

070515 PCLAB

Fishing sector

ILC 2007 Briefing

15 May 2007



Background

- This matter has been placed on the agenda of the International Labour Conference (ILC) to be held during June 2007 and is a follow up on the first discussion held at the 94th ILC.
- Most of the content of the proposed ILO standard (a convention and a recommendation) has been discussed and agreed upon both at the 93nd ILC 2005 as well as a tripartite meeting of experts in December 2004 as well as during a round table discussion in December 2006.

Legislative context

- The South African Maritime Safety Authority **SAMSA**, a statutory body is responsible for “enforcement of the Merchant Shipping Act.
- **The Basic Conditions of Employment Act** does not apply to vessels that are covered by the Merchant Shipping Act.
- A **bargaining council** has been established for fishers in South Africa and its agreement that sets conditions of employment and wages for fishers has been extended to non-parties by the Minister in May 2003.

**Previous issues raised by SA and
Africa**



Definitions and ID documents

The definition of fisher
SA – exclusion of shore based personnel

- **2. *Identity documents, repatriation and recruitment and placement services***

Matter deferred pending the outcome of the consolidated maritime convention as well as a proper assessment of the rate of ratification of the convention on identity documents for seafarers.

Concerns: The concern that this raises is that where fishers visit foreign ports, they would not be allowed to go ashore.

Adoption of Convention

SA position:

A two-tier approach be adopted:

- Ratification of the identity document convention no 185 should be closely monitored.
- The simplified amendment procedure that is proposed in the convention be utilized to amend the consolidated fishing convention if it is deemed necessary.

Accommodation and food

This relates to the size of bunks and the number of persons in a cabin

SA. Our regulations are in line with the proposal in the current text and therefore no problem is envisaged.

Concern: This poses a significant problem for Eastern countries (Japan; China) where 85% of fishers are located.

Varying standards - Size of vessel

ANNEX 2 is proposed to apply to vessels of more than 24.4m in length as well as the possibility that it may apply to vessels – Annex 2 are recommendations for accommodation

Concerns: In its current form article 22 will make it extremely onerous to ratify the convention

SA position

1. ANNEX 2, should remain recommendations
2. Article 22 should be rephrased to read: “ New Fishing vessels to which ANNEX II applies shall as a minimum comply with the standards contained therein.”

Social Security

- **Provision of social security for fishers**

Concern: The undue burden it places on member states who do not have social security systems

SA position

1. Member states are at different levels of development.
2. The provision of social security assumes different norms in member states.
3. Proposal “Each Member shall, adopt laws, or regulations that ensure that fishers are entitled to benefit from social security protection.”

Concerns for SA and Africa



Current discussions

- Most of the text of the convention has been agreed too however it may be opened up for further debate. The major concern is that we do not lose sight of the gains made in the previous ILC's on the issues raised above
- The following issues will however be definitely opened up for discussion:
 - Definition and scope
 - Medical examination requirements
 - Minimum levels of hours of rest
 - Accommodation Standards
 - Private Employment Agencies
 - Ratification of Convention

Definition and scope

- There was concern that there was insufficient flexibility in Article 1 “Definitions and Scope”.
- ***South African Government position***
- South Africa along with 2/3rds of governments and workers agreed that there was sufficient flexibility in the current text.

Medical examination

- The flexibility question was again raised regarding medical examination requirements in Articles 10, 11 & 12. South Africa with more than 2/3rds of governments and the workers thought there was sufficient flexibility.
- ***South African Government position***
- In our draft Small Vessel Medical Fitness Regulations flexibility has been introduced by allowing nurses to undertake the examinations and exempting vessels of less than 9m length not spending a night at sea.

Minimum levels of hours of rest

- The minimum levels of hours of rest were considered too onerous for all categories of vessels
- ***South African Government position***
- SA talks about ordinary hours of work whilst the BC in the fishing sector looks at hours of rest.
- The Merchant Shipping Act under which the bulk of the fishing fleet resorts will be in line with the Maritime convention
- The South African position needs to be informed by the legislative framework as well as the current experience in the country

Accommodation Standards

- Of particular concern to Japan is Article 28 and Annex III concerning accommodation standards, particularly dimensions of bunks and sleeping quarters, given the smaller stature of persons from Asian regions. It is believed that Japan will introduce amendments that will be acceptable to all parties in June.
- ***South African Government Position***
The provision on “substantial equivalence” currently included in Article 28, or perhaps other possible provisions, could be used to address this issue to the satisfaction of all parties.

Private Employment Agencies

- This appears to be a European phenomenon and growing. Major concern was that this may remove the responsibility of the vessel owner onto the agency.
- New wording will ensure that vessel owners will not be able to evade their responsibility and will also force any country to adopt this method of crewing vessels.
- SA does not regulate these agencies apart from the joint and several liability injunction

Ratification of Convention

- The subject of the ability of developing countries to ratify the convention was discussed in depth.
- It was agreed that in order to achieve wide spread ratification, a progressive implementation clause will be introduced to allow countries to ratify and then have a maximum of 10 years to introduce the requirements of the convention.
- The reporting of this will be undertaken in terms of Article 22 of the ILO Constitution.