



International
Labour
Organization



DECENT WORKING CONDITIONS,
SAFETY AND SOCIAL PROTECTION



WORK IN FISHING
Convention No. 188
Recommendation No. 199



WORK IN FISHING CONVENTION AND RECOMMENDATION

Recent years have seen both fishing itself and the market for caught fish becoming increasingly globalized. Technology in the fishing industry has been changing rapidly as well, often transforming the way that fishing is carried out. These changes call for a global labour standard that is relevant to all fishers (fishermen, both male and female), whether on large vessels on international voyages or in small boats operating in domestic waters close to shore.

The new ILO Work in Fishing Convention, with the Recommendation that accompanies it, provides this standard. The Convention, passed with overwhelming support in June 2007, addresses the particular working situations and conditions faced in the fishing industry. The Convention is flexible, so that it is relevant to all types of commercial fishing and can be implemented by governments around the world, whatever their particular circumstances.

The next stage is for the worldwide support that the Convention has received to be translated by governments into national laws, regulations or other measures. The Convention will enter into force twelve months after the first ten countries (eight with coastlines) ratify it.

This booklet gives more information on an important legal tool that has the potential to transform the working conditions of fishers throughout the world.

“In the fishing sector, many people face extraordinary and unpredictable hazards, often working long hours in harsh conditions to bring food to our markets. This new instrument will help protect them against exploitation”

- Juan Somavia,
ILO Director-General



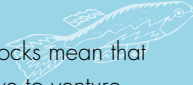
The Work in Fishing Convention refers to ‘fishers’. This term means everyone who works on a fishing vessel (although certain people, for example pilots and fishery observers, are excluded from the definition).



Worldwide, there are more than fifteen million people who work full-time on board fishing vessels.



Increasingly, fish which was once locally consumed is now being processed and shipped to consumers and restaurants on the other side of the world.



Declining fish stocks mean that some fishers have to venture much further offshore than in the past, creating additional risks.

“Fishing is a unique way of life. This new Convention reflects not only this uniqueness but the demands of globalization in an ever expanding sector that exposes men and women to considerable hardships and danger”

- Captain Nigel Campbell,
South African Maritime Safety
Authority, Chairperson of the
Committee on the Fishing Sector at
the 96th Session of the International
Labour Conference.

WHY DO FISHERS NEED PARTICULAR PROTECTION?

The Work in Fishing Convention has been tailored to reflect the particular characteristics of the fishing industry and the situations fishers face during their day-to-day working lives.

Fishers have conditions of work that are different from those experienced by workers in other sectors. The fatality rate of fishers is typically several times higher than for other workers. Fishing is hazardous even compared with such occupations as fire-fighting and mining.

There is not the clear separation between working time and personal time found in many jobs. Many fishers live as well as work in their vessels, in conditions that can be cramped and congested. There may be long periods away from home and very long working hours. Access to adequate food and drinking water – as well as to recreational facilities when fishers are off-duty – can be an issue. Fatigue, linked to long hours, has been identified as a serious problem.

There are other features that make the fishing sector different. For example, fishers are often paid on the basis of a share of the value of fish caught by the vessel, rather than receiving a fixed wage. Fishers may not be employees in the conventional sense, for a great number are owner-operators or considered to be self-employed. All this means that the sorts of procedures and safeguards which may be in place for workers working in shore-based occupations and industries may not be appropriate or effective, thus contributing to a “decent work deficit” for fishers.

WHO IS COVERED BY THE WORK IN FISHING CONVENTION?

The way in which fishing is carried out varies enormously from fishery to fishery, and country to country. At one extreme are very large commercial vessels: perhaps 150,000 fishers work on 2,500 or so vessels of over 1,000 tons, some as big as cargo ships. However the majority are on smaller (sometimes, very small) boats. One survey estimated that five and a half million fishers work on small vessels of under 100 tons, another four million work on open (undecked) boats equipped with engines, and a further five million or so earn their livelihood in open boats without even mechanical power. Looking at it another way, over 90% work on vessels under 24 metres in length.

All these different types of commercial fishing are covered by the Work in Fishing Convention. Only subsistence fishing and recreational fishing are specifically excluded.

It is partly because of the wide range of situations in which fishers work that the Convention is flexible. For example, some provisions of the Convention apply only to vessels over 24 metres long or those that remain out at sea for three days or more.

Asia is particularly important in the global fishing industry:
80% of the world's fishers come from Asia.



THE BACKGROUND TO THE WORK IN FISHING CONVENTION

The Work in Fishing Convention (ILO Convention 188) was passed on 14 June 2007 at the annual conference of the International Labour Organization (ILO) in Geneva. The voting was overwhelmingly in favour: 437 for, 2 against and 22 abstentions.

The vote represented the culmination of a process of debate and agreement among those directly concerned about the fishing industry. In line with the ILO's tripartite structure, the discussions included representatives of governments (the ILO has over 180 member States), of employers (fishing vessel owners) and of the fishers themselves. The 2007 vote rounded off a lengthy period of research and reflection which began in 2001 and which included debates at previous ILO annual conferences.

As mentioned above, the Work in Fishing Convention will enter into force a year after it is ratified by ten member states, eight of whom have coastlines. The Convention will be legally binding on member States that choose to ratify it.

The 2007 Conference also agreed a complementary Work in Fishing Recommendation (Recommendation 199). The Recommendation provides guidance to States on how to implement the provisions of the Convention. The Conference also adopted several non-binding resolutions to further guide ILO's activities in the sector.





The Convention and Recommendation replace a number of earlier ILO instruments (from 1920, 1959 and 1966) covering labour conditions in the fishing sector. These were considered to be outdated, no longer reflecting the modern, globalized nature of commercial fishing. Countries that have ratified the old Conventions will continue to be bound by their terms until they ratify the new Convention. (Those countries that did not ratify the old Conventions will only be able to ratify the 2007 Work in Fishing Convention.)

The objective of the Convention is to ensure that fishers worldwide have decent work through a modern legal instrument that can be widely ratified.

WHAT PROTECTION IS PROVIDED UNDER THE WORK IN FISHING CONVENTION?

The ILO is devoted to advancing opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. Decent work means productive work in which rights are protected, which generates an adequate income, with adequate social protection. Fishers, like all workers, are entitled to decent work.



The Convention addresses issues essential to ensuring decent work on fishing vessels. For example, it:

- establishes the responsibilities of fishing vessel owners and skippers for the safety of fishers on board and for the safety of the vessels (Article 8);
- sets a minimum age for work on board fishing boats and requires special protection for young fishers (Article 9);
- requires fishers to undergo periodic examinations of their medical fitness for work on fishing vessels (Articles 10-12);
- requires that fishing vessels are sufficiently and efficiently manned (crewed), are under the control of a competent skipper, and that the fishers on board are provided sufficient rest periods (Articles 13-14);
- requires fishing vessels to have a crew list and fishers to have the protection of a signed work agreement, setting out the terms of the work they are performing (Articles 15-20, and Annex II);
- entitles fishers to be repatriated when their agreements expire – and for other reasons, and prohibits making fishers pay to obtain their jobs, or blacklisting them (Articles 21-22);
- addresses how fishers are paid and that they shall have the means to send money home to their families at no cost (Article 23-24);
- sets standards for living accommodation and food on board (Articles 25-28, and Annex III);
- establishes requirements for occupational safety and health, as well as a basic level of medical care on fishing vessels; (Articles 31-33);
- ensures that fishers benefit from social security protection no less favourable than that provided to other workers in their country; and, at a minimum, provides protection in cases of their work-related sickness, injury or death (Articles 34-39).

These are of course only some of the main ideas, with the details provided in the Articles noted above. The Convention provides for higher requirements for certain vessels (e.g., larger vessels at sea for longer periods) and exceptions for other vessels (e.g., smaller vessels operating closer to port or at sea for short periods). It also sets out how the requirements of the Convention are to be complied with and enforced (Articles 40-44).

This brochure will look at some of these points in more detail in the following pages.



In many countries laws and regulations that address the conditions of work of seafarers also address conditions of work of marine fishers, at least in part. However, the issues faced by the fishers often differ from those faced by seafarers working on cargo or passenger ships. For this reason, the ILO's Maritime Labour Convention, 2006 (MLC), which concerns conditions of work on ships, excludes fishing vessels from its application. Therefore, States making changes to national laws and regulations for seafarers may wish to consider the MLC and the Work in Fishing Convention together, so as to ensure that both seafarers and fishers, including fishers working in coastal and inland waters, have updated and comprehensive legal protection.

A CLOSER LOOK AT THE CONVENTION

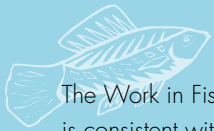
The Convention makes it clear that the owner of the fishing vessel is ultimately responsible for conditions of work on board the vessel. It provides that:

✓ **The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities to comply with the obligations of this Convention.**

The skipper (the person in charge of a vessel) has his or her own responsibilities. The Convention provides that:

✓ **The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel.**

These responsibilities are spelled out in more detail in Article 8.



The Work in Fishing Convention is consistent with other ILO standards concerning minimum age for work and protecting young persons, including the Minimum Age Convention, 1973 and the Worst Forms of Child Labour Convention, 1999.



Finally, it is recognized that the fishers themselves have responsibilities:

- ✓ **Fishers shall comply with the lawful orders of the skipper and applicable safety and health measures.**



A CLOSER LOOK AT THE CONVENTION

WHO CAN BECOME A FISHER?

The Convention establishes a standard minimum age for fishers. This principle is spelled out in the text as follows:

✓ **The minimum age for work on board a fishing vessel shall be 16 years.**

The Convention permits the possibility of fifteen year olds working as fishers, but only in certain circumstances.


There are also some situations, for example relating to safety and health concerns, where fishers must be at least 18 to be assigned to certain activities. These activities are to be determined at national level, after consultation with fishing vessel owners and fishers' representatives, taking into account the risks concerned.





THE NEED FOR A MEDICAL EXAMINATION

Because a certain level of fitness is needed on board fishing boats, normally fishers must have a valid medical certificate. Medical examinations help protect not only the fisher who has undergone the examination but also other fishers on board. The Convention provides that:

 **No fishers shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duty.**

This requirement can in some circumstances be relaxed for fishers working on fishing less than 24 metres in length or which remain at sea for less than three days.

The Work in Fishing Recommendation, which complements the Convention, offers more detailed advice on good practice. It provides that the medical examination should take into account the individual's age and the sort of work he or she will undertake. It draws attention to guidance developed by the ILO and the World Health Organization concerning medical fitness examinations of people working at sea.



A CLOSER LOOK AT THE CONVENTION

MANNING AND HOURS OF WORK

The Convention addresses the serious problem of fatigue, which results from long working hours and insufficient rest periods at sea. It provides that:

- ✓ **Fishing vessels are to be sufficiently and safely manned for the safe navigation and operation of the vessel and under the control of a competent skipper.**

It also provides that:


- ✓ **Fishers are given regular periods of rest of sufficient length to ensure safety and health.**

The Convention requires large vessels to carry a sufficient number of qualified fishers. It sets more stringent requirements for vessels that remain at sea for longer periods. Yet in doing so, it also allows skippers to require fishers to work extra hours for the immediate safety of the vessels, persons on board or the catch, or for helping other vessels in distress, as long as afterwards fishers receive more rest. Furthermore, the Convention allows for different arrangements of working hours, rest time and manning, as long as representatives of fishing vessel owners and fishers are consulted and the arrangements do not undermine health and safety.



WORK AGREEMENTS AND REPATRIATION

Since it is important for any worker to understand clearly the nature of the employment relationship they have entered into, the Convention also stipulates that:

 **Fishers working on vessels... have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of this Convention.**

An Annex to the Convention specifies the minimum particulars of such an agreement.

In this increasingly globalized sector, fishers may find themselves working far from home when their agreement expires, or may need to return home for justifiable reasons. The Convention lays down the right to repatriation and under what circumstances, and that repatriation is normally to be at the expense of the fishing vessel owner. It sets out the duty of the flag State to intervene if the owner fails in his or her duties, and the right of the State to recover costs from the owner.

The Convention accounts for the increasing use of private employment agencies employing fishers in the fishing sector, among other things clarifying that in such arrangements, the fishing vessel owner is ultimately responsible for the duties and responsibilities set out in the Convention (e.g., paying fishers, repatriating them, providing medical care), and that fishers involved should not be precluded from asserting a lien against the vessel.



Annex II of the Convention sets out the particulars to be included in the Fisher's Work Agreement, including such matters as how the fisher is to be paid (whether or not the payment will be in the form of wages, share of catch, or some combination of the two), the conditions for termination, the amount of annual leave, the protection against sickness, injury and death, and other essential matters.



A CLOSER LOOK AT THE CONVENTION

ACCOMMODATION AND FOOD

Annex III of the Convention addresses such issues related to accommodation as: planning and control, design and construction, headroom, insulation, ventilation, heating, lighting, noise and vibration, and facilities for sick and injured fishers. It takes into account that some countries regulate fishing vessels using gross tonnage (internal capacity) rather than length.

The Work in Fishing Recommendation provides additional guidance on accommodation.

For many fishers, the vessel is not only where they work but also where they live for extended periods – not only while at sea but sometimes also while in port. Pressures to reduce accommodation space – often as the result of efforts to carry as much equipment and as many fish possible for the size of the vessel – can lead to unsustainable conditions on board. This can affect recruitment and retention of fishers.

Fishing vessels must have sufficient room for the crew's living space. Fishers must have adequate sanitary facilities. Proper accommodation has a direct effect on safety and health.

The Convention however recognises that what is appropriate for large vessels will not be so relevant for smaller boats or those which do not stay at sea for long periods of time. The Convention therefore is flexible: it sets dimensions for such areas as sleeping rooms for large vessels, but is less specific for small boats. The requirements for specific dimensions of rooms apply to newly built vessels, but not those already in service.

Food is an important issue for attention, too. The Convention provides that:



The food carried and served on board [is of] a sufficient nutritional value, quality and quantity.

The Convention also provides that drinking water must be of sufficient quality and quantity, and addresses the issue of who is to pay for food.

SAFETY AND HEALTH

Fishers face particular dangers as a consequence of their work. Risks include: the possibility of the fishing vessels being wrecked or capsized; fires and explosions on board; being washed overboard, or tripping and falling due to the motion of the vessel or slippery surfaces, or both; injury from working with heavy, dangerous or unguarded equipment (e.g., unguarded winches); asphyxiation from working in confined spaces; and many other hazards.


Fishers also suffer from special health problems, such as: skin complaints and respiratory diseases, or the effects of noise and vibration. Salt-water boils and the allergic effects of handling fish and marine life can be common.

The Convention therefore aims to ensure that States have in place laws, regulations or other measures to address health and safety issues and, ultimately, to promote a safety culture on fishing vessels.

Among the measures, it sets out the requirement for adequate instruction and training for fishers in such things as handling fishing gear. Accidents are to be reported and investigated. Fishing boats are to carry medical equipment, and have at least one person on board trained in first aid. Fishers have the right to be taken ashore promptly for medical treatment when they suffer serious injuries and illnesses.

There are additional measures for larger vessels and for those staying at sea for more than three days.

The Convention also recognizes the important role that fishers can play in ensuring their own safety. This includes their part in identifying the severity and frequency of risks in order to take steps to reduce these risks. It provides that:

 **Risk evaluation in relation to fishing shall be conducted, as appropriate, with the participation of fishers or their representatives.**

The Work in Fishing Recommendation provides additional guidance on health and safety issues in the fishing sector. This guidance covers such issues as risk evaluation, occupational safety and health management systems, and technical specifications concerning safety and health to be addressed by States. The guidance also makes links to other publications developed by the ILO, and also by the ILO together with the Food and Agriculture Organization of the United Nations (FAO), the International Maritime Organization (IMO) and the World Health Organization (WHO).



A CLOSER LOOK AT THE CONVENTION

SOCIAL SECURITY PROTECTION

States are to take measures to provide fishers with protection for work-related sickness, injury or death. Fishers are to have access to appropriate medical care and appropriate compensation. Protection may be ensured through a system of fishing vessel owners' liability, or compulsory insurance, workers' compensation or other schemes. Some flexibility is provided for countries with insufficient institutions or infrastructure.

In the absence of such national provisions, the responsibility for health protection and medical care of fishers working on a vessel is to rest with the fishing vessel owner.



Because of the particular nature of their work, fishers in many countries often do not have the social security protection available to other workers. The lack of such protection may contribute to impoverishment of fishers and their families. Fishers who do not have the benefit of social security protection may feel they must continue to fish in the face of declining fish stocks.

The globalized nature of the fishing sector can create difficulties for fishers working on vessels that fly flags of countries other than their own. Often these fishers cannot contribute to, or benefit from, their own social security system or the system of the flag State. The Convention tackles this point, with a requirement for governments to ensure that:



Fishers ordinarily resident in its territory, and their dependants to the extent provided in national law, are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers...

Furthermore, countries are to work together, through bilateral and multilateral agreements, towards a situation where fishers have comprehensive social security protection, irrespective of their nationality or residence.

RATIFICATION AND IMPLEMENTATION

In keeping with the ILO's Constitution, member States are required to bring the Convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action, and to inform the Director-General of the International Labour Office of the measures taken. Ratification itself is voluntary.

The Work in Fishing Convention is deliberately designed to be flexible, in order to ensure that the maximum number of countries are able to ratify it. Implementation can be through national laws and regulations, or through other measures (such as collective agreements).

Throughout the Convention there are provisions that apply only to larger vessels or for those at sea for long periods. Less demanding provisions are made for smaller vessels and for boats on short fishing trips.

Countries can choose to initially exclude some types of boats or fishing craft (for example, those fishing in inland waters like lakes, rivers and canals).

The Work in Fishing Convention also takes account of the fact that some States might have difficulty – perhaps because their institutions and infrastructure are not yet sufficiently developed – in implementing all of its requirements. Article 4 allows States to implement some provisions of the Convention progressively.

As with other ILO Conventions, States which choose to ratify the Work in Fishing Convention will need to review their own laws, regulations and other measures, particularly those affecting the fishing industry, to ensure that they are in line with the Convention.

The Convention calls for systems to be in place to ensure compliance. These take the form of inspections, reporting requirements, monitoring, complaint procedures, penalties and corrective measures.

The ILO, in particular the International Labour Standards Department and its International Labour Standards Specialists in ILO offices around the world, can assist in the drafting of legislation to implement the Convention and Recommendation.



IMPLEMENTATION THROUGH CONSULTATION

ILO member States may wish to consider holding seminars or workshops to discuss the Convention and Recommendation, and how their provisions could be implemented. These forms of social dialogue can take place straight away, without necessarily having to wait for the formal ratification process to get under way.

The Work in Fishing Convention is not simply for the concern of government officials or legislators.

Throughout the text of the Convention there is a stress on the importance of governments undertaking consultation, to ensure that those people most directly affected by the Convention have the opportunity to discuss its implementation. The Convention defines this process of consultation as involving employer and worker organizations, particularly the representative organizations of fishing vessel owners and the fishers themselves where these organizations exist.

The Convention also calls for governments to designate the competent authority or authorities which will have the task of coordinating the consultation and implementation processes. A mechanism is to be established to coordinate the relevant authorities in the fishing sector at the national and local levels. This could include the agencies responsible for labour, for fisheries and for maritime safety, among others.



HOW THE CONVENTION WILL BE EFFECTIVE



States that ratify the Work in Fishing Convention undertake to ensure that fishing vessels flying their flag abide by the Convention provisions. This will require appropriate inspection systems, though “recognized organizations” may assist in the task. There also will need to be procedures for following up complaints about conditions, for example from fishers themselves.

The Convention also provides that States that ratify it may inspect foreign fishing vessels (even those from countries that have not ratified the Convention) visiting their ports and detain those with conditions on board that are hazardous to the safety and health of the fishers (“port State control”).

The Convention will work to the benefit of fishing vessel owners. Larger fishing vessels will carry a document demonstrating that they have been inspected for compliance with the terms of the Convention. Having this document will make procedures more straightforward when they visit foreign ports: an advantage to owners of vessels flying the flag of States that have ratified the Convention.

WHERE TO GET MORE INFORMATION

This brochure has been prepared by the Sectoral Activities Branch of the ILO, which focuses on all aspects of work in various sectors of economic activity (e.g., fishing, mining, agriculture, construction).

There is more information readily available on the ILO web pages:

<http://www.ilo.org/public/english/dialogue/sector/sectors/mariti/fishing-iloact.htm>

or, more easily use: www.ilo.org/sector (then click on “Shipping; ports; fisheries; inland waterways” in the left column).

Details of staff at the ILO’s head office with particular responsibilities for fishing are available here. These officials can help you directly or put you in contact with experts on specific issues addressed in the Convention and Recommendation.

The text of the Convention and Recommendation are also available at: www.ilo.org/normes.

The ILO has field offices in all the regions of the world, with specialist technical staff that can assist you. A full list of regional offices is available at:

http://www.ilo.org/global/Departments_Offices/lang-en/index.htm





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