

## **PROTECTIONS AGAINST TRAFFICKING IN PERSONS**

### **International Labor and Human Rights Standards for Fishing**

There is no single, definitive source of labor and human rights standards pertaining to the fishing sector. Many nations do not have comprehensive legal frameworks specific to labor rights in the sector. However, there are international conventions that, even if not ratified by individual countries, can provide guidance on benchmarks. The most notable conventions in this regard are the International Maritime Organization (IMO) Standards of Training, Certification, and Watchkeeping for Fishing Vessel Personnel (STCW-F Convention) which proposes safety standards for fishing crews; the International Labor Organization (ILO) Maritime Labor Convention (MLC) which provides decent work standards for seafarers, but excludes fishers from most provisions; and the ILO's Work in Fishing Convention, which is similar to the MLC but applies specifically to commercial fishers as opposed to other types of seafarers.

### **UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS)**

Established the legal principal of maritime exclusive economic zones (EEZs) in which the coastal state has exclusive access to resources within 200 nautical miles from shore. UNCLOS also states that flag states have jurisdiction over vessels flying their flags and are responsible for ensuring the safety and security of crews on board those vessels. However, it has been well-established that UNCLOS lacks adequate enforcement mechanisms. UNCLOS has been widely ratified so even non-party countries recognize it as customary international law.

### **INTERNATIONAL MARITIME ORGANIZATION CONVENTION FOR THE SAFETY OF LIFE AT SEA (SOLAS)**

Specifies minimum safety standards for seafarers although fishing vessels are exempt from most requirements; however, some countries do voluntarily apply at least some safety requirements to the fishing sector.

### **INTERNATIONAL MARITIME ORGANIZATION STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR FISHING VESSEL PERSONNEL**

Provides safety standards for fishing vessels, including mandatory training standards. Flag states are responsible parties for standards specified in the convention.

### **INTERNATIONAL LABOR CONVENTION MARITIME LABOR CONVENTION (MLC)**

Details benchmarks and ILO standards for safety and working conditions of seafarers. Specifically, the convention lists minimum age requirements, contract, payment, repatriation, and living conditions among others. The convention does not apply to fishing vessels but can provide useful benchmarks for working and living conditions at sea. Selected standards of the convention include:

- **Minimum Age:** Work on a vessel for those under 16 is prohibited, and night work and other work that could be hazardous to the physical or social development of the worker is prohibited for those under 18.
- **Safety Training:** Seafarers must complete personal safety training prior to commencing work on board a ship.
- **Recruitment fees:** Seafarers should not be required to pay fees to find employment, “other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer’s book and a passport or other similar personal travel documents, not including, however, the cost of visas, which shall be borne by the shipowner.” It should be noted that the Federal Acquisition Regulation prohibits all recruitment fees.
- **Other recruitment standards:** Recruitment agencies supplying seafaring workers should maintain accurate registries of all seafarers placed; accurately inform seafarers of work conditions, rights and provide work agreements; verify that employment conditions are legal and in compliance with any collective bargaining agreements; respond to any complaints; ensure to a reasonable degree that vessel operator has protections against stranding seafarers in foreign ports. Recruitment agencies are also barred from using “black lists” that would inhibit seafarers for being placed in jobs for which they are otherwise qualified.
- **Wages:** All seafarers should be paid for their work, in no greater than monthly intervals, at a rate that is in accordance with laws and any collective bargaining instruments. They should be provided an accounting of payments made, including wage rates and exchange rates and any overtime pay. Seafarers should be provided a method to transmit earnings to their families. Wages should be paid in legal tender.
- **Deductions:** Only deductions expressly permitted by national laws or collective bargaining instruments are permitted. Deductions should not be taken for the purposes of securing or maintaining employment. Deductions taken for expenses on board should be “fair and reasonable” and are subject to legal review by the relevant authority.
- **Employment Agreements:** Seafarers should be provided with employment agreements that clearly lay out terms and conditions of work, including at minimum: the seafarer’s full name, date of birth or age, and birthplace; the shipowner’s name and address; the place where and date when the seafarers’ employment agreement is entered into; the capacity in which the seafarer is to be employed; the amount of the seafarer’s wages or, where applicable, the formula used for calculating them; the amount of paid annual leave or, where applicable, the formula used for calculating it; the termination of the agreement and the conditions thereof, including: if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer; if the agreement has been made for a definite period, the date fixed for its expiry; and if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged; the health and social security protection benefits to be provided to the seafarer by the shipowner; the seafarer’s entitlement to repatriation; (j) reference to the collective bargaining agreement, if applicable; and (k) any other particulars which national law may require.
- **Equal remuneration:** Equal work should be remunerated equally on the same vessel, regardless of race, color, sex, religion, political opinion, national extraction or social origin.
- **Hours of work:** Maximum hours of work shall not exceed: “14 hours in any 24-hour period; and (72 hours in any seven-day period; or minimum hours of rest shall not be less than: ten hours in any 24-hour period; and (77 hours in any seven-day period. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.”

- Manning levels: Vessels should have adequate crew to ensure the safety and security of the ship and all personnel, taking into account the need to limit crew fatigue.
- On-board Accommodations: Significant detail is provided on requirements for accommodation, but the essential characteristics are that sleeping areas provide reasonable comfort; proper lighting, heating and ventilation are provided; hygienic sanitary facilities are provided; potable water is available; some source of nutritious food is available.
- Health and Safety: All workers have the right to live and work in a safe environment. All workers should be trained in on-board safety procedures to avoid injury and disease. Vessels should report and investigate on-board accidents and take reasonable measures for their prevention.

### ILO WORK IN FISHING CONVENTION (188)

Provides similar standards and the MLC, but in this case, they are specific to the fishing sector. While they apply only to commercial fishing vessels, again, they are an important source of standards, which are summarized below:

- Minimum age: minimum age for vessel work is set at 16, although some light work may be appropriate for 15-year-olds. Any hazardous activities – including most night work – are restricted to those 18 years and older.
- Work agreements: fishers should be provided, in advance of boarding, a work agreement that specify: the fisher's family name and other names, date of birth or age, and birthplace; the place at which and date on which the agreement was concluded; 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; the name of the employer, or fishing vessel owner, or other party to the agreement with the fisher; the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement; the capacity in which the fisher is to be employed or engaged; if possible, the place at which and date on which the fisher is required to report on board for service; the provisions to be supplied to the fisher, unless some alternative system is provided for by national law or regulation; 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; the termination of the agreement and the conditions thereof; the protection that will cover the fisher in the event of sickness, injury or death in connection with service; the amount of paid annual leave or the formula used for calculating leave, where applicable; 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; the fisher's entitlement to repatriation; a reference to the collective bargaining agreement, where applicable; the minimum periods of rest, in accordance with national laws, regulations or other measures; and any other particulars which national law or regulation may require.
- Repatriation: Fishers have a right to repatriation in the extent that their employment agreement expires or is terminated. The cost is the responsibility of the vessel owner, unless “where 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.”
- Recruitment: Recruitment services providing workers to vessels should be licensed in accordance with national laws. Workers should not be charged fees for recruitment or placement. Recruitment agencies should not use any mechanisms that prevent or deter fishers from engaging in work.

- **Payment:** Fishers who are paid wages should be paid regularly (typically monthly). Workers should have a means to transmit earnings to their families
- **Accommodations and food:** Fishers should be provided access to sanitary facilities, nutritious food, potable water, and safe, reasonably comfortable accommodation. Particular attention should be paid to ventilation, heating, cooling, lighting, vibration, noise and conditions of sleeping areas.
- **Medical care:** vessels should carry appropriate medical supplies and have at least one individual who is trained in first aid/other medical care and is trained in the use of first aid supplies. Vessels should have the capacity to communicate with medical treatment professionals on shore and should make efforts to return to port to secure medical treatment when for serious injury or illness.
- **Health and Safety:** Fishers should be adequately trained on safe gear usage and other relevant procedures. Vessel operators should report and investigate any on-board accidents. For vessels over a certain size and operating for voyages longer than three days, fishers should be provided with appropriate protective clothing and equipment.
- **Social security:** fishers are entitled to social security protections no less than other workers in their country of residence.

#### **ILO SEAFARERS' IDENTITY DOCUMENTS CONVENTION (185)**

Convention 185 requires ratifying nations to issue resident seafarers with Seafarers' Identity Documents. It also states that workers should retain access to their documents at all times, which is in line with best practice labor standards regarding identity documents.