall have evidence of contractual or similar arrangements providing decent work and living conditions on board the vessel as required by Convention No. 188.)
- The vessel is fully and safely manned to ensure safe navigation and operation.(Articles 13 and 14).
- Regarding occupational safety and health on board, the fishing vessel owner should have:
- Carried out a risk evaluation – in particular, a risk assessment – of working and living conditions on board and remedial measures put into effect (Article 33);
    - established on board procedures for the prevention of occupational accidents, injuries and disease (Article 32.2(a));
    - provided the skipper and fishers with sufficient and suitable guidance, training material, or other appropriate information on how to evaluate and manage safety and health risks on board fishing vessels (Article 32.3(a));
    - provided fishers with appropriate personal protective clothing and equipment to carry out their duties on board at no cost to the fisher (Article 32.3(a));
    - provided every fisher on board with basic safety training approved by the competent authority or authorities (Article 32.3(b)); and
    - ensured that fishers are sufficiently familiarized with equipment on board and its operation, including relevant safety measures. (Article 32.3(c)).

- Food of sufficient nutritional value, quality and quantity, and the potable water of sufficient quality and quantity has been provided on board at no cost to the fisher (Article 27(c)).[44]
- Minimum accommodation standards have been provided as per Articles 26 of Convention No. 188 and for those vessels in scope, Annex III ("Accommodations").
- Fishers' medical expenses have been paid, including related material assistance and support during medical treatment in a foreign country, until the fisher has been repatriated. (Unless, after due process, the fisher has been found to be in serious default of his/her work agreement (Article 39.1).)
- Where a private employment agency, as the direct employer of the fishers, makes the fishers available to the vessel owner, that the owner understands that she/he shall be liable in the event that the agency defaults on its obligations to a fisher (for example, in cases involving the non-payment of remuneration, abandonment and the withholding of medical care on board or ashore in a foreign port) (Article 22(5).
- The fishing vessel owner, where relevant, has paid for repatriation (Article 21.2). (Except where the fisher, after due process, has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her work agreement obligations.)[45]
- The owner of a fishing vessel of 24 m or more in length and that stays at sea for more than three days or that navigates more than 200 nautical miles from the coastline must ensure that the vessel carries a valid document – issued by the flag State competent authority – to the effect that the vessel is in compliance with the provisions of Convention No. 188 regarding working and living conditions on board (Article 41 (a) and (b).

Sources of information for inspectors regarding verification that *both vessel owners and skippers* have carried out their legal responsibilities include:

- logbook;
- crew list;
- records of communication between the skipper and the fishing vessel owner;
- safety and health committee records;
- reports of accidents and investigations;
- licence to fish in relation to area of operation;
- catch information records that verify the length of time the fishers are likely to have worked; and
- previous inspection reports.

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44 However, in accordance with national laws and regulations, the cost can be recovered as an operational cost if the collective agreement governing a share system or a fisher's work agreement so provides. Article 27(c)

45 ILO: Guidelines on flag State inspection of working and living conditions on board fishing vessels (Geneva, 2017), Section 3.2.11, p. 68.

The inspector should interview the vessel owner (or representative) to verify that she/he has met the responsibilities listed above. In addition, the inspector should verify that the vessel owner has "not constrained the skipper from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation and safe operation, or the safety of the fishers on board" (Article 8.3).

4.3.2 Skippers

"**Skipper** means the fisher having command of a fishing vessel" (Article 1(l)). The skipper is the person in overall, day to day charge of the fishing vessel and its crew.

The inspector should verify that the skipper has met the following legal responsibilities:

- As the person responsible for the safety of the fishers on board and the safe operation of the vessel, the skipper is effectively carrying out duties which include but are not limited to the following areas (Article 8.2(a–d)):
  - providing such supervision as will ensure that, as far as possible, fishers perform their work in the best conditions of safety and health;
  - managing the fishers in a manner which respects safety and health, including prevention of fatigue;
  - facilitating on-board occupational safety and health training and instruction; and
  - ensuring compliance with safety of navigation, watch-keeping and associated good seafaring standards.
- Inspections of accommodation, food, and potable water have been carried out by skipper, or under the authority of the skippers and any corrective actions taken to address any deficiencies in line with Convention No. 188 standards (Annex III, bullet 83).[46]

In addition, the inspector should verify that the skipper has not been constrained by the vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation and safe operation, or the safety of the fishers on board (Article 8.3).

4.3.3 Fishers

"**Fisher** means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers" (Article 1(e)).

The inspector should verify that the fishers have met the following legal responsibilities:

- Fishers have complied with the lawful orders of the skipper and applicable safety and health measures (Article 8(4)).

46 ILO: *Guidelines on flag State inspection of working and living conditions on board fishing vessels* (Geneva, 2017), Section 3.2.17, p. 87.

▶Box 4.1. Recording interview information

Methods for keeping track of information received in interviews with owners, skippers, and fishers vary widely. An aide memoire (showing prompts for minimum age inspection) for a UK fishing vessel inspection is excerpted below.

No	WIFC Specification	SI (M Notice) Ref	Met?	NA	Deficient?
1	**Minimum Age**	WIFC Art 9			
1.1	All fishermen on board are at least 16 years of age. (Apprenticeship/Work Experience might see young people on board from 15 years of age?)	MSN 1882 Section 2			
1.2	Young fishermen are not employed or engaged with work which pose a risk to their health and safety. They are not allowed to be employed on the following tasks: (a) which is objectively beyond their physical or psychological capacity; (b) involving harmful exposure to agents which are toxic, carcinogenic, cause heritable genetic damage or harm to the unborn child, or which in any other way chronically affect human health; (c) involving harmful exposure to radiation; (d) involving the risk of accidents which it may be assumed cannot be recognised or avoided by young workers owing to their insufficient attention to safety or lack of experience or training; or (e) involving a risk to health from • extreme cold or heat, or • noise, or • vibration; or • optical radiation or; • electromagnetic fields.	MSN 1882 Section 4.4			
1.3	Young fishermen (under 18 years) are not employed during the night. Night means a period: (a) the duration of which is not less than nine consecutive hours, and (b) which starts no later than midnight and ends no earlier than 0500 hours (local time) with possible exceptions being: 1. Where training would be impaired; or 2. Where the specific nature of the duty or training requires working at night and MCA determines health and safety is not jeopardised.	MSN 1882 section 3			

Source: UK MCA Aide Mémoire for fishing vessel inspection, 2019.

4.4 Valid documents (Article 41)

The valid document is a new requirement introduced by Convention No. 188. The valid document can only be issued by the competent authority, or a body acting on its behalf. The valid document certifies that the fishing vessel has been inspected by the competent authority, or on its behalf for the provisions of Convention No. 188. Valid documents are required for certain categories of fishing vessels, as provided for by Article 41 of the Convention.

According to paragraph 28 of the *Guidelines on flag State inspection of working and living conditions on board fishing vessels:*"'valid document' means a document issued in accordance with Article 41 of the Convention that states that the vessel has been inspected by the competent authority, or on its behalf, for compliance with the provisions of the Convention concerning living and working conditions".

A valid document only indicates that the vessel met with the requirements of the Convention at the time of inspection. Working and living conditions on board the vessel may have deteriorated since the valid document was issued and inspectors may carry out inspections where nonconformities are apparent. Inspectors should have a system for verifying the authenticity of documents.



Exercise 4.1

TITLE	Verifying valid documents
AIMS	To train inspectors to check valid documents to ensure a) their authenticity; b) they contain the information required in Convention No. 188; and c) a copy of the valid document is carried on board each vessel.
TASK	In your small groups, discuss: The basic information which should be contained in a valid document? (see below) What optional information could be included in a valid document and why? (Trainer to introduce this topic) Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention 188, Article 41. *ILO Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.3. The valid document. Information on which vessels are required under national laws, regulations or other measures to carry a valid document. Charts and/or logbooks with positions and dates to establish 200 nautical miles and three days or more at sea.
OUTPUT	Inspectors have improved their capacity to verify valid documents which state that the vessel complies with the provisions of Convention No. 188.

Convention No. 188, Article 41 specifies that for vessels 24 m in length and over, or which normally navigate (including fishing operations) at a distance exceeding 200 nautical miles from the coastline of the flag State or navigate beyond the outer edge of the continental shelf, whichever distance from the coastline is greater, a valid document – issued by the competent authority stating that the fishing vessel has been inspected by the competent authority or on its behalf for compliance with the provisions of Convention No. 188 concerning working and living conditions – is required to be carried on board fishing vessels remaining at sea for more than three days.

The basic information that a valid document should contain:

- the name of the issuing competent authority;
- a statement that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of Convention No. 188 concerning living and working conditions;
- the date of the inspection; and
- the period of validity (which shall not exceed five years).

Note: In verifying the valid document, the inspector should respect any exclusions, exemptions by the flag State and use of substantial equivalence to the extent they are specified in the valid documents. "Substantial equivalence", as it has been understood in the framework of the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), where it was first used, means that there may be differences or deviations in detail as between the requisite national laws, regulations or other measures and the prescriptions of the Convention, but that the States should engage themselves to ensure that the general goals intended by the provisions of the Convention are respected.

In order to prevent unnecessary delays, inspectors who are port State control officers (PSCOs) should verify whether any public institution or other organizations are recognized by the flag State as competent and independent to carry out inspections and issue the valid document. PSCOs may need to obtain relevant information, for example from appropriate web sites. In case of doubt as to the authenticity of the document, PSCOs should contact a representative of the flag State.[47]

ILO *Guidelines for port State control officers* Annex A recommends optional information which could also be included in a valid document. Ask your trainees to suggest additional optional information and then check how their suggestions correspond with these Convention No. 188 optional recommendations:

- the name of the fishing vessel;
- distinctive numbers or letters;
- port of registry;
- date of registry;
- the length or length overall of the vessel;
- the gross tonnage (gt), if gross tonnage is used;
- the name of the fishing vessel owner(s);
- the address of the fishing vessel owner(s);
- a statement indicating that the flag State has ratified Convention No. 188; and
- a statement indicating whether the flag State has ratified the ILO's Private Employment Agencies Convention, 1997 (No. 181), and whether it has allocated certain responsibilities under Convention No. 188 to private employment agencies;
- any exemptions, exclusions, substantial equivalencies or variations that apply to the vessel as permitted by the competent authority of the flag State.

47 ILO: *Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188),* Annex A, p. 60 (Geveva, 2011).

Inspectors should be alert to deficiencies, including these examples:

- A valid document, if required, is not on board.
- The valid document has expired.
- There are doubts as to the authenticity of the valid document.

4.5 Crew list (Article 15)

The crew of a fishing vessel consists of all the persons who sail on it. The crew are generally assigned a hierarchical order, according to their responsibilities in operating and maintaining the vessel, and their duties in catching, processing, storing and landing fish.

The crew list is the basic document that provides the competent authority or authorities with information about the number and composition of the crew on board when a vessel arrives at and departs from a port.

Convention No. 188 requires all vessels to carry a crew list. A crew list contains names and details of all personnel on board, including the skipper, at the time of departure from the port and reflect any changes thereafter, for example, if any person leaves the vessels such as fishers who are evacuated, repatriated or hospitalized ashore, or when new fishers board the vessel at any time. The crew list should be provided to the authorized persons ashore prior to the vessel's departure or communicated ashore immediately after the departure. This information is commonly checked by immigration services and the port authority.

Neither Convention No. 188 nor Recommendation No. 199 provide guidance on the contents of the crew lists. However, the IMO Convention on Facilitation of International Maritime Traffic, 1965 states in Article 2.6.1 as recommended practice that the "In the Crew list, public authorities should not require more than the following information":

- name and nationality of the ship;
- family name;
- given names;
- nationality;
- rank or rating;
- date and place of birth;
- nature and number of identity document;
- port and date of arrival; and
- arriving from.

Article 15 of Convention No. 188 allows for the competent authority to determine "to whom and when such information shall be provided and for what purpose or purposes". By not specifying the form of communication provided, it also allows competent authorities to decide whether it is provided in hard or soft copy media.

In most countries with ports, the practice of providing crew lists will be commonplace, particularly for commercial shipping, and it may simply be a case of extending an existing scheme for fishing vessels.

Inspectors should inspect for compliance of the crew list with national laws, regulations or other measures implementing Convention No. 188. In certain cases, a crew list may indicate the need for further inspection where crew members are not present (for example, if exploitation had led to loss of life at sea), or crew members are present but not listed.



Exercise 4.2

TITLE	Verifying crew lists
AIMS	To ensure inspectors know what information should be contained in a crew list, when they should be provided and to whom, and what else inspectors should verify.
TASK	In your small groups, discuss: • What information should be in a crew list? • When the crew list should be provided, by whom, and to whom? • What information in the crew list should be checked on by inspectors, and with whom? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention 188, Article 15. ILO Guidelines on flag State inspection of working and living conditions on board fishing vessels, Section 3.2.4.
OUTPUT	Inspectors are able to verify crew lists and are aware of the correct information to inspect for

Convention No. 188, Article 15, specifies:

- Every fishing vessel shall carry a crew list, a copy of which shall be provided to authorized persons ashore prior to departure of the vessel, or communicated ashore immediately after departure of the vessel. The competent authority shall determine to whom and when such information shall be provided and for what purpose or purposes.

Sources of information for inspectors:

- Where possible, the inspector should be provided with a copy of the crew list prior to the inspection.
- The inspector should then check the crew list against the fishers actually on board, bearing in mind potential language problems in the case of migrant workers.
- The inspector should conduct interviews with fishers and skippers to check the accuracy of the list.

4.6 Fishers' work agreements (Articles 16–20)

Contracts of employment are often lacking in the fishing sector. So Convention No. 188 introduced the new requirement that a fisher should have an individual and written fisher's work agreement issued by the fishing vessel owner. The fisher's work agreement ensures that both the fisher and the fishing vessel owner fully understand the terms under which the fisher is engaged in work.

Annex II in Convention No. 188 details the information (below) that the inspector should verify is contained, as a minimum, in a fisher's work agreement, and what else the inspector should check on.

Sources of information for inspectors:

- The inspectors should examine the fishers' work agreements (or other evidence of contractual or similar arrangements); copy of a collective bargaining agreement, where applicable; articles of agreement, if any.
- The inspectors should conduct interviews with the fishers to confirm that, on signing their fisher's work agreement, they were given an opportunity to examine and seek advice on it and freely accepted the agreement before signing. Inspectors should also conduct an interview with the fishing vessel owner.

Inspectors should be alert to deficiencies, including these examples:

- The fisher has not had an opportunity to review and seek advice on the terms of the fisher's work agreement before it was concluded.
- A fisher does not have a written fisher's work agreement duly signed by both the fisher and the fishing vessel owner or by an authorized representative of the fishing vessel owner (or, where fishers are not employed or engaged by the fishing vessel owner, there is no evidence of contractual or similar arrangements).
- The fisher has a written fisher's work agreement that does not comply with national laws, regulations or other measures implementing Convention No. 188.
- A fisher's work agreement is not complied with.
- Any health and social security coverage and benefits to be provided by national laws, regulations or other measures by the fishing vessel owner or, if different, the employer, are not set out in the agreement.

▶Box 4.2. Interviewing techniques

Interviews with fishers are vital to effective inspection, but inspectors must take steps to help fishers feel comfortable answering questions about working conditions. This is of particular importance in industries with migrants – whether internal or cross-border migrants – who are more vulnerable to abuses. The excerpt below from ILO work with labour and fisheries inspectors in Indonesia is from a draft protocol (2018) for a proposed labour inspection programme. (The full document is appended to this package as Annex IV).

Interviewing fishers

The inspector should try to interview as many as fishers as possible. Interviews help you to learn about working conditions and compliance from the workers perspective and to cross check the skipper's information. The following tips should be kept in mind when selecting and interviewing fishers.

Selection of fishers

- The inspector, not the skipper or crew supervisor, should choose which fishers to interview.
- The skipper and crew supervisor should not be present during the interviews (out of sight and earshot).
- The inspector should ask workers to pause their work for interviews and follow her/him out of sight of the skipper (e.g. nearby off the vessel)

Composition of interviews

- The goal is to carry out interviews covering at least 25 per cent of the crew.
- Interviews can take place in small groups (3–6 fishers) or individually depending on the circumstances.

Interviewed workers should reflect a mix of years (new and veteran) and not only the most vocal fishers or recognized leaders.

Conducting the interviews

- Getting good results from an interview requires trust. To help build this trust, don't rush, listen actively and respectfully.
- Begin interviews with introductions and a description of the inspector's purpose, for example, "To understand more about working conditions on the boat...".
- Emphasize that the information gathered during the interview will be kept strictly confidential and that others will be interviewed.
- Indicate that interviews will take around 15 minutes or so.
- Use open, not closed questions and try to get fishers to tell stories about working conditions on their boat and even other vessels.
- For example, do not ask workers if "Everything or everyone on the boat is fine?" This will likely yield limited information and fishers will be inclined to respond that everything is ok.
- Ask about recent not just current practices – e.g. "Has this happened in the last six months, one year?"
- Ask also about other fishers and other boats on key topics. These stories should not be taken as evidence of a violation but as possible information for follow up and to understand industry practice.
- Try giving an example in your question of a violation to show workers you know what sometimes happens ("On some boats, workers are promised higher pay, but the real pay is lower than promised. Has this happened on your boat?").
- Repeat or rephrase answers from workers if they seem to misunderstand or their answers are not clear.
- Your interview notes can count as evidence for enforcement actions so make sure they are clear, accurate and complete.

Exercise 4.3

TITLE	Verifying fishers' work agreements
AIMS	To ensure that inspectors can recognize the different types of fishers' work agreements – such as employment agreements, agreements for services, partnership (share of the catch) agreements. To ensure that the fishers' work agreements, whatever their form, (i) reflect the actual working and living conditions of fishers on board fishing vessels, and (ii) have been signed, with each crew member having a copy in a language he/she can understand.
TASK	In your small groups, discuss: • What are the various types of fishers' work agreements? • What are the various categories of information in the fisher's work agreement (using the list below)? • Is there any other type of information which you feel could be of use? • If a fisher requests extra advice before signing a work agreement, where would you advise the fish to find such advice? • What else should the inspector check? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention 188, Article 16 (a) and (b), and Annex 2. ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.9. Categories of information required in a fishers' work agreement as per Convention No. 188 as detailed below.
OUTPUT	Inspectors are able to verify fishers work agreements, recognize different types of agreement that exist in the sector and ensure work agreements match the living and working conditions on board fishing vessels.

Convention No. 188, Article 1 (f) specifies:

- "Fisher's work agreement means a contract of employment, articles of agreement or other similar arrangements, or any other contract governing a fisher's living and working conditions on board a vessel". (These terms do not apply to a fishing vessel who is single handily operating the vessel.)

The fisher's work agreement shall contain the following particulars, unless already regulated in another manner by national legislation or an applicable collective bargaining agreement:

- (a) the fisher's family name and other names, date of birth or age, and birthplace;
- (b) where (place) and when (date) on which the agreement was concluded;
- (c) fishing vessel(s) name(s) and registration number(s);
- (d) the name of fishing vessel owner (or the employer) or other party to the agreement with the fisher;
- (e) voyage or voyages to be undertaken;
- (f) capacity (position) in which the fisher is to be employed or engaged;
- (g) where (place) and when (date) the fisher is required to report on board;
- (h) the provisions to be supplied to the fisher;
- (i) amount of wages and/or share of the catch and how they are calculated, and details of any agreed minimum wage;

- (j) conditions for the termination of the agreement;
- (i) for an agreement for a definite period, the date fixed for its expiry;
  - (ii) for an agreement made for a voyage, the port of destination and the time which has to expire after arrival before the fisher shall be discharged; and
  - (iii) for an agreement for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission;
- (k) protection that will cover the fisher in the event of sickness, injury or death in connection with service;
- (l) amount of paid annual leave or the formula used for calculating leave;
- (m) health and social security coverage and benefits to be provided to the fisher by the fishing vessel owner (or the employer) or other party or parties to the fisher's work agreement,
- (n) entitlement to repatriation;
- (o) a reference to the collective bargaining agreement, where applicable;
- (p) minimum periods of rest (in accordance with national laws, regulations or other measures; and
- (q) any other particulars as required by which national law.

When on board, the inspector should verify that:

- Fishers have received and kept a signed original of their work agreement, and it is in comprehensible form (in the case of migrant fishers, it must be in a language they understand).
- Each fisher's work agreement has been signed by both the fisher and the fishing vessel owner.
- The fisher understood that he/she had the right to seek advice on the terms of the work agreement signing.
- Copies of the fishers' work agreements have been kept on board and so are available to inspectors.

4.7 Determination of the employment or working relationships on board fishing vessels

As there is no specific text on this issue in Convention No. 188, see ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.1, as well as the ILO Employment Relationship Recommendation, 2006 (No. 198).

The **"employment relationship"** is a notion which creates a legal link between a person called the "employee", with another person called the "employer", to whom she/he provides labour or services under certain conditions in return for remuneration. It is the legal link between an employer and an employee which triggers many of the reciprocal rights and obligations contained in labour law in numerous countries with, however, variations.[48]

The inspector needs to determine the employment relationships on board the vessel at the start of the inspection, as this will allow the inspector to identify the legal duties and responsibilities of each person on board, and which national laws, regulations or other measures should be enforced. The inspector may clarify the situation on board by reviewing the fishers' work agreements but may also require other approaches such as interviews with the fishers on board.

Determining employment relationships on board can be one of the most difficult tasks for inspectors due to a variety of factors, which include:

- The prevalence of "share of the catch arrangements";
- Lack of clarity on who is the direct employer, especially where there are foreign vessel owners, vessels are under charter to a company, or where crews – especially migrant labour – have been recruited through private employment agencies; and
- Deliberate disguising of who the employer is (fishers may not be clear about or know who their actual employer is).

Duties of inspectors. At the beginning of the on-board inspection, the inspector should seek to establish:

- Who is the fishing vessel owner?
- Who is the direct employer of the fishers (if different from the fishing vessel owner)?
- Who is in charge of the vessel?
- What is the contractual status of the fishers on board?
- Which fishers have supervisory responsibilities?

In case of doubt about the exact nature of an employment relationship, the inspector should be able to refer to the central office of the competent authority for guidance, or some other authoritative source. Ultimately, it may be left to the courts to determine whether, in a given situation, a legitimate employment relationship exists or whether some form of hidden or disguised employment or illegitimate work relationship is involved.

48 International Labour Conference, Ninety-first Session, Geneva, 2003, Provisional Record 21, Report of the Committee on the Employment Relationship, Conclusions concerning the employment relationship, paragraph 1.

4.7.1 The share of the catch system in fishing

In some countries, some fishers are considered to be "self-employed" because they do not work for a fixed wage but are remunerated through a "share of the catch" arrangement agreed with the fishing vessel owner or skipper. Crew and owner must together cover certain operating expenses which are deducted from the gross proceeds obtained from the sale of the catch. The net proceeds are then divided among the boat owner and the members of the crew according to a pre-agreed formula. The fishers' income continues to depend on the size of the catch and the proceeds from its sale, but the sharing is usually done before, rather than after, the deduction of operating costs. The risk is, in principle, shared by the fishing vessel owners and the members of the crew.

Some fishers work under a combination of both systems (wage and share). Fishermen sometimes have a share of the catch but are also guaranteed a minimum wage. In other operations, fishers receive both a regular salary and a share of the catch. The members of the crew receive a fixed salary, which is stipulated in the charter party, in the contract of engagement or in the relevant legislation or collective agreement. They also receive a share of the catch calculated on the basis of the gross proceeds from its sale.

In countries where employer–worker relationships are normally recognized by legislation, fishers may be excluded from social provisions because of the sharing arrangements peculiar to the fishing industry. Exclusion can lead to difficulties in obtaining unemployment insurance, health care and other benefits enjoyed by many shoreside workers.

The share system has advantages and disadvantages for fishers, and clear opportunities for exploitation of fishers by supervisors and owners. The system can be motivating and create a sense of team spirit and give everyone a stake in the result. But it can also cause fishers to accept poor working conditions and long working hours. In order to increase their income, the skipper and crew will ensure that fishing gear is in use for as long as possible. This can lead to hasty manoeuvring and the adoption of unsafe practices. The working rhythm, which is controlled by the size of the catch, the length of the trip, the length of the haul and quality requirements, may be an important factor in accidents. The lack of a minimum wage for fishers and the uncertainty associated with fishing income may also lead some fishers to take unnecessary risks.[49]

In addition, some relationships may appear formally to be "partnerships" but in fact operate as employer–employee relationships. In these cases, the inspector should apply the appropriate tests to determine the nature of the employment relationship and ensure that employees are categorized correctly and receive the protections due to them.

The employment relationship is one of many examples of issues that require interviews with fishers, skippers, and vessel owners for a determination. This section includes two exercises: the first is specific to employment relationships and the second is a generic exercise designed to help inspectors set up and conduct interviews in ways that help them triangulate facts from fishing vessel owners, workers, and available documentation to determine the labour practice and its impact, and judge its compliance with the law.

49 ILO: *Managing labour inspection in rural areas,* ILO Curriculum on Building modern and effective labour inspection systems, Module 14, Section 3.2 (Geneva, 2011).

Note: Some provisions of Convention No. 188 specifically refer to share fishing or self-employment. For example: [50]

- Article 19 recognizes the situation of single-handed operation of the vessel;
- Article 27(c) specifically refers to the share system in the context of the costs of food and water; and
- Article 34 recognizes the possibility of social security schemes for employed and self-employed persons.



Exercise 4.4

TITLE	Determining employment relationships in fishing
AIMS	To train inspectors on the best ways to determine fishers' employment relationships and employment status so they know which laws and standards to apply.
TASK	One of the most difficult tasks for inspectors in fishing is determining workers' employment relationships and employment status, especially where there are share of the catch arrangements, or they are employed by a recruitment or employment agency. Using the example below, in your small group, discuss: •How should an inspector examine the employment situation of all persons working on the fishing vessel? • Should this include verifying fishers' work agreements, interviewing fishers, skippers, vessel owners, representatives of private recruitment/employment agencies? Draft simple guidelines for inspectors inspecting a similar situation. Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.1. ILO Employment Relationship Recommendation, 2006 (No. 198).
OUTPUT	Inspectors are trained on how to determine working relationships and employment status in the fishing sector and ultimately which laws to apply to fishers with different status. They will have produced simple guidelines for inspectors to determine working relationships.

50 ILO: *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* section 2.2.2, paragraph 44 (b) (Geneva, 2017).

Exercise 4.5

Variations on this exercise can be repeated several times over the course of training to help inspectors develop a feel for effective worker interviews. The fishing labour inspection guidance developed by the ILO Ship to Shore Rights Project in conjunction with the Thai Ministry of Labour (see Annex V) can be used to choose issue areas and specific questions for practice interviews.

TITLE	Role play: Interviewing fishers
AIMS	To provide training for inspectors on how to carry out interviews with fishers on working and living conditions on board fishing vessels.
TASK	Select three persons to play the role of the: • inspector; • fisher; and • observer for the role play. Using the role play guide (see Annex I 'Tips for Training'), make sure that the three persons understand what is expected of them, and their roles. Using the list below or issues and questions from the guidance document in Annex V determine the interview topic(s) to be discussed by the inspector with the fisher: • Who is your employer? • Are you self-employed or do you have share of the catch arrangements? • What is your work agreement? • How are your wages paid? How do you send money home? • Has a health and safety including risk assessment been carried out? • What are your hours of work and rest? • What food, water and accommodation do you have? • What medical care, if any, do you have? • What happens if you are injured or sick at work? • How were you recruited? • How will the cost of your repatriation be covered? As a group, discuss the role play and the effectiveness of the interview and whether it has resulted in a clear outcome(s) to help the inspector decide what action(s) to take.
TIME	To be determined by the facilitator/trainer.
RESOURCES	
OUTPUT	Inspectors have been trained on how to conduct interviews with fishers regarding working and living conditions on board fishing vessels.

4.8 Manning (Articles 13 and 14)

To ensure the safety of fishing vessels at sea, it is important that vessels are adequately and safely manned. The intent of Convention No. 188, Article 13 is to ensure safe and effective manning. It is in line with Chapter V, Regulation 14 of the IMO's Safety of Life at Sea Convention which provides for ships to maintain or adopt measures on manning to ensure safety of life at sea.

Convention No. 188 leaves it up to the competent authority to determine the appropriate level of manning required for safe navigation of the fishing vessel. Inspectors should check for compliance with national laws and regulations and other measures implementing Convention No. 188 provisions, ensuring that the number and qualifications of fishers on board the vessel meet minimum requirements.

Inspectors should be alert to deficiencies, including these examples:

- The vessel does not have enough fishers, or enough qualified fishers, to ensure the safe navigation and operation of the vessel, as required by national legislation.
- Where the vessel is 24 m in length or over and at sea for any period of time, the number or qualification of the fishers is not in accordance with the safe manning document or the minimum level of manning established by the competent authority for the safe navigation of the vessel.

Exercise 4.6

TITLE	Verifying manning levels
AIMS	To help inspectors to inspect for compliance with manning levels as per national laws and/or regulations.
TASK	In your small groups, discuss: • What are safe manning levels for different sizes and types of vessels? • Which national standards and laws apply in your country? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention 188, Articles 13 & 14 ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.5. Crew list; Safe manning document, where applicable; Basic safety training certificate(s); Documentation on the qualifications of the fishers on board, including certificates of competency; Collective bargaining agreement, where it exists; Medical certificates. Interviews by inspectors Interviews with skippers and with fishers.
OUTPUT	Inspectors are able to inspect for compliance with manning levels for different types of vessels, in accordance with national laws and regulations.

Convention No. 188, Articles 13 and 14, specify these basic requirements for manning:

The fishing vessel is sufficiently and safely manned for the safe navigation and operation of the vessel, in accordance with national standards drawn up by the competent authority, and is under the control of a competent skipper. (The IMO Convention on Facilitation of International Maritime Traffic, 1965, as amended, requires a crew list for all vessels on international voyages.)

Additional requirements for vessels of 24 m in length and over: The vessels shall have a minimum level of manning for safe navigation of the vessel, as established by the competent authority. The number and the qualifications of the fishers required are to be specified.

4.9 Hours of rest (Articles 13 and 14)

One of the distinguishing characteristics of sea fishing is that there is not the clear separation between working time and personal time found in many jobs. Many fishers live as well as work on their vessels, in conditions that can be cramped and congested; this situation combined with very long working hours and long periods away from home can lead to fatigue.

Regular hours of work don't exist in the fishing sector. Hours of work tend to be extremely long. Deck hands often work day and night to haul in the catch, especially in nocturnal fishing. The intensity of the work offers little chance for rest breaks and the length of the working day does not offers enough time for recuperation or leisure.

Fatigue is a fact of life in the fishing industry. Fatigue, as defined by the IMO, is a "reduction in physical and/or mental capability as the result of physical, mental or emotional exertion which may impair nearly all physical abilities including: strength; speed; reaction time; coordination; decision making; or balance."[51]

Fatigue is extreme physical and/or mental tiredness brought on by frequent lack of sleep. Fatigue can prevent you from doing your work properly and safely, thereby putting your life and the lives of other crew members at risk. People need seven to eight hours of sleep per night to be refreshed and 100

51 IMO's List of Human Element Common terms (MSC/Circ.813/MEPC/Circ.330). Further guidance on fatigue may be found in the IMO's publication Guidelines on fatigue (2002) or any subsequent revision of that document.

per cent fit for work. Fatigue builds up if we get less than seven to eight hours sleep per night. Young workers – over 16 and under 18 – need about one hour more of sleep than adults. With long work days, accident risks begin to increase significantly especially after around ten hours of consecutive work. Sleep is the only way to recover from sleep loss and fatigue. Hence the importance of regular periods of rest of sufficient length to ensure safety and health.[52]

Convention No. 188 has basic requirements on hours of rest, and extra requirements for vessels remaining at sea for more than three days, irrespective of size.

Sources of information for inspectors include:

- fishers' work agreements, or the relevant collective agreement, or other documents (such as the bridge and engine-room logbooks, which may also be checked);
- a table of working arrangements or a schedule;
- up-to-date records of work or rest for each fisher serving on the fishing vessel (if national standards require these);
- cases of fisher fatigue, possibly indicated by hours of rest that are consistently at the lower limits and by other contributory factors, such as disrupted rest periods, or cases of fishers showing symptoms such as lack of concentration, irrelevant and inconsistent replies to questions, yawning and slow reaction times;
- catch records and information on how the vessel processes its catch, which should provide a framework for assessing how many fishers would be required to work and for what continuous periods of work;
- interviews with fishers about their working hours and hours of rest, especially with regard to fisher fatigue; and
- an interview with the skipper about how rest periods are organized in practice and if there is a fatigue-management plan.

Inspectors should be alert to deficiencies, including these examples:

- On a vessel of any size at sea for any period of time, fishers are not given regular periods of rest of sufficient length to ensure safety and health.
- On a fishing vessel of any size which remains at sea for more than three days, the fishers are not provided with the minimum hours of rest, as established by the competent authority or authorities.
- In the absence of any alternative requirements established by the competent authority or authorities in accordance with Convention No. 188, fishers receive less than ten hours of rest in any 24-hour period, except in emergency situations, as provided for in Article 14(4) of Convention No. 188), or less than 77 hours in any seven-day period.

52 Maritime New Zealand: Fatigue tools for vessel owners: Get your sleep; reduce your risk (Wellington, 2007) and WorkSafeBC: Gearing up for safety: Safe work practices for commercial fishing in British Columbia (WorkSafeBC, 2012), p. 14. Plus European Union: European handbook for the prevention of accidents at sea and the safety of fisherman (European Union, 2007).

Exercise 4.7

TITLE	Verifying hours of rest
AIMS	To help inspectors ensure that fishers are given regular periods of rest of sufficient length to ensure safety and health, distinguishing between: (a) vessels which remain at sea for less than three days; and (b) vessels which remain at sea for more than three days, irrespective of size.
TASK	In your small groups, discuss: • What are the basic hours of rest which fishers should receive in accordance with national laws and regulations, and how to ensure that they are applied? • What are the extra requirements for vessels remaining at sea for more than 3 days? How to ensure that fishers receive regular periods of rest of sufficient length in these circumstances? • How to check for compliance with national legislation on working hours and hours of rest applicable to the sector? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention No. 188, Articles 13 and 14 ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.12..
OUTPUT	Inspectors are able to verify that fishers are given sufficient hours of rest according to national laws and regulations and the requirements of Convention No. 188.

Convention No. 188 specifies basic requirements for hours of rest: Fishers are given regular periods of rest of sufficient length to ensure safety and health. There are extra requirements for vessels remaining at sea for more than three days, irrespective of size.

Convention No. 188, Article 14.1 contains additional requirements for the competent authority: to establish minimum hours of rest, for the purpose of limiting fatigue, for fishers for vessels, regardless of size, remaining at sea for more than three days. Minimum hours of rest shall not be less than: (i) ten hours in any 24-hour period; and (ii) 77 hours in any seven-day period.

However, the competent authority may permit, for limited and specified reasons, temporary exceptions to these limits. In such circumstances, it shall require that fishers shall receive compensatory periods of rest as soon as practicable (Article 14.2).

Nothing in Article 14 shall be deemed to impair the right of the skipper of a vessel to require a fisher to perform any hours of work necessary for the immediate safety of the vessel, the persons on board or the catch, or for the purpose of giving assistance to other boats or ships or persons in distress at sea. Accordingly, the skipper may suspend the schedule of hours of rest and require a fisher to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the skipper shall ensure that any fishers who have performed work in a scheduled rest period are provided with an adequate period of rest (Article 14.4).

4.10 Medical certificates and medical examination (Articles 10–12)

Fishing is an occupation which involves strenuous physical work, often under extreme weather conditions, and often for long periods of time, plus high levels of safety and health risk. Given these circumstances, it is paramount that fishers be medically examined by a qualified medical practitioner to determine whether they are fit and healthy enough to do the work. Furthermore, each fisher who is found to be fit and healthy enough to do the work should be issued with a medical certificate by a qualified medical practitioner attesting that this is the case.

However, verifying the authenticity of medical certificates, especially in the case of migrant fishers, can be a major problem for inspectors and so they need appropriate training on how to distinguish valid medical certificates from false ones.

Note: Medical practices may not necessarily be located in the flag State, but should be recognized by the competent authority of the flag State. Some flag States may recognize medical certificates issued under the authority of other States in which medical practitioners operate (for example, a fisher's State of residence). It is important to clarify national laws or regulations on this matter before checking medical certificates.

ILO Recommendation No. 199, Paragraphs 6–10 give extra guidance on medical examination:

6. When prescribing the nature of the examination, Members should pay due regard to the age of the person to be examined and the nature of the duties to be performed.
7. The medical certificate should be signed by a medical practitioner approved by the competent authority.
8. Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels or certain types of fishing vessels, or for certain types of work on board, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.
9. The competent authority should take into account international guidance on medical examination and certification of persons working at sea, such as the (ILO/ WHO) Guidelines for Conducting Pre-Sea and Periodic Medical Fitness Examinations for Seafarers
10. For fishers exempted from the application of the provisions concerning medical examination in the Convention, the competent authority should take adequate measures to provide health surveillance for the purpose of occupational safety and health.

Exercise 4.8

TITLE	Verifying medical certificates (medical examination)
AIMS	To help inspectors to verify that each fisher has a medical certificate issued by a qualified medical practitioner following a medical examination. To ensure inspectors distinguish between requirements for: (a) vessels under 24 m in length and remaining at sea for less than three days; and (b) vessels over 24 m in length which remain at sea for more than three days. To help inspectors to verify the authenticity of medical certificates, especially for overseas, migrant fishers.
TASK	In your small groups, discuss: • How should inspectors verify the authenticity of medical certificates especially for overseas, migrant fishers? • In the case of doubt, how should an inspector go about verifying whether this medical certificate is genuine or false? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES/SOURCES OF INFORMATION	ILO Convention No. 188, Articles 10–12 and ILO Recommendation No. 199, Paragraphs 6–10. ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.13. TRAINERS' NOTES A list of approved medical practitioners and institutions, available from the competent authority; individual fishers' medical certificates; the crew list, which could contain details of medical certificate expiry dates. Interviews with fishers to confirm the validity of their medical certificates.
OUTPUT	Inspectors are able to verify the authenticity of all fishers' medical certificates, including those held by domestic and migrant fishers.

The basic requirements of Convention 188 (Article 10.1) are that no fishers shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duties.

The medical certificate must have been issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate. It shall be valid for a maximum of two years (one year for young fishers meeting the minimum age requirements). If the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage.

There are extra requirements for vessels over 24 m in length or remaining at sea for more than three days:

> The medical certificate shall state, at a minimum, that: (a) the hearing and sight of the fisher concerned are satisfactory for the fisher's duties on the vessel; and (b) the fisher is not suffering from any medical condition likely to be aggravated by service at sea or to render the fisher unfit for such service or to endanger the safety or health of other persons on board.

Note: The competent authority, after consultation, may grant exemptions (to the issuing of a medical certificate), taking into account the safety and health of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation and type of fishing operation (Convention No. 188, Article 10.2). These exemptions shall NOT apply to a fisher working on a fishing vessel of 24 m in length and over, or which normally remains at sea for more than three days (Convention No. 188, Article 10.3).

Note: Medical practices may not necessarily be located in the flag State, but should be recognized by the competent authority of the flag State. Some flag States may recognize medical certificates issued under the authority of other States in which medical practitioners operate (for example, a fisher's State of residence). It is important to clarify national laws or regulations on this matter before checking medical certificates.

On board, the inspector should:

- verify that a medical certificate has been issued by a duly qualified medical practitioner;
- look at the individual fishers' medical certificates and verify that the certificate contains the relevant information and is up to date;
- verify if a fisher working or performing tasks on a fishing vessel contrary to a restriction on a medical certificate;
- take action in case of a fisher on board without a valid medical certificate or with an expired certificate (if the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage).

Inspectors should be alert to deficiencies, including these examples:

- a fisher on board without a valid medical certificate (or with an expired certificate);
- a fisher working or performing tasks on a fishing vessel contrary to a restriction on a medical certificate; and
- a medical certificate not issued by a duly qualified medical practitioner.

4.11 Occupational safety and health, accident prevention and risk assessment (Articles 31–33)

Fishing is generally categorized as one of the three to four most dangerous industries in which to work in terms of fatalities, injuries and occupational disease. Fisheries often have fatal accident and serious injury rates 20–30 times higher than manufacturing occupations. Occupational diseases in fishing increase the levels of risk for fishers. According to the FAO, fishing is probably the most dangerous occupation in the world. The people affected by accidents at sea are often among the poorest in society.[53]

So, verifying that there are good safety and health conditions and practices on board fishing vessels is an important task for inspectors. At the start of the on-board inspection, it is important therefore that the inspector examines a copy of the on-board risk assessment carried out by the vessel owner or on her/his behalf. The risk assessment document should (i) identify the safety and health problems (the hazards) identified on board and (ii) the improvements (risk control measures) to be put in place by the vessel owner to eliminate or reduce the risks to the crew.

Using the risk assessment, the inspector then verifies that the skipper and/or vessel owner has made the safety and health improvements (risk control measures) identified in the risk assessment. The inspector can also talk to the crew and verify that the improvements have been made. (Risk assessment is part of the risk evaluation requirements of Article 33 of Convention No. 188, which also covers crew training, and on-board instruction of fishers).

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53 FAO: Safety for Fishermen: The Way Forward. Safety at Sea for Small-scale Fisheries in Developing Countries. FAO/ Government Cooperative Programme. GCP/GLO/200/MUL September 2010. Field Document No. 10, Section 2.2, p. 11; http://www.fao.org/docrep/014/al960e/al960e.pdf.

Note: ILO Recommendation No. 199, Para. 46(2)(a) refers, among other things, to "the **regular and active involvement of all fishers in improving safety and health** by continually identifying hazards, assessing risks and taking action to address risks through safety management". This is an important point to emphasize when training. Effective and sustainable improvements on board vessels will only be made if vessel owners and/or skippers involve their fishers, not only in identifying the problems (hazards) but in making safety and health improvements, putting things right (i.e. lowering risks).

See section 3.3 ("Risk analysis and resources") in the Planning/managers chapter above for further information on risk assessment. For more detailed training material and exercises on safety and risk assessment, see the 2013 ILO publication *Training package on workplace risk assessment and risk management for small and medium-sized enterprises*.[54] Fishing vessels have crews of 50 to 60, and often much less, which brings them within the definition of small and medium-sized enterprises.

More detailed information on safety and health in fishing is provided in the fact sheet in Annex VI. For more comprehensive training material and exercises on safety and health hazards and risk reduction in fishing, see the ILO *Safety and health training manual for the commercial fishing industry in Thailand*.[55]

Sources of information for inspectors include:

- safety and health risk assessment carried out by the vessel owner;
- relevant occupational safety, health and accident prevention notices and official instructions with respect to particular hazards on the fishing vessel;
- documentation relating to crew training and on-board instruction, including information on who provided the training, e.g., certificates or other documents concerning basic pre-sea safety training;
- appropriate and well-maintained protective equipment is available for fishers to use;
- on-board occupational accident reports;
- safety and health committee records, if available;
- interviews with skippers and fishers to discuss the risk assessment document, how the assessment was carried out, how any safety and health deficiencies identified in the on-board risk assessment will be remedied, when, and by whom;
- interviews with any crew members with supervisory responsibilities for implementing on-board occupational safety and health procedures;
- interviews with fishers to confirm the existence of on-board occupational safety and health procedures and practices, to confirm their involvement in the risk assessment process, to confirm whether the safety and health improvements identified in the risk assessment have been put into practice and are effective in preventing the possible injuries and diseases identified, and to confirm, where appropriate, that a safety and health committee, or another appropriate body, after consultation, has been established and is functioning; and
- interviews with safety and health committee members, including discussion on the type of information and advice that inspection services can provide on health and safety.

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54 ILO: *Training package on workplace risk assessment and risk management for small and medium-sized enterprises* (Geneva, 2013), http://www.ilo.org/safework/info/instr/WCMS_215344/lang--en/index.htm [accesssed 18 Apr. 2020].

55 ILO: *Safety and health training manual for the commercial fishing industry in Thailand,* Tripartite Action to Protect Migrant Workers within and from the Greater Mekong Subregion from Labour Exploitation (GMS TRIANGLE project) (Bangkok, 2014).

Inspectors should be alert to deficiencies, including these examples:

- Risk assessments, as part of risk evaluations, have not been carried out, or safety and health crew training and on-board instruction have not been carried out.
- Fishers have not been consulted and involved in carrying out risk assessments, including the safety and health improvements to be made.
- A risk identified through a risk assessment has not been addressed (through corrective measures).
- Health and safety problems involving high risks of injury or ill health to crew members continue to exist.
- Fishers have not received training on the handling of the types of fishing gear they use and the relevant safety measures.
- Accidents have occurred that have not been reported by the skipper or vessel owner to the competent authority or authorities.
- A joint committee on occupational safety and health on board, if required, has not been established.

Inspectors should be aware of these examples of deficiencies for vessels of 24 m. in length and over and which normally remain at sea for more than three days:

- There are no on-board procedures for the prevention of occupational accidents, injuries and diseases.
- There is no evidence of suitable guidance material or other appropriate information on how to assess and manage risks to safety and health on board fishing vessels.
- Appropriate protective clothing and equipment is not provided to fishers.
- There is evidence that a fisher has not received approved basic safety training, given by a competent person (and does not hold an exemption approved by the competent authority).

Exercise 4.9

TITLE	Verifying good safety and health conditions
AIMS	To train inspectors how verify that the on-board written safety and health risk assessment carried out by the vessel owner (or on her/his behalf) has fully identified the main safety and health problems (the hazards) and that the vessel owner has made the necessary safety and health improvements (risk control measures) to prevent or reduce the risks for the hazard identified.
TASK	In your small groups, discuss: • What are the main safety and health problems you find on board fishing vessels? Are they are different between different types and sizes of vessels? • As inspectors, what type of training, if any, have you received in safety and health risk assessment and by whom? • In your opinions, how could safety and health conditions on board fishing vessels be improved (i.e. risks lowered)? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention 188, Articles 31–33. ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.14. Relevant documents: on board safety and health risk assessment reports, on board occupational accident reports. Risk assessment handout (ask your trainer) Fact sheet on occupational safety and health in fishing (ask your trainer) *Safety and health training manual for the commercial fishing industry in Thailand.*[56]
OUTPUT	Inspectors are able to verify that the on-board written safety and health risk assessment has fully identified the main safety and health problems and that the vessel owner has made the necessary safety and health improvements.

Basic requirements of Convention No. 188:

- Risk evaluation in relation to fishing shall be conducted, as appropriate, with the participation of fishers or their representatives.
- Measures shall be in place to prevent occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers.
- Fishers shall be trained in handling the types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged.
- Due account shall be taken of the safety and health of fishers under the age of 18.
- Accidents shall be reported.
- Joint committees on occupational safety and health, or other appropriate bodies, shall be established (however, these need not necessarily meet on board the vessel).

56 ILO: *Safety and health training manual for the commercial fishing industry in Thailand,* Tripartite Action to Protect Migrant Workers within and from the Greater Mekong Subregion from Labour Exploitation (GMS TRIANGLE project) (Bangkok, 2014).

Convention No. 188: Additional requirements for fishing vessels of 24 m in length and over, normally remaining at sea for more than three days:

- Fishing vessel owners shall establish on-board procedures for preventing occupational accidents, injuries and diseases, taking into account the specific hazards and risks on board the fishing vessel concerned.
- Fishing vessel owners, skippers, fishers and other relevant persons shall be provided with sufficient and suitable guidance, training material, or other appropriate information on how to evaluate and manage risks to safety and health on board fishing vessels.
- Fishing vessel owners shall:
  - ensure that every fisher on board is provided with appropriate personal protective clothing and equipment;
  - ensure that every fisher on board has received basic safety training approved by the competent authority or authorities (written exemptions from this requirement may be granted for fishers who have demonstrated equivalent knowledge and experience); and
  - ensure that fishers are sufficiently and reasonably familiarized with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.

Convention No. 188: Additional sources of information – pertaining to requirements for fishing vessels of 24 m in length and over and that normally remain at sea for more than three days – include:

- guidance, training material or other appropriate information on board on how to evaluate and manage risks to safety and health on board (if this information has been provided to the fishing vessel owner);
- appropriate personal and well-maintained protective clothing and equipment provided by the fishing vessel owner;
- certificates or other documents indicating that fishers have received basic safety training approved by the competent authority;
- any written exemptions from the competent authority, with respect to the requirement for basic safety training approved by the competent authority; and
- evidence that fishers have been familiarized with equipment and its methods of operation, including safety measures (for example, entries in the official logbook concerning safety-related drills).

4.12 Joint safety and health committees

Joint committees on occupational safety and health should be established: (a) ashore; or (b) on fishing vessels, where determined by the competent authority, after consultation, to be practicable in light of the number of fishers on board the vessel (Convention No. 188, Article 31(e)), Recommendation No. 199, paragraph 44).

The ILO defines a workplace safety and health committee as "A committee with representation of workers' safety and health representatives and employers' representatives established and functioning at *organization* level according to national laws, regulations and practice."[57]

In practice, the different types of joint safety and health committee structures that operate in fishing can be broadly categorized as port-based safety and health committees in fishing; safety and health committees on board fishing vessels; and local, community-based sea health and safety committees.

Exercise 4.10

TITLE	Working with joint safety and health committees on board larger fishing vessels
AIMS	To help inspectors to work with legally mandated joint fisher-management safety and health committees on larger fishing vessels in order to improve safety and health conditions on board.
TASK	In your small groups, discuss: • How can inspectors support the establishment of joint health and safety committees either on board fishing vessels or in port? • How can inspectors work in structured manner with joint health and safety committees to reduce fatalities, injuries and work-related ill health in fishing? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	Please read the table below indicating the functions of joint health and safety committees.
OUTPUT	Inspectors have developed their capacity to work with joint safety and health committees to improve working and living conditions on board larger fishing vessels.

4.12.1 Port-based safety and health committees

There are many situations where it is difficult to have safety and health committees on board fishing vessels. An alternative is for a major fishing port to establish a shore-based safety and health committee) to improve safety and health conditions both on vessels and in the port area:

- in port facilities and operations for fishing vessels; and
- fishing vessels operating from the port – dealing with issues on vessel safety and working and accommodation on board vessels.

57 *Guidelines on occupational safety and health management systems*: Geneva ILO Safework, 2001, Glossary pp. 19–20.

In Newfoundland, Canada, for example, health and safety committees established in ports are required to make quarterly inspections of trawlers and to file a written report with the company and the union.[58]

Denmark, for example, has a system of port safety committees.[59] Functions of these committees include: registering the occupational safety and health problems experienced by fishers; general information on occupational safety and health and especially risk prevention and reduction measures; managing and coordinating safety and health work/activities in ports and on fishing vessels; and informing fishing vessel owners and fishers about new legislation, standards, and guidance.

4.12.2 Safety and health committees on board fishing vessels

In one example of safety committees on board fishing vessels, the UK Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations require a system of election of (worker) safety representatives and safety committees: "In every ship to which this regulation applies, and where there is no existing arrangement under the Safety Representatives and Safety Committee Regulations 1977 the Company shall make rules for the election and appointment of safety representatives" (Article 17(1)).[60]

4.12.3 Local sea health and safety committees

A successful fisher safety programme for small-scale fisheries requires grassroots involvement. Many small-scale and artisanal fishers are lost at sea every year. A community should actively engage in safety at sea work in local fishing villages. Safety for fishers may be addressed through local fisher organizations, schools and women's organizations. **Local sea safety committees** should be established, or re-established where they have ceased to exist, to raise awareness of fishers and their families of risks at sea, to provide safety at sea training, and to register reports of local accidents at sea. Local sea safety committees might also be responsible for the organization of voluntary search and rescue activities.[61]

58 ILO: Conditions of work in the fishing sector, Report V(I), 92nd session of the International Labour Conference (Geneva, 2004.

59 Denmark's Fishermen's Occupational Health Council is the general office for the Port Safety Committees. Fiskeriets Arbejdsmiljorad. Powerpoint presentation, Undated. Danish Fisherman's Occupational Health Service.

60 UK Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations (Statutory Instrument 1997 No. 2962). Accessed 4 September 2020.

61 *Safety for Fishermen: The Way Forward. Safety at Sea for Small-scale Fisheries in Developing Countries.* FAO/Government Cooperative Programme. GCP/GLO/200/MUL September 2010. Field Document No. 10, Section 2.2; http://www.fao.org/docrep/014/al960e/al960e.pdf

4.13 Protection in the case of work-related sickness, injury or death

Fishing is both a high-risk occupation and one where many fishers have no or limited protection in cases of work-related illness, injury or death. This is related to the lack of legal status for fishers in many countries.

In the event of an injury due to occupational accident or disease, the fisher is entitled to appropriate medical care and compensation in accordance with national laws and regulations (Convention No. 188, Article 38).

The protection offered will vary from country to country, depending on national laws, regulations or practice. The protection may be ensured through a system for fishing vessel owners' liability, or compulsory insurance, workers' compensation or other schemes. Protection may also vary between type of fishing fleets, and large- and small-scale operations.

Sources of information for inspectors:

- relevant national laws or regulations;
- fishers' work agreements (for details about arrangements);
- collective bargaining agreement (for details about arrangements), where applicable;
- copy of a company document, if one exists, setting out fishing vessel owner liability; and
- interviews with fishers to check whether they have protection for work-related sickness, injury or death.



Exercise 4.11

TITLE	Verifying protection in the case of work-related sickness, injury or death
AIMS	To help inspectors to ensure that fishers have access to appropriate medical care and the corresponding compensation.
TASK	In your small groups, discuss: • What are the medical care requirements in case of work-related sickness or injury? • What would the compensation arrangements be in case of work-related sickness, injury or death? • How can inspectors verify if fishers or their families in case of disease of the fisher were provided with any compensation foreseen by the applicable national legislation? • In case this was not provided, how to refer and follow up the case with the competent authorities? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention No. 188, Articles 38 and 39 ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.18.
OUTPUT	Inspectors are able to verify that fishers have access to protection in the case of work-related sickness, injury or death, in accordance with laws and legislation.

4.14 Food and potable water (Article 27)

For many fishers, the fishing vessel is not only a workplace but a place where they live whilst at sea, and sometimes in port too. Fishers often spend a considerable amount of time on vessels, especially at sea. Thus, provision of food of sufficient nutritional value, quality and quantity along with safe drinking (potable) water, is essential to the well-being and health of fishers.

Often, provision of food of sufficient nutritional value, quality and quantity along with safe drinking (potable) water is one of the major problems associated with working and living conditions on board vessels. So it is important that inspectors have guidelines on what constitutes food of sufficient nutritional value, quality and quantity along with safe drinking (potable) water. They also need to verify that the skipper carries out or organizes the carrying out of inspections of both provision of food of sufficient nutritional value, quality and quantity, and safe drinking (potable) water, and in the case of water, can show the inspector the results of tests guaranteeing the quality of water and that it is free from bacterial contamination.

Duties of inspectors. The inspectors should verify that:

- The food served on board is of sufficient nutritional value, quality and quantity.
- The potable water is of sufficient quality and quantity.
- The skipper, or someone acting under the authority of the skipper, has checked that both the food and potable water are of sufficient quantity and quality, and taken remedial action if there were deficiencies. The inspector should clarify how drinking water quality is monitored and examine the results of such monitoring.
- Catering facilities, including galleys and storerooms, are hygienic and fit for purpose.[62]

62 For further information on food and food preparation areas, see *Guidelines on the training of ships' cooks*, ILO, 2014, http://www.ilo.org/sector/Resources/codes-of-practice-and-guidelines/WCMS_218575/lang--en/index.htm.

▶ Figure 4.2. ILO and Thai MOL PIPO labour inspection worksheet

Issue	Worker interview question
Recruitment, contract	
Hiring	How did you choose this boat? Please tell me the story. Did you choose to work on this fishing vessel? Did you get hired with help from a broker here in Thailand? Did the broker charge you any money for getting the job? Did you sign a contract to work on this boat? Is it written in your language? Did the owner/skipper give you a copy of the contract to keep? • If no, would you like a copy of it now? Would you like to take a picture with your phone? Did someone explain your contract to you? Would you like me to explain it to you now?
Recruitment	Is the work on the boat the same as was promised to you before you started? (Ask by type) • Type of work is different than promised • Time at sea is longer than promised • Port is different • Boat or boat owner is different • Wages are different (Ask if worker knows what the minimum wage is) • Pay schedule is different • Hours working are different • Living conditions are different • Freedom to move or leave is different Were any other things promised that are different? Who made these promises? (Ask owner, skipper, chieu, broker)
Leaving	Do you know how to leave the boat, to quit? Have you ever wanted to leave the boat? Do you feel like you are free to leave the boat if you want to? • If no, why don't you feel free to leave? Are there others on your boat who would like to leave? • If yes, why do they want to leave the boat? • What would happen to them if they tried to leave the boat? Do you keep your passport/i.d. and important papers with you? • If no, can you get your documents whenever you need them? Do fishers who have left your boat get all their money? (Ask by type) • Unpaid or withheld wages • Share of the catch • Holiday pay • Severance if they finish the whole contract Do you know of fishers who have been left in another port or country? Do you know how they got home?

Wages	
Base wage payment	Are you paid at least 9,000 per baht every month? Are you paid for a month of work or are you paid like a daily worker? • If daily, do you usually work on days when you are in the port? • Do you sometimes not get paid for days in the port? Does the owner/skipper give you a paper (payslip) showing how much you got and details like hours, deductions? How do you keep track of how much the owner owes you? Who gives you the money? Are you paid with an ATM or bank card instead of cash? Do you know how to use the card to get your money? Do you have control of your card all the time? • If no, who keeps your card? • Do you have a secret code number for your card? • Does anyone else have your secret code number? Do you ever sign for getting paid on a document that has the wrong amount on it? Does the owner/skipper/chieu tell you what to say when you meet the government officials?
Withholding	Is some of your money--not share of catch--held back to pay all together? • If yes, who keeps the money? • If yes, how long did you wait last time for the rest of the money? • If yes, how much was paid? • How do you know if it was the right amount? Have you signed/printed a paper for salary amounts that you did not really receive? Do you receive a share of catch paid at least once in 3 months? Have you ever had to work out a problem about pay with the chieu, skipper, or owner? How was the problem resolved? • If no, what do you think would happen if you asked about a problem with your pay?
Debt, advance	Do you take advances on your pay, or do you take loans? • If yes is it to the owner, skipper, chieu, company staff, other fishers? • What is the money owed for? • How much do you owe? • Is the person charging extra like for a loan? • How much extra? • Is money you owe taken out of your pay by the owner or skipper or chieu? • How do you know if it was the right amount? Are there other deductions or money taken from your pay each month? • If yes, what are the deductions for?
Hours, leave	
	Can you tell me about the working hours on the boat? How does it usually go? Do you think you get at least 10 hours of rest every day? (Not all at once) Do you sometimes work for more then 14 hours in a day? • If yes, do you sometimes work until you are exhausted? • If yes, do you sometimes work one whole night and one whole day? • If yes, what happens if you ask to take a break? • If yes, do you get time off later for the rest hours you missed? When you are fishing, can you take a rest break to eat? If the boat is at sea for one week do you get a day with extra rest? (at least 77 hours rest per week) How do you or the skipper know how many hours you have worked? Can you tell me about the working hours when you are in the port but working? Do you ever see the hours record for the boat? • If yes is the hours record correct? Have you ever had to work out a problem about hours or rest with the chieu, skipper, or owner? How was the problem resolved? • If no, what do you think would happen if you asked about a problem with your pay?

Leave, holidays	In a week do you get one day without work, either at sea or in the port? Did you ever asked the owner or skipper or chieu for time off because you were injured or sick? Has your time off been allowed? (up to 30 days/yr) • Do you remember if you were still paid for your sick days? If the boat is having a problem and cannot fish do you still get paid? In one year of working, did you get 30 days of holiday with your full monthly pay?
Food and sanitation	
	Can you tell me about the food on the boat? Does the fresh food run out sometimes? • If runs out, how many days is there no fresh food (besides caught fish)? Do you worry that the food on the boat is not clean sometimes? When was the last time some one was sick from the food on the boat? Can you tell me about the drinking water on the boat? How is the drinking water kept and shared? • Has the drinking water run out before? When was the last time some one was sick from the water on the boat? Would it be better if there was more food and water on the boat? Do you buy some of your own food or water for yourself on the boat? Why? Does the boat have a toilet and can the fishers use it? Does the boat have a separate place for making food? Do you think it is clean enough? Is there a separate place to eat, not a working area? Is there water too for washing and cleaning clothes and dishes? Has that water run out before? On the boat, are there cleaning tools to help keep the working area from being too slippery? Are the working areas kept clean to avoid slipping or falling? Is there a life boat to get away from the boat in an emergency like a fire? Do you know what to do in case of a fire on the boat or bad weather?
Safety and medical care	
	Can you tell us about the last time someone was hurt on the boat? Have other crew members been hurt? How? Is there violence in your job? (other workers, skipper, chieu, owner?) Are there threats of violence in your job? Has someone on the boat been trained to provide first aid and medicines? Who is it? Does the medical box have useful things in for injuries and sickness? Is the medical box filled up again after trips? Have there been injuries or sickness bad enough for the boat to return to port? Has the skipper agreed to take the boat back to port for emergencies? Is it easy to get medical treatment back in the port? Who pays for medical treatment if the injury or sickness is from work? Do you know if fishers have been paid for serious injuries from work? Do you know of fishers who have died when the boat was at sea? What happened to the body? Has any fisher been left in another port or boat because he was sick or injured? How did he get back to the home port again? Does the boat have a life boat to get away? Do you know what to do in bad weather (capzise boat) and fire? Does the boat have a working fire extinguisher? Do you know how to swim?

Gear and training	Have you or others been injured by old or bad fishing gear? Are there problems with the gear or tools you are using? Have you been well trained on the equipment you use? Are the tools fixed when they are broken? Do you have enough light on board for your work? Night work accidents? Do you have a 'friend' or 'buddy system' to help keep other fishers safe when working? Are there any chemicals used on board the boat? Are the fishers trained in using the chemcials safely? Are you given this equipment for your work? • Safety boots • Gloves • Hearing protector • Protective clothing including masks for chemicals, paint • Life vest Do you have to pay for any of the equipment including gloves on board the boat at sea or in port? If you work a machine on the boat, do you know to stop it in an emergency? Does the boat have an emergency alarm and emergency communication system?
Forced labour	
Involuntary	Did you choose to work on this fishing vessel? • If no, who forced you to work on this boat? (Owner, skipper, chieu, broker, parent?) Do you feel free to leave the job? If no, why not? • if no, what would happen if you tried to leave your job? Are there others on your boat who would like to leave? If yes, why have they not left the boat? Are you or other fishers ever isolated or trapped on the boat or in port?
Violence/ threat	Is there violence in your job? (other workers, skipper, chieu, owner?) Are there threats of violence in your job? • If yes, who is violent, who makes the threats? Are there threats to turn you in to the police or government or another? Are there punishments from the owner/skipper/chieu? • If yes, what are the punishments? (work assignments, food, money) Who on the boat usually gets the worst treatment? From whom and why?
Withholding, debt	Is some of your pay held back by owner, skipper, chieu? Do you owe money to the owner, skipper, chieu, broker? What is the loan for? (not the same as salary advance) • Who do you owe money to? • How much do you owe? • When will your debt be finished? • Is there an extra/interest charge? • Does the debt stop you from changing boats or returning home? Are you paid with an ATM or bank card instead of cash? Do you have the pin code/number for your bank card? Do you have control of your card all the time? Do you keep your passport/i.d./seabook? • If no, do you always have easy access to your documents? Where are they kept?

Child labour	
	Do you know any workers on the boat who are under 18? Are there any workers who look like they might be under 18? Do you know about young workers on other boats? Which?
Freedom of association and complaints	
	Is there a union or an organization to help the workers on your boat? • If yes, how is it organized? (e.g. Port-based union or fisher charity/services?) Do you have a representative on board to talk to chieu, skipper, owner, government officials? • If yes, who is he and how chosen? (e.g. Is it someone besides the chieu?) When you have a problem with work, who do you talk about it for help? Have fishers on your boat brought a problem to the owner or skipper or chieu? What were the problems? What was the response, resolution? Have the fishers er refused to work or go on the boat before? • If yes, what was the reason and what happened? Has the owner/skipper/chieu told you not to meet with people from any organization?
Discrimination	
	Are all the workers on the boat treated the same? (E.g. work assignments, equipment, punishments, amounts or time for food) • If no, who is treated differently and why? (E.g. country of origin, religion, sexuality, relationship with chieu or skipper) Is pay the same for everyone who does the same kind of work? • If no, who is treated differently and why? Is there harrasment or bad words used on the boat? • If yes, what things are said? (Exact words are important, not just 'rude words')

Inspectors should be alert to deficiencies, including these examples:

- Food and potable water are not of sufficient nutritional value and quantity for the fishers on the vessel.
- Fishers are charged for food or water, unless the cost is recovered as an operational cost where a collective agreement governing a share system or a fisher's work agreement so provides.
- Catering facilities are not hygienic or are otherwise unfit for their purpose.

Sources of information for inspectors:

- Menu plans and visual observation of food supplies and storage areas to ensure that the food supplied is of an appropriate quality (for example, not out of date), quantity and nutritional value, and is varied in nature.
- Interviews, in private, with a representative number of fishers to ensure that food and drinking water are of appropriate quality and quantity and that there is no charge for food (unless there is cost recovery arrangement)



Exercise 4.12

TITLE	Verifying provision of food and potable water
AIMS	To ensure that inspectors are aware of the requirements for food and potable water on board fishing vessels, and what constitutes food of sufficient nutritional value, quality and quantity.
TASK	In your small groups, discuss: • What in your opinions constitutes food of sufficient nutritional value, quality and quantity? • What tests of potable water quality does a skipper have to provide to the inspector? How regularly are tests carried out and by whom? • How do you inspect and control hygiene conditions in the galley/kitchen areas? • What actions would you take in cases of lack of provision of food sufficient nutritional value, quality and quantity, and provision of insufficient quantities of water and/or poor quality, unhygienic water for drinking? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention No. 188, Article 27 and Annex III. ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.16.
OUTPUT	Inspectors are able to identify what constitutes food of sufficient nutritional value, quality and quantity and are able to verify that it is provided alongside potable water on board fishing vessels.

Convention No. 188 requires vessel owners to ensure that:

- The food served on board shall be of sufficient nutritional value, quality and quantity.
- Potable water shall be of sufficient quality and quantity.

The food and potable water shall be provided by the fishing vessel owner at no cost to the fisher. (However, in accordance with national laws and regulations, the cost can be recovered as an operational cost if the collective agreement governing a share system or a fisher's work agreement so provides.)

4.15 Accommodation (Articles 25, 26, 28 and Annex III)

As the fishing vessel is not only where fishers work but also where they live while at sea and sometimes also while in port, good accommodation is another essential element of decent labour conditions.

Convention No. 188 sets out accommodation requirements that apply to existing vessels, new vessels and vessels that have undergone a major refit.

Accommodation on board fishing vessels must be safe and decently habitable and meet the requirements of Convention No. 188, and its provision is the responsibility of the fishing vessel owner.

Accommodation, as per Convention No. 188, Article 26 covers: maintenance of accommodation and galley spaces with due regard to hygiene and overall safe, healthy and comfortable conditions; ventilation, heating, cooling and lighting; mitigation of excessive noise and vibration; location, size, construction materials, furnishing and equipping of sleeping rooms, mess rooms and other accommodation spaces; and sanitary facilities, including toilets and washing facilities, supply of sufficient hot and cold water, and facilities for sick and injured fishers.

Convention No. 188 is flexible, recognizing that accommodation requirements for large vessels or those that stay at sea for long periods may not be relevant for smaller vessels or ones that remain at sea for very short periods. The Convention sets dimensions for areas such as sleeping rooms for large vessels but is less specific for small vessels. Requirements for specific room dimensions apply to newly built vessels but exclude vessels that are already in service at the time of ratification. Accommodation on new built vessels or vessels that have undergone a major refit is dealt with specifically in Annex III of the Convention.

Inspectors should be alert to deficiencies, including these examples:

- Number or size (including height) of sleeping rooms does not conform to national requirements implementing Convention No. 188.
- Location of sleeping rooms on the fishing vessel does not conform to national requirements implementing Convention No. 188.
- More than one fisher is assigned to each berth.
- Recreational facilities do not conform to national requirements implementing Convention No. 188.
- Heating, lighting or ventilation is inadequate or not functioning correctly.
- Sanitary facilities are inadequate or not functioning correctly.
- Fisher accommodation or recreational facilities are not being maintained in a clean and habitable condition.
- Frequent inspections of fisher accommodation are not being carried out by the skipper or under the skipper's authority (in vessels of 24 m in length and over).
- Laundry facilities are inadequate or not functioning correctly.
- The fishers' accommodation spaces are exposed to hazardous levels of noise and vibration.
- There is no separate sickbay on a vessel of 45 m in length and over (or 950 gt and over).

Sources of information for inspectors:

- on-board records (for vessels of 24 m and over or 300 gt and over), showing that frequent inspections of accommodation, food and potable water have been carried out by, or under the authority of, the skipper, including any actions taken to address any deficiencies found;
- a plan of the fishing vessel, if available, showing dimensions and identifying the usage of each room or area;
- the crew list, to compare the number of people on board with the number of sleeping rooms and berths (see Article 15);
- evidence of complaints and procedures for responding to them;
- evidence that measures are being taken on board the fishing vessel to monitor noise and vibration levels in fishers' accommodation spaces; and
- interviews with fishers about their accommodation and an interview with the skipper about on-board inspections and procedures for responding to complaints about accommodation.



Exercise 4.13

TITLE	Verifying provision and quality of accommodation
AIMS	To ensure that inspectors are familiar with accommodation requirements for fishing vessels of different ages and size, and for coastal and distant water vessels. To help provide guidance to inspectors on how best to improve the quality of accommodation on vessels.
TASK	In your small groups, discuss: • Based on your experience, the quality – or lack of quality – of accommodation provided on vessels of different ages and sizes. • What are the normal problems on accommodation that you encounter in your inspection? What do fishers most complain of? • How do you deal with problems of noise and vibration? • How do you work with skippers and vessel owners to bring about improvements in the quality of accommodation? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention No. 188, Article 25, 26, 28 and Annex III. ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.17.
OUTPUT	Inspectors have been familiarized with the accommodation requirements for fishing vessels and trained in how to verify that the provision and quality of accommodation meets these standards.

4.16 Medical care (Articles 29–30)

Fishing is a high-risk occupation and is associated with among the highest rates of occupational injury and fatality. In the event of accident, illness or other health problems on board, fishers may be far from help in terms of distance and time. It is important to ensure that all vessels have the appropriate medical equipment and medical help available on board, communication with the persons and services ashore and access to medical care in port. The medical equipment and supplies required on board a fishing vessel are relative to the size of the vessel, number of fishers on board and duration of the voyage.

Inspectors should be aware of ensuring that fishing vessels comply with national laws, regulations and other measures that implement Convention No. 188 and that apply to medical care, medical equipment and supplies, medical treatment and advice, communication with and presence of trained and qualified medical personnel.

Inspectors should be alert to deficiencies, including these examples:

- A request by a fisher for medical treatment ashore in the event of a serious injury or illness was denied by the skipper and/or fishing vessel owner.
- A fisher was not provided with appropriate medical care on board.
- A person in charge of medical care or first aid, with an appropriate qualification, as required by national laws and regulations, is not on board.
- Medical equipment or supplies are not appropriate for the service of the vessel.
- Medical supplies are out of date.
- No instructions for use of medical equipment, or instructions in a language not understood by fishers designated to provide first aid or medical care on board vessel.
- For vessels 24 m in length and more, no medical guide adopted or approved by the competent authority (or no copy of the International Medical Guide for Ships) carried on board.
- For vessels 24 m in length and over, a fisher is charged for medical care while on board or when landed in a foreign port.

Sources of information for inspectors

- medical log;
- lists of medical supplies and equipment on board (company list if it exists);
- check on board for results or records of inspections of medical supplies by the skipper;
- medical chest certificate, where it exists;
- crew list (for number of crew members); and
- interviews with the fisher(s) trained in first aid and other forms of medical care to evaluate the person's or persons' competency.

Exercise 4.14

TITLE	Verifying provision of medical care
AIMS	To ensure that inspectors are aware of what needs to be provided in terms of medical care, in terms of standard medical equipment and facilities, crew members trained in first aid, and provisions in case of medical emergency.
TASK	In your small groups, discuss: • What are the basic medical equipment and facilities that should be provided on vessels of different sizes? • How do you go about evaluating the competence of a crew member(s) trained in first aid? • How do you verify with the skipper that there are adequate procedures for both routine medical care and emergency care? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention No. 188, Articles 29 and 39 ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.15.
OUTPUT	Inspectors will know the medical equipment required on board fishing vessels and will be able to verify medical care provision on board.

Convention No. 188: Medical care must be provided on board or while landed in a foreign port to all fishers working on the vessel and at no personal cost. Fishers have the right to medical treatment ashore and to be taken ashore in a timely manner for treatment in the event of any serious injury or illness.

After consideration of the number of fishers on board, the location of operation and the length of the voyage, basic requirements of Convention No. 188 are:

- The fishing vessel shall carry appropriate medical equipment and medical supplies.
- All medical equipment and supplies carried must be accompanied by instructions in a language and format understood by the fishers on board.
- The fishing vessel shall have at least one fisher on board who is qualified or trained in first aid and administering medical care, and who knows how to use the medical equipment and supplies.
- The fishing vessel shall be equipped for communication with services ashore that can provide appropriate medical advice.

Additional requirements for fishing vessels of 24 m in length and over:

- The medical equipment and medical supplies on board must be determined by the competent authority and must be properly maintained and inspected.
- Fishing vessels must carry a medical guide approved by the competent authority or the latest edition of the International Medical Guide for Ships.
- Fishing vessels must have access to a system of medical advice for vessels at sea via radio or satellite communication, including specialist advice, which should be available at all times.
- Fishing vessels must carry on board a list of radio or satellite stations through which medical advice can be obtained.

Duties of inspectors: The inspector should verify that:

- Medical equipment and supplies conforms to competent authority standards.
- There is a trained first aider, or more than one, on board.
- Where medical care was given, the action(s) taken, and the outcomes of the medical care.
- Fishers are aware that they have the right to treatment ashore and in a timely manner.

Additional requirements for fishing vessels of 24 m in length and over: The inspector should verify that:

- The medical equipment and medical supplies to be carried on board are those prescribed by the competent authority.
- The medical equipment and medical supplies carried on board are properly maintained and inspected at regular intervals established by the competent authority by responsible persons designated or approved by the competent authority.
- Fishing vessels carry a medical guide adopted or approved by the competent authority, or the latest edition of the International Medical Guide for Ships.
- Fishing vessels have access to a prearranged system of medical advice to vessels at sea by radio or satellite communication, including specialist advice, which shall be available at all times.
- Fishing vessels carry on board a list of radio or satellite stations through which medical advice can be obtained.
- Medical care while the fisher is on board or landed in a foreign port will be provided free of charge to the fisher.

4.17 Payment of fishers (Articles 23–24)

Fishers may be paid by a variety of payment systems. In general, there are two main types of payment for fishers: a flat wage and a share system. Many fishers are paid by the share system, where fishing is a joint venture with the workers' income derived from a share in the value of the catch. Some fishers may be paid a minimum wage, with the rest of their wages calculated based on share of the catch or bonuses in a combination of the two systems. Inspectors need to check the type(s) of pay systems in place on the fishing vessels that they expect in order to check for compliance with the Convention.

Article 23 of Convention No. 188 applies only to waged fishers. For these fishers, laws, regulations or other measures should be adopted to ensure fishers are ensured regular payment.

Article 24 of the Convention applies to all fishers and requires member States to ensure that fishers can transmit payments received to their families at no cost.

The issue of inspection of wages or payments is addressed in *Guidelines on flag State inspection of working and living conditions on board fishing vessels*, Section 3.2.10.

Inspectors should be alert to deficiencies, including these examples:

- Fishers working for wages are not paid monthly, nor on any other regular basis.
- The wage does not correspond to the amount established by legislation or the fishers work agreement.
- No means are provided for fishers to transmit payments to their families.
- Fishers are charged for transmitting payments.

Sources of information for inspectors:

- fishers' work agreements (which detail the payment system and method);
- crew list (specifying functions of fishers on board);
- records of pay or payslips of fishers, where available;
- records of bank transfers and receipts of pay, where available;
- collective bargaining agreements; and
- interviews with fishers, conducted by inspectors, to check the accuracy and timeliness of their payments, any deductions made and the availability of means of transmission of payments.

ILO Recommendation No. 199 provides further guidance on payment of fishers (Paragraphs 14 and 15). Somewhat related, Paragraph 12 of the Recommendation provides guidance on providing the fisher with a record of service.



Exercise 4.15

TITLE	Verifying payment of wages
AIMS	To help inspectors to document and learn about the variety of payment systems found in fishing. To help inspectors to learn about the different ways that payments are calculated including deductions. To help inspectors to learn how disputes over wages can be better handled.
TASK	In your small groups, discuss: • What are the different wage payment systems in fishing? Which Articles apply (23, 24, or both) when payments are a combination of a regular wage and the proceeds of a share of the catch? • How regularly are wages paid – monthly or on some other basis? • In case of disputes over payments, what advice would you give to fishers on how to resolve the problem? • How to verify if: - legal or agreed wages are effectively paid. - fishers are aware of how their wages are calculated. - any deductions made by the vessel owner are legal. - the fishers can transmit their wages home at no cost to them Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention No. 188, Articles 23–24 ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.10.
OUTPUT	Inspectors are able to identify means of payment within the fishing sector and able to verify that fishers have received their wages in accordance with laws and regulations.

The basic requirements of Convention No. 188 are: Fishers who are paid a wage are ensured a monthly or other regular payment (Article 23). Fishing vessel owners must ensure that fishers are able to transmit all or part of their wage payments home at no cost to the fishers" (Article 24).

The Convention states the duties of inspectors: "Given the variety of payment systems on board fishing vessels, inspector will need to be familiar with and to verify the type(s) of pay systems in place on the fishing vessels they inspect. Inspectors should bear in mind that various types of agreements exist in the fishing sector, with some fishers being paid a regular wage, some being paid solely on the basis of the proceeds of a share of the catch and some being paid based on a combination of the two. Some fishers may also receive bonuses (for example, for spotting fish).

Inspectors should verify that the portion of the wages due that can be determined (i.e. regular wages) is being paid on a monthly or other regular basis. Inspectors should verify that fishers are able to transmit all or part of their wage payments home at no cost to them.

4.18 Minimum age for employment (Article 9)

Given the complexities of verifying minimum age for employment in fishing, the trainer may need to explain this topic in more detail and make reference to ILO child labour Conventions – the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182) – in accordance with national regulations and law.

To further aid the trainer, the following explanatory notes are given:

"The minimum age for work on board a fishing vessel shall be **16 years**" (Convention No. 188, Article 9.1).

There are, however, a series of exemptions (derogations) and prohibitions to this minimum age of 16 which require reference to (i) other ILO Conventions, and (ii) to other national laws and regulations.

Exemption 1: "The competent authority may authorize a minimum age of 15 for persons who are no longer subject to compulsory schooling (i.e., who have left school) as provided by national legislation, and who are engaged in vocational training in fishing" (Article 9(1)).

However, there is even a qualification (caveat) to this age of 15. If a child is 15 still at school and carrying on with education, Convention No. 188 contains a provision for "light work". "Light work" should not be confused with employment as this provision in Convention No. 188 only applies to schoolchildren in education.

Exemption 2: "The competent authority, in accordance with national laws and practice, may authorize persons of the age of 15 to perform light work during school holidays. In such cases, it shall determine, after consultation, the kinds of work permitted and shall prescribe the conditions in which such work shall be undertaken and the periods of rest required."

4.18.1 Prohibition 1: Hazardous child labour

ILO Convention No. 188, Article 9(3) states, "The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years".

That language was adapted from the ILO Worst Forms of Child Labour Convention, 1999 (No. 182). One of the worst forms of child labour – referred to popularly as "hazardous child labour" is defined in Convention No. 182, Article 3(d) as "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children". There is a slight difference in wording between the two conventions but the meaning is the same. **Hazardous child labour is work (activities) prohibited for any child under 18**. States which have ratified Convention No. 182 then have to draw up a list of hazardous child labour (the precise title of the list varies between countries) which defines those activities and sometimes work sectors where no child under 18 is allowed to work.

However, even this legal provision is qualified:

> The performance of the activities referred to in paragraph 3 of Article 9 as from the age of 16 may be authorized by national laws or regulations, or by decision of the competent authority, after consultation, on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons concerned have received adequate specific instruction or vocational training and have completed basic pre-sea safety training. (Convention No. 188, Article 9(5)). Note that *only* the competent authority can make such an exemption or empower an employer to make such an exemption.

4.18.2 Prohibition 2: Night work

Convention No. 188, Article 9(6) specifies, "The engagement of fishers under the age of 18 for **work at night** shall be prohibited."

- "Night" shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m.
- However, there is an exemption to strict compliance with the night work restriction which may be made by the competent authority when: (a) the effective training of the fishers concerned, in accordance with established programmes and schedules, would be impaired; or (b) the specific nature of the duty or a recognized training programme requires that fishers covered by the exception perform duties at night and the authority determines, after consultation, that the work will not have a detrimental impact on their health or well-being.

Sources of information for inspectors include:

- the national list of hazardous child labour, indicating any work activities in fishing banned for any child under 18, in the case where a State has ratified ILO Convention No. 182;
- crew list and passports, identity cards or other official documents (for example, seafarers' books) confirming fishers' birth dates;
- work schedule with respect to fishers above the minimum age for employment but under the age of 18, to determine hours and nature of work;
- recent accident reports and safety and health committee reports to determine whether fishers above the minimum age for employment but under the age of 18 were involved; and
- interviews with young fishers (of minimum legal age for employment) and adult fishers (interviews with young fishers should be conducted, as appropriate, in the presence of an independent witness).

Exercise 4.16

TITLE	Verifying minimum age of legal employment
AIMS	To ensure that inspectors inspect for compliance with national laws, regulations or other measures implementing the ILO Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182).
TASK	In your small groups, discuss: • What is the minimum age for legal employment in industry, commerce and agriculture in your country? • How should you apply the minimum legal age of 16 in your country, including taking into account all the exemptions (derogations) and prohibitions? • How should you determine if a given fisher under 18 is given tasks prohibited for his age? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention No. 188, Article 9. ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.6.
OUTPUT	Inspectors will be able to verify that vessels comply with requirements for minimum legal age of employment.

The basic requirements of Convention No. 188 are: "The minimum age for work on board a fishing vessel shall be 16 years," Article 9(1).

However, there are a series of exemptions and prohibitions to this minimum age of 16 which require reference to (i) other ILO conventions, and (ii) to other national laws and regulations. Your trainer can explain these exemptions and prohibitions.

The inspector should verify the age of a young crew member(s) using relevant sources of information and interviews as indicated above.

Inspectors should be alert to deficiencies, including these examples:

- a person under the age of 15 working as a fisher;
- a person who has reached the age of 15 but has not yet reached the age of 16 working as a fisher without the authorization of the competent authority or authorities;
- a fisher under the age of 18 working at night without the authorization of the competent authority or authorities; and
- a fisher who is 15 (who can be legally employed) or over 15, but under the age of 18, carrying out tasks that are on the national list of hazardous child labour that are therefore prohibited.

4.19 Recruitment and placement of fishers (Article 22[1]–[3])

Recruitment of fishers, especially foreign migrant fishers, can be a complex subject, often with issues of labour exploitation. Prospective fishers may obtain work on a fishing vessel in several ways. They may find jobs by word of mouth or join vessels operating out of local ports in coastal areas. They may use public or private services, which may include labour recruiters,[63] recruitment and placement services or private employment agencies, of which the latter may remain the fisher's direct employer when working on board a vessel.

Services working with fishers can have a much broader role than simply providing recruitment and facilitating transportation. They may act as direct employers under subcontracting arrangements with fishing vessel owners. Recruitment of fishers can therefore be complex particularly for migrant workers being recruited from abroad. Such arrangements can create ambiguity with regard to responsibilities, reduce the accountability of both the service and the employer and increase the vulnerability of workers to exploitation particularly for migrant workers being recruited from abroad. Such arrangements can create ambiguity with regard to responsibilities, reduce the accountability of both the service and the employer and increase the vulnerability of workers to exploitation.[64]

Fraudulent or problematic recruitment practices can include: "charging fees to workers; blacklisting of workers; threats and intimidation, including verbal and psychological abuse; physical and sexual violence; deception with regard to contracts, work permits, visas, working and living conditions, as well as failure to disclose relevant information; constraints on freedom of movement; retention of identity documents; recruitment of children below working age; and recruitment of workers into hazardous and unsafe work." Labour recruiters charging fishers excessive fees for their services can lead to debt bondage, exploitation or a forced labour situation.[65]

The ILO's Fair Recruitment Initiative recognizes recruitment as a point of high risk for workers in vulnerable situations. The *General principles and operational guidelines for fair recruitment* provides further guidance on promoting and ensuring fair recruitment.[66]

While Convention No. 188 focuses on States that operate a public service providing recruitment and placement for fishers as part of a general public employment service for all workers and employers, it also takes account of private recruitment and placement service as long as they are licensed, certified or regulated in accordance with Convention No. 188. The Convention provides that a flag State that has also ratified the Private Employment Agencies Convention, 1997 (No. 181) may allocate certain responsibilities under Convention No. 188 to private employment agencies.

Note: Convention No. 181 is supplemented by the Private Employment Agencies Recommendation, 1997 (No. 188). The Recommendation provides guidance on how to implement the provisions of the Convention, and it could be useful to States seeking to inspect this issue with respect to fishing vessels. It provides, for example, that "Members should adopt all necessary and appropriate measures to prevent and to eliminate unethical practices by private employment agencies. These measures may include laws or regulations which provide for penalties, including prohibition of private employment agencies engaging in unethical practices." Recommendation No. 188 specifies that "Workers employed by private employment agencies ... should, where appropriate, have a written contract of employment

63 The term "labour recruiter" is used in the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203) as well as the ILO *General principles and operational guidelines for fair recruitment* (Geneva, 2016) and can refer to both private and public entities that offer labour recruitment services. B. Andrees et al. note that "Private entities can take many forms: formal (e.g. registered under commercial or other law) or informal (not registered, such as informal sub-agents), profit-seeking (e.g. fee charging agencies) or non-profit (e.g. trade union hiring halls)" in *Regulating labour recruitment to prevent human trafficking and to foster fair migration: Models, challenges and opportunities* (ILO, Geneva, 2015), p. vii.

64 ILO: *Decent work for migrant fishers* (Geneva, 2017).

65 Ibid.

66 ILO: *General principles and operational guidelines for fair recruitment* (Geneva, 2019).

specifying their terms and conditions of employment. As a minimum requirement, these workers should be informed of their conditions of employment before the effective beginning of their assignment."

Duties of inspectors include:

- An essential consideration for the inspector is clarification of whether a fisher who has been recruited and placed by a private service (also referred to as a "manning agency"), either in the flag State or elsewhere, continues to have a contractual relationship with the private service and thus may continue to be legally employed by it (i.e., be in an "employment relationship" with the private service).
- In dealing with this issue, the inspector should bear in mind the definition of "vessel owner" in Convention No. 188, Article 1(d): a fishing vessel owner "means the owner of the fishing vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner".

Inspectors should be alert to deficiencies, including these examples:

- A private employment service has not met its contractual obligations towards the fisher with respect to matters addressed in national laws and regulations implementing Convention No. 188 and the fishing vessel owner has not taken over the responsibilities of the private employment agency (for example, there has been a failure to repatriate the fisher and a failure to provide fishers with wages or payment in accordance with the share of the catch).
- There is a lack of valid documentation on board the vessels indicating the contractual obligation between the fishing vessel owner and the private employment service, if the private employment service is carrying out services within the scope of Article 1(1)(b) of Convention No. 181.
- Workers were recruited by unauthorized private employment services according to national legislation.
- Fishers are being asked for payments or fees by private employment services for recruitment purposes.

Sources of information for inspectors:

- ILO Private Employment Agencies Convention, 1997 (No. 181);
- ILO Convention 188, Articles 22(4)–(6);
- ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.8;
- a national list of government-licensed private employment agencies, if any;
- the fisher's work agreement;
- a document setting out the contractual relationship between the fishing vessel owner and the private employment agency; and
- interviews with fishers to determine that the private employment agency has not fulfilled its responsibilities and that the fishing vessel owner has not taken on the obligations of the private employment agency.

Exercise 4.17

TITLE	Verifying recruitment procedures and conditions including private employment agencies
AIMS	To ensure inspectors are trained in correct recruitment procedures, and in the role of private employment agencies.
TASK	In your small groups, discuss: • What are your experiences concerning recruitment procedures and conditions of fishers? • What are your experiences, if any, of dealing with private employment agencies? • In your opinion, are there any improvements in recruitment procedures for fishers which could be made? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention 188, Article 22(1)–(3) ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.7 ILO Private Employment Agencies Convention, 1997 (No. 181). National websites of the competent authority regarding the licensing or regulation of seafarer recruitment and placement services.

Basic requirements of Convention No. 188: "Each Member that operates a public service providing recruitment and placement for fishers shall ensure that the service forms part of, or is coordinated with, a public employment service for all workers and employers" (Article 22.1).

"Any private service providing recruitment and placement for fishers which operates in the territory of a Member shall do so in conformity with a standardized system of licensing or certification or other form of regulation, which shall be established, maintained or modified only after consultation" (Article 22.2).

Fishers shall not be charged for use of these services (that is, they shall not be required to pay to obtain work) (Article 22.3(b)). Recruitment and placement services shall not blacklist fishers (Article 22.3(a)).

4.20 Private employment agencies (Article 22[4]–[6])

See also the ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.8.

It is important for the competent authority or authorities to clarify what laws or regulations of the flag State with respect to such arrangements are applicable to fishers on vessels of the flag State, and to issue clear guidance to their inspectors on the subject. In case of doubt, the inspector must be able to seek advice from the competent authority headquarters.

In some countries, fishers are not employed or engaged by the fishing vessel owner, or by the fishing vessel owner's authorized representative, but by a private employment agency (also referred to as a "manning" or "crewing" agency). In such cases, the private employment agency, as the direct employer, makes the fishers available to the fishing vessel owner, who in turn assigns them their duties and supervises the execution of these duties. These arrangements, in particular if they are unclear, may make it difficult for fishers to pursue their rights (for example, in cases involving the non-payment of remuneration, abandonment and the withholding of medical care on board or ashore in a foreign port).

Convention No. 188 seeks to address this situation by clearly establishing in Article 22(4) that, in such cases, the allocation of fishing vessel owner responsibilities to such agencies shall not preclude a fisher from asserting a right to a lien arising against the fishing vessel and in Article 22(5) provides that "**the fishing vessel owner shall be liable in the event that the agency defaults on its obligations to a fisher**" for whom in the context of the ILO Private Employment Agencies Convention, 1997 (No. 181), the fishing vessel owner is the "user enterprise".

This may also be a matter for inspection by the State in its capacity as a labour-supplying State. An essential aspect, as noted previously, is clarifying the employment relationship (see Section 5.6), which in this case means clarifying, through valid documentation, the roles and responsibilities of the fishing vessel owner, the employer (who may be a private employment agency, a manning agency or a crewing agency) and the fisher, with a view to ensuring that the fisher has the full protection of Convention No. 188, as implemented by the State.

4.21 Repatriation (Article 21)

Repatriation of seafarers at the end of their employment contract is a long-established principle. The ILO Repatriation of Seafarers Convention (Revised), 1987 (No. 166), which revised an earlier Convention adopted in 1926, set out seafarers' rights of repatriation and gave the option to competent authorities to extend the protection of the Convention to fishers. This Convention has now been revised by the Maritime Labour Convention, 2006, as amended, which does not apply to fishing vessels, while Convention No. 188 contains provisions on repatriation for fishers.

Repatriation is not defined in Convention No. 188, but is defined in, and for the purposes of, the Social Security (Seafarers) Convention (Revised), 1987 (No. 165) as "transportation to a place to which seafarers are entitled to be returned under laws and regulations or collective agreements applicable to them".

Inspectors should be alert to deficiencies including, for example, a fishing vessel owner who refuses to cover the cost of repatriation of a fisher from a foreign port after the fisher's work agreement has been terminated for justified reasons (including expiration) by the fisher or by the fishing vessel owner, or when the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances.

Exercise 4.18

TITLE	Inspectors and repatriation of fishers
AIMS	To help train inspectors on how best to handle repatriation, and to ensure that vessel owners fulfil their legal duties.
TASK	In your small groups, discuss: • What is the current arrangements nationally for repatriation of fishers? • What action do you currently take if a fishing vessel owner fails to pay for repatriation of fishers? • In your opinion, would the requirements of ILO Convention No. 188 on repatriation help strengthen the system of repatriation for fishers in your country? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention No. 188, Article 21. ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.11.
OUTPUT	Inspectors are able to verify that fishers are given sufficient hours of rest according to national laws and regulations and the requirements of Convention No. 188.

Fishers are entitled to repatriation at the vessel owner's expense: [67]

- in the event that the fisher's work agreement has expired;
- in the event that the fishers' work agreement has been terminated for justified reasons by the fisher or by the fishing vessel owner;
- if the fisher is no longer able to carry out the duties required under the work agreement; or
- if the fisher cannot be expected to carry them out in the specific circumstances (Convention No. 188, Article 21).

However, the vessel owner is not obliged to cover the cost of repatriation if, after due process, the fisher has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her work agreement obligations.

67 If a fishing vessel owner fails to provide for repatriation as noted above, the State whose flag the vessel flies shall arrange for the repatriation of the fisher concerned and shall be entitled to recover the cost from the fishing vessel owner.

4.22 Handling complaints and complaint procedures (Article 43[1] and [5])

In accordance with Convention No. 188, Article 43(1) and (5), the competent authority should establish a complaints procedure and manage complaints from fishers, professional bodies, associations, trade unions and any persons with an interest in the safety of the vessel, including with an interest in the safety or health risks to fishers on board.

This may include:

- establishing what is a complaint, and what constitutes a "manifestly unfounded" complaint;
- ensuring that a robust process is in place, from the time of the receipt of the complaint to the closing of each issue identified;
- developing procedures for receiving and responding to complaints from port States and other relevant agencies, including to:
  - ensure confidentiality;
  - avoid the blacklisting of any fishers concerned;
  - use trade unions, fishing vessel owners, NGOs and others as conduits of complaints;
  - work with trade unions, fishing vessel owners, NGOs and others to follow up on complaints;
  - use the internet, email or a hotline to register complaints; and
  - promote awareness of the complaints mechanism to ensure that fishers are aware of it, for example through fisher associations and trade unions.

An inspection may also result from a complaint being received that a fishing vessel or the working and living conditions on board do not conform with the requirements in the relevant national laws and regulations (which may be implementing Convention No. 188). Complaints might be received, for example, from fishers, trade unions or any person or organization having an interest in the safety of fishing vessels and/or the safety and health of its fishers.

Note: Each member State, after consultation with the social partners, should determine the complaint procedures for fishers. In this respect, the member State should clearly determine which competent authority will be responsible for developing the complaints procedures. This involves clearly communicating to the sector what are the procedures to be followed.

Exercise 4.19

TITLE	Role play: Inspectors and handling complaints
AIMS	To help train inspectors on how best to handle the complaints they receive from fishers, trade unions, NGOs and others. How to follow up on complaints and achieve satisfactory outcomes.
TASK	Select three persons to play the roles of: • inspector; • the complainant (fisher, trade union, NGO or other); and • observer for the role play. Using the role play guide (see Annex I), make sure that the three persons understand what is expected of them and their roles. Using an existing model of a complaints procedure or one developed in this workshop, the inspector should: • interview the complainant; • decide if it a genuine or false complaint; • explain how confidentiality is guaranteed; • verify there is no blacklist; and • decide on the course of action to be taken.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention No. 188, Article 43(1) and (5). ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 3.2.19.
OUTPUT	Inspectors have developed their capacity to handle complaints they receive, follow up on complaints, and resolve complaints satisfactorily.

5

Inspection of violations of ILO fundamental principles and rights at work

The Preamble to Convention No. 188 notes the 1998 ILO Declaration on Fundamental Principles and Rights at Work and takes into consideration the fundamental rights to be found in the following international labour Conventions:

- the Forced Labour Convention, 1930 (No. 29);
- the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- the Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
- the Equal Remuneration Convention, 1951 (No. 100);
- the Abolition of Forced Labour Convention, 1957 (No. 105);
- the Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
- the Minimum Age Convention, 1973 (No. 138); and
- the Worst Forms of Child Labour Convention, 1999 (No. 182).[68] These eight core labour conventions are regarded as defining basic labour and human rights. Even if an ILO member State has *not* ratified a particular core convention, by dint of its membership of the ILO, it is expected to follow and put into practice the principles of that convention. More information on core labour conventions is provided in this section, below.

68 ILO: *Declaration on Fundamental Principles and Rights at Work* (Geneva, 1998).



photo © ILO

With the exception of child labour (see minimum age in section 4.18 above), Convention No. 188 does not, however, directly address these fundamental principles and rights in its substantive provisions. Nevertheless, competent authorities and inspectors may come across violations of these principles and rights on board vessels that fly the flag of their State, or may be informed by another State of violations on a national vessel. So competent authorities may need to develop policies and capacities to deal with such violations, and to train their inspectors accordingly. In addition to forced labour, trafficking in persons, and child labour, the competent authority should also determine what actions should be taken, and by whom, in the event that inspections or complaints indicate violations of the right of freedom of association and the right to organize and collective bargaining, the right of equal remuneration, and rights with respect to protection against discrimination.

Where the competent authority is responsible for applying some or all of the fundamental labour conventions to fishing (plus the four ILO Governance Conventions), there will be a need for:

- policy level training for directors and managers of government competent authorities responsible for regulating, improving, and running inspection services on labour conditions on board commercial fishing vessels; and
- field level training of inspectors, employed by the competent authority, who carry out inspections of labour conditions on board fishing vessels.

5.1 Forced labour and trafficking in persons

An ILO tripartite consultation on forced labour and human trafficking in the fisheries sector in 2012 noted that "[r]ecent reports of severe human rights abuses and exploitation aboard fishing vessels have led to calls for greater international attention to forced labour, human trafficking, and safe and decent working conditions of fishers."

A 2013 ILO report on forced labour and trafficking in fisheries stated

> Recent in-depth studies have described and analysed severe cases of forced labour and human trafficking in the fisheries sector. Whereas the fisheries sector counts among the most important economic sectors providing food security and employment worldwide, these studies reveal that, on board fishing vessels, fishers – many of them migrant workers – are subjected to extreme forms of human rights abuses, including forced labour and human trafficking... The literature surveyed for this report describes severe instances of labour abuse. Migrant workers in particular are too often deceived and coerced by brokers and recruitment agencies and forced to work on board vessels under the threat of force or by means of debt bondage. Victims describe illness, physical injury, psychological and sexual abuse, deaths, and their vulnerability on board vessels in remote locations of the sea for months and years at a time... There are also strong indicators that forced labour and human trafficking in the fisheries sector are frequently linked to other forms of crime, such as transnational organized fisheries crime and corruption.[69]

69 ILO: *Caught at Sea: Forced Labour and Trafficking in Fisheries,* ILO Governance and Tripartism Department - Special Action Programme to Combat Forced Labour (SAP-FL) & Sectoral Activities Department (SECTOR) (Geneva, 2013), http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_214472.pdf

Tailor-made measures are required to effectively prevent and combat these crimes, especially as many inspection services often lack a clear mandate on forced labour and human trafficking because:

- in many countries forced labour and trafficking are criminal offences that are primarily investigated by the police; and
- the scope of inspection systems on labour conditions may not cover sectors in which forced labour practices tend to occur, such as agriculture, fishing, domestic work and the sex industry. There may also be a gap between legal provisions and their application in practice.

Carrying out inspections on forced labour and trafficking in fishing can involve physical threats to the safety and even lives of inspectors, especially as criminal gangs may be organizing these activities. In response, competent authorities in fishing in some countries have developed special measures and units to deal with forced labour and human trafficking in fishing, which may involve police protection for inspectors when carrying out their duties.[70] Suspicion of instances of forced labour and human trafficking will often come through routine inspection. It is then usually the role of police or specially trained units to take over.

The ILO has developed a methodology for identifying victims of forced labour. Inspectors are expected to become familiar with and on the lookout for indicators of possible forced labour situations.

5.1.1 ILO indicators of forced labour

Indicators of forced labour include:[71]

- abuse of vulnerability;
- deception;
- restriction of movement;
- isolation;
- physical and sexual violence;
- intimidation and threats;
- retention of identity documents;
- withholding of wages;
- debt bondage;
- abusive working and living conditions; and
- excessive overtime.

70 The International Criminal Police Organization (INTERPOL) is developing an analytical work file which will capture information from law enforcement on a wide variety of environmental and related crimes including human trafficking in the fisheries sector. The relevant agency should be linked to the country's INTERPOL National Central Bureau or Regional Bureau. The regional bureaus have dedicated environmental crime and human trafficking officers.

71 ILO: *Indicators of Forced Labour,* http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf.

▶Box 5.1. Questions to help determine if forced labour exists

However, a determination that a worker is in a forced labour situation requires a more specific test described by the questions used, for example, in the Ship to Shore Rights Project endline survey in mid-2019 of 200 fishers in the Thai commercial fishing industry. The survey used the questions reproduced below. Across 10 ports, 14 per cent of fishers interviewed were found to be in forced labour situations. The ILO is developing new tools to help identify forced labour, which, when available, should be integrated into training programmes.

Issue	Worker interview question
Recruitment, contract	
Hiring	How did you choose this boat? Please tell me the story.
	Did you choose to work on this fishing vessel?
	Did you get hired with help from a broker here in Thailand?
	Did the broker charge you any money for getting the job?
	Did you sign a contract to work on this boat?
	Is it written in your language?
	Did the owner/skipper give you a copy of the contract to keep? • If no, would you like a copy of it now?
	Would you like to take a picture with your phone?
	Did someone explain your contract to you?
	Would you like me to explain it to you now?
Recruitment	Is the work on the boat the same as was promised to you before you started? (Ask by type) • Type of work is different than promised • Time at sea is longer than promised • Port is different • Boat or boat owner is different • Wages are different (Ask if worker knows what the minimum wage is) • Pay schedule is different • Hours working are different • Living conditions are different • Freedom to move or leave is different
	Were any other things promised that are different?
	Who made these promises? (Ask owner, skipper, chieu, broker)
Leaving	Do you know how to leave the boat, to quit?
	Have you ever wanted to leave the boat?
	Do you feel like you are free to leave the boat if you want to? • If no, why don't you feel free to leave?
	Are there others on your boat who would like to leave? • If yes, why do they want to leave the boat? • What would happen to them if they tried to leave the boat?
	Do you keep your passport/i.d. and important papers with you? • If no, can you get your documents whenever you need them?
	Do fishers who have left your boat get all their money? (Ask by type) • Unpaid or withheld wages • Share of the catch • Holiday pay • Severance if they finish the whole contract
	Do you know of fishers who have been left in another port or country?
	Do you know how they got home?

Source: ILO and Thai Ministry of Labour fishing labour inspection guidance, 2018.

This tool is appended in full in this document as Annex V.

A 2010 study by the United Nations Office on Drugs and Crime (UNODC)[72] on the occurrence of transnational organized crime[73] in the fishing industry[74] focused on trafficking in persons, smuggling of migrants, illicit drugs trafficking, and links to other forms of criminal activity.[75]

With regard to research, the UNODC study found that:

- A main gap in the current knowledge about transnational organized crime in the fishing industry was the lack of empirical studies on the extent to which actors within the fishing industry or fishing vessels are involved in transnational organized crime.
- In the context of human trafficking of fishers for the purpose of forced labour on board fishing vessels, most sources are anecdotal. The few empirical studies that exist of this form of criminal activity are limited in size and geographical reach.
- Human trafficking in the fishing industry is referred to as trafficking in, for instance, the agriculture or manufacture industry.
- Further research is required into trafficking in persons on board fishing vessels for the purpose of forced labour and efforts should be made to specify instances of human trafficking in the fishing industry as distinct from trafficking in for instance the agriculture or manufacture industries. The ILO Global Action Programme against forced labour and trafficking of fishers at sea (GAPfish) is pursuing this research.
- The UNODC study observed that, "[t]he perhaps most disturbing finding of the study was the severity of the abuse of fishers trafficked for the purpose of forced labour on board fishing vessels. These practices can only be described as cruel and inhumane treatment in the extreme. Fishers are held as de facto prisoners of the sea, and the study documents several instances of reported deaths, severe physical and sexual abuse, coercion and general disregard for the safety and working conditions of fishers." A particularly disturbing facet of this form of exploitation is the frequency of trafficking in children in the fishing industry. The study also found several reported instances where human trafficking in persons on board fishing vessels were linked to marine living resource crimes, which may include illegal, unreported and unregulated fishing.[76]

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72 The United Nations Office on Drugs and Crime (UNODC) is the guardian of the United Nations Convention against Transnational Organized Crime (UNTOC) and its supplementary Protocols.

73 The United Nations Convention against Transnational Organized Crime (UNTOC), Article 2(a) defines transnational organized crime as follows: "'Organised criminal group' shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit."

74 UNODC: *Transnational Organized Crime in the Fishing Industry* (Vienna, 2011), http://www.unodc.org/documents/human-trafficking/Issue_Paper_-_TOC_in_the_Fishing_Industry.pdf

75 UNTOC, Article 2(b): "Serious crime' shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty."
UNTOC, Article 3(2): "Furthermore, an offence is 'transnational' in nature if:
(a) it is committed in more than one State;
(b) it is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;
(c) it is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or
(d) it is committed in one State but has substantial effects in another State."

76 Marine living resource crime is defined for the purpose of the study as criminal conduct that may cause harm to the marine living environment, typically offences established on the basis of contraventions of marine living resource management and conservation regulations.

5.1.2 Link between forced labour and trafficking in persons

Trafficking in persons, or human trafficking, can lead to forced labour and can also result in forced child labour. However, not all forced labour is the result of human trafficking and not all human trafficking necessarily results in forced labour. In the fishing industry the most common form of trafficking in persons (or human trafficking) is trafficking for the purpose of forced labour.

The United Nations legal framework on trafficking in persons (or "human trafficking") is contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking in Persons Protocol, 2000) often referred to as the Palermo Protocol).[77] This is a supplementary protocol to the United Nations Convention against Transnational Organized Crime (UNTOC). In the Trafficking in Persons Protocol, Article 3, trafficking in persons is defined as:

> ....the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The ILO Forced Labour Convention, 1930 (No. 29), Article 2 defines forced or compulsory labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."

The notion of exploitation of labour in the definition creates a nexus between the Trafficking in Persons Protocol and the ILO Forced Labour Convention, 1930 (No. 29).[78]

Migrant labourers and fishers fall prey to human traffickers as victims of trafficking for the purpose of forced labour on board fishing vessels, rafts or fishing platforms, in port, or in fish processing plants. In this instance, fishing operators or fish processing operators are creating a demand for victims of trafficking.[79]

Trafficking involves the movement of a person, usually across international borders, for the purpose of exploitation. In recent years, human trafficking has taken on new forms and dimensions, often linked to developments in information technology, transportation and transnational organized crime. It affects developing countries, countries in transition and industrialized market economy countries alike.

With respect to cases where fishers are criminally trafficked or used as forced labour, a flag State should determine whether the competent authority or authorities responsible for the inspection of working and living conditions on board fishing vessels should deal with these problems, or whether another agency, such as the police, should be responsible. If the inspection service does not have the authority to address any of these violations, or indeed violations of any other core labour conventions, it should know in advance which authority, authorities or other entity to notify. It is, therefore, a two-step process to (i) identify possible cases of human trafficking and/or forced labour and (ii) report to and notify the competent authority (if it is a different authority).[80]

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77 UN OHCHR: Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Geneva, 2000).

78 For an analysis of the relationship between the Trafficking in Persons Protocol and the ILO Forced Labour Convention No 29, see UNODC: *Model Law against Trafficking in Persons* at 14-17, http://www.unodc.org/documents/human- trafficking/UNODC_Model_Law_on_Trafficking_in_Persons.pdf.

79 UNODC: *Transnational Organized Crime in the Fishing Industry*, Section 2.3 (Vienna, 2011), http://www.unodc.org/documents/human-trafficking/Issue_Paper_-_TOC_in_the_Fishing_Industry.pdf.

80 ILO: *Forced labour and human trafficking: Handbook for labour inspectors*, ILO Special Action Programme to Combat Forced Labour (Geneva, 2008), http://www.oit.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_097835.pdf.

Note: Inspectors may come across some of these indicators in the course of their inspections but as there may be a risk of physical danger to the inspector(s), especially given the fact that forced labour trafficking are often organized by criminal gangs, special measures for the security of the inspectors will be required. Involving special organization and measures at the level of the inspection service by the inspectorate, police support (armed, if necessary), coordination with prosecution services and/or other appropriate national authorities. A clear policy should be in place and adequate procedures must be developed.

In some countries, after action by another enforcement authority, e.g. police, inspectors may be competent to enforce legislation for redressal of the victim's labour rights.

Given that forced labour and human trafficking in the fisheries sector are frequently linked to organized forms of crime, special inspection systems and measures are needed to deal with these violations. Providing inspectors with a mandate to combat forced labour requires strong political will to strengthen inspection system as a whole, for example, by increasing the number of inspectors, training them, providing adequate resources, organizing special mobile inspection units, operating with police protection and even navy and/or military back up.[81] This is a policy decision, and one that may also benefit from a regional approach in areas where this is a significant issue.



Exercise 5.1

TITLE	Identifying training requirements of inspectors
AIMS	To identify the training needs – including refresher training and specialist training – of inspectors in: • inspecting working and living conditions on board fishing vessels; and • inspecting forced labour and human trafficking in fishing (and other ILO core labour convention issues). To ensure that inspectors have the opportunity to develop and express their views and opinions on their training needs and the types of training that their competent authority or authorities should provide.
TASK	In your small groups, discuss: • How can the competent authority or authorities can ensure that inspectors receive basic training, refresher training and specialized training, e.g. on safety and health? • What are the training needs for (i) inspecting working and living conditions on board fishing vessels; and (ii) inspecting forced labour and trafficking (and other ILO core labour convention issues) in fishing? • What is the best balance between classroom and on-the-job training? • How can inspectors can be trained as trainers so they can then provide training to clients (fishers, fishing vessel owners' and workers' organizations)? Elect a spokesperson to report back, with the main points from your group discussions.
TIME	To be determined by the facilitator/trainer.
RESOURCES	ILO Convention No. 188, Article 27 and Annex III. ILO *Guidelines on flag State inspection of working and living conditions on board fishing vessels,* Section 2.4.2.2.
OUTPUT	Participants are trained to identify the training requirements for inspectors on the working and living conditions on board fishing vessels.

81 Ibid.

▶Box 5.2. Brazil's approach to identifying and eliminating forced labour

The experience of the Brazilian Labour Inspectorate in dealing with forced labour illustrates the need to develop specialized inspection services to tackle forced labour and trafficking, which they term "labour analogous to slavery." The inspectorate created special mobile inspection units and extended these special units to the maritime sector.

Once the occurrence of labour analogous to slavery was recognized by the Brazilian federal government, especially in agriculture and cattle ranching, the Ministry of Labour and Employment was authorized to set up the Special Mobile Inspection Group in 1995 to increase the effectiveness of inspection in this area. Between 1995 and 2010, the Special Mobile Inspection Group rescued more than 36,000 workers from slavery.

Spearheaded by the Ministry of Labour, with labour inspectors forming its core members, the group's operations are especially based on cooperation with the following other institutions:

- **Labour Prosecutions Office:** one **labour prosecutor** (member of the National Coordination for the Fight against Slave Labour or a volunteer substitute) is responsible for:
  - assisting in collecting evidence;
  - proposing immediate action on the legal side (for example, proposing cautionary action to freeze the employer's assets);
  - initiating public civil actions; and
  - signing conduct adjustment terms with the offender, wherein he/she promises to pay within a specific time frame the funds that are owed (to workers) and cannot be paid immediately, pay individual moral damages and collective moral damages and/or regularize local work and lodging conditions.
- **Federal Police or Federal Highway Police**: in general, six members of the Federal Police or the Federal Highway Police accompany each inspection team. The police are responsible for the safety of the group, collection of evidence for a possible criminal indictment, weapon confiscation, apprehension of criminals, interdiction of the workplace, and apprehension of the goods produced when dealing with illegal activity.
- **Labour inspectors** from the Ministry of Labour and Employment collect evidence, compile infraction reports, give out work permits, register workers in unemployment insurance and close down illegal work sites when necessary.

The inter-institutional composition of the operations of the Special Mobile Inspection Group not only make for greater effectiveness of inspection but makes interference and corruption difficult, since the members of all the institutions work together regularly.

Each inspection team has a coordinator and a sub-coordinator, both labour inspectors whose work is dedicated exclusively to the group. The rest of the team are labour inspectors who are brought in for specific operations, coming from different Regional Superintendencies (offices) of Labour and Employment. Participation in the special group is voluntary and the biggest motivation for members is the belief in the social importance of the work and the gratification that comes from being able to do an effective job. The motivation of members is essential, because the group faces adverse conditions, especially when inspecting more isolated locations. The work also demands a great capacity for adaptation from the team members, due to the unpredictability of what will be found in the field. Many times, the difficulties are much larger than expected based on the complaints and the operations need to be extended or involve long distances of travel.

Central coordination

The first four years of the Special Mobile Inspection Group were a period of especially intense learning and perfecting, during which the mobile group was increasingly better equipped and its procedures standardized. The material structure includes pickup trucks, institutional mobile phones, a laptop for each coordinator and sub-coordinator, radios, printers, and photographic and video cameras for collecting evidence. Part of this structure was made possible by resources from the payment of collective moral damages by offenders and by donations from the ILO.

It became clear that it was essential to centralize the command of the teams in Brasília, in order to guarantee uniformity and the security of the participants of the operations.

Operational strategy

The operations of the Special Mobile Inspection Group are primarily reactive, in other words, predominantly based on complaints. However, there is also inspection action based on the tracing of sectors and regions specifically made by coordinators of the group or labour inspectors involved in rural inspection.

As the actions of the mobile groups are primarily in reaction to complaints, cooperation with other actors was essential to ensure that complaints reached the Labour Inspectorate. Mainly in regions with a higher level of incidence of labour analogous to slavery, a social network of organizations that deal with complaints collect as much relevant information as possible and forward it to the Labour Inspectorate, without a breach of secrecy. Most of the complaints were received and forwarded by the Pastoral Land Commission, but many originated from other civil society organizations, such as the Centre for the Defence of Life and Human Rights, or also the regional offices of the Labour Inspectorate.

The cooperation with civil society institutions and labour unions, especially in the initial period of activity of the mobile group, was essential given the lack of trust of the workers in the public power. The whistle-blower is generally welcomed and protected by the local civil society institutions until the complaint can be investigated by a mobile team. When possible, he/she is used as a guide to take the mobile group to the inspection location.

National Mobile Group – fishing sector, merchant shipping and naval construction

In the maritime sector – covering fishing, merchant shipping, and naval construction – the Brazilian Labour Inspectorate adapted the Special Group of Mobile Inspection model and set up a National Mobile Group on Inspection. The Labour Inspectorate 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. This new group provided more crucial information for planning inspections and assisted in inspection.

To inspect fishing vessels, the inspectorate adopted a twin strategy.

The first strategy 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.

The second strategy prioritizes identifying and inspecting vessels that are not as modern, focusing primarily on verifying minimum decent work conditions on board vessels.

Source: ILO: *Good practices in Brazilian labour inspection: The eradication of labour analogous to slavery* (Brasília, 2010), http://www.oitbrasil.org.br/info/downloadfile.php?fileId=517; ILO: *Good practices in Brazilian labour inspection: The Maritime Sector* (Brasília, 2010), http://www.oit.org.br/sites/default/files/topic/labour_inspection/pub/maritime_282.pdf.

5.2 Child labour

Two ILO core conventions address child labour. The Minimum Age for Admission to Employment Convention, 1973 (No. 138) requires States to pursue national policies which will effectively abolish child labour. It establishes a minimum age for employment so that young people can develop physically and mentally before entering the workforce. The Worst Forms of Child Labour Convention, 1999 (No. 182) defines as the worst forms of child labour such practices as child slavery, forced labour, debt bondage, trafficking, serfdom, prostitution, pornography and hazardous child labour. It calls for prohibition or immediate action to eliminate these worst forms of child labour as a matter of urgency.

Information on child labour in both fisheries and aquaculture is limited, and data on child labour in agriculture are generally not disaggregated by sub-sector. (Information on child labour in fisheries is often collected along with that of child labour in aquaculture – fish and/or seafood farming). Nevertheless, case studies and specific surveys indicate that the numbers are significant, and child labour is particularly widespread in the small and medium-scale fishing sectors. Children are found, for example, working on board fishing vessels, unloading catches, preparing nets and baits, sorting, fish landing and transportation; working in fish processing factories, peeling, sorting and packing; and assisting in fish marketing and selling, as well as in upstream industries such as net making and boat building.[82]

With respect to the issue of child labour on board fishing vessels, inspectors need to clarify who is responsible for ensuring that fishers are not under minimum age for employment, that young fishers above the minimum age for work on fishing vessels of 16 years of age are adequately protected, and that restrictions on hazardous child labour in fishing (for any person under 18) are respected.

5.3 Freedom of association

Competent authorities in fishing and their inspectors may need to address in the course of their work two core convention protecting workers' (and employers') organizing and collective bargaining rights:

- the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); and
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

According to the ILO's *Rules of the game: a brief introduction to international labour standards:*

> Convention No. 87 sets forth the right for workers and employers to establish and join organizations of their own choosing without previous authorization. Workers' and employers' organizations shall organize freely and not be liable to be dissolved or suspended by administrative authority, and they shall have the right to establish and join federations and confederations, which may in turn affiliate with international organizations of workers and employers.
>
> Convention No. 98 provides that workers shall enjoy adequate protection against acts of anti-union discrimination [...] Workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other [...] The convention also enshrines the right to collective bargaining.[83]

In commercial fishing, organization among vessel owners is the norm, but workers' organizations vary in density and strength around the world. Fishers are relatively well-organized in, for example, in Iceland and South Africa, where sectoral bargaining agreements are standard.

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82 FAO and ILO: *FAO-ILO Good Practice Guide for addressing child labour in fisheries and aquaculture: policy and practice.* Preliminary version (Nov 2011); http://www.fao-ilo.org/fileadmin/user_upload/fao_ilo/pdf/FAO-ILOGuidelines_child_labour_in_fisheries_and_aquaculture_Policy_practice_Preliminary_version.pdf

83 ILO: *Rules of the Game: An introduction to the standards-related work of the International Labour Organization,* (Geneva, 2019), https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_672549.pdf.

Unions among fishers in less-regulated fisheries and fleets are less common and typically less powerful. The dangers inherent in work in fishing and the prevalence of forced labour make plain both the lack of unions and the need for them among vulnerable fishers seeking protection of fundamental rights and decent work. (A listing of workers' organization among fishers is provided by the global union federation for fishers, the International Transport Workers Federation. See ITF Affiliates at https://www.itfglobal.org/en/about-us/affiliates.)

Competent authorities are expected to have or develop an eye for violations of organizing rights, in particular, and evidence of fishing vessel owner attempts to limit organizing or (legal) collective action by fishers. These attempts might include dismissal, intimidation or violence against fishers seeking to organize unions or collective action. They might also include efforts to prevent fishers from leaving the vessel in port, or from engaging with unions or worker advocacy organizations in port areas.

Worker interviews, conducted properly, allow inspectors to develop a picture of organizing efforts, if any, among fishers. Below are examples of freedom of association questions from the 2018 ILO and Thai Ministry of Labour fishing labour inspection guidance:

Is there a union or an organization to help the workers on your boat?
If yes, how is it organized? (e.g. Port-based union or fisher charity/services?)
Do you have a representative on board to talk to *chieu*, skipper, owner, government officials?
If yes, who is he and how chosen? (e.g. Is it someone besides the *chieu*?)
When you have a problem with work, who do you talk about it for help?
Have fishers on your boat brought a problem to the owner or skipper or *chieu* (crew supervisor)?
What were the problems?
What was the response, resolution?
Have the fishers refused to work or go on the boat before?
If yes, what was the reason and what happened?
Has the owner/skipper/*chieu* told you not to meet with people from any organization?

5.4 Discrimination

Protections against discrimination at work are also part of the ILO's core labour standards. In fishing, discrimination in wages or treatment, for example, can turn on issues of gender, colour, race, national origin (including migration status) and more. In an industry dominated by men, the pressures on the relatively few women fishers are greater as are vulnerabilities of migrant fishers, some of whom have irregular migration status.

The Equal Remuneration Convention, 1951 (No. 100) requires ratifying countries to ensure the application of the principle of equal remuneration for men and women workers for work of equal value. The term "remuneration" is broadly defined to include the ordinary, basic or minimum wage or salary and any additional emoluments payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment.

The Discrimination (Employment and Occupation) Convention, 1958 (No. 111) defines discrimination as "any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation". The Convention also provides for the possibility of extending the list of prohibited grounds of discrimination after consultation with representative employers' and workers' organizations, and relevant bodies.

As above, inspectors should rely not just on documentary evidence – discrimination in pay between native and migrant fishers, for example – but can be expected to conduct private worker interviews away from vessels, and to engage unions and civil society organizations for testimony about discrimination. Questions developed by the ILO with the Thai Ministry of Labour for labour inspection in fishing include:

Are all the workers on the boat treated the same? (E.g. work assignments, equipment, punishments, amounts or time for food)
If no, who is treated differently and why? (E.g. country of origin, religion, sexuality, relationship with chieu or skipper)
Is pay the same for everyone who does the same kind of work?
If no, who is treated differently and why?
Is there harassment or bad words used on the boat?
If yes, what things are said? (Exact words are important, not just "rude words")

5.5 Links to fisheries crimes

A study by the UN Office on Drugs and Crimes (UNODC) found a link between fishing vessels engaged in marine living resource crimes and trafficking in persons for the purpose of forced labour on board fishing vessels. This link gives cause for particular concern regarding the lack of oversight and accountability of fishing operators engaged in marine living resource crime. It also highlights the need to protect victims of human trafficking from law enforcement actions against marine living resource crimes.

Fisheries crime covers a range of criminal offences, frequently transnational and organized in nature, encompassing but also going beyond illegal fishing. Such offences include document fraud, tax evasion, money laundering, drug trafficking, forced labour and trafficking in persons. Often, criminal activities in the fishing sector are viewed as synonymous with illegal, unreported and unregulated fishing (IUU), which many States treat as fisheries management concerns rather than as criminal offences. To avoid law enforcement measures, fishing operators engaged in fisheries crime use secrecy jurisdictions and register their vessels in open international registers. They may make use of flag States that are unable or unwilling to exercise their criminal law jurisdiction and follow international health and labour standards. When working on board vessels engaged in fisheries crime, fishers may have limited or no means of protection and are therefore vulnerable to exploitation.

5.5.1 Illegal, unreported and unregulated (IUU) fishing

Illegal, unreported and unregulated (IUU) fishing is defined broadly and includes: (i) fishing and fishing-related activities conducted in contravention of national, regional and international laws; (ii) non-reporting, misreporting or under-reporting of information on fishing operations and their catches; (iii) fishing by "Stateless" vessels; (iv) fishing in the areas of competence of regional fisheries management organizations by non-party vessels; and (v) fishing activities which are not regulated by States and cannot be easily monitored and accounted for.[84] Vessels engaged in IUU fishing tend to hide from legal authorities, which can undermine oversight of vessel safety and working conditions of fishers. Undocumented fishers are more likely to be forced or coerced into such illegal operations. IUU fishing has been linked to forced labour and human trafficking.[85]

The FAO's Port State Measures Agreement (PSMA) also addresses IUU:

> What is particularly landmark from the design of the PSMA is the standardization of inspection procedures and measures at port by port States (traditionally the exclusive domain of domestic laws); the reporting, investigation, and enforcement duties of flag States (again traditionally the purview of domestic laws); and the technical and funding facility created to realistically assist many countries who have different port enforcement capabilities with varying port facilities and systems [...] This model of involving port States in a global cooperation with flag States and regional fisheries management organizations – while also creating realistic opportunities for assistance to port States challenged by resource and technological constraints – should be similarly considered for other transnational organized crimes at sea such as human trafficking and smuggling of migrants at sea, illegal drug trafficking at sea, arms smuggling, piracy and armed robbery, as well as to apprehend other perpetrators of marine environmental crimes.[86]

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84 FAO and IMO: *Report of the Third Session of the Joint FAO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated (IUU) Fishing and Related Matters, London, 16–18 November 2015*, (London, 2016), para. 9.

85 ILO: *Points of consensus adopted by the Global Dialogue Forum for the Promotion of the Work in Fishing Convention, 2007 (No. 188),* Geneva, 15–17 May 2013, GDFWF/2013/8, para. 5.

86 Desierto: "First Global Treaty Against Illegal, Unreported, and Unregulated (IUU) Fishing Entry into Force" (Blog entry, 17 June 2017). Accessed on 4 September 2020 at https://www.ejiltalk.org/first-global-treaty-against-illegal-unreported-and-unregulated-iuu-fishing-enters-into-force/.

6

Pre-training mapping exercise: Mapping labour rights and working and living conditions on board fishing vessels, and government inspection systems



photo © ILO

This guide is designed to help managers and trainers (or national consultants) visually and conceptually map the actors, dynamics and rules for work in fishing in commercial fishing. Managers and trainers will use the resulting map in planning and delivery of labour inspection training. The guide follows this outline:

6.1 Mapping industry and stakeholders

- **6.1.1 Key industry measures including market and export value**
- **6.1.2 Types of fishing**
- **6.1.3 Fleet types, size, and geographic distribution**
- **6.1.4 Owners and concentration in the industry**
- **6.1.5 Workforce, manning, days at sea**
- **6.1.6 Working and living conditions**
- **6.1.7 Key stakeholders (non-government)**
- **6.1.8 Other stakeholders**

6.2 Mapping government roles

- **6.2.1 Applicable law**
- **6.2.2 Types of fishing inspection**
- **6.2.3 Authorities**
- **6.2.4 Coordination**
- **6.2.5 State of inspection and enforcement**

Each sub-section in the guide includes questions to be answered in the drawing of the map. These guiding questions are sometimes specific and sometimes broad. Researchers should feel free to adapt questions to suit the national industry and available data, and to add more question where useful data is available.

A few sections include templates or model graphs to help researchers collect and organize data. These templates can also be used in the presentation of mapping data in the planning session with labour inspection managers.

Sources. Managers and researchers undertaking the mapping will have to use numerous sources to collect the information needed to draw the map. Government fisheries and maritime agencies will be the first stops, followed by labour ministries, industry groups, and unions or civil society organizations.

Some questions can be answered with verified figures (e.g., number of vessels in the commercial fishing fleet) but others may require educated estimations (e.g., percentage of migrant workers on purse seiners) or qualitative responses (e.g., perception of industry concentration among small business owners) where hard data is not available. In some countries, data may simply be unavailable or so thinly sourced or sampled that it misleads the researcher. In these cases, the time required to find and sort key data may (far) outweigh the value of the data they are able to collect.

Time. The full mapping exercise could take government or outside researcher(s) up to 10 work-days. This can be shortened to suit the needs of the inspectorate(s).

Governments should conduct this research themselves in order to develop their in-house understanding of the industry and its regulation – a sort of "self-assessment". This is particularly important for labour ministries with little experience in the world of commercial fishing, and for maritime and/or fisheries

departments with little experience in the world of labour regulation. And where authorities are not in relationship with industry associations and workers organizations, this exercise helps build those connections.

Addressing gaps. This primary goal purpose of the map is to help the labour, fisheries, and/or marine authorities plan training that uses existing law and authority to start (or strengthen) inspection in fishing in the short-term.

This mapping exercise will almost certainly reveal gaps in law and implementation. For governments that have not ratified Convention No. 188, the mapping can function as a preliminary "gap analysis" that shows what is required to close the gap between national law and the requirements of the Convention. However, a full gap analysis to prepare for ratification of Convention No. 188 is typically a year-long (or longer) process. Governments that decide to undertake a gap analysis should do it alongside – not instead of – the mapping and training so that the building (or strengthening) of inspection and enforcement regimes is not delayed.

6.1 Mapping industry and stakeholders

6.1.1 Key industry measures including market and export values

1. What is the value of commercial fishing per year over the last five years? Is it rising or falling?
2. What is the sector's percentage of national gross domestic product (or national income) per year over the last five years? Is it rising or falling?
3. Are the fish and fish products sold on the domestic (national) market or exported?
4. If exported,
   - a. What is the value of the seafood exported per year over the last five years? Is it rising or falling?
   - b. What main types of fish or processed seafood are exported?
   - c. What are the five largest exports by percentage?
   - d. What are the main export markets?

Table 6.1 shows a template (with sample values) that organizes the data on product types and market shares.

▶ **Table 6.1. Template for fisheries product types and market shares**

Fish/seafood type	Domestic market US$ (%)	Export market US$ (%)	Top export markets (%)
Canned tuna	35 m. (44%)	45 m. (56%)	EU (12%), U.K. (7%), Japan (4%)
Mackerel	12 m. (75%)	4 m. (25%)	U.K. (40%)
Etc.			

6.1.2 Types of fishing

1. What are the existing government categories of fishing? (e.g. small and large-scale commercial, long-distance/deep-sea, coastal fishing, artisanal fishing or subsistence?)
2. How are they defined and measured?
3. What are their respective shares of the overall national catch?
4. Is there an exclusive economic zone (EEZ)? How far offshore does it extend?
5. If there is a deep-sea/long distance fleet,
   a. What percentage of the commercial fleet does it represent?
   b. What percentage of landings does it represent (by volume or value)?
   c. Where are the main fishing areas?
   d. Which regional fisheries management organizations are involved?
   e. Which foreign ports are most often used by the deep-sea fleets?
   f. What is the average number of days at sea?

1.

6.1.3 Fleet types, size and geographic distribution

1. Is there a list of fishing ports, or major fishing ports, indicating:
   a. Numbers, sizes and type of fishing vessels by port?
   b. Types of fish landed, by amount and type, by port?
2. Is there a list of fishing ports, or major fishing ports, indicating foreign-flagged vessels by sizes, types, fish landed, by port?

Table 6.2 and table 6.3 help organize data on size, types, and distribution of vessels. This data can help managers orient (or re-orient) inspection and enforcement strategies. A separate table showing vessels and landings by foreign-flagged vessels is also useful.

▶ **Table 6.2. Template for numbers of vessels by port, size and type**

Port	All vessels > 30 gt	Purse seiner < 30 gt	Purse seiner > 30 gt	Share port total (%)	Squid boat < 30 gt
X	281	12	87	35%	18
Y	317	16	103	38%	35
Etc.					

6.1.4 Owners and concentration in the industry

1. How would you describe the make-up of ownership in the industry? (e.g. "A majority of owners are small businesses with an average of three vessels of 60 gt", or "About 80 per cent of large vessels are chartered to 10 overseas fishing companies")
2. What percentage of vessels (by size) is owned by the top ten vessel owners? Who are these owners?
3. Are vessel owners or operators nationals or non-nationals? What is the breakdown by nationality of owners?

6.1.5 Workforce, manning, days at sea

How would you describe the make-up of the workforce in commercial fishing? Table 6.3 provides a guide to the key data needed about workers in fishing and the nature of work in the industry – e.g. average crew size per vessel type and days at sea per trip.

▶ **Table 6.3. Template for commercial fishing workforce, by vessel type, days at sea, and crew size, make-up and origin**

Vessel	Crew size (av.)	Days at sea (av.)	Crew make-up (%)		Migrants countries/ regions of origin (%)
			National	Migrant	
Purse seiner > 30 gt	28	9	70%	30%	X (70%) Y (30%)
Squid > 30 gt	8	14	80%	20%	X (50%) Y (50%)
Pole and line > 20 gt	16	8	20%	80%	X (70%) Y (30%)
Port fish-sorting, storage	N/a	N/a	75%	25%	X (50%) Y (50%)
Etc.					

6.1.6 Working and living conditions

1. What data is available on working conditions for commercial fishing from the government? What picture does it paint of working conditions?
2. What data is available on working conditions for commercial fishing from non-government sources? – academic research, union and civil society reports, national and international media coverage. What picture does it paint of working conditions?
3. If the data does not match, why not?
4. How are workers (including internal migrants and migrants from other countries) found or recruited for work in commercial fishing?
5. What data/reporting is available on recruitment practices for migrant workers?
6. How is pay structured in fishing?
7. Is there data on forced labour or trafficking in fishing?

6.1.7 Key stakeholders (non-government)

1. Fishing vessel owners and their organizations
   - **a.** How are the vessel owners organized? (e.g. "Single national industry association" or "Multiple associations organized by species/product/gear type/size")
   - **b.** What percentage of commercial fishing vessel owners are part of an industry association?
   - **c.** Do the fishing vessels sell their catch direct to the fish processors or supermarkets or are there middlemen involved as buyers?
   - **d.** If both, what is the rough percentage of direct vs. indirect sales?
   - **e.** Are there any smaller fisher producer organizations, representing and organizing the artisanal fishers? If so, give details.
2. How are seafood processing and aquaculture employers organized?
3. How would you describe the relationship between vessel owners and processors (e.g., vertical integration, interlocking ownership, or largely independent of one another)?
4. Buyers
   - **a.** Which domestic buyers are the largest customers of the commercial fishing industry?
   - **b.** Which overseas buyers are the largest customers?
   - **c.** How are the buyers represented to the government? (e.g. part of a multi-stakeholder initiative, chambers of commerce)
   - **d.** Which buyers (or collective initiatives) have codes of conduct *and* active programs to work on labour issues (including migration)? Are due diligence and/or reports on working conditions in fishing from the programme available publicly or otherwise to the government?
5. Workers' organizations
   - **a.** Are there any trade unions representing fishers in commercial fishing? Are there worker organizing efforts or networks that are not registered unions?
   - **b.** If yes, which ports are the present in and how many members do they have?
   - **c.** What is the density of union membership (i.e., members as a percentage of all fishing workers) in commercial fishing?
   - **d.** Are unions part of a global union federation (e.g., the International Transport Workers Federation)?
   - **e.** Which of these organizations bring labour issues or complaints from fishers to the government?
   - **f.** Which of these organizations have been invited to join policy discussions with the government?
   - **g.** Does the law mandate some form of worker welfare committee or worker/management engagement in commercial fishing? If yes, are these committees in place for some vessels?
6. Civil society organizations
   - **a.** Which civil society organizations are involved directly in commercial fishing issues? We recommend building a list of these by region and issue: "labour/human rights", "charity/welfare", and "fish/environmental" organizations.
   - **b.** Which of these organizations bring labour issues to the government?
   - **c.** Have some of these organizations been invited to join policy discussions with the government? Which organizations?

6.1.8 Other stakeholders

1. Who are the industry's key trading partners?
2. How have these trading partners engaged the government on labour issues in commercial fishing?
3. Are there any regional fisheries management agencies or organizations?
4. Which ones are the government or industry part of?
5. Are there national fisheries research institutes? Do they research or report on labour issues in fishing such as safety on-board?

6.2 Mapping government roles

6.2.1 Applicable law

1. What is the main act covering fishing and fisheries management (e.g. a fisheries act)?
   a. Which government ministry or department has lead responsibility for applying the act?
   b. How does this main act define the types of fishing?
   c. Does this main act have any specific provisions (or regulations) on labour rights and working conditions (including safety) in fishing? If so, give details.

Like the questions in section 6.1.2 above ('Key industry measures'), it may be useful to organize responses to the questions in this section in two or three tables that organize information by act or regulation, key issues, scope or exemptions, and ministries or agencies. Table 6.4 is a template for such a table, filled out with Thai regulations as an example.

▶ Table 6.4. Template for applicable laws

Act, regulation	Key issues	Scope, exemptions	Ministries/agencies
Fisheries Act (2002)	Fisheries and catch management, fishing licenses	Commercial fishing (vessels > 10 gt) in EEZ	Department of Fisheries (DOF), Marine Department
DOF Regulation on Labour in Fishing (2012)	Contracts, wages, hours, training	Part of Fisheries Act, vessels > 30 gt	DOF, Ministry of Labour
Marine Safety Act (1997)	Seaworthiness of vessels, vessel licensing	All vessels (including fishing support) > 5 gt	Marine Department, Port Authority
Etc.			

2. What is the main labour act or labour code protecting workers?
   a. Does the main labour act or code apply to fishing? If so, what is the scope or thresholds for coverage (e.g. types of fishing, vessel size, number of employees, types of employment relationship)?
   b. If the act or code applies to commercial fishing, does it give fishers equivalent levels of legal protection to those provided for workers in industry, commerce and agriculture?
   c. What provisions, if any, in the labour act or code specifically apply to fishers and fishing?

d. Are fishers exempted (derogations) from this labour act or code, either wholly or partly? If yes, what are these exemptions?

e. Which labour rules cover working conditions and rights for workers who are not part of a fishing crew or vessel (e.g. fish sorting or marketing at the port)?

f. Does it also apply to migrant workers (from a foreign country)?

If no, which act covers working conditions and labour rights for migrant fishers? How do the protections differ?

If yes, are there any special legal provisions in the Labour Act which apply to the working conditions of migrant workers (from a foreign country)?

3. What is the main act on occupational safety and health?

a. Does the act cover work in fishing?

If yes, does the act apply to and give protection to all types of fishers?

If fishers are exempted (derogations) wholly or partly from this act and related regulations, what are the exemptions?

b. Is there a maritime safety act or regulation, for example?

4. Are there any laws or regulations specific to work in fishing?

a. What is their scope? What are their exemptions?

b. How do their key provisions differ from requirements in the main labour code?

5. Taken together, how do the labour and safety acts and/or regulations applied in commercial fishing cover issues found in Convention No. 188?

For countries that have not performed a Convention No. 188 gap analysis, table 6.5 helps get a quick reading on the width of work in fishing issues covered in applicable law, and a handful of questions to provide a very rough indication of the depth of the legal framework.

▶ Table 6.5. Template for Convention No. 188 coverage

Convention No. 188 issue	Covered
Employment relationships, fisher agreements 1. Are written fisher agreements or contracts required? 2. Can fishers be treated as "partners", not employees?	
Vessel owners' responsibilities Are their legal responsibilities to skippers and crews clear re: wages/payments, health and safety, and food and water?	
Skippers' responsibilities 1. Are their legal responsibilities to crew clear re: work agreements (contracts) and health and safety.? 2. Is training provided for skippers by the fishing vessel owner, on what subjects, by whom?	
Fishers' responsibilities Is training provided for crew by the fishing vessel owner, on what subjects, by whom?	

Complaint procedures Are government complaint mechanisms available to fishers, including migrant fishers?	
Minimum age for legal employment 1. Is there a minimum legal age for employment in fishing of 16? 2. Are there clear prohibitions regarding hazardous and/or night work?	
Medical examination Are there medical examination requirements for fishers?	
Manning, hours of rest 1. Are there legal requirements on minimum vessel manning levels? 2. Are vessels with too few crew prevented from porting-out? 3. What are the limits on hours of work or rest periods?	
Crew list 1. Are accurate crew lists a legal requirement? 2. Are vessels with inaccurate crew lists allowed to port-out?	
Payment of fishers 1. Are fishers paid at least once a month (or on a regular schedule)? 2. Can migrant workers (from a foreign country) send wages home without charges from the fishing vessel owner?	
Repatriation In case of workers in foreign ports, are there provisions for repatriation at the cost of the vessel owner?	
Recruitment and placement Are there requirements for recruitment and placement of fishers, including where private employment agencies are involved?	
Accommodation, food, and potable water and accommodation 1. Are there requirements for adequate quantities of nutritious food, clean drinking (potable) water, adequate accommodation? 2. Are there standards for noise, heat, ventilation aboard vessels?	
Medical care 1. Are there requirements for medical care on board fishing vessels and when crew are in port? 2. Do vessels usually carry any form of first aid equipment? 3. Are there any trained first aiders on board fishing vessels? 4. Are vessels equipped with radio and/or telecommunication equipment to seek medical advice or assistance?	
Occupational safety and health and accident prevention 1. Are responsibilities clear for vessel owners and skippers to ensure good safety and health conditions on board vessels? 2. Are lifejackets and personal protective equipment required for all crew members?	
Social security 1. Are fishers covered by a social security programme? Is coverage equivalent to land-based workers? 2. Are there different types and levels of coverage for domestic and migrant fishers?	
Protection in the case of work-related sickness, injury or death Are legal requirements clear for vessel owners in case of work-related sickness, injury or death?	

6. How do protections for fundamental labour rights (ILO core labour standards) apply to work on board fishing vessels? Table 6.6 shows a template filled out using Thai regulations (as of 2019):

▶ Table 6.6. Template for core labour standards

Core labour standard	Act, regulations	Fishing coverage	Ratifications
Forced labour (and human trafficking)	Anti-trafficking Act	Covered	C. 29 Yes C. 105 Yes (P. 29 Yes)
Freedom of association, bargaining	Labour Relations Act	Migrant workers exclusions	C. 87 No C. 98 No
Child labour			
Discrimination			

7. What other fishing or maritime-related instruments has the government adopted or ratified (e.g., the Port State Measures Agreement, ILO Maritime Labour Convention)? Which acts or regulations reflect the standards in these instruments?

6.2.2 Types of fishing inspection

Fishing inspection – of vessels, gear, the catch – is generally well-established around the world but labour inspection in fishing is a relative newcomer. There are three main categories of inspection of working/living conditions and labour rights for work on fishing vessels:

1. Inspections by on board fishing vessels in national ports
2. Inspections on board fishing vessels at sea in (national) territorial waters
3. Inspections overseas by your country's inspectors of your country's vessels

6.2.3 Authorities

1. Which government agencies (e.g., ministries or departments) have been appointed as national competent authority/authorities to deal with labour conditions and inspections in commercial fishing?
2. Which agency has lead responsibility for labour inspection in fishing?

Again, a table can help organize data about authorities conducting inspections and their respective powers in regulation of fishing. Table 6.7 shows a template filled out using information from Thailand.

▶ Table 6.7. Template for inspection authority data

Inspection Authority	Labour issues	Inspectors (full-time equivalent) active in fishing	In port	Sea (EEZ)	Sea (Intl)	Flag-state	Port-state
Dept of Fisheries	Safety		√	√		√	√
Dept Labour Inspection	Wages, hours, living conditions		√	√		√	
Immigration Dept (MOL)	Contracts, work permits		√	√		√	
Maritime Security	Trafficking		√	√		√	√
Navy	Search/rescue			√	√	√	√
Etc.							

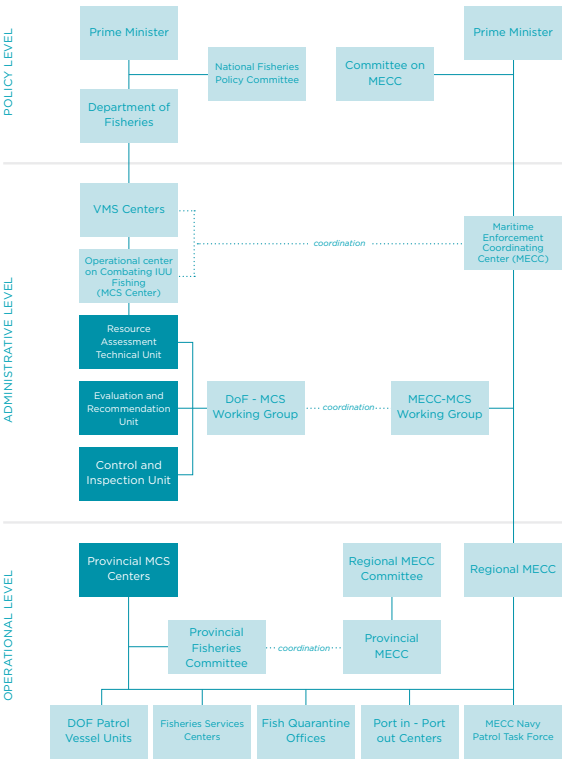
3. If inspectors' duties are multi-functional, what percentage of work is spent inspecting in the fishing sector?
4. Where are labour inspection teams located vis-à-vis major fishing centres? (A visual map here of major fishing ports and posts/centres for labour inspection staff is useful.)
5. Which authority, if any, has lead responsibility for any port-state inspections (catch/fisheries and/or labour) of foreign-flagged vessels?
6. Are there NGOs or companies authorized to conduct inspections on behalf of the government? Please detail the arrangements with regard to scope, geography, frequency.
7. Are there any other types of inspectors or inspection systems involved in commercial fishing which have not been mentioned above?

6.2.4 Coordination

1. Is there a coordinating body or lead ministry with overall responsibility for inspection and enforcement in fishing?

An organizational chart showing the relationships among the agencies and issues is helpful here. The example to the right is a map of the Thai Government's coordination in fishing, taken from Department of Fisheries (2015), 'Thailand National Plan of Control and Inspection' (Reprinted in Humanity United/Freedom Fund report, "Assessing Government and Business Responses to the Thai Seafood Crisis", 2016).

Figure 1: Department of Fisheries (2015), 'Thailand National Plan of Control and Inspection'



2. Are there any memoranda of understanding between the different inspection systems?
3. Are joint inspections on board fishing vessels carried out? Which agencies are usually involved?
4. Are there interdepartmental committees or teams at the national level? Regional, provincial or port levels? Which agencies are involved and how frequently do they meet?

6.2.5 State of inspection and enforcement

1. Does the lead inspectorate have a strategy for compliance in the fishing sector? What are the specific goals or targets of the strategy (e.g. inspection and enforcement action goals by port per month or per year)?

2. Which agency is responsible for targeting of vessels (and/or ports) for labour inspection?

   What risk measures are used to target vessels or ports for inspection and enforcement actions?
3. Do fishing labour inspections rely exclusively on review of documents by inspectors?
4. Do inspections routinely include worker interviews?
5. How many complaints does the inspectorate receive per year on working and living conditions from fishers (increasing? decreasing?)
6. Is there a fishing-specific labour inspection and reporting tool?

   If yes, how does it compare with the tools used for routine land-based inspections?

   If yes, how does its scope compare with the Table 6.5. Template for Convention No. 188 coverage on page 130-131.
7. Have inspectors with responsibility for work in fishing been trained in fishing inspection techniques, including on-board and at-sea inspections?
8. Which fishing inspectors have special training on detecting forced labour, trafficking, and/or child labour in fishing?
9. How is data from inspections and enforcement actions collected and reported by inspectors?
10. Is reported data able to complete a table like the one below scoring typical labour violations and serious abuses? If a standard report is not available, the rudimentary template in table 6.8 can be adapted to organize the data.

▶ Table 6.8. Template for scoring labour violations

Port	No. of work in fishing inspections (12 mos.)	Labour violations			Criminal violations (forced labour, child labour)
		Wage	Hour	Safety	
Monteazul	923	3	5	9	0
Monteverde	644	6	14	16	3

If yes, how many labour enforcement actions were taken in commercial fishing in the last 12 months as a percentage of all work in fishing inspections?

How has this ratio changed in the last five years? (A graph showing inspections and enforcement actions over time is a useful tool.)

What explains the increase, decrease or plateau in actions?

11. Are penalties typically applied when violations are found?

Do fishing vessel owners regard penalties for common labour violations to be strong deterrents?

▶ Annex I: Tips for training

Trainers' notes on educational techniques. The following are some explanations and guidelines for trainers on using two education techniques.

Small group activity. Small group work and discussion is one of the main training methods used in labour education. Small group work:

- is an active method;
- encourages cooperative working;
- encourages less confident participants to become involved in discussions;
- allows participants to work without feeling they are always being watched by the educator;
- provides an effective way of structuring discussion; and
- enables participants to investigate, discuss and respond to situations that they and their co-workers face at work.

Ideally groups should consist of three to four participants. However, on occasion you will want to ask participants to work in pairs. Working in pairs can be very useful for activities that require detailed attention, such as producing a leaflet or preparing a short presentation.

Checklist for educators – using small groups. It is essential that small group work is structured effectively. The process of setting activities, supervising group discussions, taking and summarizing reports helps you to provide this structure.

Setting the activity

- Ensure that the participants are clear about the aims.
- Ensure that the participants can complete the activity within the allocated time.
- Ensure that everyone clearly understands what he or she is being asked to do.
- Ensure that groups know that they should elect a spokesperson and that tasks should be rotated.
- Make it clear how you want the groups to report back, for example, key points on a flip chart.

Supervising the groups

- Allow time for groups to settle and sort themselves out before you go around to check on progress.
- Try to supervise the work that is taking place in groups without dominating.
- Be prepared to sit in with any group having difficulties, to help it structure its discussion and work.

Taking reports from small groups

- You should be clear about the aims of reporting back.
- Split up the reports back to avoid repetition and reports that are too lengthy. For example, ask if Group 2 have anything to add to Group 1's report on Task 1.
- Are there key points you want the participants to draw out?

- Are there any key points that you may need to introduce if they do not come out of the reports?
- Encourage groups to give examples to illustrate their reports. This will enable links to be made between the workplace, the union experience of participants, and course activities

Summarizing reports and guiding the final discussion

It is important that you provide a summary of key points drawn from the group reports. This may be done during or at the end of the final discussion in which all the groups participate.

Sometimes you will want to write key points up on a flipchart (or large sheet of paper) or chalkboard.

You can draw out themes from the reports.

This is also an opportunity to point out the links with earlier course activities and discussions, and also with future parts of the course.

Role play

What is role play?

Role play is an active learning method that can generate considerable activity and interaction among course participants. Essentially, course participants are asked to act out a role in a particular inspection or workplace situation.

Why use role play?

Trainers and educators use role play because:

- it is an active method;
- it is a way of developing the skills of course participants (for example, preparing and presenting an argument);
- it helps to build the confidence of participants;
- it can be a useful way of finding out how **not** to deal with a situation;
- it can provide insights into patterns of behaviour and how people relate to each other;
- it can provide the opportunity to act out a different role (for example, the role of a fisher with a safety or health problem, or the role of a manager in competent authority); and
- it can be used to develop cooperative inspection methods.

How is role-play set up?

The setting for a role-play and the allocation of roles will depend upon the type of exercise being set up. For example, an interviewing exercise could be set up using groups of three:

*** INSPECTOR**	*** FISHER**
*** OBSERVER** (For the training exercise)	

A role-play based upon a negotiation could be set up using groups:

*** INSPECTOR**	*** VESSEL OWNER or SKIPPER**
*** OBSERVER**	

As part of the **preparation** for role-play it is important to group together those participants given the same role. For example, all the field inspectors; all the managers, the fishers, skippers, vessel owners; and all the observers. This enables them to exchange ideas about how they will take on their role and clarify anything they are unsure of.

Checklist for trainers – effective role-play

- Use the experience of the participants as the basis of the role-play. For example, a particular problem being faced by a participant can form the substance of the role-play brief.
- Participants should know what the aims of the role-play are.
- Participants need to understand clearly what they are being asked to do, and their own particular role.
- Individual roles should be kept simple, emphasising the main issues under consideration.
- The role-play should build upon the experience of participants (although there will be times when participants are deliberately given a role or placed in a situation new to them).
- Adequate time must be allowed for participants to prepare their role.
- Ground rules for the role play should be established. In particular, you should emphasise that participants *cannot* invent new parts to the role-play. If they have any questions or difficulties, they should raise them with you.
- Usually some participants will be given the role of observers, to witness and report back on the role-play as a whole. The observers need to be given enough time to present their reports, as these should form the basis for discussion after the role play. An observer's checklist helps this process.
- You should indicate clearly the point at which the role play finishes and general discussion is to start so that the participants know when they are to "come out" of their roles.

▶ Annex II: South African Maritime Safety Authority Port State Control Inspection tool

SOUTH AFRICAN MARITIME SAFETY AUTHORITY

Work in Fishing Convention, 2007

INITIAL INSPECTION CHECKLIST

Port State Control

Ship Name:

IMO Number:

Flag:

Port of Inspection:

Inspection Date: / / 20

Inspector:

Signature:

Inspection Times		
	Date	Time
Commenced Initial Inspection	/ / 20	
Completed Initial Inspection	/ / 20	
Commenced Detailed Inspection	/ / 20	
Completed Detailed Inspection	/ / 20	

Principal Officer:

Signature:

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AUTHORITY

Control Provisions

- Work in Fishing Convention 2007, Convention 188

Control Inspection Guidelines

- Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188)

GUIDELINES

The purpose of this booklet is to provide a readily accessible inspection record. The booklet contains a relevant guide to the inspector.

Section A

This contains the initial inspection checklist. It provides a list of principal inspection areas.

Section B

Where the inspector determines after the initial inspection that a detailed inspection of an item/area should be carried out, details of the items/areas given a detailed inspection and relevant information such as action taken are to be recorded in Section B.

Section C

This section contains a guide to the inspector when engaging crews.

GUIDELINE NOTES TO INSPECTORS

The Convention provides for control not only by flag States but also by port States. The non-mandatory port State control provisions encourage States to inspect the conditions of foreign fishing vessels visiting their ports. If the conditions on board present a hazard to the safety and health of the crew, the vessel may be detained until these deficiencies have been rectified.

Article 4, paragraph 1, of the Convention provides that "[w]here it is not immediately possible for a Member to implement all of the measures provided for in this Convention owing to special problems of a substantial nature in the light of insufficiently developed infrastructure or institutions, the Member may, in accordance with a plan drawn up in consultation, progressively implement" all or some of certain specified provisions listed in this Article. Article 4 further provides that the use of progressive implementation does not apply to fishing vessels which are subject to port State control as provided for in Article 43 of the Convention, except when such vessels call in a port of a port State in a situation of force majeure.

Vessels required to have a "valid document" Article 41 provides that:

1. Members shall require that fishing vessels remaining at sea for more than three days, which:

   (a) are 24 metres in length and over; or

   (b) normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag State or navigate beyond the outer edge of its continental shelf, whichever distance from the coastline is greater,

   carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions.

2. The period of validity of such document may coincide with the period of validity of a national or an international fishing vessel safety certificate, but in no case shall such period of validity exceed five years.

VESSEL GENERAL DETAILS				
Owner				
IMO Number		**Country**		
Port of Registry				
Length		**Tonnage***		* (24m=300Gt, 45m =900Gt)
Party to C188	☐	**Ratified C188**	☐	
Valid Document				
Exclusions/Exemptions				
1.				
2.				
3.				
4.				
5.				
6.				
7.				
Master advises that all equipment is operating satisfactorily and that the vessel is seaworthy		**YES**		**NO**
Master's signature				
Comments				
Scheduled departure date	**/ /20**	**Time**		
Next port		**ETA next port**		

CREW QUALIFICATIONS			
(Place a √ against the applicable certificates)			
RANK	**VALID COC**	**VALID FLAG ENDORSEMENT**	**GMDSS**
Skipper >24m (Unlimited)	II/3 ☐	☐	☐
Deck Officer Fishing >24m	II/2 ☐	☐	☐
Deck Officer Fishing <24m	II/2 ☐	☐	☐
Chief Engineer Fishing	II/5 ☐	☐	
Second Engineer	II/5 ☐	☐	
Rating Forming part of the watch	Res 4 ☐		
Rating Forming part of the watch	Res 4 ☐		

Notes:
(1) **Valid CoC:** The Certificate of Competency (CoC) kept on board, must be an original with an English translation included.
(2) **Valid Flag Endorsement:** The flag State must recognize any certificate issued by another party to any officer serving under its flag.
(3) The minimum requirement for a vessel operating in sea area A3, is for one navigating officer to hold a valid GMDSS GOC and all others to hold valid GMDSS ROC

SECTION A – INITIAL INSPECTION	
AREA 1 - RESPONSIBILITIES (Article 8)	**INSPECTION ITEMS**
Work under supervision	Adequate supervision ☐
Occupational Health and Safety awareness practices	Fishers aware of safety, Drills ☐
Skipper provided with necessary resources	Adequate watchkeeping, Protective clothing ☐
AREA 2 - MINIMUM AGE (Article 9)	**INSPECTION ITEMS**
16 years	Crew list, Identity Documents, Passports ☐
Protection of under 18 years	Work Schedules ☐
Skipper provided with necessary resources	Adequate watch keeping, Protective clothing, ☐
AREA 3 - MEDICAL EXAMINATIONS (Articles 10,11,12)	**INSPECTION ITEMS**
Safely Manned	Crew list, SMD and correct qualifications ☐
Minimum hours of rest	10 hours rest in 24 hour period, work schedule ☐
Safely Manned	Crew list, SMD and correct qualifications ☐
Rest periods reflect actual hours worked	Schedules ☐
Watch keepers sufficiently rested	Watch keeping schedules ☐
AREA 5 - FISHER'S WORK AGREEMENT (Articles 6,17,18,19,20)	**INSPECTION ITEMS**
Work agreements	Crew list, signed copies of all agreements ☐
Format of agreements	Annex II ☐
Records of work under such agreements	Work Schedules, Catch Particulars ☐
Records of payments	Crew list, signed copies of all agreements ☐

SECTION A – INITIAL INSPECTION	
AREA 6 - REPATRIATION and RECRUITMENT (Articles 21,22)	**INSPECTION ITEMS**
Right to repatriation	Reflected in workers agreements or document ☐
Cost of repatriation	Reflected in documentation ☐
Fishers subject to recruitment services	Recruitment services licensed or certified ☐
No charge for employment, no black listing	Documentation ☐
AREA 7 - PAYMENTS (Articles 23,24)	**INSPECTION ITEMS**
Work agreements	Crew list, signed copies of all agreements ☐
Format of agreements	Annex II ☐
Records of work under such agreements	Work Schedules, Catch Particulars ☐
Records of payments	Crew list, signed copies of all agreements ☐
AREA 8 - ACCOMMODATION and FOOD (Articles 25,26,28)	**INSPECTION ITEMS**
Approval of plans	General arrangements ☐
Accommodation location, sufficient size and quality	Visual observations, measurements ☐
Maintenance of accommodation and galley spaces	Visual observations, safe, healthy and comfortable ☐
Sufficient sanitary facilities including toilet and washing	Visual observations ☐
Ventilation, heating, cooling	Annex III, satisfactory air supply, appropriate conditions ☐
Mitigation of excessive noise, vibration	Annex III, limit by way of standards ☐
Food sufficient, nutritional value	Visual observation, menu, menu plans, trained cooks ☐
Sufficient potable water	Litres per fisher per day for the voyage ☐
Head room	190 cm to 200 cm ☐
Direct access to sleeping rooms	No direct access from fish rooms or engine spaces ☐
Adequate insulation	Panelling, sheeting ☐
Emergency escapes	Access from all crew accommodation spaces ☐
Lighting	Adequate lighting, reading lights, emergency lights ☐
Sickbay (vessels >45mtrs or >950GT)	Separate Sickbay, Adequately equipped ☐
Skipper Inspections (vessels >24mtrs or 300GT)	Documentation, Logbooks ☐
AREA 9 - MEDICAL CARE (Articles 29,30)	**INSPECTION ITEMS**
Medical equipment and medical supplies (prescribed)	Appropriate levels, document ☐
Qualified First Aider	Qualification ☐
Medical instructions	Documentation ☐
Medical advice service	Radio or satellite capability ☐
Rights to medical treatment ashore	Records, fisher interviews ☐
Medical supplies and equipment regularly inspected	Documentation ☐
Medical Guide	Documentation ☐
Medical advice prearranged system	Demonstrate ☐

SECTION A – INITIAL INSPECTION	
AREA 10 - OCCUPATIONAL H&S (Articles 31,32,33)	**INSPECTION ITEMS**
Training for prevention of accidents	Observe measures, documentation ☐
Safe handling of fishing gear	Documentation, records, qualifications ☐
Reporting and Investigating accidents	Documentation ☐
Safety Committees	Records ☐
Onboard safety procedures	Records, observation ☐
Guidance on how to evaluate and manage risks	Documentation, records, interviews ☐
Appropriate protective clothing	Documentation, interviews, observation ☐
Familiar with operating equipment	Demonstrate, interviews ☐
Risk Assessments	Documentation, observation ☐
AREA 11 - SOCIAL SECURITY (Articles 34,35,36,37)	**INSPECTION ITEMS**
Social security (same as other workers)*	Appropriate document/ certification ☐
AREA 12 - PROTECTION: INJURY OR DEATH (Articles 38,39)	**INSPECTION ITEMS**
Protection in case of occupational accidents	Documentation, records, interviews, owners liability ☐
Accommodation, Costs and Care	Documentation, records, interviews ☐

SECTION B – INSPECTORS COMMENTS ON DETAILED INSPECTION
SECTION C – INTERVIEWS (attach supporting documents)

▶ Annex III: U.K. Maritime and Coastguard Agency merchant shipping notice 1885

Maritime & Coastguard Agency

MERCHANT SHIPPING NOTICE 1885 (F)

ILO WORK IN FISHING CONVENTION, 2007

Survey and inspection

Notice to all fishing vessel owners, fishing vessel operators, managers, manning agents and fishermen

This notice should be read with the Merchant Shipping (Work in Fishing Convention) (Survey and Certification) Regulations 2018 and the ILO Guidelines for Flag State and Port State Inspections for the Work in Fishing Convention.

Summary

- The purpose of this Merchant Shipping Notice is to give details of arrangements for the survey, inspection and document of compliance for fishermen's living and working conditions on UK fishing vessels, in accordance with the Merchant Shipping (Work in Fishing Convention) (Survey and Certification) Regulations 2018 ("the ILO 188 Survey and Certification Regulations") and give guidance.
- A document of compliance with ILO 188 (known in the UK as a Work in Fishing Convention Certificate) is required for all fishing vessels which -
  - (a) are 24m in length or over;
  - (b) normally navigate at a distance exceeding 200 nautical miles from the coastline of the UK or navigate beyond the outer edge of the UK continental shelf, whichever is the greater distance.
- All other fishing vessels will be subject to inspection for compliance with UK regulations implementing the Work in Fishing Convention. As far as practicable, this will be carried out alongside the normal fishing vessel survey.
- Fishing vessels over 24m in length will be surveyed every four years, and other fishing vessels will be surveyed or inspected every five years.
- Fishing vessels may also be subject to inspection if the Maritime and Coastguard Agency (MCA) receives a complaint regarding fishermen's living and working conditions on board.

Relationship with the ILO 188 Survey and Certification Regulations

- The ILO 188 Survey and Certification Regulations need to be read together with this Merchant Shipping Notice, as it sets out many of the details, standards and formalities which must be observed in order to comply with the legal obligations under those Regulations. Failure to comply with those obligations may be a criminal offence under the Regulations.
- Paragraph 14 contains an index which clearly sets out and/or identifies the provisions in this Notice which relate to the relevant provision in the Regulations.

1. Introduction

1.1 The ILO Work in Fishing Convention (ILO 188) requires ratifying states to establish a system to ensure that fishing vessels which fly its flag comply with the requirements of the Convention. The UK will do this by regular inspection of living and working conditions all UK fishing vessels, where practical alongside the regular survey of the fishing vessel. In addition, fishermen will be able to raise a complaint with the MCA if they believe that their living and working conditions do not comply with the Convention. Information about the complaints system is contained in MGN 589 (F).

1.2 Non-UK fishing vessels calling in UK ports may also be subject to inspection under ILO 188 if evidence is obtained, for example through a routine inspection, or a complaint is received that the requirements of ILO 188 are not being complied with on board. In particular, fishing vessels flying the flag of a state which has not ratified ILO 188 should not receive any more favourable treatment than fishing vessels that fly the flag of a state which has ratified it.

2. Application

2.1 The Regulations apply to UK fishing vessels wherever they are, and non-UK fishing vessels in UK waters.

2.2 The requirement for a Work in Fishing Convention Certificate (paragraph 8) applies only to fishing vessels which –

(a) are 24m in length or over, or;

(b) normally navigate at a distance exceeding 200 nautical miles from the coastline of the UK or navigate beyond the outer edge of the UK continental shelf, whichever is the greater distance.

2.3 "Fishing Vessel" means a vessel for the time being used for or in connection with fishing for sea fish, other than a vessel used for fishing otherwise than for profit, and for the purposes of this definition, "sea fish" includes shellfish, salmon and migratory trout (as defined by section 44 of the Fisheries Act 1981).

3. ILO 188 survey and inspection regime

3.1 A fishing vessel of 24m in length or over, or which normally navigates outside the limits in 2.2(b) must be surveyed -

3.1.1 before a Work in Fishing Convention Certificate is first issued ("an initial survey"); and

3.1.2 at regular intervals thereafter, as set out in 3.2 ("a renewal survey").

3.2 Renewal surveys for a Work in Fishing Convention Certificate are due

3.2.1 For vessels over 24m in length, every four years; and

3.2.2 For other vessels, every five years.

3.3 Fishing vessels which do not require a Work in Fishing Convention Certificate will be inspected every five years for compliance with ILO 188.

3.4 Surveys and inspections must be conducted by an authorised certifying authority – either the MCA or another body approved by the Secretary of State.

3.5 As far as practical, surveys and inspections for compliance with ILO 188 will be carried out at the same time as survey for the renewal of the vessel's fishing vessel certificate.

4. Transitional arrangements

4.1 All fishing vessels which require a Work in Fishing Convention Certificate must have this by 30 November 2019.The first Certificate will be issued for the period of validity of the fishing vessel certificate i.e. until the next renewal survey to ensure in the longer term that the two surveys are harmonised and can be carried out on the same visit.

4.2 Other fishing vessels will be inspected under ILO 188 at the first renewal or intermediate survey for their fishing vessel certificate. Thereafter inspection will be harmonised and carried out alongside the renewal survey.

4.3 This will ensure that living and working conditions have been inspected on all fishing vessels by the end of 2021.

5. Mandatory Standards

5.1 The standards which fishing vessels must meet in order to be issued with a Work in Fishing Convention Certificate, or for the purposes of an inspection of living and working conditions ("the UK Work in Fishing Convention Standards") are listed in Annex A to this notice.

6. Organisation of inspections

6.1 MCA will follow the ILO Guidelines on Flag State Inspection for the Work in Fishing Convention, 2007. These Guidelines can be viewed on the ILO website at https://www.ilo.org/sector/Resources/codes-of-practice-and- guidelines/WCMS_428592/lang--en/index.htm

6.2 Chapter 3 explains how inspections of the living and working conditions may be carried out under ILO 188, and possible deficiencies that may occur for each Article. Further guidance on the actions that surveyors may take when deficiencies have been identified can be found in chapter 4 of the same document.

7. Inspection report

7.1 The attending surveyor will complete a report listing any deficiencies that have been noted during the survey or inspection. The report is to be given to the skipper. A copy will also be sent to the owner and MCA will hold a copy on file.

8. Certification

8.1 If the fishing vessel requires a certificate (see paragraph 2.2), on completion of a successful survey, a Work in Fishing Convention Certificate will be issued.

8.2 The form of a Work in Fishing Convention Certificate is at Annex B. Subject to the transitional arrangements set out in section 4, a full-term certificate is valid –

8.2.1 For a vessel of 24m or over, for a maximum of four years;

8.2.2 For a vessel under 24m, for a maximum of five years.

8.3 The certificate will be valid from the date of completion of the survey and generally is valid for no more than 4 years or 5 years (as applicable – see 8.2). However, if the renewal survey is carried out is completed within the 3 months immediately before the expiry date of the Work in Fishing Vessel Certificate, the expiry date of the subsequent certificate will be five years from the expiry date of the previous certificate. If the renewal survey is carried out outside the 3-month "window" the expiry date of the new certificate is 4/5 years after the date of completion of the renewal survey.

8.4 The certificate ceases to be valid –

8.4.1 Upon transfer of the fishing vessel to the flag of another state;

8.4.2 If the person named on the certificate as the fishing vessel owner ceases to have responsibility for the operation of the fishing vessel;

8.4.3 If substantial changes are made to the fishing vessel's accommodation or to its food and catering facilities; or

8.4.4 If the fishing vessel's accommodation or the vessel's food and catering facilities have sustained damage or otherwise become deficient and that damage or deficiency has not been rectified.

8.5 If additional inspections of living and working conditions on board are required between surveys, for example as the result of a complaint, the certificate will be endorsed by the attending surveyor.

8.6 The fishing vessel owner and skipper must ensure that the certificate is carried on board the vessel and posted in a conspicuous place on board, where it is available to fishermen.

8.7 It must also be made available on request to –

8.7.1 MCA surveyors;

8.7.2 Authorised officers in port states; and

8.7.3 Shipowners' and seafarers' representatives.

9. On shore complaints

9.1 Any fisherman may lodge a complaint with the MCA (acting for the Secretary of State) if they believe that their living and working conditions on board do not comply with the requirements of the UK Work in Fishing Convention Standards. MCA will treat the complaint in confidence.

9.2 The fishing vessel owner and skipper must ensure that any fisherman who raises a complaint, whether through an on-board complaints procedure, or with the MCA, does not suffer detriment as a result of that complaint.

9.3 Information about the complaints process is contained in MGN 589(F).

9.4 MSN 1849(M) sets out best practice for on board complaints procedures, based on ACAS guidelines.

10. Fees

10.1 The standard MCA fee will be charged at an hourly rate for survey of a fishing vessel over 24m leading to issue of a Work in Fishing Convention Certificate. There is fee for inspection of living and working conditions on other fishing vessels.

11. Inspection of non-UK fishing vessels in UK waters

11.1 When non-UK vessels are in UK waters, the MCA has the powers to inspect them for compliance with ILO 188. Where the fishing vessel flies the flag of a country which has ratified ILO 188 the inspection will primarily be to ensure that there is a valid document of compliance with ILO 188 in force for the vessel. Where the fishing vessel flies the flag of a non-ratifying country, the inspection will be to ensure that living and working conditions on the vessel are in compliance with ILO 188 standards.

11.2 Under Article 44 of ILO 188, the UK as a ratifying country will apply the Convention in such a way as to ensure that the fishing vessels flying the flag of any State that has not ratified ILO 188 do not receive more favourable treatment than fishing vessels that fly the flag of any Member that has ratified it.

11.3 Inspections will be carried out taking account of the ILO Guidelines for port State control officers on ILO 188. The Guidelines can be viewed at https://www.ilo.org/sector/Resources/codes-of-practice-and- guidelines/WCMS_177245/lang--en/index.htm

More Information

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File Ref: Insert MCA File Reference

Published: November 2018

Please note that all addresses and

telephone numbers are correct at time of publishing

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Safer Lives, Safer Ships, Cleaner Seas

Annex A

The United Kingdom Work in Fishing Convention Standards

Instrument	Provision	Merchant Shipping Notice (where applicable)
A. Minimum age		
The Merchant Shipping (Work in Fishing Convention) Regulations 2018(1)	Part 2	MSN 1882 (F)
B. Medical examination		
The Merchant Shipping (Work in Fishing Convention) (Medical Certification) Regulations 2018(2)		MSN 1883 (F) MSN 1815 (M) Amendment 1
C. Manning and Hours of Rest		
The Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004, as amended (3)		MSN 1884 (M)
D. Crew List		
The Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) (Fishing Vessels) Regulations 1972, as amended (4)	Part II	
E. Fishermen's work agreements		
The Merchant Shipping (Work in Fishing Convention) Regulations 2018	Part 3	
F. Repatriation		
The Merchant Shipping (Work in Fishing Convention) Regulations 2018	Part 4	
G. Payment of fishermen		
The Merchant Shipping (Work in Fishing Convention) Regulations 2018	Part 3	
H. Accommodation and food		
The Merchant Shipping (Work in Fishing Convention) Regulations 2018	Part 5	MSN 1871 (F) Amendment 1 MSN 1872 (F) Amendment 1 MSN 1872 (F) Amendment 1
I. Medical care		
The Merchant Shipping (Work in Fishing Convention) Regulations 2018	Part 6	
The Merchant Shipping (Medical Stores) Regulations 1995(5)	Regulations 4 to 11	MSN 1768 (M+F)
J. Health and safety		
The Merchant Shipping and Fishing Vessels (Health and Safety) (Employment of Young Persons) Regulations 1998(6)	Regs 5, 6(1) – (5)	MSN 1882 (F)
The Merchant Shipping (Health and Safety at Work) Regulations 1997(7)	Regs 5, 7, 12(1) and (2), 15, 16(1)(b)(ii) 19(1)(b)(ii) and 20	

(1) S.I. 2018/1106

(2) S.I. 2018/1108.

(3) S.I. 2004/1713 amended by S.I. 2018/1109 (4) S.I. 1972/919 amended by S.I. 2018/1109

(5) S.I. 1995/1802. Relevant amending instrument is S.I. 1996/2821.

(6) S.I. 1998/2411.

(7) S.I. 1997/2962. Relevant amending instruments are S.I. 1998/2411, S.I. 2001/54, S.I. 2014/1616, S.I. 2015/1692 and 2018/1109.

Annex B

WORK IN FISHING CONVENTION CERTIFICATE 1885 (F)

ILO WORK IN FISHING CONVENTION (ILO 188)

Document of compliance

Issued under the provisions of Article 41 of the Work in Fishing Convention (referred to below as "the Convention") under the authority of the Government of the United Kingdom of Great Britain and Northern Ireland by the Maritime and Coastguard Agency, an Executive Agency of the Department for Transport.

PARTICULARS OF VESSEL

Name of Vessel					
IMO Number		**Official (RSS) Number**		**Fishing Number**	
Port of Registry		**Registered length**			
Date on which keel was laid		**Overall length**			
Name and Address of the Fishing Vessel Owner[1]					

This is to certify:

1. That this fishing vessel has been inspected and verified to be in compliance with the requirements of the Convention.
2. That the fishermen's working and living conditions were found to correspond to the national requirements implementing the Convention.

This Certificate is valid until of _____ subject to inspections in accordance with Articles 41 to 43

the Convention.

Completion date of the inspection on which this Certificate is based was _____

Issued at _____ on _____

Signature of the duly authorised official issuing the Certificate

Official stamp

Name _____

Signed _____

1 *Fishing Vessel Owner* means the owner of the fishing vessel or any other organisation or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention, regardless of whether any other organisations or persons fulfil certain of the duties or responsibilities on behalf of the fishing vessel owner.

Additional endorsements (if required)

This is to certify that the ship was the subject of an additional inspection for the purpose of verifying that the ship continued to be in compliance with the national requirements implementing the Convention, as required by Article 43.1 of the Convention (re-registration or substantial alteration of accommodation) or for other reasons.

Additional Inspection (if required)

Name _____

Signed _____

Date _____

Marine Office _____

Official stamp

Additional Inspection (if required)

Name _____

Signed _____

Date _____

Marine Office _____

Official stamp

Annex C

Maritime & Coastguard Agency

REPORT OF INSPECTION OF FISHERMEN'S WORKING AND LIVING CONDITIONS

1. Maritime and Coastguard Agency, HQ [Branch] 105 Commercial Road, Southampton SO15 1EG UK;
Tel: 020 3817 2xxx

2. Name of fishing vessel		3. Port of Registry
4. IMO Number	5. Official (RSS) Number	
7. Registered length	8. Overall length	
9. Date on which keel was laid	10. Date of Inspection	
11. Place of inspection	12. Usual pattern of operation	

▶ Scope of inspection

No.	Area examined (x)	Conditions	Deficiency (Y/N)	Remarks
1.		**Minimum age**		
2.		**Medical examination**		
3.		**Manning**		
4.		**Hours of rest**		
5.		**List of crew**		
6.		**Fisherman's Work Agreement**		

No.	Area examined (x)	Conditions	Deficiency (Y/N)	Remarks
7.		Use of any licensed or certified or regulated private recruitment and placement services		
8.		Payment		
9.		Accommodation and food		
10.		Medical care		
11.		Health and safety and accident prevention		
16.		Protection in case of work-related sickness, injury or death		

This report must be retained on board for a period of:

(a) 5 years (vessels under 24m in length)

(b) 4 years (vessels of 24m in length or over)

and must be available for consultation by MCA officers at all times.

MCA Office Address	MCA office stamp	Name: (duly authorised surveyor of issuing authority)
		Signature
		Telephone: +44 (0)
		Fax: +44 (0)
		Email:

Annex B

WORK IN FISHING CONVENTION CERTIFICATE 1885 (F)

ILO WORK IN FISHING CONVENTION (ILO 188)

Document of compliance

Issued under the provisions of Article 41 of the Work in Fishing Convention (referred to below as "the Convention") under the authority of the Government of the United Kingdom of Great Britain and Northern Ireland by the Maritime and Coastguard Agency, an Executive Agency of the Department for Transport.

PARTICULARS OF VESSEL

Name of Vessel					
IMO Number		**Official (RSS) Number**		**Fishing Number**	
Port of Registry		**Registered length**			
Date on which keel was laid		**Overall length**			
Name and Address of the Fishing Vessel Owner[1]					

This is to certify:

1. That this fishing vessel has been inspected and verified to be in compliance with the requirements of the Convention.
2. That the fishermen's working and living conditions were found to correspond to the national requirements implementing the Convention.

This Certificate is valid until of _____ subject to inspections in accordance with Articles 41 to 43

the Convention.

Completion date of the inspection on which this Certificate is based was _____

Issued at _____ on _____

Official stamp

Signature of the duly authorised official issuing the Certificate

Name _____

Signed _____

1 *Fishing Vessel Owner* means the owner of the fishing vessel or any other organisation or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention, regardless of whether any other organisations or persons fulfil certain of the duties or responsibilities on behalf of the fishing vessel owner.

Additional endorsements (if required)

This is to certify that the ship was the subject of an additional inspection for the purpose of verifying that the ship continued to be in compliance with the national requirements implementing the Convention, as required by Article 43.1 of the Convention (re-registration or substantial alteration of accommodation) or for other reasons.

Additional Inspection (if required)

Name _____

Signed _____

Date _____

Marine Office _____

Official stamp

Additional Inspection (if required)

Name _____

Signed _____

Date _____

Marine Office _____

Official stamp

Annex C

Maritime & Coastguard Agency

REPORT OF INSPECTION OF FISHERMEN'S WORKING AND LIVING CONDITIONS

1. Maritime and Coastguard Agency, HQ [Branch] 105 Commercial Road, Southampton SO15 1EG UK;
Tel: 020 3817 2xxx

2. Name of fishing vessel		3. Port of Registry
4. IMO Number	5. Official (RSS) Number	
7. Registered length	8. Overall length	
9. Date on which keel was laid	10. Date of Inspection	
11. Place of inspection	12. Usual pattern of operation	

▶ Scope of inspection

No.	Area examined (x)	Conditions	Deficiency (Y/N)	Remarks
1.		**Minimum age**		
2.		**Medical examination**		
3.		**Manning**		
4.		**Hours of rest**		
5.		**List of crew**		
6.		**Fisherman's Work Agreement**		

No.	Area examined (x)	Conditions	Deficiency (Y/N)	Remarks
7.		Use of any licensed or certified or regulated private recruitment and placement services		
8.		Payment		
9.		Accommodation and food		
10.		Medical care		
11.		Health and safety and accident prevention		
16.		Protection in case of work-related sickness, injury or death		

This report must be retained on board for a period of:

(a) 5 years (vessels under 24m in length)

(b) 4 years (vessels of 24m in length or over)

and must be available for consultation by MCA officers at all times.

MCA Office Address	MCA office stamp	Name: (duly authorised surveyor of issuing authority)
		Signature
		Telephone: +44 (0)
		Fax: +44 (0)
		Email:

▶ Annex IV: Field Guide for labour inspection on-board fishing vessels at port in Indonesia

A. Introduction

This document is **intended** to be a basic field guide for carrying out labour inspections on fishing vessels in Indonesian ports to ensure quality and consistent visits by inspectors with limited experience in the sector.

DISCLAIMER: This field guide does not establish, replace or supplement applicable national or international standards on work in fishing. Inspectors should ultimately be guided by the governing legal obligations.[1]

While Indonesia has yet to ratify the Work in Fishing Convention (C. 188), inspectors may wish, in addition to this field guide, to refer to Convention 188 as a reference, and in particular to the more detailed *Guidelines on flag State inspection of working and living conditions on board fishing vessels* based on the provisions of C. 188.

B. Initial considerations

Whether a joint visit with KKP and Hubla, or as MoM officials only, the labour inspectors should announce their presence to the Harbourmaster when carrying out vessel inspections in port (prior to arrival at the port if necessary). Where joint inspections occur, it is important that there be clear communication and assertion of powers and jurisdictional roles between the respective agencies.

Inspection visits should ideally be carried out without notifying the vessels or fishing company. Vessel selection should focus on incoming vessels and agreed priority risk factors (e.g. ships above 30 gross tonnes, of a certain type, more days at sea, the subject of complaints, vessels that have reported serious accidents etc.).

It is recommended that labour inspectors carry out visits in pairs, not only to ensure one another's safety but to divide up the work. In this field guide, there are four main parts to a vessel inspection visit detailed below, namely: interviewing the skipper; examining documents; interviewing fishers; and inspecting the vessel.

IMPORTANT: Fishing vessels are dangerous workplaces. Make sure to undertake safe inspection visits by wearing appropriate protective equipment, especially non-slip footwear, head protection and a life vest.

It should take two inspectors roughly one hour to visit one vessel. Take advantage of your visit to the port to inspect as many vessels as possible. Make sure to take careful notes during the inspection visit as well as taking pictures of the vessel and operations. In particular, take a picture of the vessel name and registration number at the start of the visit for your records and to properly identify which photos go with which vessel.

1 This pilot tool was developed by the ILO together with the ILO's EU-funded Ship to Shore Rights Project and after consultation with the Indonesian Ministry of Manpower and Ministry of Marine and Fisheries during a strategic compliance planning event in Bogor in August 2018.

C. Interviewing the skipper and examining documents

When boarding a vessel, contact the skipper first, present your credentials and explain the purpose and procedure of the inspection visit (e.g. inspection of working conditions using document checks, vessel inspection; and crew interviews).

Ask the skipper, as necessary, for the following information about the vessel.

Vessel Name		
Registration Number		
Gross Tonnage		
Type of Vessel		
Home Port		
Name of Skipper		
Number of Crew	Skipper	
	Crew Supervisor	
	Engineer	
	Fishers	
	Cook	
Name of Owner (if not the Skipper)		
Other vessels owned by the vessel owner	**Number**	
	Names (if known)	
Owner's Address		

Next, ask the Skipper to produce copies of the following documents for examination. If the documents are not on board, ask the skipper to obtain copies from the vessel owner while you carry out the rest of the visit.

Document	Notes
Crew List	
Fisher agreements (See Annex 2)	
Pay records (e.g. payslips)	
Social security registration	
Fishers medical certificates	
Injury report	
Work schedule	

Based on the fisher agreements (if available) and information provided by the skipper, find out the following information on the crew's remuneration (base wage and share of the catch). Use the table in Annex 1 to record the relevant information on remuneration.

D. Inspecting the fishing vessel for safety and health issues

Ask the skipper to show you the first aid kit to determine if it is accessible and has the necessary supplies (take a picture of its location and contents).

Ask also when and how often safety checks, crew safety briefings and emergency drills (e.g. fire, rescue) are carried out, as well as the contents of any OSH training.

After speaking with the skipper, walk around the vessel (ideally with the skipper), to inspect all of the following areas, hazards and issues:

Deck		
	General housekeeping	
	Obstacles and obstructions	
	Railings, holds	
	Equipment for safe crew embarkation and disembarkation	
	PPE (e.g. life vests, boots, gloves, helmets)	
	Lighting (for night work)	
Engine room		
	Noise protection PPE (ear muffs; plugs)	
Galley and food storage facilities		
	Hygienic	
	Adequate and quality food	
	Adequate and quality drinking water	
Sleeping quarters		
	Safe and hygienic	
	Ventilation, heating, cooling, lighting	
	Noise and vibration levels	
	Adequate space for entire crew	
Toilet facilities		
	Adequate, hygienic and functioning	
Cold storage (for reefer vessels)		
	Safe access	
	PPE (boots and gloves)	
Fire safety equipment		

E. Interviewing fishers

The inspector should try to interview as many as fishers as possible. Interviews help you to learn about working conditions and compliance from the workers perspective and to cross check the skipper's information. The following tips should be kept in mind when selecting and interviewing fishers.

i. Selection of fishers

- The inspector, not the skipper or crew supervisor, should choose which fishers to interview.
- The skipper and crew supervisor should not be present during the interviews (out of sight and earshot).
- The inspector should ask workers to pause their work for interviews and follow her/him out of sight of the skipper (e.g. nearby off the vessel)

ii. Composition of interviews

- The goal is to carry out interviews covering at least 25 per cent of the crew.
- Interviews can take place in small groups (3-6 fishers) or individually depending on the circumstances.
- Interviewed workers should reflect a mix of years (new and veteran) and not only the most vocal fishers or recognized leaders.

iii. Conducting the interviews

- Getting good results from an interview requires trust. To help build this trust, don't rush, listen actively and respectfully
- Begin interviews with introductions and a description of inspectors purpose ("To understand more about working conditions on the boat")
- Emphasize that the information gathered during the interview will be kept strictly confidential and that others will be interviewed.
- Indicate that interviews will take around 15 minutes or so.
- Use open, not closed questions and try to get fishers to tell stories about working conditions on their boat and even other vessels.
- For example, do not ask workers if 'Everything or everyone on the boat is fine?' This will likely yield limited information and fishers will be inclined to respond that everything is ok.
- Ask about recent not just current practices—e.g. 'Has this happened in the last six months, one year?'
- Ask also about other fishers and other boats on key topics (see point iv below). These stories should not be taken as evidence of a violation but as possible information for follow up and to understand industry practice.
- Try giving an example in your question of a violation to show workers you know what sometimes happens ("On some boats, workers are promised higher pay but the real pay is lower than promised. Has this happened on your boat?").

- Repeat or rephrase answers from workers if they seem to misunderstand or their answers are not clear.
- Your interview notes can count as evidence for enforcement actions so make sure they are clear, accurate and complete.

iv. Key interview topics

In conducting the interviews in the limited time available, focus on the following priority issues first (before other possible issues):

- Wages
  - basic wage and share of the catch
  - deductions and withholdings
  - payment frequency
  - payment method
- Working time
  - typical working hours
  - typical rest periods (remember 10 hours in every 24 hours and 77 hours in a 7 day period according to C.188)
  - typical length of voyage at sea
- Age of fishers (minimum age)
- Accidents and injuries
- Fisher's work agreement
- Fisher recruitment
  - Did the fisher have to pay a recruitment fee?
  - Are fishers ever blacklisted?
- Forced labour
  - including deception regarding pay amounts, pay frequency, port, time at sea, leave
  - Is the work on the boat the same as was promised to you before you started? (Ask by type—pay, location, days at sea)
  - Have you ever wanted to leave the boat?
  - Do you know how to leave the boat, to quit?
  - Do you feel like you are free to leave the boat if you want to?

If no, why don't you feel free to leave?

  - Are there others on your boat who would like to leave?
  - What would happen to them if they tried to leave the boat?

v. Ending the interviews

- Ask workers what other questions they have for inspectors/officials. Do not rush this--ask twice or three times if necessary.
- Remind workers of the basic protections in Indonesian law, in particular related to minimum wage, minimum rest, access to health care services, right to leave the boat and quit their job, right to make anonymous complaints free from retaliation, and the right to join worker organizations.
- Ask workers if they have copies of their contracts. If not, provide a printed copy now (if possible) and invite them to make photos with their phones
- Ask workers if they have questions about their contracts.
- If possible, share your cell phone number (business card) with the fishers so they can contact you directly and privately with issues in the future.

F. Concluding the inspection visit

At the end of the inspection visit, the labour inspector should (at least verbally) share his or her findings with the skipper and indicate what improvements are expected, with clear timelines for remediation, and what (if any) actions will be taken as a result of the violations detected. In coordination with the harbourmaster, port-out authorization should be postponed for vessels that fail to remediate serious violations immediately.

- Use this opportunity to explain to the skipper the legal requirements and to provide advice on how best to comply with the applicable labour law.
- The following are some key considerations, depending on the inspection findings.
- If the inspector detects an immediate threat to the life or limb of fishers, the inspector should immediately alert the skipper to stop the operation causing the risk, and detain the vessel until remediation.
- If there are fishers below the minimum age for work in fishing, these fishers should be removed from the vessel and the skipper/owner sanctioned.
- If a fisher indicates that they want to leave the boat for labour abuses, the fisher must be allowed to stay in port, and kept away from the skipper, crew supervisor or owner.
- For other serious violations or if legally required documents are not on the vessel (e.g. crew list, fishers work agreements), coordinate with the harbourmaster and other relevant agencies to possibly detain the boat until the issues are resolved.
- Inspectors should take into account the following when reaching a decision on whether or not to recommend that a vessel be detained:
  - the number and severity of violations identified;
  - whether or not the violations can be rapidly remedied;
  - prior history of similar violations;
  - the duration and nature of the intended voyage;
  - the potential risk to fishers.

Lastly, as soon as possible after the visit, the inspector should prepare the inspection report for each vessel with the findings and actions taken

Annex A

		Skipper Interview		Documents		Fishers Interview 1		Fishers Interview 2		Fishers Interview 3	
1. Base Wage											
2. Share of the Catch	Part of pay?	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO
	Amount (avg.)?										
	How Calculated?										
	How divided?										
3. Deductions (item and amount)											
4. Payment frequency (months)											
5. Date of last payment											
6. Period covered by last payment		–		–		–		–		–	
7. Delayed payments?											
8. Method of payment (cash, kind, electronic, other...)											
9. Total remuneration (fishers) (**1 + 2 -** 3 = total remuneration)											
10. Applicable Minimum Wage (vessel's home port minimum wage)											
11. Fishers' Personal Catch Value (avg. per equivalent pay period)											

Annex B

ILO Work in Fishing Convention No. 188
Fisher's work agreement[1]

The fisher's work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations, or a collective bargaining agreement where applicable:

a. the fisher's family name and other names, date of birth or age, and birthplace;

b. the place at which and date on which the agreement was concluded;

c. the name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the fisher undertakes to work;

d. the name of the employer, or fishing vessel owner, or other party to the agreement with the fisher;

e. the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;

f. the capacity in which the fisher is to be employed or engaged;

g. if possible, the place at which and date on which the fisher is required to report on board for service;

h. the provisions to be supplied to the fisher, unless some alternative system is provided for by national law or regulation;

i. the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;

j. the termination of the agreement and the conditions thereof, namely:

(i) if the agreement has been made for a definite period, the date fixed for its expiry;

(ii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisher shall be discharged;

(iii) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the fisher;

k. the protection that will cover the fisher in the event of sickness, injury or death in connection with service;

l. the amount of paid annual leave or the formula used for calculating leave, where applicable;

m. the health and social security coverage and benefits to be provided to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement, as applicable;

n. the fisher's entitlement to repatriation;

o. a reference to the collective bargaining agreement, where applicable;

p. the minimum periods of rest, in accordance with national laws, regulations or other measures; and

q. any other particulars which national law or regulation may require.

---

1 Annex B of C. 188.

Annex C

Medical Supplies Checklist

(Suggestions from the International Transport Workers' Federation)

Check the following to see if they are available, in the appropriate quantity, and not out of date.

Saline solution	
Cotton Sterile Stick Swab Size M	
Iodine Solution	
Opsar Eye Lotion	
Conform Bandage 4"x 5yds 1 roll	
GPO Alcohol 240ml (plastic)	
Carbon Tablets	
Oreda (orange flavor) rehydration salts 100 x 3.3gm 5 packets/kit	
Analgesic/Tiger Balm	
Paracetemol 500mg 100 tablets	
White Rabbit stomach elixer 200 ml	
Cotton Balls 10g (sterile)	
GPO Plasters 100 pcs	
GPO Pore 1"x10 yds bandages	
Latex/Hygenic Gloves	
Vitamins	
Antibiotics (azithromycin 500mg 50 cold and fever, flucloxocillin 250mg 100 soft tissue infection)	
Antihistamine (cetirizine/citrizine - 10mg non-drowsy tablet)	
Allergy Medicine (antihistimine)	
Antiseptic Soap (Dettol/ProTex/etc)	
Elastic Bandages (for sprains or swelling compression)	
Anitifungal Cream, Temibafine	
Medical Guide (e.g. instructions on the use of medical supplies)	

▶ Annex V: ILO and Thai Ministry of Labour fishing labour inspection guidance

▶ ILO and Thai MOL PIPO labour inspection worksheet

Issue	Worker interview question
Recruitment, contract	
Hiring	How did you choose this boat? Please tell me the story.
	Did you choose to work on this fishing vessel?
	Did you get hired with help from a broker here in Thailand?
	Did the broker charge you any money for getting the job?
	Did you sign a contract to work on this boat?
	Is it written in your language?
	Did the owner/skipper give you a copy of the contract to keep?
	• If no, would you like a copy of it now?
	Would you like to take a picture with your phone?
	Did someone explain your contract to you?
	Would you like me to explain it to you now?
Recruitment	Is the work on the boat the same as was promised to you before you started? (Ask by type)
	• Type of work is different than promised
	• Time at sea is longer than promised
	• Port is different
	• Boat or boat owner is different
	• Wages are different (Ask if worker knows what the minimum wage is)
	• Pay schedule is different
	• Hours working are different
	• Living conditions are different
	• Freedom to move or leave is different
	Were any other things promised that are different?
	Who made these promises? (Ask owner, skipper, chieu, broker)
Leaving	Do you know how to leave the boat, to quit?
	Have you ever wanted to leave the boat?
	Do you feel like you are free to leave the boat if you want to?
	• If no, why don't you feel free to leave?
	Are there others on your boat who would like to leave?
	• If yes, why do they want to leave the boat?

Leaving	• What would happen to them if they tried to leave the boat?
	Do you keep your passport/i.d. and important papers with you?
	• If no, can you get your documents whenever you need them?
	Do fishers who have left your boat get all their money? (Ask by type)
	• Unpaid or withheld wages
	• Share of the catch
	• Holiday pay
	• Severance if they finish the whole contract
	Do you know of fishers who have been left in another port or country?
	Do you know how they got home?
Wages	
Base wage payment	Are you paid at least 9,000 per baht every month?
	Are you paid for a month of work or are you paid like a daily worker?
	• If daily, do you usually work on days when you are in the port?
	• Do you sometimes not get paid for days in the port?
	Does the owner/skipper give you a paper (payslip) showing how much you got and details like hours, deductions?
	How do you keep track of how much the owner owes you?
	Who gives you the money?
	Are you paid with an ATM or bank card instead of cash?
	Do you know how to use the card to get your money?
	Do you have control of your card all the time?
	• If no, who keeps your card?
	• Do you have a secret code number for your card?
	• Does anyone else have your secret code number?
	Do you ever sign for getting paid on a document that has the wrong amount on it?
	Does the owner/skipper/chieu tell you what to say when you meet the government officials?
Withholding	Is some of your money--not share of catch--held back to pay all together?
	• If yes, who keeps the money?
	• If yes, how long did you wait last time for the rest of the money?
	• If yes, how much was paid?
	• How do you know if it was the right amount?
	Have you signed/printed a paper for salary amounts that you did not really receive?
	Do you receive a share of catch paid at least once in 3 months?
	Have you ever had to work out a problem about pay with the chieu, skipper, or owner?
	How was the problem resolved?
	• If no, what do you think would happen if you asked about a problem with your pay?

Debt, advance	Do you take advances on your pay, or do you take loans?
	• If yes is it to the owner, skipper, chieu, company staff, other fishers?
	• What is the money owed for?
	• How much do you owe?
	• Is the person charging extra like for a loan?
	• How much extra?
	• Is money you owe taken out of your pay by the owner or skipper or chieu?
	• How do you know if it was the right amount?
	Are there other deductions or money taken from your pay each month?
	• If yes, what are the deductions for?
Hours, leave	
	Can you tell me about the working hours on the boat? How does it usually go?
	Do you think you get at least 10 hours of rest every day? (Not all at once)
	Do you sometimes work for more then 14 hours in a day?
	• If yes, do you sometimes work until you are exhausted?
	• If yes, do you sometimes work one whole night and one whole day?
	• If yes, what happens if you ask to take a break?
	• If yes, do you get time off later for the rest hours you missed?
	When you are fishing, can you take a rest break to eat?
	If the boat is at sea for one week do you get a day with extra rest? (at least 77 hours rest per week)
	How do you or the skipper know how many hours you have worked?
	Can you tell me about the working hours when you are in the port but working?
	Do you ever see the hours record for the boat?
	• If yes is the hours record correct?
	Have you ever had to work out a problem about hours or rest with the chieu, skipper, or owner?
	How was the problem resolved?
	• If no, what do you think would happen if you asked about a problem with your pay?
Leave, holidays	In a week do you get one day without work, either at sea or in the port?
	Did you ever asked the owner or skipper or chieu for time off because you were injured or sick?
	Has your time off been allowed? (up to 30 days/yr)
	• Do you remember if you were still paid for your sick days?
	If the boat is having a problem and cannot fish do you still get paid?
	In one year of working, did you get 30 days of holiday with your full monthly pay?

Food and Sanitation	
	Can you tell me about the food on the boat?
	Does the fresh food run out sometimes?
	• If runs out, how many days is there no fresh food (besides caught fish)?
	Do you worry that the food on the boat is not clean sometimes?
	When was the last time some one was sick from the food on the boat?
	Can you tell me about the drinking water on the boat?
	How is the drinking water kept and shared?
	• Has the drinking water run out before?
	When was the last time some one was sick from the water on the boat?
	Would it be better if there was more food and water on the boat?
	Do you buy some of your own food or water for yourself on the boat? Why?
	Does the boat have a toilet and can the fishers use it?
	Does the boat have a separate place for making food? Do you think it is clean enough?
	Is there a separate place to eat, not a working area?
	Is there water too for washing and cleaning clothes and dishes?
	Has that water run out before?
	On the boat, are there cleaning tools to help keep the working area from being too slippery?
	Are the working areas kept clean to avoid slipping or falling?
	Is there a life boat to get away from the boat in an emergency like a fire?
	Do you know what to do in case of a fire on the boat or bad weather?
Safety and Medical Care	
	Can you tell us about the last time someone was hurt on the boat?
	Have other crew members been hurt? How?
	Is there violence in your job? (other workers, skipper, chieu, owner?)
	Are there threats of violence in your job?
	Has someone on the boat been trained to provide first aid and medicines? Who is it?
	Does the medical box have useful things in for injuries and sickness?
	Is the medical box filled up again after trips?
	Have there been injuries or sickness bad enough for the boat to return to port?
	Has the skipper agreed to take the boat back to port for emergencies?
	Is it easy to get medical treatment back in the port?
	Who pays for medical treatment if the injury or sickness is from work?
	Do you know if fishers have been paid for serious injuries from work?
	Do you know of fishers who have died when the boat was at sea?
	What happened to the body?
	Has any fisher been left in another port or boat because he was sick or injured?

Safety and Medical Care	How did he get back to the home port again?
	Does the boat have a life boat to get away?
	Do you know what to do in bad weather (capzise boat) and fire?
	Does the boat have a working fire extinguisher?
	Do you know how to swim?
Gear and training	Have you or others been injured by old or bad fishing gear?
	Are there problems with the gear or tools you are using?
	Have you been well trained on the equipment you use?
	Are the tools fixed when they are broken?
	Do you have enough light on board for your work? Night work accidents?
	Do you have a 'friend' or 'buddy system' to help keep other fishers safe when working?
	Are there any chemicals used on board the boat?
	Are the fishers trained in using the chemcials safely?
	Are you given this equipment for your work?
	• Safety boots
	• Gloves
	• Hearing protector
	• Protective clothing including masks for chemicals, paint
	• Life vest
	Do you have to pay for any of the equipment including gloves on board the boat at sea or in port?
	If you work a machine on the boat, do you know to stop it in an emergency?
	Does the boat have an emergency alarm and emergency communication system?
Forced Labour	
Involuntary	Did you choose to work on this fishing vessel?
	• If no, who forced you to work on this boat? (Owner, skipper, chieu, broker, parent?)
	Do you feel free to leave the job? If no, why not?
	• if no, what would happen if you tried to leave your job?
	Are there others on your boat who would like to leave?
	If yes, why have they not left the boat?
	Are you or other fishers ever isolated or trapped on the boat or in port?
Violence/threat	Is there violence in your job? (other workers, skipper, chieu, owner?)
	Are there threats of violence in your job?
	• If yes, who is violent, who makes the threats?
	Are there threats to turn you in to the police or government or another?
	Are there punishments from the owner/skipper/chieu?
	If yes, what are the punishments? (work assignments, food, money)
	Who on the boat usually gets the worst treatment? From whom and why?

Withholding, debt	Is some of your pay held back by owner, skipper, chieu?
	Do you owe money to the owner, skipper, chieu, broker?
	What is the loan for? (not the same as salary advance)
	• Who do you owe money to?
	• How much do you owe?
	• When will your debt be finished?
	• Is there an extra/interest charge?
	• Does the debt stop you from changing boats or returning home?
	Are you paid with an ATM or bank card instead of cash?
	Do you have the pin code/number for your bank card?
	Do you have control of your card all the time?
	Do you keep your passport/i.d./seabook?
	• If no, do you always have easy access to your documents? Where are they kept?
Child Labour	
	Do you know any workers on the boat who are under 18?
	Are there any workers who look like they might be under 18?
	Do you know about young workers on other boats? Which?
Freedom of Association and complaints	
	Is there a union or an organization to help the workers on your boat?
	• If yes, how is it organized? (e.g. Port-based union or fisher charity/services?)
	Do you have a representative on board to talk to chieu, skipper, owner, government officials?
	• If yes, who is he and how chosen? (e.g. Is it someone besides the chieu?)
	When you have a problem with work, who do you talk about it for help?
	Have fishers on your boat brought a problem to the owner or skipper or chieu?
	What were the problems?
	What was the response, resolution?
	Have the fishers er refused to work or go on the boat before?
	• If yes, what was the reason and what happened?
	Has the owner/skipper/chieu told you not to meet with people from any organization?
Discrimination	
	Are all the workers on the boat treated the same? (E.g. work assignments, equipment, punishments, amounts or time for food)
	• If no, who is treated differently and why? (E.g. country of origin, religion, sexuality, relationship with chieu or skipper)
	Is pay the same for everyone who does the same kind of work?
	• If no, who is treated differently and why?
	Is there harrasment or bad words used on the boat?
	• If yes, what things are said? (Exact words are important, not just 'rude words')

▶ Annex VI: Safety and health fact sheet

A fishing boat is an unstable platform in perpetual motion, making what is already a high-[87] risk occupation even more unsafe. Most of the work is carried out on deck. Decks are routinely washed by seawater, covered with nets and gear, and with a moving cargo of fish. Fish slime, leaking hydraulic fluid can increase the dangers of deck work. Fishers work in all sea conditions including hostile weather with wet conditions, storms, and extremes of temperature etc. There are no fixed working hours, the working rhythm being determined by the sea and the catch. Except for transit times out to fishing grounds, crews/vessels typically work around the clock. Fatigue sets in quickly; crews are pushed to breaking point.[88] The vessel is both a place to work and a place to live. In some types of fishing, the fishers live on board for six months at a time or longer. In addition, there are many other hazards and risks.[89]

Also, whilst the dangers found in different types of fishing operations are very similar, the levels of risk arising from specific dangers may vary between types of vessels. For example, compared to inshore fishing boats, overseas/deep sea vessels often use heavier duty machinery, more electricity, have more confined spaces, and are at sea for much longer periods.

Specific hazards in fishing and risks arising from them include:

Drowning: Drowning is one of the main risks in fishing and a main cause of fatalities in the industry worldwide. Causes of drowning include:

Falling into water

- while shooting (putting out or setting) or hauling in the net;
- while climbing from the deck to the superstructure (the dock) on the outside of the boat;
- through missing one's footing while walking along, or working on, the edge of the boat;
- when walking along the outrigger pole to change rope settings;
- especially if one is knocked unconscious or stunned as as result of the fall.

Swimming and diving: entails a risk of drowning especially when diving to free the net and getting entangled in it. Diving can also result in damage to lungs and ear drums. On purse seine net boats in Thailand, for example, when the net is set, two swimmers go into the water, one on either side of the boat. They help guide both the setting of the net and the pulling in of the net. They remain in the water for long periods.

Being swept overboard in rough seas

Vessel sinking or capsizing - see below

In cold waters, death from hypothermia[90] is a related risk.

87 Source: Peter Hurst, Occupational safety and health specialist

88 Legal concerns in the fishing industry. D.W. Nixon, University of Rhode Island, USA, undated, p. 1.

89 Health and safety training in the fishing industry. Commission of the European Communities, 1993, p. 5. L-2985, ISBN 92-826-5014-6.

90 Hypothermia is a condition in which core body temperature drops below the required temperature for normal metabolism and body functions which is defined as 35.0 °C.

It is widely recommended that a floatation vest (lifejacket) be worn at all times when working on deck.[91]

Lack of provision of safety equipment: The survival of workers awaiting rescue from water will be aided by the wearing of appropriate buoyancy aids (including marine work vests and personal flotation devices) or life jackets, and by the availability of ladders and life-saving equipment, including chains, handholds, lifelines, or other means to enable persons to support themselves in the water. The emergency arrangements should take into account the fact that it will not be appropriate for many workers to wear buoyancy aids or life jackets at all times.[92]

Lack of training is hazardous. The Food and Agriculture Organization emphasises the importance of "Suitable equipment, training, experience, information and judgement to avoid getting into trouble in the first place."[93] Poorly trained skippers and crews can be a hazard to themselves and to other fishers and seafarers.

Poor work organisation on board: Poor work organisation can be hazardous. Work organisation on board is a difficult subject to examine because of the disparate nature of fishing as an activity and the wide range of factors influencing work organisation - the type of vessel and fishing, the number of crew and their level of experience and training. language problems with migrant workers, the payment system, the duration of trips, and even climatic conditions at the fishing ground.[94]

However, there are a number of points which appear to be constant factors in work organisation on fishing vessels, the:

- **cyclical nature of the working rhythm.** Crew members are bound to perform a regular sequence of tasks, the duration of which is determined by the size of the catch, or the extent of any repairs needed, interspersed with short rest periods time usually linked to the time taken to sail to the next catching point
- **physical effort constantly required.** particularly of deckhands, which means that any physical limitations would constitute a danger both to themselves and their colleagues
- **excessive mental strain,** particularly on the skipper and to a lesser extent the first officer and chews.

Physically demanding work and musculoskeletal problems: Fishing work is by its nature physically demanding and strenuous, involving long periods of standing, stooping, bending, repetitive and forceful movements in awkward body positions, and hauling, carrying and handling heavy or awkward loads on decks which are usually in constant motion and often wet and slippy.

Fisher's major tasks at sea involve pulling and lifting, mostly manually, either a heavy net or other heavy gear (trap, rod-line), often crouching over the edge of the deck, loading and unloading fish into and from holds.

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91 Safety guidelines for small commercial fishing vessels. FishSafe New Zealand,undated, Section 3.2.

92 ILO Code of Practice on Safety and Health in Ports, 2005. Section 11.1.7 Falls into water, pp. 436-437 ; http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_PUBL_9221152871_EN/lang--en/index.htm

93 Safety at sea as an integral part of fisheries management. FAO Rome, Fisheries Circular No. 966 FIIT/C966 ISSN 0429-9329, 2001.

94 Health and safety training in the fishing industry. Commission of the European Communities, 1993, p. 14. L-2985, ISBN 92-826-5014-6.

The results are injuries to bones, joints, tendons etc. - known collectively as "musculoskeletal disorders" - often leading to permanent injury or impairment. As an interviewee in an Indonesian fishing study once described succinctly to the interviewer, "Fisherman's all body parts hurt."[95]

Slips and trips: Injuries from slips and trips are a constant problem in fishing given the crowded nature of decks, with nets, ropes and cables etc, and the often wet, slippery/slimy conditions of decks when fishing, combined with the constant, unstable motion of the boat which means the deck is always moving. Decks should have a non-slip surface. Mix sand with the paint used for decks. Use non-slip or enamel paints. Use adhesive non-slip sheeting in passageways/routeways. Decks should be washed down frequently to remove slippery wastes.

Falls: can result in more serious injuries.

Falls either through open decks that are slippery with waste, or open holds, or through having to walk on ice in the hold. Suitable footwear, such as rubber boots with ant-slip soles, should be worn. On access to holds, cold rooms, storerooms, accommodation spaces, engine rooms etc., proper ladders should be provided with handholds. Hatch covers must remain closed and lashed when not in use or shielded so as to prevent persons falling through the hatch.

Falls on access ways above deck. It can be common to see ladders comprising just metal rungs with no handhold whatever, the use of which presents real difficulties and the danger of falling

Falls from masts, gantries etc. The ladder/stairs usually comprise separate steps individually welded to the mast and with a protective frame around the whole. The hards are the same with other stairways/ ladders on board but amplified by the scale of oscillation arising from the vessel's movement and by the height of the mast above the deck.

Falling from the gangway which on many Thai vessels does not have any handrails. This can be especially dangerous if a person comes off the gangway and falls between the boat and the dock/wharf. Gangways need to be fitted with handrails.

Cuts, punctures, abrasions, wounds: When it comes to injury and infections, fishermen's hands come off worst. Between broken ends of warps, knife cuts, hook injuries, crushed fingers, and rope burns, infections are almost inevitable . Worse still, hand injury and infection can lead to accidents. (See also skin diseases, page x). There is also a danger of eye injuries from hooks, spikes, and wire.

Injuries from fish and other animals: Fish hauled on board while still alive and fighting/thrashing may cause injuries by a sudden flip of the tail, a jab by the beak or "sword" or saw, bites to limbs or fingers, or painful stings. There is a risks of such cuts and abrasions becoming infected.

Knife injuries, which can sometimes result in loss of fingers, are common when fish are manually beheaded, gutted, skinned or filleted on board;

Machinery/Equipment. Some of the main dangers are:

- Winches and accompanying cables and ropes are especially dangerous pieces of machinery, and dangers include: Getting fingers or a hand or arm or foot stuck in the winch drum as it hauls back the gear; Getting hit by a broken line as it recoils; Tripping over a line.

▶ Annex VI

- Entanglement in the fishing gear under tension, winch drums and barrels or wire cables, crushing injuries - fingers and whole limbs - when connecting trawl doors, setting and hauling trawl, purse seine and other fishing gear.

95 Markkanen, P. Dangers, delights and destiny on the sea: Fishers along the east coast of North Sumatra, Indonesia. New Solutions, Vol 15, No. 2-2005, p 126.

- Fishing hooks and "spines" in steel wire ropes sticking into hands or other parts of the body.
- Workers can also be injured by loads falling from hoists.

The body regions most frequently injured include the hands, lower limbs, head and neck and upper limbs, followed by the chest, spine and abdomen. The most common types of traumas are open wounds, fractures, strains, sprains and contusions.

Many non-fatal injuries may involve amputation of fingers, hands, arms and legs as well as injuries to the head and neck. Infections, lacerations and minor traumas of hands and fingers are quite frequent.[96]

Fittings projecting from decks: Contact with eyebolts, bollards, capstans etc. can result in injury. Whilst such fittings are essential for the operation of the vessel and cannot be eliminated, they can be located in less frequent zones and painted to distinguish them from their surroundings. Hatches can be identified by alternate diagonal stripes in red and white or yellow and black. Special care must be taken to lash or stow away all moveable fittings, including coiling ropes away.

Repetitive work: Fish processing on ships can also result in a high prevalence of musculoskeletal disorders related to the highly repetitive tasks performed in a short time cycle and the lack of rotation among different tasks.[97]

Electrical safety: Contact with an electric current can result in tingling sensations, contact burns, loss of muscular controls, painful shock, cardiac and respiratory arrest, or death. There can be direct contact with live components (fixed installations, portable equipment, cables) or indirect contact with components which have become live through a fault in the system.

Given the wet marine environment, good safety standards and practices when using electricity - both fixed installations and cables and portable equipment - are critical.

On purse seine net fishing boats, relatively little electricity is used. Underwater lamps, for example, for attracting fish at night, but these are insulated to marine safety standards. On overseas trawlers, which are much bigger boats, greater use is made of electricity.

Lighting and visibility: Internal lighting on vessel, essential for fishing work, in the handling and transit zones are often not adequate. Internal lighting must be carefully and sensibly positioned at the most dangerous locations and should preferably be fluorescent. It should not interfere with visibility and should not be visible from outside to the extent that other vessel's fishing operations are hampered.

On purse seine boats, the nature of the night time fishing operation itself, means that many deck operations are carried out in the dark or with severely reduced lighting.

See below for external trawling lights, used internationally and compulsory during the various handling operations

Noise and vibration (See noise-induced hearing loss under diseases). Continuous exposure to noise and vibration onboard fishing vessels, e.g. loud noise from the engine room, can result in permanent hearing problems and damage. The main factors involved are:

(a) the noise level - usually measured in decibel units known as dBA98

- the daily exposure to noise and over how many years

96 Safety and health in the fishing industry. ILO SECTOR Geneva, TMF1/1999, p 21.

97 Safety and health in the fishing industry. ILO SECTOR Geneva, TMF1/1999, p.21.

98 There is a risk of noise-induced hearing loss from exposures upwards of 80 dB(A). As a guide, if you cannot hear a normal conversation clearly when you are two metres away from the speaker, the noise level is likely to be around 85dB(A) or higher. If you cannot hear someone clearly when you are about one metre away, the level is likely to be around 90dB(A) or higher.

Loud continuous noise irreversibly damages the sensitive hair cells in the inner ear which cannot be replaced. The main social consequence of noise-induced hearing loss is the inability to understand speech in normal conditions, which is considered a severe social handicap. Excessive noise can also give rise to tinnitus, a disturbing 'ringing in the ear'.

Chemical risks. include exposure to chemicals such as chlorine which is used to wash and preserve fish and can irritate membranes of eyes and nose, and lungs; fuel and oil containers are often scattered about on boats; and empty chemical drums being used as fish buckets.

Confined spaces and asphyxiation. A confined space is a place which is substantially enclosed (though not always entirely), and where serious injury can occur from hazardous substances or conditions within the space or nearby (e.g. lack of oxygen, build-up of toxic gases).

Under-deck area – engine rooms, fish and ice storage holds – are confined spaces which can be dangerous when fuel exhausts or hydrogen sulphide gas (from rotting fish) accumulate there. Asphyxiation occurs due to the lack of oxygen or poisoning from hydrogen sulphide fumes. In the Thai fishing industry, confined space accidents have sometimes involved multiple fatalities when workers have gone into holds to rescue workers in difficulty and, lacking training and proper equipment, have been overcome by toxic fumes.[99]

Long hours of work and continuous working. Regular hours of work don't exist in the fishing sector. Hours of work tend to be extremely long. Working day and night as deck hands to haul in the catch; especially nocturnal fishing. The intensity of the work offers little chance for rest breaks and the length of the working day offers insufficient time for recuperation, or for leisure time. Long hours of work are compounded by continuous working with boats going out day after day or night after night during the fishing period. Deep sea trawlers may remain at sea for many months, e.g. 8 months at a time. Long hours of work and continuous working impact negatively on health, and contribute to fatigue, itself also a contributory factor in ill health, and to increased risk of accidents.

Fatigue in fishing. Fatigue is a fact of life in the fishing industry. The effects of fatigue on work performance can put the vessel and crew at risk. WorkSafe British Columbia, Canada, for example, classifies fatigue as "impairment," like alcohol or drugs, as the effects can be just as devastating.

The crew should talk about what fatigue looks like and be alert for the signs and symptoms. Individuals are poor judges of their own state of alertness. In assessing your own alertness or that of a crew member, do not make judgments based on how you or they feel at the time. Instead, assess the sleep patterns over the last few days.

Vessel procedures for managing fatigue can include the following:

- If you are falling asleep at the wheel, it is all right to wake someone else up
- Use watch alarms and a buddy system when traveling at night.
- Have two crew members on the wheel at night.

When it's your wheel turn, give yourself at least 15 minutes of "wake up" time — talk with the person you are relieving and become fully aware of the situation you are taking over.[100]

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99 "Confined space" means a place which has limited area of entrance and exit with insufficient ventilation that could not produce hygienic and safe condition, e. g., in a tunnel, cave, well, pit, underground room, safe room, fuel tank, fermented tank, tank, silo, pipe, furnace, container or other objects of similar characteristics. Ministerial Regulation on the Prescribing of Standard for Administration and Management of Occupational Safety, Health and Work Environment in Confined Space B.E. 2547.

100 Gearing up for safety: Safe work practices for commercial fishing in British Columbia, Canada. Worksafe B.C., 2012, p. 14 (Workers' Compensation Board).

Diseases

Skin diseases/infections related to the handling of fish with bare hands are common - contact eczema, either allergic or non-allergic; boils and abscesses are recurrent problems affecting hands and fingers. When it comes to injury and infections, fishermen's hands come off worst. Between broken ends of warps, knife cuts and crushed fingers, infections are almost inevitable. Worse still, hand injury and infection can lead to accidents. Protective gloves are essential and all infections should be treated quickly. Provided there are facilities, fishers can help prevent infection by: Thorough hand washing with a germicidal hand wash solution at the end of every work period; and, prompt treatment and cleaning of all cuts, scrapes and scratches (using first aid).

Skin cancer is a common cancer and mostly affects people working outdoors (see exposure to sun)

Respiratory diseases: Occupational asthma is an allergic respiratory disease which is associated with several types of fish but mostly with crustaceans and molluscs through inhalation of fish protein. Fish meal processing can result in asthma as well as grinding shells, shrimps in particular.

Musculoskeletal disorders is a term used collectively for symptoms and diseases of the muscles, tendons and/or joints. Such disorders are often general in nature, and can vary in duration including permanent injury. The main risk factors for work-related musculoskeletal disorders are heavy lifting (often over long distances), awkward work postures, repetitive and forceful work tasks, psychological stress, and poor work organisation.

Noise-induced hearing loss: Loud continuous noise irreversibly damages the sensitive hair cells in the inner ear, which cannot be replaced. The main social consequence of noise-induced hearing loss is the inability to understand speech in normal conditions, which is considered a severe social handicap. Excessive noise can also give rise to tinnitus, a disturbing 'ringing in the ear'.

Communicable diseases in fishing continue to remain an occupational health problem especially where trawlers are at sea for long periods. For instance, the presence of tuberculosis (TB) linked to the lack of pre-recruitment medical examinations, this means that TB can be transmitted to colleagues on board. Other diseases are contracted through impure water (e.g. dysentery, cholera) and at ports of call (e.g. malaria, dengue).[101]

First aid provision and training, and medical care: Good first aid skills can mean the difference between life and death, or between short-term and life-long injury. Learn as much first aid as you can. At sea, you have only yourself and other crew members to turn to for help. If an injury happens, record it. When assessing first aid and injury-reporting procedures, keep these safety steps and requirements in mind. Before the start of the fishing season, check your first aid kit to make sure it's fully stocked.

Accommodation/living conditions: The accommodation on board very much depends on the type of fishing, the vessel, and its size. Inshore fishing accounts for the highest percentage of vessels in Thailand, and boats here are always cramped, sometimes extremely so. Accommodation spaces have to be shared and there is no privacy, and this may increase stress as well as facilitate the passage of contagious diseases.[102]

Sanitation and hygiene

Hygiene conditions can be worse than suspect. Frequently, there is a lack of clean drinking water, of decent washing facilities and toilets. Since most vessels do not have washrooms and toilets, hygiene levels are low and viral and bacterial borne diseases can spread easily, especially in the tropical climate.

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101 Seafaring and health with emphasis on Asian seafarers. Maritime sector. H. D. Wickramatillake, Asian & Pacific OSH Newsletter, Volume 18, number 2, September 2011.

102 Health and safety training in the fishing industry. Commission of the European Communities, 1993. L-2985, ISBN 92-826-5014-6.

Clean drinking water, especially when spending several days at sea, is not abundant. Often clothes are very dirty due to lack of cleaning facilities.

Stress. Many factors are responsible for stress among seafarers. A German study cited that separation from the family, time pressure, long working days and fatigue, heat in workplaces and insufficient qualification of subordinate crew members were the most significant stressors on board.[103] Furthermore, harassment and bullying, anxiety, disruptive thinking and behaviour, job insecurity, loneliness, short ship turnaround times, unfriendly bunk/cabin mates, sexual abuse, lack of shore leave and addiction to alcohol and drugs were acknowledged as contributory factors for stress.[104]

Personal protective equipment and work clothing: Personal protective equipment (PPE), which includes clothing, to protect you from injury is extremely important in the fishing but to be effective, it must fit properly, be used according to the manufacturer's guidelines, be maintained, and replaced when no longer effective.[105]

- **Hard hats** are recommended to be worn in areas where you may hit your head. Hard hats should fit snugly around the head, and the chinstrap should always be done up. Newer hard hats are adjustable. Many hard hats also have clamps to secure a light or hearing protection.
- Wear gloves if there is a potential danger to your hands or fingers:
  - **Rubber gloves** are often the best type to wear on a fishing boat. Depending on the quality of the glove, they will provide protection against dampness, fish fins and tails, and the cold. They are also effective when handling the gear.
  - **Cloth gloves** can be worn underneath rubber gloves for comfort.
  - **Chain mesh gloves** provide excellent protection when dealing with equipment or gear that has sharp edges, or when using knives for processing fish.
- Foot protection. Wear boots in areas where you may hurt your foot. The feet have many small bones that can be easily broken. Safety boots are leather or rubber with a steel toe. They offer excellent protection against falling objects, stubbing your toes, and sharp objects such as hooks. Insulated safety boots protect the feet from cold.
- Eye protection. The eyes are sensitive, fragile, and irreplaceable. Wear protective glasses or goggles when working with hooks, winches, or hoists, and when hauling in nets with live fish. The fish will become agitated and flop around. A fin to the eye could be disastrous. Salt water and fish slime can irritate the eyes. Goggles are especially effective because they provide an airtight seal around the eye.

Fall protection includes both:

- Fall restraint which is a system that prevents a person from getting to a point where they could fall. The best example of fall restraint is the guardrails and handrails that surround the boat. There should be no voids in the railings.
- Fall arrest which is a harness and lanyard system worn by a person to prevent them from falling more than a short distance.

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103 Oldenburg M, Jensen HJ, Latza U, Baur X. Seafaring stressors aboard merchant and passenger ships. Int J Public Health. 2009;54(2):96–105.

104 Maritime sector. H. D. Wickramatillake, Asian & Pacific OSH Newsletter, Volume 18, number 2, September 2011.

105 Fish Safe. A Handbook for Commercial Fishing and Aquaculture. Nova Scotia Fisheries Sector Council, Canada, 2004, ISBN 0-88871-842-X; http://www.gov.ns.ca/lae/healthandsafety/docs/FishSafe.pdf

Hearing Protection: Ear Muffs must be worn in engine room spaces as well as in any other compartment where a noisy machine is running.

Alcohol: Alcohol is absorbed directly into the blood stream and its effects are usually apparent within minutes. Alcohol affects the ability to make good decisions; coordination and body motor control; concentration and alertness; and sense of direction.[106] These factors put yourself and others at risk, and they also increase the likelihood of you ending up in the water by accident. However, controlling alcohol consumption on board fishing vessels can be problematic. For example, Thai vessel owners and skippers state that consumption of alcohol on board fishing boats is common, though they try to limit it. According to the ILO/National Fisheries Association of Thailand/and government Occupational Safety and Health Bureau consultations and field visits, some crew members insisted that it was their right to drink whilst on board. In response, given crew shortages, Thai vessel owners and skippers stated that refusing crew members the right to drink alcohol on board could result in the crew leaving to work on another boat where alcohol consumption was permitted.[107]

Extreme temperatures. Ranging from hot sun to cold, wet, even freezing, conditions can be hazardous if suitable clothing or protective equipment, or enough drinking water are not provided. In colder, deeper waters, falling into or immersion in water can result in death from hypothermia.

Exposure to sun. Lip cancer and skin cancer are probably the result of excessive exposure to the sun; eye damage from excessive glare from the sun. Working for long periods on the decks of boats means crew have prolonged exposure to UV radiation.

Bad weather and weather forecasting. Gales, major storms and heavy fog are significant causes of small boat accidents often resulting in sinking, capsizing, grounding, becoming lost, and collisions. Good weather forecasting systems are important.

Unsuitable and non-seaworthy boats: The best safety equipment is the boat itself, and a ship shape vessel is a safer and healthier one.[108] Safety features of boats relate to boat design, construction, watertight integrity, stability and machinery.[109]

Principally due to a decline in fish stocks, small fishing craft in Thailand are often sailing further offshore on prolonged fishing trips but are too small, often built for inshore fishing and day trips, lacking basic safety equipment. Consequently, their crews' safety has steadily deteriorated.

Capsizing. Reasons include - poor stability in bad weather, often associated with overloading, etc. Boats often capsize or sink before crew members are able to access onboard survival equipment.

Loss of power on board. Many small fishing boats are powered by an outboard motor and do not carry either a spare engine or sailing rig. Loss of power may even happen to larger fishing vessels.

Fire on board, and smoke inhalation. Fire extinguishers should be part of safety equipment and periodically checked by an external competent person to see if they are in working order. Fatal poisoning is often related to the inhalation of toxic fumes caused by fires on board.

Lack of navigational equipment. This increases the risks of vessels become lost and especially straying too far out to sea, sailing too near dangerous rock or reef formations, the coastline, as well as increased

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106 FishSafe. A Handbook for Commercial Fishing and Aquaculture. Nova Scotia Fisheries Sector Council, Canada, 2004, ISBN 0-88871-842-X; http://www.gov.ns.ca/lae/healthandsafety/docs/FishSafe.pdf

107 Safety and health training manual for the commercial fishing industry in Thailand. ILO Tripartite Action to Protect Migrant Workers within and from the Greater Mekong Subregion from Labour Exploitation (GMS TRIANGLE project) and ILO Asia-Pacific Regional Office, 2014; http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_329102.pdf

108 Fishermen and safety: A guide to safe working practices for fishermen. Marine Safety Agency, UK 1996

109 Safety of small fishing vessels in India, Maldives, Sri Lanka and Thailand. Agnar Erlingsson, FAO & BOBP-IGO, October 2005. Presented at the IFISH-3 Conference, 1-7 February, 2006, Mahabalipuram (Chennai).

risks of collision with other vessels. Special attention has always been given to Echo sounders, since these are used for navigation as well as for successful fishing operations.

Also, a small boat must be seen on the radar of large ship at night if it is not to run down. The radar beams sent by the large ship must be reflected by the small boat. Since an Fibre reinforced plastic (FRP) or wooden boat reflects radar beams poorly, the small boat needs a special radar reflector. Guidance can found on how to easily make a radar reflector.[110]

Poor communications. Lack of radio contact precludes efficient search and rescue action. Many fishing boats use CB transceivers to communicate among ships and between ships as well as to the shore. *Citizens' Band radio (CB radio)* is, in many countries, a system of short-distance radio communications between individuals on a selection of 40 channels within the 27-MHz (11 m) band. Citizens' Band is distinct from the FRS, GMRS, MURS and amateur ("ham") radio. In many countries CB operation does not require a license, and (unlike amateur radio) it may be used for business or personal communications. Like many other two way radios services, Citizens' Band channels are shared by many users. Only one station may transmit at a time; other stations must listen and wait for the shared channel to be available. A number of countries have created similar radio services, with varying technical standards and requirements for licensing. While they may be known by other names, such as the General Radio Service in Canada,[1] they often use similar frequencies (26 to 28 MHz), have similar uses, and similar technical challenges. Although licenses may be required, eligibility is generally simple. Some countries also have personal radio services in the UHF band, such as the European PMR446 and the Australian UHF CB. Wikipedia; http://en.wikipedia.org/wiki/Citizens_Band_radio.

Accidents and injuries in Fishing: Fatal and non-fatal

▶ The most important jobs or places related to risk of injuries

Jobs or tasks	On board vessels injury	On shore injury
Setting and hauling trawl, purse seine and other fishing gear	Entangled in the fishing gear, winch drums and barrels or wire cables, crushing injuries, fall overboard	
Connecting trawl doors	Crushing injuries, fall overboard	
Bleeding and gutting	Cuts from knives or machines, musculoskeletal disorders	Cuts from knives or machines, musculoskeletal disorders
Long-line and hand-line	Wounds for hooks, entangled in the line	
Heavy lifting	Musculoskeletal disorders	Musculoskeletal disorders
Filleting	Cuts, amputations using knives or machines, musculoskeletal disorders	Cuts, amputations using knives or machines, musculoskeletal disorders
Trimming fillets	Cuts from knives, musculoskeletal disorders. Knife injuries, which can sometimes result in loss of fingers, are common when fish are manually beheaded, gutted, skinned or filleted on board.	Cuts from knives, musculoskeletal disorders
Work in confined spaces, loading and landing	Intoxication, asphyxia	Intoxication, asphyxia

Source: Rafnsson, V. *Health problems and disease patterns*. In ILO Encyclopaedia of Occupational Health and Safety, Geneva 4th edition, Vol 3,

110 A safety guide for small offshore fishing boats. Bay of Benegal Programme. BOBP/MAG/16, 1993, p. 24, describes how to make one.

▶ Annex VII: Finding common working-in-fishing interests and allies

Developing new alliances and partnerships to strengthen inspection of working and living conditions on board vessels. See Training exercise 3.6.

Developing and strengthening inspection agencies and expanding their services are central to efforts to improve labour conditions in fishing. The limited resources available to competent authorities in the fishing sector means, however, that their inspection services can be more effective only if these authorities enter into alliances or form partnerships with a broader group of organizations. Some of these partners, like groups working on minority and human rights, women's rights, child rights, and social activists, may be less familiar to competent authorities and their inspectors. Building new alliances could involve the following potential partners.

- The **media** can play a fundamental role in promoting and supporting social and labour principles and values, contributing to developing and consolidating a culture of respect for principles and rights at work. Strategic alliance with the media can give the opportunity of organizing awareness campaigns on workers' rights, and create a positive image of government inspection as a tool for economic and social development.

- **Information and computer technology networks and services.** Mobile phones, internet and other advances in communication technology are bringing new opportunities for development and outreach for inspection services. These opportunities might be developed or used to strengthen inspection of working and living conditions on board fishing vessels and related labour issues, for example, establishing a hotline for victims to report fishing vessel owners or skippers who do not comply with applicable regulations.

- **Fishery (advisory) officers** of ministries of fisheries and agriculture are usually much more numerous than labour inspectors and much more mobile and actively present in fishing, often working directly on vessels. Fisheries officers work directly with fishers and skippers, and even vessel owners, and have authority to inspect fishing vessels (though not generally for working and living conditions). For inspection services, they could be primary vectors of labour information and prevention messages but they lack training and information on labour and occupational safety and health (OSH) issues in fishing. Inspectors should report any suspicion of breach of labour law to the competent authority, who would then take over the investigation.

- **Fisher producer organizations** including young fishers can be constructively engaged by inspection services and inspectors. National associations can be invited to support a particular labour issues campaign affecting its members. Young fishers can be encouraged to organize activities with themes related to health and safety for example. Competitions on "Efficiency with Safety" can be judged not just in relation to the practical outcome of some everyday fishing task, but also as to how safely it was performed.

- There are many **fishers' cooperatives** which inspectors could interact and work with at primary, secondary and apex organization levels, in ways which include:

  - Cooperative audits to cover application of labour rights, OSH standards and working conditions for their own workers and with producers in cooperative supply chains;

  - Using cooperative training colleges and outreach training networks to provide information and training on labour protection, OSH and labour inspection to rural workers and communities.

- Working with cooperatives in their community outreach work with local citizens and groups to raise awareness on labour rights, OSH standards and labour inspection.
- Cooperatives can incorporate promotion of labour rights and OSH standards in their campaigns, for example, in national or international poverty eradication campaigns, educational initiatives, and efforts to eliminate child labour abolition[1].

- **Multinational enterprises**, which are also referred to as transnational corporations, can exert enormous influence on labour practices in their own business operations and in the enterprises in their supply chains. Many multinational enterprises now operate corporate social responsibility initiatives committing themselves to improve and strengthen social, economic and environmental components in their business operations, including labour and OSH standards. Some also urge compliance with such standards among their suppliers.
- **Private compliance initiatives and inspection services**. According to a 2013 ILO meeting on labour inspection and private compliance initiatives, private compliance initiatives:
  - are defined by their status as private, voluntary mechanisms for monitoring compliance with established public (law or regulations) or private (e.g., codes of conduct) standards. They exist in a variety of types, including self-assessment (management systems), auditing (internal and external), certification and labelling, and public reporting...
  - ILO standards define labour inspection as a public function. They recognize the existence of private institutions engaged in similar activities, and call upon the competent authorities to promote effective cooperation with those institutions.[2]
- **Accident liability insurance schemes or bodies** may also offer opportunities for collaboration and cooperation for inspection services. In one country, for example, employers and employees are represented equally on the governing and representative bodies of the accident insurance bodies (employers' liability insurance associations). They thus have the opportunity to exert permanent influence on the policy and modus operandi of the accident insurance bodies.[3]
- Work with **manufacturers, designers and suppliers**. A significant cause of injuries and/or ill health in fishing, as in agriculture, is unsafe equipment and dangerous substances – whether hand-held equipment, farm trailers, buildings or pesticides. Inspectors can therefore constructively invest time and resources to ensure that businesses in the fishing supply chain meet their legal duties and that unsafe equipment and unsound substances are dealt with at source.
- Many **religious and church organizations and groups** work to help fishers and the rural poor around the world, working especially with fishers (and smallholder farmers) and their communities. In many ports, there is an ecumenical, seafarers or fishers mission; these may provide a range of welfare and emergency support services, including recreational, communications and transport services.

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1 ILO: *Cooperating out of Child Labour: Harnessing the untapped potential of cooperatives and the cooperative movement to eliminate child labour.* ILO Cooperative Programme, ILO IPEC, International Co-operative Alliance (Geneva, 2009).

2 ILO: *Labour inspection and private compliance initiatives: Trends and issues*, Background paper for the Meeting of Experts on Labour Inspection and the Role of Private Compliance Initiatives (Geneva, 10–12 December 2013), http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/meetingdocument/wcms_230798.pdf

3 Labour inspection in Germany. EU Senior Labour Inspectors Committee, Brussels 2005.

- Inspection services can cooperate with **schools, colleges and teachers**, including colleges and training centres, to provide easily understandable information to pupils and students on the world of work, workers' rights and labour inspection. For example, in Niger, labour inspectors have teaching duties in schools and training centres. By ensuring OSH protection in the undertaking, inspectors can help indirectly help promote and encourage youth employment, and apprenticeships under decent conditions of work in sectors like agriculture.

- Cooperation with the **NGO community** is particularly important when labour inspection deals with social issues, such as child labour, migration, and human rights. Civil society organizations and the media have taken on watchdog functions to put pressure on firms to improve working conditions, at times addressing the systematic gaps in formal labour inspection. Such tactics have been more successful in the case of occupations that are part of international value chains, or where international companies are closely watched by international human rights organizations and NGOs. Occupations that are not linked to global supply chains or companies continue to suffer from poor visibility and poor labour standards, despite efforts by trade unions and NGOs. The International Collective in Support of Fishworkers (ICSF), for example, has produced the ICSF Guidebook: Understanding the Work in Fishing Convention, 2007, which is specifically aimed at fishers (ICSF, 2008). The ICSF has also published several articles on Convention No. 188 in its triannual Samudra Report. In 2012, the XXIII World Congress of the Apostleship of the Sea adopted a declaration in which it, inter alia, undertook to renew efforts to ensure the ratification of Convention No. 188.

- Cooperation with **environmental organizations**. Fishing operations, especially IUU fishing, has the potential to exhaust fish stocks and harm other forms of marine life and biodiversity, or cause contamination of fish products destined for human consumption.

- Following the recommendation of the Vienna Declaration and Programme of Action (1993), many countries have created a national **human rights mechanism** which individuals may use to file complaints regarding violations of human rights, including labour rights. In these countries, effective cooperation between the inspection services, especially labour inspectorates, and the national human rights mechanism is useful and should be encouraged. The **UN Rapporteur on the Right to Food**, for example, commenting on research that exposed poor, even slave-like, working conditions in many industrial fishing vessels operating illegally in developing coastal countries, stated that, "This highlights the importance of swift and wide ratification of the Convention concerning Work in the Fishing Sector (Convention No. 188) and the need to introduce provisions concerning work conditions on-board fishing vessels in fishing access agreements."4

  In general terms, inspection services in fishing and partner organizations could complement each other. The inspection services have the authority and the duty to act upon violations of the law, whereas other actors or stakeholders may have more contacts, better knowledge of the difficulties faced by vessel owners and skippers and more awareness of violations of the law. At the same time, inspection services and their potential partner organizations need to share common principles, values and objectives in promoting and assuring decent working and employment conditions in fishing.

4 *Fishing: Interim report of the Special Rapporteur on the right to, food* Olivier De Schutter, submitted in accordance with UN General Assembly resolution 66/158. Document A/67/268, 8 August 2012. Submitted by the UN General Secretary to members of the UN General Assembly, Sixty-seventh session, Item 70 (b) of the provisional agenda. Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms.

ILO training package on inspection of labour conditions on board fishing vessels

Fishers have a right to decent work. Yet those who work on fishing vessels face conditions that are often unique and hazardous. They face a constantly changing maritime environment, both live and work on board their vessels – sometimes for long periods and at great distances from shore – and carry out fishing operations and practices that require special consideration and attention. With this in mind, the ILO adopted the Work in Fishing Convention, 2007 (No. 188), which recognizes the special characteristics of commercial fishing and aims to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board, conditions of service, accommodation and food, occupational safety and health protection, medical care and social security.

To be meaningful and effective, these working conditions must be monitored and rights of fishers must be enforced. The ILO therefore adopted, through meetings of experts from governments, fishing vessel owners' and fishers' organizations, Guidelines on flag State inspection of working and living conditions on board fishing vessels and Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188).

This training package draws upon these two sets of guidelines, as well as lessons learned from ILO member States and projects concerned with compliance of Convention No. 188 and related work. It aims to assist directors, managers and inspectors of competent authorities responsible for regulating and inspecting labour conditions on board commercial fishing vessels and enforcing standards for work in fishing. The package can be used to train officials who are building or improving comprehensive and coordinated inspection services for fishers.

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